

~~W.V. Carter~~ CA - General 2/5/76

Testimony of Lawrence D. Mann

p.i. #3367

pg 244

CA0010335

RECEIVED  
MIDDLESEX COUNTY

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

URBAN LEAGUE OF GREATER NEW  
BRUNSWICK, et als.,

78 MAR 22 AM 10 30

Plaintiffs, : PAGE 10  
BOOK, :  
FRANK SCHATZMAN :  
CLERK :

vs.

MAYOR & COUNCIL OF THE  
BOROUGH OF CARTERET, et als.,

Defendants.

-----:

314

New Brunswick, New Jersey  
February 5 & 9, 1976

TESTIMONY OF LAWRENCE D. MANN

B E F O R E:           Honorable David D. Furman, J.S.C.

Stanley Grabon, C.S.R.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

EXHIBITS:

	<u>DESCRIPTION</u>	<u>IDENTIFICATION</u>
	P-34            Statement	17
	DB-1            Document	151

1 L A W R E N C E D. M A N N, sworn.

2 DIRECT EXAMINATION BY MS. MORHUESER:

3 Q Would you please state your name and  
4 address for the record?

5 A Lawrence D. Mann, Cedar Point, River Street,  
6 Norwell, Massachusetts.

7 Q Dr. Mann, where are you presently  
8 employed?

9 A I'm employed at Harvard University.

10 Q And what is your position at Harvard  
11 University?

12 A I'm a professor of city planning.

13 Q And what are you presently teaching at  
14 Harvard University?

15 A I teach in the area of the planning process,  
16 a seminar in the area of urbanization, community decision-  
17 making, and change agents, a seminar in planning theory.  
18 I teach a course in the introduction to city and regional  
19 planning in the extension division.

20 Q What degrees do you hold, Dr. Mann?

21 A I hold a Bachelor of Arts, a Master of City  
22 Planning, and Ph.D. in the field of city and regional  
23 planning.

24 Q Where did you receive these degrees?

25 A All three are from Harvard University.

1 Q And have you received any honors in your  
2 scholastic work?

3 A The undergraduate I was Phi Beta Kappa and magna  
4 cum laude. I received Harvard International Scholarships  
5 as a student from another part of the country. I received a  
6 FrankKnox Memorial Fellowship to do post doctoral study at  
7 London's School of Economics and Political Science.

8 Q What is your prior academic experience,  
9 that is, prior to your present position at Harvard?

10 A Prior to going to Harvard in 1971, I was professor  
11 and chairman of the Department of Urban Planning and Policy  
12 Development at Rutgers University.

13 Q Is that Rutgers of New Brunswick?

14 A Yes, it is.

15 Q What other experience have you had in  
16 the field of planning?

17 A Prior to coming to Rutgers I was from 1964 to  
18 '67 an advisor to the Chilean Ministry of Housing and Urban  
19 Development, advising on the location of community facilities  
20 throughout the country; and prior to that, I was professor,  
21 assistant professor at the University of North Carolina in  
22 Chappel Hill and acting director for a time of their Center  
23 for Urban and Regional Studies.

24 Prior to that I taught at Harvard as an instructor,  
25 and prior to that I was a research associate at the University

1 College, London.

2 Q In addition to your work as a professor  
3 at Rutgers, when you were at Rutgers University in New  
4 Brunswick, did you have other experiences in the field of  
5 planning aside from your teaching work?

6 A Yes. I wrote and administered the professional  
7 licensing examination for the Board of Professional Planners  
8 of the State of New Jersey, and I was fairly active in vari-  
9 ous community activities relating to planning.

10 Q For how long did you write and administer  
11 the licensing examination for planners in New Jersey?

12 A I wrote the examination to the best of my  
13 recollection in 1968 and administered it from that time  
14 until 1971 when I left New Jersey.

15 Q How many articles have you written in  
16 your field?

17 A I haven't counted them. I think it is approxi-  
18 mately forty.

19 Q And these are all published articles?

20 A Yes.

21 Q And in what field particularly have  
22 you published?

23 A Well, longer pieces written in the area of planning  
24 housing and human relations, a monograph on the subject of  
25 intra-urban hierarchy of communities. I wrote a piece on

1 National Planning and community facilities programming.  
2 A piece on earthquake reconstruction planning monograph. A  
3 piece on national programming for urban development in  
4 Panama.

5           Very recently a monograph on community environ-  
6 mental development planning. These are along--the longer  
7 pieces of monograph length, and shorter pieces in the area  
8 of community decision-making studies; in the area of  
9 national research for urban development; in the area of  
10 planning education, a number of pieces. In the area of  
11 the new black and white urbanism with the development of  
12 racial problems in the 1960s; the new environmentalism;  
13 the new environmental literature, and most recently I  
14 suppose a paper made--a fairly major paper called Social  
15 Sciences Planning and Planning Applications.

16           These are the general areas of my writings, and  
17 it has tended to bring to bear the social and to some extent  
18 the biological sciences on the provisions of urban planning  
19 and educational principles thereof.

20           Q           Have you received invitations to lecture  
21 in this field of urban planning and metropolitan disbursal?

22           A           Yes, I do lecture various places regularly, and  
23 usually by invitation.

24           Q           Could you give us some examples of  
25 recent lectures?

1 A Recently I gave a talk at the University of Rhode  
2 Island and had talked at the University of Arizona prior to  
3 that.

4 Q Would you tell us what these lectures  
5 dealt with?

6 A Generally I have talked in planning schools to  
7 what are the new trends, what is going to come next in  
8 planning, what are the developments. The most recent meeting  
9 of the American Institute of Planners I was in charge of a  
10 whole series of lectures, two of which I presented myself,  
11 on the various detailed aspects of emerging issues in planning  
12 research and education.

13 Q And, Dr. Mann, would you describe for us  
14 your participation in professional organizations?

15 A Yes. I'll name first, I guess, the organizations  
16 that I belong to. The American Institute of Planners being  
17 the main one, which I will return to.

18 The American Society of Planning Officials. The  
19 Inner American Planning Society. The International Federa-  
20 tion of Housing and Planning. The Regional Science Associ-  
21 ation, of which I have been an officer.

22 My main professional responsibilities have con-  
23 centrated in the American Institute of Planners, where I am  
24 the national chairman of the Planning Education Technical  
25 Department, and in which I have been very active on the series



1 of committees, most notably of late a committee on the exam-  
2 inations and credentialing for the Institute.

3 Q Do you have any editorial responsibilities  
4 connected with professional journals?

5 A Yes. This is separate from activity in the pro-  
6 fessional association, but I am the review editor of the  
7 Journal of the American Institute of Planners. That is the  
8 main journal in the field. I have been off and on since 1963,  
9 that is, I have been in '63, '64, and while I was in Chile  
10 I was not.

11 Upon returning to the United States in '67, I  
12 became review editor again and have been until the present.

13 Q Please describe for us your duties as  
14 review editor of the American Institute of Planners Journal.

15 A I am responsible for keeping abreast of all of the  
16 literature of any relevance to this field, which means follow-  
17 ing the publications of all major book publishers both in  
18 this country and abroad; of contacting them for books that I  
19 might think may be of importance to professional planners;  
20 of receiving these books physically, reading them enough to  
21 know their importance and relevance to the profession and  
22 their potential reviewability. I then decide on who, among  
23 the various numbers of people out there in the field, are  
24 competent to write a comment on the books that are reviewable.

25 The pace of this is about sixty books a month, and

1 I read in these enough to be able to make these decisions  
2 that I have indicated.

3 MS. MORHUESER: We wish to move at this  
4 time that Dr. Mann be qualified as an expert  
5 witness on urban and regional planning.

6 MR. BUSCH: May we participate in the  
7 questioning as to his qualifications, your Honor?

8 THE COURT: All right.

9 MR. VAIL: May we have a conference among  
10 defense counsel before we start?

11 THE COURT: All right. Take a few minutes  
12 then.

13 MR. VAIL: Considering the fact that we  
14 haven't taken his deposition and for other reasons.

15 THE COURT: All right. Go ahead.

16 (A recess is taken.)

17 \* \* \*

18  
19 THE COURT: Voir dire of Dr. Mann?

20 MR. BUSCH: Your Honor, with your permis-  
21 sion, please.

22 BY MR. BUSCH:

23 Q Dr. Mann, can you tell me the years in  
24 which you received your degrees, the B.A., the Masters, and  
25 the Ph.D.?

1 A Bachelor's Degree was in 1954; Masters Degree was  
2 in 1959; and the Ph.D. in 1961. The latter two degrees were  
3 March rather than June.

4 Q And can you trace down from 1961 until  
5 you went to Chile what work you were doing?

6 A Including the year 1961?

7 Q Yes, sir.

8 A All right. In the summer of--well, I have to  
9 start with '61. I was an instructor at Harvard University  
10 and was teaching courses in the area of housing policy,  
11 regional planning, and an undergraduate course in American  
12 civilization with David Reisman.

13 Q Is that in the social relations depart-  
14 ment?

15 A That was a general education course. It was not  
16 in social relations department. It was a social science  
17 course.

18 At the end of the year 1961, I worked with Chester  
19 Rapkin on a series of urban rehabilitation feasibility  
20 studies in the area of Roxbury and also Cambridge, Massa-  
21 chusetts, completing a series of papers on this subject.

22 Then I moved to the University of North Carolina  
23 in 1961 where I became assistant professor and taught in the  
24 areas of introduction to city planning, housing policy,  
25 regional planning, two courses in the area of urbanization,

1 urbanism seminar it was called, and the end of 1961 I became  
2 the acting director of the Center for Urban and Regional  
3 Studies.

4 Do you want me to go through that period?

5 Q Up until you got to Chile, which I took  
6 to be some time in 1974?

7 A Yes. Then the second year I came back and taught  
8 six other courses in the curriculum at the University of  
9 North Carolina.

10 Q Did you continue to teach up until 1964?

11 A Yes, I did.

12 Q And then you were in Chile, I believe,  
13 from '64 to '67?

14 A That's correct.

15 Q During that time, were you a consultant  
16 either to the government or to some subsection of the  
17 government?

18 A I was paid by the Ford Foundation as a program  
19 specialist, but my responsibilities were directly to the  
20 Chilean government in the administration, and I worked al-  
21 most exclusively with the Chilean nationals in that capacity.

22 Q In '67 you came back and were at Rutgers  
23 from '67 to '71, roughly?

24 A Yes.

25 Q And '71 to the present at Harvard?

1 A Yes.

2 Q At any time since you received your Ph.D.,  
3 did you ever plan a master plan for a community in the United  
4 States?

5 A I have participated in the preparation of master  
6 plans in the states of North Carolina and Massachusetts. I  
7 have not participated in the preparation of a master plan in  
8 the state of New Jersey.

9 Q Did your name appear as an author or co-  
10 author of any of the master plans that you have prepared?

11 A It appears on master plan documents in the  
12 communities of Apex and Roxboro, North Carolina. I'm not  
13 sure that it appears on any of the documents that I have  
14 participated in in the state of Massachusetts.

15 Q When were you first told that you would  
16 be asked to testify here today?

17 THE COURT: Does that go to his qualifi-  
18 cations, Mr. Busch?

19 MR. BUSCH: Well, your Honor, I'll wait  
20 until cross, if you prefer.

21 Q With regard to your experience, I believe  
22 you stated in 1968 and until 1971 you were involved in the  
23 licensing for professional planners in the state of New  
24 Jersey. Is that correct? You'll have to indicate verbally  
25 for the record.

- 1 A Yes. I was involved in that process.
- 2 Q Is there a licensing or an examining  
3 board that exists?
- 4 A In the state of New Jersey?
- 5 Q Yes.
- 6 A Yes.
- 7 Q Were you a member of that board?
- 8 A No, I was not.
- 9 Q What was your participation as far as  
10 licensing or examining the qualifications of planners or  
11 prospective planners?
- 12 A They, my responsibilities were limited to the  
13 administration of the examination and the provision of those  
14 examination results to the board.
- 15 Q Do you know when New Jersey first  
16 required planners to become licensed?
- 17 A The dates of the effectiveness of that are a  
18 little uncertain, but the examination was not used until  
19 1968. I think that the grandfathering process began in 1967  
20 and perhaps as early as 1966.
- 21 Q All right. Did you participate then in  
22 the early years of the examination procedures?
- 23 A In the examination procedures, yes. I wrote the  
24 first examination.
- 25 Q As a professional planner, Dr. Mann, do

1 you feel that the licensing serves some valid purpose in  
2 the state of New Jersey?

3 A I am not a professional planner in terms of New  
4 Jersey law because I did not take the examination; but I  
5 felt having written it, it would be a conflict of interest  
6 to take it. I consider myself a professional planner,  
7 professional urban and regional planner in all states  
8 perhaps but New Jersey and perhaps the state of Michigan,  
9 which have formal requirements where it is necessary to go  
10 through this process; but as a professional planning edu-  
11 cator and as a person who is a professional planner in  
12 most states, I think that there is some usefulness in the  
13 professional planning licensing process, but there are some  
14 terrible imperfections. That's my professional opinion,  
15 and I favor an alternative approach which is national  
16 credentialing of urban planners in which I'm working at  
17 the National American Institute of Planners.

18 Q Until that takes place, do you feel that  
19 the licensing--

20 MS. MORHUESER: Objection, your Honor.

21 I don't know that this goes to qualifications of  
22 Dr. Mann.

23 THE COURT: It seems to go to the whole  
24 background of professional planners, and I will  
25 allow it.

1 Q Until such time as we go into a national  
2 credentials system, do you feel that the licensing procedure  
3 in New Jersey serves some function, at least to screen out  
4 some persons who perhaps should not be licensed planners?

5 A Yes, I do. I must confess, though, that the idea  
6 that every ceramic engineer is automatically a city planner  
7 disturbs me.

8 Q Would you prefer that that be changed  
9 and that--

10 A You see, the engineers, architects, and surveyors  
11 do not have to take the examination under professional law.  
12 People trained as city planners do.

13 Q Drawing your attention to the years that  
14 you lived in Middlesex County or central New Jersey area--  
15 that was '67 to '71?

16 A Yes.

17 Q Where did you live at that time?

18 A Initially in South Brunswick and later across the  
19 border in Princeton Township.

20 Q At any time did you participate in any  
21 studies, regional or otherwise, of central Jersey with regard  
22 to planning?

23 A I was involved in a series of studies centering  
24 around the problems of Princeton Township in that I was the  
25 chairman, member and then chairman of the Citizens' Advisory



1 Committee on housing in Princeton Township.

2 To this extent I participated in and was informed  
3 of various of the studies in neighboring municipalities.

4 Q Was that the only particular study that  
5 you participated in with regard to central New Jersey?

6 A If you were talking about official studies, yes.  
7 However, as a professor working with some ninety graduate  
8 students per class at Rutgers University, there were many  
9 studies which I supervised student work on and was involved  
10 in thinking through the questions that the students were  
11 dealing with.

12 Q Did any of the studies which you super-  
13 vised through your teaching deal specifically with the  
14 county as a region?

15 A Yes.

16 Q Were any publications derived as a result  
17 of those studies?

18 A None of my publications, and I am not aware that  
19 any of these term papers resulted in publications. I'm not  
20 aware that any of the students that worked with me at that  
21 time developed publications of the nature that you say.

22 Q Now, counsel for the plaintiffs indicated  
23 that you had approximately forty articles authored by you.  
24 Is that right?

25 A That's correct.

1 Q Have you been the author of any books?

2 A The book monographs, but none that are published  
3 by major publishing houses. Most of my monographs have been  
4 to special professional offices and published under the  
5 auspices of a research institute or another.

6 Q Do you hold a full professorship at  
7 Harvard now?

8 A Yes, I do.

9 Q Do you hold a chair at Harvard?

10 A Not an endowed chair, no.

11 Q Have you ever been a chairman of a  
12 department at Harvard?

13 A I was chairman of the department at Harvard in  
14 1970 to 1975.

15 Q What department?

16 A The Department of City and Regional Planning.

17 MR. BUSCH: No further questions.

18 Thank you.

19 MR. BERNSTEIN: I have a few questions  
20 of him at this time on his qualifications, your  
21 Honor.

22 THE COURT: Wait a moment now. Are you  
23 moving that he be accepted as an expert on urban  
24 and regional planning?

25 MS. MORHUESER: Yes, your Honor, I renew

1 my motion.

2 MR. VAIL: I'm sorry to interrupt. I  
3 have a question.

4 THE COURT: Don't interrupt then. All  
5 right. The Court will admit Dr. Mann as an expert  
6 on urban and regional planning. Any further  
7 questions can be offered on cross-examination.

8 MS. MORHUESER: Your Honor, at this time  
9 we ask that a statement submitted by Dr. Mann be  
10 marked for identification.

11 (Statement is marked Exhibit P-34  
12 for identification.)

13 BY MS. MORHUESER:

14 Q Dr. Mann, I show you what has been marked  
15 P-34 for identification and ask you to identify it. for  
16 the record.

17 A Yes. P-34 is a document which I prepared and  
18 it constitutes a statement of Lawrence D. Mann on the matter  
19 of New Brunswick Urban League, et al, versus the Mayor and  
20 Council of the Borough of Carteret, et al.

21 Q Would you tell us generally what this  
22 covers?

23 A This covers the--

24 MR. VAIL: I object to it. If he is here  
25 as an expert, he should testify as an expert and

1 not read some five or ten-page document that he  
2 prepared and that we received several weeks ago.

3 MR. BUSCH: Days ago. Two days ago.

4 THE COURT: I would think that you would  
5 offer his testimony rather than just the abstract  
6 or whatever it is of his views that you supplied  
7 to counsel.

8 MS. MORHUESER: Your Honor, may I answer  
9 briefly? We are not going to ask Dr. Mann to read  
10 from this document. I want to pose a couple of  
11 questions from the document to him and therefore  
12 would request that it be admitted into evidence.

13 THE COURT: I think that it would be  
14 preferable, Ms. Morhueser, to proceed by asking  
15 questions. If for some reason, and I don't know  
16 what it would be, he needs to refresh his recollec-  
17 tion by looking at that document, you may offer  
18 it to him.

19 Q Dr. Mann, in the paper that you have  
20 submitted and which defense counsel have copies of, you  
21 characterized as a problem facing urban areas the problem  
22 of--

23 MR. VAIL: I move that the statement  
24 that defense counsels have copies of either be  
25 stricken or that a specific date be set forth as

1 to when copies were made available. If we are  
2 going to use that type of language, the innuendo  
3 of it is obvious, and I think it is an attempt to  
4 put us in a bad light, and we have had it for a  
5 couple of days. Let's fix the date that we have  
6 had copies of it.

7 THE COURT: I think that you are going  
8 somewhat contrary to my suggestion to you,  
9 Ms. Morhueser, and that would be that you ask  
10 him questions rather than offer evidence as to  
11 what he may have said in that statement.

12 In other words, ask him questions now  
13 and not in the context of what is in that state-  
14 ment, but for example, what his knowledge is and  
15 what his information is and what his opinion is.

16 MS. MORHUESER: Thank you, your Honor.

17 Q Dr. Mann, what do you consider a major  
18 problem facing urban areas, and especially as it -- as such  
19 areas are involved in this growth process?

20 MR. CHERNIN: Excuse me, your Honor. I'm  
21 a bit confused by the question. I don't under-  
22 stand it. Maybe it's my own lack of understanding,  
23 but is it possible that there could be a little  
24 rephrasing of that?

25 THE COURT: I think the question is

T2

1 comprehensible. Do you understand it?

2 THE WITNESS: I understand it perfectly.

3 THE COURT: Read it again, please.

4 (Reporter reads back pending question.)

5 MR. VAIL: Is this limited to Middlesex  
6 County? Can we have that qualification?

7 THE COURT: Apparently not.

8 THE WITNESS: The general process of  
9 urban growth and dispersal constitutes perhaps  
10 the major problem confronting communities in  
11 the United States and developing countries in  
12 general.

13 The problem needs to be separated  
14 between a growth problem and a dispersal problem  
15 because it is very possible for you to get the  
16 dispersal problems of a metropolis even when it  
17 isn't growing in terms of its economy, even its  
18 population, even in new construction in the  
19 aggregate.

20 So that the process that I think is most  
21 important to the northeastern part of the United  
22 States is the process of metropolitan dispersal  
23 whereby you are having a slow general growth,  
24 but you are having a rapid dispersal of activities,  
25 economic activities, of population and thus of new

1 construction to the outskirts, generally rings  
2 around the metropolis, producing what some have  
3 called the donut shape metropolis where you are  
4 in the process of gradually emptying out the  
5 core and building up a ring of satellite and  
6 axial sub-regions toward the exterior of the  
7 metropolis.

8 This process is one that is best under-  
9 stood as if we had a motor that is fueled by a  
10 process of technological innovation on the one  
11 hand and of available capital on the other.

12 This motor of development is in fact the invest-  
13 ment that produces the new infra-structure of  
14 various kinds on the outskirts of the metropolis.

15 This is the principal problem that pro-  
16 duces the kinds of land use change pressures that  
17 urban planning is expected to cope with in this  
18 part of the country.

19 MR. CUMMINS: If your Honor please, I  
20 didn't want to interrupt the doctor in his testi-  
21 mony, but the doctor did mention possibilities.

22 If he is qualified here as an expert,  
23 are we dealing with possibilities or probabilities?  
24 I think that we have to make that clear right at  
25 the outset.

1 THE COURT: Well, any opinion offered  
2 would have to be offered to a reasonable degree  
3 of probability and not just speculative pos-  
4 sibility.

5 MR. CUMMINS: Then in the framework of  
6 the doctor's answer, he used the term possibility;  
7 and therefore, I would object to the complete  
8 answer, since he used that term.

9 THE WITNESS: Could I possibly change  
10 that?

11 THE COURT: Excuse me. I didn't ~~under-~~  
12 stand that to be a major factor in that answer.  
13 I don't even recall the word possibility being  
14 used.

15 MR. CUMMINS: I did note it at the  
16 beginning of his answer, if your Honor please.  
17 There was a long answer; but in the beginning of  
18 his answer, he did use the word possibility.

19 THE COURT: I take the answer to be  
20 with reference to a problem of urban growth and  
21 dispersal, rapid dispersal from the city, a  
22 ring bring built around the metropolis or center  
23 city and land use change pressures in the outer  
24 ring.

25 Is that part of your answer?



1 THE WITNESS: That's a part of my answer.

2 THE COURT: What else did you answer?

3 THE WITNESS: I didn't finish. I could  
4 go on with a second paragraph, if you like, that  
5 refers to the specifics.

6 THE COURT: Do you recall yourself the  
7 use of the word possibility?

8 THE WITNESS: No, I do not recall the  
9 word possible. I would be willing to rephrase  
10 it to eliminate that nature because the matters  
11 that I am talking about are probable rather than  
12 possible.

13 THE COURT: But you are talking about  
14 a general problem without reference at this time  
15 to Middlesex County, New Jersey?

16 THE WITNESS: That's correct.

17 THE COURT: All right. Ask another  
18 question then.

19 BY MS. MORHUESER:

20 Q What in your opinion are the factors  
21 which have caused these phenomena to occur?

22 A Well, as I mentioned, there is the investment  
23 that produces the infra-structure. We have to understand  
24 that in our free enterprise system that investment is  
25 largely private sector investment, and it is a chief factor.

1           This relies upon the fuel of available capital  
2 on the one hand and, let's say, the motor oil of, to stretch  
3 the analogy a bit, the motor oil of the emerging technology  
4 that allows capital to be invested profitably in specific  
5 locations.

6           Now, these factors then produce a dynamic of  
7 metropolitan dispersal that starts with the sequence in our  
8 recent period, and I can now speak rather more closely of  
9 this region, a process that has seen a consumer preference  
10 to locate housing as far from the core of the cities as  
11 possible in the age of the tramways and streetcars, and  
12 after 1945 rather an explosion of industrial and major  
13 service decentralization spurred by building up capital  
14 from the Second World War and an emerging technology of two  
15 kinds.

16           First there is the technology in favor of single  
17 floor plant layouts for profitable production, and secondly  
18 the technology of truck transportation both inputs and out-  
19 puts of manufacturing that favored external or peripheral  
20 locations for manufacturing activities, particularly when it  
21 was discovered that transportation, transportation costs  
22 were more than fifty percent absorbed within metropolitan  
23 areas.

24           Then the manufacturing plant began to think much  
25 more of getting to the outside of the metropolitan areas.

1 So that in the post World War II period we have seen this  
2 new phenomenon of the major sources of employment decentral-  
3 izing and then receive population following that employment  
4 to the extent that it can.

5 Then we see services, especially consumer  
6 services, shopping centers and so forth, following the  
7 movement of the residential population.

8 This occurs in what I have over the years  
9 observed, and we have this dynamic process of metropolitan  
10 decentralization.

11 Q Could you give us an example of the  
12 inner action of those factors that you described?

13 A Yes. The example and the best documented example,  
14 one that has been mentioned in the bibliography discussed  
15 here, is a series of studies that have been done of the  
16 New York metropolitan region starting with 1960.

17 This is the work by Raymond Vernon and Edgar  
18 Hoover, who have studied in detail this dynamic process  
19 that I am talking about; and it has occurred in approximately  
20 the way that I have talked about it.

21 There are other studies of metropolitan phenomena  
22 in the Pittsburgh area and in several other metropolises  
23 since, and so it is now kind of a generally accepted pattern  
24 that this is generally the metropolitan dispersal dynamics.

25 Q What affect if any have traditional

1 patterns of municipal, county, and state boundary lines  
2 had on metropolitan dispersal?

3 MR. BUSCH: I object to that as to what  
4 traditional patterns may mean. It may mean one  
5 thing to counsel and another thing to counsel  
6 and another thing to myself.

7 THE COURT: I don't believe that the  
8 word traditional has a fixed meaning. You are  
9 talking specifically about boundaries, and just  
10 ask him that.

11 MS. MORHUESER: I'll amend my question,  
12 your Honor, to omit the word traditional.

13 Q What affects if any have patterns of  
14 municipal, county, and state boundary lines had on metro-  
15 politan dispersal?

16 A The metropolis and the metropolises as a gen-  
17 eral pattern grow almost irrespective of the political  
18 boundaries. This is particularly clear in the case of  
19 local boundaries with the exception of the land use  
20 controls that are put in in the case of county boundaries,  
21 and there may be some flavor that is added; but this  
22 depends on the amount of responsibility assigned to the  
23 counties.

24 States have the potential power of influencing  
25 it, but it is well known that metropolitan development

1 crosses state lines and is indiscernibly different, if  
2 different at all.

3 So that the effect of political boundaries has  
4 not been very great.

5 In some cases where there are sharply different  
6 practices from adjacent municipalities, you may see some  
7 minor differences appearing; and in cases where counties  
8 have been given major responsibilities, you do see because  
9 of the greater territory of the metropolis that they embrace,  
10 somewhat greater impact.

11 I might give an example there of the way that  
12 counties around the New York City metropolis--I'm sorry--  
13 the Washington, DC metropolis, two counties in each of two  
14 states have gone into county-wide, in coordination with  
15 locality type controls, and it is clear that the impact with  
16 this has been quite discernible on the Washington, DC  
17 metropolitan landscape.

18 Apart from that, the major answer to your ques-  
19 tion is that boundaries have not affected this process; and  
20 the metropolis is the inevitable monster creeping across  
21 boundaries, whatever they are.

22 Q Do you see any problems resulting from  
23 what you have described as patterns of metropolis dispersal?

24 A Yes. Clearly there are a series of problems  
25 resulting from metropolis dispersal.

1           The two chief ones are, first of all, the  
2 deterioration of the environment in communities that are  
3 impacted by a metropolis dispersal.

4           Q           What do you mean by deterioration of  
5 environment?

6           THE COURT: Physical environment?

7           THE WITNESS: Yes, I'm talking about  
8 the physical environment. I'm talking about  
9 particularly the kinds of issues with which  
10 police power is concerned.

11                   Specifically, we are talking about the  
12 diminution of health in some respects from very  
13 bad urbanization; and we are talking about safety  
14 problems that increase as a function of metropolis  
15 dispersal in areas that were previously there,  
16 and then the general well being. This is really  
17 the fundamental problem that land use controls  
18 have been asked to respond to.

19                   The second problem, which is a more com-  
20 plex problem is that in the process of metropoli-  
21 tan dispersal, whatever metropolis we are talking  
22 about, we know that there is a generally poor  
23 match-up between the new work places, these new  
24 dispersed industries, and service establishments  
25 and the place of residence.

1                   Now, this is due to the workings of the  
2 private market in that it is, that is, the same  
3 kinds of areas that are attracted to the new  
4 campus-type industrial complexes are also  
5 attracted to higher priced residences.

6                   These are the more attractive physical  
7 areas and the best access areas.

8                   So that we get generally higher cost  
9 residential communities close to the new emerging  
10 centers of employment and the lower cost housing  
11 in residential areas are farther away from these  
12 areas.

13                   This is a problem that has three-fold  
14 consequences. In the first place, it is not  
15 very economical.

16                   In the sense that even operation of  
17 some of the new industrial and service activi-  
18 ties, we have all seen these signs out along  
19 Route 1, people looking for employees.

20                   The new dispersed industries have had  
21 sometimes difficulty in attracting a labor  
22 force.

23                   I'm sure that in the present economic  
24 downturn that there is not this problem as  
25 severe as was a few years ago or it will be a

1 few years from now. But the fact is that the  
2 source of a dependable and low turnover labor  
3 supply is a problem for industrial development as  
4 a consequence of this pattern of metropolitan  
5 dispersal.

6 The second aspect of the problem which  
7 we are more recently aware of is the energy  
8 aspect of two extremes of commuters crossing each  
9 other.

10 There is the stream of more affluent  
11 residents very often moving into center city  
12 jobs or into the more inlying nuclei of a  
13 metropolis and another stream of commuters to  
14 the extent possible moving out to the newly  
15 dispersed manufacturing and service activities.

16 Now, that problem poses the question of  
17 can we continue to afford the kind of urbaniza-  
18 tion that results in this energy problem, this  
19 wasteful energy allocation of transporting two  
20 streams of commuters from opposite directions.  
21 That's an issue.

22 The third issue is clearly the one of  
23 equity to the lower income population in access  
24 to the newly dispersed centers of employment or  
25 foci of employment at least, and that is partly



1 economic in the resources; but it is partly  
2 technological in that nobody has ever worked  
3 out a real effective method of transportation  
4 that could get a concentrated center city popu-  
5 lation out to dispersed areas, the foci of  
6 employment.

7 So that those are the problems that I  
8 see essentially of the process of metropolitan  
9 dispersal.

10 Q Now, you noted earlier that there is a  
11 potential power to control the process of metropolitan  
12 dispersal in the state. Do you have an opinion as to how  
13 states have used or failed to use such power?

14 A Yes. I clearly am informed and have views on  
15 this subject.

16 It is very clear from recent attempts at state  
17 land use planning that there has been a movement in the  
18 last few years in the United States that the states have  
19 historically, dating from 1928, as in the case of New  
20 Jersey, assigned the major land use control responsibilities  
21 to the localities; and now if they want to get some of  
22 those controls back, while it is theoretically possible in  
23 terms of the Constitutional provisions, it is not politically  
24 possible because every legislator is also a representative  
25 of a local district.

1           So that the issue of home rule essentially  
2 politically would preclude the serious consideration of  
3 the return of any major land use controls to the states.

4           That is my informed professional opinion of what  
5 the panorama is and why states are not more active in the  
6 control of land use in the phenomenon of metropolitan  
7 dispersal.

8           Q           Now, in the absence of state action,  
9 what do you see local communities doing to meet and deal  
10 with the problem of metropolitan dispersal?

11           MR. BUSH: Your Honor, I would only  
12 ask that the question be phrased in terms of  
13 the communities who are defendants in this  
14 case.

15           THE COURT: Apparently he's being asked  
16 generally. What does he see?

17           MS. MORHUESER: What is his opinion  
18 about what local communities do to deal with  
19 the problem?

20           THE COURT: I'll allow that.

21           THE WITNESS: Quite a lot. The locali-  
22 ties are extremely active in dealing with the  
23 first problem of metropolitan dispersal that I  
24 have talked about, the problem of the health,  
25 safety, and welfare aspects of metropolitan

1 dispersal.

2 I would say that they are not able to  
3 cope with the second problem, the problem of  
4 mislocation or mismatch-up of work place and  
5 residents that I mentioned.

6 Now, the area of urban land use controls  
7 is a very important part of what goes on in  
8 local governments. There is no doubt of that.

9 It sometimes seems to occupy most  
10 every bit of concern in many of the communities  
11 in the path of metropolitan dispersal.

12 The attention to it, the imaginativeness  
13 of which local officials find it possible to try  
14 to control the aspects of land use, degradation,  
15 if you like, is quite extensive.

16 There are quite a number of techniques  
17 that have been used traditionally, and there are  
18 newly emerging techniques coming on the scenes  
19 in localities across the country all the time.

20 The newest wave, of course, has been  
21 ecological type of zoning and land use control.

22 The range of techniques is very great,  
23 and the use of these newer measures of the  
24 biophysical environment centering around the  
25 environmental impact statement is quite great.

1 MR. GRUBER: I'm going to object to that  
2 answer and ask that it be stricken as not being  
3 responsive to the question.

4 The question, as I understood it, was  
5 what should--what, in essence, what would or  
6 what could local communities do to correct this  
7 problem of dispersal to meet it.

8 MS. MORHUESER: Your Honor, the ques-  
9 tion did not go to what could communities do,  
10 but what do communities do.

11 THE COURT: That's what I thought it  
12 was, too, Mr. Gruber.

13 MR. GRUBER: Okay.

14 Q Would you continue, Dr. Mann?

15 THE COURT: He seems to have completed  
16 the answer.

17 THE WITNESS: I think that I completed  
18 that.

19 Q Are there any pressures operating on  
20 local communities to act to deal with the problem of metro-  
21 politan dispersal?

22 A Yes, there are. The kinds of influences on local  
23 communities to engage in land use planning and land use  
24 controls and growth management are considerable; and  
25 starting with the federal government, go back a long time.

1           Of course, the federal government, through the  
2 United States Department of Commerce, took the leadership  
3 in the Standard Zoning and Planning Enabling Legislation  
4 of the 1920s.

5           The states then of course enabled the municipi-  
6 palities to do this, and then over time the federal and  
7 state agencies of various kinds have put more and more  
8 teeth in the encouragement for local localities to engage  
9 in the various types of land use and growth management  
10 controls.

11           Section 701 of the Housing Act of 1954 was  
12 a very great impetus in this regard in that in order to  
13 qualify for major urban renewal or planning funds of other  
14 kinds, every municipality had to have prepared or make  
15 progress toward comprehensive plan; and this involved  
16 instrumentality of zoning, subdivision control, and so  
17 forth as ways of implementing these plans.

T3 18           Down through the present a whole series of  
19 federal regulations have encouraged or required this type  
20 of planning and land use control as eligibility for various  
21 kinds of things, and the next great wave of this is not,  
22 as someone said, I think, going to be the community devel-  
23 opment revenue sharing approach as much as it is going to  
24 be Section 208 of the Water Quality Act, which will require  
25 more and more comprehensive planning for water resources,

1 including land use planning and controls.

2 So the range of federal influences on this is  
3 very great.

4 The states have more and more encouraged locali-  
5 ties to engage in land use controls, and I guess that is  
6 the general picture of this outside influence upon  
7 localities.

8 Q Would you describe for us some of the  
9 federal guidelines which pressure local communities to act?

10 A The federal guidelines that I have mentioned  
11 in terms of the 701 simply require that land use development  
12 and controls be forthcoming in order to qualify for certain  
13 other types of grants.

14 The new community development revenue sharing  
15 specifies that there has to be a capacity at the local  
16 level to do various types of planning in order to qualify  
17 for some of these activities, for some of these funds that  
18 are forthcoming.

19 Section 208 Regulations which I have said are  
20 probably going to be more impacted in the years ahead have  
21 not been fully promulgated yet.

22 Q Are the land use controls that you have  
23 been discussing in any way selective in terms of--are they  
24 selective in their effect, that is, do they select those  
25 who may become part of the community?

1  
2 A Logically, necessarily so. The very basis of  
3 land use control is to rule out certain types of activities  
4 and therefore firms and people. So that the selectivity  
5 as a consequence of land use controls is a logical neces-  
6 sity as far as I can understand it.

7 The sort of selectivity is variable over time.  
8 In the early days of zoning, perhaps the selectivity cut  
9 fairly much across the board, although it was recognized,  
10 I guess, in very early court cases that there was bound to  
11 be some sort of economic impact of residential zoning.

12 Most recently I would suppose since about 1965  
13 we have seen an increasing refinement of the selectivity  
14 of zoning ordinances that have come out across the country  
15 as municipalities have frankly recognized that all kinds  
16 of development are not equally advantageous to them in a  
17 physical financial sense.

18 A series of cost and revenue studies have been  
19 done, and these costs and revenue studies of local govern-  
20 ment date back to the early 1930s; but the wave of recent  
21 cost and revenue studies has clearly indicated that certain  
22 types of residential activities are more costly to the  
23 community in terms of services than they are beneficial in  
24 terms of tax rate income to the locality.

25 As these studies have been in the air, they  
have seen a series of changes in land use controls that

1 reflect this knowledge that lower income housing and cer-  
2 tain other types of activities take more in terms of new  
3 cost of municipal services than they give.

4 Q What do you mean by certain other types  
5 of activities?

6 A You could say that in some of the more sophis-  
7 ticated communities, they recognize that sometimes shopping  
8 centers have certain characteristics that are not as  
9 advantageous as they may seem on the face of it; and also  
10 as some communities have become more experienced, and they  
11 found out that different kinds of industries cost more than  
12 it actually gives in ratables.

13 Generally speaking, it has been the question of  
14 lower income residents.

15 When I was here at Rutgers, someone started  
16 tossing around the figure of 42,000 dollars.

17 MR. BERNSTEIN: I'm going to object  
18 here, your Honor, about what someone said.

19 THE COURT: I would think that that  
20 was so. You understand, Mr. Mann, that in your  
21 testimony do not allude to the findings or  
22 opinions of someone else. Do you understand  
23 that?

24 THE WITNESS: Yes, sir.

25 THE COURT: All right.



1                   Q           Have you finished answering that ques-  
2                   tion, Dr. Mann?

3                   THE COURT: I think that he has been  
4                   cut off. Ask another.

5                   Q           Would you please give us some recent  
6                   examples of selective land use controls utilized by local  
7                   governments?

8                   A           Yes. The selective types of devices that have  
9                   been developed have been in many cases refinements of the  
10                  older conventional zoning and subdivision controls with  
11                  timing devices with attempts to set absolute population  
12                  limits and with the series of other performance and contract  
13                  and conditional zoning types of arrangements, floating zones,  
14                  the planned unit development requirement.

15                  Q           Dr. Mann, pardon me, but would you tell  
16                  me what each of these devices is as you describe it? The  
17                  timing device for instance, what is that?

18                  A           The timing device is best known in the case of  
19                  Ramapo --

20                  MR. BUSCH: I couldn't hear that.

21                  A           Ramapo, whereby a municipality works out a  
22                  process of phased development. It then gears  
23                  the permissible land use changes to the availability of  
24                  various kinds of services in a time period. This is one  
25                  of the more innovative devices that has so far stood up.

1 Q I think you said PUD and floating zone.

2 A Planned unit development arrangement of which  
3 there are many variations is essentially an attempt to relax  
4 the overall character of a zoning regulation by averaging  
5 out the amount of space that must be required per dwelling  
6 unit, allowing for more flexibility kinds of design in the  
7 layout of the dwellings.

8 This is usually geared to certain size of  
9 developments so that the general environment and the inten-  
10 tions of the quality of the environment are preserved, even  
11 though there may be on a specific parcel of land a larger  
12 number of dwelling units that would have been permitted by  
13 the older zoning regulations.

14 Many of the other requirements, and many of the  
15 other requirements that have taken off from that which have  
16 different names really follow that same kind of a concept.

17 The floating type of an arrangement is one that  
18 sets a performance criteria that allows people to do certain  
19 activities throughout the municipality as long as they follow  
20 the guidelines that are set down in the plan.

21 Now, some of the other kinds of techniques that  
22 are more clearly in their impact or selectivity--it's very  
23 clear that the movement toward over zoning of industry or  
24 commerce in certain towns where it is made either more  
25 difficult procedurally or practically to develop residence

1 in certain of these areas slows down the amount or the  
2 pressure of lower income housing projects.

3 So that has a selective impact.

4 The impact of large lot zoning--

5 MR. BERNSTEIN: I'm going to object  
6 here, your Honor. I'm not sure that large lot  
7 zoning or over zoning for industry are mentioned  
8 in Dr. Mann's report.

9 THE WITNESS: They are not.

10 MR. BERNSTEIN: So that I would think  
11 that on that basis the gentleman should not be  
12 able to speak on that.

13 THE COURT: You may have that objection  
14 on the record. I will let him testify generally,  
15 though. His answer to the question, included  
16 in it may be some materials or opinions that  
17 are not in the report and they will be permitted.

18 A (Continuing) Effective large lot zoning is more  
19 complex than has sometimes been supposed, but it is clear  
20 that in combination with a number of other methods, you get  
21 a certain aspect of selectivity.

22 There are effects both ways in large lot zoning.  
23 It is not as clear in some others.

24 The tendency to rule out certain types of housing  
25 construction such as industrialized housing or mobile homes--

1 THE COURT: What is industrialized  
2 housing?

3 THE WITNESS: Prefabrication.

4 THE COURT: I see. All right.

5 A (Continuing) Is in some cases has clearly an  
6 exclusionary effect if the costs are lower for these kinds  
7 of housing.

8 There is the older technique of using floor area,  
9 of course, which is more clearly exclusionary in its impact,  
10 since the cost of housing is very much a function of square  
11 footage that is built.

12 THE COURT: That would be setting rela-  
13 tively large minimum floor areas?

14 THE WITNESS: Sure, as in Wayne Township.

15 THE COURT: All right.

16 A (Continuing) The main thrust is not of the  
17 specific devices but of the way that these techniques work  
18 together, and this has been referred to as the zoning aspect  
19 of the zoning game, and now it is more appropriately to be  
20 called the land use control management game whereby there  
21 are a series of fall back positions.

22 If one technique is not producing the form of  
23 selectivity that results in the sought mix of activities,  
24 then other kinds of twists can be brought in.

25 I would say that as a general pattern throughout

1 the nation, localities have been quite imaginative in this,  
2 and it is quite clear that selectivity is being encouraged  
3 by this.

4 Q Is this selective use of municipal land  
5 use authority a phenomenon limited to isolated communities,  
6 or do you perceive, is it your opinion that these phenomena  
7 can be seen in neighboring communities?

8 A Well, particularly if you are talking about the  
9 context of metropolitan dispersal that I have just been  
10 discussing as a background, it is very clear that when  
11 neighboring or nearby communities have similar kinds of  
12 land use controls, similar kinds in effect, rather than per-  
13 haps in their detailed structure, that the result is going  
14 to be a compounding of the selectivity; that is, that if the  
15 metropolis is growing in this kind of a donut shape, as I  
16 say, with a series of satellite sub-regions toward the  
17 periphery, and if a number of municipalities in one of these  
18 satellites, the sub-regions, were to have a package or a  
19 group of land use controls that had each selective effects,  
20 then the compounding problem of selectivity throughout the  
21 sub-region would be greater because it would mean not only  
22 couldn't you live in the next community, therefore having  
23 access to the jobs, you would have to live outside of the  
24 sub-region entirely in order to get to the job and the kinds  
25 of community services that attract this.

1 Q Can you give us some examples of the  
2 compounding effect that you have described in actual loca-  
3 tions in the country?

4 A Yes. I would have to use an example that I have  
5 been involved in outside of this state recently, since this  
6 is a phenomenon that is newer; but in the part of the Boston  
7 metropolis where I have been active recently--

8 MR. BERNSTEIN: I would like to make  
9 an objection for the record.

10 I don't believe that the Boston  
11 example also is in the reports.

12 THE COURT: We shouldn't be trying the  
13 Boston example here.

14 Factually, there may be a number of  
15 differences there, and it would appear irrele-  
16 vant to the issues here to develop.

17 You have noted the problem of compound-  
18 ing of selectivity in what you call a sub-  
19 region outside of Boston. Is that correct?

20 THE WITNESS: Yes.

21 THE COURT: All right.

22 Q Do you feel that the compounding effect  
23 of exclusionary actions by neighboring communities is unique  
24 to any part of this country?

25 A No, I do not.

1 I would have to add, however, that in the south-  
2 western part of the United States, the city itself is so  
3 large that many of these problems are avoided by annexation,  
4 but that's the only exception that I see.

5 Q Dr. Mann, you have discussed the  
6 phenomenon of land use dispersal and problems associated  
7 with local control of land use.

8 Could you describe what efforts if any are being  
9 made to deal with metropolitan dispersal on a regional  
10 basis?

11 MR. CHERNIN: Excuse me, your Honor.

12 I have been listening and I think  
13 that we have gone so far afield from the  
14 problem before the Court.

15 We really have a nice education about  
16 areas outside of New Jersey and areas outside of  
17 Middlesex County.

18 I feel that all of that is irrelevant.  
19 We are here to determine what problems or  
20 criticism exists as to the patterns in this  
21 county, at least as may be in this region, but  
22 we are going far to the southwest or Boston or  
23 even Washington, DC; and I think it is wholly  
24 irrelevant.

25 THE COURT: I would allow him to testify

1 as to attempts at a regional exclusion of what  
2 he refers to as the urban growth and dispersal  
3 problem.

4 MR. MORAN: My objection is to the form  
5 of the question as to who is making the attempts  
6 and where they are being made rather than as to  
7 a general shotgun approach.

8 THE COURT: It doesn't appear relevant  
9 here to specify whether it is Pittsburgh or  
10 Albany or wherever it is. Just give the approaches  
11 that have been made. Do you understand what I  
12 mean?

13 THE WITNESS: Yes.

14 THE COURT: Without going into the  
15 specifics.

16 THE WITNESS: Yes, I understand. The  
17 efforts from the federal government have been to  
18 encourage as much regional and even sub-state  
19 regional cooperation as possible.

20 You have heard this morning the A95 review  
21 process and the way that that is then decentralized  
22 to counties in a metropolis, and that's one in-  
23 stance of the federal and probably the most  
24 important of the federal efforts at regional  
25 development or regional control that is relevant



1 to this case.

2 The states, and I think I can even talk  
3 here to the state of New Jersey, which would  
4 make for more concern, have been much concerned  
5 with the problem of regional approaches.

6 I note having read recently the  
7 New State Land Use Enabling Legislation that  
8 special effort was made to make for more flexible  
9 procedures, allowing for voluntary inter municipi-  
10 pal cooperation to achieve regional solutions  
11 in land use planning and controls.

12 In addition to these types of efforts  
13 at the federal and state levels, there have  
14 always been spontaneous efforts at regional  
15 solutions to the urbanization problem, and the  
16 New York Regional Plan Association and then the  
17 compact resulted in the Tri-State Plan are  
18 examples of initial spontaneous efforts that  
19 have taken on an institutional character over  
20 the time as a way of coping with this.

21 These are the main efforts at regional  
22 impact on the metropolitan growth dispersal  
23 process.

24 Q In your opinion, how effective have the  
25 efforts that you have just described been in facing and

1 solving the problem of metropolitan dispersal?

2 A I would have to say not very effective.

3 This is something that I have given a lot of  
4 attention to over time. I believe that the various volun-  
5 tary efforts at metropolitan planning and at regional  
6 planning and inter municipal cooperative planning have all  
7 tended to weaken over time or fall apart, so that viewed in  
8 an international perspective, certainly American regional  
9 planning of urban growth is not a serious enterprise.

10 Q Dr. Mann, are you familiar with some of  
11 the studies on fair share housing?

12 A YES. I'm familiar with some of the studies on  
13 fair share housing.

14 Q Would you describe the state of the art?

15 MR. CHERNIN: Describe what?

16 Q The state of the art.

17 A Well, the state of the art in fair share housing  
18 approaches or proposals or plans is to try to work out a  
19 formula for an area based upon present population, available  
20 land, density of activity, and the-- these are the chief  
21 factors that are generally used.

22 Then take a larger area or region, regardless of  
23 how that may be defined, and then to try to work out what  
24 would be the least unjust or fair, as the term is, assignment  
25 of new low and moderate income housing to each of the

1 constituent municipalities or areas within the region as it  
2 is defined.

3 Now, the state of the art is that there is not  
4 any one formula that has stood up, that is, there are some  
5 considerable differences of opinion exactly how much weight  
6 to put on this factor as opposed to the other, the present  
7 amount of build-up and the available land, the resources  
8 of various communities, and so forth.

9 These tend to be variable in terms of what is  
10 proposed. However, I would say that in all of these studies  
11 that there's the aspect of the social science methodology  
12 that if a group of these people would get together, that  
13 probably the issues are not anything that couldn't be  
14 worked out on some sort of a panel basis, because the people  
15 are not that far apart as to what really should be used  
16 in assigning what is fair.

17 Q You just referred to your belief about  
18 a group of good people getting together on a fair share  
19 plan. Is it your opinion that voluntary participation in  
20 fair share housing can be effective?

21 A It is not my opinion that that would work over  
22 any period of time, no.

23 I believe that voluntary fair share housing plans  
24 among communities given the sociological and political  
25 realities of urban areas in any community or any series of

1 communities that I am familiar with is not such that these  
2 would hold up past the first economic crunch when fiscal  
3 situations began to affect one or two communities.

4 I think that they would fall apart on a voluntary  
5 basis, and they have in cases, all of the cases that have  
6 been tried, except for one.

7 Q In your professional opinion, what  
8 mechanisms reasonably assure that fair share plans will  
9 work?

10 A Well, there are really only two logical pos-  
11 sibilities. One is that there would be legislation making  
12 them obligatory, and this legislation would result in my  
13 view only if the problems that I have addressed were to be-  
14 come so severe that there was a kind of political ground  
15 swell in favor of this, or the combination of technical  
16 and economic situations that would dictate that the legis-  
17 latures needed to make this type of legislation for the  
18 purposes of efficiency, of economic activity or energy  
19 allocation.

20 That seems to me to be a rather remote situation  
21 in my professional opinion. And then the only other pos-  
22 sibility that fair share housing would be made to work is  
23 indeed that the courts would step in and decide it for  
24 reasons of equity.

25 MS. MORHUESER: I have no further

1 questions, your Honor.

2 THE COURT: All right. The defense  
3 counsel wish to confer as to an attorney to  
4 conduct the chief cross-examination?

5 MR. BUSCH: Yes, your Honor.

6 THE COURT: We'll have a short recess.

7 (A recess is taken.)

8 \* \* \*

9

10 CROSS-EXAMINATION BY MR. SELESKY:

11 Q Mr. Mann, with regard to this problem  
12 of urban disbursal, you indicated that the federal govern-  
13 ment had a role in it.

14 Is that correct?

15 A Yes.

16 Q Now, isn't it also true that a large  
17 part of this role dealt with federal funds allocated to the  
18 designing of transportation networks?

19 A Yes.

20 Q Isn't it also true that in the event  
21 a federal program comes in some community allowing a major  
22 road to go through that, that that has an impact on urban  
23 dispersed in that particular region?

24 A Yes.

25 Q Isn't it also true then that in the

1 event a manufacturing plant would locate itself off of a  
2 federally paid for highway and near-- from leaving a center  
3 city area and going to this more large open space, that this  
4 would also have a compounding effect on urban dispersal?

5 A Yes.

6 Q Now, the location of a particular  
7 federal highway, isn't it true that that's not within the  
8 control of the municipality that it goes through?

9 A It can sometimes be influenced by a locality,  
10 but--

11 Q There are hearings and the municipality  
12 may express itself, express its complaint; but the decision  
13 is made in Washington; correct?

14 A That's correct.

15 Q Now, plants that locate along this  
16 federal highway are entitled to depreciation for construc-  
17 tion and certain capitalization benefits when they relocate.

18 Isn't that true?

19 A I believe so, yes.

20 Q So therefore, the federal power in  
21 moving people by way of transportation affects this urban  
22 dispersal, in addition to the tax structure affects it.

23 Isn't that true?

24 A The federal tax laws.

25 Q In fact, the federal tax laws specifically

1 encourage it?

2 Q All right. Now, you indicated that  
3 states have historically assigned land use controls to  
4 municipalities, and now there is a tendency for the states  
5 to want the power back. Is that correct?

6 A I'm not sure that those were my words. Some  
7 states have wanted it back. Speaking as a general trend  
8 of the move toward state land use planning, and some states  
9 have wanted it back and found it difficult.

10 Q You would then disagree with the notion  
11 that the legislature may enact general laws under which  
12 municipalities other than counties may adopt zoning  
13 ordinances limiting and restricting to specified districts and  
14 regulating therein buildings and structures according to  
15 their construction and nature and extent of their use?

16 Do you disagree with that language?

17 A No.

18 Q You would agree with that?

19 A Under some circumstances, yes.

20 Q Would you agree that that notion is the  
21 one that should be carried forth then generally in a well  
22 set out region, that that particular type of notion should  
23 go on that way?

24 A No, my opinion is that there needs to be a balance

25

1 between what rests with the state and what rests with the  
2 municipality.

3           You have asked me to either accept or reject  
4 the complete delegation to locality. I don't agree that  
5 they should be completely delegated to the municipalities  
6 or that it should be completely not delegated.

7           I think that there should be a balance between  
8 state, local, and county power.

9           Q           You do disagree with the statement  
10 that the legislature should enact general laws under which  
11 municipalities other than counties may adopt zoning  
12 ordinances?

13           THE COURT: You seem to be arguing  
14 with him. He has already answered the question.

15 A           It doesn't follow. I'll have to disagree and--

16           THE COURT: Wait a minute, Dr. Mann.  
17 The way it would be if I say something in effect  
18 directing that the question need not be  
19 answered, you don't need to answer it.

20           I have understood him already to have  
21 answered that.

22           MR. SELESKY: Your Honor, I may be  
23 mistaken, but I detected first he answered it  
24 affirmatively that he would agree with that type  
25 of statement, and then he qualified it. If I



1 am mistaken, I would like the witness to  
2 straighten me out on it.

3 THE COURT: All right.

4 THE WITNESS: You are correct in that  
5 I qualified it, but now you are asking me to go  
6 back and to give an unequivocal yes or no to  
7 that particular phrasing of the legislation,  
8 and my qualification would mean that I am not  
9 prepared to give that kind of an unequivocal  
10 answer to that particular quotation.

11 Q That happens to be the zoning article  
12 of the Constitution of the state of New Jersey.

13 A I know.

14 Q Now, with regard to your testimony,  
15 you emphasized a great deal the various styles or methods  
16 in which towns exercise, municipalities exercised their land  
17 use control regulations. Is that correct?

18 What phrase did you use?

19 A I don't recall the phrase.

20 Q The modes, the modes that they would  
21 exercise, the type of control and how they would exercise  
22 their control. You characterized that. Do you recall your  
23 characterization?

24 A I'm sorry, I don't recall. I don't understand  
25 your question enough to be able to recall exactly what

1 phrasing I used for that.

2 Q I'll rephrase the question. In the  
3 exercise of land use controls, you indicated there are cate-  
4 gories or methods the towns had employed; correct?

5 A Yes.

6 Q And you didn't qualify them one way or  
7 another. You just demonstrated that this was a particular  
8 type of mechanism that they would use.

9 A Yes.

10 Q These are the types of mechanisms you  
11 use in the course of your classes. Is that correct?

12 A I discuss these mechanisms in my classes, yes.

13 Q You did not characterize these particu-  
14 lar mechanisms one way or another during the course of your  
15 direct testimony. Is that true?

16 A I think that's correct.

17 Q You just categorized them.

18 MR. SELESKY: I have no further  
19 questions.

20 THE COURT: All right. We'll move  
21 then to Mr. Moran.

22 \* \* \*

23

24

25

1 CROSS-EXAMINATION BY MR. MORAN:

2 Q Dr. Mann, I was puzzled by a transi-  
3 tion in your direct testimony, because most of it was  
4 direct/<sup>ed</sup>to the problem of dispersal, and then you suddenly  
5 got into the area of fair share housing allocations.

6 Is there a connection between the problem of  
7 urban dispersal and fair share housing allocations?

8 A Yes, there is.

9 Q Could you explain that to me?

10 A You recall that I talked about the two main  
11 problems that are occasioned by metropolitan dispersal, and  
12 the second problem had to do with the mismatch between  
13 location of residence of potential employees and the loca-  
14 tion of the newly dispersed foci of employment, and that the  
15 various affects included one of equity to the potential low  
16 and moderate income employees of these new foci dispersed  
17 employment, and therefore, fair share ties directly to that.

18 Q As I recall your testimony on direct,  
19 however, you indicated that there were, with regard to those  
20 two areas, that the local communities effectively deal with  
21 the problem of mismatch of residence and jobs, but that  
22 they would deal with the problems of health, safety, and  
23 welfare. Am I correct in that recollection?

24 A They have done so very good in--

25 THE COURT: You are not answering the

1 question.

2 A (Continuing) Well, all right. Rephrase the  
3 question, please, or restate it.

4 Q As I recollect your testimony, you  
5 indicated that the local communities could deal effectively  
6 and do deal effectively with the problems of health, safety,  
7 and welfare that are presented by urban dispersal, but that  
8 they could not deal effectively with the mismatch of  
9 residence.

10 A That's approximately correct, yes.

11 THE COURT: Could not deal with them?

12 THE WITNESS: I believe that it was  
13 my testimony, and I believe that is the case;  
14 and that these tend to be across municipal  
15 boundaries very often.

16 Q Pardon?

17 A In that the mismatch very often crosses  
18 municipal boundaries.

19 THE COURT: I didn't understand  
20 whether you said the municipalities could not  
21 deal with it or had not dealt with it.

22 THE WITNESS: I don't recall exactly  
23 what I said.

24 THE COURT: What do you say now?

25 THE WITNESS: I say I believe that

1 both are true. That they have not, and one of  
2 the reasons they have not is that they are not  
3 empowered to deal with things across their  
4 boundaries; and many of these mismatches do  
5 cross municipal boundaries.

6 Q In dealing with the problem of dispersal,  
7 I assume then that you feel that a regional approach is the  
8 only solution, the only effective solution to the problem.  
9 Is that correct?

10 A That's correct, and I'm nervous about the use  
11 of the term region because I have worked with it a great  
12 deal and I feel that it is such a relative concept and can  
13 mean so many different things that we probably need a more  
14 concrete type of entity than something that bears that  
15 ambiguous phrase, region.

16 It is my belief that the urban counties are the  
17 appropriate region for these purposes. That's my belief.

18 Q Assuming, assuming that a region, no  
19 matter how we define it, is taken as the approach or used  
20 as the basis for a solution to the problem of dispersal, and  
21 assuming that that region, whatever it may be, has within it  
22 substantial areas that are relatively undeveloped, do we  
23 not exacerbate the problem of dispersal by moving, by making  
24 those communities accept and build additional housing?

25 Don't you in effect continue the dispersal

1 process?

2 A You do continue the dispersal process, but the  
3 question, the prior phrasing of the question asked me to  
4 discuss whether it's exacerbated the environmental problem.  
5 That's not always the case, and I guess we are newly aware  
6 that we need to look at the trade-offs between that and  
7 other questions.

8 Q Well, assuming-- If we take, for  
9 example, the corridor between Boston and Washington, DC,  
10 which I assume that you concede is a relatively highly  
11 developed area?

12 A Yes.

13 Q Which has within it some pockets of  
14 undeveloped territory. Have we accomplished anything  
15 toward the solution of problems, the problem of dispersal  
16 if we, in effect, legislate or judicially impose the further  
17 development of those undeveloped communities?

18 A Would you restate the question again so that I  
19 hear exactly each word?

20 THE COURT: We could have it read back,  
21 I suppose.

22 (Reporter reads back pending question.)

23 A Yes, we have in terms of the second set of  
24 problems that I talked about. We could, if it is properly  
25 done, improve the situation of the mismatch between residen-

1 tial locations and foci of employment.

2 Q What have we done in regard to--  
3 have we accomplished anything in regard to the first set  
4 of problems?

5 A No.

6 Q Have we worsened that situation?

7 A Not necessarily.

8 Q We haven't made it any better?

9 A No.

10 Q If we do create this additional  
11 dispersal into these undeveloped pockets, what is to pro-  
12 hibit the aging process that you referred to in your direct  
13 testimony from just repeating itself again thirty, forty,  
14 or fifty years down the road?

15 A The aging of the infra-structure is going to  
16 occur in any case, and the greater the spread of develop-  
17 ment at a point in time, the lower the redevelopment costs  
18 there will be at the time that that infra-structure wears  
19 out.

20 You have not made-- you have dispersed your  
21 need for renewal at a future point in time. So that the  
22 affect is not necessarily worsened in terms of future  
23 renewal requirements.

24 Q Is it, is it as effecient a process  
25 to spread the development which requires services, such as

1 sewers, water, transit facilities, other services around and  
2 in as large an area as possible into areas where those  
3 services do not presently exist, or is it more desirable  
4 to maintain the development in the areas where those  
5 services do presently exist or where they can be more  
6 efficiently and economically provided?

7 A It is more expensive-- you ask it in terms of  
8 efficiency, but I'll answer it in terms of expense. It is  
9 more expensive to spread the infra-structure, since sewers  
10 and water mains are following the linear function of cost  
11 per linear foot, and it is more expensive to spread it; and  
12 it is less expensive to have, let's say, more built up apart-  
13 ment type areas in terms of the total cost of infra-structure.  
14 That's pretty obvious.

15 Q And this would include the spreading of  
16 it into the undeveloped pockets that I referred to earlier?

17 A Yes. It would include it, but it would also  
18 depend on the form that the urbanization took.

19 If it were planned unit development type of  
20 activity, there would be considerable savings on infra-  
21 structure; and if there were substantial apartment develop-  
22 ment, then the savings on infra-structure would be even  
23 greater.

24 Assuming that some development is someday going  
25 to take place there, the greater density of development saves



1 on those costs, the infra-structure costs.

2 Q Are there any other costs that would  
3 be increased by using that technique for handling the  
4 problem of dispersal?

5 A Transportation. Roadways. Again, it's the  
6 same opinion that if you put everything on one and two or  
7 five-acre zones, well, you have got more square footage  
8 of blacktop to lay and streets to lay and so forth.

9 If in the developed areas that you go into you  
10 would move into more apartment and planned unit development,  
11 then you have corresponding savings.

12 Q I was referring to the cost of, the  
13 cost involved in extending the development of any kind,  
14 whether it be PUD or apartment type complexes into undevel-  
15 oped areas vis-a-vis retaining them in the areas where  
16 there already has been substantial amounts of development.

17 A Well, some development is going to take place  
18 if the dispersal process is to continue. The question is  
19 where.

20 You are asking me to answer this just in terms  
21 of the open areas as opposed to what? What is the alterna-  
22 tive to building in the open areas? I don't understand  
23 what you are asking me to compare it to.

24 Q I'm talking about rural areas as  
25 opposed to suburban areas that exist within whatever region

1 we decide that we are going to use for the basis of our  
2 allocation of housing needs.

3 A Well, if that's what I am asked to compare,  
4 then I would say that it would be less expensive in terms  
5 of these infra-structure questions to tear down some of the  
6 one-family, one-acre housing and put up apartments in those  
7 areas in contrast to putting in newly urbanized areas  
8 that's necessary, since you wouldn't have to extend sewers  
9 into that.

10 If you accelerated the process of renewal in  
11 the already built up suburbs, it would be cheaper in terms  
12 of infra-structures than putting it into new areas.

13 Q You mean rural areas, correct?

14 A Rural areas.

15 Q In trying to work out a formula for  
16 fair share housing, you indicated three factors, I believe,  
17 that should be taken into account, present population,  
18 existence of available land, and density of activity.

19 I wasn't sure what you meant by the term  
20 density of activity.

21 A In these formulae, very often the density is  
22 used as a criteria for deciding whether each municipality  
23 is taking its fair share of higher density housing. It  
24 enters into it that way.

25 This is the number of housing units per acre,

1 and it is the majority of how intense the development  
2 occurred or is occurring or has occurred in the municipality  
3 up to date.

4 Q You mean the existing development  
5 in the municipality?

6 A Yes.

7 THE COURT: Both housing and places  
8 of employment? What do you mean by that?

9 THE WITNESS: Yes. Some of them have  
10 used the density--

11 THE COURT: What do you mean by that  
12 term?

13 THE WITNESS: Well, my testimony is  
14 reporting on my knowledge on some of these  
15 studies that have been made.

16 THE COURT: You used the term density  
17 of activity.

18 THE WITNESS: Density of activity  
19 refers to the number of units of something  
20 per unit space, and in this case we are talk-  
21 ing about population per acre, but more often  
22 housing per acre.

23 In some of it, it is the number of jobs  
24 per acre or per unit of space.

25 THE COURT: Number of jobs where?

1 THE WITNESS: In the locality.

2 THE COURT: In that municipality?

3 THE WITNESS: Yes.

4 Q All right. Are there any other  
5 legitimate competing factors which should be taken into  
6 account in working out a fair share allocation?

7 A I don't know. I think that there could be argu-  
8 ments made for some other factors, but I'm not sure that  
9 there are others that I would add.

10 Q Well, if you think that there could be  
11 an argument made for some other factors, what would those  
12 factors be that an argument could be made for?

13 A The argument of bearing capacity, which is more  
14 complex. The simple amount of land is one factor that  
15 might work its way into it.

16 Q What is bearing capacity?

17 A It is an ecological concept based upon the  
18 amount that a physical environment will tolerate, and par-  
19 ticularly centering around the question of aquifers.

20 Q You are not sure whether that's a  
21 legitimate competing factor?

22 A I'm not sure because I'm not sure that it is,  
23 that the state of the art is capable of measuring it. If we  
24 could measure it, then it would be a legitimate competing  
25 factor.

T5

1 Q But because we can't measure it, then  
2 perhaps you think we should ignore it?

3 A I think that we shouldn't have any kind of  
4 spurious calculations if we don't have a sure way  
5 of measuring it accurately enough to stand up in the con-  
6 census of professional expert opinion.

7 THE COURT: Just to clarify this,  
8 your testimony on direct examination was not  
9 as to what you considered the factors in work-  
10 ing a fair housing formula, but what, I think  
11 Ms. Morhuerser asked you the state of the art,  
12 that is, what had been considered. Is that  
13 right? You were not testifying as to what you  
14 considered the factors, you were considering  
15 as to what had been considered, at least as the  
16 prime factors, the major factors in studies  
17 carried out by others. Is that right?

18 THE WITNESS: That's right. But now  
19 he was asking me what I--

20 THE COURT: All right. But I'm just  
21 clarifying it.

22 MR. MORAN: I'm sorry, I misunderstood  
23 what your direct testimony was.

24 Q Do you agree that these three factors  
25 that you mentioned, the present population, available land,

1 and density of activity are the factors which should be  
2 taken into account in doing a fair share allocation?

3 A I think that all three should be taken into  
4 account.

5 Q Are they the only ones that you  
6 think should be taken into account?

7 A Well, again I think that there are arguments  
8 for some other things, but let's say for now I think that  
9 those are the main ones.

10 Q In a given region that we are study-  
11 ing has a substantial amount of agricultural land presently  
12 in use as agricultural land, should any consideration be  
13 given to the necessity of preservation of that agricultural  
14 land?

15 A I have been into that question rather deeply  
16 and my opinion is that there is probably very little solid  
17 argument for doing that except in areas where you are  
18 talking about unique agricultural production such as  
19 avocado trees or something that you can grow on only a cer-  
20 tain amount of land.

21 It is my opinion that the protection of agri-  
22 cultural land is very often used as an exaggerated criterion  
23 in these cases.

24 I have developed this opinion fairly extensively.  
25 I was on the Governor's commission on open space policy here

1 in New Jersey and had occasion to talk through this ques-  
2 tion rather extensively.

3 Q In terms of unique agricultural  
4 activity, would the soil characteristics have a bearing in  
5 making that determination?

6 A The soil characteristics only as they dealt  
7 with unique agricultural production, and that's almost  
8 non-existent in this part of the country.

9 Q In other words, the fact that a given,  
10 in a given area, the soil type might be uniquely suitable  
11 to agricultural activity as compared to soil types in other  
12 areas in the region is not a factor that carries any  
13 weight?

14 A It would only be a factor in my opinion in the  
15 case of an extreme case such as a cranberry bog.

16 Q Pardon me?

17 A Such as a cranberry bog.

18 THE COURT: Mr. Moran is representing  
19 the Township of Cranbury.

20 THE WITNESS: I didn't know that.

21 But even if there, in having looked into the  
22 situation of cranberry production in the  
23 northeastern part of the United States, it is  
24 difficult to argue where the uniqueness of all  
25 of these places, and in any case, they probably

1 are not buildable areas because of wet land  
2 characteristics.

3 Q Your opinion in this area holds true  
4 even though the land may be in existing use for agricultural  
5 purposes?

6 A Yes, that's true.

7 MR. MORAN: I don't have any other  
8 questions, your Honor.

9 MR. CUMMINS: I have several questions.  
10 I don't know if you want me to start now.

11 THE COURT: We'll recess until 1:30.

12 (Luncheon recess.)

13 \* \* \*

14

15 AFTERNOON SESSION

16

17 L A W R E N C E D. M A N N, resumes the stand,

18 CROSS-EXAMINATION BY MR. CUMMINS:

19 Q Dr. Mann, before one of the counsel  
20 asked you and read from the article in the New Jersey  
21 Constitution on zoning. Is that correct?

22 A Yes.

23 Q I don't know if he asked you whether  
24 or not you agreed with that in its totality. I think your  
25 answer was that you disagreed with some of that in part.



1 A The answer was qualified.

2 Q Qualified. Okay. Would you then  
3 espouse a change in that article, Doctor?

4 A If I were a resident of this state, I would be  
5 working for a change in it, yes.

6 Q For a what?

7 A For a change, and an amendment to that.

8 Q By what process?

9 A By petitioning an introduction of an amendment  
10 to the Constitution through the Constitutional process.  
11 I'm not a Constitutional lawyer.

12 Q Rather than through any type of court  
13 attack?

14 A Yes.

15 Q Now, Doctor, have you ever sat on  
16 either a zoning board or a planning board?

17 A No.

18 Q Have you ever acted as a planner to  
19 a zoning board or a planning board?

20 A Not in the state of New Jersey.

21 Q Where? I take it by your answer, it  
22 has been in another state?

23 A That's right.

24 Q Where, Doctor?

25 A North Carolina.

1 Q What was your capacity?

2 A As a consultant to the planning board and--  
3 consultant to the planning board.

4 Q Is this a particular community?

5 A Yes. I mentioned the community in the past.

6 Q Lockley or something like that?

7 A No, Roxboro and Apex.

8 Q And did you in that capacity get  
9 involved in the drafting of any zoning ordinances?

10 A No, I did not.

11 Q Have you ever been involved with the  
12 drafting of a zoning ordinance as opposed to a master  
13 plan? I know that you were asked this morning on a master  
14 plan.

15 Have you ever gotten involved with the drafting  
16 on a zoning ordinance?

17 A Only as an academic exercise.

18 Q Doctor, I believe that you said on  
19 direct that something about regional solutions and that  
20 urban counties have to deal with this.

21 Are you familiar, Doctor, with the recent legis-  
22 lation in New Jersey dealing with the optional county charter  
23 plan?

24 A I know of its existence. I don't know of its  
25 vision in detail.

1 Q And if it is adopted by the voters  
2 of a county, it would give the county planning board more  
3 powers and the county freeholders some more powers?

4 A I believe that's the case, yes.

5 Q And are you aware that in New Jersey,  
6 this has been on the ballot in many of the counties?

7 A No, I don't know of it, of that record.

8 Q Would you say that this would be a  
9 voluntary approach, Doctor? In other words, what I mean by  
10 that is before you had the reservation about the voluntary  
11 approach to either regionalization or fair share housing.

12 How would you characterize a general law which  
13 grants to each county an option to increase the freeholders'  
14 power or county planning board's power to deal with regional  
15 zoning?

16 A Would I call that as being voluntary?

17 Q Yes. Where the ultimate solution is  
18 left to the voters.

19 A I guess the definition would be so.

20 Q Okay. Would you then say that you would  
21 disapprove of this plan because it is voluntary?

22 A No.

23 Q Then you would approve of that type of  
24 solution?

25 A I would approve of voluntary effort where it

1 works.

2 Q Okay. Would you say that where it has  
3 been submitted to the voters but has been turned down, would  
4 you say that that is in the nature of a voluntary plan  
5 that didn't work?

6 A I wouldn't say it is a voluntary plan until  
7 someone intends to carry it out.

8 THE COURT: Nobody has shown any  
9 volition?

10 THE WITNESS: That's it.

11 THE COURT: You are arguing about  
12 words, Mr. Cummins, or involving yourself in  
13 argument about words.

14 Q Now, with regard to dispersal, Doctor,  
15 you probably are aware that New Jersey is the most densely  
16 populated state in the country, are you not, either that or  
17 Rhode Island?

18 A I thought that honor went to Rhode Island.

19 Q I think it has been shifting back and  
20 forth. Be that as it may, would you say that there has been  
21 a ~~dispersal~~ from New Jersey as a whole, a most recent  
22 phenomenon within maybe the last six months?

23 Do you detect that as a planner?

24 A I'm aware of some gross out-migration and  
25 out-gross movement of industry. I think that it isn't net

1 yet. That's my impression from the facts that I know.

2 There are still more moving in than are moving  
3 out, but there are some moving out, yes.

4 Q And as a planner, would you advocate  
5 a dispersal from an area such as New Jersey, which is a  
6 very highly populated area?

7 A If we talk about dispersal in that sense, we  
8 are talking about national dispersal of population, and you  
9 are asking me to give my opinion on whether it is better  
10 to have population concentration in the northeastern part  
11 of the United States, including New Jersey, moved to other  
12 parts of the country. Is that it essentially?

13 Q Generally, yes.

14 A The answer to that is I think that there are  
15 some arguments for having a, a fairly reasonable even  
16 dispersal of a population throughout a national territory.  
17 In my work in international work I have argued that that's  
18 not unreasonable.

19 Q Well, that would involve then some  
20 type of social engineering, would it not?

21 A I don't believe so. I don't know what social  
22 engineering means to you, but in my definition of social  
23 engineering, it wouldn't necessarily involve social engineer-  
24 ing.

25 Q Well, just so I understand, what is

1 your definition of social engineering?

2 A Social engineering as it is usually used among  
3 people who use the term professionally has to do with sort  
4 of B.F. Skinner type of conditioning of population, to  
5 influence them to think in certain ways so that they will  
6 behave in certain ways.

7 I don't believe that that type of engineered  
8 thought and behavior control is part of what we are talking  
9 about necessarily.

10 Q I see. But yet there you would espouse  
11 the imposition, if you will, of a planning concept upon  
12 either a locale or a region?

13 A Whenever the problems are serious enough to  
14 justify public action of this sort. I mean, it happens  
15 all the time. People decide that problems have become  
16 serious enough, and so we begin to decide to have planning  
17 at a certain level of a certain type.

18 That is the process of American planning and  
19 American civilization.

20 We leave things alone until we see that prob-  
21 lems are serious enough, and then we decide collectively  
22 through our legislative, administrative, and executive  
23 process and judicial process to change things because we  
24 have got a serious problem that must be dealt with.

25 But it is only in that sense that I espouse

1 something like this.

2 Q Doctor, I'm not sure that I understood  
3 one of your answers before. I just wanted to go over it.

4 Did I understand you to say that in areas where  
5 there is existing housing, and I am paraphrasing your  
6 answer because I'm not sure I understood it, where you  
7 said something about tearing down houses on one acre or  
8 large lots to make room for apartment units?

9 A In response to a question what would be the  
10 most efficient way to have savings on the costs of sewer  
11 and water infra-structure and to some extent transportation  
12 infra-structure.

13 Q What do you mean by infra-structure?

14 A Infra-structure means physical construction  
15 that facilitates the physical and economical types of  
16 activities that humans engage in.

17 In order to facilitate, in order to deal with  
18 this process, that is, in order to have the most economical  
19 strain, I was asked to compare rural areas to suburban  
20 areas, and I said that if all you were trying to do was to  
21 save money on the costs of such sewer and water that you  
22 would save more money by rebuilding at a higher density  
23 the suburbs than you would by urbanizing rural land.

24 I think that there are many other factors than  
25 simply saving money or sewers and water.

1 Q Fine. You are not advocating that.  
2 You mentioned, I guess, as-- you mentioned three factors  
3 that you would consider in the regional approach.

4 You mentioned before something having to do  
5 with overbearing, in other words, the ability of a particu-  
6 lar area to environmentally handle its wastes or what-have-  
7 you, its water and environmental problems.

8 A The term is bearing capacity.

9 Q Bearing capacity. Thank you, sir.  
10 You said that that wasn't one of the three factors that  
11 you would consider.

12 A That's right.

13 Q Are you aware, Doctor, that the  
14 federal government has suggested a ban on further develop-  
15 ment of an adjacent county in New Jersey by suggesting the  
16 withholding of funds for sewer development plants, such  
17 as Ocean County?

18 In other words, the federal government says  
19 that there shouldn't be any more than, let's say, 250,000  
20 people in Ocean County. Are you in favor of that idea?

21 A I don't know the circumstances, and I scarcely  
22 heard about it, but I have heard that this has been under  
23 discussion.

24 If there are serious questions raised and people  
25 want to have a good hard look at what the environmental



1 impact of future development would be on the environment in  
2 Oceal County, then I think that a reasonably temporary  
3 period of moratorium might well be in order.

4 Q But this was imposed from without  
5 Ocean County. It didn't come from Ocean County. It was  
6 imposed from without.

7 A By the federal government. Do I favor it being  
8 imposed from outside?

9 Q Yes.

10 A If there are serious technical questions that  
11 are raised at a level of the quality of human life in  
12 Ocean County, then I think it is reasonable that it be  
13 mandated by an outside group.

14 Q As opposed to the people in Ocean  
15 County deciding for themselves?

16 THE COURT: He has already answered it,  
17 Mr. Cummins. You don't need to ask him again.

18 MR. CUMMINS: I didn't ask about Ocean  
19 County, if your Honor please.

20 THE COURT: I understood him to say  
21 that he would favor, not exactly favor, but he  
22 said that there was a lot to be said for  
23 putting a limitation if there was serious  
24 environmental problems and taking a good, hard  
25 look at them. Is that what you said?

1 THE WITNESS: That's what I said.

2 MR. CUMMINS: Then I asked the witness,  
3 if your Honor please, whether he would favor  
4 that as coming from without by the federal  
5 government.

6 THE COURT: He has already answered  
7 that.

8 BY MR. CUMMINS:

9 Q Now, I'm asking you whether or not  
10 you would favor-- what if the local people did not want that  
11 decision?

12 A It would depend entirely on the nature of the  
13 technical evidence in this case before I could give an  
14 opinion. I believe that there are some times cases where the  
15 locally perceived seriousness of a situation may not be  
16 entirely understood; and if there are larger questions, then  
17 it is not inappropriate for an outside authority to decide  
18 these things.

19 On the other hand, as long as it is a local  
20 decision-making matter, I believe that the local  
21 decision-making should be allowed to have its way unless  
22 there are larger national or state issues that are being  
23 infringed by the process of local decision-making.

24 I favor local decision-making every place where  
25 it is reasonable and proper.

1 Q But, Doctor, are there instances where  
2 you have, let's say--well, you mentioned something about  
3 exclusionary interests before, did you not, in your direct  
4 testimony?

5 A Yes, I did.

6 Q Would you suggest that there are other  
7 matters of exclusion other than zoning or land use controls?

8 A Yes.

9 Q And perhaps certain real estate  
10 practices?

11 A Yes.

12 Q And so that exclusion does not center  
13 on land use controls?

14 A I think it centers on land use controls in the  
15 sense that the land use controls exacerbate the imperfec-  
16 tions of the land market and the mistakes that are made at  
17 higher levels of government investment.

18 Q But where you have, let's say, zoning  
19 ordinances that are not necessarily exclusionary in them-  
20 selves, then that particular area is not exclusionary  
21 per se because of its zoning ordinance?

22 A If the zoning ordinance is not exclusionary,  
23 then the land is not exclusionary because of its zoning  
24 ordinance. We are talking about--

25 MR. CUMMINS: Thank you. No further

1 questions.

2 THE COURT: Mr. Busch?

3 CROSS-EXAMINATION BY MR. BUSCH:

4 Q Dr. Mann, when were you first contacted  
5 by the plaintiffs or their representatives to appear in  
6 this case?

7 A I don't remember the exact date, but it was  
8 some time in the month of December, I believe.

9 Q Of '75?

10 A Yes.

11 Q When did you first indicate to the  
12 plaintiffs that you would in fact appear in this case?

13 A Sometime in January because there was some  
14 confusion on communications among us or between us in the  
15 sense that they were supposed to call me.

16 They called Harvard and there was another  
17 professor Mann, who hung up on them. So that by the time  
18 I got around to finding out why they hadn't called me,  
19 some time had gone past. Sometime in January.

20 Q And when were you first asked by the  
21 plaintiffs to prepare a report for this case?

22 A It was sometime in mid-January.

23 Q Sometime at least from about the 15th  
24 on?

25 A It could have been slightly prior to the 15th.

1 Q And when in fact did you prepare the  
2 report that was handed to counsel on the opening day of  
3 trial?

4 A It was completed in the last days of January.

5 Q And the trial began this past Tuesday,  
6 which would be February the 3rd. So it was sometime last  
7 week that it was prepared?

8 A Yes. Completed. It had been in preparation  
9 sometime earlier.

10 Q And have you made an agreement or  
11 arrangement of some kind with the plaintiffs as to the pay-  
12 ment for your testimony in this case?

13 A Yes, I have.

14 Q And did the agreement also include  
15 the time spent in research or preparing a report and sub-  
16 mitting a report?

17 A Only the expenses.

18 Q And can you tell me what the basis of  
19 payment as an expert witness is?

20 A The basis of this agreement is expenses only.

21 Q Okay. And what would that amount to,  
22 do you know?

23 A I don't know yet.

24 Q And what would it include?

25 A It would include travel from Boston to here and

1 any travel in terms of any investigations that I have done  
2 in connection with it and any documentable expenses to my  
3 effort as an expert witness.

4 Q Now, without beating the question to  
5 death, may I reiterate the three points that I think you  
6 indicated should be in a fair share plan?

7 Population is--

8 THE COURT: Not what he. You are  
9 repeating the same mis-statement of his  
10 testimony as another cross-examiner,  
11 Mr. Busch.

12 Q If you were preparing a land--  
13 strike that. A fair share allocation plan, Dr. Mann,  
14 would you include as factors population, one; land area,  
15 two; and density of activity, three?

16 A Yes.

17 Q And you indicated that the--

18 A Excuse me. I'm sorry. I may have mis-  
19 stated there, because I thought you said something that  
20 you didn't.

21 Land area means vacant land area.

22 Q Vacant land area available. With  
23 that qualification, there would be three things that  
24 you would include in a fair-share plan. Is that right?

25 A In the method for deciding upon a fair share.

T6

L

1 Q Now, I'm going beyond the state of  
2 the art and what others have done and asking whether you  
3 yourself would include those as factors in a fair share  
4 plan?

5 A Yes, I would.

6 Q And I believe you indicated that you  
7 would tend to disregard agricultural and you had some  
8 depth of knowledge in that area. Is that correct?

9 A I think that's true.

10 Q You indicated that where there was  
11 something unique, such as avocados or cranberries, if the  
12 soil were unique to that area of the country, that would be  
13 permitted to remain?

14 A We are dealing with truly, truly unique  
15 agricultural land resources.

16 Q Are you aware that the amount of land  
17 in New Jersey devoted to agricultural decreases every  
18 year?

19 A Yes.

20 Q And are you aware of the recent  
21 developments in south Jersey including the canned and  
22 frozen food operations that have closed down and moved  
23 out of the state?

24 A No, I'm not up on that, no.

25 Q Are you aware of the impact upon

1 farmers as well as direct employees, canned and processed  
2 food company employees?

3 A I can certainly imagine it.

4 MR. LERNER: What was the response to  
5 that?

6 THE WITNESS: I can certainly imagine  
7 it. Am I aware of the impact on farmers when  
8 canned foods go down-- in this particular case,  
9 I have not talked to any of these farmers, and  
10 so I do not know as a matter of fact what the  
11 impact was.

12 I can say I can only imagine it.

13 Q Do you feel it is a valid national  
14 policy to be independent with regard to the agricultural  
15 and products grown?

16 A It is a valid objective. I don't know that it  
17 is a viable one.

18 Q You indicated before that there might  
19 be some policies that were bigger than home rule, and I  
20 believe you indicated something like a state, region, or  
21 national policy.

22 A Yes.

23 Q You are saying that it might be a  
24 reasonable national policy to hope to be independent in  
25 agriculture, but it is not viable?



1 A It might not be. I don't know.

2 Q Do you think that it would be less  
3 viable if we had used up vacant agricultural land which is  
4 presently devoted to agriculture?

5 A I have to enlarge on the answer to that.  
6 The agricultural land is reverting more rapidly to wilder-  
7 ness than it is to urbanization.

8 Q Are you aware of that specifically in  
9 Middlesex County?

10 A No, I'm not aware of that specifically in  
11 Middlesex County. I'm aware of it specifically for the  
12 northeastern coast of the United States.

13 Q Do you know whether that statement is  
14 valid with regard to Middlesex County?

15 A No.

16 Q You also indicated on questions from  
17 more than one attorney that soil bearing capacity in effect  
18 was not a factor that you would take into account in doing  
19 a fair share plan. Is that correct?

20 THE COURT: Soil bearing capacity?

21 THE WITNESS: The term is ambiguous.

22 Soil bearing capacity is a basis for--

23 THE COURT: Wait a minute, Doctor.

24 I think that he talked about bearing capacity,  
25 bearing capacity of the land. Is that correct?

1 THE WITNESS: Yes.

2 THE COURT: All right. You may ask him  
3 a question about that.

4 Q Did you indicate, to correct the ques-  
5 tion, that the bearing capacity of land was not a factor  
6 that you would put into a fair share plan?

7 A I did.

8 Q You also indicated the word aquifer.  
9 Is that correct?

10 A That's correct.

11 Q Would it be fair to say that has some-  
12 thing to do with the water intake or re-charge area?

13 A That's correct.

14 Q Are you aware of where the aquifers  
15 are in the county of Middlesex?

16 A No, I'm not.

17 Q You indicated that one of the reasons  
18 you wouldn't include some of these factors in an allocation  
19 or a fair share plan was that they were not adequately  
20 documented at the present time. Is that a fair statement?

21 A Adequately documented? Well, no, that's not a  
22 fair statement.

23 Q Did you state that you would not include  
24 aquifers as a factor in coming up with a fair share plan?

25 A I did.

1 Q Did you state that the adequacy of  
2 our knowledge concerning aquifers might be a reason not to  
3 consider them?

4 A Yes.

5 Q Are you aware of the studies made by  
6 the Middlesex County Planning Board concerning the location  
7 of aquifers in the county?

8 A No, I'm not aware of these studies in detail.

9 Q Are you aware of the comprehensive  
10 master plan title 21, the Middlesex County Planning Board  
11 series entitled Long Range Comprehensive Plan Alternative?

12 A Yes, I'm aware of that document.

13 Q Have you ever examined that document to  
14 see where the aquifers are in the county of Middlesex?

15 A Yes, I have looked at that.

16 Q And have you ever examined the plan to  
17 see where we have highly productive soils in the county of  
18 Middlesex?

19 A Yes, I have looked at that.

20 Q And specifically I am going to show you  
21 the map opposite Page 11 and indicate, if you will, please,  
22 if you have ever examined this particular map in Title 21?

23 A Yes, I have examined that map.

24 Q And do you feel that the county planning  
25 board in this particular document has attempted to indicate

1 where among other things the major aquifers and the highly  
2 productive soils are?

3 A I agreed that they have attempted to, yes.

4 Q And yet you feel notwithstanding the  
5 designation on a map of where these things are located  
6 according to the County Planning Board, that aquifers and  
7 highly productive soils should not be considered in coming  
8 up with a fair share plan?

9 A That's correct. It is correct.

10 Q Do you feel that an area's susceptibility  
11 to flooding is a factor that should be considered in coming  
12 up with a fair share plan?

13 A Only in that you should not build anything in  
14 areas that are very apt to flood frequently.

15 Q And yet that wasn't one of the factors?

16 THE COURT: Excuse me, Mr. Busch.

17 Does that fit into your category of a factor,  
18 as a factor of the availability of land?

19 THE WITNESS: Yes, it would.

20 THE COURT: Availability of land for  
21 building purposes?

22 THE WITNESS: Yes.

23 THE COURT: That's where it would fit.

24 Q Yet you would not include among the  
25 factors in coming up with the fair share plan whether a

1 particular area generally was susceptible to flooding,  
2 would you?

3 A Again in terms of the availability of land, that's  
4 exactly the way that it would be included. If an area is  
5 in a high risk flood area, and I don't mean the 5,000-year  
6 flood cycle, then it would be eliminated from available land.

7 Q So that you would subtract such land  
8 from the total land area available?

9 A Yes.

10 Q Would you consider proximity to  
11 employment a factor to go into a fair share plan?

12 A Yes.

13 Q That doesn't show up in any of the  
14 three factors we first discussed, does it?

15 A In the density of the work force.

16 You see, the population, all of these factors  
17 are fairly complex factors.

18 Q So that you would include proximity  
19 to employment under density of activity?

20 A Yes.

21 Q All right.

22 THE COURT: Well, I think that I want  
23 to ask you to clarify this. You are talking  
24 about a fair share housing formula for an area.  
25 Is that right?

1 THE WITNESS: Yes.

2 THE COURT: So that although municipality  
3 "A" might have very few jobs, if some municipality  
4 in the area, "B, C, and D" had density of employ-  
5 ment, a high density of employment, that would  
6 be a factor to consider in municipality "A"  
7 as well as "B, C, and D".

8 Is that what you are saying?

9 THE WITNESS: That's right.

10 Q Would you be interested not just in  
11 the proximity of employment to housing, but in the character  
12 or nature of the jobs available in that employment?

13 A Yes, I would.

14 Q Would you attempt to see that persons  
15 of low and moderate income are somewhere <sup>near</sup> the jobs which  
16 would be likely to be filled by those persons?

17 A Yes.

18 Q And if in fact studies showed that  
19 white collar jobs would be generated in one area, would that  
20 be a factor to determine where to put the low and moderate  
21 income housing?

22 A Except that these things are not that predictable  
23 over time. I'm not sure that it can be that way.

24 Q Plans at best are estimated guesses.

25 Is that right?

- 1 A That's right.
- 2 Q And planners are no better than somewhat  
3 educated guessers who have a data bank to rely upon?
- 4 A That's correct.
- 5 Q No way scientific are they?
- 6 A That's not correct.
- 7 Q Isn't it a fact that the Vernon Study  
8 in 1960, to which you made reference, in fact has proven to  
9 be far optimistic, far too optimistic as to the growth  
10 patterns in this area?
- 11 A Yes.
- 12 Q That was called metropolis 1985?
- 13 A Yes.
- 14 Q And sometimes referred to as the  
15 Harvard Study?
- 16 A Not by me.
- 17 Q Do you know the population prediction  
18 that the Vernon Study made for the county of Middlesex for  
19 the year 1985?
- 20 A No, I don't have that figure.
- 21 Q Would it surprise you if I suggested  
22 it was in excess of one million?
- 23 A No.
- 24 Q Are you aware of the present 1976  
25 prediction of population for the county by the county planning
- L

1 board?

2 A No, I don't know those predictions.

3 Q For 1985, would it surprise you if I  
4 suggested that the figure was 766 thousand?

5 A No.

6 Q Would you agree that that would be a  
7 major margin of error between predictions, although not by  
8 the same bodies?

9 A It's not bad, given the state of the art.

10 Q In other words, so that if in 1960  
11 the professional from Harvard looked forward through the  
12 crystal ball and saw 25 years hence and predicted in excess  
13 of one million, you are saying it is not bad if our predic-  
14 tions are down to 766 thousand?

15 A I'm saying that we use the same techniques that  
16 weather forecasters use statistically.

17 Q You are saying we really can't count  
18 too much on plan projections, can we?

19 A We need them, but we need some area of certainty;  
20 but we almost always know that the margin of error is going  
21 to be large, including the present Middlesex projections.

22 Q Okay. You agree that in your field  
23 you are also required, to a certain extent, to predict or to  
24 project into the future?

25 A Yes.



1 Q And if the defendant municipalities  
2 which are represented here today were to enable high density  
3 development in areas presently vacant, would the result be  
4 by your predictions to have people from the center cities  
5 move out to these municipalities, at least in part?

6 A In part.

7 Q And would you anticipate other in-  
8 migration from other parts of the county or region?

9 A Yes.

10 Q And would you consider possibly that  
11 some movement would take place within the municipalities  
12 themselves?

13 A Yes.

14 Q If persons from the center cities were  
15 to move out to the municipalities I'm speaking of, could  
16 we also assume that housing might be renovated or restored  
17 in the center cities in part?

18 A In part, but that's really complicated.

19 Q If in fact the housing were restored  
20 in the center cities, this would add to the density of what  
21 we have already considered the <sup>most</sup> densely populated state in  
22 the country.

23 Isn't that correct?

24 A Hypothetically, yes.

25 Q And just to clarify prior testimony, if

1 I were to suggest categorically that New Jersey passed  
2 Rhode Island in density per acre or per square mile in 1960,  
3 would you contradict that statement?

4 A No.

5 Q So that if in fact the housing were  
6 restored in the center city, we would be adding to the popu-  
7 lation of the most densely populated state in the country.

8 Is that correct?

9 A Yes.

10 Q On the other hand, if that housing in  
11 the center city were not rehabilitated or renovated and were  
12 turned into parking lots or just left vacant, would we not  
13 have a ghost town effect in the center cities?

14 A We do now.

15 Q Wouldn't we be exacerbating the situ-  
16 ation by encouraging the people who live in the center cities  
17 by moving to the suburbs?

18 A No. They want to get out so much that there  
19 isn't much you could do one way or the other to change their  
20 minds about that.

21 I must enlarge on that to the point that there  
22 would be a time when the central land market will come back,  
23 when the price of the land goes down to the level where it is  
24 useful to tear down the buildings on a commercial basis.

25 Then there will be some rebuilding. But the best

1 estimates that this will be a considerably lower density  
2 than at present.

3 Q In the meantime, we would have a time  
4 lag?

5 A Yes.

6 Q Where we would have vacant stores and  
7 vacant apartments in the center city?

8 A As we do now.

9 Q And it would be increased, would it  
10 not, if the national and regional trend showed that there  
11 was a dramatic drop in the in-migration to the region?

12 A The trend of dispersal I think would continue  
13 far past the point where overall decline had set in.

14 Q Are you aware of recent national pro-  
15 jections by the Bureau of Census with regard to the migra-  
16 tion out of the industrialized northeast into what they  
17 called the Sun Belt?

18 A Yes.

19 Q To the south and west?

20 A Yes.

21 Q Do you generally agree with the  
22 figures that have been handed out or with the general con-  
23 cept of what is happening in this country today?

24 A Whose general concept?

25 Q The Bureau of Census, which came out

1 with a report in January of 1976 showing growth in what they  
2 call the Sun Belt states and a retarded growth rate for the  
3 industrialized northeast.

4 A I accept their data. I don't know that I have  
5 to accept any concept that they have.

6 Q Isn't part of the problem with regard  
7 to the time lag that we just spoke of, getting the White  
8 middle class to move back to the center cities?

9 A I don't think that's putting it properly. I  
10 don't think that getting the White middle class to move back  
11 to the center cities is the way of thinking about it, about  
12 the problem.

13 It is the new growth, the new net growth that's  
14 going to be attracted to the center cities. It is clear  
15 that some white persons living outside of central cities  
16 may well be attracted to the center city when it starts to  
17 come back as an attractive area, but it may be part of the  
18 question, but it isn't very much of it, I think.

19 Q You agree, though, that during the  
20 time lag, the situation would remain as is or possibly even  
21 worse. Is that possibly true?

22 A Yes.

23 Q Now, Dr. Mann, with regard to some of  
24 your comments concerning municipal and state and county  
25 boundaries, is it your feeling that the existence of these

1 artificially created boundaries has in some way resulted in  
2 dispersal?

3 A No.

4 Q In fact, that has had very little to  
5 do with it. Is that correct?

6 A That's what I said.

7 Q And the ring structure has developed  
8 without regard to the artificial lines on the map?

9 A By and large.

10 Q And would you be in favor of abolishing  
11 home rule if we could achieve the end legislatively that you  
12 suggested on direct testimony could be done either legis-  
13 latively or judicially?

14 A Yes, I think so.

15 Q Do you feel that home rule at the  
16 present time is an impediment to achieving the goals which  
17 you have suggested?

18 A It is an impediment, yes.

19 Q And--

20 THE COURT: Your questions of home  
21 rule are specifically as to land use control?

22 MR.BUSCH: As to land use control.

23 THE COURT: You are not talking about  
24 police functions and things of that sort?

25 MR.BUSCH: No, I'm not.

1 I think that Dr. Mann understood  
2 that.

3 THE WITNESS: I understood it exactly  
4 in that context.

5 THE COURT: All right.

6 Q Do you feel the fact that the Legisla-  
7 tors have to be elected by a constituency is an impediment  
8 to solving this problem legislatively?

9 A It simply works in the political process to  
10 make it politically impossible.

11 That's the sense of my comments.

12 Q So that you would tend to agree with  
13 the statement that the legislators could not come up with a  
14 fair share regional plan perhaps because of political con-  
15 siderations?

16 A No, I don't think that follows.

17 Q Don't you conceive the entire problem  
18 we are discussing today, Dr. Mann, as a legislative problem  
19 rather than a judicial problem?

20 A No.

21 Q Have you given thought as to how a  
22 court could actually enforce an order creating a regional  
23 plan?

24 A A little bit.

25 Q Have you given thought to exactly what

1 powers a court has in order to impose upon administrative  
2 bodies the duty to carry out a plan?

3 A Yes, I have given some thought to that.

4 Q Wouldn't the power of the court to  
5 impose upon the bodies to carry out a plan require some  
6 enabling legislation?

7 A I don't believe so.

8 Q Is not the problem one of general  
9 application to people in a region?

10 A I don't understand the sense of the question.

11 Q The fair share plan which you were  
12 discussing, in fact, would affect equally everyone in a  
13 region. Isn't that correct?

14 A Yes.

15 Q And isn't this the type of resolution  
16 that generally should be handled in a legislative rather  
17 than a judicial manner?

18 A Generally, yes.

19 MR. BUSCH: Nothing further. Thank you.

20 THE COURT: Mr. Lerner, cross-examine.

21

22

\* \* \*

23

24

25

T7

1 CROSS-EXAMINATION BY MR. LERNER:

2 Q Getting back to a point that was raised  
3 by Mr. Busch. It is my understanding of your comment that  
4 there will be an evolutionary process concerning the center  
5 city. That will go through a period of dormant and hope-  
6 fully a period of resurgence. Is that correct?

7 A Yes.

8 Q And that resurgence will take place  
9 only after the economic values in the center city fall to  
10 a level where they then become economically attractive?

11 A That's correct.

12 Q Is that in a free marketplace?

13 A A Moderated free market, yes.

14 Q Who do you envision as controlling  
15 to any extent the land values or the purchase prices thereof?

16 A That will be largely a market function, but  
17 there will be enough federal, state subsidies involved in  
18 it that somehow it will be entirely impossible to discern  
19 how much is free market and how much is subsidized.

20 Q Do you envision the federal or state  
21 purchasing the property from the present owner thereof?

22 A They have done that. I think that they will  
23 do less of that.

24 Q What do you envision then happening  
25 to the asset values being held by the individuals and/or



1 banks that may be left holding these properties?

2 A Well, they will depreciate.

3 Q And in the time lag, would you envision  
4 some of these holders being wiped out?

5 A Yes.

6 Q The purpose, sir, is to move the  
7 people out or give them a place to live outside of the  
8 city, as I understand it?

9 A I'm sorry, I don't understand that.

10 THE COURT: Neither do I, Doctor.  
11 Excuse me, Mr. Lerner. I don't believe the  
12 question is, as it is phrased, understandable.

13 MR. LERNER: I will rephrase the  
14 question.

15 Q We went on the premise earlier that a  
16 power greater than the municipality, for example, the  
17 federal government, could decide that a highway could be  
18 built in a certain area, is that true, transcending munici-  
19 pal boundaries?

20 A Not as a premise. We were talking about it as  
21 a point of fact.

22 Q And as a fact, the federal government  
23 in its present form offers some inducement to a factory and/  
24 or plant locating along said highway?

25 A We have established that in reference to federal

1 taxes.

2 Q As a fact?

3 A As a fact.

4 Q And do you accept as a fact that  
5 people should be located, as far as their living quarters,  
6 in close proximity to their place of employment as a fact?

7 A It is a should proposition. How can I accept  
8 it as a fact?

9 THE COURT: I think that's so,  
10 Mr. Lerner.

11 Q Is it part of your premise that the  
12 housing should be located in easy availability to the job  
13 market?

14 A In reasonable access, but not cheek by jowl..

15 MR. LEFKOWITZ: What is that, your  
16 Honor?

17 THE COURT: Not cheek by jowl.

18 Q You indicated that one of the consid-  
19 erations that were not heretofore considered but in the last  
20 two years have been of prime consideration, if I may para-  
21 phrase you, is the energy factor, did you not?

22 A Yes.

23 Q The cost of transportation of moving  
24 people to their jobs?

25 A Yes.

1 Q So that cheek to jowl is in fact a  
2 desired result, is it not, in view of an energy crisis?

3 A No.

4 THE COURT: Well, we are introducing  
5 a term that has no fixed definition here,  
6 really.

7 What do you mean by that, absolute  
8 proximity or, let us say, reasonable proximity?

9 MR. LERNER: Is the Court asking me  
10 the question or the witness?

11 THE COURT: Rephrase your question.

12 MR. LERNER: I was trying to use the  
13 phraseology of the witness, your Honor.

14 THE COURT: Rephrase your question.

15 Q It is my understanding, Doctor, that  
16 at a time prior to 1973, energy was not considered, or the  
17 use of energy was not considered a prime factor in the  
18 location of homes to jobs.

19 A Not as important as it is now.

20 Q It became important when the nation  
21 was faced with what we term an energy crisis?

22 A That's correct.

23 Q And then we are still suffering under  
24 the affects of that energy crisis, are we not?

25 A Yes.

1 Q And even though we have available  
2 supplies costing us more?

3 A Yes.

4 Q And in fact some industries are faced  
5 with a possibility of going out of business today because  
6 of the cost of energy. Isn't that true?

7 A Yes.

8 Q So that the location of the homes to  
9 jobs is really of some concern to a planner?

10 A Yes.

11 Q Theoretically, the higher the cost of  
12 energy, the closer the job should be to the home.

13 Is that not so, theoretically?

14 A Up to a point.

15 Q Is there a point where you say that  
16 the job should not be close to the home?

17 A Yes, to the point where we have problems of  
18 environmental nuisance.

19 Q What would they be? What would  
20 constitute an environmental nuisance?

21 A It seems to me that this is a point that's  
22 well established in the law, and I didn't suppose ~~that~~ I  
23 would lecture on nuisance law; but the nuisance law has to  
24 do with noise, has to do with smoke, has to do with heat  
25 generation in some cases.

1                   It is when the direct environmental affects  
2 of the industrial activity have a deleterious affect on  
3 the residents nearby if it is too close.

4                   Q            Would you think that the federal  
5 government has attempted to limit and/or define noise  
6 pollution?

7                   A            Yes.

8                   Q            Air pollution?

9                   A            Yes.

10                  Q            Would they be considered factors in  
11 overall planning?

12                  A            Yes.

13                  Q            Would it surprise you to know that  
14 the Cancer Institute of the State of New Jersey declared  
15 that cancer deaths occur in New Jersey at a higher rate  
16 than any other state in the country?

17                  A            No, it wouldn't surprise me at all.

18                  Q            To what do you attribute that to?

19                  A            Combination of factors. I read that, and when  
20 I first read it, I thought of driving through Elizabeth.  
21 I thought it was the particular pollution of the petroleum  
22 industries and that particular belt of New Jersey which  
23 had a lasting impression on me.

24                                I would say that the air pollution of the con-  
25 centration of refineries in that part of New Jersey probably

1 are very heavy influences on this type of thing, and the  
2 combination of fairly heavy automobile usage both by  
3 in-state residents and people driving through contributes  
4 to it.

5 I suppose that the smoking rate perhaps is  
6 higher here because of the nervousness of certain aspects  
7 of life which might be contributing to it.

8 Do you want me to speculate any further?

9 Q I didn't ask you to speculate. I  
10 assume that all the reasons that you were giving are based  
11 upon your observations in a professional capacity as a  
12 planner.

13 A Except that I am not testifying as an  
14 environmental health specialist, and so I can't testify  
15 to these precise linkages.

16 Q It would constitute an integral part?

17 A You asked me if I would be surprised, and I said  
18 that I wouldn't.

19 Q You also spent some time in New Jersey?

20 A Yes.

21 Q And your observations were personal as  
22 opposed to an abstract sense? You actually saw these things  
23 with your own eyes?

24 A Yes.

25 Q When people discuss a planned community,

1 do they envision it as satisfying all the needs of the  
2 community itself?

3                   What I mean by that, I am thinking of a town  
4 like Columbia, Maryland, where they would envision an  
5 area devoted to industrial use or an area devoted to  
6 residential use and an area devoted to manufacturing.

7                   Would that be the Utopian concept?

8 A                It would be an unrealistic concept, since none  
9 of the planned unit communities in the modern world are  
10 really self-sufficient.

11                Q            If none of the planned unit communities  
12 are self-sufficient, is there any solution to making them  
13 so in your opinion?

14                   THE COURT: You don't need to answer  
15 that. I don't believe that's relevant to the  
16 case, Mr. Lerner.

17                Q            Is there any such thing as a totally  
18 planned community?

19 A                For all intents and purposes, yes, there are  
20 totally planned communities.

21                Q            Would they depend upon the ability  
22 of that municipality or entity to function in the general  
23 market?

24 A                No, except perhaps in some isolated instances  
25 in Yugoslavia.

1 Q So that in effect is it a hard thing  
2 to do?

3 A Yes.

4 Q In America?

5 A Yes.

6 Q According to your concept of fair  
7 share in response to Mr. Busch's question, it would be the  
8 hope to move people, as I understand it, or induce people  
9 to move from one area, let's say, a center city to an out-  
10 lying area? Did I understand you correctly?

11 A No, I don't believe so. It is simply a question  
12 of providing opportunities if they do choose to do that.  
13 It isn't a question of inducing anybody to move.

14 Q Would that also then not entail a  
15 relocation of the job?

16 A No. In most cases, it would not. We know that  
17 population follows employment rather than the other way  
18 around. That's one of the bases, the dynamics of metropoli-  
19 tan decentralization, and we would suppose that the people  
20 who moved into this housing would be simply filling out  
21 their place in the market by moving closer to their place  
22 of work and lessening their transportation costs.

23 Q Would not then the free development  
24 of industrial land sculpture the free development of  
25 residential land?



1 A As it does in an enlarged metropolitan context.

2 Q So that where the job first moves the  
3 housing follows?

4 A Yes.

5 Q Does it also depend upon the trans-  
6 portation network?

7 A Yes.

8 Q Would you consider in your professional  
9 capacity that public transportation as being the link in  
10 that development?

11 A Yes.

12 Q And an integral link? Does your  
13 concept ascribe any responsibility for the providing of  
14 that transportation link, who would have the responsibility  
15 of providing it?

16 A Many different arrangements are possible.  
17 There can be a municipal bus company. There can be regional.

18 Q Would it be provided by the municipality?  
19 Is that what you are suggesting?

20 A Yes.

21 Q All right.

22 A I'm simply talking about some of the arrangements  
23 that exist. I'm not speculating. There are regional  
24 transportation networks, and there are more localized ones,  
25 and there are some very, very neighborhood, almost, type of

1 A Yes.

2 Q And is there one particular profes-  
3 sional organization-- let me put it this way: Strike that  
4 out.

5 What is the main professional organization for  
6 planners?

7 A The main organization of professional planners  
8 is the American Institute of Planners.

9 Q And for short, that is occasionally  
10 called AIP?

11 A Yes, it is.

12 Q And the AIP has-- how did you become a  
13 member of the AIP?

14 A You apply for membership and there's an examina-  
15 tion procedure. In order to be able to qualify for the  
16 examination, you have to have a combination of education and  
17 experience that demonstrates some capacity in the field,  
18 and then there's an examination procedure and then you  
19 become a member of the Institute.

20 Q And does the educational requirement  
21 include a graduate degree in planning?

22 A No. The educational requirements include a  
23 combination of experience and education such that a  
24 graduate degree in urban planning is worth two years of  
25 professional experience.

1 Q So that if a person just had a sociology  
2 degree and maybe a half year of undergraduate work in  
3 planning, could he become a member of the AIP?

4 A After a suitable amount of experience and passing  
5 the examination, yes.

6 Q Now, in the field of zoning, Dr. Mann,  
7 would it be fair to say that zoning is a part of planning?

8 A Zoning is a means of implementing planning.  
9 It's accurate to say that it's part of the planning of  
10 the urban and regional planning process.

11 Q Would it be fair to say that in respect  
12 to zoning, that's one particular field that planners would  
13 be expert in?

14 A It's a field that most planners know something  
15 about.

16 Q As distinct from an economist or sociolo-  
17 gist?

18 A Yes.

19 Q Now, would it be fair to say that one  
20 function that a planner could do would be to analyze  
21 zoning ordinances?

22 A Not usually.

23 Q No? They wouldn't analyze zoning  
24 ordinances?

25 A No, that isn't the-- some planners do, but that

1 isn't a general designation of the work program of a  
2 planner.

3 Q Well, in the profession you say planners  
4 do deal with zoning ordinances?

5 A Yes.

6 Q Very often they will give advice in  
7 respect to what provisions go into zoning ordinances?

8 A Yes.

9 Q And then isn't it true that they would  
10 be the best profession to analyze whether a particular  
11 zoning ordinance is exclusionary or not?

12 A I think that's true.

13 Q In determining whether a particular  
14 zoning ordinance is exclusionary or not, would it be fair  
15 to say that a planner would have to look at more than just  
16 the bare face provisions of the zoning ordinance?

17 A Yes.

18 Q And what else would he have to look at  
19 or know in respect to a zoning ordinance to determine if it  
20 was exclusionary?

21 A He would have to know the detailed provisions  
22 and the way that they work, including the extent to which  
23 it was likely to be enforced. He would also have to know  
24 the tie-in of the zoning ordinance to the comprehensive  
25 and general plan, the extent to which it was dealing with

1 provisions there and to that linkage into subdivision  
2 controls.

3           You would also have to realize all of the  
4 tie-ins with what other authorities were doing on matters  
5 that were touched upon in the ordinance, the health  
6 commission, the building inspector, town engineer, if  
7 there were one, the sanitation department, if there was a  
8 separate sanitation department.

9           It really requires understanding how the  
10 zoning ordinance is going to fit into the total fabric of  
11 the way that a town runs its process of controlling land  
12 use changes.

13           Q           Would he have to be aware of the actual  
14 land uses in the town?

15           A           Yes.

16           Q           That's basic, actually?

17           A           Well, you would have to do that to even under-  
18 stand what the zoning ordinance was about.

19                       MR. SPRITZER: I don't think that I  
20 have any other questions.

21

22

\* \* \*

23

24

THE COURT: Mr. Johnson?

25

1 CROSS-EXAMINATION BY MR. JOHNSON:

2 Q Dr. Mann, I note from the resume that  
3 was marked for identification that you are presently working  
4 on developing criteria for good professional practice in  
5 urban and regional planning as a result of your associ-  
6 ation with the American Institute of Planners.

7 Is that correct?

8 A That's correct.

9 Q And have you developed those criteria  
10 at this point yet?

11 A No. I have been working on it.

12 Q And in your work in developing them,  
13 have you isolated and identified some of those criteria?

14 A Some of them, yes.

15 Q Could you give them to us, please?

16 A We have been trying to identify what is the  
17 knowledge level that it would take to certify a professional  
18 planner at the national level, and that would mean at a  
19 level of certification over and above membership in the  
20 American Institute of Planners.

21 We have been looking at the knowledge areas  
22 and the skill areas that we believe can be made to stand up  
23 to identify the professional activities of urban and  
24 regional planning.

25 This is a committee activity; and unless I'm

1 instructed to discuss it in great detail, I would not like  
2 to reveal in an open forum all of the aspects that are  
3 being discussed in this committee.

4 Q All right. Let's ignore the committee  
5 and try to concentrate on your opinion as to what you  
6 consider to be relevant with respect to knowledge levels  
7 in order to classify someone as having sufficient knowledge  
8 in the field.

9 A Yes. I think that the two major areas that  
10 I would consider the most important is the knowledge of how  
11 urban complexes work. It means the nature of the city and  
12 what are the dynamics of growth and change and some of the  
13 matters that we have been talking about today as kind of  
14 basic fundamental knowledge areas of urban planners.

15 The second side of it is the knowledge of  
16 planning processes, and these are on one level decision-  
17 making processes, and on another level rather socio-  
18 political processes in which planning inevitably takes  
19 place in society.

20 There are, in addition, a number of things  
21 about the history and the details of the planning move-  
22 ment that would be included, but I would not insist that  
23 everyone who is called an urban planner be a specialist,  
24 let's say, in zoning law.

25 The diversity of the profession has reached a

1 point where that wouldn't be appropriate to say that every  
2 planner is a specialist in zoning law or even in land use  
3 regulations.

4           There are in addition a series of skill areas  
5 that I think are very important to planners, and many of  
6 these center around communication ability, the ability to  
7 communicate and to synthesize ideas in a way that would  
8 aid decision-making in local and regional government.

9           These I think are the main skill areas and  
10 knowledge areas that I would look to.

11           Q           You developed the examination that is  
12 used in New Jersey for testing professional planners,  
13 did you not?

14           A           Yes, I did.

15           Q           Are you presently developing an  
16 examination to be used by the American Institute of  
17 Planners or has one already been developed?

18           A           There is one in existence, but I'm partici-  
19 pating along with this committee in developing a new one.

20           Q           Do you feel that this type of a test  
21 is a valuable tool to use to screen the applicants and to  
22 determine whether or not they are really qualified to be  
23 admitted into these groups?

24           A           It's extremely valuable in the knowledge side  
25 and probably helpful in the skill side in terms of the



1 sheer ability to perform as good, effective urban and  
2 regional planners.

3 Q The tests that you developed in New  
4 Jersey, that test is designed to ascertain the educational  
5 background and experience of the applicants?

6 A No. That was a different kind of test.

7 Q What does the New Jersey test specif-  
8 ically aim to do?

9 A The New Jersey test strictly parallels the  
10 existing planning legislation in the state of New Jersey  
11 that covers these materials that are defined in that  
12 legislation.

13 I should say that we shouldn't be using the  
14 present tense on this, since I have not been administering  
15 that test and had no contact with it since 1971.

16 The present test may be entirely different, but  
17 I want that understood so that I am not testifying to some-  
18 thing that I don't know about.

19 Q You indicated in your direct testimony  
20 that one of the problems that results from the urbanization  
21 of land is the disadvantages to the well-being of resi-  
22 dents in the health and safety areas.

23 Can you elaborate on what some of those dis-  
24 advantages in the health area would be?

25 A YEs. There have been cases where people have

1 urbanized in such a way that their neighbors were essentially  
2 drinking the sewer effluent of another house, and  
3 there have been cases of disease.

4 This is another example.

5 Q What about safety?

6 A In the case of safety, that the way that a sub-  
7 division is laid out sometimes will produce a particularly  
8 dangerous intersection, so that you have very high  
9 mortality rates at that intersection over time that  
10 requires corrective action. That's an example.

11 MR. JOHNSON: I have no further  
12 questions, Judge.

13 THE COURT: All right. Mr. Booream?  
14 Do you have any questions?

15

16 \* \* \*

17

18 CROSS-EXAMINATION BY MR. BOOREAM?

19 Q Dr. Mann, you testified on the problem  
20 of urban dispersal and given some factors to be considered  
21 in the allocation of housing. But isn't it true that more  
22 is involved in the solution of this problem than just  
23 establishing a fair share of housing?

24 A Yes.

25 Q And industry would be co-related to

1 that establishment of the housing?

2 A Yes.

3 Q In general terms, what would you pro-  
4 pose to the legislature or to the Court as to the solution  
5 to this problem?

6 A My recommendation, if I were presently advising  
7 on new legislation in this area of the state of New Jersey,  
8 would be that you designate a series of metropolitan impact  
9 areas, and within these you would have county government  
10 or some similarly sized area; and I suspect that I would  
11 recommend county government be empowered to do the basic  
12 planning studies and make the recommendations that would  
13 be mandatory on the municipalities, unless there were  
14 some review procedure whereby it could be shown that an  
15 unfair allocation had taken place.

16 I would, in reference to your discussion of  
17 the role of industry, say that part of the process might  
18 well be the monitoring of any changes in the location of  
19 the foci of employment so that we are not simply reacting  
20 to what happened five years ago but are keeping track of  
21 the dynamics of industrial and major service location.

22 Q You would then designate industries  
23 that could come into the area or that industries would have  
24 to remain in this area and could not move out of the area?

25 A Well, you can't forbid them to move out, but,

1 yes, I would recommend that industrial zoning be done on a  
2 similar sized area.

3 Q Nor could you prevent them from  
4 moving in. Is that correct?

5 A You could if you had made the decision and if  
6 you had enforceable land use regulations at the level area  
7 that I am talking about.

8 In fact, you probably would have more power in  
9 controlling them because you would be dealing with a larger  
10 technical staff at that level and have more expertise and  
11 could publish your case more fully in fighting off some of  
12 the corporations.

13 Q Aren't you, in effect, talking about  
14 a glorified master plan for an entire area as a solution?

15 A I don't think that that would be necessary,  
16 but it would be consistent with the concept if there were  
17 a decision to have a full master plan for the area, and  
18 that would be consistent with the idea.

19 Q Merely a determination of housing  
20 needs or fair share of the housing would not solve the  
21 problem?

22 A I agree.

23 Q And at best this would be a short-term  
24 plan. How long would it take to implement such a plan as  
25 this?

1 A Well, I think that the horizon that we ought  
2 to be using in this kind of planning is possibly five to  
3 six years which has been set wisely in the New Jersey Planning  
4 and Enabling Legislation.

5 When you make a plan, you have to see far in  
6 the future, but you review it very carefully every six  
7 years. That's the kind of horizon we ought to be talking  
8 about.

9 Q In effect it might be outmoded by the  
10 time it was implemented?

11 A You would be revising the plan. It might be  
12 outdated. It probably wouldn't be totally outdated.

13 MR. BOOREAM: I have no further  
14 questions, your Honor.

15 THE COURT: Mr. Farino?

16 MR. FARINO: Yes, your Honor.

17

18

\* \* \*

19

20 CROSS-EXAMINATION BY MR. FARINO:

21 Q Dr. Mann, in the course of your prior  
22 cross-examination, factors to be considered in the defini-  
23 tion of fair share allocation were discussed, among which  
24 was included the availability of vacant land.

25

What would you consider to be unavailable

1 vacant land?

2 A Well, unavailable vacant land would be land  
3 that had been, it would be land in a series of categories.  
4 One of these was your clear environmental critical areas,  
5 such as your cranberry bogs that we have talked about,  
6 where you really can't -- it is unbuildable in the sense  
7 that it would never be possible to use that land quite  
8 that way.

9 Your short-term flood plain would be taken  
10 out of vacant land.

11 The vacant land that is being held by a public  
12 body with an intent to use so that it is not available  
13 for development would be taken out, in my calculation.

14 Not everyone would do that, but I would think  
15 it is only fair to take out major public holdings where  
16 it is not simply being held, but there's an intention to  
17 use it so that there is no chance that it is going back into  
18 the private market.

19 I would exclude the land that is on slopes  
20 of more than seventeen percent grade. I think fifteen  
21 percent grade is still buildable. It is a different  
22 technical difference of opinion, but it is clear that  
23 certain steep areas simply cannot be built because of the  
24 dangers of that type of construction.

25 I think that those--

1 MR. GRUBER: I didn't hear the last  
2 part of the answer.

3 THE WITNESS: Because of the dangers  
4 of that type of construction, construction on  
5 extremely steep slopes.

6 Essentially, to categorize it rapidly,  
7 it is exclusion of the areas for very clear-  
8 cut environmental reasons which are not going  
9 to be allowed for construction and which are  
10 taken out of the private land market by a clear-  
11 but public action so that it isn't realistic  
12 to think of them as being available for  
13 development.

14 Q With respect to agricultural land,  
15 Dr. Mann, would you make a distinction between woodland  
16 and farmland?

17 A I don't think so.

18 Q What about with respect to farmland  
19 which is being actively bearing produce?

20 A Not in the state of New Jersey.

21 Q Would you attribute any value to the  
22 dual utility of farmland, namely its produce-bearing  
23 capability and its preservation of open land?

24 A Only in the preservation of open land if it is  
25 also justified by some type of critical environmental

1 considerations.

2 Q Dr. Mann, are you familiar with the  
3 Farmland Assessment Act by which particular properties are  
4 given special tax treatment?

5 A In general.

6 Q Well, do you agree with such treatment?

7 A No.

8 Q You do not?

9 A No.

10 Q You feel that such treatment has been  
11 abused, particularly in New Jersey?

12 A Yes.

13 Q You do. Okay. Dr. Mann, you spoke  
14 about the condoning of the use of land for agricultural  
15 purposes if the land was peculiarly adapted.

16 For instance, you mentioned avocados. If a  
17 piece of property was not so peculiarly adapted, and in  
18 order to achieve a fair share allocation for a particular  
19 piece of property, it was required that all active farmland  
20 be eliminated, would you condone such a policy?

21 A I can say no because it's a nonsense question  
22 in the sense that we would never reach that point, since  
23 agriculture is going out of production more rapidly than  
24 it is being demanded for urbanization. I think that's true  
25 for the state of New Jersey as a whole, without being able



1 to testify to it in Middlesex County.

2 I think that's still true.

3 Q Dr. Mann, would you attach any value  
4 to the preservation of active farmland, particularly in  
5 connection with the Boston-Washington, DC corridor for  
6 the benefit of children to view active farming operations?

7 A I think that the international--the interstate  
8 travel is free enough that people could go to other areas  
9 of the country to see a farm if we really needed such  
10 national purpose to have urbanization concentrated here.

11 Q One last question, Dr. Mann. In the  
12 discussion of some of the ecological factors associated  
13 with land, I believe you indicated that it is your opinion  
14 that many of these factors were inescapable of precise  
15 measure. Is that correct?

16 A Yes.

17 Q What do you base your conclusion on?

18 A On the basis of review of a number of resource  
19 assessment studies that have been carried out in the last  
20 few years; and going over these and analyzing methodology  
21 in some detail, I have reached the conclusion that the  
22 state of the art is in a word pretentious.

23 We are pretending that we know a lot of things  
24 that we don't really know, and some of the measurement  
25 scales that are being used in these things are quite far

1 off base. A lot more work needs to be done before I'm  
2 convinced that this is as scientific as it pretends to be.

3 MR. FARINO: Thank you.

4 THE COURT: We'll take a recess.

5 (A recess is taken.)

6 \* \* \*

7  
8 THE COURT: Mr. Lefkowitz?

9 CROSS-EXAMINATION BY MR. LEFKOWITZ:

10 Q Doctor, in your direct examination,  
11 you used the term urban county region. When you used that  
12 term, is it a term of art?

13 A I didn't use the term urban county region.

14 Q You didn't?

15 A No, I used the term urban county.

16 Q When you used the term urban county,  
17 is that a term of art as defined anywhere?

18 A No. It means simply a county which is urban.

19 Q And then is it a fair statement,  
20 Doctor, that you said that the urban county and urban  
21 county, rather than municipality, should control land use  
22 law?

23 A That isn't again what I said, no.

24 Q Well, is it a fair statement, Doctor,  
25 to interpret what you have stated as saying that the urban

1 county would be the best vehicle for controlling land use  
2 law rather than municipalities?

3 A It would be most effective way of dealing with  
4 this problem of metropolitan dispersal, yes.

5 Q As you define urban county, Doctor,  
6 would any of the existing counties as geographically  
7 delineated in the state of New Jersey come under your  
8 definition?

9 A Yes.

10 Q And do all the counties in the state  
11 of New Jersey come under your definition?

12 A No.

13 Q Would it depend whether or not a  
14 county comes under your definition of an urban county?  
15 Would it depend on how the population was dispersed from  
16 the urban areas to the rural areas?

17 A Yes.

18 Q So that if a study was made of an  
19 urban area and the surrounding areas, that is, a popula-  
20 tion dispersal study, and you discovered that in fact  
21 county lines were crossed, then it may be necessary to  
22 include or to -- strike that.

23 To erase existing county lines to form an urban  
24 county. Is that correct, Doctor?

25 A It might be.

1 Q All right.

2 MR. LEFKOWITZ: I have no further  
3 questions, your Honor.

4 THE COURT: Mr. Bernstein?

5 MR. BERNSTEIN: Yes, sir.

6

7

\* \* \*

8

9 CROSS-EXAMINATION BY MR. BERNSTEIN:

10 Q Dr. Mann, I would be interested in  
11 knowing how many times you've testified before a municipal  
12 board of adjustment.

13 A Never.

14 Q Before a municipal planning board,  
15 that is, testimony was given?

16 A Perhaps six times.

17 Q Was that all in North Carolina?

18 A No.

19 Q Can you tell us if you have ever tes-  
20 tified on behalf of a private developer?

21 A No.

22 Q Would it be a fair statement that  
23 your experience in planning is largely of an academic  
24 rather than a practical-- strike that. Would it be fair  
25 to say that your experience in planning is largely academic

1 rather than practical?

2 A No. My experience is both academic and  
3 practical.

4 Q Isn't it largely academic?

5 A Yes.

6 THE COURT: Excuse me. You are now  
7 arguing with him. What does largely mean?  
8 Is it more than half?

9 Q Wouldn't it be a fair statement that  
10 your experience is more than half academic?

11 A Yes.

12 Q More than three-quarters academic?

13 A Yes.

T9

14 Q Are you familiar with the New Land  
15 Use Act that was recently signed into law by Governor  
16 Byrne?

17 A Only in general outlines.

18 Q You couldn't go into specific provi-  
19 sions with me, could you?

20 A No.

21 Q You couldn't compare with me the  
22 existing land use law with the new land use law, could you?

23 A Not in detail.

24 Q Now, you had testified that the  
25 New Land Use Law provides for a regional planning board.

1 Is that right?

2 A No.

3 Q What did you say about regional  
4 planning boards on direct testimony?

5 A To the best of my recollection, I said that  
6 the new law provided for a more orderly, voluntary develop-  
7 ment of inner municipal planning activities of various  
8 kinds, including-- well, I think that's all that I said on  
9 direct.

10 Q Right. Now, as a matter of fact, the  
11 existing land use law provides for regional planning boards?

12 A It does.

13 Q And are you familiar with any  
14 communities that have adopted regional planning boards?

15 A I have known about some, but I'm not sure of  
16 any that are now existing.

17 Q And could you tell us which communities  
18 you have known about regional land use planning boards for?

19 A No, I don't recollect the specific ones. I  
20 remember there were some when I was here.

21 Q How many years did you live in Princeton,  
22 sir?

23 A Three and a half years.

24 Q From when to when?

25 A From late 1967 through mid 1971.

1 Q And were you familiar with the planning  
2 board activities in Princeton while you were living there?

3 A Yes.

4 Q And can you tell us whether or not  
5 either Princeton Township or Princeton Borough was a member  
6 of a joint planning board?

7 A I believe they were, yes.

8 Q You are not sure of that fact, though?

9 A Yes, I'm sure of it.

10 Q Now, you helped write the professional  
11 planning license for a certain number of years. Is that  
12 correct?

13 A No, I did not write the professional planning  
14 license.

15 Q I'm sorry. The examination you  
16 wrote?

17 A Yes.

18 Q Now, is it important that we have  
19 planners licensed in your opinion?

20 A No. I believe it is preferable to have them  
21 credentialed.

22 Q Well, you think it's important--  
23 I didn't understand your answer, sir. Do you think it is  
24 a good idea to require that professional planners be  
25 licensed?

1 THE COURT: He has answered that.

2 He prefers a system of credentials.

3 Q What does credentials mean, sir?

4 A Well, to best understand it by an analogy to  
5 the way that professional recognition is accorded to  
6 CPA's, certified public accountants; it is a different  
7 system than state by state. There is a national profes-  
8 sional certification of what is indeed the basic profes-  
9 sional activity in the whole United States, and then the  
10 states that agree, they allow the certification at the  
11 national level to be the gauge of professional capacity in  
12 lieu of licensing.

13 Q Would you prefer a national rather  
14 than a state approach?

15 A Yes.

16 Q Now, which would be better to have,  
17 a state licensing act or to have no requirements for pro-  
18 fessional planning, in your opinion?

19 A It is better to have a state licensing act.

20 Q And can you tell us the advantage of  
21 having state licensing requirements?

22 A The advantage is to screen out the grossest  
23 type of incompetency among planners or people who profess  
24 to be planners. That's the advantage if the licensing is  
25 calibrated appropriately.



1 Q And what type of activities which--  
2 strike that. Which type of activities would be precluded  
3 to one who was not a licensed planner?

4 A Under my idea of optimal legislation?

5 THE COURT: Just a moment now. I'm  
6 not sure that I can see any relevancy to that,  
7 Mr. Bernstein. I'm sorry.

8 MR. BERNSTEIN: I'll ask another  
9 question, your Honor.

10 Q Sir, you testified that you are  
11 basically a professor of professional planning rather than  
12 a professional planner.

13 Could you explain to me the difference?

14 A I do not want to use the term professional  
15 planner to designate myself in the state of New Jersey.  
16 If I were asked that question in a court of law in another  
17 state, I would say that I am a professional planner; but  
18 because of the strict construction of the planning licensing  
19 act of New Jersey, I would never say that I am primarily  
20 a professional planner in any forum where that could be  
21 challenged.

22 Q Are there any activities that you  
23 would not engage in in the state of New Jersey because you  
24 are not a professional planner?

25 A Yes, I would not prepare a master plan.

1 Q How about a zoning ordinance?

2 A I would not prepare a zoning ordinance in any  
3 state. I would hire a good lawyer.

4 Q Now, sir, you testified on direct  
5 examination about cost and revenue studies, correct?

6 A Yes.

7 Q These are with regard to the benefits  
8 or the cost that the municipality might have on account  
9 of a certain project, correct?

10 A Yes.

11 Q These studies have been engaged in  
12 by some of the more illustrious figures in housing and  
13 zoning, haven't they?

14 A I guess so.

15 Q Well, Professor Sternlieb is certainly  
16 one of the national authorities in housing, isn't he?

17 A Yes.

18 Q And he's done work on cost revenue  
19 studies, hasn't he?

20 A Yes.

21 Q And, sir, there was a statement in a  
22 report that you prepared which reads as follows:

23 Thus the lot size aspect of zoning by itself may  
24 not have a direct affect on the total price of housing.

25 I would like you to explain to the Court why

1 the lot size in and of itself doesn't have a direct affect  
2 on housing costs.

3 A The empirical evidence indicates some cases  
4 where small lots have high prices and some areas where  
5 fairly large lots, although of limits, have relatively low  
6 prices.

7 There's not a direct correlation association  
8 in that matter. The reasons why this is empirically true  
9 have not been fully explained, I would say.

10 Q Now, you had testified that certain  
11 municipal ordinances preclude prefabricated or factory-  
12 built houses. Is that correct?

13 A I said that.

14 Q Now, sir, isn't it a fact that whether  
15 or not factory-built housing is permitted or prefabricated  
16 housing is permitted is a function of the building code  
17 rather than the zoning ordinance?

18 A Not always.

19 Q In most municipalities, isn't the mode  
20 or method of construction determined by the building code  
21 rather than the zoning ordinance?

22 A In most, yes. In some cases, it is in both.

23 Q Now, sir, are you aware of the recent  
24 legislative developments in New Jersey with regard to  
25 building codes?

1 A No, I'm not in detail, no.

2 Q Would it surprise you if I were to  
3 tell you that recent legislation required uniform building  
4 codes throughout the state?

5 A No, I guess not.

6 Q And if there were uniform building  
7 codes, wouldn't this be the place that you would logically  
8 look to see whether or not prefabricated or factory-built  
9 homes were, in fact, allowed?

10 A I would look there. I would also look at the  
11 zoning code.

12 Q Isn't it a fact that most zoning  
13 codes do not say prefabricated and factory-built homes are  
14 prohibited?

15 A Yes.

16 Q Now, sir, you had mentioned a minimum  
17 floor area as being one of the exclusionary tools of zoning,  
18 correct?

19 A Yes.

20 Q I suppose that you would support a  
21 reasonable minimum floor area in a zoning ordinance on  
22 health grounds?

23 A Yes.

24 Q Sir, I believe you testified that not  
25 all experts agree on a simple formula for fair share alloca-

1 tion, is that correct?

2 A Yes.

3 Q I have in my hand a treatus entitled  
4 "Study on Low and Moderate Income Housing in Middlesex  
5 County, New Jersey, Analysis, Forecast and Allocation for  
6 1975", which was done by Tschangho John Kim. Are you  
familiar with that?

7 A No.

8 Q Well, sir, are you familiar with the  
9 fair share allocation formulas which were considered by  
10 the Miami Valley Regional Planning Commission?

11 A Yes, I have seen that.

12 Q And now, according to this booklet,  
13 the formulas which they considered were the following:

14 One. Equal share.

15 Two. Proportionate share of the county's house-  
16 holds.

17 Three. Proportionate share of the county's  
18 households making less than \$10,000 annually or less than  
19 \$7,000 in more rural counties.

20 Four. Inverse of three.

21 Five. A share based on the assessed evaluation  
22 per pupil of the school districts covering the planning units.

23 Six. A share based on the relative over-  
24 crowding of the school districts.

25 Would you say that these would be reasonable

1 components for a --

2 MS. MORHUESER: Objection.

3 THE COURT: I'll sustain that objec-  
4 tion.

5 MR. BERNSTEIN: Your Honor, could I  
6 have the basis?

7 MS. MORHUESER: Your Honor, I object  
8 because the witness is being questioned on a  
9 document he has not seen/

10 THE COURT: I think that's so.

11 MR. BERNSTEIN: I would like to have  
12 this marked for identification, your Honor.  
13 I'm not sure what the designation would be,  
14 whether it would be Piscataway-1 or what; but I  
15 would like to have it marked in this case.

16 THE COURT: DP-1 for identification.

17 (Document is marked Exhibit DP-1 for  
18 identification.)

19 Q Sir, I have read the basic components  
20 of the Miami Valley Regional Planning Commission's factors,  
21 which are found on Pages --

22 THE COURT: Well, the objection was  
23 sustained to the question, Mr. Bernstein.

24 MR. BERNSTEIN: I thought it was on  
25 the basis, your Honor, that the witness had not

1 seen the document, and I am showing the witness  
2 the document and putting it in the record as to  
3 what I am doing with this.

4 THE COURT: What is this for, to  
5 affect his credibility?

6 MR. BERNSTEIN: No, sir. I would like  
7 to show that there are many other factors  
8 besides those previously listed which would go  
9 in a fair share formula.

10 THE COURT: To answer it, he would have  
11 to know about the Miami Valley and so forth.  
12 We are not trying that.

13 MR. BERNSTEIN: I believe, your Honor,  
14 that the witness testified that he had, he  
15 in certain respects was familiar with this plan;  
16 and I would like to show him the factors going  
17 into the Miami Valley Plan.

18 THE COURT: The objection is sustained.

19 MR. BERNSTEIN: Very well.

20 Q Sir, in a fair share allocation plan,  
21 would it be reasonable to take into account the number of  
22 low and moderate income families presently living within  
23 the region?

24 A Within the region?

25 Q Within the region.

1 A Yes.

2 Q And would it be a fair statement if  
3 some regions which already have a preponderance of low and  
4 moderate income families would not have to take new ones  
5 to satisfy a fair share plan and other regions which had  
6 predominance of upper and middle income families would have  
7 to take more low and moderate income families to get their  
8 fair share?

9 A In terms of the precise wording of your ques-  
10 tion, the answer is no.

11 Q How about as far as the concept is  
12 concerned?

13 A I don't know what the concept is because you  
14 have been talking about something that doesn't seem to make  
15 sense in the context of fair share. You are talking about  
16 a variety of different regions. This supposes some super  
17 region that's allocating among regions.

18 Q The question is there are some coun-  
19 ties that have a preponderance of higher and middle income  
20 families living within its borders, correct?

21 A Yes.

22 Q And some counties that are predomi-  
23 nantly made up of low and moderate income families, correct?

24 A Yes.

25 Q Would you in a fair share housing



1 allocation that you were preparing require the county that  
2 was made up of the low and moderate income families to  
3 import other low and moderate income families from other  
4 areas in the state?

5 A The question presupposes that I would be doing  
6 this on a metropolitan regional basis. If I were doing this  
7 on a metropolitan regional basis, yes.

8 Q You would require the county which  
9 already had low and moderate income families predominating  
10 to take into its borders new low and moderate income  
11 families living outside its borders, right?

12 A Oh, no. I'm sorry. If that was the sense of  
13 your question, no, I would attempt to gain some balance;  
14 but it doesn't preclude that some-- I mean, what you are  
15 doing in fair share is trying to decide how much goes where  
16 and what is a fair share to go in which area.

17 You'd have more going perhaps in the area with  
18 the higher income. This is all quite hypothetical.

19 Q In fair share, would it be reasonable  
20 to suppose that each county would be entitled to its fair  
21 share of wealthy as well as the poor?

22 A In terms of the state of the art, the question  
23 hasn't seriously been raised. The problem lies in the other  
24 direction.

25 Q Well, how about as far as you are con-

1 cerned as a planner, is it reasonable to allow each county  
2 to have zoning which would encourage the wealthy to locate  
3 within its borders as well as the poor?

4 A I don't think it is viable to try to do things  
5 like this because the market has already made some major  
6 kind of statements about which are the more attractive  
7 places, and I doubt that there is anything that fair share  
8 allocation can do to make the wealthy change their patterns.

9 Q You don't feel that working class  
10 areas could upgrade their zoning to acre, two acres, and in  
11 that way attract more wealthy citizens?

12 A I don't believe so.

13 Q Now, sir, the problem of lack of low  
14 and moderate income housing is not caused solely by zoning.  
15 Is that correct?

16 A Correct.

17 Q It is also caused by high interest  
18 rates, correct?

19 A In a complementary way, yes.

20 Q Would you explain how high interest  
21 rates mitigate against new low income housing?

22 A High interest rates raise the total price of  
23 the product to the consumer; and therefore, the monthly  
24 payments become too high for some purchasers of housing  
25 to buy.

1 Q And high material costs also are pre-  
2 cluding construction of new low income housing, correct?

3 A Yes.

4 Q And high labor costs are also pre-  
5 cluding the costs of new low income housing, correct?

6 A Contributing to it, yes.

7 Q And then another contributing factor  
8 is high land cost, correct?

9 A Yes.

10 Q Have you heard the statement said that  
11 even if there were no zoning of any sort that the private  
12 market could still not satisfy low income housing, that it  
13 would be too expensive unless it was subsidized?

14 A I thought I wasn't supposed to testify on what  
15 I heard other people say.

16 Q I have no objection.

17 THE COURT: That's on direct examina-  
18 tion.

19 THE WITNESS: I didn't understand that.  
20 Yes, I have heard that.

21 Q You agree with that?

22 A No.

23 Q Now, it appeared that you favored  
24 the de-population of cities into rural and suburban areas.

25 A No, it's not true. I was describing a process

1 rather than expressing my preferences.

2 Q Well, is your preference to move the  
3 city dwellers out of the city or to try and make the city  
4 more desirable?

5 A I have no unilateral preference on that matter.  
6 I believe we must do both.

7 Q But is that your ultimate goal, to  
8 have lower populations in the cities?

9 A That isn't my goal. That is my reasonable  
10 expectation of what would happen.

11 Q Well, now, if in fact you are expecting  
12 de-population in the cities, would it be reasonable to give  
13 less federal and state money to the local governments of  
14 the cities since you expect contraction to take place?

15 A For what purpose? Federal government? I think  
16 that if the center city becomes empty of population, then  
17 federal subsidies for services would be down accordingly.

18 Q For constructing new facilities?

19 A For constructing new facilities, yes.

20 Q You don't believe it is important to  
21 encourage White middle and upper class people to move back  
22 to the city?

23 A I think it is unrealistic to have that as an  
24 agenda at the present time.

25 Q You are familiar with the concept of

1 TDR's?

2 A Yes.

3 Q You are?

4 A Yes.

5 Q You are familiar with the concept of  
6 clustering?

7 A Yes.

8 Q You believe that both of these con-  
9 cepts can lead to the construction of more low income  
10 housing?

11 A I believe that clusters can. I don't believe  
12 it is likely to be an impact of TDR's that they'll lead to  
13 more low income housing.

14 Q With respect to a fair share formula,  
15 would you put as one factor into the formula the amount of  
16 public housing which was presently available in a community?

17 A Not directly.

18 MR. BERNSTEIN: That's all.

19 THE COURT: Mr. Stonaker?

20

21 \* \* \*

22

23

24

25

1 CROSS-EXAMINATION BY MR. STONAKER:

2 Q Dr. Mann, when you lived in Princeton  
3 Township, you were the chairman of the Citizens Advisory  
4 Committee on Housing.

5 Is that correct?

6 A Yes.

7 Q And what was the objective of that  
8 committee?

9 A The objective was to study the possibility of  
10 having some low and moderate income housing in Princeton  
11 Township.

12 Q And what was the result of the  
13 Committee's study?

14 A There was some cooperation with a private group  
15 that resulted in some housing of this kind. There were  
16 applications made to federal agencies at the time I left  
17 in 1971 to pursue other possible avenues of having some low  
18 and moderate income housing in Princeton Township.

19 No concrete results had been achieved by the  
20 time I left. I don't know what has happened since.

21 Q Did you take into account, into con-  
22 sideration the housing needs of Trenton at the time that  
23 you were doing the study?

24 A Yes.

25 Q And how did you take into consideration

1 the housing needs of Trenton?

2 A We did some studies on the likely movement of  
3 low and moderate income housing, house dwellers to Princeton  
4 Township, if indeed these units could be made available,  
5 and some projections of what the demand was.

6 We found that the potential demand was so over-  
7 whelming that you didn't need to pursue such studies any-  
8 more; and if you built such units, they would have plenty  
9 of demand. That's all we did.

10 Q And recommending that these units be  
11 built, did you recommend that enough units be built to  
12 accommodate some of the needs of Trenton?

13 A Yes, I did.

14 Q And did the committee adopt such a  
15 recommendation?

16 A What was adopted was a compromise. I think  
17 the answer would have to be no.

18 Q And was any housing built as a result  
19 of this study?

20 A Yes.

21 Q And when was that, sir?

22 A I think it was started in-- it was really--  
23 to my knowledge there was some started by the private group,  
24 the church group in coordination with our movement; and that  
25 started construction, I believe, in early 1971, to the best

1 of my recollection.

2 Q In Princeton Township?

3 A Yes. That's my recollection now. Something  
4 could have gone wrong with the project. It was my belief  
5 that they broke ground in '71.

6 Q How many units were proposed in that  
7 project, do you remember?

8 A I believe it was ninety.

9 Q Were there any other multi-family  
10 houses in Princeton?

11 A Yes, there were.

12 Q There were?

13 A Yes.

14 Q Housing projects?

15 A In Princeton Township?

16 Q Yes.

17 A I don't believe so.

18 Q And was this housing that you are  
19 talking about to be built in Princeton Borough and not  
20 Princeton Township?

21 A There was some discussion about that location,  
22 and it may have been a compromise worked out to be in  
23 Princeton Borough, yes. My recollection on this is not very  
24 sharp.

25 Q Now, you say that there is a debate



1 regarding what formula to use for fair share. Is that  
2 correct?

3 A Yes, that's fair.

4 Q And various planners have various  
5 formula?

6 A Yes.

7 Q And you said that you felt that the  
8 best way of accomplishing fair share was through a judicial  
9 process. Is that right?

10 A That's my belief.

11 Q And then you would have presented to  
12 the Court these various formulas and allow the Court to make  
13 a determination as to what was the best formula?

14 A No. I would try to get an agreement among the  
15 people and have it presented as, as a consensus report  
16 with any minority reports, if there be any disagreement on  
17 what factors there would be.

18 That would be my proposal.

19 Q How many people would you advocate  
20 would be in this group that would file this report?

21 A Half a dozen.

22 Q Half a dozen?

23 A Yes.

24 Q Who are these half a dozen people  
25 that you would advocate that the Court would listen to in

1 the way of determining what should be the fair share?

2 A I couldn't give specific names now. I think  
3 that there would be people who are respected for their  
4 ability in development of methodologies of this kind, and  
5 some of them would be university people and some of them  
6 would be consultants and some of them would be program  
7 planners and some would be lawyers, I suppose.

8 MR. STONAKER: No further questions.

9 THE COURT: Mr. Vail, any questions?

10

11

\* \* \*

12

13 CROSS-EXAMINATION BY MR. VAIL:

14 Q Doctor, all day I have been under  
15 the impression that you have been talking about a fair  
16 distribution of housing plan. Is that a pretty fair  
17 statement?

18 A A fair distribution of housing plan?

19 Q Yes.

20 A Yes.

21 Q What do you mean by a fair distribu-  
22 tion of industry plan?

23 A I think that's rather moot, since the way industry  
24 locates and the way housing locates are different kinds of  
25 problems and we don't have a problem that we need to solve

1 at this point with the potential kinds of authorities to  
2 decide that this industry should go here and that industry  
3 should go there. I believe that in the American system,  
4 we have pretty much said that the basic enterprise, the  
5 production, it is going to locate only subject to the kinds  
6 of controls that we put up on it, and it is essentially  
7 an autonomous locating market thing, which means that we  
8 recognized social interest in housing and we have not  
9 recognized social interest in industry.

10 Q We haven't?

11 A We have not as a form of national policy talked  
12 about social aspects of industrial location as a focus  
13 of our national commercial policy.

14 Q What about the environmental impact  
15 of industry?

16 A Well, that's a different type of a regulation  
17 that speaks to --

18 Q It has been used to keep them out or  
19 make them go somewhere else, however you like to phrase it.

20 A Well, that isn't the legitimate use of the  
21 environmental impact statement. It's to simply protect  
22 the environment; and if it is being used to influence the  
23 location, then it's going contrary to the stated purposes.

24 Q Even if the statement is correct, the  
25 impact statement is correct, that makes it not a legitimate

1 use?

2 A I'm saying that the purpose of the Environmental  
3 Protection Act is not to influence the location of industry  
4 specifically as it is to preclude these types of activities  
5 occurring where they will have harm.

6 It isn't by its purpose a location.

7 Q The purpose of these laws is to pre-  
8 clude the location of industry. Isn't that a fact?

9 A Preclude the effects of the industry. It  
10 isn't to preclude the industry.

11 Q Wouldn't it be easier to move industry  
12 rather than half a million people that we are talking  
13 about?

14 A Yes.

15 Q Why not approach it from that point of  
16 view rather than moving people?

17 A Because the structure of our system is such that  
18 it is more difficult to influence industrial location  
19 decisions than it is to influence housing location.

20 Q Aren't you trying to influence many  
21 more numerically than industrially?

22 A Probably so.

23 Q Take a half dozen industries. In  
24 Sayreville we have two industries that have over 4,000  
25 employees. If they were to move to a place outside of

1 Sayreville, wouldn't that be better sometime than moving  
2 the 4,000 people?

3 A I don't know whether Sayreville is the right  
4 example.

5 Q Forget about the town of Sayreville.  
6 Just take two plants somewhere in New Jersey in this urban  
7 county.

8 A Yes.

9 Q Wouldn't it be easier to move the plants?

10 A Well, in a practical way, it wouldn't be easier  
11 to move the plants.

12 Q Based upon what you said, if the plants  
13 moved, the people would follow?

14 A That's right.

15 Q That was your whole thesis, wasn't it?

16 A Yes.

17 Q Really we are not talking about a fair  
18 share of housing, we are talking about moving industry,  
19 aren't we?

20 A I'm talking about fair share of housing.

21 Q And housing will follow industry?

22 A Housing will follow industry, but it will also  
23 follow other influences.

24 Q What about the poor that we move, aren't  
25 we just moving that burden from one area to another?

1 A Yes.

2 Q And then in moving it, aren't we  
3 doubling the burden or tripling it or whatever the mathe-  
4 matics will be?

5 A I don't follow that.

6 Q Well, if the poor are with us in High-  
7 land Park and then we move them to South Amboy or to another  
8 town, aren't we doubling the burden?

9 We have expenses that we wouldn't have had if  
10 they stayed where they were anyhow.

11 A I don't think that the total amount of expenses  
12 are necessarily increased.

13 Q You don't think so? They'd move free?  
14 Wouldn't be any charge involved in moving them or relocating  
15 them or building the houses for them?

16 A That hardly suggests the doubling or tripling.

17 Q From what I have heard today, you are  
18 disenchanted with the licensing of professional engineers,  
19 professional planners in the state of New Jersey, right?

20 A I think it hasn't worked as well as it might  
21 have.

22 Q You wrote the examination?

23 A Yes.

24 Q Were you disenchanted when you wrote  
25 the examination?

1 A I thought it wasn't working as well as it might  
2 have.

3 Q What did you do when you wrote the  
4 examination in order to make it work?

5 A Well, there wasn't much I could do, since the  
6 engineers and architects, land surveyors didn't have to take  
7 the examination. Only graduate planners had to take the  
8 examination.

9 All I could do is to assure at least that these  
10 people knew something about cities and planners.

11 Q You are saying that the grandfather  
12 clause covered everyone?

13 A All of those professions, right.

14 Q You gave an illustration this morning  
15 about a ceramic engineer being entitled to be a professional  
16 planner?

17 A I mentioned that, yes.

18 Q Do you know of any ceramic engineers  
19 that are professional planners in the state of New Jersey?

20 A No.

21 Q Doctor, you are disenchanted with the  
22 Legislature because, for instance, they have enacted the  
23 law previously referred to with reference to land use  
24 in that they made it permissive instead of mandatory.  
25 Isn't that correct?

1 A Disenchanted is not my word, and I would have  
2 been happier if the mandatory provision had been put, but  
3 that doesn't make me disenchanted.

4 Q You have your report in front of you?

5 A I have a copy here, yes.

6 Q If you refer to the last page, the  
7 last sentence of the first paragraph--

8 MS. MORHUESER: Objection. That's not  
9 in evidence, your Honor.

10 MR. VAIL: I'm trying to help him out.

11 THE COURT: I suppose that you may ask  
12 him about the reports, since he has a copy of  
13 it, as to what he said in it.

14 Q The last page, your first paragraph  
15 and the last sentence.

16 "I have often wondered just how bad the several  
17 problems must become before stronger legislative and  
18 administrative requirements will be forthcoming."

19 Does that indicate that you are disenchanted  
20 with the Legislature of this state?

21 A No, it means that I have often wondered how long  
22 it would take, how bad the problem will have to get before  
23 the Legislature of this state and of other states-- I'm  
24 speaking generally here-- take legislative action in the  
25 various administrative arms and move more aggressively in



1 administration. It doesn't mean that I am disenchanted with  
2 it.

3 Q If I said you were unhappy with the  
4 progress and the speed at which they are moving, would that  
5 be a more accurate statement?

6 A You would be more accurate to say that I tend  
7 to be impatient with movement in this whole area.

8 Q And you are disenchanted with our form  
9 of government?

10 A No, I am not.

11 Q You are not?

12 A Nope.

13 Q You realize that the Constitution of  
14 the State of New Jersey as previously brought out by another  
15 attorney vests the zoning prerogatives with local munici-  
16 palities? Do you know that?

17 A Yes.

18 Q And then you want to wipe them out  
19 with one super planner. Isn't that right?

20 A No.

21 Q What do you want to do? You want to  
22 leave them the way they are?

23 A No.

24 Q Please tell me what the alternative is.

25 A I believe that I have answered that question on

1 direct and cross. I talked about it. If I were instructed  
2 to give another essay on what I would propose, I will.

3 Q Well, you don't propose to eliminate  
4 the zoning laws then, is that correct?

5 A No.

6 Q Thank you. Now, Doctor, I wrote some-  
7 thing down that I think is a quote. You were speaking about  
8 power. I'll give you the quote and please correct me if I  
9 am wrong.

10 You said power should be a balance of, should be  
11 a balance of what rests with the state and what rests with  
12 the municipality. Did you make that statement?

13 A Yes.

14 Q And that was the statement that you  
15 made with reference to the zoning laws and the zoning usage.  
16 Is that correct?

17 A Land use control generally.

18 Q That was the context in which you made  
19 that statement?

20 A Yes.

21 Q Is that correct?

22 A Yes.

23 Q And then under the present system, the  
24 municipalities by virtue of the Constitution and the enabling  
25 act have the power?

1 A Yes.

2 Q And you are unhappy with that, aren't  
3 you?

4 A I think it doesn't operate to the best solution  
5 of those problems that we have been discussing.

6 Q You are unhappy with the fact that  
7 someone has to go into a specified municipality; and if  
8 the use is not permitted in the zone, he has to apply for  
9 a variance; and if the variance isn't granted for one reason  
10 or another, he has a choice of appealing to the courts in  
11 that the courts can review the decision of the local board?

12 You are unhappy with that procedure?

13 A No, I'm not unhappy with that procedure. I  
14 think that if there would be a more-- in the future it would  
15 be better to have a better procedure; but I'm not unhappy  
16 with that procedure.

17 Q We have been doing it since 1929.

18 A '28, I believe, in this state.

19 Q Well, I was born in 1929, so I wouldn't  
20 know. But you are unhappy with that?

21 A Unhappiness is not the right expression. I'm  
22 impatient to see more effective ways of dealing with the  
23 problems that we have been talking about.

24 Q Wouldn't it be more effective if you  
25 could sit down as a dictator and write out your plan and

1 enforce it yourself? Could you do it in a week and a half  
2 or two weeks, put the plan together?

3 MS. MORHUESER: Objection, your Honor.

4 THE COURT: I'll sustain the objection.

5 Q Can the present system where persons  
6 who are aggrieved and have the right to resort to the courts,  
7 that is not acceptable to you because it takes too long?

8 A I think it is not as good as we could come up  
9 with.

10 Q And you want to appoint six persons  
11 to oversee the activities of twenty-three municipalities to  
12 make a recommendation, and you will even permit a minority  
13 report to whomever the super zoner would be, and then that  
14 person will decide the fate of a half a million people  
15 presently living in this county?

16 A That's not correct.

17 Q No? When you said the balance of power,  
18 isn't Judge Furman a balance of power when he sits on appeals  
19 from the boards of adjustment of various municipalities?

20 A Yes.

21 Q Isn't he the State or representative  
22 of the State?

23 A Yes.

24 Q And what do you find obnoxious about  
25 that type of arrangement?

1 A I don't find it obnoxious.

2 Q But you want Judge Furman to be the  
3 super zoner for the county of Middlesex, don't you?

4 A No.

5 Q Would it surprise you to learn that none  
6 of the class action plaintiffs in this case have ever applied  
7 to any zoning board of any municipality in the county of  
8 Middlesex before constituting this action or since?

9 A No, that wouldn't surprise me.

10 Q It wouldn't surprise you?

11 A No.

12 Q How can you possibly conclude that  
13 they would have been turned down had they made an application  
14 for whatever they are seeking here in this action?

15 A Well, the very general nature of the land use  
16 controls game is that the low and moderate income really  
17 don't have standing to ever bring anything or a proposal  
18 before the planning board or zoning board.

19 Q Isn't the answer to this whole problem  
20 money?

21 A That's one answer.

22 Q And where is it going to come from?

23 A I don't know exactly where it is going to come  
24 from. I know that we are dealing with the most affluent  
25 nation on the face of the earth.

1 Q You can say that in this day and age,  
2 in this economy, and you can make a statement like that?

3 A Yes.

4 MS. MORHUESER: Objection, your Honor.

5 THE COURT: I'll let it stand.

6 Q You feel that we are the most affluent  
7 country?

8 A Yes.

9 Q And how do you consider the states  
10 bordering on the Mediterranean who have the most oil in the  
11 world, what position of affluence would you put them in?

12 A Having been to some of these states, I know  
13 something about what that affluence means in terms of the  
14 availability of funds and what is disposable income.

15 If you are going to talk in terms of gross  
16 national product, we could argue; but in terms of affluence  
17 and in terms of which the people live, I don't think there  
18 is any serious argument.

19 Q You consider the state of New Jersey  
20 affluent?

21 A The state of New Jersey is relatively a prosper-  
22 ous state.

23 Q A state that can't find 350 million  
24 dollars to fund a bill or a law which it passed last  
25 year for aid to public schools?

1 MS. MORHUESER: Objection, your Honor.  
2 Counsel is arguing with the witness.

3 THE COURT: I think that's so,  
4 Mr. Vail. I'll sustain that objection.

5 MR. VAIL: Nothing further.

6 THE COURT: Mr. Gruber?

7 MR. GRUBER: Before I begin my cross-  
8 examination, I would like to ask the opportunity  
9 to review this man's testimony with the planner  
10 from my town, who is due in court today and  
11 wrote or called the Court; and I received a  
12 message through your secretary; and he indicated  
13 that he is ill.

14 I think that in light of the statement  
15 and the late arrival of the statement of this  
16 witness, the fact that I have not, due to the  
17 illness of my planner, had an opportunity to  
18 review that statement with him and to review the  
19 testimony of the witness with him, I would respect-  
20 fully request, your Honor, that my cross-  
21 examination be deferred until this court meets  
22 again.

23 In addition to that, your Honor, I see  
24 by the clock in the courtroom it is now precisely  
25 eight minutes after four; and we still have, as

1 far as I estimate, three or four more, maybe  
2 five more attorneys that have to cross-examine  
3 this witness before he is finished.

4 So I respectfully request that any  
5 further cross-examination, at least cross-  
6 examination on behalf of South Brunswick, be  
7 postponed until the next court day.

8 THE COURT: I had hoped that we  
9 could finish today, but I don't mean to impose  
10 that on the attorneys and the court personnel  
11 if there's an agreement as to Dr. Mann returning.

12 Would you confer with him, please?

13 MR. SEARING: Yes, your Honor.

14 (Off the record discussion.)

15 THE COURT: Dr. Mann will be available  
16 from nine until perhaps mid-day, the latest,  
17 on Monday; and I would estimate that we should  
18 conclude his testimony in that period of time.

19 So you will be here then, and we will  
20 recess court until then, 9 o'clock on Monday  
21 morning.

22 (Whereupon court adjourns for the day.)

23  
24 \* \* \*  
25



FEBRUARY 9, 1976

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

L A W R E N C E D. M A N N, having been previously sworn, resumes the stand and testifies as follows:

CROSS-EXAMINATION BY MR. GRUBER:

Q Dr. Mann, first of all, could you define for us a master plan?

A A master plan or comprehensive plan-- I will speak to it in the nature of the literature rather than technically under New Jersey Legislation.

In master plan, comprehensive or general plan, this is a plan for the long-range development of a municipality based upon some future target date or perhaps not with a specific date, but based upon the comprehensive utilization of land throughout that municipal area.

Q County area or region area, whichever the master plan covers?

A Yes.

Q What is the difference between a master plan and a zoning ordinance?

A A master plan I have defined. A zoning ordinance is an ordinance to implement the master plan in the basic concept of the relationship between the two.

A zoning ordinance is to implement a master plan, and it is an ordinance that describes the uses which would

1 be permitted by partial and then later by extension to  
2 larger areas of a municipality as defined, except in the  
3 case of floating zones, which are more recent.

4 Q And then would you give us the differ-  
5 ence between the two? A master plan is a long-range concept  
6 that is not implemented, or some of the terms of which are  
7 not implemented through zoning ordinances, but a projection  
8 of the future. Is that correct?

9 A A master plan or, indeed, any planning is  
10 implemented by a variety of devices, including the capital  
11 budget and capital planning process, including the use of  
12 eminent domain, and then the various kinds of police power of  
13 which zoning is enforced.

14 Q Dr. Mann, you testified on Thursday  
15 as to the strength of the counties, and that is a considera-  
16 tion to take into account when determining whether a county  
17 should be designated as an urban area.

18 Is that correct?

19 A Would you rephrase that question?

20 Would you restate it?

21 Q In your opinion, one of the factors to  
22 be considered in determining whether or not for the purposes  
23 of zoning considerations a county is to be determined to be,  
24 to be considered as an urban county and as such a region, one  
25 of the considerations is the relative strength of the county

1 with regard to its zoning powers. Isn't that correct?

2 A It could be a consideration, but also it could  
3 be an affect of the decision to so declare it.

4 It is a chicken-and-egg problem.

5 Q You gave as an example of a strong  
6 county government those counties surrounding Washington, DC.  
7 Is that correct?

8 A Yes, four of them, yes.

9 Q Now, isn't it a fact that those counties  
10 surrounding Washington, DC have municipalities but function  
11 as a municipality does up here in New Jersey?

12 A That's in effect true, yes.

13 Q So they have the equivalent zoning  
14 powers as does a municipality in New Jersey?

15 A That's correct. I'm not sure that that's true  
16 under both Virginia and Maryland law. It is the case under  
17 Maryland law, I believe.

18 Q What is an aquifer?

19 A An aquifer is an underground bubble covered by  
20 layers of rock and other geological materials under which  
21 drains, into which drains the water that flows from rainfall  
22 and then through the various stream ways; and then it is  
23 stored in these aquifer areas over long periods of time.

24 Aquifer is very often protected by a layer of  
25 heavy clay as well, and then you will have on top of an

1 aquifer sometimes a smaller wetland area.

2 Q Now, Doctor, are you familiar with the  
3 aquifers that underlie Middlesex County?

4 A Only very generally.

5 Q And you indicated in your direct  
6 testimony that aquifers, the presence of aquifers in a  
7 municipality should not be considered in determining the  
8 fair share housing allocation?

9 A To be precise, I said that I believed that the  
10 calculations of what affected and what did not affect aquifers  
11 in critical ways was not scientifically enough understood at  
12 the small enough scale so that I thought it was practicable  
13 to include this as an element in fair share allocation.

14 Q All right. Then you are saying the mea-  
15 surement of a water aquifer is not as precise as you think  
16 it should be, and therefore it should not be considered?

17 A That's in effect correct, in that very often  
18 aquifers are larger than municipalities; and what happens  
19 in a particular municipality is not relatable enough to,  
20 let's say, the water supply of that particular municipality,  
21 so that it becomes-- or even of a county area.

22 So that it becomes a practicable concern in a  
23 fair share allocation.

24 Q If we had a region, whatever that is,  
25 and let's avoid a definition of the term region, comprised

1 of two municipalities, one similar to New Brunswick and the  
2 other one consisting of mostly farmland, and this is all  
3 over an entire aquifer, an aquifer covers the entire farm-  
4 land communities or underlies it, would your opinion as to  
5 the aquifer and its relationship to the fair share of  
6 housing within that region still hold true?

7 A I must know more. Does the aquifer exactly  
8 include a terminus within the rural municipality adjacent  
9 to New Brunswick?

10 Q Assuming that goes beyond its boundaries,  
11 but it covers the entire municipality.

12 A Yes. Well, you see, in order to include the  
13 aquifer considerations, I need to know the size of the  
14 aquifer so that I know what will happen in that municipality  
15 and if it will have a determinative effect.

16 I am talking now really in natural science  
17 discourse. If you can show me what would happen by urbani-  
18 zation on that other municipality, that it would in fact  
19 damage the aquifer seriously, and I need to know who is  
20 going to be using that aquifer, that is, who does the aquifer  
21 serve?

22 We don't preserve aquifers in the abstract. We  
23 preserve them for some future long-range utilization.

24 Q What is the single most environmental  
25 consideration for the central New Jersey, the restriction for

1 the central New Jersey area, if you know?

2 A The question phrased as it is, I don't know.

3 Q Would it be the capacity of the community  
4 to support itself with potable water? Would you be surprised  
5 if I told you that?

6 A If you are talking in terms of an environmental  
7 concern that is in the air that people are talking about,  
8 no, I would not be surprised.

9 Q If I were talking about it with regard  
10 to a consideration by professional planners and other  
11 geologists, would you be surprised at that?

12 A No. Again, I would not be surprised; but I  
13 have to say that those types of considerations have always  
14 been just a little bit surprising to me, since I'm aware  
15 that when water is seriously required, it can be transported  
16 considerable distances.

17 If we were in 1930 and we were in Los Angeles  
18 and we were stating--

19 THE COURT: You don't need to go into  
20 that, Dr. Mann.

21 Q Do you have any training, or how much  
22 training do you have in what you said before, termed before  
23 as natural sciences?

24 A Most of my professional training in this area is  
25 by individual reading. I have no formal training in that

1 area.

2 Q Now, Doctor, you indicated on direct  
3 examination that the population projections of the Tri-State  
4 Commission and Middlesex County-- or you were told that  
5 they differed as much as twenty-five percent.

6 The latest Middlesex County planning projections  
7 were twenty-five percent lower than the Tri-State projec-  
8 tions of a few years ago.

9 You indicated on direct examination that you were  
10 not surprised at that, and I think you said, I think you said  
11 considering the state of the art. Is that correct?

12 A Yes.

13 Q Is planning as imprecise a science, if  
14 you wish, in determining water aquifers, and if so, should  
15 we ignore planning and planners as we ignore aquifers?

16 A The imprecision of population projections rests  
17 upon the planner's reliance upon demography and economic  
18 determinations, and the twenty-five percent error in a fifteen-  
19 year span population projection has not been uncommon since  
20 1930. They have found that they can't even project the  
21 population <sup>of</sup> nations. You have the question of migration  
22 which comes in, and the tools of demography have proved not  
23 terribly strong at all.

24 So that we find things like twenty-five percent  
25 errors in a fifteen-year span of population projection.

1                   Now, as far as the comparison of demographic  
2 techniques to natural science techniques such as the  
3 determination of an aquifer, I think that certainly for  
4 the determination of an aquifer and for the study of  
5 geological structure and so forth that geology is a much  
6 more precise science than demography or economics, for  
7 example.

8                   As far as the conclusion that you have asked me  
9 to draw from that, I would say that the conclusion has to  
10 rest on the distinction between natural science phenomena  
11 vis-a-vis social science phenomena; and if you were ready to  
12 throw out planning based on social science consideration  
13 simply because it imprecise, then I suppose that you could  
14 fall back on horoscopes or something.

15                   In the unwillingness to fall back on that, we  
16 must rely upon social science techniques, and we must rely  
17 on planning based on that.

18                   Q           Isn't it because it is the only thing  
19 that we have at this point?

20                   A           Yes.

21                   Q           And isn't that true with aquifers also?

22                   A           Yes, it's true with aquifers.

23                   Q           You indicated that in developing a fair  
24 share of housing allocation between the communities, that  
25 reasonable men could come to terms with it and decide it.



1 Is that correct?

2 A That's my belief.

3 Q Provided they had sufficient training  
4 and so forth?

5 A Yes.

6 Q Now, Doctor, in determining what a  
7 region is, are there also experts in your field that disagree  
8 with you?

9 A Yes.

10 Q What considerations do they use in  
11 determining a region?

12 A I really could not catalogue for you all of the  
13 experts who have ever attempted to determine a region. I  
14 mean, you have someone particular in mind? If you want, I'll  
15 give one statement about region demarkation, which is, I  
16 think, still stands as perhaps the conclusion of the various  
17 people who have looked at the various kinds of regional  
18 demarkation.

19 This is a statement by an individual who had  
20 reviewed some, I think, 136 methods of regional demarkation;  
21 and he concluded, and so we must conclude, that the only true  
22 region is the world.

23 Q I don't know, Doctor, whether or not you  
24 testified to this, but on Page 3 of your statement, you indi-  
25 cate you are talking about dispersal, and you say all of this

1 relies, of course, on an adequate supply of resources and an  
2 increasing supply over time. Would you explain that state-  
3 ment, please?

4 A The discussion there was in terms of the invest-  
5 ment motor to metropolitan dispersal; and I was simply saying  
6 that over time if you are going to have a continuing growth  
7 and dispersal of a metropolis, there must be available capital  
8 for investment, particularly in the private sector; but also  
9 in terms of the public treasury for the kinds of public  
10 investment.

11 The conclusion is that if you really seriously  
12 were to run out of capital and if you were to run out of  
13 money in the public treasury, then the process of metropoli-  
14 tan dispersal would stop.

15 Q Weren't you deducting there, Doctor,  
16 when you said resources, not only of capital, but also of  
17 other resources, natural resources?

18 A Yes. I was referring to that also by the use  
19 of the term resources, but my primary focus was on the  
20 resources that express themselves in capital.

21 Q Didn't you also in talking about resources  
22 consider energy?

23 A I did.

24 Q And hasn't the reduction or the restric-  
25 tions on energy over the last two years had a profound

1 impact or will have a profound impact on this dispersal  
2 that you are talking about?

3 A Not as much as I had thought. I expected it to  
4 be a greater slowing of the dispersal process.

5 Q Have you received any data to support  
6 the statement that that impact is not as great as you had  
7 anticipated?

8 A Yes. The latest data was noting the--particularly  
9 with reference to Middlesex County was noticing the amount  
10 of proposed new office construction that is now planned  
11 for investment here.

12 I would have supposed that energy and the economy  
13 would have slowed down office construction in this county  
14 much more than it has.

15 Q You are saying that office construction  
16 has not slowed down in Middlesex County?

17 A Not according to the data that I have seen.  
18 I have seen the figure of some 700,000 square feet of  
19 planned office construction.

20 Q Are you aware of any slowdown in  
21 industrial development in Middlesex County?

22 A Yes, I am aware of that.

23 Q You indicated, to take the classic  
24 illustration that you gave, a cranberry bog as being an area  
25 that should be considered in allocation of fair share

1 housing. Is that correct?

2 A In the context only that it was an area that  
3 requires a unique kind of agricultural land, yes.

4 Q Right. How about a swamp?

5 A Some swamps.

6 Q Some swamps. Please distinguish for  
7 us the swamp that you would consider and the swamp that you  
8 wouldn't consider.

9 A The swamp that I would consider as precluding  
10 from available land is the one that is clearly relatable  
11 to your area of concern, water supply, in a direct way.  
12 The swamp that I would not consider is the one that is not  
13 essential to a local water supply in a determinate future,  
14 and this again is the area where I just see differences  
15 of opinion abounding.

16 I would have to say about swamps that most of  
17 our large East Coast cities would not have been built had  
18 we avoided filling in swamps and marshes.

19 Q If an aquifer is under a piece of land  
20 that is overdeveloped, and that aquifer is polluted, that  
21 would have serious consequences if that aquifer were the  
22 source of drinking water for large population centers, would  
23 it not?

24 A Depend upon the pollution, of course. It may  
25 be merely unpleasant or it may be dangerous. What it will

1 do with any certainty, it will increase the cost of water in  
2 the future because an alternative supply would have to be  
3 found.

4 Q If serious enough, it would force the  
5 communities involved to go to another source of water.

6 Is that correct?

7 A That's correct.

8 Q And of necessity if it were at a further  
9 distance, as you mentioned before, it would be, it would have  
10 a higher cost of water?

11 A That's true.

12 Q Now, you indicated as one reason or  
13 one factor in a dispersal motor mechanism, if you wish, was  
14 the public investment in roads, other forms of transportation  
15 and some utilities. Is that correct?

16 A That's correct.

17 Q And in fact you are saying that the  
18 federal government in all its wisdom encouraged this dispersal.  
19 Is that correct?

20 A In effect.

21 Q And you are now saying that this  
22 dispersal really was not good. Is that correct?

23 A I'm saying it has occasioned some problems.  
24 I don't put an ethical judgment on it.

25 Q It has created more problems than if

1 the federal government had not encouraged this dispersal.

2 Is that correct?

3 A I think that's correct.

4 Q And they also encouraged it by getting  
5 into the money mortgage market. Is that correct?

6 A That's correct.

7 Q Then, Doctor, if the federal government  
8 encouraged this dispersal, couldn't they also discourage  
9 the dispersal and encourage a reverse dispersal, if you  
10 wish, a centralization of the population?

11 THE COURT: You don't need to answer  
12 that question. I'm directing him not to answer  
13 that question.

14 Q You testified on direct examination  
15 yesterday, Doctor-- I'm sorry, on Thursday-- of the  
16 proposition that jobs and people-- I'm sorry. You testified  
17 that people follow jobs. Is that correct?

18 A Yes.

19 THE COURT: I think you said housing  
20 follows jobs, didn't you?

21 THE WITNESS: Yes, but in effect I  
22 understand it either way.

23 Q If jobs were to be created within the  
24 inner cities, would people follow the jobs from the suburbs  
25 to the cities?

1 A           Probably not in the same pace that they have  
2 followed them to the suburbs or have attempted to follow them  
3 to the suburbs in that the people do not simply follow jobs  
4 in their choice of residence. They follow jobs in a sort of  
5 a balance with their desires for space, their desires for  
6 openness, and services and--

7                           THE COURT: Dr. Mann, you are just going  
8                           way beyond the question that you were asked.  
9                           Stick to the answer to the question. Do you  
10                           understand me?

11                           THE WITNESS: Yes, sir.

12                           Q           If jobs were created in the inner city,  
13 it would correct what you consider to be the mismanagement,  
14 mismatch of housing and industry that we are now faced with.  
15 Is that correct?

16 A           Not entirely.

17                           Q           Are you aware of the program initiated  
18 approximately one year ago by the Secretary of Labor in the  
19 state of New Jersey to give tax incentives to industry to  
20 relocate within the inner cities?

21 A           No, I'm not aware of that.

22                           Q           Doctor, on your direct examination,  
23 you were discussing ecology in the general sense as a con-  
24 sideration for evaluating the number of fair share housing  
25 that each community were to take, be considered to be taking,

1 and you made a statement that you have to make trade-offs  
2 between the environment and the other questions.

3 A Yes.

4 Q Do you recall that statement?

5 A Yes.

6 Q What other questions were you talking  
7 about when you stated that?

8 A Economic questions and social questions.

9 Q Doctor, assuming that a municipality  
10 was not trying to shirk its duties with regard to its fair  
11 share of low and moderate income housing. Let's make that  
12 assumption.

13 What advice would you give that municipality to  
14 try to protect its environment and its ecology?

15 A I suppose the most general advice is to work  
16 toward getting other surrounding municipalities to assume  
17 their fair share equally.

18 Q Could a municipality through large lot  
19 zoning protect an aquifer that was used as a source of water  
20 for population centers?

21 A It could, but if that were sewered, it wouldn't  
22 make much difference.

23 Q Pardon me?

24 A If the land were sewered, that would not be  
25 as defensible.



1 Q You think if you put sewers over an  
2 aquifer, you could put any number of houses over that aquifer?

3 A Not any number, but certainly more than if you  
4 were relying on septic tanks.

5 Q Doctor, you mentioned a number of  
6 selective land use controls, if you wish, that you didn't  
7 put any, make any judgment as to their affect, if you wish.  
8 I'd like to refer you back to those.

9 You mentioned a timing device and you indicated  
10 that that was innovative. Is a timing device a good balance  
11 between too quick development and no development at all?

12 A It is from the point of view of fiscal consider-  
13 ations of the municipality.

14 Q How about the PUDs which you indicated  
15 relaxed the overall zoning requirements?

16 A What about them?

17 Q Do you consider that to be a good  
18 device to help bring into the community low and moderate  
19 income housing?

20 A Under certain circumstances, yes.

21 Q What are those circumstances?

22 A If the provisions of the PUD are such that it  
23 is made feasible for low and moderate income housing under  
24 appropriate financing to come in, yes. There are PUDs  
25 that are really, that actually discourage low and moderate

1 income housing.

2 Q That could be used either way?

3 A Yes.

4 MR. CHERNIN: May I just have a little--  
5 I have a little difficulty here. Apparently  
6 the witness's voice drops off at the tail end of  
7 what he says. I would appreciate it if he would  
8 just keep his voice a little higher.

9 THE COURT: Would you bear that in mind?

10 THE WITNESS: Yes, sir.

11 Q How about the floating zones, could  
12 that be used to encourage low and moderate income housing?

13 A I have not seen it done that way. I have seen  
14 it used for things like providing shopping services. It  
15 could conceivably, but I don't know quite how.

16 Q Are you familiar with the BOCA Code,  
17 Doctor?

18 A Would you say the name again?

19 Q BOCA Code. It's a building code that  
20 is a national building code.

21 A I saw it some years ago.

22 Q If I indicated to you that that BOCA  
23 Code permitted the industrialized modular housing that you  
24 indicated was a selective land use, would you be surprised  
25 at that?

1 A Yes, I guess I would.

2 Q Are you familiar with the minimum floor  
3 areas established by HUD?

4 A I have seen them.

5 Q Do you know what they are?

6 A You are talking of FHA, I assume?

7 Q Yes.

8 A I have a casual knowledge of some of them, yes.

9 Q If the municipality either was at those  
10 HUD requirements or below them as far as minimum floor areas,  
11 would you think that that would be a desirable goal or  
12 desirable situation?

13 A I'm not sure. I have had some concern that the  
14 FHA standards might be too high.

15 Q If we select a political entity, what-  
16 ever it is, to establish a region, wouldn't we also have  
17 to take into consideration factors from communities surround-  
18 ing that political entity in order to determine the fair  
19 share of housing?

20 A We might.

21 Q Let's consider Middlesex County. Would  
22 we have to then?

23 A It would certainly be appropriate to maintain  
24 an awareness of what was occurring surrounding Middlesex  
25 County, yes.

1 Q Does planning follow the dynamics of  
2 social and economic considerations such as in dispersal?

3 A Yes.

4 Q We would also have to consider the  
5 dynamics of the situation in determining a region, would we  
6 not?

7 A Yes.

8 Q Housing is not established by political  
9 boundaries, is it, in a general sense?

10 A No.

11 Q You indicated that dispersal would be  
12 good on a national scope. Is that correct?

13 A In the abstract, yes.

14 Q Would your considerations or lack of  
15 consideration for agriculture still be maintained in a  
16 national dispersion?

17 A No.

18 Q Do you know the agricultural impact of  
19 New Jersey on the agricultural production of the country?

20 A No, I don't know that precisely.

21 Q Have you ever taught a course or courses  
22 on environmental resource analysis or methodology?

23 A Yes.

24 Q When was that, Doctor?

25 A Two years ago.

1                   Q            If you knew of a town that had PUD  
2 requirements that had fluctuating percentages of low and  
3 moderate income housing, depending upon the needs of that  
4 municipality, and if that community established a region of  
5 which it was a part and determined its fair share of low  
6 and moderate income housing and is providing that low and  
7 moderate income housing through the mechanism of PUDs, and  
8 if that municipality had no restrictions at all on the number  
9 of bedrooms in its apartments, and if the community had  
10 less or equal to the HUD minimum floor requirements and  
11 allowed under the BOCA Code industrialized housing and  
12 allowed mobile home parks in its community and had a posi-  
13 tive housing policy and goals which were in its implementing  
14 phase, and if that community was not over zoned for  
15 industry as a result of a survey taken which projected the  
16 number of employees per acre throughout its zoned industrial  
17 land, would you consider that community to be exclusionary?

18 A                   Not on the face of it.

19                               MR. GRUBER: I have no further questions.

20                               THE COURT: Mr. Chernin, any cross-  
21 examination?

22                               MR. CHERNIN: Your Honor, I believe the  
23 statement of Doctor, of Professor Mam has  
24 already been marked as an exhibit. Is that  
25 right? All right.

1 CROSS-EXAMINATION BY MR. CHERNIN:

2 Q Now, Professor Mann, the statement that  
3 you prepared, did you prepare this statement in preparation  
4 for coming to trial and testifying?

5 A Yes.

6 Q I was interested in some of the phrase-  
7 ology that is contained in the statement, and is it possible,  
8 Professor Mann, that this statement is a recap of a lecture  
9 that you made?

10 A No.

11 Q This was prepared especially for your  
12 testifying here?

13 A Yes.

14 Q All right. Now, you indicated that  
15 you are still at Harvard?

16 A Yes.

17 Q And has your contract been renewed, or  
18 will it be renewed?

19 A Yes.

20 Q Have you been notified of that?

21 MR. SEARING: Objection, your Honor.

22 THE COURT: I'll sustain that objection.

23 Q With regard to these articles that you  
24 have indicated which you prepared and published, you did  
25 state, I believe, that none of them were published by, you

1 know, recognized publishing companies.

2 A None of the monograph length ones.

3 Q Keep your voice up.

4 A None of the monograph ones are.

5 Q In general, professor, were these  
6 articles which you wrote in the form of, say, book reviews?

7 A Not all of them.

8 Q Well, the major part?

9 A No.

10 MR. SEARING: I object. This is no longer  
11 voir dire. This is supposed to be cross-  
12 examination.

13 THE COURT: I'll sustain that objection.

14 Q Professor Mann, correct me, you know,  
15 if what I am about to say is wrong, a wrong impression or a  
16 wrong statement in any way, please

17 I got the impression from what you were testify-  
18 ing to that the Legislature of this state, in your opinion,  
19 cannot properly handle the administering of land use regu-  
20 lations and zoning.

21 A No, that is not my opinion.

22 Q What is your opinion about the viability  
23 of the Legislature of this state to handle the administering  
24 of land use regulations and zoning laws?

25 A The viability?

1 Q Yes. The capabilities instead of  
2 viabilities.

3 A The Legislature of this state sets laws. It  
4 doesn't administer the zoning regulations. You asked me the  
5 capability of the Legislature to administer the zoning  
6 regulations.

7 Q I'll rephrase it. What is your opinion  
8 about the ability of the State Legislature to continue with  
9 the proposal and enactment of laws pertaining to zoning and  
10 land use regulations and in their ability to confer upon  
11 local municipalities some of the power to administer?

12 MR. SEARING: Objection, your Honor.  
13 I don't see the relevance of this.

14 THE COURT: The Legislature can do any-  
15 thing within the constitution. Isn't that so,  
16 Dr. Mann?

17 THE WITNESS: That's what I was going to  
18 say.

19 Q Professor Mann, if I recall what you  
20 said on Thursday, it was that you testified to the effect  
21 that the Legislature of this state being a political creature,  
22 a political body, was and would be and would continue to be  
23 influenced by politics and therefore would not be, should not  
24 be given the right or the power to handle land use laws and  
25 regulations.



1 A That was not my testimony.

2 Q Did you indicate in your testimony at  
3 all that because the Legislature was political and in any  
4 way you want to use the word political, that it should not  
5 and could not be expected to handle laws pertaining to land  
6 use regulations or correct the deficiencies in existing laws  
7 in the same area?

8 A I certainly never said it should not.

9 Q Well, did you say it does not?

10 A Yes, I said it has not.

11 Q It has not. Meaning that to date the  
12 New Jersey State Legislature has not effectively taken steps  
13 to correct the problems of which you speak?

14 A That's correct.

15 Q Do you not feel that the New Jersey  
16 State Legislature in its own ways and its own time is capable  
17 of taking steps toward correcting the problems of which you  
18 talk?

19 MR. SEARING: Your Honor, I object.

20 The Legislature is not on trial here.

21 THE COURT: That objection is sustained.

22 Q Professor, do you feel that municipal  
23 government can be entrusted with the administering of land  
24 use regulations and zoning?

25 A Yes.

1 Q Do you feel that there should be some  
2 overriding-- strike that. Do you feel that someone outside  
3 of the judiciary ought to have the power to intrude into  
4 municipal handling of land use regulations and zoning?

5 A With that phrasing, no.

6 Q The thrust of your testimony, as I  
7 gather it, however, seems to be critical of the way  
8 municipal government has been handling land use regulations  
9 and zoning in the past. Is that a fair statement?

10 A No, I don't think it is a --

11 Q You keep dropping your voice.

12 A I don't think it's a fair statement.

13 Q Let me ask you, are you critical of the  
14 way in which municipal governing bodies are presently  
15 handling land use regulations and zoning?

16 A Critical in the sense that they are not being  
17 able to cope with the second problem that I discussed.

18 Q Which is?

19 A Mismatch between place of work and place of  
20 residence in the process of metropolitan dispersal.

21 Q Did you say that they are not coping  
22 with it or they cannot cope with it?

23 A I said both.

24 Q And you are saying that municipal  
25 government in its present form is incapable of coping with

1 the problem as you just described it?

2 A Yes.

3 Q I gather that an extension of that  
4 thinking would be to create or find some body, and by body I  
5 don't mean person, a group or entity, which would be  
6 competent and capable of handling those problems?

7 A No, that's a misinterpretation.

8 Q What would be the extension of that if  
9 the municipalities are not capable or competent of handling  
10 the problem?

11 A There might be any variety of possible arrange-  
12 ments. I had suggested that the urban county was the  
13 appropriate body.

14 Q You would then vest this power to solve  
15 the problems of which you speak in the county or some form  
16 of county government?

17 A That's the possibility that seems to me most  
18 appealing, yes.

19 Q Are there other possibilities?

20 A Yes, there are other possibilities.

21 Q Other plans, arrangements which you  
22 would accept as feasible?

23 A I suppose there are many. I don't know all of  
24 the possibilities, but I'm sure that's not the only feasible  
25 approach.

1 Q You are suggesting it is not the only  
2 good suggestion in this matter?

3 A That suggestion is not necessarily the only good  
4 suggestion.

5 Q I don't really want to hear or hope  
6 that you will give us all of the alternatives. How about  
7 just one?

8 A I have no ready other alternative at this point  
9 in mind.

10 Q Have you made a good and complete  
11 study of options and alternatives which would help to solve  
12 this particular or to cure this particular ineptitude in  
13 municipal government?

14 A I have given some thought.

15 Q Well, more than just thinking about it,  
16 have you done any research into the area?

17 A No, I have not.

18 Q So that your comment and your decision  
19 and your conclusion that there should be this power in the  
20 county is based upon some thinking that you have done?

21 A Yes.

22 Q Now, Professor, have you yourself  
23 ever taken a direct part, a direct role toward implementa-  
24 tion of your philosophy and your plans to see how it  
25 practically works out? Have you ever tried to put it into

1 effect?

2 A Some parts of it.

3 Q Personally done it?

4 A Yes.

5 Q But you have not been a member of a  
6 planning board or zoning board or that sort of governmental  
7 body?

8 A Not that sort, no.

9 Q If I recall your testimony, you were in  
10 an advisory capacity with two towns down in North Carolina?

11 A And some in Massachusetts.

12 Q And a couple in Massachusetts?

13 A Yes.

14 Q And in an advisory capacity?

15 A Yes, but some other things as well.

16 Q Now, getting, if you will, to the  
17 problem of the inner city, one of the major factors that  
18 you indicated which would not--strike that.

19 In your direct testimony, I think it was that you  
20 indicated that even if there was a major attempt to refurbish  
21 or to resurrect unsuitable and delapidated dwellings in the  
22 inner city, it would still not be necessarily a desirable  
23 place for people to want to live?

24 A I didn't put it that way.

25 Q One of the criticisms that you made of

1 life in the inner city was the existence of crime in this  
2 heavily populated area.

3 A Yes.

4 Q One of the detrimental factors to being  
5 an urban resident?

6 A Yes.

7 Q And my recollection is right, one of  
8 the other attorneys said would this objection to life in  
9 the inner city be removed by you if there were attempts to  
10 alleviate or to eliminate crime in the city. Do you recall  
11 that line of questioning or--

12 THE COURT: Why do you have to repeat  
13 cross-examination of another defense attorney?

14 MR. CHERNIN: Just a foundation, your  
15 Honor, and nothing more. It is a base from which  
16 to start. I think it is only fair to give it to  
17 the witness.

18 THE COURT: Well, with fifteen or  
19 eighteen attorneys, I don't see the point of  
20 asking the same questions that were already  
21 asked on cross-examination, Mr. Chernin.

22 MR. CHERNIN: I'll try to avoid them,  
23 your Honor.

24 Q I think you said, and if this is not  
25 accurate, you correct me, that you were dissatisfied with the

1 criminal justice system's ability to eliminate crime in the  
2 city.

3 A That was not my statement.

4 Q I misheard you.

5 MR. SEARING: Your Honor, if I may  
6 object. We are spending an enormous amount of  
7 time characterizing direct testimony that  
8 unfortunately the witness has not been able to  
9 find accurate to any great degree.

10 I would like to move that unless we can  
11 move on to substantive matters of cross-  
12 examination that have not been covered by other  
13 counsel, that Mr. Chernin's examination be  
14 limited herewith.

15 THE COURT: I couldn't grant that motion  
16 in the form that you are presenting it, but you  
17 may object to any question on the grounds that it  
18 is repetitious of what has been gone over before  
19 on cross-examination.

20 MR. SEARING: Yes, sir.

21 MR. CHERNIN: May I proceed now, your  
22 Honor?

23 THE COURT: All right.

24 Q Professor Mann, the big problem I think  
25 which concerns the plaintiffs in this case and you is the

1 inability to have freedom of choice as to where to live or  
2 at least have the option available as to where to live in  
3 the state of New Jersey. Do you understand that to be the  
4 basic problem here?

5 A One of them.

6 Q A major one?

7 A A major one.

8 Q And there's a direct correlation, is  
9 there not, in one's ability to select a place within which  
10 to live and his income?

11 A There's a partial correlation.

12 Q Assuming the existence of all kinds of  
13 housing, any dimension, is there any other consideration  
14 other than money, that is, income for the person who desires  
15 to live in those housing-- in that housing?

16 A There is race.

17 Q Pardon me?

18 A There is race.

19 Q I think we are all aware that there is  
20 race. I don't understand the import of your statement.

21 A You are asking me to speak to a direct correla-  
22 tion, and this would say that we are dealing with two factors.  
23 There is the factor of race, in addition to income, that  
24 determines the inability of someone to obtain the housing  
25 that they seek. That's a fact.



1 Q All right. I gather that you are  
2 aiming, you are testifying as to a feeling about some kind  
3 of racial prejudice that keeps people out. Is that true?

4 A I'm simply restating the pattern as it is known  
5 to exist.

6 Q Are you relating race to income?

7 A I did not, but it does have a correlation.

8 Q I'm just trying to find out when you  
9 said that there is race. I don't understand it. Unless I'm  
10 missing something which is very obvious.

11 A You asked me to talk to a direct correlation  
12 between ability to obtain housing and income, and I am  
13 saying there's another factor that enters into it.

14 Q We'll go beyond that. If a person's  
15 income or family's income can permit the seeking and/or  
16 obtaining of housing to complete their desires, would that  
17 not solve, if not all, most all of the problems presented  
18 by the plaintiffs in this case?

19 A Probably most of them.

20 Q And isn't a direct and efficient  
21 solution to the problems presented by the plaintiffs to find  
22 a way to increase the family income so that they can then  
23 have a broader sphere, an area in which or from which to  
24 choose housing?

25 A The answer to that has to be no.

1 Q Why?

2 A Because of the evidence coming out of the housing  
3 allowance experiment which indicates that that is not going  
4 to achieve that result.

5 Q If a family of, say, five, that is,  
6 parents and three children, would like an accommodation with  
7 three bedrooms, a bath or two, living room, dining room, and  
8 kitchen, and whether the accommodations are in the form of a  
9 single-family dwelling or an apartment, but that same family  
10 unit has a gross total income of about twelve or thirteen  
11 thousand dollars a year, and if that family unit then finds  
12 that they are unable to financially afford the accommodations  
13 which they would like, isn't the cure to that to give them  
14 more money?

15 A No, that's not the cure.

16 Q One of the reasons that I understand it  
17 for there to be an absence or a great limitation or a restric-  
18 tion on available housing is the large cost of available land,  
19 that is, for builders to acquire and then build upon. Is  
20 that an element?

21 A That's an element.

22 Q And one of the objections seems to be  
23 that municipalities have taken steps by virtue of their  
24 zoning and land use regulations to maintain large sized lots  
25 which would then make the basic cost of a house very expensive.

1 So far do you agree?

2 A That is part of it, yes.

3 Q And then if we were to go and add to  
4 that some of the regulations of a municipal body which goes  
5 to large square foot area requirements, that would also add  
6 to the cost of a house?

7 MR. SEARING: We have covered this a  
8 dozen times on direct and cross. I object.

9 THE COURT: I think that that's so.  
10 It's repetitious, and you are also stating things  
11 that obviously call for a yes answer. The  
12 objection is sustained.

13 Q Professor, if we take into account the  
14 implementation of some of your philosophy, that is, to  
15 impose upon municipalities fair share, would that in your  
16 view require or necessitate high density housing?

17 A Some.

18 Q And with the influx of the increased  
19 population, I think that we agree, do we not, that it  
20 requires additional schools, sewers, police, firemen, all of  
21 these services would have to go up?

22 A I have to insert here that there's probably a  
23 surplus of educational facilities in many municipalities  
24 with declining birth rates and enrollments at present, and  
25 there's not a direct correlation to requirements for new

1 school facilities to increased population in many suburban  
2 municipalities in the United States today.

3 I don't know the circumstances here, but that's  
4 an emerging pattern.

5 Q What I gather you are saying is that  
6 there's enough schools available to take on and carry the  
7 additional burden which would be thrust upon a particular  
8 municipality if it were to be obliged to accommodate its  
9 fair share?

10 A I'm not saying that. I'm saying that that now is  
11 a possibility, where two years ago that wouldn't have been.

12 Q You say it is a possibility. Have you  
13 made a study of this area?

14 A I have, but not in this part of the country.

15 Q Not in New Jersey. Did you or did you  
16 not say that a consideration should be given to the ability  
17 of a given municipality to pay for all of these services to  
18 be in a position to afford to pay for these services, these  
19 additional services?

20 A I don't recall having said that.

21 Q Well, do you feel that you ought to  
22 consider whether or not a given municipality has the  
23 financial capability and capacity to absorb the increased  
24 cost of the housing, the supplement and all of the expenses  
25 entailed with additional services?

1 A I believe that you should consider it, but I  
2 don't believe it should be made an element of the fair share  
3 plan.

4 Q How about the implementation of that  
5 fair share plan? Do you think it ought to be considered  
6 there?

7 A It has to be considered somewhere. Somewhere  
8 someone has to find those funds. It can't be done without  
9 them.

10 Q What would be your feeling as to the  
11 implementation as to the fair share allocation if it were  
12 determined that it would be just too much of a financial  
13 burden on a municipality to handle?

14 A Well, then some other method would have to be  
15 found to find the funds.

16 Q You wouldn't advocate-- you still  
17 would impose that fair share type, would you, in face of  
18 those circumstances? That fair share plan?

19 A I would advocate it, if I could find some other  
20 way to subsidize that municipality for its-- for its  
21 required task.

22 Q Do you have any thoughts as to where  
23 a municipality can reach or obtain such subsidies for  
24 those purposes?

25 A It's my belief that this problem is widespread

1 enough that federal and state backup is going to have to  
2 be provided for this type of thing over time. That is the  
3 extent of my thinking on this.

4 Q So that given that set of circumstan-  
5 ces and that particular problem which I have proposed to  
6 you, in your view it would need, require, additional laws  
7 either out of the State Legislature or down in Washington,  
8 DC, the result of which would be to create more money to  
9 alleviate the problem of the municipality in the given case  
10 that I have placed before you?

11 A I'm not sure it would require new laws.

12 Q The end result would be that some  
13 external body would have to provide a lot more money to  
14 help out a municipality or a number of municipalities in  
15 that situation?

16 A Not knowing the cases, I don't know how much.

17 Q Your only problem then is with the  
18 quantity of the dollar involved in this instance?

19 A I foresee that some such backup from higher  
20 levels of government ultimately will be necessary for this  
21 general problem in the modern society.

22 Q And can you assume that there is a  
23 possibility that such additional funding, additional monies  
24 will not be available?

25 MR. SEARING: Your Honor, that's

1 entirely too speculative. I object.

2 MR. CHERNIN: I'm asking him on a  
3 hypothetical basis, your Honor. We are pursuing  
4 a problem.

5 THE COURT: The objection is sustained.

6 Q Professor, are you aware of where New  
7 Jersey stands on the list of the rate of unemployed people  
8 in this country?

9 A No, I don't know where it stands.

10 Q You haven't heard whether or not it is  
11 either first or second in the rate of unemployment throughout  
12 the country?

13 A I would have been surprised if it had been first  
14 or second. I thought that honor was reserved for my part  
15 of the country.

16 THE COURT: You are referring to New  
17 England then?

18 THE WITNESS: That's right.

19 Q I'd like to for a moment, Professor  
20 Mann, to touch upon what you might conceive of as available  
21 vacant land, that is, land available for building purposes.

22 I gather you excluded areas which are in flood  
23 plains?

24 A Tightly defined, yes. Tightly defined. That  
25 is, as a frequent flood plain.

1 Q Is there some text definition which  
2 would define a flood plain?

3 A There are hundred-year probability and ten-year  
4 probability and a thousand-year probability, and I suppose  
5 there are a number of other lines that are drawn. I would  
6 not be in favor of taking anything broader than the hundred-  
7 year flood plain.

8 Q Would you accept a hundred-year flood  
9 plain?

10 A Yes, I would even accept a fifty-year.

11 Q Are you aware that there is a definite  
12 scheme and evaluation by the Water Policy Commission of this  
13 state which designates flood plaining areas and areas which  
14 have peripheral adverse impact from flooding?

15 A I'm not aware of that, no.

16 Q Would you also exclude from your thoughts  
17 of available vacant land those areas of land which abut, say,  
18 a railroad?

19 A Only for residences.

20 Q Your singular one or two-family resi-  
21 dences?

22 A I think also for apartments, yes, for multi-  
23 family residences as well.

24 You are talking about--unless there were some  
25 kind of set-back regulation, I certainly wouldn't put these



1 directly, but I mean, commercial-- to say that that's not  
2 available for development for commercial and industrial  
3 use would be ridiculous, wouldn't it?

4 Q I'm not talking about the-- let's clear  
5 that away. What I am getting at is what land would be  
6 available for residential use, whether it be single or  
7 multi-family units? Do you follow me, Professor?

8 A I follow you.

9 Q Okay.

10 A In the railroad, a two hundred-foot buffer  
11 with planted trees is better than simply saying any parcel  
12 that abuts on a railroad is excluded from available land.  
13 It can't be done on a lot basis. It has to be in terms of  
14 a setback and a buffer zone.

15 Q How about open land which adjoins  
16 heavy factory use?

17 A Again, it's not the fact that the parcel of land  
18 abuts a factory. It is a question of how much setback and  
19 what kind of buffer between that use and a residential area.

20 Q And how about available land which  
21 adjoins or abuts major highway systems?

22 A Again it's a setback question rather than  
23 abutting.

24 Q You seem to accept the geography  
25 of the county as a viable region, as a workable region.

1 A For certain purposes.

2 Q For your purposes by way of defining  
3 fair share, and you utilize the data in order to determine  
4 which municipality will bear what burden of a fair share  
5 area.

6 A I said all things considered it is not unreason-  
7 able.

8 Q All right. Do you feel that in  
9 determining the region that you should test the municipali-  
10 ties within the region to see whether or not they are not  
11 included more by a major municipality outside the region  
12 than those that are within it?

13 MR. SEARING: I object. We have had  
14 much testimony on the subject of reasoning the  
15 doctor's opinions out.

16 THE COURT: Objection overruled.  
17 You may answer that question.

18 A (Continuing) I think that you should consider  
19 the ties with outside entities, but that doesn't mean that  
20 after consideration you wouldn't conclude that all things  
21 being considered, that you would still include the  
22 municipality within. One thing about regions, it always  
23 gets fuzzy at the borders.

24 Q How about, Professor, if there is a  
25 municipality which is almost wholly contiguous to a major

1 city and yet they are within one county line and the major  
2 city is within another county line?

3 A Well, that would be a stronger case for deeper  
4 consideration.

5 Q You are not hedging a little bit, are  
6 you?

7 A No.

8 MR. CHERNIN: Could the Court give me  
9 about one minute, please?

10 THE COURT: All right.

11 MR. CHERNIN: That's all the ques-  
12 tioning, your Honor, by me.

13 THE COURT: All right. The Borough of  
14 South River. Mr. Wood?

15 \* \* \*

16

17 CROSS-EXAMINATION BY MR. WOOD:

18 Q Doctor, you indicated that you were on  
19 the Governor's Commission for the study of impact of high  
20 property taxes on agriculture, is that correct, in New Jersey?

21 A No, I did not indicate that.

22 Q Which commission was that that you were  
23 on, Doctor?

24 A Governor's Commission on Open Space Policy.

25 Q So that you were not, in effect-- strike

1 that. So you had nothing to do with the Governor's Commission  
2 that did study impact of taxes on agricultural land?

3 A That was a consideration in the open space policy  
4 commission.

5 Q Was it a big, significant part?

6 A It took up a lot of time in discussion, yes.

7 Q Were there basic recommendations made  
8 by the commission that you were on concerning that?

9 A Yes.

10 Q And was one of the recommendations that  
11 you made that the farmer be given consideration, tax-wise,  
12 planning-wise, concerning the problems that he would have  
13 with high taxes?

14 A Yes, that was one of the recommendations of the  
15 commission.

16 Q Did you in fact join in that report?

17 A Yes, I did.

18 Q You didn't file a minority opinion as  
19 far as that report is concerned?

20 A I did not.

21 Q Doctor, do you feel that an ongoing  
22 study is necessary insofar as ecology, ecological impact  
23 with housing is concerned? Do you feel it is important?

24 A I feel that on-going study of that and many  
25 other matters is important, yes.

1 Q Do you feel it is as important as pro-  
2 viding or having each municipality provide its fair share  
3 of low and moderate income housing?

4 A No, I would say that the fair share is more  
5 important than the study.

6 Q Do you feel that ecological impact  
7 can be handled in a voluntary fashion?

8 A No, I don't feel that ecological impact could.

9 Q So you feel that ecological impact must  
10 also be subject to judicial decision also?

11 A No.

12 Q Do you feel that ecological impact  
13 can be handled completely in the private sector as opposed  
14 to the public sector?

15 A No.

16 Q Where do you best feel that the  
17 ecological impact, the on-going study of it, must be  
18 handled, Doctor?

19 A We have under federal regulations the Environ-  
20 mental Protection Act.

21 Q Doctor, maybe you misunderstand my  
22 question.

23 A Maybe.

24 Q You were talking, or you testified I  
25 believe in your direct examination that there weren't

T13

L

1 sufficient tools available to measure economic impact. Is  
2 that correct?

3 A Major economic impact?

4 Q To measure it.

5 A Economic impact?

6 Q I'm sorry. Ecological impact. Wasn't  
7 that your testimony?

8 A Yes, that is.

9 Q My question to you, where do you feel  
10 those tools should be developed, in the private sector, the  
11 public sector, voluntarily or by judicial order?

12 A Oh, I'm sorry. I did not understand the thrust  
13 of your question. Well, I believe that that's going to be  
14 a continuing discourse among people studying these problems  
15 until we achieve some sounder agreement. I wouldn't say in  
16 any one place.

17 Q But as far as you are concerned at this  
18 point in time were you to not have sufficient tools avail-  
19 able to measure ecological impact, you would go ahead with  
20 the housing anyway? Is that correct?

21 A Yes.

22 Q And so I'm clear about it, Doctor, at  
23 the same time you do not consider as part of the fair share  
24 allocation ecological impact in that it must go hand in hand  
25 on a developing basis?

1 MR. SEARING: OBJECTION. That's been  
2 testified to any number of times.

3 THE COURT: That objection is overruled.  
4 You may answer that.

5 THE WITNESS: I believe that you should  
6 continue to study these questions of the  
7 biophysical environment with particular reference  
8 to water quality, but I don't believe that we are  
9 ready to include them as a certain calculation  
10 in the fair share formula that I think is  
11 appropriate. That's my opinion.

12 Q Doctor, aren't there many examples where  
13 ecological impact lags seriously behind development? By  
14 development, I don't mean just housing, I mean industrializa-  
15 tion.

16 A I don't understand the question. Ecological  
17 impact lags behind development?

18 Q Don't you think, Doctor, that histor-  
19 ically that there has been a lack of development in measur-  
20 ing ecological impact?

21 A Yes, I agree.

22 Q Doctor, you mentioned one of the prob-  
23 lems, and I don't mean to get into it at length again, with  
24 the voluntary plan working. Is that when the fiscal pinch  
25 comes along development will stop as far as fair share of

1 housing?

2 A Yes, in any cooperative arrangement, if one,  
3 without any reason, ceases to cooperate, then cooperation  
4 ceases.

5 Q Do you see that, Doctor, right now as  
6 being a problem?

7 A Yes, although I can't speak with reference to  
8 Middlesex County.

9 Q Is that the main reason why you feel a  
10 voluntary plan will not work?

11 A Yes.

12 Q Do you feel, Doctor, that the fiscal  
13 pinch, so to speak, that would be used by people attempting  
14 in a voluntary plan to provide fair share housing would be  
15 real or imagined?

16 A Real.

17 Q There has been a serious drop in housing  
18 starts in the past two or three years, has there not?

19 A Yes.

20 Q And you feel that the-- that it was a  
21 fiscal pinch response for that?

22 A Yes.

23 Q And that the point where your philos-  
24 ophy is today, you have no suggested economic cure for that  
25 problem? Is that correct? In other words, Doctor, you are



1 A Yes.

2 Q To date that's another alternative that  
3 you really considered?

4 A Yes.

5 Q That's the only alternative that you  
6 have written about?

7 A Yes.

8 Q And you are not suggesting to the Court  
9 that the county is the only vehicle available?

10 A No.

11 Q You think there are other important  
12 alternatives?

13 A I think there may be.

14 Q Doctor, overcrowding is something that  
15 must be considered in planning and zoning. Is that correct?

16 A Yes.

17 Q And do you agree with me that there are  
18 two aspects of overcrowding, number one, dispersing over-  
19 crowding; and number two, planning for it so it doesn't occur  
20 in the future?

21 A I agree that those are two aspects of it.

22 Q Do you consider them important aspects?

23 A Yes.

24 Q Doctor, are you familiar with any  
25 studies concerning storm water problems that are created by

1 saying that the programs for fair share allocation of  
2 housing must go on and that there has been no real solution  
3 as far as the fiscal problem is concerned?

4 A There has been no solution, real solution. The  
5 answer to your prior question is no.

6 Q Doctor, one of the statements that you  
7 made in the report that you gave was the financial resources  
8 for capital investment and for consumer expenditure are  
9 critical and there must be available credit mechanisms.  
10 Do you mean by that statement that they were not available?

11 A No.

12 Q Do you mean that they were not suf-  
13 ficiently available?

14 A No. I was catching a theory there.

15 Q Doctor, had you had courses in economics?

16 A Yes.

17 Q And working towards an undergraduate  
18 degree?

19 A Not toward an undergraduate degree, no.

20 Q Toward a Masters and a Ph.D.?

21 A Yes.

22 Q Doctor, your idea of the county  
23 government being a viable level for the allocation of fair  
24 share housing, had you written about that prior to your  
25 testimony here?

1 increased density, increased development of land?

2 A Only generally.

3 Q Have you ever taken a course concerning  
4 those problems?

5 A Yes.

6 Q And have you ever taught a course  
7 concerning those problems?

8 A No.

9 MR. WOOD: I have nothing further.

10 THE COURT: Mr. Shapiro?

11 \* \* \*

12

13 CROSS-EXAMINATION BY MR. SHAPIRO:

14 Q Doctor Mann, in arriving at the vacant  
15 land available for fair share allocation, would you exclude  
16 certain sized parcels?

17 A You mean in terms of too small?

18 Q Yes.

19 A No, I wouldn't.

20 Q What would you construct on a forty  
21 by thirty-foot parcel?

22 A I wouldn't construct anything on it, but I would  
23 assume that the process of the land market is going to  
24 convert that into a conglomeration of some other lot in the  
25 course of time and so that I wouldn't exclude it.

1 Q But you would only use it in conjunction  
2 with another contiguous parcel?

3 A Yes.

4 Q Would your concept of vacant land  
5 include in it any considerations regarding soil characteris-  
6 tics?

7 A I believe that I have testified only in terms of  
8 truly unique areas and areas that are unbuildable in one way  
9 or another. That's the only way that the soil would come  
10 into it.

11 Q In the unbuildable category, would you  
12 include those areas where extensive mining has taken place  
13 and the by-product of the mining has just been dumped in an  
14 uncontrolled fill situation back into the ground?

15 A No, I wouldn't include those. Those are poten-  
16 tially developable. It costs more to do it, but it can be  
17 done. It requires some additional earth work, but the  
18 experience is that such areas do get redeveloped.

19 Q But before you would include them as  
20 available, you would require that they be redeveloped to  
21 some extent to support the weight. Isn't that so?

22 A Well, in terms of what I counted as available  
23 land, I would count them; but I would probably put a footnote  
24 saying that there are a series of things that would have to  
25 happen before this would come into a land market.

1 Q Is it your contention, Doctor, that a  
2 planned community has as a planning benefit the ability of  
3 people to live and work in the same community?

4 A No, that's not my contention.

5 Q Is it your contention, Doctor, that the  
6 zoning practices involved here prohibit people from working  
7 and living in the same community?

8 A No. My contention is that they tend to keep  
9 people from living in reasonable proximity to their work.

10 Q You don't feel that people want to live  
11 and work in the same community, do you?

12 A I think in metropolitan America that's not  
13 uppermost in people's minds.

14 Q Do you, Doctor, do you consider Middle-  
15 sex County a part of Metropolitan America?

16 A Yes.

17 Q Do you have any figures for what is a  
18 maximum density of activity to be included in a fair share  
19 allocation?

20 A No, I have no such figure.

21 Q And then you have none also for a minimum  
22 density of activity, do you?

23 A No, I don't have those figures.

24 Q In a fair share allocation, should the  
25 amount of land zoned for industrial and commercial uses in a

1 particular community be influenced by particular local situ-  
2 ations such as a river that is amenable to deep water port  
3 transportation?

4 A That sounds reasonable.

5 Q Doctor, are you in any way familiar  
6 with Woodbridge Township's characteristics of population?

7 A Only very generally.

8 Q Have you ever made any studies of that,  
9 Doctor?

10 A No.

11 Q Have you ever made any studies of  
12 Woodbridge Township's zoning characteristics?

13 A No, I have not.

14 Q So then, Doctor, you don't really know  
15 on a first-hand basis what region Woodbridge belongs to, do  
16 you?

17 A I don't know that with certainty, no.

18 Q In regards to the statement of yours  
19 handed to counsel, could you give me your definition of an  
20 urban sub-center?

21 A An urban sub-center?

22 Q Yes.

23 A It would be an area of concentration within a  
24 metropolis. As to the context in which it is specified there,  
25 that would be an area that concentrated a certain amount of

1 commercial and other major service facilities that enabled  
2 people to use that area rather than going into the center  
3 city itself for the services.

4 Q What types of services did you mean to  
5 include in this?

6 A I wasn't being very specific there.

7 Q Do you think that you could be very  
8 specific?

9 A Not on the spur of the moment, no.

10 Q I see. So that you wouldn't be able to,  
11 if I give you a set of characteristics, could you tell me  
12 whether a particular community was in fact an urban sub-  
13 center?

14 A Not without considerable additional empirical  
15 study, no.

16 Q Would you classify a built-up suburb?

17 A An area with very little vacant land.

18 Q Is that a ratio?

19 A Could be expressed that way, yes.

20 Q What factors would you-- what ratio  
21 would you give it?

22 A What ratio would I give it?

23 Q Yes. What percent of the total land in  
24 the community would you consider a built-up suburb to be if  
25 "X" was blank as being vacant?

1 A I would say that anything with more than five  
2 percent of its land area vacant has still got some potential  
3 for development.

4 Q Less than five, say, would be a built-up  
5 suburb?

6 A Less than five percent not built up I would say--  
7 I would say less than five not built up would probably be  
8 for general purposes a built-up suburb. I'm not sure that  
9 that would be something that you would want to express  
10 formally. I would think that it would be a matter of dis-  
11 cussion for the particular purposes that you had.

12 For some reason, you could use that figure in  
13 general.

14 Q By the way, Doctor, when did you begin  
15 this statement?

16 A When did I begin it?

17 Q Yes. When did you construct this?

18 A I began writing it in early January of '76.

19 Q As these urban sub-centers age, do they  
20 begin to assume the characteristics of older central cities?

21 A To some extent, but the new technology makes  
22 them different. They never become exactly the older centers  
23 because there's a new technology involved in construction  
24 and transportation and so forth.

25 Q That new technology that prevents them



1 from being like the older central cities existing would only  
2 work if we began with a brand new city from the start,  
3 wouldn't it?

4 A No.

5 Q Would they, those characteristics you  
6 alluded to work if you are already confronted with a fairly  
7 well built up urban city?

8 A They might. It depends.

9 Q Might they not?

10 A It might not also, yes.

11 Q Now, on Page 7 of your statement, you  
12 indicate that one of the characteristics of the certain land  
13 use controls is that low income residents are denied the  
14 same access to more desirable jobs. Is that a correct analy-  
15 sis of what your statement indicated?

16 A It is a correct reading.

17 Q How is that so, Doctor?

18 A That the low income residents are denied access  
19 to--

20 Q More desirable jobs as a result of  
21 zoning or land use controls.

22 MR. SEARING: Your Honor, I believe  
23 that's been covered in detail on direct and  
24 cross by other attorneys.

25 THE COURT: I'll allow it. You may

1 answer that.

2 A (Continuing) Well, the process is as we have  
3 talked about so many times. You have the development jobs  
4 occurring, including both industrial and service jobs that  
5 are desirable for a broad range of the population, including  
6 a lot of semi-skilled and clerical and other jobs; and many  
7 of these people are seeking to get close enough, reasonable  
8 access to these new foci of employment.

9 They do enter a process known as residential  
10 search behavior where they try to find a reasonably priced  
11 house for themselves that is close enough to work and to  
12 other services, key services that they seek for the family  
13 and it has characteristics of housing which they inherently  
14 desire in terms of space and shelter characteristics.

15 They, the upper income people, find that they  
16 can usually find something that is in their definition of  
17 reasonable access, and the lower income people have a harder  
18 time of it because of the costs of the housing, and to the  
19 extent that land use controls as a whole influence the price  
20 of housing; therefore, this contributes to the inability of  
21 the low and moderate income residents or employees to find  
22 this reasonably proximate residence. That's the process.

23 Q I understand that may have an influence  
24 on your ability to reside in a particular proximity to these  
25 jobs. I am trying to find out if you are stating or attempt-

1 ing to state that if they move into that proximity, they  
2 get the jobs. Is there any nexus between the move and the  
3 obtaining of the job?

4 A No. The process is that they don't take the job  
5 because they don't feel that they can be reasonably close  
6 enough to it to be able to commute to work, that is, that  
7 they don't really become serious candidates for the job.

8 It isn't that a person chooses a house and then  
9 looks for a job. First he finds a job and then starts to  
10 think about the feasibility of getting to work from there.

11 Q So then you are not stating, Doctor, if  
12 low income residents relocated in the suburbs, then they  
13 would not be denied the jobs, are you?

14 A No, I'm not stating that.

15 Q And in fact they still might be denied the  
16 jobs?

17 A Might be. I don't know.

18 Q Doctor, what do you contend are the  
19 minimum standards for a planner?

20 MR. SEARING: I object to that. That's  
21 been covered.

22 THE COURT: That seems to be too broad,  
23 Mr. Shapiro. I'll sustain the objection.

24 Q Let me ask you this, Doctor, anyway.  
25 What factors would you include in a fair share calculation?

1 I'm talking now about the equation that you can perhaps  
2 present or expound upon in determining what a fair share  
3 would be.

4 A No, I don't want to make a formulae. I testified  
5 that I believe that this is subject, a subject that would  
6 have to be resolved by experts in fair share calculations  
7 and I don't consider myself to be one of those.

8 Q If I gave you a formula, you wouldn't  
9 consider yourself qualified to speak on it at all?

10 A I could speak on it.

11 Q Well, let me ask you about this formula  
12 then. If the unmet need of families, which we will define  
13 as those families living in substandard homes and those  
14 paying more than twenty-five percent of their income for  
15 shelter, and to that number were added also those families  
16 working in the county but living outside the county, and we  
17 use that concept to define unmet needs of a particular region,  
18 do you think that is a fair means of defining an unmet need  
19 in a region?

20 A My appraisal of it is that it is crude and it  
21 needs to be worked through somewhat farther.

22 Q All right. Well, then, assuming it is  
23 crude, though, but nonetheless, if we try to find a particu-  
24 lar municipality's share of that overall need, we then used  
25 the ratio of that municipality's population to the total

1 region's population in order to find that municipality's  
2 percentage of the overall need, what would you think of  
3 that?

4 A If that were the problem as given, that would be  
5 reasonable; but you could do fair share for any particular  
6 area that you were considering. It would be different if  
7 you decided to do it for a smaller subregional area.

8 Q The problem that I have with that,  
9 although you claim it is reasonable, is that to you as a  
10 planner doesn't that seem to add crowds to the crowded?

11 A Crowding is a very relative term. It seems to me  
12 that to some extent you do add population where it is and  
13 there are all kinds of reasons for that. It is something  
14 that requires further study. I don't accept that every  
15 municipality that is even half built up is even crowded.

16 Q No, I understand that, but if some were,  
17 wouldn't that formula merely add more people to those  
18 communities which are already heavily, if not overly popu-  
19 lated?

20 A It might, yes.

21 Q Dr. Mann, are you familiar with the New  
22 Jersey County government form?

23 A No, I'm not in detail, no.

24 Q Are you familiar with the powers of the  
25 counties in New Jersey?

1 A No, I am not.

2 Q Your testimony on direct I think indicated  
3 that you thought the county was a convenient unit for  
4 resolving certain problems of fair share. Is that correct?

5 A YEs. I was speaking in general as a United  
6 States pattern.

7 Q Can you tell me what particular planning  
8 concepts give rise to that contention by you?

9 A The main concept is one that you try to get as  
10 near to some implementation powers at the level that you are  
11 doing the planning. The main principle is that you should  
12 tie the implementation ability to planning ability; and  
13 this is a principle developed from years of discussion of  
14 the problems of metropolitan planning where you have  
15 implementation at one level and planning at another. The  
16 planning principle involved is to try to get your implemen-  
17 tation as close to the level as the planning is occurring.

18 Q Is this equivalent to-- I believe you  
19 made this statement, and correct me if I am wrong, please.  
20 The scope of remedy should be as large as the scope of the  
21 problem?

22 A Yes.

23 Q Well, then, Doctor, in New Jersey do you  
24 contend that the scope of the problem is nearly county-  
25 wide?

1 A No, I do not.

2 Q Then, Doctor, in order to arrive at any  
3 remedy if one were needed in New Jersey, wouldn't the county  
4 be an inadequate unit because the problem is larger than the  
5 county?

6 A It would be sub-optimal.

7 Q What would be optimal?

8 A I don't know what would be optimal.

9 Q Would you feel that the sub-optimal  
10 county unit would need certain powers in order to adequately  
11 cope with the problem of the resolving of the need and with  
12 an on-going resolution of any problems that you as a planner  
13 would anticipate?

14 A I don't think so. I don't think that there would  
15 be any additional.

16 Q What powers do the counties here have  
17 that they don't need more?

18 A The existence of strong county planning depart-  
19 ments in conjunction with local efforts has demonstrated  
20 that a series of studies and plans can be developed if it  
21 were decided that these plans were to be followed by the  
22 localities rather than simply advisory, and then many of  
23 these problems would be overcome.

24 Q Doctor, have you ever done any studies  
25 regarding the county form of government throughout the

1 country?

2 A Casually.

3 Q Doctor, do you know whether the county  
4 form of government as it exists in New Jersey has the same  
5 powers as the county form of government as it exists in North  
6 Carolina?

7 A I know that it does not.

8 Q Do you know that it has less power than  
9 the county form of government in North Carolina?

10 A I believe so. Yes, it has less power.

11 Q And is it still your contention that it  
12 has enough powers to handle the problem in New Jersey?

13 A Potentially.

14 Q What are these potential powers that  
15 it potentially has?

16 MR. SEARING: He has already testified  
17 that he is not familiar with the--

18 THE COURT: I will sustain the objection.

19 Q Are you aware that in New Jersey the county  
20 has only such powers as are delegated to it?

21 A I'm aware that every local government--

22 THE COURT: Answer the question.

23 A (Continuing) Yes, I'm aware of that.

24 Q Are you aware that Constitutional amend-  
25 ments would be necessary to effect a greater power on behalf



1 of the county?

2 MR. SEARING: I object.

3 THE COURT: I'll sustain the objection.

4 Q Do you know, Doctor, whether Middlesex  
5 County has the planning and zoning responsibilities equiva-  
6 lent to the counties in North Carolina?

7 A I believe they are not equivalent, no.

8 Q Do you know of any states to which the  
9 Middlesex County planning and zoning responsibilities are  
10 equivalent?

11 MR. SEARING: I object, your Honor.

12 That's not relevant.

13 THE COURT: Seems completely remote,  
14 Mr. Shapiro. I'll sustain that objection.

15 Q Doctor, since you began your stint at  
16 Harvard, your most recent one, have you written any books?

17 A Yes.

18 Q Doctor, are you aware of a governmental  
19 entity called the Standard Consolidated Statistics Area?

20 A Yes.

21 Q Do you know what that entity means, what  
22 is the definition?

23 A I don't know the form of it.

24 Q Would you accept as a definition of that  
25 a large metropolitan conglomeration consisting of communities,

1 inter-commuting communities generally sharing a continuous  
2 urban mass as indicated by an overlapping urbanized area or  
3 adjacent urbanized area?

4 MR. SEARING: If counsel is reading from  
5 some document, I would like to have it identi-  
6 fied and show it to the witness before he is  
7 allowed to answer it, and I object to the ques-  
8 tion in its entirety as being irrelevant.

9 THE COURT: I will allow it. You may  
10 answer it.

11 A I have no basis for answering that either way.

12 Q Doctor, do you feel that Middlesex County  
13 is really part of a large urban area extending from Hartford,  
14 Connecticut, down to Asbury Park, New Jersey?

15 A Yes.

16 MR. SHAPIRO: I have no further questions.

17 THE COURT: All right. I believe that  
18 Mr. Baker from the Borough of Sayreville is here.

19 MR. BAKER: I have no questions, your  
20 Honor.

21 THE COURT: That should conclude the cross-  
22 examination of this witness. Is there any redirect?

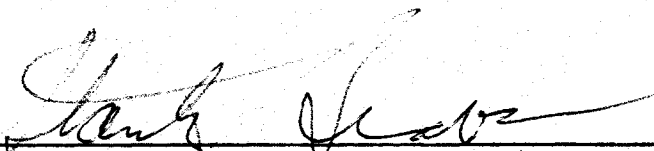
23 MR. SEARING: No, your Honor.

24 THE COURT: All right. That's all then,  
25 Dr. Mann. Thank you. Court will recess for  
about fifteen minutes.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, STANLEY GRABON, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript.

  
\_\_\_\_\_  
Stanley Grabon, CSR  
Official Court Reporter