

~~UK v Carter~~ CA - General

2/5/76

Testimony of Floyd Lapp

P.i. # 3366
Pg 80

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URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et als.,

Plaintiffs,

vs.

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

Defendants.

TESTIMONY OF

FLOYD LAPP

New Brunswick, New Jersey
February 5 & 9, 1976

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

Stanley Grabon, C.S.R.

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I N D E X

WITNESS: FLOYD LAPP

DIRECT

CROSS

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EXHIBITS:

IDENTIFICATION

P-21 to P-33

Documents

14

DME-1

Document

60

DME-2

Document

61

DP-2, 3, 4

Reports

70

1 F L O Y D L A P P, sworn.

2 DIRECT EXAMINATION BY MR. SLOANE:

3 Q Would you please state your name and address.

4 A Yes, my name is Floyd Lapp, and I live in New City,
5 New York.

6 Q Where are you employed, Dr. Lapp?

7 A With the Tri-State Regional Planning Commission at
8 1 World Trade Center, 82nd Floor, New York City.

9 Q What is your position with the Tri-State
10 Commission?

11 A I'm called the housing manager. I'm in charge of
12 housing and community development activities.

13 Q How long have you held the position of
14 housing manager?

15 A I have held that position since August of 1972.

16 Q And what was your previous position?

17 A Previously to that I worked in the areas of open
18 space, recreation and coastal zone management.

19 Q Also at the Tri-State Commission?

20 A At Tri-State, which I started in November of 1970.

21 Q Thank you. How long is the Tri-State
22 Commission, how long has it been in existence?

23 A The Commission has been in existence since 1965.

24 Q And what are the Commission's main functions?

25 A Principally, the Commission is responsible for

1 preparing land use and transportation plans, doing reviews
2 of projects for federal funding, collection and dissemination
3 of census data, among many other functions.

4 Q What is the geographical jurisdiction of
5 Tri-State?

6 A We are the largest metropolitan area in the United
7 States, covering about 8,000 square miles in the three states
8 of New Jersey, New York, and Connecticut.

9 Q Is Middlesex County, New Jersey, within Tri-
10 State's jurisdiction?

11 A Yes.

12 Q And what are the principal sources of the
13 Commission's funding?

14 A We are funded two-thirds by the federal government
15 and one-third by the three states. There are a number of
16 federal funding agencies, principally the United States
17 Department of Housing and Urban Development, the United States
18 Department of Transportation, the Urban Mass Transportation
19 Administration, and perhaps even a few others.

20 At the state level that one-third share is appor-
21 tioned 45 percent New Jersey, 45 percent New York, and 10
22 percent Connecticut.

23 Q You mentioned the Department of HOusing and
24 Urban Development, I believe, as one of the principal sources
25 funding by federal agencies.

1 A Yes.

2 Q What is the nature of the funding that
3 HUD provides?

4 A HUD provides probably somewhere in the neighborhood
5 of about a million dollars to the Tri-State Regional Planning
6 Commission to prepare housing and land use plans.

7 Q To prepare housing and land use plans. Would
8 you elaborate on that some, Doctor?

9 A Yes. The Housing and Community Development Act,
10 which was passed in August of 1974, requires us to prepare a
11 housing and land use plan by August of 1977. The housing
12 plan is to identify existing and perspective needs at the
13 County level and at the local community level.

14 The land use plan deals with development patterns,
15 densities, where development shall and shall not take place,
16 and both cases policies and recommendations to implement
17 these plans.

18 MR. CHERNIN: If your Honor please, as of
19 ~~this~~ moment, I gather that this gentleman is testi-
20 fying as to just background and supporting data. I
21 gather that this is a foundation to be laid for his
22 reviews of the work that his organization has done,
23 which would call for a compilation effort, which
24 would call for reviews and opinions and in an area
25 of expertise.

1 Now, if that is the case and if I am antici-
2 pating this correctly, your Honor, I would like to
3 be heard at length as to an objection which I have
4 to his testimony in those areas.

5 THE COURT: Why don't you wait and see whether
6 that develops, Mr. Chernin?

7 MR. CHERNIN: I was trying to anticipate,
8 your Honor.

9 Q Focusing on the housing aspects of Tri-State
10 activities, I believe you said that Tri-State, their function
11 is to consider existing and prospective housing needs?

12 A Yes.

13 Q At the state, county, and local levels?

14 A That's correct.

15 Q Within Tri-State's jurisdiction. Does Tri-
16 State consider at all the needs, the housing needs of low and
17 moderate income families?

18 A Yes. By the law we are required to consider the
19 housing needs first of all income groups and then of course
20 low and moderate income groups as well.

21 Q Your consideration of housing limited to low
22 and moderate income housing?

23 A No, it must consider all income groups.

24 Q Would you describe your relationship with
25 the state, county governmental entities in carrying out this

1 kind of housing function.

2 A Yes. Shortly after the Act was passed in August of
3 1972, we began working on this housing element requirement,
4 and we established in January 1975 a housing and community
5 development technical advisory group.

6 Now, that group consists of membership of all the
7 counties, including Middlesex, in the Tri-State region, the
8 three state governments, and the appropriate federal funding
9 agencies.

10 We meet on a monthly basis. We present technical
11 reports, and other information is reviewed by this group and
12 it is revised accordingly.

13 Q Does Tri-State have any particular respon-
14 sibilities assigned by HUD under the Housing and Community
15 Development Act with respect to planning for housing?

16 A Yes. By August 22, 1977, three years after the date
17 of the signing of the Act of 1974, we are required to have
18 identified existing and perspective housing needs for the
19 counties and the local communities and to identify policies
20 and strategies for reaching these needs, the implementation.

21 Q In carrying out those responsibilities, is
22 Tri-State considering the needs on a locality by locality
23 basis or --

24 A Initially, our work, like most of our other work in
25 the past, will be targeted to the counties. So, working with

1 Middlesex County for example, we would identify existing and
2 perspective needs. We would then request the county to take
3 that need down to the local community level. If they didn't,
4 we would then under the rules and regulations of the Act be
5 required to do so by August 22, 1977.

6 Q Then under the Act, Tri-State has a
7 responsibility which is beyond municipality by municipality,
8 but at least county-wide and regional-wide?

9 A That's correct.

10 Q Dr. Lapp, you mentioned earlier in describing
11 the functions of Tri-State, that among the functions is to
12 review applications for federal funding.

13 A Yes.

14 Q How does that work?

15 A In the late 1960s, through the Office of Management
16 and Budget, there was something called Circular A95, or the
17 Project Notification Review System, and that requires any
18 applicant, be they a local community, county, state govern-
19 ment, filing for federal funds to submit a copy of that
20 application to Tri-State. Tri-State is called the area-wide
21 or metropolitan clearing house.

22 We are then given a period of time to review that
23 project for any inconsistency that might exist with plans,
24 and then the project is cleared by a certain date. The
25 applicant's materials are forwarded to the federal funding

1 agency which reaches the decision on funding.

2 Q Do you have any relationship in carrying out
3 this A95 review with any agency within Middlesex County such
4 as the Middlesex County Planning Board?

5 A Yes.

6 Q Could you describe that relationship?

7 A We review projects of regional impact, large things,
8 which is only obvious, since we are a metropolitan agency.
9 In all cases, whether the project be of regional significance
10 or something that would be of non-regional significance, we
11 delegate the responsibility of the review under the Circular
12 A95 to the Middlesex County Planning Board, and in turn, the
13 obligation of the Middlesex County Planning Board not only is
14 to conduct a review but to route that application to all other
15 appropriate agencies.

16 Q In carrying out this A95 review responsibility,
17 does Tri-State, in carrying out its review, include consider-
18 ations of housing, in particular, low and moderate income
19 housing?

20 A Yes.

21 Q In what way?

22 A Primarily in the area of community development. We
23 evaluate the housing condition, principally, the applicant's
24 identification of housing condition and compare it with the
25 housing resources targeted in the application to deal with

1 housing.

2 Q You mean applications for federal funding
3 for community development?

4 A Yes.

5 Q And what happens when an application for
6 community development funding is received by your agency?
7 What does the agency do with respect to looking into low and
8 moderate income housing then?

9 A We essentially evaluate the applicant's identifica-
10 tion of those needs and compare it with the applicant's
11 allocation of resources for the housing needs. We make a
12 judgment on whether that's an adequate or inadequate target
13 of resources.

14 Q What if Tri-State considers the housing needs
15 specified as inadequate, what would it then do?

16 A We would so note this in our written review, which
17 would eventually go to the federal funding agency.

18 Q And in considering the adequacy, would Tri-
19 State look into both the current and prospective housing needs?

20 A We would for the moment primarily focus on the cur-
21 rent housing needs. It is our expectation to be eventually
22 dealing with the prospective needs as well, once our housing
23 planning work gets further along.

24 Q Dr. Lapp, does the Tri-State Commission have
25 any responsibilities in relation to the United States Bureau

1 the Census?

2 A Yes, we are the data bank, I guess you might call it,
3 for most of those books that I sat and saw yesterday being
4 talked about, and we also analyze the census material and
5 issue published reports which are then disseminated to the
6 counties and state and federal agencies in the Tri-State
7 region.

8 THE COURT: What do you mean when you say you
9 are the data bank?

10 THE WITNESS: We purchase and supply the
11 census data.

12 THE COURT: You'd better develop that a
13 little more. What do you mean by that, purchase and
14 supply the census data?

15 THE WITNESS: Census data is published--
16 let's say the 1970 Census. We would then purchase
17 that data from the Census and we would make it gen-
18 erally available to the governments within the Tri-
19 State region, and in certain areas we would analyze
20 that data and issue published reports to the govern-
21 ments in the Tri-State region.

22 THE COURT: You mean the Bureau of Census
23 would develop the data statistics?

24 THE WITNESS: Yes.

25 THE COURT: Whatever they are?

1 THE WITNESS: Yes.

2 THE COURT: And you would then-- would you
3 put them together in some way?

4 THE WITNESS: Yes.

5 THE COURT: All right. And then would you
6 disseminate them in some way?

7 THE WITNESS: Yes.

8 Q Did your work with Census data involve
9 analysis and preparation of studies?

10 A Yes.

11 Q And what responsibilities do you have
12 yourself, Dr. Lapp, in the preparation of various analyses
13 and studies using census data?

14 A Principally in the area of housing.

15 Q And what do you do in the area of housing
16 with census data?

17 A We analyze housing characteristics.

18 Q And do what, after the analysis is made?

19 A Issue published reports to the governments in the
20 Tri-State region.

21 Q And with respect to reports that you as a
22 staff member prepare, the Commission issues, who receives
23 these reports routinely?

24 A Routinely it would be the counties in the Tri-State
25 region, the appropriate state agencies and the appropriate

1 federal funding agencies, and I believe within about the last
2 year or so, the four cities in the region which have a popu-
3 lation of greater than 200,000.

4 Q Is the Middlesex County Planning Board one
5 of the agencies which routinely receives all publications of
6 the Commission and the Commission staff?

7 A Yes.

8 MR. SLOANE: Your Honor, I have a series of
9 documents which I would ask the Court to mark for
10 identification.

11 I might want to add for counsel that it is
12 not our intention to explore all the substance of
13 these documents at this time. I believe a copy has
14 been supplied to counsel. It is our intention next
15 week to go into the substance of these documents
16 through expert testimony.

17 THE COURT: We can mark them for identifica-
18 tion P-21 and so forth.

19 MR. BUSCH: May I just be heard? Counsel
20 has just stated that counsel has been furnished,
21 copies have been furnished to other attorneys for
22 the defendants. I think the record should properly
23 reflect that we were furnished this this morning in
24 court. We have never seen them before, and we'll
25 reserve our motion until later.

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THE COURT: All right.

MR. VAIL: I received nothing this morning. I don't know about other counsel or who they speak for, but I received nothing. I have not received copies this morning in court.

MR. CHERNIN: For the record, if I may, Mr. Searing has just this moment handed me a manilla folder containing, I don't know, a hundred pages, probably, and he advises me that whatever is in here is in the same sequence as the documents which are now going to be presented to the witness, and prior to this very second, I have not seen this packet and I assume neither has any other defense counsel.

MR. SLOANE: Your Honor, we do not intend to go through the substance of the materials this morning. They are just to be marked for identification and then in evidence. We will be going into it next week.

I might add, your Honor, that every publication of Tri-State is readily available to the defendants and located right here in Middlesex County. They have been advised since 1974 that we did plan to make full use of Tri-State materials, but we are not going into the substance this morning,

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Mr. Chernin.

THE COURT: At the moment all we will do is mark them for identification.

(Documents are marked Exhibits P-21 through P-33 for identification.)

THE COURT: Are you planning to offer these in evidence now?

MR. SLOANE: Yes, I am, your Honor.

MR. CHERNIN: Did I hear that correctly, sir?

THE COURT: He says he'll offer them in evidence.

MR. CHERNIN: I would like to do a few things, your Honor, if I may. For the moment I would object to a proffer in evidence. I would like also an opportunity for a little voir dire examination of this witness, not as to the contents of his testimony. I would also then thereafter, at least on my behalf, and I assume for other defendants' counsel, I would like to look at the documentation, which is just a few moments ago was given to us, and then make an appropriate application to the Court.

THE COURT: It may be that I would give an opportunity to defense counsel to review them before we mark them in evidence. If you want to have him identify them, you may.

1 Q I show you a document labeled plaintiff's
2 exhibit 21 for identification. I ask you to identify it.

3 A This is a report prepared by the Tri-State Transpor-
4 tation Committee in June of 1964 called "Journey to Work in
5 the Tri-State Region".

6 MR. BUSCH: May we have a direction from
7 the Court that the reports be read slowly so that
8 we can take them down?

9 THE COURT: All right.

10 A This is a Tri-State Transportation Committee report
11 published in June of 1964 entitled "Journey to Work in the
12 Tri-State Region".

13 Q Dr. Lapp, I show you a document labeled
14 plaintiff's exhibit 22 for identification. Would you please
15 identify it.

16 A This is a table prepared by the Tri-State Regional
17 Planning Commission called "Preliminary 1970 Census Journey
18 to Work, Including Outside the Region".

19 Q Dr. Lapp, I show you a document labeled
20 plaintiff's exhibit 23 for identification. Would you
21 identify that, please.

22 A This is an interim technical report prepared by the
23 Tri-State Planning Commission in June of 1968 entitled "Trans-
24 portation, the Link Between People and Jobs. A Profile of
25 Low Income Households in the Tri-State Region".

1 Q Dr. Lapp, I show you a document labeled
2 plaintiff's exhibit 24 for identification. Would you identify
3 that document.

4 A This is a Tri-State Transportation Commission plan
5 published in October 1968 called "Regional Development Guide.
6 Goals and Plans for the Tri-State Region".

7 Q Dr. Lapp, I show you a document labeled
8 Plaintiff's exhibit number 25 for identification. Would you
9 identify that document.

10 A This is a table called "1970 Occupied Housing Units
11 with No Autos Available", and an accompanying map called
12 "Autoless Households", from a Tri-State profile, the title
13 of which is not indicated here.

14 THE COURT: Whose report is that?

15 THE WITNESS: Prepared by the Tri-State
16 Regional Planning Commission.

17 Q I show you a document labeled plaintiff's
18 exhibit number 26 for identification. Would you identify that
19 document.

20 A Yes. This is a table prepared by the Tri-State
21 Regional Planning Commission called "1970 Average Earnings of
22 Female Workers", from a Tri-State Regional Planning Commission
23 profile which I'm unable to identify the title of.

24 Q I show you a document labeled plaintiff's
25 exhibit number 27 for identification. Would you identify this

1 document.

2 A This is an interim technical report prepared by the
3 Tri-State Regional Planning Commission in April of 1974 called
4 "Substandard Housing in the Tri-State Region".

5 Q I show you a document labeled plaintiff's
6 exhibit number 28. Would you identify that document.

7 A This is a table prepared by the Tri-State Regional
8 Planning Commission called "Total Families by Income Twenty
9 Percent".

10 THE COURT: What do you mean 20 percent?

11 THE WITNESS: I believe ~~that~~ probably indi-
12 cates that it was a 20 percent sample by the United
13 States Bureau of the Census.

14 THE COURT: What is the date of that?

15 THE WITNESS: It would be 1970 Census data
16 which our agency gathered shortly thereafter, the
17 year of which I am unable to identify.

18 MR. CHERNIN: Did I understand the witness
19 to say that he doesn't-- he can't identify the year
20 in which this information was gathered?

21 THE COURT: He said it was based upon the
22 1970 census data but he can't give the year of
23 publication.

24 MR. CHERNIN: Was that it, sir?

25 THE WITNESS: That's correct.

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1 MR. CHERNIN: And this is indicating a
2 document which bears Page 6 in the upper right-hand
3 corner?

4 THE WITNESS: Yes.

5 MR. CHERNIN: Presumably five preceded it
6 and something thereafter possibly?

7 THE WITNESS: Possibly, yes.

8 Q I show you a document labeled plaintiff's
9 exhibit number 29 for identification. Would you identify
10 it, please.

11 A This is an interim technical report prepared by the
12 Tri-State Regional Planning Commission in February of 1973
13 called "A Reconnaissance of Selected Housing Allocation Plans".

14 Q I show you a document labeled plaintiff's
15 exhibit number 30 for identification. Would you identify the
16 document, please.

17 A This is an interim technical report prepared by the
18 Tri-State Regional Planning Commission in February of 1973
19 called "1971 Housing Profile for the Tri-State Region".

20 Q I show you this document labeled plaintiff's
21 exhibit number 31 for identification. Would you identify it,
22 please.

23 A This is an interim technical report prepared by the
24 Tri-State Regional Planning Commission in November of 1973
25 called "Analysis of Housing Management in the Tri-State Region"

1 and Exploration of Community Strategies".

2 MR. GRUBER: May we have that again, please?

3 THE WITNESS: This is an interim technical
4 report prepared by the Tri-State Regional Planning
5 Commission in November of 1973 called "Analysis
6 of Housing Management in the Tri-State Region and
7 Exploration of Community Strategies".

8 Q I show you a document labeled plaintiff's
9 exhibit number 32 for identification. Could you identify the
10 document, please.

11 A This is an interim technical report prepared by the
12 Tri-State Regional Planning Commission in March of 1974 called
13 "1972-1973 Housing Profile for the Tri-State Region".

14 Q I show you a document labeled plaintiff's
15 exhibit number 33 for identification. Would you identify it,
16 please.

17 A This is an interim technical report prepared by the
18 Tri-State Regional Planning Commission in May of 1974 called
19 "Housing Needs for the Tri-State Region".

20 MR. SLOANE: Your Honor, plaintiffs at this
21 time move for the admission of these documents into
22 evidence.

23 THE COURT: You would need them or you would
24 seek to use them in the course of direct examination
25 of Dr. Lapp?

1 MR. BUSCH: I would object at this time,
2 your Honor, that Monday is not sufficient time for
3 us even to read them, let alone to review them with
4 other planners or experts.

5 We had the right to assume that expert or
6 governmental reports would be submitted in advance
7 of trial and we didn't get them, and now we have to
8 sometime or another between today and Monday to
9 meet with our experts.

10 I think if there is no prejudice to the
11 plaintiffs that perhaps this gentleman could come
12 back at a date later than Monday.

13 THE COURT: That seems to be adequate time,
14 Mr. Busch.

15 Mr. Alfonso, do you have something?

16 MR. ALFONSO: I would like the record to
17 reflect that a few moments ago I served plaintiffs'
18 attorneys with a notice to produce in accordance
19 with Rule 1:9-2, that is, to produce whatever
20 additional documents they are going to use in this
21 trial at 9 o'clock here on Monday.

22 What really concerns me is that I think
23 that it was really inexcusable for us to be handed
24 this packet today and those maps.

25 We are under an awful lot of pressure in

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this trial. They knew that this was going to be used. We have attempted to get this stuff before. It could have been brought in yesterday.

What I am afraid is going to happen is that we are going to be given another packet on Monday, and on Tuesday another packet, and on Wednesday another packet, and every night we are going to be hit with the same problem.

I just would like the record to reflect that on Monday I would anticipate that whatever additional they are going to provide for the rest of the week or the week following, that this is to be brought in here so that we can then attempt to go through it and make whatever copies.

I would also like the record to note that in so doing so, none of us are waiving our rights to object to the admissibility of the material for not being furnished previously.

THE COURT: All right. And Dr. Lapp, you will return then Monday morning?

THE WITNESS: Yes.

THE COURT: February the 9th.

MR. CHERNIN: Your Honor, is the witness about to be excused for the day?

THE COUPT: Yes, he is.

1 MR. CHERNIN: Or would I at this time be
2 permitted to ask him a few base questions?

3 THE COURT: No, the cross-examination is on
4 Monday. All right, you are excused.

5 MR. BERNSTEIN: I would ask that the plain-
6 tiffs produce either the originals or copies of those
7 documents where they have produced just pages.

8 The problem that I have, your Honor, is that
9 they may give us the name of the book. However, these
10 are not books that are--

11 THE COURT: It has already been ruled upon,
12 Mr. Bernstein. I don't have to rule twice on the
13 same point.

14 MR. BERNSTEIN: Well, could I give my reason-
15 ing to the Court?

16 THE COURT: I don't think it's necessary.
17 Do you have another witness, Mr. Searing?

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20 [End of proceedings for the day]

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FEBRUARY 9, 1976

* * *

FLOYD LAPP, resumes the stand

THE COURT: Borough of Carteret, Mr.

MR. SELESKY: No questions, your Honor

THE COURT: Township of Cranbury, Mr

CROSS-EXAMINATION BY MR. MORAN:

Q Dr. Lapp, many of the documents that marked, that you identified for us last Thursday are entitled interim technical reports. For what purpose these interim technical reports prepared?

A Interim technical reports are staff reports executive director.

Q In other words, they are prepared by Tri-State staff for the information of the executive

A Executive director, and then as I indicated direct statement last Thursday, they are then disseminated to our technical advisory group, counties in the Tri-State region, the three states and the appropriate federal agencies.

Q I see that in every case where there interim technical report that you have identified, the beginning of the report bears the statement that interim technical report reflects staff work and is for internal use only.

A Yes.

1 Q Does internal use include the counties?

2 A Yes. Internal is defined there as our own office
3 as well as the technical advisory group who we generally call
4 our technical family.

5 Q And then it says they cannot be quoted for
6 publication without the express approval of the executive
7 director.

8 A That's correct.

9 Q And it says nor are they to be transmitted
10 outside the technical family of Tri-State without prior
11 approval.

12 A That's correct.

13 Q Has the executive director given his expressed
14 approval for their dissemination at this trial?

15 A I don't know.

16 Q Do you know whether anybody has asked the
17 executive director whether or not it is so that they be
18 published at this trial?

19 A No, I don't know.

20 Q Who would give the prior approval that is
21 referred to in that statement?

22 A Could you read the full statement again?

23 Q They cannot be quoted for publication
24 without express approval of the executive director, nor are
25 they to be transmitted outside of the technical family of

1 Tri-State without prior approval.

2 A Either the executive director or the deputy execu-
3 tive director.

4 Q Do you know whether or not either of those
5 persons have approved these reports for release outside of
6 the technical family?

7 A No, I don't know.

8 Q The document says that all are considered
9 preliminary and must be subjected to review and comment
10 before being presented to the Commission for approval. Have
11 any of these reports been approved by the Commission?

12 A Not to my knowledge, except-- well, the interim
13 technical reports, no.

14 Q They have not been approved?

15 A No. Interim technical reports by themselves would
16 never be approved by the Commission.

17 Q Because they are preliminary, is that
18 correct?

19 A That's correct. Interim by their title also.

20 Q Have any final reports been done in any
21 of these areas?

22 A Yes.

23 Q Well, for example, I have the document that
24 is marked P-32, which is the 1972-73 housing profile for
25 the Tri-State region. That's a preliminary report?

- 1 A That's correct.
- 2 Q Has a final report been done in that matter?
- 3 A No.
- 4 Q Has a final report been done in any of the
5 areas of any of the documents which you identified for us
6 last Thursday?
- 7 A One document only to the best that I could remember,
8 and that is the Regional Development Guide, which is a
9 Commission document.
- 10 Q The Regional Development Guide is the one
11 that's been marked P-24 in evidence?
- 12 A That's the report.
- 13 Q There are a lot of statistics contained in
14 these reports. Where does the Tri-State Planning Commission
15 obtain those statistics?
- 16 A Primarily from the United States Bureau of the
17 Census.
- 18 Q Do you develop any of these statistics on
19 your own?
- 20 A Usually not.
- 21 Q Have any of the statistics contained in any
22 of these reports been developed by Tri-State?
- 23 A With one exception probably, and that's the report
24 on analysis of housing management where the Tri-State staff
25 actually were in the field or directly contacted and by tele-

1 phone with people involved with housing management.

2 Q You are referring to P-31 for identification?

3 A My vision is not that excellent.

4 MR. MORAN: Counsel stipulate that he's
5 referring to P-31 for identification?

6 MR. SLOANE: Yes, I will.

7 Q In preparing that report, people from Tri-
8 State actually went out and --

9 A One person specifically.

10 Q Did they do interviews?

11 A Yes.

12 Q Who did they interview?

13 A People involved in housing management.

14 Q And where did they conduct-- where did he
15 conduct those interviews?

16 A Various locations in the Tri-State region.

17 Q Was that person Monica Lett?

18 A That's correct.

19 Q Do you know whether or not any of those
20 interviews were conducted in Middlesex County?

21 A I don't remember.

22 Q Do you know whether any of them were con-
23 ducted in New Jersey?

24 A Possibly something in northern New Jersey, but I'm
25 not sure.

1 Q Are any of the other statistics contained
2 in here developed from any other source besides the United
3 States Census?

4 A Yes. In the housing profiles there would be one
5 there specifically, and there's data on floor area and square
6 feet-- cost per square foot of construction, and the source
7 of that data is the F. W. Dodge Company.

8 Q Is that the only other area where any
9 statistics were derived for these reports?

10 A In the housing area that's about the only one that I
11 know of. In the other reports I can't be sure.

12 Q Now, these reports also contain a lot more
13 than statistics, don't they?

14 A Yes.

15 Q And do they not in fact contain and make
16 reference to the findings of other groups outside of Tri-
17 State?

18 A That's correct.

19 Q And also in some cases they even refer to
20 and use opinions by other groups outside of Tri-State. Is
21 that not so?

22 A Opinions? That I don't recall.

23 Q Well, just for example I refer you to P-32
24 for identification, the housing profile for the Tri-State
25 region 1972-73. I'm sorry, that's not the one that I want.

1 P-31 for identification, which is the analysis of housing
2 management in the Tri-State region. I think that's the
3 document that you just referred to as having statistics that
4 were developed by your own people. Is that correct?

5 A Not so much statistics as I would say opinions or
6 findings of other people involved in housing management in
7 the Tri-State region.

8 Q So that there are some opinions in these
9 documents besides the opinions of people of Tri-State?

10 A Yes. I think that report specifically.

11 Q Any of the other reports contain opinions
12 of anybody besides people in Tri-State?

13 A In the housing area and in terms of opinions and
14 of the documents you have there, that would probably be the
15 major one that I could think of.

16 Q They also contain, do they not, opinions of
17 people in the Tri-State family itself? Is that not so?

18 A Yes.

19 Q And these are opinions that are based on the
20 statistics that have been gathered from the various sources?

21 A It may be more than statistics.

22 Q What else would be, would it be besides
23 statistics?

24 A Comments on particular piece of legislation, perhaps.

25 Q All right. Proposed legislation or existing

1 legislation?

2 A Proposed or existing.

3 Q Both?

4 A Although I couldn't, you know, recall any specific
5 example.

6 Q Some of the documents that have been marked
7 for identification are excerpts from larger pieces of material.
8 Is that not so?

9 A That's correct.

10 Q Referring specifically to the document that
11 has been marked P-21 for identification, which is entitled
12 Journey to Work in the Tri-State Region. P-21 for iden-
13 tification is only the title page. Is that correct?

14 A No, as I see it here, the title page, Journey to
15 Work in the Tri-State Region, might also have in it this
16 table called 1960 Census Journey to Work, but not this other
17 table called Preliminary 1970 Census Journey to Work.

18 Q Which is P-22 for identification?

19 A That's correct.

20 Q Was this the entire document, Journey to
21 Work in the Tri-State Region, these two or three sheets?

22 A Not as I remember it.

23 Q What else did it consist of?

24 A I'm not that familiar with the report, only that
25 it's about that thick. [Indicating] So that it would have to

1 contain more than what we have there.

2 Q Indicating about an inch thick?

3 A That I can't be sure of.

4 Q Now, the purpose of this document I gather
5 is to show where people live in various areas and where they
6 go to work. Is that correct?

7 A Yes.

8 Q And could you tell from looking at P-21 for
9 example how many people live in Middlesex County work in
10 Somerset County?

11 A Just by looking at this title page?

12 Q No, by looking at the three documents that
13 are included there.

14 A For what year?

15 Q For 1960, let's say.

16 MR. SLOANE: Your Honor, would counsel
17 identify the three documents to which he referred?

18 MR. MORAN: Your Honor, I was given at the
19 end of the day last Thursday a packet of documents
20 by-- I assume other defense counsel were-- by counsel
21 for the plaintiffs, and they were, they were
22 attached in this way.

23 The first one is marked P-21, and it's
24 called Journey to Work in the Tri-State Region.
25 Then P-22 was stapled to it, and then it's called

1 Preliminary 1970 Census Journey to Work, and then the
2 third document, which was not marked, was stapled to
3 the back of that and called 1960 Census Journey to
4 Work.

5 I believe that the witness has stated that
6 he thinks the third document is intended to be part
7 of the cover page, and I am willing to accept his
8 representation on that.

9 MR. SLOANE: Your Honor, there was one
10 problem on Thursday which was titles to some of these
11 tables, as to what documents these tables came from,
12 and I agreed to supply those titles, and I have this
13 morning. They are in the packets that have been
14 supplied to the defense counsel.

15 Those are not isolated tables any longer.
16 They are identified as the -- by the volume and title.

17 THE COURT: All right. Thank you.

18 Q Do you recall the previous question about
19 working in Somerset County?

20 A Yes. Is it Somerset County or Middlesex County?

21 Q Could you tell from this document how many
22 people who live in Middlesex County work in Somerset County?

23 A In 1960?

24 Q Yes.

25 A Yes, I believe that you could.

1 Q And how many would that be?

2 A There's a dash here. So I must assume that that's
3 probably zero.

4 Q Zero?

5 A I can't be sure. I'm really not that familiar with
6 the report or the table. Just that I know that it was pre-
7 pared by Tri-State.

8 Q But there is a dash in that location. Is
9 that correct?

10 A Yes.

11 Q What would that normally indicate?

12 A Zero.

13 Q Could you tell us what the same figure would
14 be for 1970?

15 A Those that live in Middlesex and work in Somerset?
16 Is that correct?

17 Q That's correct.

18 A According to this table, 7,662.

19 Q Then as I take it, if we are to pay credence
20 to the tables, that there is an increase of 7,000-some odd
21 between 1960 and 1970. Is that correct?

22 A Assuming I'm interpreting the tables correctly,
23 which possibly I'm not.

24 Q Is there anybody associated with Tri-State
25 that would be able to interpret these tables better than you?

1 A Yes.

2 Q Who would that be?

3 A Probably two people that I could think of. Do you
4 want their names?

5 Q Could you give us their names, please?

6 A Lawrence Hammel and Joel Weiner. (Phonetic spelling)

7 Q Would you say that it would be difficult for
8 anybody not in the Tri-State technical family to interpret
9 these tables?

10 A To clearly interpret them, yes.

11 MR. MORAN: I don't have any other questions,
12 your Honor.

13 THE COURT: Borough of Dunellen, Mr. Cummins.

14 CROSS-EXAMINATION BY MR. CUMMINS:

15 Q Are there by-laws for the organization?

16 A Yes.

17 Q That you know of?

18 A Yes.

19 Q Do these by-laws state that there must be
20 approval of the executive director before the release to the
21 public of any of these studies or documents?

22 A The interim technical reports as were described
23 before are-- they require the approval of the executive
24 director for quotation. However, there's no problem with
25 just coming to Tri-State and contacting Tri-State and getting

1 any report.

2 Q Well, do the by-laws state--

3 A I don't know.

4 Q You don't have a copy of the by-laws with
5 you?

6 A Didn't think of bringing them.

7 Q All right. Your statistics here-- when I
8 say yours, I mean Tri-State's -- are based primarily upon the
9 Census. Is that correct?

10 A That's correct.

11 Q And if there is a margin of error in the
12 Census statistics, then of course that would be carried over
13 into your study?

14 A Could be, yes.

15 Q And when you say could be, is there a question
16 about the previous--

17 A We just might decide not to use it based on our
18 knowledge that there is a margin of error. We just don't
19 blindly take the census data and reproduce it.

20 Q I see. Do you have before you the census
21 data? Do you have or did you get from the census their
22 margin of error?

23 A I don't know if we always do completely. On some
24 occasions I know that we have.

25 Q Well, they do have studies or statistics on

1 their margin of error. Is that correct?

2 A Yes.

3 Q And then do you, for instance, in the housing
4 profile, do you know if you obtained any statistics from the
5 Census Bureau as to the number of people who responded to the
6 Census inquiry but did not respond to it completely?

7 A As I remember it, the housing profile had information
8 on housing authorizations, housing demolitions primarily. So
9 I don't understand the nature of your question as relating to
10 the data that's in the report.

11 Q Well, I believe you've got some statistics
12 there with regard to delapidated housing, housing in need of
13 repair, housing without plumbing, et cetera.

14 A Is that in the housing profile?

15 Q Well, I believe some of the statistics that
16 have been provided within the Tri-State package, if I may--

17 A Well, the package is one thing. The profile is
18 another thing. In the profile it's the information that I
19 described.

20 Now, if you want to refer to the package, you'll
21 have to refer to the specific report so I can understand it,
22 so that I can understand the nature of the question.

23 Q All right. If I may just have a second.
24 Well, just referring now to P-33, table number 3.

25 THE COURT: What is the title of P-33?

1 Q Interim Technical Report, Housing Needs for
2 Tri-State Area dated May of 1974. Table number 3. Pick a
3 page here. It says 1973 current housing needs, state and
4 regional share. It has total units in the first column and
5 then subcolumns for physical and financial.

6 Now, am I to take it by physical is meant physical
7 needs with regard to housing that may or may not be sub-
8 standard?

9 A It may or may not be substandard based on three
10 classifications, delapidated, deteriorated or deteriorating--
11 I'm not sure how it is stated there-- and plumbing deficiency

12 Q Where did those figures come from?

13 A Plumbing deficient category came from the Census,
14 and the delapidated and deteriorating data came from a Tri-
15 State analysis.

16 Q A Tri-State analysis of what?

17 A Socio-economic variables related to delapidated and
18 deteriorating housing.

19 Q What spheres?

20 A Income, over crowded, and unemployment.

21 Q Where would those variables-- I assume that
22 those variables are then statistics?

23 A Yes.

24 Q And where--

25 A Census statistics.

1 Q Okay. So that in essence then, most of
2 your figures came from the Census Bureau?

3 A Yes, but I just wanted to point this out because
4 there's a Census delapidated number which isn't necessarily
5 the same number that we show there.

6 Q In other words, you have applied a different
7 formula or quotient for determining what is delapidated?

8 A That's correct. At that particular time we did, yes.

9 Q At what particular time?

10 A April or May of 1974.

11 Q And what was that criteria or formula?

12 A Well, the variables were income, over crowded, and
13 unemployment. As to the specifics of the multiple regres-
14 sion equation, I don't recall it at the moment, although it
15 is in another interim technical report.

16 Q Now, using, let's say, over crowding, what
17 was the other one?

18 A Income and unemployment.

19 Q Okay. How did you arrive, let's say, using
20 those criteria, at the conclusion, statistically, of delapi-
21 dated?

22 A We didn't. The conclusion was delapidated and
23 deteriorating, which we in turn called substandard housing.

24 Q Well, maybe we are not on the same wave
25 length. I had asked you before what were the variables that

1 you used to determine delapidated or deteriorated.

2 A It is not delapidated or deteriorating. It is
3 delapidated and deteriorating.

4 Q My question is what variables did Tri-State
5 use to determine that?

6 A Income, over crowded, and unemployment as reported
7 in the 1970 Census.

8 Q Okay. And so that insofar as you use, let's
9 say, unemployment, how do you determine from, let's say, an
10 unemployment statistic that something is delapidated, that
11 a housing unit is delapidated?

12 A Make a correlation between one of the variables and
13 the others and determining which one would be the best. You
14 start out with many socio-economic variables, and in the end
15 through multiple regression analysis you end up with a few;
16 and in this case there were three.

T4 17 Q Of the three variables that you used, two
18 of them are socio-economic, in other words, unemployment
19 and income. The other is over crowding, which could be
20 socio-economic or it could be physical.

21 A That's correct.

22 Q Would you not agree that the term delapi-
23 dated and deteriorating perhaps to a layman denotes physical
24 as opposed to socio-economic?

25 A To the layman, yes.

L

1 Q Now, where do you bridge this gap, I'm not
2 quite sure, in projecting your figures to the public where
3 you use, let's say, socio-economic variables to determine a
4 physical conclusion?

5 A All we are trying to do here is to state a relation-
6 ship between the physical structure and its condition and the
7 person that lives in the unit and their condition in a socio-
8 economic way.

9 Q Okay. So if I understand your conclusion,
10 if a person is living in a community in New Jersey and through
11 statistics there is, let's say, a 10 percent unemployment
12 rate for that particular community, and let's say that that
13 person may or may not have five people living in his house,
14 you conclude therefore that that person may be living in
15 either delapidated or deteriorating housing?

16 A No, because I think that you didn't mention the other
17 variable of income. If you would add that on, then a general
18 conclusion without going into the specifics of the formula
19 would be that that person might more likely be living in a
20 substandard housing unit called delapidated or deteriorating
21 than somebody that was not living in an over crowded unit
22 that was employed and may also have a higher income.

23 Q Okay. So that if that person who was on
24 unemployment had been, let's say, prior to being laid off,
25 bring home \$175 a week, do you consider that as a factor, or

1 do you consider the factor of his unemployment take-home?

2 A In determining income?

3 Q Yes, sir.

4 A I don't recall.

5 Q Just so that I understand it, you do not
6 include physical deterioration or physical delapidation in
7 your figures there, in your conclusion?

8 A In part we do because we use the Census information
9 on plumbing deficiency.

10 Q Assuming that to be correct?

11 A Assuming that to be correct.

12 Q And if that's in error, then--

13 A So are we.

14 Q Then so are you. Okay.

15 A Let me just mention another point so that we have
16 the --

17 THE COURT: I think that you have answered
18 the question.

19 Q What are the procedures that are used
20 internally before a document is ready for public use or to
21 be quoted to the public?

22 A Like an interim technical report?

23 Q Yes. Let's take an interim technical report.
24 What does it have to do, or what has to be done to that report
25 within the commission before it reaches the category-- let me

1 see now-- you said that there was one there. P-24, Regional
2 Development Guide, was one that had passed, mustered through
3 the Commission.

4 A That's a Commission plan. It is a Commission
5 adopted plan.

6 Q Right. Okay. Now, what must an interim
7 report, what must be done to an interim report before it is
8 a Commission adopted plan?

9 A Go back to the interim report for a minute because
10 it's sort of like a school. You have to go through various
11 steps, grades. The interim technical report, generally
12 speaking, as we mentioned before, would be available to any-
13 one as far as that goes. For quotation it would require
14 approval of the executive director and deputy executive
15 director.

16 The same report that would be generally available
17 to anybody in this room is there, but which always goes to
18 the technical advisory group, it goes to them not just as
19 a depository to stack in the library, but for response; and
20 we have little cards that indicate different categories of
21 response.

22 Without going into the details of the few cate-
23 gories, depending upon the level of response, favorable or
24 unfavorable, that we receive from the technical family, that
25 particular document might or might not be elevated to the

1 next level.

2 If it was elevated to the next level, it would
3 require adoption by the Tri-State commissioners.

4 Q So that if, let's say, P-33-- withdraw that.
5 Pardon me. Do any of your reports break down on the
6 municipal level as opposed to the county level?

7 A Very rarely. Primarily because at Tri-State, we
8 view our role as being planning agency primarily for the
9 counties and the three states. Now, obviously, we also
10 serve 550 communities, but we usually like to look to the
11 county and the state. Primarily the county is the agency
12 that relates to local communities.

13 Q Now, do you give the county an opportunity
14 to comment on or change any of your projected figures?

15 A Yes.

16 Q Do you know if any of these figures here
17 that are projected for Middlesex County relating primarily
18 to housing, whether or not they were sent to the county and
19 whether or not the county had an opportunity to correct,
20 modify, or ratify?

21 A I know they were sent to the county and I know the
22 county had the opportunity to correct or modify, because
23 that's our standard procedure.

24 Q Do you know when this was done?

25 A With respect to which document?

1 Q Well, let's just take P-33, which is an
2 interim technical report, housing needs for the Tri-State
3 region, May of 1974. There are, I guess, a number of tables
4 in here. Do you know whether or not any portion of this
5 report was sent to the county and whether or not the county
6 responded?

7 A Well, the entire report rather than a portion of it
8 I know was sent, and I know that the counties generally
9 responded to it, and I know in a couple of specific examples,
10 not in the state of New Jersey, there was a response that led
11 us to alter what was in that report.

12 Q But it wasn't for the state of New Jersey,
13 and so what you say is not important for our purposes here
14 because it didn't happen.

15 A It wasn't for the state of New Jersey. Whether it
16 is important for your purposes or not, I can't figure that
17 out.

18 Q So it wasn't done for New Jersey?

19 A Right.

20 Q Who would have, or what person would have
21 the statistics from the Census Bureau? When I say what
22 person, I mean what person within Tri-State would have the
23 statistics from the Census Bureau relating to the margin of
24 error, be it either in the total census or be it in, let's
25 say, housing characteristics? By that I mean error in

1 reporting, people reporting to the Census or not reporting
2 completely?

3 A Do you want the name of that person?

4 Q Yes. Who was it?

5 A The name of that person is Max Schwartz.

6 Q And then what is his function or title?

7 A He is a director of the division of-- and I am not
8 exactly sure of the precise title-- of the data management.
9 He is the man at Tri-State primarily in charge of receiving
10 and disseminating the census data, his division.

11 Q I see.

12 A That he directs.

13 Q And is his job primarily technical in nature,
14 or does it include any analytical work?

15 A I think it is both technical and analytical.

16 Q And the analytical work, is that done
17 largely by computer, or is that the result of any expertise
18 that is brought to it by people on the staff?

19 A Both.

20 Q And the expertise that is brought to it by
21 people from the staff, is that expertise in the statistical
22 field or in the socio-economic sciences?

23 A Both. Let me just also say that when we say the
24 staff, I think that we'd have to enlarge that to mean not
25 only his staff, but Tri-State's staff as well, who he is also

1 disseminating this information to.

2 Q Well, he takes the figures, the raw figures,
3 if you will. Is that correct?

4 A Yes.

5 Q And is that your testimony that he takes the
6 raw figures? The raw figures go to his division first?

7 A Yes.

8 Q And I ask whether or not he analyzed them,
9 and you said yes.

10 A His staff, yes.

11 Q Okay. And his staff analyzes them rather
12 than just merely collating them?

13 A Correct.

14 Q And his staff numbers among it people who
15 are statistical experts and people who are experts in the
16 field of socio-economic sciences. Is that correct?

17 A They are knowledgeable in those two areas. As far
18 as expertise goes, I can't be sure.

19 Q All right. These documents that you brought
20 here, were they brought as a result of a subpoena?

21 A Let me make one clarification right away. I didn't
22 bring any documents here.

23 Q Well, the Tri-State material.

24 A Yes.

25 Q They were already disseminated. Is that

1 your testimony? You didn't bring any? They were already
2 here? They were already disseminated?

3 A Yes.

4 Q All right. And the authorization for that
5 dissemination, did that come from someone within Tri-State?

6 A I don't know.

7 Q Who would know that?

8 A Either the deputy executive director or the executive
9 director are the only two people who would authorize that use.

10 Q Would they be the ones who would know how
11 these documents got here technically?

12 A They might or might not know.

13 MR. SLOANE: Your Honor, he has testified
14 that anybody in this courtroom could have access to
15 these documents. I'm puzzled as to the purpose of
16 this line of questioning at this point.

17 MR. CUMMINS: I have no further questions,
18 your Honor.

19 THE COURT: The Borough of Highland Park,
20 Mr. Lerner.

21 CROSS-EXAMINATION BY MR. LERNER:

22 Q Dr. Lapp, I show you P-33. You are the author
23 basically of this document, are you not?

24 A That's right. Yes.

25 Q I wonder if you could explain on Page 4,

1 Footnote 4.

2 A I'll just read Footnote 4 and it might help in the
3 explanation.

4 Q Please.

5 A Footnote 4, the U.S. Bureau of Census did not
6 compile delapidated housing in places with a population of
7 less than 10,000.

8 Q Now, when you use the term 10,000, does
9 that refer to counties or municipalities?

10 A Municipalities.

11 Q Or cities.

12 A Well, in the case of New Jersey, it would be cities,
13 towns, townships, villages, and boroughs.

14 Q So that the breakdown to levels smaller than
15 municipalities, if someone were to interpolate back, would be
16 based upon population studies that never included those
17 municipalities in the first place?

18 A Could you ask that question again, please?

19 Q If someone were to interpolate back and try
20 and determine the extent of delapidated housing in a municipal-
21 ity having a population less than 10,000, that study would
22 in fact have not even included the raw information on that
23 aspect for that municipality?

24 A That's correct.

25 Q Has it been your evaluation that poor tended

1 to locate in larger areas or larger towns?

2 MR. SLOANE: I object. He hasn't been
3 qualified as an expert in this area and it goes well
4 beyond the scope of the direct.

5 MR. LERNER: I'll withdraw the question.
6 Strike the question.

7 Q With regard to the figures again in P-33
8 and your explanation to Mr. Cummins' question, is over
9 crowding referring to the per person per room?

10 A Yes.

11 Q And it is not reflective of density in square
12 area on land?

13 A No.

14 Q The statistics analysis that has been evolved
15 and is represented by the work products of Tri-County--

16 A Of Tri-State.

17 Q Tri-State, I'm sorry. Does that in fact
18 represent a sole statistic, statistical analysis without a
19 visual backup? For example, if a municipality were to have
20 been completely constructed within a year of the study and
21 all the homes were new and brand new and all the families
22 just moved in, your formula would still ascribe to it statis-
23 tically homes that were delapidated and deteriorated and
24 lacking in plumbing facilities?

25 A As of 1970?

1 Q That's correct.

2 A Yes.

3 Q So that all of your reports are statistical
4 and have really not been verified physically?

5 A Most of the reports are statistical. I think one
6 of the exceptions I alluded to before was the analysis of
7 housing management report.

8 Q And the only visual or person-to-person
9 contact for that whole report by the Tri-State Regional
10 Planning Commission representing five hundred fifty munici-
11 palities, three states, consisted of, I think you used the
12 term, phone calls by a young lady or someone?

13 A I used the term phone calls, and I also used some-
14 thing called direct field interviews where she actually went
15 out and spoke to people, had a visual experience as to the
16 housing management situation.

17 MR. LERNER: Thank you.

18 THE COURT: Mr. Alfonso, any cross-
19 examination?

20 MR. ALFONSO: I have no questions, sir.

21 THE COURT: Mr. Spritzer?

22 CROSS-EXAMINATION BY MR. SPRITZER:

23 Q Dr. Lapp, I believe you stated that your
24 source of information is the U. S. Census?

25 A Primarily, yes.

1 Q And that you take this source and you dis-
2 tribute it to some degree?

3 A Yes.

4 Q And then in distributing these statistics,
5 you make an analysis?

6 A Yes.

7 Q And part of the distribution consists of
8 your analysis?

9 A Yes.

10 Q And is the Middlesex County Planning Board
11 one of the bodies to whom you distribute information?

12 A Yes.

13 Q And I show you a booklet entitled 1970
14 Census, Selected Population of Housing Statistics for
15 Middlesex County. If you review every page of the statistics,
16 you will note that there are tables.

17 A Yes.

18 Q Do you just want to look at them fast?

19 A All right.

20 Q Do you note that on every page the heading
21 reads Tri-State Transportation Commission?

22 A Yes.

23 Q All right. And could you explain to the
24 Court the difference, if any, between Tri-State Transportation
25 Commission and the Tri-State Regional Planning Commission?

1 develop a computerized formula that estimated substandard
2 housing on the basis of concentrations of low income house-
3 holds, unemployment, and overcrowding of units.

4 Q I show you Page 21. Does that show certain
5 figures for Middlesex County?

6 A Yes.

7 Q And, now, would you know under physical
8 housing needs-- I see they are divided into deteriorated,
9 delapidated, and lack of plumbing.

10 A Yes.

11 Q And each municipality is listed. Is that
12 correct?

13 A Yes.

14 Q Do you know whether those figures came
15 from Tri-State?

16 A I believe the first column marked deteriorated and
17 the second column marked delapidated came from Tri-State.

18 MR. SPRITZER: Could I have this marked?

19 THE COURT: DME- number 2 for identification.

20 (Document is marked DME-2 for identification.)

21 Q Dr. Lapp, what you have read in DME-2, it
22 indicated that Tri-State had come up with a formula, a
23 computerized formula, and in the footnote it refers to
24 interim technical report number 4411-3411 called Method for
25 Determining Problem Housing Areas, December 1973.

1 A It is the same interstate compact that was created
2 in 1965. There was a name change, I believe in May of 1971,
3 when the Tri-State Transportation Commission became the
4 Tri-State Regional Planning Commission.

5 Q So that these statistics are, despite the
6 fact that it reads Tri-State Transportation Commission, those
7 are your statistics?

8 A Yes.

T5 9 MR. SPRITZER: And may we just have this
10 marked for identification, your Honor?

11 THE COURT: DME number 1 for identification.

12 (Document is marked Exhibit DME-1 for
13 identification.)

14 Q Now, Dr. Lapp, is another governmental unit
15 that might use your statistics the New Jersey Department of
16 Community Affairs?

17 A Yes.

18 Q I show you a document which is marked an
19 analysis of low and moderate income housing needs in New
20 Jersey. I show you on Page 2 of that document-- would you
21 read the last paragraph beginning with research.

22 A Research by the Bureau of Census indicated a high
23 correlation between certain population characteristics and
24 the existence of substandard housing. Using these findings,
25 the Tri-State Regional Planning Commission was able to

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1 I show you P-27. Can you read what that is?

2 A P-27 is an interim technical report called Sub-
3 standard Housing in the Tri-State Region, published by the
4 Tri-State Regional Planning Commission in April of 1974.

5 Q Now, attached to that title page is one
6 page. Is that correct?

7 A Yes.

8 Q And that's Table Number 3?

9 A Yes.

10 Q And that gives the 1970 delapidated housing
11 units in the Tri-State region. Is that correct?

12 A Yes.

13 Q And, now, I assume that this interim tech-
14 nical report contains more information than just that one
15 page?

16 A Yes, that's correct.

17 Q And does it give definitions for substandard
18 housing in it?

19 A Yes.

20 Q About how large would it be in pages, not
21 in inches, but in pages?

22 A Probably less than fifteen pages and more than ten,
23 as a guess.

24 MR. SPRITZER: Your Honor, I have a few
25 more questions; and if you want me to continue or

1 housing it included delapidated and deteriorated housing?

2 A Right.

3 Q Plus lack of plumbing?

4 A Right, but in terms of the data that we developed
5 on our own, we only included the delapidated and deteriorating
6 categories, although we use the third term to define them as
7 well.

8 Q Now, in the Census, in the final data from
9 the Census, does the Bureau of Census give a definition of
10 delapidated housing?

11 A In the 1970 Census?

12 Q Yes.

13 A I don't know.

14 Q Does the Bureau of Census give a definition
15 in the 1970 Census for substandard housing?

16 A I don't know.

17 Q I show you what is P-9 and described as
18 detailed housing characteristics, New Jersey, and in
19 Appendix D there is a review of housing census reports. Is
20 that correct?

21 A Yes.

22 Q And then in Volume 6 there is something
23 entitled Estimates of Substandard Housing?

24 A Yes.

25 Q And are you familiar with that volume?

1 A Yes.

2 Q Would that volume have contained in it any
3 definitions of substandard or delapidated housing?

4 A As I remember it, it would have contained in it two
5 categories of housing condition, plumbing deficient and
6 delapidated, which the census called substandard housing.

7 Q So that would it be true to say that the
8 census had two ingredients in their definition of substandard
9 housing?

10 A Yes.

11 Q All right. And that by your interpretation
12 and analysis, Tri-State came up with another definition?

13 A Yes. Let me also point out that in --

14 MR. SPRITZER: I object to that, your Honor.
15 I think he answered the question.

16 THE COURT: All right. That's true.

17 MR. SPRITZER: I have no further questions,
18 your Honor.

19 THE COURT: All right. Mr. Johnson, do you
20 have any questions?

21 CROSS-EXAMINATION BY MR. JOHNSON:

22 Q Dr. Lapp, P-32 for identification is a report
23 entitled 1972-1973 Housing Profile for the Tri-State Region,
24 and it indicates that the report was prepared partially by
25 yourself. Is that correct?

1 A Yes.

2 Q Do you recall preparing that report?

3 A Yes.

4 Q That report contains some information with
5 respect to floor area which would indicate that in the
6 region which is encompassed by your particular study there
7 was a three percent decrease in the average floor area
8 between 1963 and 1973, yet in New Jersey the floor area of
9 single family units increased by twelve percent. Are you
10 familiar with that figure?

11 A I'm familiar with having written about that, and I
12 will trust you for the figures.

13 Q Your report also indicates that Middlesex
14 County in 1972 had the second smallest single family floor
15 area requirement in the entire region. To be specific, it is
16 1,082 square feet. That the region's average was 1,362 square
17 feet, and that Somerset County's average was 1,599 square
18 feet.

19 Do you recall arriving at those conclusions in this
20 particular report?

21 A We didn't arrive at any conclusions. We merely
22 received certain data.

23 Q So that the data would indicate, though,
24 that Middlesex County in the entire region had the second
25 smallest single family floor area requirements and that

1 Somerset County, which is immediately adjacent to Middlesex
2 County, had the highest single family floor area requirements.
3 Is that correct?

4 A If that is the way you read it there, that would be
5 correct.

6 Q Can you tell me where you got this informa-
7 tion with respect to floor area?

8 A Yes. That data was acquired from the F. W. Dodge
9 Company in Manhattan under a contract.

10 Q Did you or anyone from your department make
11 a field check to see or to verify any of these figures?

12 A As I indicated before, Tri-State does not do field
13 checks on anything.

14 Q So the information here is derived completely
15 from another source?

16 A That's correct.

17 MR. JOHNSON: I have no further questions.

18 THE COURT: Mr. Booream?

19 MR. BOOREAM: I have no questions.

20 THE COURT: Mr. Farino?

21 MR. FARINO: I have no questions, your Honor.

22 THE COURT: Mr. Lefkowitz?

23 CROSS-EXAMINATION BY MR. LEFKOWITZ:

24 Q Dr. Lapp, I direct you to Page 4 of what
25 has been marked at P-33, under computation of needs "A".

1 Could you read that paragraph, please?

2 A Computation of needs "A", delapidated and deteri-
3 orated units. 1970 housing units by tenure that are delapi-
4 dated, from Census unpublished file for places with a popu-
5 lation of 10,000 or more, and 1970 deteriorated units from
6 Tri-State regression analysis.

7 Q From Census unpublished file, what does
8 that mean?

9 A The report ~~that~~ we just discussed before that was
10 called Estimates of Substandard Housing for the delapidated
11 housing category, the Census did not publish any estimates
12 for any communities under 5,000. Tri-State acquired that
13 unpublished data.

14 Q This unpublished data, is that available to
15 the general public?

16 A Provided they would purchase it, I imagine so, yes.

17 Q Do you know why the data was unpublished?

18 A No.

19 Q With regard to the statement, internal
20 report, not for public release, an interim report and an
21 internal report, is that the same thing?

22 A It is probably a typo. It is the same thing.

23 Q Now, within Tri-State I take it that you
24 have certain employees on the technical level that draw
25 reports. Is that correct?

- 1 A That draw reports or write reports?
- 2 Q Write reports.
- 3 A Yes.
- 4 Q And within Tri-State after these reports are
5 written, are they reviewed by anyone?
- 6 A Yes.
- 7 Q And after their review, are corrections made
8 in the reports?
- 9 A Yes.
- 10 Q And are comments made on the reports?
- 11 A Yes.
- 12 Q And isn't it a fact, sir, that the reports
13 that are marked internal report not for public release, they
14 are the first drafts or the reports that are to be reviewed
15 by someone else within the technical family?
- 16 A Yes.
- 17 Q And isn't it a fact that some of these reports
18 after they are reviewed are changed?
- 19 A Yes.
- 20 Q And isn't it a fact that some of the
21 statistics may be changed?
- 22 A Yes.
- 23 Q And then this is not the final product of
24 Tri-State many times. Is that correct?
- 25 A Correct.

1 Q Then isn't it a fact that these internal
2 reports may have errors in them?

3 A Yes.

4 MR. LEFKOWITZ: No further questions.

5 THE COURT: Mr. Bernstein?

6 MR. BERNSTEIN: I would like to have these
7 three reports marked, three copies of Tri-State
8 reports, your Honor, that I would like to see if
9 the witness can identify them.

10 THE COURT: Mark them DP-numbers 2, 3, and
11 4 for identification.

12 (Reports are marked Exhibits DP-2, DP-3,
13 and DP-4 for identification.)

14 CROSS-EXAMINATION BY MR. BERNSTEIN:

15 Q Dr. Lapp, I show you what has been marked
16 DP-2 for identification and ask you if you can identify it?

17 A This report is regional profile published by the
18 Tri-State Regional Planning Commission called 1970 Housing
19 Traits, published in February of 1973.

20 Q I show you what has been marked DP-3 for
21 identification and ask you if you can identify it?

22 A This is a regional profile published by the Tri-
23 State Regional Planning Commission called Levels of Education
24 1970, published in July of 1973.

25 Q DP-4?

1 A This is a regional profile published by the Tri-
2 State Regional Planning Commission called Residential Build-
3 ing Trends, published in October of 1975.

4 MR. SLOANE: Your Honor, the plaintiffs have
5 not had an opportunity to look at those.

6 THE COURT: They are only marked for
7 identification, counselor.

8 Q We have here what has been submitted as P-28
9 for identification. Could you tell us where these figures
10 were obtained, the figures in P-28, if you know?

11 A Yes, I believe that these are from the United States
12 Bureau of the Census.

13 Q That is because of the writing, the hand-
14 written comments which indicates Bureau of Census data?

15 A No, it is probably because the data, namely distri-
16 bution of income, as well as the 20 percent sample, is the
17 kind of a thing that the Census does, and also in the upper
18 left-hand corner it is marked Census Report. It is a good
19 clue.

20 Q Now, with regard to P-22, which has been
21 marked for identification, it indicates preliminary 1970
22 Census, Journey to Work, including outside the region.

23 Now, Dr. Lapp, with regard to New York used as an
24 example, can you tell us first how many people that are work-
25 ing in New York?

- 1 A Is that New York County or New York City?
- 2 Q It appears to be New York County. County
- 3 of Residence. Can you tell us first how many workers there
- 4 are that apparently are working in New York County in 1970?
- 5 A Well, that total you have to read here.
- 6 Q This is the total number of people working
- 7 in New York would be 674,000?
- 8 A That would be my interpretation of the table.
- 9 Q Well, my question, Dr. Lapp, it appears in
- 10 the vertical column that there are two million people of one
- 11 sort of another from New York.
- 12 A Which vertical column, the New York vertical column?
- 13 Q The New York vertical column.
- 14 A Yes.
- 15 Q And New York horizontal column there are
- 16 674,000 people.
- 17 A Yes.
- 18 Q Now, is it your reading of this table that
- 19 there are more people who are working in New York City--
- 20 strike that. Is it your interpretation of this table,
- 21 Dr. Lapp, that there are two million people working in New
- 22 York City and 600,000 people who are working and living in
- 23 New York City, or is it the opposite?
- 24 A It seems to be roughly the two million that would be
- 25 working in New York or Manhattan County.
- L

1 Q And the 600,000 figure would be the workers
2 living in New York City?

3 A That also work in Manhattan. Not in New York City.
4 In Manhattan.

5 Q The 600,000 figure would be--

6 A Manhattan.

7 Q Workers who reside in Manhattan. Is that
8 correct?

9 A Yes.

10 Q So that this would indicate that there are
11 approximately three times as many people working in Manhattan
12 as workers living in Manhattan, correct?

13 A From my interpretation, yes.

14 Q Now, from your interpretation, could you
15 give us the same statistics for Middlesex County?

16 A This table seems to indicate that for Middlesex
17 County, there are 204,380 people that work in Middlesex County
18 according to the 1970 Census Journey to Work and about-- well,
19 according to this, 233,817 that work in the County and also
20 live in the County.

21 MR. SLOANE: Your Honor, I object. Dr. Lapp
22 has indicated that he isn't sure of how to interpret
23 this, and counsel is trying to convince him that his
24 interpretation is correct.

25 MR. BERNSTEIN: The problem that I have with

1 that, your Honor, we have a number of booklets and
2 statistics which I would assume the plaintiffs wish
3 to put in evidence, and I would like to elucidate
4 for myself and the Court what these mean.

5 If they are going to go into evidence without
6 any explanation, I think that we could have some
7 problems. That's the only reason that I am ques-
8 tioning Dr. Lapp on it.

9 THE COURT: It would seem to be proper.

10 MR. SLOANE: I did not qualify Dr. Lapp as
11 an expert in interpreting Journey to Work.

12 THE COURT: Isn't he the only witness who
13 will be available to testify as to the meaning or
14 contents of these reports?

15 MR. SLOANE: No, your Honor, he is not.

16 THE COURT: You will have somebody else?

17 MR. SLOANE: Yes, your Honor.

18 Q Would it be a fair statement, Dr. Lapp, that
19 with many of the statistical tables found in the exhibits which
20 you identified you do not know how to interpret them? Would
21 that be a fair statement?

22 A A few of the tables, yes.

23 Q And this is one of the tables?

24 A This would probably be one of the tables.

25 MR. BERNSTEIN: I have no further questions,

1 your Honor.

2 THE COURT: Mr. Stonaker, any questions?

3 MR. STONAKER: No questions, your Honor.

4 THE COURT: Mr. Baker, any questions?

5 MR. BAKER: No questions, your Honor.

6 THE COURT: Mr. Vail?

7 MR. VAIL: No questions.

8 THE COURT: Mr. Gruber?

9 MR. GRUBER: No questions, your Honor.

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10 THE COURT: Mr. Chernin?

11 CROSS-EXAMINATION BY MR. CHERNIN:

12 Q Dr. Lapp, referring to P-33 for identifica-
13 tion, which appears to have a title of Housing Needs for the
14 Tri-State Region. Is that authored by you?

15 A Yes.

16 Q And the purpose of this document is more or
17 less just a review and a compilation of data which you have
18 put together?

19 A Yes.

20 Q And the purpose of the compilation seems to
21 be to talk about the here and the now and the present and
22 nothing in the future?

23 A Correct.

24 Q Do I understand it clearly then, Dr. Lapp,
25 that your approach as contained in that exhibit, that is,

1 P-33, as it pertains to the methodology is in no way to be
2 called a fair share approach at all?

3 A That would be correct.

4 MR. CHERNIN: Thank you. I have nothing
5 else.

6 THE COURT: Mr. Wood?

7 MR. WOOD: I have no questions, your Honor.

8 THE COURT: Mr. Shapiro, any questions?

9 MR. SHAPIRO: Yes, just a few.

10 CROSS-EXAMINATION BY MR. SHAPIRO:

11 Q Dr. Lapp, calling your attention to the docu-
12 ment entitled P-28 for identification, I notice on it there
13 appears to be some handwritten numbers. Can you tell me what
14 those numbers refer to?

15 A No.

16 Q Do you know whether these handwritten numbers
17 appear on the original of the document that this is a copy of?

18 A No, I don't believe that they would because that's
19 a computer print-out, and now I do see what the handwritten
20 number refers to.

21 The handwritten number refers to the summation of
22 the two income categories that are indicated in these columns.

23 MR. SHAPIRO: I have no further questions.

24 THE COURT: All right, Dr. Lapp.

25 MR. SLOANE: Your Honor, may I have redirect?

1 THE COURT: What would that be?

2 MR. SLOANE: A few things that I think need
3 some clarification, your Honor.

4 THE COURT: Tell me what.

5 MR. SLOANE: A question as to whether there
6 have been any problems on accuracy of data concern-
7 ing Middlesex County particularly, your Honor.

8 THE COURT: You said somebody else was coming
9 who would know the contents of the reports?

10 MR. SLOANE: Your Honor, these are reports
11 that Dr. Lapp either prepared himself or they were
12 prepared under his supervision.

13 THE COURT: That question would not be
14 allowed. What else?

15 MR. SLOANE: Some question on the meaning of
16 the data concerning minimum floor area, which was
17 raised on cross-examination, your Honor.

18 THE COURT: All right.

19 REDIRECT EXAMINATION BY MR. SLOANE:

20 Q Dr. Lapp, on cross-examination, reference
21 was made to P-32 for identification and with particular
22 reference to material on minimum floor area. The figure for
23 Middlesex County in this report is 1,082 square feet. Could
24 you tell me what that figure means?

25 A For the particular year identified and for Middlesex

1 County and for that structure type category, it's merely an
2 average of the floor area generated by all those particular
3 units for the County.

4 Q Does that figure tell you where within
5 Middlesex County the figure 1,082 feet was in fact the floor
6 area?

7 A No.

8 Q And does it tell you anything about the
9 distribution of minimum floor area within the County?

10 A No.

11 THE COURT: Well, I certainly would have
12 understood that without your having redirect,
13 Mr. Sloane.

14 MR. SLOANE: I apologize, your Honor.
15 No further questions.

16 THE COURT: All right, that's all, Dr. Lapp.

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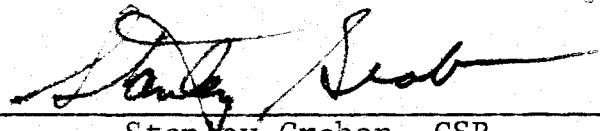
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C E R T I F I C A T E

I, STANLEY GRABON, a Certified Short-
hand Reporter of the State of New Jersey, do
hereby certify that the foregoing is a true
and accurate transcript.



Stanley Grabon, CSR
Official Court Reporter