

~~MA~~ ~~D. v. Carter~~ CA - General 2/9/76

Direct Examination of Douglas Powell  
by Mr. Sleane

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SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY

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URBAN LEAGUE OF GREATER  
NEW BRUNSWICK, et als.,

Plaintiffs,

vs.

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

Defendants.

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New Brunswick, New Jersey  
February 9 & 10, 1976

DIRECT EXAMINATION OF MR. DOUGLAS S. POWELL  
BY MR. SLOANE

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

Stanley Grabon, C.S.R.

1 professional organization?

2 A I am a member of the American Institute of Planners.  
3 I am a member of the New Jersey Chapter of the American  
4 Institute of Planners. I have association with many other  
5 professional organizations, but that's the primary profes-  
6 sional membership that I hold.

7 Q Are you a licensed planner in the State of  
8 New Jersey?

9 A I am.

10 Q Could you describe the functions of the  
11 Middlesex County Planning Board?

12 A Well, the functions may be described as these: --  
13 Under the statutes of the State, Middlesex County  
14 Planning Board is charged to prepare a comprehensive master  
15 plan for the County of Middlesex.

16 It is charged also to encourage the cooperation  
17 of the municipalities of the County toward the carrying out  
18 of that master plan.

19 It is charged also with the duty of reviewing sub-  
20 division and site plans of developments that will be built  
21 along County roads or that will affect County facilities,  
22 particularly drainage facilities.

23 The Board is also charged to review the master  
24 plans of other jurisdictions within the County, the munici-  
25 palities, prior to the adoption of those master plans.

1           The Board also is charged to review zoning ordin-  
2 ances or amendments, subdivision regulations amendments prior  
3 to their adoption by the municipalities in the County.

4           The Board also has the duty or the opportunity to  
5 review matters before boards of adjustment that would affect  
6 county facilities.

7           The Board may employ experts to assist it in its  
8 work.

9           The Board is also charged with advising the Board  
10 of Chosen Freeholders on capital programs for the future  
11 development of the County.

12           These are the principal functions of the Board as  
13 outlined by the State statutes.

14           In addition, however, the Board has duties that are  
15 assigned to it under grant programs that the County may  
16 engage in. Under those programs, it casts certain respon-  
17 sibilities on the Board.

18           The Board is also charged with certain functions  
19 of reviewing under federal statutes the applications of  
20 municipalities for federal funding to build projects, and  
21 this is a review function under what is called the A95 or  
22 project notification review system.

23           Q           Could you say how that A95 process works  
24 with respect to the responsibilities of the Middlesex County  
25 Planning Board?

1 A Well, if I remember correctly, the A95 review  
2 process is a process that derives from legislation passed  
3 by the federal government some years ago under the Metro-  
4 politan Cities Act.

5 Essentially, the objective of the A95 review process  
6 is one by which the federal government seeks to determine  
7 locally that any project that it is going to fund is not  
8 going to be in conflict with any other federally funded  
9 project, nor be in conflict with locally created plans for  
10 the future development of those areas.

11 The federal government has established a network  
12 of metropolitan agencies and state agencies that are charged  
13 with the duty of coordinating these reviews within that  
14 jurisdiction.

15 Now, the metropolitan agency that is charged with  
16 coordinating the A95 process applying to Middlesex County  
17 is the Tri State Regional Planning Commission.

18 Tri State, because of the size of its jurisdiction,  
19 which covers some 7,000 square miles and many, many  
20 municipalities, counties in three states, has divided the  
21 process whereby Tri State retains to itself the job of doing  
22 the A95 reviews for projects that are considered to be of  
23 regional metropolitan significance and then turns over to the  
24 counties within the Tri State area the job of reviewing  
25 projects that will be funded by federal monies that are

1 considered to be local or intra-county basically.

2 So under that system, Middlesex County reviews the  
3 projects that are going to receive federal funding for what  
4 will essentially be municipal projects in the county, or  
5 in some instances, county projects that will not have any  
6 bearing or significance on areas outside of the county.

7 Q How large a staff do you have, Mr. Powell,  
8 professional staff?

9 A Well, the staff fluctuates somewhat by reason of  
10 resignations and new hirings from time to time, but it is  
11 approximately between 55 and 60 people at the present time.

12 Q And they all work under your supervision?

13 A They are under my responsibility. That is correct.

14 Q And then you have responsibility for all  
15 work prepared by the staff for submission to the Board?

16 A Under the statutes of the State of New Jersey, the  
17 Director of County Planning is responsible for the work  
18 produced under its responsibility.

19 Q What is your annual budget, Mr. Powell?

20 A The annual budget that is paid for by the County  
21 of Middlesex is in the nature of about \$634,000. That was  
22 the approximate budget for the 1975 fiscal year.

23 However, there are funds in addition to that that  
24 the Board is responsible for paying out as well.

25 These funds are under grant programs. These funds

1 vary from year to year depending upon the amount of grant  
2 programs we are operating under.

3 During 1967 we will be operating under four differ-  
4 ent grant programs, 208 Water Quality Waste Treatment  
5 Management Planning Process, for which we have \$1,400,000  
6 grant to carry us for slightly over a two-year period.

7 Then there are funds under the Community Development  
8 Block grant program for which we are responsible for assist-  
9 ing municipalities to engage in, and some of that funding  
10 comes directly to the Planning Board for payment of staff.

11 We receive grant monies from the Federal Department  
12 of Transportation through the Tri State Regional Planning  
13 Commission to assist in financing comprehensive transporta-  
14 tion planning within the County.

15 Then we are also participating in 1976 to the tune  
16 of a rather small amount of money, some \$10,000 to assist in  
17 creating what is called a geographical base file for  
18 computerizing census returns for the 1980 census.

19 Q Mr. Powell, does the Middlesex County  
20 Planning Board and/or you and your staff have any relation-  
21 ship with municipal officials with respect to their zoning  
22 or planning functions?

23 A Well, as I have indicated, the County Planning  
24 Board has responsibility to encourage the cooperation of the  
25 municipality in the carrying out and implementing of a County

1 master plan. That's under the State statutes.

2 Then under the same statutes, the County Planning  
3 Board is given the opportunity and responsibility for  
4 reviewing local master plans as to their conformity with the  
5 County's plan and any other general comments they find are  
6 appropriate to make concerning those master plans.

7 Similarly, we are charged to review zoning ordin-  
8 ances and subdivision and other land use ordinances that may  
9 be adopted.

10 We have been working closely with the municipalities  
11 now in programs for participation in the benefits of the  
12 1974 Housing and Community Act, whereby the municipalities  
13 through a cooperation agreement with the County have formed  
14 a joint committee for the preparation of the plans and the  
15 applications to receive those funds.

16 Similarly, within the programs as transportation  
17 planning and in the water quality planning fairly elaborate  
18 processes have been worked out whereby there is direct  
19 participation of representatives or the actual people them-  
20 selves who are elected officials of the municipalities in  
21 forming the policies and also the basic allocations of funds  
22 under these programs.

23 MR. SLOANE: Your Honor, I have a document  
24 that I would like to ask the Court to have marked  
25 for identification.



1 THE COURT: P-40 for identification.

2 (Document is marked Exhibit P-40 for  
3 identification.)

4 Q Mr. Powell, I show you this document marked  
5 P-40 for identification, and ask you to identify it.

6 A This is the Middlesex County Interim Master Plan.  
7 It is part of the comprehensive master plan prepared by the  
8 County Planning Board. It was adopted by the Middlesex  
9 County Planning Board in November of 1970.

10 Q Was the master plan prepared under your  
11 supervision, Mr. Powell?

12 A Yes, it was, and under the supervision of the Board  
13 itself.

14 Q How many staff people worked on the master  
15 plan?

16 A At the time that the master plan was prepared, we  
17 had divided the staff of the County Planning Board into two  
18 basic divisions.

19 One was a master planning long range division, and  
20 that consisted of varying members of people, but I would say  
21 that there was an average of between eight and ten persons  
22 throughout the three to four year period in which the plan  
23 was prepared.

24 Q All right. Could you describe the process  
25 by which this publication resulted, including any other

1 publications upon which this was based?

2 A Well, the master plan for the County was prepared  
3 over a -- this report, at least, resulted from approximately  
4 three years of work, almost four years of work which began  
5 in the summer of 1967.

6 There preceded the preparation of this plan a very  
7 detailed and comprehensive process of inventorying condi-  
8 tions in the County and then making projections of what some  
9 of these conditions would be in the future.

10 Then there was identifying certain goals and objec-  
11 tives toward which the planning should be directed, outlining  
12 that there should also be consideration of alternative  
13 methods by which the objectives and goals of the County may  
14 be achieved, giving consideration to the projections of what  
15 conditions were likely to be in the future.

16 Now, the things that were given consideration in  
17 the inventorying and analysis preceding the preparation of  
18 this actual interim plan were such matters as the population  
19 of the County, characteristics of that population, including  
20 its age composition, household composition, institutional  
21 population, the kind of economy that was characteristic of  
22 the County, particularly the job characteristics in the  
23 types of different industries in the County, manufacturing  
24 industries, agricultural, mining, retail trade, wholesale  
25 and so on.

1           There was also consideration given to the char-  
2     acteristics of the housing stock in the County, characteris-  
3     tics of the income of the people in the households in the  
4     County.

5           There was a very elaborate and detailed inventory  
6     which was made of the land use characteristics of the County.

7           Then there were detailed studies done of the water  
8     supply systems in the County, the sewerage systems, sanitary  
9     sewerage systems, some of the solid waste systems in the  
10    County.

11          There were analyses made of the transportation  
12    conditions in the County, particularly its highway and road  
13    networks and also its transit systems.

14          There were analyses and projections made of some  
15    of the social service systems, such as the hospital, educa-  
16    tional, and such other systems as that.

17          Characteristics analyzed of the County's facilities  
18    such as the courts, the administration facilities, other  
19    building needs that the County government itself would have.

20          Analyses and projections were made of the existing  
21    and future conditions of open space, including parks or  
22    recreation and open space for the conservation of natural  
23    resources and special areas in the natural conditions of  
24    the County that ought to be protected.

25          Those are some, but not all of the things that

1 were inventoried, analyzed, and projected, and the things  
2 for which objectives were identified prior to the putting  
3 together then of this as an interim plan.

4 Q Was the plan based at all on preliminary  
5 studies done by staff or under contract?

6 A Now, the work of doing this process of inventorying  
7 and analyzing and projecting was work that was done  
8 collaboratively between the ten person staff that we had  
9 working in-house and a series of consulting firms that we  
10 brought in from outside to assist and to expound upon the  
11 methodology and the techniques that may be available to us.

12 We had with the Board established at the very  
13 beginning of the process of entering into making a County  
14 master plan that Middlesex County was so complex a place  
15 that it required a fairly detailed and as broad a use of  
16 planning technology as we could possibly bring together.

17 That it would be important to bring to bear here  
18 consultants who were experienced in dealing with the kind of  
19 very complex urbanizing industrial conditions that we were  
20 finding here.

21 So we made quite sure that there was sufficient  
22 resource to be able to bring such from the outside in to  
23 assist the staff in preparing the plan or planning work.

24 It was a collaborative process in which the  
25 consultants and the staff were almost side by side in this

1 work with the Board's overview and supervision and with the  
2 establishment of the future goals and objectives to be  
3 achieved in the planning being set by the Board itself in  
4 consultation with groups in the county at large.

5 Q And was the master plan reviewed and  
6 adopted by the Board?

7 A The master plan was reviewed.

8 There were specific periods during the three-year  
9 process doing these background studies at which rather  
10 extensive presentations were made to the Board.

11 Then as the work was completing there were very many  
12 intensive sessions, and there were public hearings prior to  
13 the adoption of the plan.

14 So that there was input through the process with  
15 the Board at rather extensive points.

16 Q Was there consultation with any municipal  
17 officials of Middlesex County in preparation for the master  
18 plan?

19 A During the process there was work with officials  
20 of the municipalities, but particularly in the process of  
21 data gathering.

22 There were, prior to the adoption of the plan,  
23 there were special sessions that were held several months  
24 prior to its actual adoption and before its presentation to  
25 the public at large whereby we asked municipal officials to

1 come in, review the material, review our presentation, give  
2 their views so that changes may be entertained before the  
3 actual adoption process was carried through.

4 Q All right.

5 A We made that a rule of our operation so that in  
6 the presentation of this particular document and the sub-  
7 sequent ones that came in the years immediately following,  
8 we followed that process very diligently.

9 Q And could you describe the distribution of  
10 the master plan following the publication?

11 A For every document that we prepared, this one  
12 included, prior to the adoption, a copy of this document  
13 was sent to each of the planning boards of the County asking  
14 for participation in reviewing of the material, and then  
15 following the adoption of this, I believe this was distribu-  
16 ted to each of the municipalities to conform to the require-  
17 ments of the State law.

18 Q And it was provided to each of the  
19 municipalities?

20 A Yes. I'm quite sure that we followed all of the  
21 regulations to make sure that this copy was in the hands  
22 of every municipal planning board.

23 MR. SLOANE: Your Honor, at this time we  
24 move that plaintiff's Exhibit 40 for identification  
25 be entered into evidence.

1 MR. BERNSTEIN: I would object, your  
2 Honor, on a number of grounds.

3 One ground would be that I believe that  
4 this is a report and more properly would be  
5 presented by expert testimony so that we would  
6 have a chance at cross-examination.

7 THE COURT: Unquestionably you can cross-  
8 examine Mr. Powell.

9 MR. BERNSTEIN: The problem there, your  
10 Honor, we are not sure which parts of it the  
11 plaintiff is affirmatively going to offer into  
12 evidence, and we have to guess what parts are  
13 relevant.

14 The second objection would be that this  
15 was not a report that was prepared by Mr. Powell's  
16 staff exclusively.

17 We have consultants that are not here in  
18 court that we cannot cross-examine as to parts of  
19 it that they prepared.

20 There was testimony that there were groups  
21 in the county who also had input into the report.  
22 We do not have them here to cross-examine.

23 There was testimony that municipal offi-  
24 cials aided in the data gathering. Theoretically,  
25 I would be responsible for the data gathering that

1 Piscataway had done, but I do not know what other  
2 municipal officials had done, and therefore I  
3 think that in numerous respects it would be  
4 impossible to cross-examine those individuals who  
5 went into preparing the report.

6 THE COURT: The county master plan for  
7 which Mr. Powell takes the responsibility, he's  
8 available for cross-examination and the objec-  
9 tions are overruled, and it will be marked in  
10 evidence.

11 MR. SLOANE: I have a series of documents--

12 THE COURT: I said that it will be marked  
13 in evidence. P-40 in evidence.

14 (County master plan is marked Exhibit P-40  
15 in evidence.)

16 THE COURT: All right. Mark those P-41  
17 and so forth for identification.

18 (Documents are marked Exhibits P-41  
19 through P-50 for identification.)

20 BY MR. SLOANE:

21 Q I show you a document marked P-41 for  
22 identification. I ask you to identify it.

23 A This is comprehensive master plan report 4. It  
24 is entitled Future Economy. That was published by the  
25 Middlesex County Planning Board as part of background



1 studies for the comprehensive master plan.

2 Q Does this document have any relationship  
3 with the preparation of the master plan itself?

4 A Well, it had a very fundamental relationship with  
5 the preparation of the master plan in that it described the  
6 economy of the County in terms of the jobs and the job  
7 characteristics and the job distributions that existed in  
8 1967.

9 It described some of the trends of employment  
10 and the job change between 1970 and '67 with some reference  
11 to some of the earlier trends.

12 Then it made projections for the years '75, '85,  
13 and the year 2000 of the future job characteristics of the  
14 County.

15 Q Was this report prepared under your super-  
16 vision, Mr. Powell?

17 A This report was prepared by the firm of Hammer,  
18 Greene, and Siler Associates, Washington, DC. They were  
19 working under the direction of myself and the long range  
20 planning division under contract which specified the  
21 specific things that we wanted in terms of an examination  
22 of the future economy and a detailing of the projections of  
23 the future economy.

24 THE COURT: I don't think that you quite  
25 answered the question, though. Was it prepared

1 under your supervision?

2 THE WITNESS: I supervised the work of the  
3 consultants in the preparation of this.

4 They used certain techniques that were  
5 techniques that were theirs, but I was responsible  
6 for assuring that the work was competently done  
7 and that it was done in accordance with the con-  
8 tracts that we had with them.

9 THE COURT: Who published it?

10 THE WITNESS: Middlesex County Planning  
11 Board published the report.

12 THE COURT: What is the date of it?

13 THE WITNESS: The date of the report is  
14 April 1968.

15 BY MR. SLOANE:

16 Q Was the report reviewed by the Middlesex  
17 County Planning Board?

18 A The report was reviewed by the Middlesex County  
19 Planning Board.

20 Q And would you describe the distribution  
21 of that report following its publication?

22 A The distribution was to each of the municipalities  
23 of the County, a copy going to the secretary of each  
24 municipal planning board and copies were also sent to each  
25 municipal clerk in the county.

1           Copies were also made available to the mayors of  
2 each-- the mayor of each municipality and also to the engineer  
3 of each municipality.

4           From that point on, the report was available at  
5 purchase to anyone who wished to have a copy of the report.

6           All 500 copies of the report were sold or dis-  
7 tributed to the degree that by 1971 we had to entertain the  
8 production of a complete new set of copies.

9           MR. SLOANE: We move plaintiff's exhibit  
10 41 for identification be marked into evidence.

11           MR. VAIL: Please note my objection on the  
12 grounds of remoteness. It is nine years' old and  
13 we are now in 1976. I don't know what purpose  
14 this could possibly serve.

15           THE COURT: All right. Any other objection  
16 to this?

17           P-41 will be marked into evidence.

18           (Comprehensive master plan 4, entitled  
19 Future Economy, is marked Exhibit P-41 in evidence.)

20           Q           I show you a document marked P-42 for  
21 identification and ask you to identify it.

22           A           This is entitled comprehensive master plan report  
23 number 5, entitled Population, Housing, and Income Study.

24           Q           Did that report have any relationship to  
25 the master plan?

1 A It had a very fundamental relationship to the  
2 master plan because it presented again analyses and inven-  
3 tories of the existing conditions of 1967 of the population  
4 of the County and its municipalities, the housing conditions  
5 of the County and its municipalities, and the income struc-  
6 ture of the residents of the County.

7 It presented evidence of the past trends and the  
8 changes in all three of these basic categories, and it made  
9 projections to the years 1975, '85, and the year 2000 of  
10 conditions relating to population, housing, and income.

11 Q And was this report prepared under your  
12 supervision?

13 A It was prepared under my supervision.

14 Again, it was a report that was prepared by the firm  
15 of Hammer, Greene & Siler Associates in Washington under  
16 contract to the County Planning Board.

17 It was prepared with the direct collaboration of  
18 the staff of the County Planning Board's long-range planning  
19 division, which collected most of the data which is contained  
20 here.

21 Collaboratively work was prepared between the con-  
22 sultants and the staff as to certain of the methodologies used  
23 in the studies.

24 It was again under my supervision both in terms of  
25 the over viewing of the contractual obligations that were

1 involved and my over viewing of the staff of the Long Range  
2 Planning Division.

3 Q And was this report reviewed by the Planning  
4 Board?

5 A This report was reviewed by the Planning Board,  
6 yes.

7 Q And its distribution following publication?

8 A Its distribution was exactly as the distribution of  
9 report number four.

10 MR. SLOANE: Your Honor, we move that P-42  
11 be marked into evidence.

12 THE COURT: What is the date of P-42?

13 THE WITNESS: The date of this report was  
14 June 1969.

15 THE COURT: Now I understand from what  
16 Mr. Vail has said that there is an objection, at  
17 least there was to P-41 on the grounds of remoteness.

18 The view of the Court would be that that  
19 would go to the weight to attach to the document.

20 MR. CUMMINS: May I ask a question on the  
21 proffer, if your Honor please?

22 THE COURT: All right.

23 MR. CUMMINS: Mr. Powell, are there statis-  
24 tics in there that are based upon data compiled by  
25 other sources other than yourself? When I say

1                   yourself, I mean your staff.

2                   THE WITNESS: There are statistics in here  
3                   that are of course based upon the United States  
4                   Census data.

5                   MR. CUMMINS: Of course that would be based  
6                   upon the 1960 census?

7                   THE WITNESS: That would have been based  
8                   upon the 1960 census. That's correct. However,  
9                   there's additional data that updated that which  
10                  was collected from municipal sources of information  
11                  on building permits and on building demolitions and  
12                  to certificates of occupancy.

13                  There was data also here pertaining to  
14                  income that came from sources of the federal  
15                  government.

16                  Also projected-- well, those were some of  
17                  the sources in which the data here was obtained.

18                  MR. CUMMINS: The sources of it and the  
19                  census that you obtained, your staff obtained  
20                  those?

21                  THE WITNESS: Yes.

22                  MR. CUMMINS: Thank you.

23                  THE WITNESS: From the municipalities in  
24                  many instances and some from the State itself.  
25                  Various sources.

1 MR. CUMMINS: Thank you.

2 THE COURT: P-42 in evidence.

3 (Comprehensive master plan report number  
4 five, entitled Population, Housing and Income Study,  
5 is marked Exhibit P-42 in evidence.)

6 BY MR. SLOANE:

7 Q I show you P-43 for identification, and I  
8 ask you to identify that document.

9 A This is Comprehensive Master Plan Report Number 9,  
10 entitled Land Use Inventory Analysis. Terminal facilities.  
11 The locational analysis. Forecast 1985, 2000. People, jobs,  
12 and land.

13 Q And did this report have any relationship  
14 to the master plan?

15 A It had, again fundamental relationship to the master  
16 plan because what this report presented was an inventory of  
17 the land uses in Middlesex County in the year 1967.

18 It analyzed the distribution of those uses of that  
19 base period and it presented forecasts of the amount and  
20 distribution of land uses for the years 1985 and the year  
21 2000.

22 There were forecasts that were based upon the  
23 forecast of the economy and job structure presented in report  
24 number four and forecasts of the population and housing as  
25 presented in report number five.

1 Q Was this report prepared under your super-  
2 vision, Mr. Powell?

3 A This report was prepared under my supervision, and  
4 this report was prepared entirely by the staff of the Middle-  
5 sex County Planning Board, the Long Range Planning Staff.

6 Q And the date of it, Mr. Powell?

7 A The date of this report is May 1970.

8 Q And was this report reviewed by the  
9 Planning Board?

10 A Yes. This report was reviewed by the Planning Board  
11 in presentations that were made during that period.

12 Q And distribution following publication?

13 A Its distribution was in accordance with the pro-  
14 cedures that the Middlesex County Planning Board had set up  
15 whereby a copy of every one of the comprehensive master plan  
16 reports was distributed to the municipalities in the manner  
17 that I have described before.

18 MR. SLOANE: Your Honor, we move that P-43  
19 for identification be marked into evidence.

20 MR. SPRITZER: Could we have the year on  
21 that?

22 THE COURT: May 1970.

23 P-43 in evidence.

24 (Comprehensive Master Plan Report Number 9 is  
25 marked Exhibit P-43 in evidence.)



1 Q I show you P-44 for identification and ask  
2 you to identify it.

3 A This one is entitled Comprehensive Master Plan  
4 Report Number 13, Housing and Economic Evaluation. Initial  
5 housing element.

6 Q Again, Mr. Powell, what relationship did  
7 this report have to the master plan?

8 A Well, this report presented two different items.  
9 One was housing and economic evaluation prepared by the firm  
10 of Hammer, Greene & Siler, which was an evaluation of  
11 distributions of housing and the future housing conditions as  
12 calculated in our report number 9.

13 It also presented what was called the initial hous-  
14 ing element, an outline of what housing actions might  
15 appropriately be undertaken in Middlesex County in conformity-  
16 based on the needs for housing as we had analyzed them, based  
17 upon the review of the evaluation prepared by Hammer, Greene  
18 & Siler and to conform to certain regulations of the Depart-  
19 ment of Housing and Urban Development under the 1968 Federal  
20 Housing and Community-- Federal Housing Act of 1968.

21 Q This was prepared under your supervision,  
22 Mr. Powell?

23 A This report was prepared under my supervision.

24 As I indicated, part of it was prepared by Hammer,  
25 Greene & Siler Associates and part of it was prepared by the

1 staff of the Middlesex County Planning Board.

2 Q And was this report reviewed by the  
3 Planning Board?

4 A This report was presented and reviewed by the  
5 Planning-- presented to and reviewed by the Planning Board.

6 Q And its distribution following publication?

7 A I believe that this report was distributed in the  
8 manner that all of the other reports were distributed to the  
9 municipalities.

10 MR. SLOANE: Your Honor, we move that P-44  
11 for identification be marked into evidence.

12 THE COURT P-44 in evidence.

13 (Comprehensive Master Plan Report Number 13  
14 is marked Exhibit P-44 in evidence.)

15 Q I show you P-45 for identification. I ask  
16 you to identify it.

17 A This report is Comprehensive Master Plan Report  
18 Number 16, and its title is Regional Health, Education, and  
19 Cultural Facilities. Needs for the future. And then County  
20 building needs study.

21 Q And again, what relationship did this report  
22 have to the master plan?

23 A This report was another of the basic reports upon  
24 which the master plan was formulated.

25 This report presented an analysis of existing

1 conditions for regional health, education, and cultural  
2 facilities and projection of needs for these in the future.

3 It presented also an inventory and evaluation of  
4 the County buildings which the County government used for  
5 carrying out its operations, and it made forecasts of the  
6 needs for additional County buildings based upon the popula-  
7 tion, employment, and other indices of the growth of the  
8 County in the future.

9 Q Was it prepared under your supervision?

10 A This report was prepared under my supervision, and  
11 it was prepared entirely by the Staff of the Long Range  
12 Planning Division of the Middlesex County Planning Board.

13 Q And was it reviewed by the Planning Board?

14 A It was reviewed by the Planning Board.

15 Q And its distribution following publication?

16 A It was distributed, I believe, in accordance with  
17 the policies and procedures that I have described previously.

18 MR. SLOANE: Your Honor, we move P-45 for  
19 identification be marked into evidence.

20 MR. CUMMINS: May we have the year of this  
21 one and the previous one?

22 THE WITNESS: The regional health, education-  
23 al, and cultural facilities report is May 1970, and  
24 I believe that the same date, May 1970 for the  
25 County Building Study.

1 THE COURT: P-45 in evidence.

2 (Comprehensive Master Plan Report Number 16  
3 is marked Exhibit P-45 in evidence.)

4 THE COURT: P-44 is May '70.

5 Q I show you P-46 for identification, and I  
6 ask you to identify it.

7 A This is Comprehensive Master Plan Report Number 17,  
8 and its title is Comprehensive Water Plan Phases Two and  
9 Three.

10 Q And again what relationship did this report  
11 have to the master plan?

12 A This report is part of the adopted master plan.

13 This report presents, based upon a certain previous  
14 reports, inventorying and analyzing the existing public  
15 water systems in the county, water supply systems.

16 This report presents five alternative plans for  
17 developing additional water supplies in the county, for  
18 distributing those water supplies to the areas of the county  
19 that could be projected for future development.

20 Q And was it prepared under your supervision?

21 A This report was prepared by-- under my supervision.  
22 It was prepared by Metcalf & Eddy Engineers under contract  
23 to Middlesex County Planning Board.

24 Q And was it reviewed by the Planning Board?

25 A It was reviewed by the Planning Board.

1 Q And its distribution following publication?

2 A Its distribution was as I described previously.

3 It is an adopted master plan report, and it was distributed  
4 in its draft form to the municipalities prior to its  
5 adoption; and there were several meetings that were held  
6 prior to the actual public hearing required by the State  
7 statutes prior to any actual adoption.

8 MR. SLOANE: Your Honor, we move P-46 for  
9 identification be marked into evidence.

10 THE COURT: It would be convenient if you  
11 asked the date each time. Would you do that,  
12 please?

13 MR. SLOANE: I'm sorry.

14 THE WITNESS: The date of this report is  
15 October 1970.

16 MR. MORAN: Can I ask one or two questions  
17 with regard to Mr. Powell with regard to this  
18 document?

19 THE COURT: All right.

20 MR. MORAN: I note that this is phases two  
21 and three. Was there a master plan report phase one?

22 THE WITNESS: Yes. The master plan report  
23 phase one was inventory and analysis, and that was  
24 contained in two of the yellow-colored documents  
25 which may or may not be introduced. They are

1 available, in any event.

2 MR. MORAN: Would it be fair to say that  
3 this report has conclusions in it which are based  
4 on information that is contained in phase one?

5 THE WITNESS: Yes. I would believe that  
6 that would be true of it. This report is based,  
7 of course, upon the inventorying of the conditions  
8 of water facilities within each of the municipali-  
9 ties, and that inventorying was presented in  
10 previous reports.

11 MR. MORAN: My only objection to the  
12 admission of this would be that I think it would  
13 be incomplete if we had the conclusions without  
14 the data upon which the conclusions were based;  
15 and if the plaintiffs want to submit reports, which  
16 I believe is report number eight, which is Compre-  
17 hensive Water Supply Plan Phase One, then I would  
18 have no objection to it all going in.

19 I don't think that we should get half  
20 the story, the conclusion without the basis.

21 THE COURT: Were you planning to offer  
22 the preliminary report?

23 MR. SLOANE: We did not, your Honor. We  
24 would of course call the attention to the fact  
25 that of course Mr. Powell is subject to cross-

1 examination on any other reports in view of his  
2 professional responsibilities.

3 THE COURT: This report, P-46, will stand  
4 by itself, Mr. Powell?

5 THE WITNESS: I believe it can, but--

6 THE COURT: It is based in part upon prior  
7 studies which were incorporated in some kind of a  
8 pamphlet about phase one?

9 THE WITNESS: Yes, there was a pamphlet,  
10 one of these yellow-covered reports.

11 THE COURT: It seems that that should be  
12 offered also. Will you represent that that will  
13 be offered, Mr. Sloane?

14 MR. SLOANE: Yes, your Honor, I will be  
15 glad to offer it.

16 There are a number of these exhibits that  
17 we didn't want to bring.

18 THE COURT: I don't care about a number of  
19 them. This one, will you represent that you will  
20 offer in evidence the phase one report?

21 MR. SLOANE: Yes, your Honor, I will.

22 THE COURT: Subject to that, P-46 will be  
23 marked into evidence.

24 (Comprehensive Master Plan Report Number 17  
25 is marked Exhibit P-46 in evidence.)

1 Q Mr. Powell, I show you P-47 for  
2 identification and ask you to identify it.

3 A This is Comprehensive Master Plan Report Number 18,  
4 and its title is Comprehensive Sewerage Plan Phases Two and  
5 Three.

6 Q And what relationship did this report have  
7 to the master plan?

8 A Well, this happens to be another element of the  
9 master plan which was adopted. This presents three alterna-  
10 tive plans for handling the future sewerage needs, sanitary  
11 sewerage needs of the County and its municipalities, and  
12 this report was prepared under my supervision by contract  
13 with the firm of Metcalf & Eddy Engineers, and with par-  
14 ticipation of the Long Range Planning Staff. It is dated  
15 September 1970.

16 It also was based upon a prior report, the number  
17 of which in the total series I'm sorry that I don't remember  
18 at this point. A report which presented the inventory of  
19 analysis of existing sewerage conditions in the County.

20 Q It was reviewed by the Planning Board?

21 A This was reviewed by the Planning Board before its  
22 adoption, and it was reviewed prior to its adoption with  
23 municipal officials at specially-held prehearing sessions,  
24 and that, of course, there was the actual public hearings  
25 according to statutes before the plan itself was adopted.



1 Q And the distribution?

2 A The distribution was as I have previously  
3 described.

4 MR. SLOANE: We move ~~that~~ P-47 for  
5 identification be marked in evidence.

6 MR. MORAN: I have the same objection.

7 THE COURT: All right. You would make the  
8 same representation, would you, about offering the  
9 phase one?

10 MR. SLOANE: Yes, your Honor.

11 THE COURT: Pamphlet or report. Subject  
12 to that, P-47 is marked into evidence.

13 (Comprehensive Master Plan Report Number 18  
14 is marked Exhibit P-47 in evidence.)

15 Q Mr. Powell, I show you P-48 for identifica-  
16 tion and ask you to identify it.

17 A This is comprehensive master plan report number 19,  
18 and it is entitled Trend Alternative Land Use Analysis. The  
19 implications of the 1985 and 2000 trend development alterna-  
20 tives.

21 Q And its relationship to master plan?

22 A This is an analysis and evaluation of what the  
23 projections of the trends of development for Middlesex County  
24 would result in and an analysis and evaluation against the  
25 adopted goals for the future development of the County.

1           This was in accordance with the plan that we had  
2 made for developing a comprehensive plan for the County in  
3 which alternatives of development would be examined and  
4 evaluated.

5           This evaluates against the objectives and goals  
6 of the County Planning Board, what those projected develop-  
7 ment trends outlined in the report number 9, reports numbers  
8 5 and 4 were produced under the conditions.

9           Q           What is the date of that publication?

10          A           The date of this publication is May 1970.

11          Q           And it was prepared under your supervision?

12          A           This report was prepared under my supervision  
13 and was written entirely by the Long Range Planning Staff  
14 of the County Planning Board.

15          Q           Was it reviewed by the Planning Board?

16          A           This report was reviewed by the Planning Board.

17          Q           Was the distribution in accordance with  
18 ordinary--

19          A           I believe that this report was distributed in  
20 accordance with the policies that we have for all of the  
21 other reports.

22                       MR. SLOANE: Your Honor, we move that  
23 P-48 be marked in evidence.

24                       THE COURT: P-48 in evidence.

25                       (Comprehensive Master Plan Report Number 19

1 is marked Exhibit P-48 in evidence.)

2 Q Mr. Powell, I show you P-49 for identifica-  
3 tion and ask you to identify it.

4 A This is Comprehensive Master Plan Report Number 21,  
5 and its title is Long Range Comprehensive Plan Alternative.

6 Q And what is its relationship to the  
7 master plan?

8 A This report presents the alternative plan for the  
9 County, alternative to what we call the trends projection  
10 plan for the County.

11 This report was prepared by the Long Range  
12 Planning Staff of the County under my supervision.

13 It had some participation in its preparation from  
14 the firms of Metcalf & Eddy; Hammer, Greene, & Siler; and  
15 the firm of Allen & Voorhees, Associates.

16 This report was also distributed to the munici-  
17 palities of the County.

18 It has been the subject of discussion. It is not  
19 an adopted master plan. This is the alternative to the  
20 projections that were made under the series of reports that  
21 I just described, an alternative to the trends.

22 Q What is the date of that, please, Mr.  
23 Powell?

24 A This report was completed in-- let's see. I know  
25 that the report was completed in 1971; however, the date is

1 not identified clearly here.

2 It was reprinted again in 1974, but it was  
3 completed in 1971.

4 Q And it was reviewed by the Planning Board?

5 A It was reviewed by the Planning Board.

6 Q And distributed?

7 A And it was distributed to the municipalities of  
8 the County in accordance with the procedures that I have  
9 described.

10 MR. SLOANE: Your Honor, we move that P-49  
11 for identification be marked in evidence.

12 MR. BERNSTEIN: I would object to that,  
13 your Honor, because of the testimony that it was  
14 not part of the adopted master plan.

15 If we add this to the fact that three firms  
16 of consultants aided in the drafting of the same,  
17 I don't think that there's enough to get it in as  
18 evidence.

19 THE COURT: I understood you to say,  
20 Mr. Powell, that this was considered prior to the  
21 adoption of the master plan?

22 THE WITNESS: The adoption of the master  
23 plan, the interim master plan, was report number 20,  
24 was adopted in November of 1970.

25 The work was proceeding at that time on this

1 comprehensive plan alternative.

2 The objectives to be achieved had been  
3 approved by the Planning Board during the summer  
4 of 1970 in accordance with the work program  
5 procedures that we followed, so that the sense  
6 of what was going to be contained in the completed  
7 work was laid out and understood with the  
8 Planning Board prior to the adoption of the  
9 report number 20 in November of 1970.

10 This work was actually completed, as I  
11 say, on this report number 21, I would say by the  
12 summer to fall of 1971 in accordance, however,  
13 with the objectives laid out with the Planning  
14 Board in the summer of 1970.

15 MR. CUMMINS: If your Honor please, may I  
16 ask a question of Mr. Powell?

17 THE COURT: All right.

18 MR. CUMMINS: Sir, are you saying that the  
19 data that was contained in that document that you  
20 have in front of you is also contained in the  
21 interim master plan?

22 THE WITNESS: The overall projections of  
23 what the number of people living in the County  
24 would be, the overall projections of the total  
25 number of jobs that would be accommodated in the

1 County, these are contained in report number 20  
2 and those previous reports.

3 The distribution of those jobs and the  
4 distribution of that population, however, would  
5 be different here because the distribution in this  
6 comprehensive plan alternative was specifically to  
7 be arranged in order to achieve to the best  
8 degree possible the goals and objectives of the  
9 County.

10 The basic raw material in terms of numbers  
11 to be accommodated is similar to that in report  
12 number 20.

13 MR. CUMMINS: That being the interim  
14 master plan?

15 THE WITNESS: The interim master plan.

16 MR. CUMMINS: So that I understand you  
17 then, what is different then than what is  
18 contained in the interim master plan and what is  
19 contained in that which you have in front of you?

20 THE WITNESS: The plan of distribution.

21 MR. CUMMINS: A plan of distribution?

22 THE WITNESS: Of the population and  
23 employment to achieve basic objectives.

24 Now, report number 20 will refer to the  
25 fact that the interim master plan is interim until

1 an alternative can be brought forward and reviewed  
2 with the people of the County so that the process  
3 of selection between what the trend will carry us  
4 toward in the future and what a more planned and  
5 shaped development pattern would bring forth can  
6 be made by the people of the County in consulta-  
7 tion with the Planning Board.

8 MR. CUMMINS: But the people of the County  
9 have not had a chance to comment or participate in  
10 the redistribution of the goals?

11 THE WITNESS: They have had opportunities  
12 and they are continuing to have opportunities in  
13 accordance with an ongoing program to accomplish  
14 just exactly that objective.

15 MR. CUMMINS: But that document cannot be  
16 approved by the body that is authorized to approve  
17 it?

18 THE WITNESS: That's correct. This is not  
19 an adopted master plan for Middlesex County at  
20 this stage. It represents, however, an alterna-  
21 tive adopted plan.

22 MR. CUMMINS: And it is merely the work  
23 of your staff and your resource people?

24 THE WITNESS: It is a work of our-- my  
25 staff and the resource people. The Planning Board

1 has reviewed it, but it has not been adopted.

2 MR. CUMMINS: And has there been any  
3 public hearings?

4 THE WITNESS: There have not been public  
5 hearings, but there has been public discussion,  
6 public discussion in the sense that we hold an  
7 annual planning conference approximately each  
8 year.

9 This was the subject of the annual planning  
10 conference. I believe that it was in 1973. It  
11 is the subject partially of a slide presentation  
12 which presents the characteristics of the two  
13 alternatives, the trends approach to the future,  
14 plus this alternative approach. That slide  
15 presentation has been circulated around the  
16 County for the last more than a year now at which  
17 we are encouraging people to attend and give us  
18 structured comments as to what their choices are  
19 between these two approaches.

20 MR. CUMMINS: Your Honor, I would have a  
21 reservation about this particular document, since  
22 the others have been passed pursuant to formal  
23 procedure and statutory regulations.

24 I don't think that this document has  
25 followed that same line.



1 THE COURT: The objection is overruled,  
2 and what has been said will go to the weight that  
3 the Court will attach to it. P-49 in evidence.

4 (Comprehensive Master Plan Report Number 21  
5 is marked Exhibit P-49 in evidence.)

6 BY MR. SLOANE:

7 Q I show you P-50 for identification and I  
8 ask you to identify that document.

9 A Well, this document is entitled 1970 Census,  
10 Selected Population and Housing Statistics for Middlesex  
11 County.

12 Q And was this prepared under your super-  
13 vision?

14 A Well, the printing of this was prepared under my  
15 supervision. What this report presents is data of the 1970  
16 census conducted by the United States Department of Commerce,  
17 the Bureau of Census, and it represents certain tabulations  
18 of the 1970 census that were received from the Tri State  
19 Regional Planning Commission, or as it was titled at the  
20 time that this material was received from them, the Tri State  
21 Transportation Commission.

22 It is data of the census of the United States for  
23 1970.

24 Q Who prepared the publication?

25 A The tables that are contained here were prepared by

1 the Tri State Transportation Commission. They represent  
2 certain cross-tabulations and certain direct tabulations out  
3 of the census, and their material is reprinted here and  
4 distributed for the benefit of the people of the County and  
5 the municipalities of the County for their use.

6 Q Your staff put the publication together?

7 A The staff took the tabulations received from the  
8 Tri State Transportation Commission, and we put those tabu-  
9 lations into the format that is presented here and we  
10 distributed it.

11 Q What is the date of this publication?

12 A The date of this publication, it would have been  
13 probably the early part of 1971 when this was finally  
14 distributed. October of '71.

15 MR. SLOANE: I move P-50 for identification  
16 be marked in evidence.

17 MR. BERNSTEIN: Your Honor, I would object  
18 to that. We have alleged census information which  
19 was allegedly compiled by Tri State. We don't  
20 have the supporting data from either organization.

21 It was merely put together by the Middlesex  
22 County Planning Board; and as a result, I don't  
23 think they have established a proper foundation.

24 What I am really worried about is the bulk  
25 of the plaintiff's case will be data which is based

1 on data when we don't have the people who compiled  
2 the original statistics that are the bottom of  
3 the pyramid which supports everything.

4 That's why I am objecting to this  
5 document.

6 THE COURT: We won't have the census  
7 takers. The objection is overruled. P-50 in  
8 evidence.

9 MR. CUMMINS: May I state another objec-  
10 tion for the record?

11 THE COURT: No, let it be marked.

12 (1970 census, Selected Population and  
13 Housing Statistics for Middlesex County, is marked  
14 Exhibit P-50 in evidence.)

15 THE COURT: We'll take a recess.

16 (A recess is taken.)

17  
18 \* \* \*

19  
20 THE COURT: Mr. Sloane, somebody had  
21 another objection that they wanted to put on the  
22 record to P-50. At the time something is being  
23 marked, I can't break in; but if you want to put  
24 an objection on the record, please do so.

25 MR. CUMMINS: Your Honor, the objection

1 that I had to P-50 was that it was based upon  
2 data that was compiled from Tri State; and since  
3 the Court has already not admitted data from Tri  
4 State, I think that the Court, by permitting this,  
5 would be allowing that data from Tri State to come  
6 in the back door.

7 THE COURT: An opportunity has been given  
8 to counsel to review the various exhibits submitted  
9 from Tri State. But as of now, P-50 has been  
10 marked in evidence.

11 MR. SLOANE: I have two additional docu-  
12 ments.

13 THE COURT: P-51 and P-52.

14 (Documents are marked Exhibits P-51 and  
15 P-52 for identification.)

16 MR. SLOANE: These are documents referred  
17 to earlier that I represented that I would submit  
18 to the Court.

19 BY MR. SLOANE:

20 Q I show you P-51 for identification and ask  
21 you to identify it.

22 A Comprehensive Master Plan Report 8, titled Compre-  
23 hensive Water Plan Phase One.

24 Q What was the relationship to the master  
25 plan?

1 A An inventory of the water supply facilities in  
2 the County and its municipalities.

3 Q And the date of the report?

4 A April 1968.

5 Q Was it done under your supervision?

6 A It was done under my supervision.

7 Q And was it reviewed by the Planning Board?

8 A It was reviewed by the Planning Board.

9 Q And the distribution?

10 A It was distributed to the municipalities in  
11 accordance with the description that I have made previously.

12 MR. SLOANE: Your Honor, we move P-51 to  
13 be marked into evidence.

14 MR. CUMMINS: Do you have a date on that?

15 THE WITNESS: Yes, sir, April 1968.

16 THE COURT: P-51 in evidence.

17 (Comprehensive Master Plan Report Number 8  
18 is marked Exhibit P-51 in evidence.)

19 Q I show you P-52 for identification.

20 A This is Comprehensive Master Plan Report 6, titled  
21 Comprehensive Sewerage Plan Phase One.

22 Q And its relationship to the master plan?

23 A Inventory of the public sewerage facilities in  
24 Middlesex County and its municipalities.

25 Q Was it prepared under your supervision?

1 A It was prepared under my supervision by Metcalf  
2 & Eddy Engineers.

3 Q Was it reviewed by the Planning Board?

4 A It was reviewed by the Planning Board. It is  
5 dated April 1968.

6 Q And the distribution?

7 A To municipalities and all others who sought it,  
8 but to the municipalities in accordance with the procedures  
9 that I have described.

10 MR. SLOANE: Your Honor, we move P-52  
11 into evidence.

12 MR. VAIL: Sanitary sewers, you did use  
13 that language?

14 THE WITNESS: Sanitary sewers.

15 THE COURT: P-52 in evidence.

16 (Comprehensive Master Plan Report Number 6  
17 is marked Exhibit P-52 in evidence.)

18 Q Turning back to the master plan itself, in  
19 preparing it, did you give any consideration to the need for  
20 low and moderate income housing?

21 A Yes, we did.

22 Q Did you attempt to determine the number of  
23 low and moderate income housing that would be needed in  
24 Middlesex County over time?

25 A We did.

1 Q And for what time period did you give that  
2 consideration?

3 A The period particularly between 1967 and 1975.

4 Q Then you had projections for 1975?

5 A We did have projections for 1975.

6 Q And what was the number that you projected  
7 that would be needed for low and moderate income housing  
8 through 1975?

9 MR. CHERNIN: I think that it would be  
10 appropriate to break that down into low and moder-  
11 ate and then get it broken down, or should I  
12 reserve that for my cross?

13 THE COURT: Let's see how he gives the  
14 answer.

15 THE WITNESS: We prepared 1969 and the  
16 summer of '70 a detailed report under contract  
17 with the Department of Housing and Urban Development  
18 an estimate of the needs for the period '67-'75,  
19 and estimated that number to be somewhere in the  
20 order of 23,600 units.

21 THE COURT: For both low and moderate  
22 income?

23 THE WITNESS: Both low and moderate income.

24 THE COURT: Would you state your definition  
25 of both of those terms?

1 THE WITNESS: Moderate income was defined  
2 as under \$10,000 per year of household income.  
3 Low income, I think I would have to have the  
4 report in order to identify what we estimated as  
5 low. Poverty income would have been under \$4,000  
6 per year. Low income--

7 THE COURT: What do you mean by low income?

8 THE WITNESS: Low income under \$7,000 per  
9 year.

10 THE COURT: Now, I've heard you say or  
11 counsel to say units needed by 1975 or through  
12 1975. Was this January 1, 1975 or January 1, '76  
13 that you were talking about?

14 THE WITNESS: I would say that would be as  
15 of January 1, 1975.

16 BY MR. SLOANE:

17 Q In making that determination of that unmet  
18 need for low and moderate income housing to January 1, '75,  
19 what factors did you take into consideration?

20 THE COURT: Why do you say unmet need?  
21 It's a projected need, isn't it, Mr. Powell?

22 THE WITNESS: Part of these needs were  
23 needs that existed in '67 and some of the needs  
24 were needs that would be accumulated during the  
25 years 1967 to 1975.



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THE COURT: All right.

THE WITNESS: Well, some of the factors that were considered were the number of dwelling units within the County occupied by moderate and low income households that were substandard, unsound.

Another factor was, of course, the characteristic of income. How many households in the County are of that low income or moderate income category?

Another factor was the number of jobs that would be coming into the County during that period, jobs that would be filled by new households, either households being drawn into the County by reason of these additional jobs or new households formed within the County during that period of time by young people moving into marriage and forming households, taking the jobs and beginning their own family life.

Another factor was the number of elderly generated within the County. Those elderly finding themselves in houses inadequate to their new needs because of their retirement, and the additional number of elderly that would have been moving into the retired period between 1967 and 1975.

1                   There was also considered a number of  
2 households that would occur in the County as a  
3 result of students brought in by, particularly,  
4 Rutgers University. Students that would not find  
5 housing provided by the University on the campus,  
6 and they would then be thrown out onto the housing  
7 market to find their way as best they could in the  
8 housing market.

9 BY MR. SLOANE:

10                   Q           These were some of the considerations that  
11 were-- then in making this determination, you considered--  
12 you were not limiting your consideration to the needs of  
13 those who already reside in the County?

14 A               No, we were not limited to those. We had to give  
15 consideration to those who would be drawn to the County by  
16 the future job growth.

17                   Also, those who would move into an age category  
18 that would change their lifestyle.

19                   Q           Why did you consider job growth, people  
20 moving in because of job growth to be a consideration worthy  
21 of importance?

22 A               Well, one of the basic objectives and goals of the  
23 plan was to provide a balance in the County, a balance of  
24 capacities of the facilities in the County that would be  
25 needed by reason of the demands created in the County by

1 various factors because of expected job growth.

2 It would be expected that there would be need for  
3 housing to accommodate the people drawn toward the County  
4 because of this job growth, and the fact that people like  
5 to minimize the overall costs that they must bear in their  
6 living expenditures by minimizing the distances between their  
7 jobs and their homes.

8 Q Did the master plan contain provisions on  
9 future employment?

10 A The master plan did contain projections on future  
11 employment. Those projections coming from that report number  
12 4 that was referred to earlier.

13 Q Where those projections confirmed, Mr.  
14 Powell?

15 A We monitored the job growth in the County in 1973  
16 and found that there was occurring to that date some pretty  
17 good correlation between the overall job growth projected  
18 for the County in 1976.

19 In 1967 there were 196,000 jobs in the County,  
20 and report number 4 projected by 1975 there would be some-  
21 where in the neighborhood of 254,000 jobs, if I remember  
22 correctly.

23 By 1973 the number of jobs that were counted in  
24 our County in the monitoring effort was the order of 245,000  
25 jobs, and then some of the earlier work which we had done in

1 much cruder ways in the early 1970s indicated that the growth  
2 of jobs up to 1970 and '71 was going somewhat faster than  
3 the projections would account for.

4 Q In projecting future employment, did you  
5 consider particularly projected employment in semi-skilled  
6 or unskilled jobs?

7 A Our job projections were organized in such a way  
8 that there could be derived from those projections estimates  
9 of the number of earners in different wage and salary  
10 categories, and then there were also derivations made of  
11 what categories in terms of skills, such as professions,  
12 managers, sales personnel, clerical personnel, and so on.

13 Q And were those projections with respect to  
14 growth and semi-skilled and unskilled job realized?

15 A I would say by and large they were. There were  
16 the actual number of jobs that occurred up to 1973 showed  
17 that there were-- there was occurring a lesser number of  
18 manufacturing jobs than had been projected, but however, a  
19 higher number, for example, in retail trade, somewhat higher  
20 number in government and a somewhat higher number in the  
21 number of service categories, if I remember correctly. Some-  
22 what lower, I believe, in construction. But these tended to  
23 balance each other in my opinion as to the resulting mix then  
24 of skills or wage and salary categories.

25 For example, the manufacturing jobs tended to have

1 been somewhat higher in some of the pay scales.

2 The lower amount there might have been over  
3 balanced by the government job growth.

4 In some of the other categories there were balancings.  
5 But my estimation generally is that they tended to balance  
6 each other out.

7 MR. SLOANE: I have another document that  
8 I request be marked for identification.

9 THE COURT: P-53 for identification.

10 (Document is marked Exhibit P-53 for  
11 identification.)

12 Q Mr. Powell, I show you P-53 for identifica-  
13 tion, and I ask you to identify it.

14 A Well, P-53 would be the application prepared by  
15 the County of Middlesex with some twenty municipalities in  
16 Middlesex County for receipt of a community development block  
17 grant for the year 1975 under the 1974 Federal Housing and  
18 Community Development Act.

19 Q Did the Middlesex County Planning Board  
20 play any part in the preparation of that application?

21 A The Middlesex County Planning Board staff acted as  
22 the staff for preparing all of the technical data required  
23 for this application. It prepared, indeed, the statement  
24 and format of the application in accordance with the require-  
25 ments of the Department of Housing and Urban Development.

1           The specific policies and the specific goals or  
2 objectives and the specifics of the plans and the programs  
3 that are presented here were prepared by a 44-person committee  
4 consisting of two representatives of each of the twenty  
5 municipalities in the-- or I guess it is a 42-man committee--  
6 in the interlocal services group that was formed, plus two  
7 representatives from Middlesex County.

8           Q           You mentioned that twenty municipalities  
9 participated in this application. Which five in Middlesex  
10 County did not?

11 A           The five that did not participate in this application  
12 were New Brunswick, Perth Amboy, Woodbridge, Edison, and  
13 Sayreville.

14           Q           Regarding the application itself, would you  
15 describe the component parts of the application?

16 A           Well, the application had to conform to the require-  
17 ments of the Department of Housing and Urban Redevelopment  
18 and it had to present two basic elements; first a community  
19 development plan and then secondly a housing assistance plan.  
20 But then in addition to that, there had to be certain documents  
21 that indicated that the County and its municipalities would  
22 conform to basic requirements of the federal government with  
23 regard to employment practices and so on.

24           It also had to contain the results of the A95  
25 reviews that were conducted by other agencies, particularly

1 State and metropolitan agencies.

2 Then of course, all of the backup documentation  
3 that indicated that each of the municipal governing bodies  
4 and the participants had duly adopted the contents of this  
5 application.

6 Q You mentioned a housing assistance plan--

7 THE COURT: Wait a minute now. It's  
8 past 4 o'clock. Do you want to offer this in  
9 evidence, or do you want to have more testimony  
10 on it?

11 MR. SLOANE: I would like more testimony  
12 on it, your Honor.

13 THE COURT: We'll have to recess until  
14 9 o'clock tomorrow morning.

15 (Whereupon court adjourns for the day.)

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FEBRUARY 10, 1976

DOUGLAS POWELL, resumes the stand.

DIRECT EXAMINATION BY MR. SLOANE: (Continuing)

Q Yesterday you were discussing the development application submitted by twenty municipalities. When was that application submitted, Mr. Powell?

A Well, it was submitted-- the exact date I would have to now guess at. An early submission was in April, in order that the A95 reviews could be completed, and I think the final submission was in the latter part of May.

Q Of which year?

A 1975.

Q And was this application reviewed by each of the twenty municipalities before submission, Mr. Powell?

A Well, the application was actually prepared by the, what we call the Community Development Revenue Sharing Committee, on which each of the twenty municipalities had two representatives appointed by the Mayor and the Borough Council or municipal council, and then in addition to that, therefore, their representatives approved the presentation and participated in the presentation of the application.

In addition to that, each municipality's governing body had to approve particularly the community development portion of the application.

Q I believe you said yesterday, Mr. Powell,



1 that five municipalities in Middlesex County did not  
2 participate in the application. Why didn't they?

3 A Well, the five municipalities that didn't partici-  
4 pate--

5 MR. SHAPIRO: Objection, your Honor.

6 THE COURT: I'll sustain that.

7 Q You discussed yesterday the component parts  
8 of the application. Could you review very briefly what the  
9 component parts of the application are?

10 A Well, again I would deal with it in my memory  
11 without it in front of me.

12 The major component parts are the Community Devel-  
13 opment Plan and Program of which there would be a one-year  
14 plan and a three-year plan. Then a Housing Assistance Plan,  
15 which there would be a one-year plan and a three-year plan.  
16 Then there would be the necessary A95 reviews, and then there  
17 would have to be backup material, including the indication  
18 that all of the governing bodies would meet all of the basic  
19 assurance requirements, administrative requirements, and so  
20 on , set forth by HUD.

21 Finally, there was some descriptions of the method-  
22 ologies used in the application.

23 Q What does the Housing Assistance Plan con-  
24 sist of specifically?

25 A Well, the Housing Assistance Plan would consist of

1 first an identification of needs for housing for moderate and  
2 lower income households in the county.

3           Secondly, it would consist of an identification of  
4 certain basic goals and objectives to be used in the plan for  
5 meeting those needs, and in the identification of goals it  
6 would set forth certain numbers of units to be developed or  
7 to be improved, which would meet some of those needs iden-  
8 tified in the needs section and those goals or plan, if you  
9 please, would be expressed in numbers of units that would be  
10 set forth for meeting elderly needs, for meeting non-elderly  
11 needs, and renters and non-renters, and so on.

12           Q           In the application as submitted to the  
13 Department of Housing and Urban Development, what was the  
14 need for, as you put it, lower and moderate income housing  
15 for Middlesex County?

16 A           Well, I'd have to see the application to recall the  
17 exact numbers, but I believe that the number-- let me refer  
18 to it. The needs as of 1970 was a total of 9,626 for all  
19 types of households. Out of that 9,626 there would be 4,270  
20 for elderly and handicapped people, 5,356 for non-elderly and  
21 some also handicapped, and then there was a corrective factor  
22 applied in order to bring those 1973 estimates, figures up to  
23 1973 of an additional 124 units for elderly and handicapped,  
24 and then additional 358 for non-elderly with some handicapped  
25 included.

1 Now, that applied to the twenty municipalities that  
2 were part of the urban county.

3 Q What was the total need estimated for the  
4 entire county?

5 A For the entire county, we did prepare some estimates.  
6 My recollection is that there was a total need of some 8,000  
7 units that were substandard, and then to redress the imbalances  
8 between income and the amount of payment being made at that  
9 time by moderate and lower income households, there was some,  
10 I guess it was about 23,000, 24,000 over. Overall it included  
11 then something in the order of 33,000 units to meet the sub-  
12 standard needs, plus the needs for units to redress the  
13 imbalance between income and rent being paid or housing costs  
14 being paid.

15 THE COURT: That is immediate needs,  
16 Mr. Powell?

17 THE WITNESS: These were needs projected  
18 for 1975.

19 THE COURT: And when, in '73?

20 THE WITNESS: These were needs estimated  
21 for the entire county as of April of 1975.

22 Q And that figure, Mr. Powell--

23 THE COURT: When was the projection made?

24 THE WITNESS: That was made in April of  
25 1975. Let me correct one figure. The 1975 figures

1 for substandard were 10,500, and the-- or some  
2 such figure, and the number for the--

3 MR. BERNSTEIN: I'm going to object here,  
4 your Honor. I think if this witness has the  
5 figures or can get them, they certainly would be  
6 admissible in evidence, but for him to be specu-  
7 lating as to what the figures are is impossible.

8 THE COURT: Well, he apparently is giving  
9 his best recollection. I agree with you that if  
10 P-53 is admitted in evidence and the figures are  
11 at discrepancy with his estimates, then the actual  
12 figures will prevail. In effect, these are  
13 immediate needs, though, aren't they, if they are  
14 projected for 1975, as of April 1975?

15 THE WITNESS: Yes, that's correct. Let me  
16 explain. The figure that I have given you of the  
17 8,000 or so units that are substandard are as of  
18 some period of time prior to 1975. The 10,000-plus  
19 units would represent a projection of that number  
20 of substandard units estimated prior to 1975 up to  
21 1975.

22 THE COURT: I believe that there are one or  
23 two new appearances on the record here. Is that so,  
24 Mr. Rafano?

25 MR. RAFANO: Yes, your Honor, for the

1 Borough of South River.

2 THE COURT: Any other additional appear-  
3 ances that you wish to put on the record?

4 MR. BUSCH: Ronald Busch for Bertram Busch  
5 for the Township of East Brunswick.

6 THE COURT: All right. Thank you.

7 BY MR. SLOANE:

8 Q I direct your attention to Page 71 of  
9 the exhibit and particularly the table at the top of the  
10 page. The figure for the total of Roman numeral I and Roman  
11 numeral II, what figure is that, Mr. Powell?

12 A For the totals for substandard units in the urban  
13 county municipalities and the so called metropolitan cities  
14 which were the other five municipalities in the county, the  
15 total of substandard units was 8,266.

16 Q The last column, Mr. Powell, the totals  
17 of Roman numeral I and Roman II?

18 A The totals of Roman I and Roman II are 29,854 units.

19 MR. CHERNIN: I didn't catch the witness's  
20 answer.

21 THE COURT: Would you read that again,  
22 Mr. Powell?

23 THE WITNESS: The totals for columns Roman  
24 I and Roman II add up to 29,854 units, households  
25 needing assistance.

1 MR. MORAN: Could we identify, your Honor,  
2 Romans I and II?

3 THE WITNESS: Roman I is titled Substandard  
4 Units Occupied and Vacant. Roman II is financial  
5 need. Then total is the totals of Roman I and II.

6 Q And does that figure of 29,854 units  
7 represent the total need for low and moderate income housing  
8 as of April 1975?

9 A No, this represents the total need of 1973.

10 Q In calculating this need-- let me ask you  
11 first, Mr. Powell, how does that figure compare with the  
12 projected need for January 1st, 1975 as set forth in the  
13 master plan?

14 A The 29,854 estimated and calculated for 1973  
15 compares to the 23,605 units projected for 1975 in the  
16 county adopted master plan.

17 Q And in calculating the total need for  
18 Middlesex County in the community development application,  
19 to what extent would you consider the needs of people who  
20 could be expected to reside in Middlesex County because of  
21 such factors as job opportunities?

22 A Actually there was no calculation of the families  
23 that could be expected to come into Middlesex County between  
24 1973 and '75.

25 Q If the needs of these families had been

1 considered, Mr. Powell, would the total figure have been  
2 larger, smaller, or the same?

3 MR. GRUBER: I'm going to object to this  
4 question. It's speculation on the part of the  
5 witness. He indicated that he did not take into  
6 consideration these figures. Therefore, I don't  
7 know how he can speculate as to the effect of his  
8 taking them into consideration.

9 THE COURT: The answer appears obvious also.  
10 If families living outside who may come into Middle-  
11 sex County are taken into account, the figures  
12 would be higher necessarily.

13 MR. CHERNIN: Would the Court bear with me  
14 for one second, please, your Honor? I'm having  
15 difficulty locating the application that Mr. Powell  
16 seems to be referring to. I don't seem to have it.  
17 I'm not sure that counsel seated at the table have  
18 it either. Could that be made available to us?

19 THE COURT: Go off the record for a few  
20 minutes then and see if you can find it.

21 MR. CHERNIN: I guess we can go right back  
22 on the record, your Honor. No one here has it.

23 MR. SLOANE: This application is in the files  
24 of every municipality that is represented here,  
25 with three exceptions, and those exceptions were

1 the municipalities that did not participate. We  
2 did supply copies of that to them.

3 THE COURT: Because of prior participation?

4 MR. SLOANE: Absolutely, your Honor.

5 THE COURT: That would appear to be so,  
6 Mr. Chernin.

7 MR. CHERNIN: I would agree with that,  
8 except that I believe that it is still incumbent  
9 upon plaintiff's counsel to give us what the  
10 witness is going to be referring to. I'm sure we  
11 all know that each municipality has this applica-  
12 tion and probably among thousands of others, your  
13 Honor, and to anticipate is the problem.

14 THE COURT: This seems to be a major matter,  
15 the Community Development Application to HUD of  
16 1975.

17 MR. CHERNIN: I understand that, your HONor,  
18 but I think that counsel knows where he is going a  
19 lot quicker than we do. I'm sure the Court fully  
20 understands the burden of carrying volumes of files  
21 around with us in anticipation of what is coming in.

22 It would be a far simpler matter if he would  
23 just simply give it to us.

24 THE COURT: We had this identified last  
25 night at five minutes of four or four o'clock. It



1 was marked for identification. There shouldn't be  
2 any mystery about it.

3 If it is a matter of convenience to you,  
4 we can somehow try to get an extra copy around.

5 MR. CHERNIN: It would be enormously  
6 appreciated.

7 THE COURT: It doesn't seem to be any  
8 mystery as to the identification last night. Here  
9 is an extra copy coming up.

10 MR. CHERNIN: Very good.

11 MR. SLOANE: At this time I move that P-53  
12 for identification be admitted into evidence.

13 MR. BERNSTEIN: I would object, your Honor.  
14 I think the fact that it is an application doesn't  
15 necessarily give it validity.

16 Certainly the other documents had a higher  
17 rate of validity, since they were part of the  
18 county master plan, both of which were adopted.  
19 This is merely an application.

20 Presumably, figures were given by different  
21 municipalities, rather than created by the County  
22 Planning Board, and so I don't believe that this  
23 would be admissible as evidence, and certainly not  
24 as a business record.

25 THE COURT: I understand that you represent

1 Piscataway, which participated. I would of course  
2 consider as to Woodbridge that this would not be  
3 binding if it did not participate. Is that your  
4 position, Mr. Shapiro?

5 MR. SHAPIRO: Yes, it is, your Honor.

6 THE COURT: I don't see any representative  
7 here of Edison or Sayreville, but as to the other  
8 municipalities, this would appear to be admissible  
9 and evidential and the objection is overruled.

10 MR. BERNSTEIN: Your Honor, one of the  
11 problems that I would have, if I can just comment  
12 on what you said, is that this may be admissible  
13 as to the figures supplied by Piscataway, but the  
14 figures supplied by the nineteen other municipali-  
15 ties, would that be binding on Piscataway, the  
16 figures that the other nineteen municipalities  
17 supplied?

18 MR. SELESKY: There's another point, too,  
19 your Honor. You mentioned about binding the  
20 municipalities.

21 My recollection of the testimony was that  
22 Mr. Powell said two representatives from the  
23 municipality attended these various meetings, and  
24 a copy of it was supplied to the municipality.

25 There seems to be an attempt to indicate

1 that the municipality is bound by whatever these  
2 two representatives said.

3 I think that we all know the basic law  
4 that unless a council authorized the signature by  
5 the mayor or the clerk that that doesn't bind  
6 anybody.

7 THE COURT: In the sense of the admission,  
8 you mean, Mr. Selesky?

9 MR. SELESKY: That's correct, your Honor.

10 THE COURT: I would agree with you on  
11 that. P-53 would not be regarded as an official  
12 admission of any of the twenty participating  
13 municipalities.

14 Has a copy of this been made available to  
15 counsel?

16 MR. CHERNIN: Mr. Searing gave me a packet,  
17 your Honor. I believe that this is a copy. I  
18 gather that it was a spare copy.

19 THE COURT: All right. P-53 is marked in  
20 evidence.

21 MR. SLOANE: Your Honor, may I on that  
22 point--

23 THE COURT: You know when I say it is marked  
24 in evidence the orderly way to proceed is to mark  
25 it, which means that the Court Reporter has to mark

1 it.

2 (Application is marked Exhibit P-53 in  
3 evidence.)

4 MR. SLOANE: Mr. Powell testified that the  
5 Housing Assistance plans were drawn up and reviewed  
6 by the officials of each municipality that was  
7 participating, and each municipality had an oppor-  
8 tunity to comment, to object with respect to the  
9 Housing Assistance Plan as well as other elements  
10 of the Community Development Application.

11 These figures represented the end result  
12 of that process.

13 THE COURT: Well, I understand that, but  
14 the point is made that as of now there is no  
15 testimony of official action by resolution of the  
16 governing body of these municipalities.

17 BY MR. SLOANE:

18 Q Mr. Powell, turning once again to the  
19 master plan, did the master plan seek to identify any  
20 obstacles--

21 MR. VAIL: Can we identify which master  
22 plan? There are two county master plans in  
23 evidence already.

24 THE COURT: You are referring back to P-40?

25 MR. SLOANE: Yes, your Honor.

1 THE COURT: All right.

2 BY MR. SLOANE:

3 Q Did the master plan seek to identify any  
4 obstacles for the provision of adequate housing?

5 A Yes, it did.

6 Q How many obstacles did the master plan  
7 identify?

8 A In my recollection, there was some sixteen that  
9 were identified.

10 Q And with particular respect to obstacles  
11 to the provisions of low and moderate income housing, did  
12 the master plan identify restrictive zoning practices as an  
13 obstacle?

14 A Yes.

15 MR. VAIL: Objection, your Honor. Is  
16 Mr. Powell going to testify or counsel?

17 THE COURT: That is a leading question,  
18 of course. You can inquire on the subject, but  
19 I'll sustain the objection to that.

20 Q Mr. Powell, among the obstacles identified,  
21 among the sixteen, which among them were considered major  
22 obstacles for the provision of low and moderate income housing?

23 A Well, if I could refer to that document, I think  
24 that it would assist me.

25 THE COURT: P-40 is in evidence. Refer to

1           that. Here you are, Mr. Powell.

2                   THE WITNESS: There were sixteen obstacles  
3 listed on Pages 61, 62, 63, and 64.

4                   The first six of these are in my estima-  
5 tion the first ranking of the obstacles to the  
6 development of adequate housing supplies for  
7 particularly moderate and lower income people.

8           Q           Could you briefly specify what those  
9 first six are?

10   A           Those are not necessarily in order, but these are  
11 the first ranking six that in my estimation are the **most**  
12 important.

13                   Reliance on the property tax, which is the major  
14 source of governmental revenue, discourages the provision of  
15 adequate housing.

16                   The property taxes are a deterrent to improvement  
17 and rehabilitation through the fear of assessment which  
18 hastens the deterioration of the housing stock, especially  
19 in older areas.

20                   The fear of excessive school costs resulting in  
21 the influxion of new housing, especially to low and moderate  
22 income, leads to restrictive zoning policies.

23                   The cost of residential taxation is an added burden  
24 to low and moderate income families owning their own homes.

25                   Restrictive zoning practices discourage low and

1 moderate priced housing.

2           Large building lots generally exhibit higher unit  
3 cost, utilities and other improvements than higher density  
4 housing. This leads to indirect exclusion of lower income  
5 groups, since generally this segment of the society requires  
6 higher public service costs than higher income groups.

7           Zoning restrictions prohibit apartment units of  
8 sufficient size to serve as a permanent dwelling place.

9           Inadequate provision is made for new residential  
10 techniques such as clustering, planned unit development,  
11 townhouses, or similar cost-saving residential construction.

12           Escalating land costs contribute dramatically to  
13 the increased cost of housing. Higher land cost in conjunc-  
14 tion with zoning policies restrict the single family market  
15 to those persons able to pay \$25,000 or more.

16           Higher construction costs in terms of labor and  
17 building materials also contribute to exclusion of new  
18 housing for low and moderate income groups.

19           Q       Mr. Powell, with specific reference to  
20 Item 3, which you read, restrictive zoning practices, what  
21 particular practices do you have in mind when you use the  
22 term restrictive zoning practices?

23           A       Well, the restrictive zoning practices that we had  
24 in mind deal with the matter of particularly requiring pre-  
25 dominantly single-family housing on lots of fairly good

1 size and the practice of restricting the amount of apartment  
2 development that can be built, and further, the practice of  
3 where permitting apartments, restricting the number of bed-  
4 rooms per apartment, and also-- well, those are the primary  
5 ones.

6 THE COURT: I think that you might set  
7 things out if you, when you refer to those able to  
8 afford \$25,000 or more for a single-family dwelling,  
9 what income range are you speaking of at that  
10 point?

11 THE WITNESS: Well, we have always believed  
12 that the relationship between income to housing  
13 should be one whereby the household is paying no  
14 more than twenty percent of its income for base  
15 rent or twenty-five percent of its income for rent,  
16 including the utilities, furnishings, and other  
17 general costs of maintaining a house.

18 THE COURT: You are talking about rentals  
19 then?

20 THE WITNESS: Rentals or--

21 THE COURT: You referred to restriction of  
22 new single-family housing to those able to afford  
23 \$25,000 or more. What range of income are you  
24 speaking of there?

25 THE WITNESS: It would be that income which



1 on an annual basis of cost, would render the total  
2 amount of payment by the household to no more than  
3 one-quarter of the total annual income.

4 Now, payments being payments for, in the  
5 instance of owning a house, payments for mortgage,  
6 for interest on the mortgage, for taxation and  
7 so on.

8 THE COURT: Utilities?

9 THE WITNESS: Utilities. Exactly. This  
10 is as of our writing in 1970, prior to the much  
11 greater increase in inflation that occurred since  
12 1970. So the \$25,000 relates to the 1975 prices  
13 and incomes.

14 Q The figure 25,000 relate to 1970 condi-  
15 tions?

16 A Yes.

17 THE COURT: You just said 1975, I believe.

18 MR. LEFKOWITZ: I believe that your  
19 Honor's question to Mr. Powell is what income  
20 bracket could afford a \$25,000 house. Has  
21 that question been answered?

22 THE COURT: No, it hasn't.

23 THE WITNESS: It's the calculation that  
24 will produce that, and it would have to be  
25

1 translated into what mortgage rate a person --  
2 interest rate one would have to pay, the length  
3 of time that the mortgage would run, the taxes,  
4 and all the other costs.

5 THE COURT: I don't think that we are  
6 clear as to whether your \$25,000 figure is as of  
7 1970 or 1975.

8 THE WITNESS: This \$25,000 figure is as  
9 of 1970.

10 THE COURT: All right.

11 THE WITNESS: These are the obstacles  
12 found at the time of the writing of the master  
13 plan.

14 Q Do you have any estimates as to whether  
15 that figure would be higher today, Mr. Powell?

16 A It would be higher as a result of the inflation  
17 and the additional costs, land costs rising and the construc-  
18 tion costs rising and so on.

19 Q Any estimation as to how much higher today?

20 A I would not hazard a guess at this stage. There  
21 are agencies that prepare cost of living indexes and so on,  
22 but I do not recall, and therefore can't state it at this  
23 time.

24 Q You listed restrictive zoning practices  
25 as one of the top layers of obstacles back in 1970. To what

1 extent, if at all, do restrictive zoning practices remain  
2 an obstacle to the provision of adequate lower and moderate  
3 income housing today?

4 A Based on the monitoring that we have done in the  
5 zoning changes that have been occurring in the municipalities  
6 in the county as a result of the County Planning Board's  
7 responsibility to review proposed zoning or master plan  
8 changes before they are adopted, I would observe that there  
9 have been some moves in some municipalities in the county to  
10 modify some of the practices that restricted housing develop-  
11 ment that could be made available primarily to moderate or  
12 toward lower income households.

13 Overall I would not say that the changes that have  
14 been, that have taken place, have been sufficient to take  
15 care of the usual substantial needs that were identified  
16 here in this plan.

17 Q Mr. Powell, do you know how much or what  
18 percentage of the developable land in Middlesex County is  
19 zoned for industrial use?

20 A Well, in our report number 9, without having it in  
21 front of me, I would say that there was something on the  
22 order of 40,000 acres or 40,000-plus acres of vacant land  
23 zoned and available for development by industry.

24 THE COURT: Is that with a restriction  
25 against residential use?

1 THE WITNESS: I don't know that I could  
2 say that all of that had restrictions against  
3 residential use.

4 It is, as I have stated, it is land zoned  
5 and available for development or industry. Some  
6 of it might have had restrictions against resi-  
7 dential use.

8 Q Do you know how this compares with the  
9 amount of developable land zoned industrial in other  
10 counties in New Jersey?

11 A I do not have the exact figures of which to make  
12 that.

13 MR. CHERNIN: Objection, your Honor.

14 THE COURT: I'll sustain the objection to  
15 that. We are not dealing with the available land,  
16 the zoning and so forth of other counties, I take  
17 it, Mr. Sloane. That would prolong the trial  
18 indefinitely.

19 Q Mr. Powell, is that much industrial land  
20 needed right now for actual use?

21 MR. CHERNIN: Excuse me, your Honor. I  
22 think that I have to object to this. I don't think  
23 that there has been a foundation prepared for this  
24 witness to come up with a conclusion of that sort.  
25 I think that it requires rather extensive inquiry

1 as to the components of industrial use and where  
2 they are located and the extent required and  
3 things of that sort before we can get that kind  
4 of an answer.

5 THE COURT: Why don't you ask him prelim-  
6 inary questions as to whether he has explored,  
7 investigated, analyzed the industrial development  
8 probabilities or potentials of the County.

9 Q Mr. Powell, in the course of your profes-  
10 sional responsibilities, have you had occasion to look into  
11 the extent of land use for industrial use in Middlesex  
12 County?

13 A Yes, we have.

14 Q And when did you do that, Mr. Powell?

15 A That was part of the earlier studies leading to  
16 the preparation of the final adoption of the master plan.  
17 Report number 4, which we referred to yesterday presented  
18 projections of employment growth for the years 1967 up to  
19 the year 2000.

20 What we did as planners and reported in the report  
21 9 was to translate that job growth by various types of  
22 industries into the demands for land that would be required  
23 to accommodate the employment in accordance with known  
24 standards and practices of employment in relationship to  
25 land needs by various types of industries, and therefore were

1 able to identify what would be the need for new industrial  
2 land development between the period 1967 to the year 2000.

3 Q What was your finding with respect to the  
4 need projected to the year 2000?

5 A The findings are contained in report number 9, and  
6 if I recollect correctly, it is in the order of some 9,000  
7 or so additional acres, but I would like to refer to number 9  
8 just to make quite sure that I am giving you the correct  
9 number.

10 For the manufacturing acreage demands, we iden-  
11 tified that--

12 MR. CHERNIN: I can't hear him over here,  
13 your Honor.

14 THE COURT: Keep your voice up.

15 THE WITNESS: For the manufacturing acreage  
16 demands by the year 2000, we have identified that  
17 some 10,406 acres would be required to accommodate  
18 all of the industry in the county that would seek  
19 to be here by that period of time, and that  
20 included the 5,685 acres that were in use by  
21 industry in 1967.

22 THE COURT: So that you are referring to  
23 a growth of something under 5,000 acres?

24 THE WITNESS: That's correct.

25 THE COURT: Including new industry coming

1 in from outside?

2 THE WITNESS: That's correct.

3 THE COURT: And including expansion of  
4 present industry?

5 THE WITNESS: For expansion of manufactur-  
6 ing industries and then for an accommodation of  
7 entirely new industries.

8 THE COURT: And when you say manufacturing  
9 industries, you mean any type of production. Is  
10 that right?

11 THE WITNESS: That's basically correct,  
12 yes. Production.

13 Now, this would not include the amount  
14 of space required for the wholesaling industry, nor  
15 would it include the amount of space for such  
16 industries as the construction or the public  
17 utilities industries, nor would it include space  
18 for the communications industry.

19 THE COURT: Dry cleaning plant?

20 THE WITNESS: That would be listed under  
21 the category of service industries. Those are  
22 generally in retail, commerce zones. I can read  
23 off the various figures that would be required  
24 for those as well.

25 BY MR. SLOANE:

1 Q Mr. Powell, you have discussed the need  
2 for low and moderate income housing in terms of effect  
3 on those who need the housing, whether through increased job  
4 opportunities or otherwise.

5 Have you had any indication that that need or the  
6 impact of that need is felt by others in Middlesex County  
7 in addition to those low and moderate income people who need  
8 the housing?

9 MR. CHERNIN: I think that I have to  
10 object to the form of that question. I don't know  
11 what he means by any indication or felt any impact.

12 THE COURT: I'll sustain the objection to  
13 the wording of that. You may inquire on the  
14 subject, though.

15 Q To what extent at all, Mr. Powell, has the  
16 unmet need for low and moderate income housing, has the  
17 impact of that need been felt by industry locating in  
18 Middlesex County?

19 MR. CHERNIN: I still have the same  
20 objection. I don't know what it means when he  
21 talks about, has the impact been felt by industry?

22 THE COURT: I think that it's understand-  
23 able.

24 Do you understand the question?

25 THE WITNESS: I think that I do.



1 THE COURT: You may answer it.

2 THE WITNESS: During the period in which  
3 we were preparing these estimates of what the  
4 future job structure might be in the county, there  
5 were conducted by the firm of Hammer, Greene, &  
6 Siler, with representatives of the County Planning  
7 Board's Long Range Staff, a series of interviews  
8 with representatives of the manufacturing and other  
9 industries in Middlesex County to get directly  
10 from them their views of--

11 MR. BERNSTEIN: Isn't this hearsay, your  
12 Honor? That would be my objection as to testimony  
13 about what the responses from the interviews were.

14 THE COURT: I think that's so, Mr. Powell.  
15 You are not asked what somebody may have told you.  
16 You were asked, in effect, whether you have any  
17 findings or conclusions yourself on the subject.

18 THE WITNESS: My findings are that people  
19 in business and industry have expressed concerns  
20 about the needs for housing in this county.

21 MR. BERNSTEIN: Same objection, your Honor,  
22 what people have expressed the needs.

23 THE COURT: We are drawing a distinction,  
24 Mr. Powell, between testimony which would be  
25 hearsay, purely what others have said to you, and



1 with counsel, but it is my interpretation of the  
2 answer that it has not had an impact or an affect;  
3 and for that reason, I oppose your position.

4 I wish that you would reconsider.

5 THE COURT: We'll let the answer stand.  
6 I think that Mr. Powell has answered that indus-  
7 trial growth has continued. Is that right?

8 THE WITNESS: Of all jobs. Now, when I  
9 refer to industry, I am referring to all cate-  
10 gories of jobs, including manufacturing, service  
11 jobs, retail, construction, and so on.

12 THE COURT: All right. You are testifying  
13 that from 1967 to 1970 to 1975 the number of jobs  
14 in the county, industrial and otherwise, has  
15 continued to grow at the approximated predicted  
16 rate?

17 THE WITNESS: For the period 1967 to '75,  
18 that's correct.

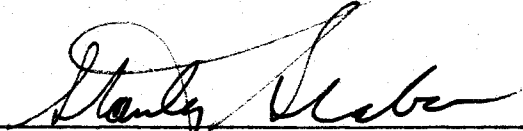
19 MR. SLOANE: Your Honor, I have no further  
20 questions.

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C E R T I F I C A T E

I, STANLEY GRABON, a Certified  
Shorthand Reporter of the State of New  
Jersey, do hereby certify that the fore-  
going is a true and accurate transcript  
of my stenographic notes.

  
\_\_\_\_\_  
Stanley Grabon, CSR  
Official Court Reporter