

CA - General

5/3/76

- Testimony of Ernest Erber Volume II

pg 142

CA001054\$

314

CA001054S

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

URBAN LEAGUE OF GREATER NEW  
BRUNSWICK, a non-profit  
corporation of the State of  
New Jersey; CLEVELAND BENSON;  
FANNIE BOTTS; JUDITH CHAMPION;  
LYDIA CRUZ; BARBARA TIPPETT;  
KENNETH TUSKEY and JEAN WHITE,  
on their own behalf and on  
behalf of all other similarly  
situated,

Plaintiffs,

-vs-

THE MAYOR AND COUNCIL OF THE  
BOROUGH OF CARTERET; TOWNSHIP  
COMMITTEE OF THE TOWNSHIP OF  
CRANBURY; MAYOR AND COUNCIL  
OF THE BOROUGH OF DUNELLEN;  
TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF EAST BRUNSWICK;  
TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF EDISON; MAYOR AND  
COUNCIL OF THE BOROUGH OF  
HELMETTA; MAYOR AND COUNCIL OF  
THE BOROUGH OF HIGHLAND PARK;  
MAYOR AND COUNCIL OF THE  
BOROUGH OF JAMESBURG; TOWNSHIP  
COMMITTEE OF THE TOWNSHIP OF  
MADISON; MAYOR AND COUNCIL OF  
THE BOROUGH OF METUCHEN; MAYOR  
AND COUNCIL OF THE BOROUGH OF  
MIDDLESEX; MAYOR AND COUNCIL  
OF THE BOROUGH OF MILLTOWN;  
TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF MONROE; TOWNSHIP  
COMMITTEE OF THE TOWNSHIP OF  
NORTH BRUNSWICK; TOWNSHIP  
COMMITTEE OF THE TOWNSHIP OF  
PISCATAWAY; TOWNSHIP COMMITTEE  
OF THE TOWNSHIP OF PLAINSBORO;  
MAYOR AND COUNCIL OF THE  
BOROUGH OF SAYREVILLE; MAYOR  
AND COUNCIL OF THE CITY OF  
SOUTH AMBOY; TOWNSHIP COMMITTEE  
OF THE TOWNSHIP OF SOUTH BRUNSWICK;

FILED

MAY 3 1970

DAVID D. FURMAN, J.S.C.

TESTIMONY OF

ERNEST ERBER

VOLUME II

1 MAYOR AND COUNCIL OF THE :  
BOROUGH OF SOUTH PLAINFIELD;  
2 MAYOR AND COUNCIL OF THE :  
BOROUGH OF SOUTH RIVER; MAYOR  
3 AND COUNCIL OF THE BOROUGH OF :  
SPOTSWOOD; TOWNSHIP COMMITTEE  
4 OF THE TOWNSHIP OF WOODBRIDGE, :  
5 Defendants. :

6 -----

7  
8 MIDDLESEX COUNTY COURTHOUSE  
9 NEW BRUNSWICK, NEW JERSEY  
February 17, 1976

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

B E F O R E:

THE HONORABLE DAVID D. FURMAN, J.S.C.

A P P E A R A N C E S:

BAUMGART & BEN-ASHER, ESQS.,  
By: MARTIN E. SLOANE, ESQ.,  
DANIEL A. SEARING, ESQ.,  
and  
ARTHUR WOLF, ESQ.,  
Attorneys for the Plaintiffs

PETER J. SELESKY, ESQ.,  
Attorney for Defendant Carteret

WILLIAM C. MORAN, ESQ.,  
Attorney for Defendant Cranbury

DENNIS J. CUMMINS, ESQ.,  
Attorney for Defendant Dunellen

BERTRAM E. BUSCH, ESQ.,  
Attorney for Defendant East Brunswick

ROLAND A. EINTER, ESQ.,  
Attorney for Defendant Edison

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

RICHARD F. PLECHNER, ESQ.,  
Attorney for Defendant Helmetta

LAWRENCE LERNER, ESQ.,  
Attorney for Defendant Highland Park

GUIDO J. BRIGIANI, ESQ.,  
Attorney for Defendants Jamesburg and Spotswood

LOUIS J. ALFONSO, ESQ.,  
Attorney for Defendant Old Bridge

MARTIN A. SPRITZER, ESQ.,  
Attorney for Defendant Metuchen

EDWARD J. JOHNSON, JR., ESQ.,  
Attorney for Defendant Middlesex

CHARLES V. BOOREAM, ESQ.,  
Attorney for Defendant Milltown

THOMAS R. FARINO, ESQ.,  
Attorney for Defendant Monroe

LESLIE L. LEFKOWITZ, ESQ.,  
Attorney for Defendant North Brunswick

DANIEL S. BERNSTEIN, ESQ.,  
Attorney for Defendant Piscataway

JOSEPH L. STONAKER, ESQ.,  
Attorney for Defendant Plainsboro

ALAN J. KARCHER, ESQ.,  
and  
JOSEPH W. BAKER, ESQ.,  
Attorneys for Defendant Sayreville

JOHN J. VAIL, ESQ.,  
Attorney for Defendant South Amboy

ANDRE WM. GRUBER, ESQ.,  
Attorney for Defendant South Brunswick

SANFORD E. CHERNIN, ESQ.,  
Attorney for Defendant South Plainfield

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

ROBERT C. RAFANO, ESQ.,  
Attorney for Defendant South River

BARRY L. SHAPIRO, ESQ.,  
Attorney for Defendant Woodbridge

FREDERICK S. AUMICK, C.S.R.  
Official Court Reporter

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

INDEX TO WITNESS

	<u>Direct</u>	<u>Cross</u>
<u>ERNEST ERBER</u>		
By Mr. Busch	-	3
By Mr. Plechner	-	22
By Mr. Lerner	-	78

INDEX TO EXHIBITS

	<u>Ident.</u>	<u>Evid.</u>
DEB-1 Document - Jobs and Housing	6	-

1 CROSS EXAMINATION OF ERNEST ERBER BY MR. BUSCH:

2 Q Mr. Erber, I believe that you had made  
3 reference last week to one of the factors that results in  
4 a shortage of housing as being an overzoning of land for  
5 industry. Was that one of your positions taken?

6 A Yes, it was.

7 Q Specifically, I refer you to P-37, which  
8 was marked at another time, and which is entitled "Land  
9 Use Regulation for Residential Land Supply, State of New  
10 Jersey, Department of Community Affairs." On Page seven  
11 I read the statement --

12 MR. SLOANE: Your Honor, could Counsel  
13 supply the witness with a copy.

14 This is P-37 in evidence.

15 Q "Although Middlesex County appears to  
16 have zoned an excessive amount of land for industrial use,  
17 this factor by itself does not appear to have reduced the  
18 County's net residential land supply to a point which could  
19 affect the housing shortage." Do you understand the  
20 language that I just read to you from the D.C.A. bulletin?

21 A Yes. Thoroughly.

22 Q Are you familiar with the conclusions  
23 in this bulletin?

24 A Yes.

25 Q And would it be a fair characterization to

1 say that this bulletin concludes among other things, that  
2 is, "Overzoning for industry takes away from commercial  
3 rather than residential use in this County?"

4 A No.

5 Q That is not a fair characterization as  
6 to what this bulletin concludes as opposed to your personal  
7 opinion?

8 A Would you reread the sentence, please?

9 Q "Although Middlesex County appears to have  
10 zoned an excessive amount of land for industrial use, this  
11 factor by itself does not appear to have reduced the  
12 County's net residential land supply to a point which could  
13 affect the housing shortage."

14 A I agree with that. By itself, it does not.

15 Q Is it also fair to say, and I will read  
16 Page Eight, that this is embodied in the conclusion? "The  
17 comparison reveals that although there is a phenomenon which  
18 might be termed overzoning for industry, this has not been  
19 reflected in a reduction in the availability of land for  
20 residential development but has been reflected in a smaller  
21 percentage of land for commercial development."

22 Are you familiar with that as a conclusion that  
23 was made by the Department of Community Affairs in P-37?

24 A Yes.

25 Q I show you a cover sheet of a document,

1 Mr. Erber, entitled "Jobs and Housing," apparently authored  
2 by the National Committee Against Discrimination in  
3 Housing, Inc., "Final Summary Reports on the Housing  
4 Component, March, 1972." This is a photocopy of the cover  
5 sheet. Are you familiar with this document which was  
6 supplied to Counsel during pretrial discovery?

7 A Yes, I am.

8 Q I'm going to read to you on immediate  
9 action recommendations from this document, item number two,  
10 as far as a recommendation by the National Committee  
11 Against Discrimination in the Housing. "A declaration of  
12 emergency by Governors of Connecticut, New Jersey and New  
13 York, suspending zoning ordinances in all municipalities  
14 with less than ten per cent of vacant land for multi-family  
15 use and with less than twenty-five per cent of all existing  
16 dwelling units in multi-family structures. Such a  
17 declaration would be justified under emergency powers to  
18 protect the public welfare from the effect of the housing  
19 crisis."

20 Were you familiar with that paragraph when it  
21 was included in the document I just mentioned?

22 A Yes, I was.

23 MR. BUSCH: Your Honor, could I please  
24 mark this exhibit as DEB-1?

25 THE COURT: DEB-1 for identification.

1 (DEB-1, photocopy of document entitled,  
2 Jobs and Housing, marked for identification.)

3 Q Mr. Erber, did you have anything to do  
4 with the authorship of the particular paragraph I just read?

5 A No, I did not. I had something to do with it.  
6 I didn't agree with all of the conclusions.

7 Q Okay. But you were aware of it when it  
8 was published?

9 A Yes, I was.

10 Q And were you aware that Counsel for the  
11 plaintiffs was circulating this document among the  
12 defendants?

13 A I was asked to send all of the things that I had  
14 written and that was one of them, but that particular  
15 paragraph is a statement of the Committee as a whole, which  
16 there were some parts of which I did not agree.

17 Q Is it your opinion that the Governor  
18 of the State of New Jersey has the right to suspend zoning  
19 ordinances in all municipalities?

20 MR. SLOANE: Objection, your Honor. Calls  
21 for a legal conclusion.

22 THE COURT: I'll sustain that.

23 Q I'm going to read another question to  
24 you, Mr. Erber, and ask you if you can give us your answer  
25 or impression as to the correctness of the question and the

1 answer you would suggest. "In seeking to encourage lower  
2 housing costs to accommodate low income purchasers and  
3 renters, how does the municipality resolve the dilemma  
4 that low income families generally require more bedrooms  
5 than upper income families, which in turn increases the cost  
6 of the construction in housing units?"

7 Have you ever had that question posed to you  
8 before?

9 A It has been posed to me but that is a question  
10 that arises in any type of housing planning.

11 Q Do you consider it a reasonable question  
12 or do you consider it a rather extreme type of approach to  
13 the problem?

14 A I think it's a reasonable question.

15 Q Do you concede that one of the problems  
16 facing municipalities and indeed planners is that somehow  
17 low cost housing has to be made available for persons who  
18 might tend to have larger families?

19 A Yes.

20 Q Is it ultimately your conclusion that  
21 if Federal and State funding is not available that  
22 municipalities must provide the funds for such housing?

23 A I think that some agency of government must supply  
24 the needs of large families.

25 Q And if that agency is not the Federal or

1 State or County, would it then have to be the municipality?

2 A Yes, to their share.

3 Q Do you concede that the low and moderate  
4 income families are those that may require larger units  
5 of space within which to live?

6 A I don't -- I couldn't really respond to the  
7 relationship except that having additional dependants puts  
8 a greater burden on the family budget and therefore in  
9 greater need.

10 Q Do you agree that there is a dilemma that  
11 low income families generally require more bedrooms than  
12 upper income families?

13 A I wouldn't say that that is a dilemma, no.

14 Q Would you say --

15 A It's a problem but not a dilemma. Dilemma indicates  
16 that you cannot solve it.

17 Q Aside from the semantics on the difference  
18 between problem and dilemma, do you agree that low income  
19 families tend to need more bedrooms than upper income  
20 families?

21 A That would have to be a statistical correlation  
22 because there are a very large number --

23 THE COURT: Answer the question, will you  
24 please, Mr. Erber. Do you agree or not?

25 THE WITNESS: I don't agree as put, no.



1 Busch.

2 MR. BUSCH: Well, I didn't understand  
3 the answer, your Honor.

4 Q Mr. Erber, you're generally familiar  
5 with what you would consider the adequate minimum floor area  
6 for people who would be living in this part of the country,  
7 are you not?

8 A Yes.

9 Q Would you say there is ever a time which  
10 would justify a minimum floor area for a family unit of  
11 1,550 square feet?

12 A Yes.

13 Q Would it be justifiable for a municipality  
14 to have 1,550 square feet as a minimum floor area in certain  
15 designated zones?

16 A No.

17 Q It would not be reasonable. Is that  
18 right?

19 A No.

20 Q I call your attention to P-37, which  
21 has been previously marked in evidence by the plaintiffs,  
22 Page Nineteen, the document entitled "Land Use Regulation,  
23 Residential Land Supply," and starting on Page Eighteen  
24 the municipality building size requirement is set forth,  
25 and, Mr. Erber, I show you a chart on Page Nineteen, which

1 on the left shows number of occupants from one to six,  
2 and dwelling unit floor area required, square feet, down to  
3 1,550. Would it be a fair reading of Page Nineteen that  
4 if there are six occupants a floor square area required  
5 would be 1,550 square feet?

6 A Yes, in a housing health ordinance.

7 Q I don't want you to characterize it.  
8 I ask you is that a fair reading of what I just read on  
9 Page Nineteen?

10 A Yes. That is a fair reading.

11 Q In fact, if a municipality were to  
12 designate minimum floor space by the number of occupants  
13 of that unit, would it not be reasonable for the  
14 municipality to say that when you have six occupants the  
15 minimum floor area should be 1,550 square feet?

16 A I'm not prepared to give that exact number as  
17 reasonable.

18 Q You do think it is reasonable?

19 A It could be reasonable, yes.

20 Q So is it fair to say that the basis in  
21 determining square footage at least in part should depend  
22 upon the number of persons who are intended to occupy the  
23 premises?

24 A Yes.

25 Q And here we've just identified P-37,

1 which indicates at least in the opinion of one branch of  
2 government if there are six occupants the minimum square  
3 footage can be 1,550. Is that right?

4 A That's right.

5 Q Now, you gave some testimony as to the  
6 region in which we live. Is that correct?

7 A Yes.

8 Q And it's your opinion that the region  
9 is Middlesex County?

10 A Well, the region is the New York Metropolitan  
11 Region.

12 Q The region is not Middlesex County?

13 A No.

14 Q And for the purposes of this case, you  
15 don't feel that Middlesex County is a viable region?

16 A For certain purposes it is.

17 Q Do you feel that the circulation of our  
18 media in this particular area has any bearing on definition  
19 of region?

20 A Might have bearing.

21 Q Do you feel, for example, that WCTC,  
22 which is a local radio station, shows its regional area  
23 exceeds the County, would that have a factor or be a factor  
24 to determine the people who consider themselves to be part  
25 of a region?

1 A For radio broadcasting, probably.

2 Q And The Home News publishing company  
3 showing that its region is still a different area and  
4 different towns and different counties, might that be  
5 relevant?

6 A Yes, for The Home News.

7 Q For what?

8 A For Home News, yes.

9 Q And the same for any other publication,  
10 for The News Tribune, which publishes in Woodbridge?

11 A Yes.

12 Q And would those factors have anything  
13 to do in your mind with the purposes of determining region  
14 for the purposes of this case?

15 A No.

16 Q Your feeling on region is that it should  
17 be tied among other things to the relationship between  
18 where people live and where people work. Is that correct?

19 A That's a very important consideration, yes.

20 Q And isn't it true that the documents  
21 which you marked and which were marked in evidence under  
22 your questioning last week show that the number of persons  
23 who reside in this County and who work outside of the County  
24 has continued to grow between 1960 and 1970?

25 A Yes.

1 Q And we have a job deficit, if you will,  
2 in 1960, between the number of persons who lived here and  
3 the number of jobs we had in the County. Is that correct?

4 A I -- we had a job deficit?

5 Q Yes. There was, in other words, there  
6 were fewer jobs in the County than there were residents  
7 in the labor force.

8 A I'd have to look at that exhibit again.

9 Q Can I assume that you cannot answer that  
10 question as to 1970, either?

11 Let me rephrase the question.

12 Isn't it also true that in 1970 we had more people  
13 in the resident labor force, that is people who live in  
14 the County and who also work, than we had jobs in the County?

15 A That's true, yes.

16 Q That is correct.

17 A Yes.

18 Q And that continued from 1960 to 1970,  
19 did it not?

20 A I believe that's true. Yes, sir.

21 Q So that, in other words, although you had  
22 charts and graphs showing certain things that may have to  
23 do with persons commuting into the County for work,  
24 we in fact did not increase the number of jobs vis-a-vis  
25 the number of persons working.

1 A I would have to look at those numbers again.

2 Q Bear with me for a moment.

3 I call your attention to P-66. P-66, the exhibit  
4 on the second page, indicates that in 1960 we had a  
5 128,705 in the labor force. Is that right?

6 A Right.

7 Q And we had total employed in the work  
8 force a 102,560. Would that be correct?

9 A That's correct.

10 Q So that there would be a deficit of some  
11 26,000 between the number who were working in the County  
12 and the number who lived in the County who also worked.

13 A That's true.

14 Q In other words, if we were to have an  
15 equality of the numbers of persons working and the number  
16 of jobs in 1960, that would have had to have been an increase  
17 of 26,000 jobs for the County. Would that be correct?

18 A That's correct.

19 Q If we go to 1970, we see that there were  
20 230,817 in the resident labor force, that would be persons  
21 who live in the County and also work. Correct?

22 A Work anywhere, yes.

23 Q And work anywhere. But we had only  
24 240,380 jobs in the County. Is that correct?

25 A That's correct.

1 Q So that wherein 1960 we were 26,000 jobs  
2 short, in 1970 it went up to 29,000 jobs. Is that  
3 correct?

4 A That's right.

5 Q And doesn't that indicate to a certain  
6 extent that we are an out-commuting County, that we send  
7 our people to other areas to work?

8 A I believe that every County is, yes.

9 Q But some counties would have an  
10 equality and some counties would have more jobs than  
11 people, would it not? More jobs than people working.

12 A It may. I don't know, but it may be, may be  
13 Hudson County.

14 Q In any event, is it fair to say, based  
15 on looking at P-66, that the number, the deficit, between  
16 persons in the work force and jobs in the County actually  
17 increased between 1960 and 1970?

18 A That's true.

19 Q Now, with regard to the number of  
20 building permits that were referred to, and I believe that  
21 it would be the annual reports showing by County, and I  
22 believe it was P-90, which is the supporting or source  
23 document for P-63, but in any event the document is  
24 entitled "The State of New Jersey Residential Construction  
25 Authorized by Building Permits."

1 P-63 showed in five-year intervals how the average  
2 annual number of building permits had gone up from a period  
3 of 3,673 from '51-'55, to a peak in the first five years  
4 of the 60's and then back down again for the first five  
5 years in the '70's or four years of the '70's. Is that  
6 right?

7 A That's right.

8 Q Did you make any attempt to correlate  
9 the building permits in Middlesex County with the regional  
10 picture which shows up in P-63?

11 A By regional, which region do you mean?

12 Q I mean the region that is referred to  
13 in P-63, which includes counties such as Ocean and  
14 Monmouth and the other counties shown on this document.

15 A No, I did not.

16 Q If you look through P-90, would it  
17 surprise you to find that Middlesex County was the top  
18 county in the mid-60's, '65, '66, '67?

19 A I wouldn't have any particular reaction to that.

20 Q Well, are you generally aware of the  
21 growth patterns of New Jersey in the 1960's?

22 A Yes.

23 Q And wasn't it in the mid-1960's that  
24 Middlesex took off and had its greatest spurt of growth?

25 A That's not what the housing start figures show to

1 me.

2 Q They do not show that to you?

3 A No.

4 Q Isn't it true that it's almost nationally  
5 known by people in the area that Ocean County has been the  
6 area that has been growing fastest since 1968?

7 A That's true.

8 Q And that Ocean County is one of the  
9 fastest --

10 MR. SLOANE: Your Honor, objection. Ocean  
11 County is not on trial here.

12 THE COURT: I'll sustain that.

13 MR. BUSCH: Your Honor, if you would hear  
14 me out on that. Mr. Erber has attempted to prove  
15 that somehow through land costs or suburban  
16 zoning the number of housing starts and building  
17 permits in this County has dropped since the 1960's.  
18 I think that that can be tied into the larger  
19 regional picture, where land costs are cheaper  
20 further out and the housing can be made available  
21 at a lower price, and Ocean County, while not on  
22 trial in this case, is obviously a factor in this  
23 case.

24 THE COURT: Objection sustained.

25 Q Would it be fair to say, Mr. Erber, that

1 land closer into the core of Metropolitan New York, open  
2 land, would tend to be more expensive than that land which  
3 is further out?

4 A Yes.

5 Q Would it be fair to say that land in  
6 Ocean County is further from the core area of any  
7 Metropolitan area than land in Middlesex County?

8 A Yes.

9 Q And would it then also be true that land  
10 generally, vacant land, in Ocean County --

11 MR. SLOANE: Objection, your Honor.  
12 Ocean County again.

13 THE COURT: I'll sustain that objection.

14 Q I call your attention to P-56, entitled  
15 "Impact of Urbanization, Metropolitan Regional Gradients  
16 for Selected Counties." Who selected the counties that  
17 appear on this document?

18 A I did.

19 Q And the four counties that you have  
20 produced for the Court to examine are Hudson, Essex, Union  
21 and Middlesex. Is that right?

22 A Yes.

23 Q And you're aware that neither Essex nor  
24 Hudson in any way is adjacent to Middlesex. Is that  
25 correct?

1 A Right.

2 Q And you were also aware that Monmouth and  
3 Somerset are adjacent to Middlesex.

4 A Yes.

5 Q Are you also aware of the relative  
6 densities in the Counties of Hudson, Essex and Union  
7 compared to Middlesex?

8 A Yes.

9 Q Is it fair to say that they are far more  
10 dense than Middlesex?

11 A They are in gradients of density, yes.

12 Q Aside from any word like gradient, would  
13 you say that in pure arithmetic the number of persons per  
14 square mile is far more in Essex, Hudson and Union than  
15 Middlesex?

16 THE COURT: You need not answer that.

17 Q You didn't put on that chart Somerset  
18 and Morris, did you?

19 A No.

20 Q And Somerset and Morris have a much  
21 higher per capita income than Middlesex, do they not?

22 MR. SLOANE: Objection.

23 THE COURT: I'll sustain that objection.

24 MR. BUSCH: Your Honor, it appears that

25 Mr. Erber has chosen counties that make his strongest

1 case and have not attempted to show the other  
2 counties that may have some bearing on this case.

3 MR. SLOANE: Your Honor, I object. Counsel  
4 is testifying.

5 Q You chose Hudson County for P-56, which  
6 has a median family income of \$9,696. Is that right?

7 A Yes.

8 Q And are you aware of the median income  
9 of Morris County?

10 MR. SLOANE: Your Honor, objection.

11 THE COURT: Why is that relevant to this  
12 case?

13 The objection is sustained.

14 MR. BUSCH: I assume you don't want me  
15 to answer your question at this point as to why  
16 it's relevant.

17 THE COURT: No.

18 Q Mr. Erber, if the Court were to take  
19 all of the figures that you've given and at a later point  
20 in this trial come up with a remedy, would it not be  
21 necessary to change existing laws in the State of New Jersey?

22 MR. SLOANE: Your Honor, objection. Mr.  
23 Erber is not an attorney.

24 THE COURT: I'll sustain that objection.

25 Q You have conceded that if all of your

1 figures were put into a clearing house and a plan came up,  
2 the plan would have to result in subsidies. Is that  
3 correct?

4 A I have not testified to that, but I think that  
5 subsidies are available and necessary, yes.

6 Q Especially necessary. Is that correct?

7 A Yes.

8 MR. BUSCH: Nothing further.

9 THE COURT: All right.

10 Mr. Powell.

11 (Douglas S. Powell testifies.)

12 CONTINUED CROSS EXAMINATION OF ERNEST ERBER BY MR. PLECHNER:

13 Q Mr. Erber, I believe we left off with  
14 a discussion of document 61A, B and C, which are the so-  
15 called Spread City documents.

16 Let me give them to you for your perusal.

17 Now, sir, document 61A is your summary of materials  
18 that you have found in 61B and C. Is that correct?

19 A That's true.

20 Q And the zoning of vacant land numbers  
21 come from primarily 61C, which is a report of the State of  
22 New Jersey, Department of Community Affairs. Is that  
23 correct?

24 A 1970, yes.

25 Q 1972 is the date on it, April, 1972?

1 A Yes. But I believe the data was 1970.

2 Q And the data is from 1970.

3 A Right.

4 Q Do you know from where this data is  
5 obtained?

6 A From a study of vacant land in the various  
7 counties that they studied.

8 Q But do you know how they determine what  
9 land was vacant in those counties?

10 A I understand it was by aerial photography, U.S.  
11 Geologic maps and examination of local zoning ordinances.

12 Q But you don't know?

13 A I wasn't part of that study, no.

14 Q Now, did you make any independent studies  
15 or were you involved in any independent studies to arrive  
16 at these figures?

17 A No, I did not.

18 Q Now, sir, where they referred to acres  
19 of total vacant land and where you refer to acres of total  
20 vacant land, do you know whether that land is buildable?

21 A Land, they say so in their report.

22 Q Could you tell me where they so state  
23 that in their report?

24 A Well, I have -- what I have before me are only the  
25 tables and I do not have that portion.

1 Q Has that portion been entered into  
2 evidence?

3 A Yes, it has.

4 Q What's the name of that?

5 A "Land Use Regulation, Residential Land Supply."  
6 It's a blue-covered book.

7 THE COURT: P-37.

8 Q I show you P-37. Could you show me where  
9 it says that on P-37?

10 A Yes, on Page Five.

11 Q Now, this indicates that they are  
12 defining net land supply by removing undevelopable acreage.  
13 Is that correct?

14 A Yes.

15 Q Do you know how they determined what  
16 undevelopable acreage was? In other words, how they  
17 physically determined that.

18 A Yes. They said the developed and undeveloped  
19 acreage was calculated by superimposing on a base map of  
20 the area, a, the existing development; b, the land with  
21 excessive slope, twelve per cent or more; c, what lands;  
22 d, large bodies of water; and e, Federal, State and  
23 Municipal land and then aggregating the areas to get a  
24 total remaining land which is suitable for development.

25 Q And do you know if there was any actual

1 physical inspection of any of these lands to determine for  
2 example what lands are wet lands and what lands are not?

3 A Not to my knowledge.

4 Q So, sir, these were the figures for 1970.

5 Is that correct?

6 A Yes.

7 Q Have you done anything to up date these  
8 figures since 1970?

9 A No, I have not.

10 Q Have you made any examination of the  
11 zoning ordinances within the County of Middlesex since 1970?

12 A No, I have not.

13 Q And you have no figures then for the  
14 County of Middlesex with regard to zoning for say 1975,  
15 1976?

16 A I do not.

17 Q Do you have any knowledge as to whether  
18 or not there have been any substantial changes since 1970?

19 A I do not.

20 Q Now, sir, I call your attention to  
21 Exhibit P-66, which deals with housing and journey to work.  
22 Now, with regard to that particular exhibit, have you made  
23 any determination or do you have available any information  
24 as to what types of jobs people are journeying to, both in  
25 and out of the County?

1 A No, I have not.

2 Q Wouldn't it make a difference to your  
3 conclusions as to housing needs and location of housing  
4 needs what types of jobs were involved?

5 A I only dealt with gross factors. I don't know  
6 that it would make a difference. If I had accurate data,  
7 it might, yes.

8 Q By that I take it to mean that you don't  
9 have accurate data. Is that correct?

10 A On the kinds of jobs that people journey to, no.

11 Q Now, as a planner, don't you think it's  
12 important to develop data as to what types of jobs people  
13 are planning to -- are driving to, when you consider their  
14 housing needs?

15 A It depends on what scale. If you say a large scale,  
16 yes -- rather, no. A large scale, no, but a very small  
17 scale, yes.

18 Q Well, for instance, people traveling  
19 from Middlesex County, New Jersey, to New York City would  
20 generally be white-collar workers or people of that nature,  
21 wouldn't they?

22 A Yes.

23 Q And low and moderate income families  
24 would only travel generally a short distance to work. Isn't  
25 that correct?

1 A A shorter distance, yes.

2 Q Well, a relatively shorter distance.

3 Is that not correct?

4 A No. I have to say no.

5 Q Are you familiar with Doctor Sternleib's  
6 (phonetic) work on the subject?

7 A Yes.

8 Q And doesn't Doctor Sternleib determine  
9 that people in the low and moderate income bracket generally  
10 don't travel any more than about fifteen minutes to work?

11 A No. He doesn't say that. He says there is a  
12 tendency on the average for people of lower income to travel  
13 a shorter distance than people of higher income, and I  
14 agree with that.

15 Q And doesn't he make that a circle around  
16 fifteen minutes or fifteen miles?

17 A As an average, yes. Some more and some less.

18 Q Well, naturally, the average, most of them.

19 A The average.

20 Q The majority, would you say?

21 A I wouldn't have knowledge of what the majority  
22 do.

23 Q Well, what do you mean by average?

24 A Well, if you take a range of a hundred categories  
25 and if many of them travel five minutes and many travel an

1 hour, the average would still be in the middle. So the  
2 average is just the adding up of all the trips and dividing  
3 by the number of trips. So there is a range. Now --

4 THE COURT: You've answered it.

5 Q And you don't know what the figures are  
6 in numbers of people or percentages of people then. Is that  
7 correct?

8 A No. I don't know the proportions.

9 Q Now, the document that is the last in the  
10 packet, P-66, entitled Table B2 or A2, "Preliminary 1970  
11 Census Journey to Work, Including Outside the Region," do  
12 you have that in front of you?

13 A Yes, B-2.

14 Q Hasn't there been a more recent document  
15 issued with somewhat up dated figures for the same year?

16 A I understand there has.

17 Q Do you have that available to you?

18 A I do not.

19 Q Did you examine the more recent document  
20 for changes?

21 A I have not seen the document.

22 Q Is it your intention sometime during  
23 the course of the trial to offer a more recent document  
24 or maybe I should ask your Counsel that.

25 MR. SEARING: No.

1 MR. SLOANE: It is not.

2 Q Now, sir, do you have any figures here on  
3 the number of people traveling outside of Middlesex County  
4 to work in Middlesex County?

5 A Yes.

6 Q And could you tell us where that is?

7 A That's in the exhibit with the table titled "Where  
8 Middlesex County Employed Work Force Lives."

9 Q And that would be the second page of P-66.

10 A Yes.

11 Q And upon what are you basing those figures?

12 A On the computation of the 1960 and 1970 Journey to  
13 Work data, which is attached.

14 Q Okay. Now, calling your attention again  
15 to that table, preliminary 1970 Census, that is the basis  
16 for your 1970 figures. Is that correct?

17 A That's true.

18 Q Now, looking at Somerset County, New  
19 Jersey, how many people commute to work from Somerset County  
20 into Middlesex County?

21 A I think we went through this on previous cross,  
22 but I think I can find it again.

23 I think that, as I recall, the answer is that  
24 there is nothing shown for that period.

25 Q For Somerset County?

1 A I'm sorry. The number from Somerset who commute  
2 into Middlesex, yes. That's 12,885.

3 Q Now, do you have any knowledge of where  
4 in Somerset these people commute from?

5 A No, I do not.

6 Q Now, if it were to be shown that a large  
7 percentage of those people commuted from Franklin Township,  
8 would this have any impact on your sense of region?

9 A No.

10 Q So I ask you do you believe that Franklin  
11 Township is part of the region in which Middlesex County  
12 is located?

13 A Yes. The New York Metropolitan Region.

14 Q And for fair-share housing formulae, do  
15 you think that Franklin Township should be considered a  
16 part of Middlesex County's region?

17 MR. SLOANE: Objection. Beyond the scope  
18 of direct examination.

19 THE COURT: I'll sustain that.

20 Q And considering job availability in the  
21 Middlesex County region, do you think that Franklin  
22 Township should be considered part of Middlesex County?

23 A For job availability, yes. In terms of persons  
24 living in Franklin Township, I believe this is an important  
25 consideration.

1 Q And also in consideration of people  
2 living in Middlesex County and commuting to work in Franklin  
3 Township, too. Is that correct?

4 A Yes.

5 Q As a matter of fact, there is a lot of  
6 transfer of people, some going from Franklin into Middlesex  
7 and some going from Middlesex into Franklin. Isn't that  
8 correct?

9 A I wouldn't know.

10 Q Well, you're familiar with Central Jersey,  
11 aren't you?

12 A Yes.

13 Q And you know in certain areas, for  
14 instance, one side of Route 27 is Franklin Township and  
15 the other side of Route 27 is Middlesex County. Is that  
16 correct?

17 A Yes.

18 Q And in those instances some people are  
19 simply crossing the street to go to work, aren't they?

20 A That's true.

21 Q And they would be shown in these figures  
22 as traveling to work.

23 A That's true.

24 Q And there's a rather heavy exchange of  
25 people back and forth in that category, is there not?

1 A For Somerset County, yes.

2 Q In other words, the number of people that  
3 commute from Middlesex to Somerset is substantial as well  
4 as the other way around. Is that correct?

5 THE COURT: Do you want to answer that  
6 question?

7 THE WITNESS: I have to find the number.

8 A It's 7,662.

9 Q So that is substantial in comparison  
10 with the people going the other way, isn't it?

11 A It's about sixty per cent.

12 Q And I may have asked you this, but do you  
13 have any figures as to what towns people are commuting to  
14 work out of the County from?

15 A Towns, no, only counties.

16 Q So you wouldn't be able to tell me,  
17 for example, how many people from the Borough of Helmetta  
18 commute to Somerset County.

19 A No, I couldn't.

20 Q Do you think as far as job location,  
21 transportation to work and transfer of people from county  
22 to county that there are different -- there's a different  
23 regional basis for different areas of Middlesex County?

24 A The region I have referred to is the New York  
25 Metropolitan Region and I would have to assume that they are

1 all part of that region and its interchange of jobs and  
2 home locations of work areas.

3 Q Would you subdivide the New York Metropolitan  
4 Region into any kind of subregions?

5 A Yes. Northeastern New Jersey is a subregion.

6 Q And do you divide further Northeastern  
7 New Jersey?

8 A Yes, by counties.

9 Q And would you divide it further than by  
10 counties?

11 A If I were a county planner I might.

12 Q Well, you are a planner and you are  
13 testifying on a planning case. As such, would you divide  
14 it?

15 A Yes. If I were doing a county plan I would work  
16 within groups of municipalities in different parts of the  
17 county.

18 Q And how would you group those municipalities?

19 A I wouldn't have the expertise to do that in  
20 Middlesex without first doing a study.

21 Q And you have not done such a study, I  
22 take it.

23 A I have not.

24 Q What criteria would you use in grouping  
25 various municipalities?

1 A I would use the degree of development, the extent  
2 of employment, its relationship to labor force, transporta-  
3 tion networks. Largely those.

4 Q And those would definitely affect housing  
5 needs, would they not?

6 A In measure, yes, depending on the distances that  
7 are involved and a large or small county.

8 Q Well, in a county the size of Middlesex.

9 A Yes.

10 Q So that if you were going to tell us  
11 within Middlesex County where new housing should be located,  
12 you would have to make such a study, would you not?

13 A I would have to consider that Middlesex is a  
14 common housing and labor market and that these would have  
15 only very marginal effects upon the basic alignment of  
16 regions within the county.

17 Q Well, if you had to travel in terms of  
18 time and distance a substantial space for a job in a low  
19 or moderate income category, you probably wouldn't locate  
20 much low or moderate income housing in that area of the  
21 county, would you?

22 A I would think that I would have to relate to the  
23 existence of jobs and since more than two-thirds of all  
24 jobs are people based, I would relate the number of jobs  
25 there to the population.

1                   Q           By people based, are you saying then that  
2 if we take a lot of people and put them in an area the jobs  
3 will come into the area for the people?

4                   A           No. Given a certain amount of population that  
5 population must be served by jobs and without regard to any  
6 external markets, and that there must be people available  
7 to fill those jobs.

8                   Q           But don't you need the jobs before you  
9 locate the people?

10                  A           No.

11                  Q           Do you think it would be wise, for  
12 instance, if we were able to do so to go down in the Jersey  
13 pine barrens and say locate fifty thousand people there  
14 with no jobs within fifty or a hundred miles of them?

15                  A           No.

16                  Q           So basically you need jobs close by,  
17 don't you?

18                  A           Close by, right.

19                  Q           And within easy commuting distance for  
20 the individual based on his ability to pay for transporta-  
21 tion to and from that job. Isn't that correct?

22                  A           That plus the fact that it is a national policy  
23 objective to reduce travel to work in the interest of  
24 savings in energy and avoiding pollution.

25                  Q           Now, do you know where the jobs are

1 located in Middlesex County?

2 A Only generally.

3 Q You haven't made a study of the  
4 industrial location or development in the County?

5 A No. Except that it's shown in the master plan  
6 of the County.

7 Q Well, what does that show about the jobs  
8 in Middlesex County?

9 A They are prevalent throughout the County.

10 Q Well, does it show where most of the jobs  
11 that hire people in the low and moderate income area are  
12 located?

13 A I didn't note that.

14 Q I'm sorry. I didn't hear you.

15 A I didn't note that in the plan.

16 Q Don't you think that is an important  
17 statistic to know if you're trying to locate low and  
18 moderate income housing?

19 A I think that the jobs that low and moderate income  
20 people fill are largely in retail trade, service, whole-  
21 saling and only partially in manufacturing.

22 Q Okay. How would you break it down?

23 A Break it down percentage-wise?

24 Q Uh-hum.

25 A I believe that there are a high percentage of jobs

1 available for unskilled people in retail and service and  
2 wholesale trades proportionate to the total number of  
3 employed in those fields than is the case in manufacturing.

4 Q But we're looking to locate people and  
5 we're not talking about the proportionate number of people  
6 involved in the fields. We're talking about gross numbers  
7 of jobs in the low and moderate income sphere, aren't we?

8 A If you say so, yes.

9 Q Well, it's not what I say; you're the  
10 expert.

11 A Well, you're setting the priorities. Yes, if  
12 that's what we're discussing.

13 Q Do you have any figures to determine  
14 where the largest number of low and moderate income jobs  
15 or unskilled and semi-skilled jobs are located in Middlesex  
16 County?

17 A Oh, it's my understanding of what I've read that  
18 they are spread throughout the County somewhat unevenly but  
19 available in all parts of the County.

20 Q Now, what is it that you've read that  
21 led you to that conclusion?

22 A The County's master plan studies.

23 Q Could you refer me to any particular study  
24 or table that shows that?

25 A I would refer you to the volume on the economic

1 base of Middlesex County.

2 MR. PLECHNER: Is that in evidence?

3 MR. SEARING: P-9, I believe.

4 May I show Mr. Erber this exhibit?

5 MR. PLECHNER: Sure.

6 THE COURT: What number?

7 MR. SEARING: Your Honor, that's what  
8 we're trying to determine.

9 A I think several of them, Report No. 1, which I  
10 think is not yet marked into evidence; Employment Distribu-  
11 tion, April, 1968, is not in evidence; the Report No. 4,  
12 P-41, which is called "The Future Economy"; Report No. 9,  
13 Land Use Inventory Analysis, P-43; and P-40, which is the  
14 Interim Master Plan.

15 Q Now, you say these three documents  
16 indicate that jobs for low and moderate income families  
17 or persons I should say are rather evenly distributed  
18 throughout the County?

19 A I didn't say that.

20 Q Well, what did you say then?

21 A I said that they are available throughout the  
22 County.

23 Q Well, what is the distribution of them  
24 throughout the County?

25 A I don't know that.

1 Q So you don't know. All you know is that  
2 there are some jobs everywhere for low and moderate but  
3 it's possible that the majority might be in one area and  
4 very few in another area of the County. Is that correct?

5 A That's true.

6 Q And those documents don't indicate to  
7 you where in the County those jobs are located.

8 A I don't recall that they do, yes.

9 Q Isn't it possible to get statistics  
10 from the State of New Jersey with regard to location by  
11 municipality of covered jobs?

12 A I believe it is.

13 Q And you get that through the New Jersey  
14 Division of Employment Security, wouldn't you?

15 A I believe so, yes.

16 Q And that would show you at least where  
17 jobs are located within the County, wouldn't it?

18 A Where covered jobs are located.

19 Q Where covered jobs are located. That's  
20 correct.

21 Did you make any effort to obtain this information?

22 A No, I did not.

23 Q Didn't you think this information  
24 important as to where housing should be located?

25 A I didn't make an analysis of the internal distribu-

1 tion within the County.

2 Q Of what?

3 MR. LEFKOWTIZ: I'm sorry. We can't  
4 hear the witness.

5 Would you give the answer again?

6 THE WITNESS: I didn't analyze the  
7 internal distribution of employment within the  
8 County.

9 Q You did analyze the internal distribution  
10 of land within the County and housing within the County,  
11 didn't you?

12 A I took the figures of the Spread City for those,  
13 yes.

14 Q Within the County.

15 A The total, the aggregates, yes.

16 Q And don't you think it's important  
17 to where we locate housing within Middlesex County to  
18 locate where jobs are located within Middlesex County?

19 MR. SLOANE: Objection. Counsel is  
20 belaboring the point. Mr. Erber has already  
21 answered the question several times.

22 THE COURT: I'll sustain that objection.

23 Q Would it surprise you to learn that some  
24 very, very large municipalities in the County have very,  
25 very few jobs available?

1 A No.

2 Q Incidentally, did you make any study with  
3 regard to your data furnished in P-66 as to how these  
4 people commuted to and from their jobs outside Middlesex  
5 County?

6 A No, I do not.

7 Q They would have to generally be located  
8 near major arteries of transportation, would they not,  
9 most of them?

10 A Highways or rail, yes, or bus lines. Yes.

11 Q And as the income level goes down, the  
12 necessity of public transportation as opposed to private  
13 automobiles goes up. Isn't that correct?

14 A Yes.

15 Q In fact, you did make a study as to how  
16 many people in what job category owned their own  
17 automobiles, didn't you?

18 A I looked at the Tri-State Data for that, yes.

19 Q And that was part of your preparation  
20 for trial here, wasn't it?

21 A Yes.

22 Q And that showed what with regard to  
23 income and transportation.

24 A To me, that the low income people owned a  
25 surprisingly -- a surprisingly high percentage of low income

1 people owned their own cars, especially outside of New  
2 York City.

3 Q What percentage?

4 A I would have to look at the table.

5 Q Do you know where that table is?

6 A It's one of the Tri-State exhibits. I think it  
7 deals with automobile availability.

8 Q Would that be P-78, "Automobile Availability"?

9 A That would be one of them. I believe that there  
10 are two of them of that sort but that is one of them.

11 Q You had a table, didn't you, on this?

12 A Not on automobile availability but there is a table  
13 attached to a white sheet and the white sheet is marked  
14 interim technical report by Tri-State, and it deals with --  
15 it has a more involved title but it has something about  
16 automobile availability in it.

17 THE COURT: P-23.

18 THE WITNESS: Yes, your Honor. "Trans-  
19 portation: The Link Between People and Jobs."  
20 Yes.

21 Q Now, in the low and moderate income  
22 group, you've broken this down into basically two categories,  
23 haven't you, or someone has?

24 A Yes.

25 Q Whose table is this?

1 A Tri-State table.

2 Q And that table indicates that people in  
3 the low and moderate income group under 4,000, sixty-seven  
4 per cent, 67.4 per cent, have no automobiles. Is that  
5 correct?

6 A No. This is in --

7 Q Well, perhaps you can interpret that  
8 for us.

9 A Yes. What this says is how many -- what per cent  
10 of the labor force resident in Middlesex County that has  
11 no automobile and earns under 4,000 is employed in Middlesex  
12 County, and that figure is 67.4 per cent.

13 Q Okay. And having one automobile or more.

14 A Of those in the labor force in Middlesex County  
15 under 4,000 who have one or more automobiles, seventy-two  
16 per cent are employed in Middlesex County.

17 Q Now, we don't know from these tables,  
18 then, do we, how many people in those categories or per-  
19 centage of people in those categories have or do not have  
20 automobiles. Is that correct?

21 A No. Not from this table.

22 Q Do we know it from any of the tables  
23 that we have in evidence?

24 A I believe the one on auto availability.

25 Q That's P-78.

1 P-78, however, does not go into it based on  
2 income, does it?

3 A No, it does not.

4 Q So we don't have any figures to show how  
5 many people in the low and moderate income level have  
6 automobiles, do we?

7 A Not in these two sets, no.

8 Q Now, I call your attention next to P-67  
9 and P-68. These two documents show job availability in  
10 wholesale and retail establishments, do they not?

11 A Yes.

12 Q Now, what is the source of those figures?

13 A The Census of Retail Trade and Census of the  
14 Wholesale Trade.

15 Q Now, do those Censuses give you a breakdown  
16 as to the income level of those jobs?

17 A No, they do not. Not to my knowledge.

18 Q Now, also in arriving at these particular  
19 figures certain municipalities within Middlesex County  
20 are excluded from the figures, are they not?

21 A Not to my knowledge.

22 Q Well, I call your attention to the note  
23 on the bottom.

24 A Yes. The note refers to the fact that there's  
25 no breakdown for certain municipalities but they are

1 included in the County total.

2 Q I see. Well, how can they be included  
3 in the County total if they only list cities of 5,000 or  
4 more population?

5 A They give it for the whole County and for cities  
6 of 5,000 or more.

7 Q Now, do you have any way of determining  
8 where these jobs are located within the County?

9 A Only as between New Brunswick, Perth Amboy and  
10 the rest of the County.

11 Q And you haven't made a study of the  
12 location of the rest of the others.

13 A No, I have not.

14 Q Now, P-69 does basically the same thing  
15 with regard to manufacturing, does it not?

16 A Yes.

17 Q Now, do you know what companies, what  
18 types of companies, are included in that job survey?

19 A I believe that a company has to add value by  
20 manufacture to be included in the term manufacturing as  
21 designated by the Census.

22 Q In other words, if it were a laboratory,  
23 it would not be included in there?

24 A If it were a laboratory attached to a manufacturing  
25 establishment, yes.

1 Q It would. But if it were a laboratory  
2 not attached, it would not?

3 A No.

4 Q Is that accurate?

5 A That's right.

6 Q And again as in the other table you  
7 don't have any breakdowns by municipalities, do you?

8 A No. Again only as to New Brunswick, Perth Amboy  
9 and the rest of the County.

10 Q And also in doing this you didn't make  
11 any breakdown as to income levels of jobs within those  
12 industries?

13 A Only insofar as the term production employees is  
14 separated out by a lower income.

15 Q Lower than what? What is the total?

16 A The total employees, yes.

17 Q Do you have any knowledge of that or is  
18 that just a guess?

19 A Well, that's just a guess.

20 Q And you don't have any knowledge as to  
21 which of these industries are located where in the County,  
22 do you?

23 A No, I do not, except as given for the cities.

24 Q Incidentally, you don't have any breakdown  
25 as to the cities as to how those job salaries compare with

1 job salaries in the County, do you?

2 A No, I do not.

3 Q I call your attention to Exhibit P-70,  
4 "Distribution of Multi-Family Housing Units Between New  
5 Brunswick, Perth Amboy and the Rest of Middlesex County in  
6 1970."

7 Did you put together that table?

8 A Yes, I did.

9 Q Now, that table purports to show the  
10 number of multi-family units within the County. Have you  
11 made any determination there as to what types of units  
12 these multi-family units are?

13 A No, I have not.

14 Q And you don't know whether they are in  
15 two-family houses or whether they are in garden apartments  
16 or high-rise apartments?

17 A No. They would all come under the definition of  
18 multi-family.

19 Q Have you made any studies there as to  
20 the rental requirements of those houses?

21 A No, I have not.

22 Q Now, since 1970 there has obviously been  
23 a good deal of residential construction in Middlesex County.  
24 Have you at any time studied these figures and taken them  
25 into consideration in arriving at your chart?

1 A Only insofar as some of my charts, I believe, go  
2 through 1973.

3 Q And have you any place compiled all of  
4 this material into a single usable form or document?

5 A I think all my documents are usable but they are  
6 not in one single document, no.

7 Q What does this particular document  
8 indicate as to housing in Middlesex County in 1976, and by  
9 this I mean P-70?

10 A For '76 it would assume that what changes might  
11 have taken place could not have been drastically different  
12 than as in 1970 because the number of housing starts didn't  
13 indicate a significant increase. On the contrary, there  
14 was a decrease.

15 Q Now, you base that on your chart that  
16 you showed us the other day from Trenton that showed there  
17 was no new multi-family housing constructed since 1970  
18 in Madison Township, that there was none in South Brunswick  
19 and other areas, didn't you?

20 MR. SLOANE: Objection, your Honor. That's  
21 not a characterization of what Mr. Erber testified.

22 A That's not what I testified.

23 MR. SLOANE: He did not testify there  
24 was no new construction. He testified there was  
25 no new building permits issued.

1 THE COURT: I think that probably is so.

2 Q Okay. Let me ask you what did you testify  
3 to?

4 A I testified to the issuance of building permits  
5 which resulted in construction over a period sometime of  
6 three or four years thereafter.

7 Q And you say from that, and again you got  
8 those figures from the charts that you received from Trenton,  
9 that showed no new building permits issued in Madison  
10 Township, South Brunswick and a number of other communities  
11 that we discussed the other day, from 1970 on. Is that  
12 correct?

13 A No.

14 Q Well, where did you get it from?

15 A I got them from Trenton but they didn't show that.

16 Q Well, I think we went over this the other  
17 day and you indicated that for the year '70, '71, '72, '73  
18 and '74 those charts showed as to Madison Township no  
19 building permits for multi-family housing.

20 A For multi-family, right.

21 Q And the same thing was true with regard  
22 to South Brunswick Township. Isn't that so?

23 A I don't recall that. Perhaps.

24 Q Now, those are the charts that you're  
25 basing your assumption on that the figures on P-70 wouldn't

1 be substantially different today. Isn't that correct, sir?

2 A Yes.

3 Q And now if those charts were inaccurate  
4 so would your conclusion be. Isn't that correct?

5 A To the extent they were inaccurate.

6 Q And if in fact substantial new housing  
7 were constructed between 1970 and 1976 that would sub-  
8 stantially alter the significance of P-70, would it not?

9 A Substantially, I would have to -- in my definition  
10 of substantial, yes.

11 Q But you have made no effort to obtain  
12 those figures. Is that correct?

13 A No, I haven't.

14 Q Now, I next call your attention to Exhibit  
15 P-75. Now, this relates to median income of families and  
16 unrelated individuals. Isn't that correct?

17 A Yes. That's correct.

18 Q And you based that on the table 39 in P-50A.  
19 Isn't that correct?

20 A Yes, sir.

21 Q Now, I call your attention to the figure  
22 concerning the Township of Madison, which you have as your  
23 highest median income community.

24 Is that figure taken from P-38?

25 A Yes, it is.

1                   Q           Perhaps you could look at P-38 on the  
2 line of Madison Township and show me where you got the  
3 figure \$14,837 for 1970.

4                   A           It's evidently incorrect.

5                   Q           It's incorrect. What is the correct  
6 figure?

7                   A           According to this table, it's \$12,116.

8                   Q           So it's substantially lower, is it not,  
9 than the figure that is on your table?

10                  A           That's true.

11                  Q           It's substantially lower?

12                  A           Yes, sir. I answered yes.

13                  Q           Which would be the correct figure?

14                  A           According to this, it would be \$12,116.

15                  Q           But I mean that is the correct figure,  
16 not the figure on P-75 then. Is that right?

17                  A           That's correct.

18                  Q           Now, p-75 indicates municipalities in  
19 Middlesex County ranked by median income of families and  
20 unrelated individuals. Actually, that's not a correct  
21 heading for that, is it? It should be just by families,  
22 shouldn't it?

23                  A           Well, if taken from this -- from the table on  
24 P-38, then it would be by families and unrelated individuals.

25                  Q           Well, no. Aren't there two separate

1 breakdowns on 83, one for families and one for unrelated  
2 individuals?

3 A Yes.

4 Q And the figures you took are for families,  
5 aren't they?

6 A That's true.

7 Q So that then the heading should be  
8 municipalities in Middlesex County ranked by median income  
9 of families, period, shouldn't it?

10 A That would be true, yes.

11 Q Now, the table also shows on Page 38 a  
12 column for mean income, does it not?

13 A Yes.

14 Q And you didn't take that into consideration  
15 in arriving at your table, did you, or your conclusions?

16 A No.

17 Q Now, for instance, certain municipalities  
18 would be ranked somewhat differently if you lined them up  
19 by mean income. Isn't that correct?

20 A That's true.

21 Q For instance, the Borough of Helmetta  
22 would have a lower mean income than either New Brunswick  
23 or Perth Amboy, wouldn't it?

24 A Helmetta?

25 Q Helmetta.

1 A Yes.

2 Q And that would also be true as to un-  
3 related individuals' income, would it not, with regard to  
4 the Borough of Helmetta and Perth Amboy, New Brunswick? --  
5 I'm sorry. No. New Brunswick would be lower but Perth  
6 Amboy would be higher. Am I correct?

7 A Yes.

8 Q Now, sir, calling your attention again  
9 to P-75, the figures available for 1960 and 1950, at least  
10 the figures that you studied, do not include all the  
11 municipalities in the County. Is that correct?

12 A For 1960 and '50?

13 Q Right.

14 A That's true.

15 Q The Borough of Helmetta being one that  
16 is not listed on either 1960 or 1950. Isn't that correct?

17 A Right.

18 Q And have you made any efforts to  
19 determine what municipalities not listed on your chart  
20 median income were for those two years?

21 A To my best knowledge, those figures are not  
22 available.

23 Q I see.

24 Incidentally, how is it determined what the  
25 median income is for those municipalities that are listed?

1 A It's done by the Census, getting income reports  
2 from households and from unrelated individuals in that  
3 case, and in a particular instance the median is arrived  
4 at by determining the mid-way point in the range of all  
5 those who have reported.

6 Q And in obtaining this, they only question  
7 about twenty-five per cent of the households, don't they?

8 A Yes. I believe it's twenty-five, sometimes twenty,  
9 some Censuses. I just don't know what the '70 Census was.

10 Q And how do they decide which twenty or  
11 twenty-five per cent of the people to question?

12 A On an extremely scientific sampling basis.

13 Q And what is that extremely scientific  
14 sampling basis?

15 A My only experience was simply in the City of  
16 Clifton. I could only relate to that, where we were  
17 advised by a sampling consultant on how to do it.

18 Q And was that by the Census Bureau?

19 A No, by a sampling consultant.

20 Q So you don't know really if the Census  
21 Bureau does this on an extremely scientific basis or does  
22 hit every fifth house, do you?

23 A If they hit every fifth house, they do it on a  
24 design basis.

25 Q Do you know or guess that?

1 A I remembered that in the Census report but not as to  
2 every fifth house, but it's done on a design basis.

3 Q But you don't know what the design basis  
4 is.

5 A No, I don't.

6 Q Do you know if there's any protection in  
7 that basis to keep someone from lying about his income  
8 because maybe he doesn't want the government to know how  
9 much money he's making?

10 A That would be true without regard to the sample.

11 Q And there's no safeguard in there about  
12 that, is there?

13 A No, there is not, except I believe it's against  
14 the law.

15 Q Well, there's a lot of things against the  
16 law that people do. Isn't that true?

17 You heard of people cheating on their income tax?

18 MR. SLOANE: Objection, your Honor.

19 THE COURT: You don't have to answer that.

20 Q Now, I call your attention to Exhibit P-73  
21 and P-74.

22 Now, those exhibits are related to one another,  
23 are they not?

24 A They both deal with minorities, yes.

25 Q And P-72, that's also related to those two,

1 is it not?

2 Now, we determined the other day that there had  
3 to be an inaccuracy in the figures for Perth Amboy because  
4 if P-72, which shows total persons of minority race of  
5 3,057 living in Perth Amboy in 1970 were true, it would not  
6 be true that there was a minority enrollment system of  
7 3,571 in Perth Amboy in 1970. Isn't that correct?

8 A That is right.

9 Q Have you since then made any effort to  
10 determine which are the correct figures or if either of  
11 them are correct?

12 A Yes. It's a matter of definition. One set should  
13 have been either the figures revised or the definition  
14 revised, because the Census from which the population data  
15 was taken has a category which is headed "Negroes and other  
16 Races," and in the Census rate those of Spanish--

17 Q Negroes and other races?

18 A Yes.

19 Q Well, that would be everybody, wouldn't it?

20 A Well, yes. Negroes and other minority races. Yes.

21 I'm sorry.

22 Q Okay. Go ahead.

23 A And within that category are those who are defined  
24 by the Census as being of a minority race, which includes  
25 only those Spanish speaking, Spanish origin or Spanish

1 surnamed people who list themselves as of the black race.

2 Q Now, I think you've confused me. Let's  
3 go through these three documents. Okay?

4 P-72, that's the first. If there's a listing of  
5 persons of minority race, who is included in that persons  
6 of minority race?

7 A Those who are of the negro race, the American  
8 Indian race, the Oriental race and I think other miscellaneous  
9 races, including Spanish speaking people who designate  
10 themselves as of the black race.

11 Q Those are included in P-72, where you  
12 say minority race, and there are 3,000 of those people in  
13 Perth Amboy.

14 A That's true.

15 Q Okay. Now, in public school enrollment,  
16 you have a column saying "Pupils of Minority Race." Who  
17 is included in that?

18 A That includes the same categories plus those  
19 of Spanish heritage.

20 Q And who is of Spanish heritage?

21 A Someone -- well, that is a very complicated  
22 definition by the Census because they have several  
23 categories which you use nationally and then in certain  
24 states of the southwest as against certain states of the  
25 east coast.

1 Q Well, which did you use as against  
2 Perth Amboy, New Jersey?

3 A Persons of Spanish origin, and that is defined  
4 as persons who give as their origin a Spanish speaking  
5 country or who list as their mother's tongue Spanish.

6 Q I see. They do one of two things. They  
7 list on the Census form that their family origin is from  
8 a Spanish speaking origin. Is that correct?

9 A That is for the Census. This is for H.E.W.

10 Q Now, I'm talking about for P-73, Perth  
11 Amboy.

12 A Yes.

13 Q Well, who is listed on those 3,500 kids  
14 in that column, which says, Perth Amboy, pupils of minority  
15 race?

16 A That is the way the Superintendent of Schools of  
17 Perth Amboy listed them, by race.

18 Q I see. That's the highly scientific  
19 sampling by the Superintendent of Schools of Perth Amboy?

20 MR. SLOANE: Again, objection, your Honor.

21 THE COURT: I'll sustain that objection.

22 Q You don't have any other figures then  
23 from the Superintendent of Schools?

24 A Except as given in this publication, yes.

25 Q So then basically there's no relationship

1 between the numbers in P-72 and the numbers in P-73. Is  
2 that correct?

3 A A relationship but not a direct correlation.

4 Q In other words, they're comparing apples  
5 and oranges. A minority for one document is different from  
6 the minority on the other document. Isn't that correct?

7 A That's true.

8 Q Now, you have another chart listed as  
9 P-74, and that lists a number of towns in Middlesex County  
10 but not all of the towns. Is that correct? It doesn't list  
11 Helmetta, for instance.

12 A That's true.

13 Q Now, how do you determine what towns to  
14 list and what towns not to list?

15 A I listed all that were given in the Federal  
16 publication on public elementary and secondary schools --  
17 I listed all that were given in the directory of public  
18 elementary and secondary schools in selected districts:  
19 enrollment and staff by racial/ethnic group, Fall 1970, U.S.  
20 Department of Health, Education and Welfare, Office of Civil  
21 Rights, in Washington, D.C.

22 Q So, I presume that any towns that are not  
23 there are not selected towns for that list. Is that correct?

24 A I would assume that's why they say selected.

25 Q Do you know what the basis for the

1 selection was?

2 A No. I suppose size.

3 Q Now, these figures are then taken from a  
4 different source than the figures in 72 and 73?

5 A No. They are the same as for 73. They are both  
6 from the same source. 74 and 73 are from the same source.

7 Q I see. So they are Superintendent of  
8 School figures.

9 A That's right.

10 Q What is included in "White" then on 74?  
11 You have a category of "White."

12 A All children that are not listed under the other  
13 categories. So, actually --

14 Q So actually there are minorities under  
15 the other categories that are white but would not be listed  
16 as white in your breakdown.

17 A That's right.

18 Q On P-70.

19 A Yes. Actually, the designation is mine. In the  
20 Federal publication it said "other."

21 Q I see. Now, I call your attention then  
22 to P-72. Do you have P-72 over there?

23 Okay. Now, that gives breakdown by income of  
24 minority persons in the low and moderate income families.

25 Is that correct?

1 A It gives by low income and by minority races.

2 Q Has any correlation been made between  
3 the two?

4 A No. I have not.

5 Q Well, you have here minority race. You  
6 haven't applied that in any way to income?

7 A No, I have not.

8 Q So your figures on P-72 and your studies  
9 can't show you what income bracket different groupings of  
10 people fall into?

11 A No, they do not.

12 Q Have you made any studies of that in  
13 Middlesex County?

14 A No, I haven't.

15 Q I call your attention to P-76 and P-102.

16 THE COURT: The Court will recess until

17 1:30.

18 (The luncheon recess is taken at this time.)

19

20

21

22

23

24

25

1 TUESDAY, FEBRUARY 17, 1976, AFTERNOON SESSION:

2 CONTINUED CROSS EXAMINATION OF ERNEST ERBER BY MR. PLECHNER:

3 Q Mr. Erber, I believe we had, we were  
4 discussing Exhibit 76 and 102. Now, I understand from  
5 your previous testimony that P-102 is the source document  
6 for P-76. Is that correct?

7 A That is correct.

8 MR. PLECHNER: And I also understand,  
9 your Honor, that that is -- that we haven't  
10 accepted 102 yet, subject to something.

11 THE COURT: We have it marked into  
12 evidence, Mr. Plechner, but it's subject to being  
13 removed as an exhibit if there is no authenticity  
14 by some representative of the Division of Local  
15 Government.

16 Q Now, Mr. Erber, did you at any time  
17 attempt to get or get a copy of the Director's tables for  
18 tax assessments in New Jersey from the State Division of  
19 Taxation?

20 A No, I have not.

21 Q Did you make any attempt to get the  
22 Middlesex County Board of Taxation figures and statistics?

23 A No, I have not.

24 Q Aren't those normally the sources one  
25 goes to when seeking statistics on assessments?

1 A As a planner, I usually go to the Division of Local  
2 Government when I worked in New Jersey since there has been  
3 a Division of Local Government.

4 Q But they are not a body that is  
5 responsible for the gathering or compiling of tax assessment  
6 data, are they?

7 A I understand that they are.

8 Q Isn't there a body in New Jersey that is  
9 solely responsible for that type of thing, the Division  
10 of Taxation? They are responsible for tax appeals,  
11 statistics?

12 A Tax appeals but I don't believe that the maintenance  
13 of data by value, by municipal valuations, is not a  
14 function of the Division of Local Government. I feel that --

15 THE COURT: All right. You've answered  
16 it.

17 Q Then you're not familiar with the  
18 Director's tables?

19 A I don't recall it under that name.

20 Q Now, sir, in gathering this data, did  
21 you make any effort to determine the basis for these  
22 assessed values? Are they equalized values or are they  
23 gross values as submitted by the municipality, or what are  
24 they?

25 A Well, they must be the ones that --

1 Q Not must they be. What do you think them  
2 to be?

3 A Well, it says that they are assessed valuations  
4 for real property and those would be the ones sworn to by  
5 the local assessor.

6 Q In other words, they are not equalized  
7 values?

8 A According to the State equalization table, no.

9 Q So if one town assesses at sixty per cent  
10 and one town at forty and another thirty per cent, whatever  
11 the figures that they came up with would be the figures  
12 in your table?

13 A If there were such extremes, yes, sir.

14 Q And are there not in fact over the  
15 years in question such extremes in Middlesex County?

16 A I don't believe in recent history.

17 Q You don't?

18 A I don't believe that in recent history that has been  
19 the case in the State of New Jersey.

20 Q Have you done any studies of New Jersey  
21 State real estate tax assessments or have you read any  
22 cases on them?

23 A I know that all municipalities were required to  
24 go through reassessment.

25 Q When?

1 A I'd say about a dozen years ago.

2 Q Wasn't it more likely within the last  
3 five or six years that different counties had to go up  
4 to a hundred per cent?

5 A I don't remember that.

6 Q And isn't it true that in the early  
7 60's and in the late 60's, even, there were wide variations  
8 in assessment practices in the State of New Jersey?

9 MR. SLOANE: Objection, your Honor. This  
10 is going well beyond Middlesex County.

11 THE COURT: All right. I'll sustain the  
12 objection.

13 Q Let me limit it to Middlesex County.  
14 There were wide variations in assessing in Middlesex County  
15 and in a percentage use?

16 A I don't have any knowledge of that.

17 Q In other words, you don't know whether  
18 the figures are accurate or not. Isn't that true?

19 A They are accurate for what they say they are.

20 Q What do they mean?

21 A They say that this is the total assessed valuation  
22 for real estate as reported.

23 Q But they have no real relationship as  
24 such to the value of the property in that community, do they,  
25 sir?

1 A They have a relationship, yes.

2 Q But you don't know what that relationship  
3 is, do you?

4 A Percentage-wise, no.

5 Q So that if New Brunswick, for instance,  
6 assessed at fifty per cent and Metuchen, for instance,  
7 assessed at one hundred per cent, you couldn't compare  
8 those two from that table, could you?

9 A I didn't understand that New Brunswick could  
10 easily assess to fifty per cent because they have to swear  
11 it's a hundred per cent true value.

12 Q It's a fact, though, that was and still  
13 is a practice, that towns do not all assess at one hundred  
14 per cent. In fact, it's impossible, isn't it, to really  
15 assess at one hundred per cent? It's not impossible, some  
16 towns do, but aren't they the exception rather than the  
17 rule?

18 A I think that theoretically it's possible. Whether  
19 it is in practice or not, I wouldn't know.

20 Q I see. Now, you also -- you talk about  
21 revaluation. You didn't take into consideration which  
22 towns had revaluated in 1970 and which towns hadn't, had  
23 you?

24 A No, I did not.

25 Q And that would certainly affect the

1 figures drastically, wouldn't it, if a town revaluated?

2 A If a town revaluates, that's probably more  
3 accurate as to true value.

4 Q But you don't know which towns have?

5 A No.

6 Q Now, if it were to -- strike that.

7 For what purpose do you offer the figures listed  
8 in P-76 and P-102?

9 A I thought it was a significant indication of  
10 change over a ten-year period in assessed valuations, which  
11 has bearing on the extent to which some communities were  
12 getting ratables and others were not.

13 Q So that if it turned out that some  
14 communities revaluated and assessed at grossly different  
15 percentages than others, the table wouldn't mean very much,  
16 would it?

17 A I didn't think that was likely or possible.

18 Q But if it were not only likely and  
19 possible but were a fact, that table wouldn't mean very  
20 much. Isn't that correct?

21 A It would still mean as much as modified by the  
22 per cent to which there was a difference.

23 Q And you made no effort to determine  
24 whether or not that was the case, did you?

25 MR. SLOANE: Your Honor, I object. This

1 is repetitious.

2 THE COURT: It does seem to be  
3 repetitious, Mr. Plechner.

4 Q Now, sir, what do you consider low or  
5 moderate income families?

6 A As of 1970, I considered that a moderate -- that  
7 a moderate income family was a family of average size with  
8 an income of \$8,500 a year.

9 Q That's moderate?

10 A Yes.

11 Q And what would you consider low?

12 A I would consider low to be a family that had an  
13 income of \$5,000 -- a family of average size under \$5,000.

14 Q Now, what about the gap between five and  
15 8,500. Is that moderate or is that low?

16 A That would be moderate.

17 Q So you are saying low is five and moderate  
18 is over five to eighty-five.

19 A That's right.

20 Q And what do you say is the next category?

21 A The next category might be considered middle.

22 Q What?

23 A Middle.

24 Q And what are your figures for that?

25 A I didn't determine a figure for that, but I would

1 say roughly that that would generally be in the neighborhood  
2 of 15,000.

3 Q Now, as a planner, aren't there usually --  
4 aren't there some widely recognized and used methods of  
5 determining low, moderate, middle, et cetera, income families?

6 A There are different methods for different  
7 purposes.

8 Q Well, what is the most widely used  
9 method? Isn't it the H.U.D. method?

10 A For Federal housing purposes, yes.

11 Q And in discussing housing, which is what  
12 we're all discussing here this week, that is the method  
13 usually used, isn't it?

14 A Usually, yes.

15 Q Did you use that method in any of your  
16 computations?

17 A The H.U.D. method does not lend itself to a  
18 simple designation of moderate or low, except that say by  
19 the 1974 Housing Act, which for the purpose of that  
20 particular Act did designate a way at arriving at this  
21 figure.

22 Q And isn't that way basically your lower  
23 quintile, your lower income? Isn't that correct?

24 A Yes. The method is that you take the average for  
25 the -- or you take the median for the housing market area

1 and moderate is eighty per cent of that median and low  
2 is half of that.

3 Q So low would be the lower quintile. Is  
4 that correct?

5 A Right.

6 Q And moderate would be the next quintile.  
7 Right?

8 A Yes.

9 Q Now, is that the method that you have  
10 used to arrive at your conclusions?

11 A No, I did not.

12 Q I see. Now, what method did you use to  
13 make the determination?

14 A I used the figure that was used by the State in  
15 its report on Unmet Housing Needs.

16 Q And that's the figure you just recited,  
17 under five is low, five to eighty-five hundred is middle --  
18 I'm sorry, moderate.

19 A That's right. As of 1970.

20 Q Sir, you testified the other day that you  
21 had particular knowledge of Middlesex County from the study  
22 that you made for the Regional Plan Association from 1959  
23 to 1969. Is that not so?

24 A Yes. In relation to the regional development  
25 pattern.

1 Q What kind of studies did you make con-  
2 cerning Middlesex County at that time?

3 A Middlesex County was part of our Spread City study  
4 and it was part of our Open Space study and it was part of  
5 a transportation study.

6 Q What did you personally study?

7 A I personally was involved in all of those. I was  
8 especially involved in directing a study on journey to work  
9 and transportation for Northeastern New Jersey.

10 Q Now, did you gather any data personally  
11 at that time?

12 A Yes.

13 Q Concerning Middlesex County?

14 A Yes.

15 Q And did you have other people also  
16 gathering data for you?

17 A Yes.

18 Q Now, since that time, since 1969, other  
19 than assembling data provided by other organizations, groups  
20 or studies, have you personally or has anyone under your  
21 immediate direction or supervision actually gathered data  
22 concerning Middlesex County?

23 A Only in connection with the jobs and housing study  
24 which the National Committee Against Discrimination in  
25 Housing made from 1968 to 1972.

1 Q And is that in evidence here?

2 A Yes, it is.

3 Q What would that be called?

4 A I don't know if it's in evidence. It was supplied  
5 and it was quoted by a previous Counsel.

6 MR. PLECHNER: Counsel informs me it's  
7 not in evidence.

8 Q Now, other than what you just referred  
9 to, which is not in evidence, is there any data that you  
10 personally or someone under your direction or supervision  
11 had gathered concerning Middlesex County?

12 A No, except for the exhibits.

13 Q Which are all excerpts of other peoples'  
14 studies, data, et cetera. Is that correct?

15 MR. SLOANE: Objection. I think that  
16 Counsel has to explain what he means by gathering  
17 data.

18 THE COURT: I think it's understandable.

19 You may answer that.

20 A The answer to that is no.

21 I didn't get your question. Again?

22 Q I'll rephrase it.

23 The materials that have been entered here in  
24 evidence that we've just been discussing are all excerpts  
25 from studies or statistical analyses et cetera that have been

1 done by other groups or organizations or people.

2 A It's what a scholar calls secondary sources.

3 Q Now, have you done any first-hand studies,  
4 you personally or anyone under your immediate supervision  
5 or direction, concerning Middlesex County?

6 A No. I do not gather data.

7 Q Now, if you heard Mr. Powell -- you heard  
8 Mr. Powell testify earlier today, did you not?

9 A Well, I heard most of it, yes.

10 Q And did you hear him testify with regard  
11 to what has happened with regard to Middlesex County  
12 Planning Board projections based on 1970 data?

13 A I heard him say they were lowering projections  
14 for population and employment.

15 Q Now, have you, in light of Middlesex  
16 County Planning Board's actions in this regard, have you  
17 taken any plans to lower or change your conclusions or  
18 your predictions?

19 MR. SLOANE: Objection. This goes beyond  
20 the scope of direct examination.

21 MR. PLECHNER: I think, your Honor, it's  
22 very relevant.

23 THE COURT: I'll allow him to answer.

24 A I made no projections. My conclusions I would  
25 not alter, no.

1 Q Have you taken into account in arriving  
2 at any of your conclusions or any of your summations the  
3 downward trend in population and jobs in Middlesex County?

4 A Well, I have noted the testimony of Mr. Powell  
5 and I have seen a previous indication from the County  
6 Planning Board that they were considering a downward  
7 revision and I assume that the population down trend is  
8 probably also due to the lack of housing.

9 Q On what do you base that?

10 A Well, if there are people employed in an area  
11 and there are houses available for them, they tend to move  
12 into that area. This is my experience and this is, I  
13 believe, what all the studies on population movement  
14 indicate, but if there are no houses available they can  
15 not just go there.

16 Q Isn't there a downward trend nationally?

17 A In population? There's a downward trend in the  
18 rate of growth.

19 Q That's correct. And it's something that  
20 wasn't predicted back in 1970, was it?

21 A That is true.

22 Q And it's based not on lack of housing;  
23 it's based on different birth control methods in large part,  
24 isn't it?

25 A Population increase by birth is a very different

1 matter. It's unrelated to population increase in housing  
2 and families, where they live.

3 Q I don't believe that's the question I  
4 asked you.

5 THE COURT: No, you didn't answer the  
6 question.

7 MR. PLECHNER: Could you read the question,  
8 please.

9 (The pending question is read back by the  
10 Reporter.)

11 A Yes. The Birth rate is, right.

12 Q And that's been decreasing, isn't it?

13 A That has.

14 Q And that has directly resulted in a  
15 decrease in population. Isn't that correct? In population  
16 growth.

17 A Yes. In the rate of population increase, yes.  
18 The population has been increasing but at a lesser rate.

19 Q So wouldn't that be true in Middlesex  
20 County as well as in the rest of the country?

21 A That the population has been increasing at a lesser  
22 rate here, also, yes.

23 Q And not because of lack of housing but  
24 because of increased birth control methods, variety of birth  
25 control methods.

1 THE COURT: You already asked him that.

2 MR. PLECHERN: Now I'm relating it to  
3 Middlesex County, your Honor.

4 THE COURT: You don't need to answer that.

5 Q Now, you made the comment that lack of  
6 housing is causing a decrease in population growth in  
7 Middlesex County. Do you have any statistics to show that  
8 there is in fact a lack of housing in Middlesex County?

9 A The vacancy rate as shown by the Census showed  
10 that there was a lack of housing, and the number of housing  
11 starts since 1970 would indicate that there has been no  
12 relief.

13 Q Are we talking housing starts or are we  
14 back to that old thing now about building permits?

15 A Well, building permits are the only source for  
16 housing starts.

17 Q So we don't really know what the actual  
18 housing starts are, do we? We just know what the building  
19 permits are, and what the State says they are, anyway.

20 A They could be less than the permits.

21 Q And they could be considerably more than  
22 the permits reported to the State, yes?

23 A If there were errors, yes.

24 Q And you don't have any recent figures as  
25 to vacancy rates in Middlesex County, do you?

1 A No, I do not.

2 Q Would it surprise you to know that they  
3 are quite -- there's been quite an increase in vacancy  
4 in garden apartments, for instance?

5 A I would be surprised, yes.

6 Q But if that were true, would that change  
7 your theory as to why population growth is declining in  
8 Middlesex County?

9 A Well, the apartments may not be available for the  
10 people who can afford them.

11 Q But you don't really know, do you? I mean,  
12 you haven't really done any study, based on up-to-date  
13 statistics, of why population growth has declined in  
14 Middlesex County?

15 A It's not declining; it's increasing at a lesser  
16 rate.

17 Q I said population growth is declining.

18 A No. The answer is no.

19 Q So you don't really know why.

20 And that also goes for job availability growth.

21 You don't really know why that's declining, do you?

22 A The rate of increase, no. I assume it's the  
23 recession.

24 Q But you haven't made any studies of it?

25 A No, I haven't.

1 MR. PLECHNER: I have nothing further,  
2 your Honor.

3 THE COURT: Mr. Lerner.

4 CROSS EXAMINATION BY MR. LERNER:

5 Q Mr. Erber, the Regional Plan Association  
6 was started when?

7 A As a Regional Plan Committee in 1922; as a Regional  
8 Plan Association in 1929.

9 Q In fact, it was the same organization  
10 but they changed their name. Isn't that correct?

11 A That's right.

12 Q Do you know whether or not the definition  
13 of region for New York was the same in 1922 as it was in  
14 1929?

15 A No. I believe that there were modifications of  
16 the regional definition.

17 Q Are you aware of what the modifications  
18 are today, what they were changed since '22 to '29?

19 A I believe that in 1929 there were some additional  
20 areas added to increase the region.

21 Q Any from New Jersey?

22 A Not to my memory.

23 Q Do you know what the definition was in  
24 1969? You are aware of the definition?

25 A In terms geographically?

1 Q Yes. That's correct.

2 A Yes.

3 Q Any difference in 1969 than it was in  
4 1929?

5 A As a region, I believe not. I believe it's the  
6 same.

7 Q Do you know the definition -- excuse me.  
8 Strike that.

9 What did they call that definition? How did they  
10 label it?

11 A The New York Region. That's all.

12 Q Do you know whether or not the United  
13 States Census has a New York Region?

14 A They have a standard metropolitan statistical  
15 area, yes.

16 Q Is that the same as the region adopted  
17 by the Regional Plan Association?

18 A No.

19 Q Isn't it a fact, Mr. Erber, that depending  
20 upon the group and the areas to be studied the region in  
21 fact changes?

22 A Each group has its own criteria for establishing,  
23 yes.

24 Q So that in fact the subject matter of the  
25 study determines the region.

1 A Not for comprehensive planning purposes.

2 Each agency usually is consistent with its own definition  
3 of region.

4 Q And the term comprehensive is capable  
5 of being defined by different people in different places.  
6 Isn't that true?

7 A I would say all professional planners, members  
8 of the American Institute of Planners, would have a  
9 common definition of comprehensive planning.

10 Q Well, if you were to determine the  
11 water supply region for Middlesex County, would it be the  
12 same as or different than the transportation network  
13 serving Middlesex County?

14 A It would be different.

15 Q Would the transportation network of  
16 Middlesex County, serving Middlesex County, be the same  
17 as or different than the health care facilities of the  
18 Middlesex County Region?

19 A It would be different.

20 Q So that realistically the choice of the  
21 region depends upon the scope of the study.

22 A If it's not doing comprehensive planning, yes.

23 Q Well, if you are doing comprehensive  
24 planning, would it then be essential for you to include  
25 every factor that would possibly affect the area to be

1 studied?

2 A Yes. One should.

3 Q Can you conceive how a housing study then  
4 for Middlesex County would not include Franklin Township  
5 if it were to be comprehensive?

6 A It should include Franklin Township and every  
7 other area around.

8 Q It should.

9 A Yes.

10 Q So that a comprehensive plan would  
11 necessarily include Franklin Township with regard to  
12 housing for Middlesex County.

13 A Yes.

14 Q With regard to a study of Union County,  
15 are you familiar with Union County?

16 A Yes.

17 Q Would Carteret not be essential to the  
18 housing needs of Union County?

19 A Yes. I believe all of Middlesex would be.

20 Q Do you know the relationship of West  
21 Carteret and East Rahway?

22 A They abut across the County line.

23 Q Isn't the essential ingredient the close-  
24 ness of one area to another?

25 A Essential ingredient for what?

1 Q In determining the region.

2 A No.

3 Q Isn't it one of the factors?

4 A Yes. One of the factors in the inter-relationship  
5 of all the units.

6 Q And common transportation lines.

7 A Yes.

8 Q And employment.

9 A Yes.

10 Q In fact, in response to one of Mr.  
11 Plechner's questions, I think, you indicated that a fair  
12 analysis, and you can correct me if I'm wrong, would be  
13 where you would in fact group municipalities to determine  
14 the degree of development, employment and transportation  
15 network.

16 A Yes. If you're doing a County plan.

17 Q Well, necessarily in doing a plan of any  
18 area you would see that which is dependent from one to the  
19 next, wouldn't you?

20 A Yes.

21 Q So that a study or an approach would only  
22 be geared by the degree of involvement you would seek to  
23 make.

24 A It's not a subjective factor; it's an objective  
25 factor which one is required to make if one wishes to take

1 into account.

2 Q If New York City and the five major  
3 boroughs were the region and everyone worked in the Borough  
4 of Manhattan and everyone lived in the four other boroughs,  
5 that could be a region, could it not?

6 A If it met those criteria, yes.

7 Q And the housing needs were all being met,  
8 employment needs were all being met, but that each piece  
9 met its burden differently, isn't that correct?

10 A Yes.

11 Q And that is an acceptable solution, is it  
12 not?

13 A Yes.

14 Q So that when you developed this microscopic  
15 study, aren't you being shortsighted if you fail to develop  
16 the surrounding area and see what needs are being met by  
17 them in those areas.

18 A If one removes them from consideration, yes.

19 Q The study of the Regional Plan Association  
20 in 1929, it was a published work, was it not?

21 A Yes, it was. Three volumes.

22 Q Excuse me.

23 A In two large volumes, yes.

24 Q Didn't it in fact consist of eight  
25 volumes?

1 A Yes. The plan was in two volumes and there were,  
2 I believe, eight volumes that contained the studies on  
3 which the plan was based. I think there may have been  
4 more than eight. I have them on my shelf. I just haven't  
5 counted them.

6 Q Well, let me just read them to you.  
7 Major Economic Factors in Metropolitan Growth and Arrange-  
8 ments; Population; Land Values; Government; Highway Traffic;  
9 Transit and Transportation; Public Recreation Buildings,  
10 Their Use and the Spaces About Them; Neighborhood and  
11 Community Planning and Physical Conditions and Public Spaces.

12 A That seems to encompass the study, yes.

13 Q Would you agree that an evaluation of  
14 a region would encompass studies on each of these points?

15 A Yes, and more.

16 Q In fact, that was the standard applied  
17 in the year 1922 through 1929, was it not?

18 A Yes, it was.

19 Q Do you know whether or not that study  
20 served as a basis for the development of the City of New  
21 York?

22 A It influenced it.

23 Q Do you think that New York City benefited  
24 from this study?

25 A Yes.

1 Q Do you think that the condition, physical  
2 condition, population, government, traffic, highway,  
3 transport of the City of New York reflects the work of the  
4 Regional Plan Association?

5 MR. SLOANE: I object, your Honor. This  
6 is going awfully far afield.

7 THE COURT: I sustain the objection.

8 Q The work that was performed by the Regional  
9 Plan Association, was that gratuitous work or were they paid  
10 for the jobs?

11 A Most of it was gratuitous. There were certain  
12 service contracts to government.

13 Q And that was for whom?

14 A The Federal Government, the various States,  
15 Counties and municipalities, although I believe there  
16 haven't been any municipal studies made until -- since the  
17 1930's.

18 Q Then you said you went to work for the  
19 Passaic Valley Planning Authority?

20 A Association, yes.

21 Q And was that work gratuitous or was it  
22 charged for services?

23 A It was both. Initially more gratuitous; later on  
24 done for a fee under contract.

25 Q Was that after the plans had been

1 established or some kind of a master plan had been  
2 established by the Association that a subsequent fee basis  
3 started with the people within the group?

4 A No.

5 Q Or towns covered. I'm sorry.

6 A The fee basis started only when contracts for  
7 master plans, zoning ordinances and other studies were  
8 required or requested by municipalities.

9 Q Would it be fair then to say that a  
10 regional outlook was first prepared without a fee and then  
11 master plans evolved on a fee basis for locations within  
12 the scope of the master plan?

13 A Regional outlook, yes.

14 Q With regard to region, and let's go to  
15 an area called -- strike that.

16 You have stated on a number of occasions it is your  
17 philosophy that housing is the first step and the jobs  
18 second. Is that correct?

19 A No. I didn't say that.

20 Q Did you not say that the people follow  
21 the housing?

22 A I testified on direct testimony that in Middlesex  
23 County --

24 THE COURT: Well, why don't you just answer  
25 the question.

1 A Uh, no.

2 Q Do you believe that jobs follow people  
3 or people follow jobs?

4 A Both.

5 Q Now, are you familiar with Doctor Mann?

6 A Yes.

7 Q If I were to say to you that Doctor Mann  
8 only stated it one way, would he be in error?

9 A He would be correct historically in the historic  
10 period, yes.

11 Q If he said that people follow the jobs --

12 A That is true historically over a time frame, yes,  
13 but there are variations within it.

14 Q Are you familiar with the man named  
15 Sternleib, George Sternleib?

16 A Yes.

17 Q And he stated -- if he stated that people  
18 followed jobs, would he be in error?

19 A He would be correct for historical period but not  
20 for intervals.

21 Q Do you contend that we are now dealing  
22 with an interval as opposed to historical time?

23 A We're dealing with an interval within historic  
24 time, yes.

25 Q Do you believe that Doctor Mann is unaware

1 of this interval occurring?

2 A I couldn't answer that.

3 Q Do you know anyone else in the field of  
4 planning who shares your opinion that the interval reverses  
5 the cycle?

6 A I would believe that many economists and planners  
7 would agree with me.

8 Q Do you know a gentleman by the name of  
9 Franklin James?

10 A Yes, I do.

11 Q If Mr. James said that people follow  
12 jobs as recently as 1973, would he be in error?

13 A I don't know in what context he's making that  
14 statement.

15 Q Do you think that the context of the  
16 statement would affect the statement?

17 A Context of the statement -- it would make it  
18 clearer and make it possible to answer, yes.

19 Q With regard to jobs, is it also then not  
20 necessary to deal with the question of transportation to  
21 the job?

22 A Well, there has to be transportation facilities  
23 to a job.

24 Q You in fact included in a lot of your  
25 work transportation networks, and in fact you've prepared

1 documents submitted to this Court that deal with trans-  
2 portation, have you not?

3 A Yes, automobile availability, yes, and road  
4 building, yes.

5 Q And is it the distance to work or the  
6 time traveled that's the critical factor.

7 A Both.

8 Q Is either of those two factors the  
9 limiting factor accepted in your profession?

10 A Both are limiting but one is the amount of  
11 convenience, the other is the cost of travel.

12 Q Isn't there also a word called choice?

13 A Choice is determined by cost and convenience.

14 Q The transportation issue then would  
15 depend upon the existence of modes of travel, meaning the  
16 vehicle by which you would go, and the network by which  
17 you would get there. Is that correct?

18 A That would affect it, yes.

19 Q The highway structure in New Jersey  
20 is provided by whom or paid for by whom?

21 A By Federal, State, County and Local Governments,  
22 highway being a matter of definition.

23 Q Well, let's get to the common definition  
24 of a highway. Do you know of any municipalities that  
25 have built highways?

1 A Large cities have, yes. I believe Newark has.

2 Q Newark has built a highway?

3 A Well, I believe they have but this is over the  
4 period 1920's and the 30's.

5 Q Since the 1920's or 30's has any city,  
6 to your knowledge, built a highway?

7 A Not outside of New York, no.

8 Q Would it not then be a fair statement  
9 that some other governmental entity, whether the State  
10 or Federal Government, is responsible for acquiring the  
11 land and the actual construction and site of the highway?

12 A Yes.

13 Q Isn't it a fact also then that the  
14 method and mode of transportation is dependent upon the  
15 location of that highway?

16 A Yes. In a particular instance, yes.

17 Q Transportation has undergone a great  
18 change in America, has it not, in the last two hundred  
19 years?

20 A Yes.

21 Q Do you know what the major form of  
22 transportation was two hundred years ago?

23 A By horseback or horse drawn vehicle, I would guess.

24 Q And a hundred years ago?

25 A About the same, I would think, with modifications.

1 Now by rail and to some extent canal boats. I guess a  
2 hundred years ago I would say rail.

3 Q Did shipping ever enter into it?

4 A Water borne movement has been part of it for the  
5 history of this Country, with a diminishing importance  
6 for the average traveling person, yes.

7 Q But many, many years ago, wasn't shipping  
8 the essential form of transportation of heavyweight goods?

9 A Of goods. Yes.

10 Q In fact, the critical factor for the  
11 development of Perth Amboy was the fact that it was a  
12 deep water area, was it not?

13 A Yes.

14 Q There was no other intrinsic value to  
15 Perth Amboy as such, was there?

16 A Except that it was also at the mouth of a river,  
17 which provided inland navigation.

18 Q Where did that inland navigation go to?

19 A To New Brunswick.

20 Q Did it stop at New Brunswick?

21 A My understanding is it did for the coastal trade  
22 vessels that went from New Brunswick to New York. I think  
23 beyond New Brunswick it was only light traffic vessels.

24 Q Would it refresh your recollection to  
25 know that there was a canal in New Brunswick that began in

1 New Brunswick and actually went to Philadelphia?

2 A That was at a later period. That was dug in the  
3 1840's, as I remember.

4 Q And that canal was the major source of  
5 transportation of heavyweight goods from New York to  
6 Philadelphia?

7 A I wouldn't --

8 Q At some point in time.

9 A I wouldn't say that because it was competing with  
10 the railroads almost from the beginning.

11 Q Is that your recollection, that the  
12 Erie Canal, the Raritan Canal, was competing with the rail-  
13 road since the very inception?

14 A Almost from the very beginning, yes.

15 Q Historically didn't areas build up around  
16 the major forms of transportation?

17 A Yes.

18 Q As the shipping industry flourished,  
19 in lower Manhattan, that's where the development was. Isn't  
20 that true?

21 A Yes.

22 Q And as the shipping industry developed  
23 along the coast line of New Jersey, where shipping could  
24 be taken in, it developed, too.

25 A Yes.

1 Q And then hence the transportation mode  
2 changed and rail lines were set up. Isn't that true?

3 A Yes.

4 Q And didn't in fact development follow  
5 those lines?

6 A Yes.

7 Q In fact, the method of transportation  
8 that is now being used most in America is the automobile.  
9 Isn't that true?

10 A Yes.

11 Q And when I say "automobile," I mean also  
12 trucks.

13 A Yes, and buses.

14 Q Isn't it true now that there's no  
15 limitation on movement, laterally or vertically, horizontally,  
16 whichever way you want to choose, except the road?

17 A That's true, or traffic congestion.

18 Q The mobility is increased, is it not?

19 A Yes.

20 Q In fact, is it not now limitless?

21 The question is that theoretically you could build a road  
22 anywhere. Isn't that true?

23 A Yes.

24 Q If there's a swamp, you can build over  
25 it; very marshy, you can go under it, perhaps. Isn't that

1 correct?

2 A Yes.

3 Q So that the determinative factor for the  
4 development of the United States or Middlesex County is in  
5 fact its highway development.

6 A Yes. Predominantly or predominant factor, yes.

7 Q Now, do you know of your own knowledge  
8 whether or not there are roads in Middlesex County that  
9 preclude entry and exit in Middlesex County at various  
10 forms, places?

11 A Freeways, yes. Limited access routes, yes.

12 Q Do these freeways bring people from  
13 other areas?

14 A Yes.

15 Q And in fact, they form -- New Jersey is  
16 a corridor, is it not?

17 A It's called a corridor State often, yes.

18 Q Now, you have seen fit to introduce  
19 traffic studies, I forget their number, but I'll get to  
20 them later.

21 Do you know the identity of the vehicles that  
22 went through any of these traffic counts that you produced  
23 in evidence?

24 A No. I don't know those vehicles.

25 Q Would you say that the automobile is more

1 heavily used today than it was five years ago?

2 A At least.

3 Q Strike that.

4 A At least as heavy.

5 Q Would you say that there are more  
6 automobiles today than there were five years ago?

7 A Yes.

8 Q More than twenty years ago?

9 A Yes.

10 Q Do you know the number of families in  
11 this area five years ago?

12 A Not exactly but I believe the data is something  
13 in the neighborhood of a hundred and seventy thousand or  
14 so. I have to reflect on --

15 Q Do you know how many families have more  
16 than one car?

17 A No. I don't know that. I believe there is data  
18 on that, though.

19 Q Are you familiar with the F.H.A. techniques  
20 of market housing analysis?

21 A Broadly speaking, yes.

22 Q Would you agree or disagree with the  
23 statement that the location of actual or prospective  
24 employment centers and availability of transportation  
25 facilities are among the major considerations in the location

1 choice of the working population?

2 A I wouldn't disagree, no.

3 Q How about the quote "Rather it is the  
4 area from which in view of available employment and  
5 transportation that population of a township will be drawn,  
6 absent invalid exclusionary zoning?"

7 A I would agree with that.

8 Q The source of that is, I think, Judge  
9 Furman.

10 A What's that?

11 Q I think that's Judge Furman.

12 Now, would it not then require an evaluation of  
13 the road network and the employment structure to determine  
14 housing?

15 A It has to be taken into account, yes.

16 Q Do you know of any surveys that have  
17 been made asking people how far they are willing to travel  
18 or how long they are willing to travel?

19 A I'm sure that there have been surveys like that.

20 Q Do you think that that was relevant  
21 to any of your work done in preparation of this case?

22 A No.

23 Q If statistically it was shown that people  
24 only wished to travel on an average thirty-two minutes,  
25 would you disagree or agree with that statement?

1 A That they wish to travel only thirty minutes?

2 Q That the most that they would like to  
3 travel is thirty-two minutes.

4 A They probably -- I would agree that that is what  
5 they probably said.

6 Q And it would then depend -- would it  
7 not then depend upon the traffic conditions in the individual  
8 area as to how far they could get in thirty-two minutes  
9 as to the area for that person as a choice of work?

10 A Some people have no choice. They travel an hour  
11 if they have to to travel to their job.

12 Q Well, you say choice. Isn't that an  
13 element in everyone of these cases?

14 A Yes. Everyone makes --

15 Q The choice is somewhat less for some.  
16 Is that what you're saying?

17 A Yes.

18 Q But then the choice would be somewhat  
19 greater for others.

20 A Right.

21 Q Do you think that some people are  
22 influenced aside from the journey to work by crime, the  
23 presence of crime?

24 MR. SLOANE: Objection, your Honor. This  
25 is well beyond the scope of direct.

1 MR. LERNER: I think --

2 THE COURT: It's all right. You may  
3 answer that.

4 A I'm sure they are influenced, yes.

5 Q As a negative influence, wouldn't people  
6 be concerned about the cost of transportation?

7 A Yes.

8 Q And the availability of energy.

9 A The average person may be concerned but he doesn't  
10 make his personal decision on that.

11 Q Would the average person who couldn't  
12 get gas for his car, wouldn't he be concerned about how  
13 he's going to get to work?

14 A Yes, if there's a gas shortage.

15 Q We in fact had one witness testify in  
16 Court that got laid off, her husband got laid off, because  
17 her husband's boss didn't have money for the gas for the  
18 crew. Isn't that true?

19 A Yes.

20 Q So in all the selection of where to live  
21 and the choice, picking out a house, if there wasn't any  
22 gas he couldn't get there anyway.

23 A That's true.

24 Q Would you subscribe to the philosophy  
25 that public transportation has to be afforded everywhere?

1 By public I mean mass transport.

2 A It should, I mean, within reason.

3 Q Would the reason depend upon the number  
4 of users?

5 A Yes.

6 Q Would you then attempt to put that  
7 system on a pay-as-you-go basis?

8 A No.

9 Q You then, by that statement, I assume,  
10 subsidize it in some way.

11 A I believe all public transit is subsidized in some  
12 measure in the United States today.

13 Q Do you know whether or not the New Jersey  
14 Public Transportation System is increasing or decreasing  
15 at this particular time?

16 A I haven't looked at it recently, but if you mean  
17 the --

18 Q The number of vehicles, the number of the  
19 lines being served, the number of vehicles per line.

20 A You mean the bus system?

21 Q That's correct.

22 A No, but I imagine it's decreasing.

23 Q Do you believe that there are more  
24 people depending upon it now financially, more people  
25 dependent upon it, the mass transportation system?

1 A Very likely.

2 Q You, in one of your studies I'll get to  
3 later, indicate -- well, can you indicate how many people  
4 are represented by a job?

5 A The question -- what do you mean? I can't answer  
6 that.

7 Q Is there a factor and an equation that  
8 planners use that will show that if ten jobs are created  
9 there will be seven -- for each job created it equals .75  
10 per cent a head of household? Let's put it that way.

11 A Each job created seven heads of households.

12 Q For each one hundred jobs?

13 A Yes, sir.

14 Q It represents seventy-five heads of  
15 households.

16 A I think that's a little low, if I recall the  
17 figure, the ratio being a little higher than that.

18 Q Isn't there in fact an equation or a  
19 method that planners use in evaluating jobs as to heads  
20 of households and as to people?

21 A Yes. My equation is that for each hundred  
22 dwelling units there are a hundred and eleven jobs.

23 Q Now, with regard to a definition of jobs,  
24 are there in fact different jobs represented by heads of  
25 households and different jobs represented by secondary

1 income?

2 A Yes.

3 Q For the purposes of my question, I'd like  
4 to be on the same basis with you. What is in fact a head  
5 of household type job?

6 A A job that ostensibly should have -- should earn  
7 an income relative -- sufficient to support a family in  
8 all of its basic needs.

9 Q Historically have these jobs gone to the  
10 skilled and semi-skilled worker?

11 A Yes.

12 Q So that a machinist job would tend to  
13 be filled by a head of household.

14 A Yes.

15 Q Isn't that true?

16 A Yes.

17 Q While a salesgirl job would not, although  
18 it could, but mathematically and statistically it would  
19 come out that generally speaking it is not a head of house-  
20 hold.

21 A The salesgirl's job?

22 Q Salespersons.

23 A Salesperson. There have always been salesmen who  
24 have supported households.

25 Q I'm referring -- you disagree with the

1 statement that -- well, let's say retail sales then.

2 A Retail sales?

3 Q Retail sales. Would that be a secondary  
4 type job?

5 A Not by category. Many of them are --

6 Q Do you know whether or not Tri-State  
7 did a study about that particular field?

8 A I'm not aware of that one, no.

9 Q Do you know whether or not the Regional  
10 Plan Association did a study about that?

11 A I believe that in their economic studies they  
12 try to distinguish between primary job holders and what  
13 they call multi-job holders.

14 Q Isn't it also a fact that the type of job  
15 determines the type of housing?

16 A Except where there is a subsidy.

17 Q And isn't it a fact that blue collar --  
18 is there a pay differential for various types of jobs?

19 A Yes.

20 Q And that the types of jobs afforded in  
21 a particular area would dictate the types of housing that  
22 would be required.

23 A If everyone is -- who holds those jobs is to live  
24 in that area.

25 Q Isn't that what we're talking about?

1 A Broadly speaking, yes. The answer being the whole  
2 County in this case.

3 Q Or a town. Isn't that true?

4 A As an ideal perhaps if the town were large enough.

5 Q Or two counties, or in fact a region.

6 A Yes. But the thing is that distance becomes a  
7 factor here.

8 Q Aren't you trying to equate jobs to  
9 housing?

10 A Yes.

11 Q Isn't it essential that you know what  
12 kind of people are working, that you then choose to give  
13 them the housing?

14 A I think the market does that.

15 Q Is that a free market?

16 A What's that?

17 Q Is that a free market?

18 A No. Restricted by zoning and other requirements.

19 Q The American -- strike that.

20 Do you agree that people should have a choice,  
21 a selection process, by which they undergo to select where  
22 to live?

23 A Not as to type of house but as to the area in which  
24 they wish to live, yes.

25 Q Do you believe then that Mrs. Tibbett,

1 who said she wanted some ground around her house, should  
2 not have that available to her?

3 A If she can afford it, yes.

4 Q And if she can't afford it, she can't  
5 have it?

6 A Then she ought to be able to have other housing  
7 in the area in which she wishes to live.

8 Q But she only wants to live where there's  
9 grass.

10 MR. SLOANE: Your Honor, objection.

11 That's a mischaracterization.

12 THE COURT: I'll sustain the objection.

13 Q Do you believe some people do not want  
14 to live in a high-rise building?

15 A Yes.

16 Q Do you believe they have to?

17 A No. They shouldn't have to.

18 Q Do you know whether or not the Tri-State  
19 Commission did in fact a home interview survey?

20 A Yes.

21 Q A one per cent sampling?

22 A In 1963.

23 Q Did they do one in 1970, also?

24 A Not to my knowledge.

25 Q Did you use any of the data of the home

1 interview survey in the preparation of your material?

2 A Not that I recall.

3 Q What effect does the possession of an  
4 automobile have as to a person's seeking a job as opposed  
5 to the reliance on public transportation?

6 A It gives them greater mobility.

7 Q Doesn't that open up the job market?

8 A Yes.

9 Q Do you believe -- strike that.

10 Theoretically, if you had an existing housing  
11 supply and a transportation link to a job, that would  
12 solve a problem regarding those people living there. Isn't  
13 that true? Job to work.

14 A Depending on the distance and cost.

15 Q Let's assume for the purposes of the  
16 question it's within an acceptable length of time, ten,  
17 fifteen minutes, and at no cost.

18 A Yes. That would, if they didn't want to live  
19 there, yes.

20 Q And then someone determines that the  
21 pollution or pollutants coming from the factory are  
22 injurious to the people and the plant must either change  
23 or close down. What then happens to the people?

24 A They have to seek other work.

25 Q Do they move?

1 A Not always.

2 Q Sometimes they just stay.

3 A Yes.

4 Q Has that happened to American cities?

5 A Not to my knowledge, a whole city, no.

6 Q Well, to substantial portions of people  
7 within a city, where the jobs have been forced to close  
8 and the people stayed and now there's no jobs for those  
9 people and they cannot move.

10 A Not to any major extent. Other jobs are attracted  
11 by the idle labor force and come in to take advantage of it.

12 Q Are people also turned away by high crime  
13 rates so they don't want to go into cities?

14 A Yes, some people.

15 Q Don't construction -- strike that.  
16 Don't manufacturing techniques improve?

17 A Yes.

18 Q And isn't it, the transportation of goods  
19 to the market, a critical factor for businesses?

20 A Yes.

21 Q Wouldn't all of these factors tend to  
22 change the structure as it existed in America thirty,  
23 forty years ago?

24 A Yes.

25 Q Isn't in fact the structure of cities

1 changing?

2 A Yes.

3 Q Where people were willing to accept high  
4 density, they now no longer want to.

5 A Yes.

6 Q Where people accepted pollution, they now  
7 no longer want to.

8 A Yes.

9 Q Where people accepted crime, they now no  
10 longer want to.

11 A I doubt that, that they ever accepted crime, at  
12 any rate.

13 Q Well, people have moved out of cities  
14 because of that, have they not?

15 A Some may have, yes.

16 Q The ones who were able to.

17 A Yes.

18 Q So that density would be a critical  
19 factor as to how anything is regarded today by a planner,  
20 would it not?

21 A As a result of those factors, no.

22 Q Would density be a critical factor in  
23 planning?

24 A Yes. It's a very important factor, yes.

25 Q In your studies of jobs and work, getting

1 back to heads of households, is it true that clerical work  
2 is largely performed by secondary workers?

3 A In suburban areas, yes.

4 Q As opposed to family heads of households.

5 A In cities mainly with family heads, yes.

6 Q Did your factors ever concern yourself  
7 with moonlighting patterns?

8 A Well, the Regional Plan has gone into the question  
9 of dual job holders, yes.

10 Q Have you considered that in any of your  
11 factors of consideration or your graphs or diagrams?

12 A No.

13 Q Do you believe that people want a higher  
14 standard of living --

15 A Yes.

16 Q -- in this area --

17 A Yes.

18 Q -- in Middlesex County?

19 A Yes.

20 Q Isn't the desire for a higher standard  
21 of living a culmination of the American dream for some  
22 people?

23 A I believe so, yes.

24 Q Aren't they in fact subjected to pictures  
25 on television of homes with grass areas, play grounds?

1 MR. SLOANE: Objection.

2 THE COURT: I'll sustain the objection to  
3 that.

4 Q Do you believe people are motivated to  
5 acquire certain standards of living?

6 A I think it's basic to human nature to try to  
7 improve one's conditions.

8 Q Do you believe that some people in the  
9 quest for that where the family structure was where one  
10 person worked now two work to provide those such amenities?

11 A Yes.

12 Q Do you have any statistics as to how many  
13 families in Middlesex County have more than one working  
14 member?

15 A No, I do not.

16 Q Do you know what the figure is for New  
17 Jersey?

18 A No.

19 Q Do you know what the figure is for the  
20 New York Region?

21 A No.

22 Q If I were to suggest to you that the  
23 figure if forty per cent, would you agree or disagree?

24 A I would consider that's possible.

25 Q Would you consider it probable?

1 A Yes, probable. Including teenagers and everyone  
2 else, yes.

3 Q I show you P-54. You have an addenda  
4 on the bottom that says the definition you have chosen  
5 includes counties that were different than that in the New  
6 York Region.

7 A No, sir. It says study area includes counties not  
8 included in R.P.A. historic definition of New York Region  
9 reading from 1929. New Jersey counties added to study  
10 area are Mercer, Hunterdon, Sussex, Ocean and Warren. That  
11 was for a special study as listed in the table.

12 Q So the New York Region actually includes  
13 a smaller or greater area than in relationship to your  
14 Middlesex County figures.

15 A A larger area.

16 Q So that the percentiles are distorted,  
17 are they not?

18 A No.

19 Q If Middlesex figures are accurate, your  
20 region is more, is it not?

21 A If Middlesex County is --

22 Q Where did you get the Middlesex County  
23 figures?

24 A From the same regional plan study, The Region's  
25 Growth.

1           Q           But the New York Region is different than  
2 the region definition by the Regional Plan Association?

3           A           It's their table and they have made a footnote  
4 stating that for the purposes of the study of the region  
5 they have added the following counties as I mentioned.  
6 There's five New Jersey counties that are not included in  
7 the usual region by the Regional Plan Association.

8           Q           So for the purposes of that particular  
9 study the Regional Plan Association shows a different  
10 region.

11          A           For the study of the region's growth, yes.

12          Q           And for the purposes of this particular  
13 graph that you've chosen to prepare, P-54, your definition  
14 of region changed.

15          A           Yes. I regret that was necessary because I think  
16 it would have shown more sharply had these other counties  
17 not been included.

18          Q           Did you change the definition of region  
19 in other graphs --

20          A           Not to my --

21          Q           -- to suit the point you were trying to  
22 make?

23                      MR. SLOANE: Objection.

24          A           I didn't change --

25                      MR. SLOANE: I object to Counsel's

1                    characterization.

2                    THE COURT: Wait a minute. There's an  
3                    objection.

4                    The objection is sustained.

5                    Q                I show you P-55 and I wonder if you could  
6                    indicate the percentage drop of farms in number from 1950  
7                    to 1969.

8                    A                As given here?

9                    Q                Yes.

10                  A                The number of farms in 1969 was about twenty-five  
11                  per cent of what it was in 1950.

12                  Q                And the number of acreage about fifty  
13                  per cent?

14                  A                About fifty per cent, yes.

15                  Q                Could you also conclude from that that  
16                  farms have gotten larger?

17                  A                Yes.

18                  Q                Would that not also be reflective of the  
19                  period of time from 1950 to 1969, to reflect more modern  
20                  methods of farming?

21                  A                I think that larger farms find it economically  
22                  easier to survive, yes.

23                  Q                So that if one person eliminates another  
24                  farm by acquiring it to his own structure of acreage, he  
25                  then becomes more economical and better able to meet market

1 conditions. Is that true?

2 A That's true.

3 Q So that the nineteen years covered by this  
4 graph don't specifically point out any technological changes  
5 in the farming technique that have occurred in the period  
6 of time covered.

7 A They do or they don't?

8 Q They do not.

9 A Well, they don't deal with that factor. They only  
10 show the shrinking of acreage and the number of farms.

11 Q Do you know what the total yield was in  
12 1950?

13 A No.

14 Q Do you know what the total yield was in  
15 1969?

16 A No.

17 Q Do you know whether or not those farms  
18 were in fact growing farms as opposed to chicken farms  
19 or cattle farms?

20 A No, I do not.

21 Q Do you know what portion of New Jersey's  
22 farmers found themselves to be noncompetitive in the open  
23 market and forced to close up?

24 A I don't know proportionately but I know that there  
25 was a serious economic problem for farmers in New Jersey.

1 Q I show you now P-56. You prepared this  
2 graph, did you not?

3 A Yes, I did.

4 Q And the choice of the headings in the  
5 columns one through ten were selected by yourself.

6 A Yes.

7 Q To illustrate a particular point. Is  
8 that correct?

9 A To demonstrate my theory of metropolitan regional  
10 growth.

11 Q With regard to column number eight,  
12 do you know what percentage of the population -- strike that.  
13 Isn't it true that old people tend to be less mobile?

14 A Yes.

15 Q So that if you in fact show an older,  
16 more established area, there will be a greater presence  
17 or greater number or percentage of older people?

18 A That's exactly what I showed, yes.

19 Q Are you aware of new communities being  
20 built where old people are attracted and in fact the  
21 communities are restricted to old people?

22 A Yes.

23 Q How would that be affected or shown in  
24 your graph?

25 A If there were a great number of them in a suburban

1 area, they would run counter to what is the gradient of  
2 the metropolitan area as the distribution per age.

3 Q Would they be exercising their choice  
4 to live in that particular location?

5 A Yes. If they could exercise that choice.

6 Q Aren't there certain geographical  
7 attractions that attract people of older age?

8 A To warm climates, yes.

9 Q Don't they seek to avoid pollution, too?

10 A Everyone does, I guess.

11 Q On column ten, median family income,  
12 1970, doesn't that only in fact reflect the job structure  
13 available in the County?

14 A No.

15 Q Isn't the relationship of jobs to housing  
16 an essential ingredient?

17 A It reflects jobs in part -- it reflects suburbaniza-  
18 tion, the ability of people to live away from their jobs  
19 because they can afford the larger commute, longer commute.

20 Q Well, wouldn't the people with the  
21 greater amount of money afford the longer trip?

22 A Yes.

23 Q And then don't you then keep going to  
24 another spiral and then another spiral, another ring and  
25 another ring and another core and another ring and another

1 ring?

2 A Yes. There's a limit because Middlesex County  
3 now abuts the outer ring of the Philadelphia region and  
4 Mercer is in the Philadelphia region and Middlesex is in  
5 the New York region.

6 Q But doesn't one region assert a dominant  
7 influence over the other?

8 A I believe that the New York region has an influence  
9 on the whole United States.

10 Q So theoretically New York rings could go  
11 ad infinitum. Isn't that true?

12 A Not for the purposes of Metropolitan concerns  
13 because the Metropolitan concern relates to a metropolis.

14 Q Column five, you say per cent of population  
15 nonwhite. Whose definition of nonwhite did you use?

16 A That was the Census table printed by Tri-State,  
17 a publication headed nonwhite population, 1970 per cent  
18 of total population.

19 Q Do you know what the definition of non-  
20 white is for the use of that table?

21 A Nonwhite in this table, I believe, would be racial.

22 Q The definition merely says that which you  
23 just said.

24 A I believe it's racial, yes.

25 Q Is it essential to understand the use of

1 the back-up material to know the definitions used?

2 A In some instances it's important, yes.

3 Q Do you think it's important to know the  
4 definition of nonwhite by Tri-State?

5 A Yes.

6 Q You don't recall it offhand, though?

7 A Yes. I understand it to be racial.

8 Q Nonwhite is what?

9 A Well, those not of the white race.

10 Q Would that only mean black or blacks,  
11 Asians -- the American Indian is a nonwhite?

12 A Yes. Everyone that is not white.

13 Q I'm sorry.  
who

14 A Everyone/is not of the white race.

15 THE COURT: The Court will recess for a  
16 few minutes.

17 (A recess is taken at this time.)

18 THE COURT: All right, Mr. Lerner.

19 Q With regard to P-56 again, Mr. Erber,  
20 column three, you have median rentals. Would not another  
21 reason be that newer construction costs more to rent;  
22 therefore, the rentals are more money as you go further  
23 from the core?

24 A That's true.

25 Q And in fact isn't the whole purpose of

1 P-56 to show that a city has areas of lesser development  
2 leading to it? When you're driving down a highway and  
3 you're coming to a farm area where there's very, very  
4 little, no housing, and then you see one house per five  
5 thousand feet and then we'll see three houses and then  
6 you'll see twenty houses in five thousand feet and you'll  
7 see a hundred and fifty and you know you're coming to a  
8 concentration of population?

9 A That's true.

10 Q And that's true not only in Middlesex  
11 County but all over the world.

12 A You go up the gradient, yes.

13 Q Well, depending upon the mode of travel,  
14 either up the gradient or down the gradient.

15 A Yes, sir. It's the socio-economic gradient  
16 that changes.

17 Q And the socio-economic gradient, there  
18 are many factors that determine why a city grows the way  
19 it does. Isn't that true?

20 A Yes.

21 Q And in fact -- I've presented you now  
22 with P-59. P-59 is in fact a traffic volume survey at  
23 various locations, is it not?

24 A Yes.

25 Q And the counts reflect time periods 1954,

1 1964, 1974.

2 A Yes.

3 Q Do you know what the total number of  
4 vehicles were in 1954 in New Jersey?

5 A No. I do not.

6 Q In 1964?

7 A No.

8 Q 1974?

9 A No.

10 Q Would you assume that there are a greater  
11 number in '64 and '74 than there were in '54?

12 A Yes.

13 Q There's no way of your factoring what  
14 the percentile of number of vehicles are?

15 A No. I'm not quite sure what you mean, but --

16 Q Well, is there some type of a variable  
17 to see whether or not at an intersection -- the only fact  
18 that we're dealing with here is the sheer number of cars  
19 that pass the point, at a given point. Is that correct?

20 A Yes. Right.

21 Q Do you know whether the point on a dual  
22 highway is both sides of the highway or one side?

23 A It's usually one side. They just make assumptions  
24 that they equal each other.

25 Q Do you know whether in fact that was in

1 fact so in all of these various surveys, whether they  
2 represent the true count or whether they were doubled by  
3 the highway department?

4 A My understanding is that the standard method is  
5 double.

6 Q Do you know the period of time used to  
7 make the count?

8 A Yes. It's a twenty-four hour count.

9 Q Do you know what day of the week was  
10 chosen?

11 A No.

12 Q Do you believe that the day of the week  
13 chosen to make the count is essential in determining the  
14 effectiveness of the count?

15 A No, because it's an average annual daily traffic  
16 and they have -- they have a factor by which they average it  
17 out.

18 Q You used the words to describe this  
19 particular chart on your direct examination "steep increases."  
20 With regard to highway location one, do you know what, if  
21 any, State institution is in or near Jamesburg?

22 A I know there is a State institution. I do not  
23 recall which, no, at present.

24 Q Do you know whether or not the traffic  
25 generated by that facility has increased from 1954 to '74?

1 A No, I do not.

2 Q On point two you show almost no increase.

3 I would assume for the purpose of my question that the  
4 difference between 12,200 and 13,500 is negligible.

5 A That's true.

6 Q So that that portion of the highway,

7 I assume it's a highway, Route 130 --

8 A Yes.

9 Q -- there's no increase in traffic,  
10 basically.

11 A Small increase, yes.

12 Q Do you know what effect the Turnpike has  
13 had on Route 130?

14 A I'm sure it siphoned a lot of traffic off of it.

15 Q You indicated, I think, in a previous  
16 question, that State money was used to build or Federal  
17 money was used to build the New Jersey Turnpike.

18 A No. I did not say that.

19 Q In fact, the New Jersey Turnpike carries  
20 a Federal Highway designation, does it not?

21 A Yes, it does.

22 Q Although no Federal funds were used to  
23 build it.

24 A That's true.

25 Q So that New Jersey's resource, the highway,

1 is now interconnected on two terminuses with Federal  
2 funded highways.

3 A Yes.

4 Q So the third one down, intersection U.S.  
5 One across from Forrestal Airport, do you know where Route  
6 One goes to or comes from at that point?

7 A Well, it's going south in the direction of the  
8 interchange with the road out from Princeton.

9 Q Isn't it the point that you would use  
10 to go to the City of Trenton, Route One?

11 A Yes.

12 Q And, in fact, the next center is Trenton.  
13 That's the nearest center, urban center, to that point on  
14 the highway, isn't it?

15 A Major center.

16 Q And Princeton would be the minor center.

17 A Yes.

18 Q You have written down Route 171 below  
19 the Raritan River Railroad above U.S. One. Do you know  
20 where that is, what route 171 is?

21 A That might be a misprint. I don't remember. I  
22 took these off of a highway map.

23 Q And what was your criteria for picking  
24 these off a map, the location or the fact of the increase  
25 of traffic?

1 A I took everyone I could locate on the maps without  
2 regard to what the change was.

3 Q The twelfth one down, the second from  
4 the bottom, Route 171, shows a dropping off of traffic or  
5 a very constant traffic from 1954 to 1974.

6 A That's true.

7 Q Would you ascribe a significance to that  
8 as being that the highway could not accept any more traffic  
9 from 1954 to 1974? Is that a possibility?

10 A That is a possibility.

11 Q In fact, hasn't vehicular traffic been  
12 enhanced throughout all of New Jersey in the last twenty  
13 years?

14 A Yes.

15 Q In fact, the connection of the New Jersey  
16 Turnpike to the Federal systems have enhanced the position  
17 of New Jersey as a corridor State, has it not?

18 A Yes.

19 Q Do planners accept and acknowledge the  
20 fact that cars put out pollutants? -- when I say cars,  
21 I mean cars and trucks.

22 A Yes.

23 Q And the pollution promulgated or put out  
24 by these vehicles, is it detrimental to the health of the  
25 people living in the area?

1 A If they live that close to it, yes.

2 Q Do you know how close homes in Middlesex  
3 County are to the New Jersey Turnpike?

4 A It varies.

5 Q Are some right up against the Turnpike?

6 A There are some places, some few places, where that  
7 is true.

8 Q And Route One also. Isn't that true?

9 A Yes.

10 Q So that by increasing the traffic flow  
11 in the corridor you've increased the pollutants in the air.  
12 Isn't that true?

13 A Yes.

14 Q And environmentally then New Jersey has  
15 not become as safe as other areas of the country.

16 MR. SLOANE: Objection, your Honor.

17 THE COURT: How could he possibly know  
18 that, Mr. Lerner?

19 The objection is sustained.

20 Q Is New Jersey the most heavily traveled  
21 State in the Union?

22 A I think on a linear mile of State road I once saw  
23 figures that it is the highest in the nation, yes.

24 Q And do you know what County represents  
25 the greatest concentration of roads in the entire State of

1 New Jersey?

2 A Middlesex must be close to the top if it isn't the  
3 top.

4 Q The geographical shape of New Jersey  
5 sort of almost dictates that, doesn't it?

6 A There's a heavy road pattern in Essex and Hudson  
7 Counties.

8 Q But the narrowing of the State --

9 A Union County.

10 Q -- is at the point of Middlesex, the  
11 Raritan River.

12 A Right.

13 Q Which is the site of Middlesex County.  
14 Isn't that correct?

15 A Yes.

16 Q In fact, all the growth, traffic growth,  
17 to Monmouth and Ocean Counties, if they are in the New  
18 York area, must travel through Middlesex County.

19 A Yes.

20 Q And the journeys to work of the people  
21 living in those counties and working in Union and Hudson  
22 and Essex and New York must go through Middlesex County.

23 A Yes.

24 Q Perth Amboy, we discussed before,  
25 developed because of its sea port facilities, did it not?

1 A Historically, yes.

2 Q Historically, what are the major  
3 businesses that located in that area?

4 A At what point of history?

5 Q Well, in the late 1800's.

6 A I believe it started -- the largest industries  
7 began there as raw chemical industries.

8 Q In fact, are chemical industries still  
9 present in the area?

10 A Yes.

11 Q How about smelting industries?

12 A Yes.

13 Q Which relied on ore shipments.

14 A Yes.

15 Q In fact, the ore shipment was the reason  
16 it was located by the deep water port, was it not?

17 A Yes.

18 Q Do these industries emit pollutants?

19 A Yes.

20 Q Are you familiar with the quote that  
21 New Jersey has the highest cancer rate of any State in the  
22 United States?

23 A I'm not familiar with it but it could be.

24 Q Well, I'll get to that in a few minutes.

25 THE COURT: You already had about an hour

1 of cross examination, Mr. Lerner.

2 MR. LERNER: I didn't realize that I  
3 was limited, your Honor. I've done a great deal  
4 of research with regard to Mr. Erber's twelve hours  
5 of depositions.

6 THE COURT: If there is anything that  
7 you've added to your case by cross examination,  
8 I wouldn't know what it was.

9 MR. LERNER: Well, if your Honor please,  
10 I'm trying to establish that Mr. Erber has chosen  
11 to pick and choose that which he chooses all over  
12 every one of his graphs, eliminating certain  
13 factors, each of which is capable of another  
14 evaluation and determination by another party.

15 Q With regard to P-61, Mr. Erber, you relied  
16 on Spread City. Is that correct?

17 A Yes. I don't remember it by number but I believe  
18 it is P-61.

19 Q Was Spread City revised via the Institute?

20 A No.

21 Q You're unaware of any revision of Spread  
22 City?

23 A You mean by the Regional Plan Association?

24 Q That's correct.

25 A Not to my knowledge.

1 Q Do you know in the years 1960 to 1970,  
2 which is the time period you chose to use, whether or not  
3 there were any major new highways built in the County of  
4 Middlesex?

5 A I believe that 287 was developed during that  
6 period.

7 Q Do you believe that the intention of the  
8 development of 287 was to in fact enhance employment  
9 development?

10 A The intention, 287 was shown on the Regional Plan  
11 Association's map in the 1920's, and I don't believe they  
12 had that intention at that time.

13 Q Has it in fact attracted factories and  
14 research facilities?

15 A Yes, it has.

16 Q Do they line the highway in Middlesex  
17 County?

18 A I don't know if they line them. They are visible  
19 from the road, yes.

20 Q You indicated with regard to P-61 that  
21 aerial photographs were used to identify Middlesex County.

22 A Yes.

23 Q Did you verify the aerial photographs?

24 A I did checking on aerial photographs, yes.

25 Q You indicated you did checking on aerial

1 photographs. Did you check the ones for Bergen County or  
2 Passaic?

3 A I think I had occasion to check almost all of the  
4 New Jersey Counties.

5 Q Did you prepare a chart on P-61?

6 A I prepared the chart called Zoning of Buildable  
7 Vacant Land in Middlesex County, 1960 to 1970, yes.

8 Q And chart 2, Zoning of Vacant Land for  
9 Residential Use?

10 A Yes.

11 Q Can you then tell me what is meant by  
12 the word net in regard to land supply?

13 A That's net vacant land, which is the amount that  
14 is left after you extract developed land and unbuildable  
15 land.

16 Q Can you tell me in 1970 what the State  
17 average for commercial land is?

18 A No.

19 Q If I were to say to you that it's 3.6  
20 per cent, the same as Middlesex County's figure, would you  
21 disagree with that statement?

22 MR. SLOANE: Objection, your Honor. This  
23 is going well beyond Middlesex County, again.

24 THE COURT: I'll sustain that objection.

25 Q Did you use Table Two attached to P-61

1 in evidence in preparation of your data?

2 A Yes.

3 Q And that has been introduced in evidence.

4 A Yes.

5 Q The percentage of commercial property  
6 in the entire area of study for that period for commercial  
7 is what?

8 A 3.6.

9 Q And what is the percentage for Middlesex?

10 A 3.6.

11 Q Isn't it a fact that as a commercial  
12 area develops services are drawn to it, other services?  
13 Competition breeds competition?

14 A As long as there is a market, yes.

15 Q And isn't it a fact that as people  
16 exist services are drawn to it?

17 A Right.

18 Q In fact, commercial services are  
19 reflective of the population location. Isn't that true?

20 A Yes.

21 Q They tend to move where the people are.

22 A Yes.

23 Q And with regard to your figure on mobile  
24 homes, on Page 10A mobile homes shows zero. Is that  
25 correct?

1 A For Middlesex County, right.

2 Q On Page 11A -- I'm sorry.

3 I'm looking at 6B. On Table 6B, Page 6B, Table  
4 Three, what is the figure for mobile home acres for Middlesex  
5 County?

6 A That's a different classification. That shows  
7 land that's zoned not residential and that shows one hundred  
8 twenty acres for mobile homes on nonresidential property.

9 Q So that by reading different tables mobile  
10 homes are permitted in certain zones and are not. Isn't  
11 that correct?

12 A Yes. They are permitted in nonresidential and  
13 not in residential.

14 Q But you have only chosen to include those  
15 that are specifically mentioned in residential zones. The  
16 120 acres of mobile homes that are reflected in not  
17 specifically residential zones you've excluded from your  
18 graph.

19 A I don't believe I show mobile homes at all in my  
20 graph.

21 Q With regard to 11A, Middlesex County has  
22 approximately how many acres for multiple family homes?

23 A I would say somewhat under two thousand. Let me  
24 see what this says.

25 Q And that many --

1 A Somewhat under two thousand in both residential  
2 and nonresidential zones, yes.

3 Q Well, does that only include the  
4 residential multi-family only included in the residential  
5 zones and not include those included in the zones zoned  
6 other than residential that accommodate the use?

7 A On Page 10A it shows that are in residential  
8 zones and there are 307 acres. For those that are in both  
9 residential and nonresidential zones, it is under two  
10 thousand. Nonresidential being industrial.

11 Q And the projection right across is again  
12 you chose not to break down two bedroom and three bedroom,  
13 et cetera?

14 A No. I used a single column for multi-family homes.

15 Q Mr. Erber, 62 is the ratio of jobs to  
16 housing. Is that correct?

17 A Yes, it is.

18 Q Now, when you used the term ratio 2.2  
19 new jobs to one new housing unit, are you then equating  
20 that there are two working people per family?

21 A No. It shows that during, between '60 and '70  
22 there were 2.2 new jobs created to every new housing unit  
23 created.

24 Q Do you know whether or not the ratio of  
25 houses to jobs in Middlesex County were built according to

1 the accepted ratio? Whether or not Middlesex County  
2 built enough houses to accommodate the workers in Middlesex  
3 County?

4 A My answer is no.

5 Q The 1960 figures show that people, housing  
6 was provided for people coming in out of the County. Is  
7 that correct? Or just the opposite? 1960.

8 A I couldn't answer you what they were built for.

9 Q Well, the total number of jobs in 1960  
10 is a hundred and two thousand.

11 A Right.

12 Q And the total housing is 125,000.

13 A Right.

14 Q Is that almost the same difference between  
15 that as there is between 1970?

16 A No. It's reversed itself.

17 Q Well, in the sense that it reversed  
18 itself, did the family capacity to earn also change from  
19 1960 to 1970, the number of people working per family?

20 A That might be so. I'm not sure.

21 Q With regard to P-65 I have a short  
22 question. Regarding mobile homes, do you also include  
23 factory built homes, and I mean by that prefabs, or do you  
24 only concern yourself with what we call a towed motor home,  
25 which is hooked up to a trailer and towed?

1 A Prefabs require a building permit and they are  
2 assembled on site. A mobile home is a home that has been  
3 completely put together and towed to the site.

4 Q So your figures don't reflect modular  
5 homes or factory built housing?

6 A It does under housing permits, not under mobile  
7 homes.

8 Q But the mobile home figure does not  
9 include it.

10 A No.

11 Q With regard to P-66, are you aware of any  
12 reason that plants were forced to close in various portions  
13 of the core, let's say in Hudson County or Essex County or  
14 New York, and relocate in the same market area?

15 A I don't know of any.

16 Q Are you aware of any phenomenon where  
17 plants are finding their manufacturing facilities outmoded  
18 and try to move in the same area?

19 A Yes, they do.

20 Q Do you know how many of those plants  
21 moved into Middlesex County?

22 A No, but I assume a very high number.

23 Q Would they have moved as a general  
24 pattern of the plan or would they have offered the  
25 opportunity to their workers to move with them to at least

1 keep their jobs?

2 A My experience in job-housing study is it's offered  
3 to very specially skilled help that they do not wish to  
4 lose and the executive personnel.

5 Q So that the older, long-term employee,  
6 the foreman, would tend to go with the company.

7 A Yes.

8 Q And would that person endure a greater  
9 trip to work?

10 A If he didn't relocate he would, unless he was  
11 originally a resident of Middlesex County.

12 Q But the chances of that are not dependent  
13 upon the job. In other words, the job is what is moving  
14 at this point. Isn't that so?

15 A That's true.

16 Q Your back-up data indicates that the  
17 same number of people work in the County as almost work  
18 out of the County. Is that correct?

19 A I believe that's somewhat the figure, yes.

20 Q So that the sheer number of people  
21 working in and working out are the same but the bottom line  
22 you have down as 291 per cent on your graph, on P-66.

23 A Yes.

24 Q But that only reflects the same number  
25 of people. Isn't that true?

1 A No.

2 Q The only factor that has really changed  
3 is the number of jobs.

4 A The jobs have increased that are filled from  
5 people out of the County, yes.

6 Q Shopping centers represent a new mode  
7 of retail sales, do they not?

8 A Yes.

9 Q Where stores get together and acquire  
10 joint parking.

11 A Yes.

12 Q And they find this is a convenience to  
13 induce customers. Is that not true?

14 A Yes.

15 Q It's a new marketing phenomenon, is it  
16 not?

17 A Yes.

18 Q As opposed to a department store, which  
19 was the older method of sales.

20 A Yes.

21 Q So as times change, commercial develop-  
22 ment changes, does it not?

23 A Yes.

24 Q Would you consider the shopping center  
25 an evolution of commercial sales?

1 A Yes.

2 Q Would you say that the shopping mall now  
3 represents the most modern form of commercial sales  
4 technique?

5 A The most recent, yes.

6 Q Would you state that this type of an  
7 operation requires a greater land mass?

8 A Yes.

9 Q Than formerly occupied by the same type  
10 of use.

11 A Yes.

12 Q And because isn't it a fact that certain  
13 uses of the land, certain businesses, require or want more  
14 land around them?

15 A Yes.

16 Q In fact, isn't this critical to their  
17 choice?

18 A Some are required to do so by zoning; some by  
19 choice.

20 Q The ones who are required to do it is  
21 where someone put a limitation on them, perhaps environmental,  
22 noise pollution, perhaps?

23 A There might be reasons like that, and sometimes  
24 they are not.

25 Q But there are certain industries that do

1 have certain restrictions placed on them because of noise?

2 A Yes.

3 Q In fact, certain commercial ventures,  
4 shopping centers, also require buffer areas to adjacent  
5 residential areas in an attempt to limit the noise,  
6 pollution. Isn't that true?

7 A Yes.

8 Q That would be good planning, would it  
9 not?

10 A Generally, yes.

11 Q The development of areas for housing  
12 are necessarily dependent on services being afforded, are  
13 they not? I mean by that water, sewer.

14 A At higher densities, yes.

15 Q To talk in meaningful numbers, would it  
16 not require package facilities such as a sewer line and  
17 water lines, whereas not to depend on wells and septic?

18 A Yes. There's a general aversion to approving  
19 low density even that depends on septic tanks, except in  
20 certain areas of very permeable soil and low density.

21 Q You've chosen as a region Middlesex  
22 County, have you not?

23 A No.

24 Q For the purposes of your study, you  
25 only limited to Middlesex County, have you not?

1 A No. I studied Middlesex County but I said the  
2 region was Northeastern New Jersey and the greater New York  
3 area, of which Middlesex is a part.

4 Q Do you believe that the region that will  
5 provide or that should reflect the housing should provide  
6 the services for that use?

7 A Certain types of services have to be regional,  
8 yes; water supply, for instance, in large part.

9 Q Would the services of mass transit also  
10 have to equate the region?

11 THE COURT: Excuse me. Somebody is  
12 talking to me.

13 MR. LERNER: I'm sorry.

14 (The Court and the Court Officer confer.)

15 THE COURT: Court will recess until nine  
16 o'clock.

17 (The Court stands in recess.)

18 \* \* \* \* \*

19

20

21

22

23

24

25

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY  
Docket No. C-4122-73

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

URBAN LEAGUE OF GREATER :  
NEW BRUNSWICK, et al, :

Plaintiffs, :

vs. :

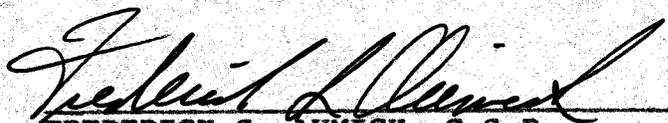
CERTIFICATION

MAYOR AND COUNCIL OF THE :  
BOROUGH OF CARTERET, et al, :

Defendants. :

-----

I, FREDERICK S. AUMICK, a Certified Shorthand  
Reporter of the State of New Jersey, do hereby CERTIFY the  
foregoing to be a true and accurate transcript of the above  
proceedings to the best of my knowledge, ability and belief.

  
FREDERICK S. AUMICK, C.S.R.  
Official Court Reporter