South Plainfield 1985

- letter noting objections of the Urban League to three matters on the 1/7/86 agenda of the S. Plainfield Board of Adjustment.

Attch: New Jersey Reporter (October 1985)

Pgs. 9

ML0003531

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS
Campus at Newark

ML000353L

School of Law-Newark • Constitutional Litigation Clinic
S.I. Newhouse Center For Law and Justice
15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

December 23, 1985

William V. Lane, Esq.
324 East Broad Street
Westfield, N.J. 07091

Dear Mr. Lane,

I write to note the objections of the Urban League to three matters on the January 7, 1986 agenda of the South Plainfield Board of Adjustment.

American Cellular Network Corp. -- Application 42-85

I reiterate and incorporate herewith my letter to you of November 27 indicating our major concerns with this application. We have now learned that the tower will be emitting microwaves and thus are very concerned about the possible health hazards to neighboring residents. See enclosed article. We also have learned that the Mount Laurel developer, who is the contract purchaser of the Pomponio Avenue site which borders this site, believes that the project as currently designed, including the location of the tower, its possible health hazards, and the use of lights to illuminate the tower for airplanes, may adversely impact on the viability of the Pomponio Avenue site. Quite apart from all the other technical reasons for denial, we believe that the application must be denied, absent compelling evidence that there will be no health hazard at all to neighboring residents and that, in any case, it will not affect the marketability of the Pomponio Avenue site.

Sal Bucellato -- Application 45-85

For the reasons stated in our November 27, 1985 letter, we object to approval of this application in its present form, because we believe it violates Paragraph 3(J) of the Judgment as to South Plainfield and Section 516.1(h) of Ordinance No. 1009 adopted August 7, 1985 and in effect since October 2, 1985. Specifically, I wish to bring to the Board's attention the fact that the cited ordinance sentence explicitly provides that "Any site that is zoned at a gross density of eight (8) units per acre or greater shall be subject to the mandatory set-aside provision" of 20 percent. This provision is broader than the preceding ordinance sentence concerning densities over 4 per acre, which refers only to "sites of three (3) acres or more." Clearly, then, Mr. Bucellato's site, which is just short of 3 acres, but for

which density of more than 8 units per acre is sought, is subject to this ordinance. Approval of this application must, therefore, be subject to the condition that the development provide 20 percent low and moderate income units, as defined elsewhere in the ordinance. We would not, of course, oppose approval in such a conditional form.

Elderlodge -- Application 2-82SP

Finally, as noted several times before, we think it is improper to continue processing this application before this Board. The site has been rezoned, effective October 2, 1985, to permit the 6 story, senior citizen facility for which application is made. Ordinance No. 1009, Section 713. The matter should be before the Planning Board, unless the applicant seeks to vary from the newly enacted MF-1 Zone requirements. In any case, as the Board is well aware, there remains an outstanding court order concerning the limits of Board action on this application.

Please feel free to call me if you have any questions about the Urban League's objections to the approval of these applications in their present form.

Sincerely yours,

Eric Neisser

Eric Neisser
Co-Counsel for Urban League

cc: Judge Serpentelli
Carla Lerman
South Plainfield Service List
Sal Buccellato

new jersey reporter

Volume 15, Number 4 ISSN 0195–3192 *October 1985*

FEATURES

DEPARTMENTS

New Jersey Reporter is published 10 times a year, monthly except August and December, by the Center for Analysis of Public Issues. Annual subscriptions are $25.00, and may be ordered through the magazine's office at 16 Vandeventer Avenue, Princeton, New Jersey 08542. Telephone: 609-924-9750. *New Jersey Reporter* is transcribed on tape for the Library for the Blind. Second Class Postage paid at Princeton, New Jersey 08542.
Postmaster: Send Form 3579 to *New Jersey Reporter*.

Valley of the Microwaves

By
JEFFREY KANIGE

In the spring of 1844, inventor Samuel F.B. Morse rhetorically asked, "What hath God wrought?" in the first transmission over the world's first telegraph line. The question may be more aptly applied to one of the most significant developments in the communications industry since Morse's telegraph: microwave radio transmission.

Nearly 100 years after engineers first developed and harnessed extremely high-frequency radio waves, scientists, industry, government officials, and citizens are still wondering what, if anything, has been wrought. And nowhere does the question burn more intensely than in Vernon Township, a resort community tucked into the mountains of Sussex County.

The people of Vernon, several state agencies, and numerous New Jersey-based industries are locked in a debate that also rages worldwide. From Massachusetts to Moscow, scientists are trying to determine whether exposure to microwaves may be linked to serious health problems. But no one is sure. And the New Jersey Department of Health may have botched an opportunity, in Vernon, to add to the body of scientific knowledge.

There is mounting pressure on state and local governments to step in and control the rapidly expanding microwave-communications industry, lest future generations be afflicted with all manner of unknown diseases. But in so doing, policy-makers may be ignoring the weight of scientific evidence, buckling under instead to public hysteria caused by ignorance or confusion. On the other hand, microwaves may be the next asbestos.

Are current state regulations – which effectively give the microwave industry *carte blanche* to build whatever facilities they want, wherever they want – actually exposing the populace to dangerous levels of radiation? Or are microwave installations indeed the safe, non-polluting ratables the industry says they are? More to the point, who has the burden of proof? Is it up to the industry to prove conclusively that microwave installations are safe? Or is it the responsibility of opponents to prove that they are harmful?

Caught in the middle of this dilemma are public officials and policy-makers, who must balance the economic benefits of a booming microwave industry against the potential long-term health effects of microwave exposure. For the moment, the former is known, the latter still a mystery. And in places like Vernon, that means unbridled growth for the industry – and a growing fear among the populace.

Scientists began generating microwaves just before World War II. One of the first major applications of microwave radiation, a non-ionizing form of radiation (it cannot change the basic structure of particles it strikes), was in radar – a patriotic technology that ultimately helped win the war.

Since the military was the first big user of microwaves, most of the early health studies were conducted or paid for by the defense establishment. Researchers discovered early on that, at high power levels, microwaves would heat organic tissue, a finding that subsequently led to the development of microwave ovens.

Most American studies since then have focused on this "thermal effect" of microwaves, which is the root of the debate surrounding non-ionizing radiation today. Industry insists that microwaves are capable of nothing more than heating at high power levels. But a number of scientists and citizens groups, especially in New Jersey, point to what they say is a growing body of evidence suggesting that long-term exposure to low levels of non-ionizing radiation can have severe adverse health effects. The Soviet Union and other Eastern Bloc countries have been doing research into the possible effects of low-level, radio-frequency (RF) radiation since the early 1960s, which is one of the reasons why the revelation that the Soviets were bombarding the American Embassy in Moscow with microwaves caused so much consternation.

In addition, a number of American scientists have done studies suggesting that RF radiation may be harmful even at non-thermal levels. One such study uncovered evidence that animal brain tissue releases more calcium ions when irradiated with low-level microwaves. Another found that microwaves directly stimulate auditory nerves so that one can actually "hear" a radar beam. But no one is sure whether these two effects are at all significant, or, more important, whether they are capable of harming human beings.

More ominous was the finding of scientists at the Food and Drug Administration that microwaves could damage the chromosomes of sperm cells in laboratory mice. The researchers were quick to point out that their findings were preliminary, and could not yet be applied to humans. But similar chromosomal damage to human cells would cause Down's Syndrome, a birth defect that seems to occur at an unusually high rate in Vernon Township.

The "thermal-effects-only" school still dominates scientific thought in this country, but it is by no means the only school of thought. Those with opposing views are not only growing in number; they are becoming more vociferous in their opposition. The debate is heating

up, just at a time when the satellite-communications industry, a major user of microwave technology, is hitting its stride.

While quite a few communities in New Jersey – notably Northvale, Jefferson, and Rockaway – have had to deal with the microwave issue, Vernon Township is unique. Vernon, if not the birthplace of the industry, is certainly its cradle. The township is perfectly situated for satellite communications; nestled between towering ridges of the Wawayanda Mountains, it is shielded from the cacophony of radio interference generated by New York. But it is still close enough to New York (45 miles) to be within easy reach of the nation's communications hub.

Consequently, soon after the Federal Communications Commission adopted its "Open Skies" policy, permitting the commercial operation of satellite communications equipment, Western Union built the country's first non-governmental satellite earth station in Vernon Township. The station began operating in 1974, beaming signals to, and receiving information from, its Westar satellite. The Western Union station was soon followed by the construction of stations by RCA American Communications and the American Satellite Company. All three stations now send and receive signals from satellites parked in geostationary orbits 22,300 miles above the earth. The signals are then sent to central switching offices in New York over a string of microwave relay towers. The operations continue 24 hours a day, seven days a week, 365 days a year.

Today, Vernon is the site of one of the most concentrated collections of microwave communications equipment in the world. The FCC says there are 55 point-to-point microwave relay transmitters in the township, along with the three earth stations. The stations contain a total of 15 parabolic satellite-dish antennas, ranging in diameter from seven to 15 meters.

And the industry continues to expand. In 1982, RCA filed an application with the township's board of adjustment for permission to replace an existing 110-foot relay tower with a 150-foot tower. Previously, the companies did not have to secure use variances, even though they were located in residential zones, because they were considered public utilities. The board of adjustment changed that designation, however, and required the companies to apply for variances when they wished to expand. That action set the stage for a long series of often acrimonious public hearings and court cases.

RCA withdrew its application later in 1982 after a public outcry. In 1984, the company came back to the board of adjustment with plans for a 120-foot tower and six more dish antennas. Citizens fought the application on the ground that the station should not be permitted to expand in a residential area. After months of hearings, the application was granted.

Early in 1985, American Satellite announced plans to add a seven-meter dish antenna to its site. Township residents again fought the application, this time contending that the facilities were not safe. A long string of hearings ensued before this application was also granted.

To date, CAT has found 39 cases of birth defects, 32 cancers, six non-malignant tumors, and 30 pregnancy problems in Vernon.

Although the citizens were not able to stop either of these expansion projects, they did manage to catch the attention of the national media and shine a critical light on two state agencies.

The citizens were organized and led by Stephen and Elise Kreindler, who have lived with their daughter, Lizabeth, just up the hill from the RCA station for nine years. At first, the Kreindlers, like everyone else in Vernon, welcomed the earth stations.

"This was real high technology, very futuristic, and we used to go around being very puffed up about having it here in Vernon," says Stephen Kreindler, who runs a small business in Vernon. But he says his family, and others, didn't really understand the extent of the stations' operations. "For a long time, we all thought they were just receivers," he recalls.

It wasn't until RCA announced its 1982 expansion plans that the Kreindlers and the rest of the town realized the stations were *transmitting* over microwave frequencies. "I remembered reading in a magazine that microwaves weren't safe," Elise Kreindler said. That magazine article started her on a dogged pursuit of information and led to the formation of Citizens Against the Towers (CAT). CAT has become almost synonymous with opposition to the microwave industry in New Jersey.

Elise Kreindler began calling all the scientists, engineers, and researchers she could find, spending hours at a time on the telephone. She eventually collected a mass of information on the technology and its possible effects. It all began to hit home when a group of mothers in the township discovered that they had all given birth to children with Down's Syndrome in the years after the earth stations went on line. The cluster of cases – seven – seemed unusual in a town of 16,000.

The working group of CAT then started to collect information on the health problems in Vernon by running ads in the local papers, asking people to call the group if they had any of the problems that some experts had said may be linked to exposure to microwaves. They correlated the self-reported cases with property records, and designed a map with color-coded flags, each representing a medical problem, placed on the exact block and lot numbers where they have been identified. (The map has since become something of a media star, surfacing on a number of New York television newscasts.)

To date, CAT has found 39 cases of birth defects, 32 cancers, six non-malignant tumors, and 30 pregnancy problems, including miscarriages, underdeveloped fetuses, and a rare disorder known as mole pregnancy. The now-famous map showed that most of the health problems were concentrated in the areas directly around the three earth stations. In fact, more than half – 55 percent – were located in about one-quarter of the township's homes, according to CAT officials.

CAT went public with its findings late in 1982, and the blizzard of press coverage that followed had two effects: RCA withdrew its expansion application, and the Sussex County Health Department asked the state Department of Health to study the incidence of birth defects in Vernon. The state agency agreed, and Dr. George Halpin, the department's director of Parental and Child Health Services, was put in charge of the study.

Halpin began his work in early 1983 – but did not finish the research until the fall of 1984, a delay that angered CAT officials. Halpin maintains that the delay was unavoidable. "Just as we started," he says, "we had to deal with the infant mortality problem in Jersey City. In that case, we had a death rate more than double what it should have been, and we knew it was going on."

When Halpin did get into his study, he and his staff reviewed the birth records of hospitals around Vernon from 1975 to 1981, the same period CAT had studied. He then compared the number of birth defects among infants in Vernon with the number for the rest of Sussex County. In each category of birth defects, Halpin found that although the incidence in Vernon was slightly higher than for the rest of the county, the difference was "not statistically s nificant."

Needless to say, CAT and its allies were not pleased, and they enlisted the support of the Office of Citizen Complaints in the Department of the Public Advocate. CAT had already contacted that office to investigate why it was taking Halpin so long to finish his study. Armed with the CAT data, Meril Dobrin of the OCC went to work. "We were afraid that the health department was going to run up to Vernon and tell the zoning board that everything was fine," she says.

Dobrin "did a little sleuthing" herself, and documented the seven cases of Down's Syndrome that CAT had found – four of which Halpin had missed. Halpin has since acknowledged the discrepancy, explaining that he and his staff missed a number of cases because some of the women had gone to hospitals as far away as Long Island to have their babies. "There was no way we could have found them," he says.

Halpin now believes that "the number of birth defects in Vernon *is* unusual – but we've found nothing yet to indicate that anything there caused them." He has promised a more thorough study, and says his staff has begun contacting the parents that CAT had identified but he had missed.

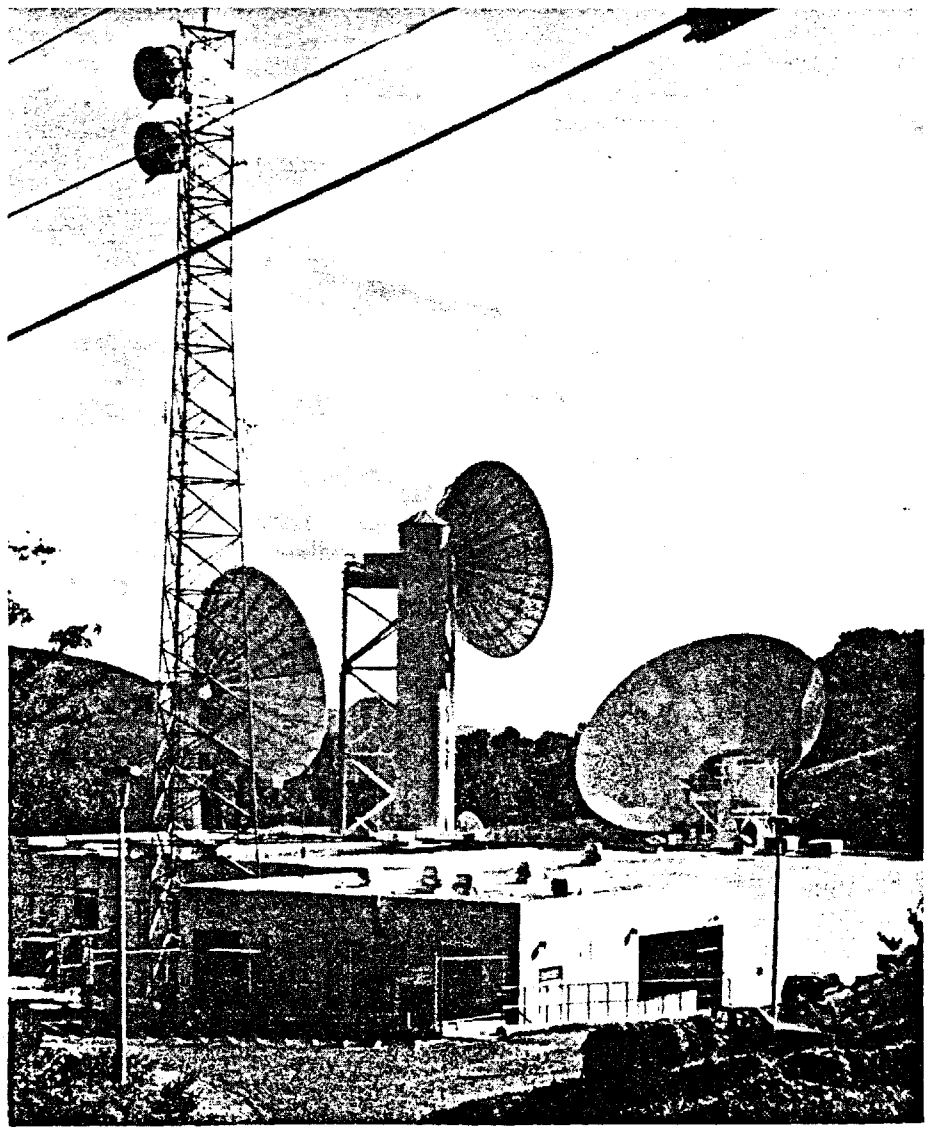
The health department is not likely to meet with much success in this endeavor. CAT so distrusts the state agency it has urged the parents not to cooperate with Halpin's staff. "We want them to deal with us," Stephen Kreindler says. "We want them to study all the health problems in Vernon, not just Down's Syndrome."

Anna Carpenter, a health department researcher, acknowledged that the department has not gotten any useful responses to its inquiries.

At the same time Halpin was conducting his birth-defects study, the department's environmental health program began looking at the levels of microwave radiation in Vernon. Margaret Conomos, the staff scientist who did the research, would not discuss her methods or findings. But according to records obtained by the OCC, Conomos began by asking the Federal Environmental Protection Agency (EPA) to estimate what the radiation levels in Vernon would be, based on the kind of equipment that is located there. She sent the EPA the specifications of the equipment that the three companies had given to the Sussex County Health Department.

Based on the industry-supplied data, the EPA wrote Conomos in April 1984, "For all practical purposes, even the most sensitive receiving/measurement devices could pick up no signal from these sources in a general survey of the area."

The OCC, at least, was not impressed. "We were never happy with that [industry-supplied] data," Dobrin said. In May of this year, the Department of Health asked the Department of Environmental Protection (DEP) to take actual measurements of microwave radiation levels in Vernon. Deborah Wenke of the DEP's Bureau of Radiation Protection went to Vernon on May 22, and, setting her instruments according to information provided by the in-



RCA American Communications operates its "Vernon Valley Earth Station" 24 hours a day in the heart of a residential neighborhood.

dustry and the FCC, detected no levels at all.

But Wenke acknowledges that her equipment was not sensitive enough to pick up extremely low levels of microwaves. "We are in the business of regulation, not research," she explained. New Jersey has a non-ionizing radiation public-exposure limit of 5,000 microwatts per square centimeter, and the DEP's instruments are designed only to show whether or not that standard is being violated.

A private consulting firm hired by both American Satellite and the township has taken measurements with more sensitive equipment, and has found some microwave radiation. But the levels were only what one would expect to find anywhere, since microwaves are, in fact, everywhere. As Gerald Nicholls, who heads the DEP's Bureau of Radiation Protection, put it, "There are probably higher levels in my office." The bureau is located just outside Trenton, and is swept by the radar at Mercer County Airport.

CAT and Dobrin simply do not believe the measurements, and the Kreindlers have hired a researcher to check the FCC's files in Washington in an effort to get more information. An interesting sidelight: Dobrin originally petitioned the FCC under the "Freedom of Information Act," and was told that the data she wanted – the specifications and nature of the earth stations' operations – were not restricted and were available to the public. But when the Kreindlers' researcher went to the commission's offices, he was told the information involved military matters and was not publicly available. The issue has yet to be resolved.

In the meantime, the health department and the DEP both say that the EPA is the only agency equipped to take the necessary measurements, and they have asked the federal agency to do just that. So far, the EPA has not visited Vernon.

Through it all, the industry has steadfastly maintained that its operations are completely safe and harm no one. "There has never been any documented proof that there have been any health problems caused by microwaves at the levels we are talking about," says Archie Miller, director of spacecraft operations for RCA. Miller has lived in Vernon for 11 years, and sent his children to the Vernon schools. "Five of my six children went to the school that is directly across the street from the American Satellite facility, and we have no problems," he says.

Miller points out that "the levels of microwaves at our fence line are orders below any standard now in use." But it is, in fact, the issue of standards now in use around which much of the microwave debate revolves.

In the absence of federal guidelines, the Commission on Radiation Protection, the rule-setting body within the DEP's Bureau of Radiation Protection, has adopted for New Jersey the standard set forth in 1982 by the American National Standards Institute (ANSI). The ANSI standard is derived from the research of a group of scientists and engineers who largely adhere to the traditional "thermal-effects-only" line of thinking.

Commission Chairman Max Weiss, a physicist for Bell Labs, said the panel used the ANSI standard because the state has neither the resources nor the expertise to study the issue thoroughly.

Good Neighbor Policy

At least one arm of New Jersey state government is in tune with Washington state's enlightened Kitsap County commissioners, who turned down RCA's application to build a microwave facility on Bainbridge Island. Late in 1983, a security system that used microwaves to detect intruders was installed at Drumthwacket, nominally the Governor's mansion but currently a vacant piece of state-owned property. A group of Princeton residents, neighbors of Drumthwacket, found out about the microwave system, and decided *they* would rather be safe than sorry.

Calvin Martin, a Rutgers University history professor with an academic background in biology, began calling experts and gathering information to present to the Governor's staff. The group eventually submitted a summary of Martin's findings in a document titled, "Neighbors Report on the Microwave Security System at Drumthwacket."

The report questioned the safety of the ANSI standard, pointing out that the figures were revised in 1982 to half of what they were in 1974. In addition, the report decried the methods used to arrive at the standards: "The 'scientific literature' on which the ANSI 1982 standards are based is ostensibly the best that the scientists concerned have themselves assimilated. The fact that many of them are paid consultants of such large corporations as Bell Laboratories and the Radio Corporation of America obviously creates a self-serving mechanism, since those creating and applying the standards for a wide range of industrial and home-use products are often employed by those industries being regulated."

The report continued, "By making scientific determinations the sole criteria for standard-making, the will of the majority can be readily ignored. Were economic criteria to be the only criteria (i.e., protection equals maximizing economic good) the results would be equally unfair."

Martin says that the radiation levels he and his neighbors would be exposed to would not exceed New Jersey's exposure standard. Instead, their properties would be "bathed" in low levels of microwaves. The neighbors' report stated emphatically, "We found virtually unanimous agreement among those we consulted that there is increasing and abundant scientific and clinical evidence demonstrating a real danger from microwave radiation at long-term, non-thermal levels of exposure."

The report listed a number of possible health effects, including birth defects, endocrine problems, and damage to the central nervous and immune systems. The report concluded, "We are deeply concerned that we could be chronically exposed to radiation capable of causing serious and possibly fatal illnesses. The fact remains – no

"We relied on the judgments of 40 or 50 scientists, government officials, and academicians who reviewed thousands of articles and papers for ANSI. The state does not have that capability," he said.

But CAT and like-minded groups around the state maintain that the ANSI research delved entirely into the thermal effects of microwaves, ignoring the more subtle effects of long-term exposure to low levels. They point out that the Soviet Union's public-exposure limit is one microwatt: in Massachusetts, it is 200 microwatts. The ANSI standard, originally set at 10,000 microwatts, is currently 5,000.

Fred Sterzer, another commission member and director of RCA's Microwave Technology Center, maintains that New Jersey did not want to pick an arbitrary number. According to Sterzer, "The commission has always felt that the public would be best served by a national standard." The adoption of a national standard seems unlikely, however, because the Reagan administration has cut back sharply on research into non-ionizing radiation. Thus, the ANSI standard remains New Jersey's standard.

The Kreindlers and their allies are not the only ones concerned about the adoption of the ANSI standard. In October 1983, Glen Sjoblom, director of the EPA's Office of Radiation Programs, wrote to Frank Cosolito, then-acting director of the Bureau of Radiation Protection, expressing the federal agency's concern about the ANSI figure. Sjoblom wrote that ANSI had specifically cautioned against using the standard for anything other than occupational exposure.

Sjoblom noted, "As we interpret the ANSI standard, it allows for occasional exposure to the 'upper limit,' but such exposure is not encouraged. Because the commission's proposal does not contain [ANSI's cautions], we believe that it distorts the intent of ANSI to provide some guidance for nonoccupational exposure." And he concluded, "We are concerned that if New Jersey adopts an essentially occupational standard for nonoccupational exposure, it will encourage those responsible for siting sources to design to the 'upper limit.' We would note that Massachusetts has adopted a more conservative public exposure standard than ANSI."

Commission Chairman Weiss contends that the ANSI standard *can* be used as a nonoccupational limit, and that, in any event, New Jersey's standard was only meant to be an interim guideline. He says that as soon as the federal government comes up with a rule, the commission will adopt that.

Still, the commission's action appears to benefit the industry. An "economic impact" statement attached to the rules for the commission's public hearings reads, in part, "The practical effect of the application of the proposed rule will be to eliminate unnecessary time delays in the installation of new facilities with a cost savings to industry which will ultimately result in a reduction in the cost of such service to the public." With a little help from a Bergen County Superior Court judge, this rule has gone a long way toward eliminating "unnecessary time delays."

Two decisions by Judge Harvey Smith have effectively barred local governing bodies from considering health issues when hearing applications from microwave companies. After officials in Northvale denied an application from LIMA Partners to expand their satellite operations, the company appealed. Judge Smith first ruled that local zoning boards could not consider health issues because the state had already said that as long as the firms met DEP's standards, the facilities were safe. The second time he heard the case, he ruled that the company could not be prevented from constructing the antennas because it was involved in communication and was therefore protected by the First Amendment, a novel argument in the microwave debate.

When the second decision was issued, the Vernon Township Board of Adjustment was considering American Satellite's expansion application. The zoners had heard hours of testimony from health experts on both sides, including some of the heavy hitters in the debate. But when the attorney for the company cited Judge Smith's decision, the board struck all health testimony from the record. The application was approved soon after, and CAT is now appealing.

The effect of the rule, then, has been to pre-empt local officials from considering health effects, and make it easier for the industry to expand. Interestingly, in 1982, RCA was denied permission to build a microwave facility on Bainbridge Island in the state of Washington. In recommending that the Kitsap County Board of Commissioners reject RCA's application, Commissioner John Horsley wrote, "I have concluded that the community's concern over the long-term human-health effects of microwave radiation from the RCA station, especially regarding their children, is deep, broad, and extremely serious. The important thing here is not the scientific debate as to the extent and degree of present or long-term risk. What is important from a public-policy perspective is the degree to which a broad segment of the affected populace perceives that they and their children are at risk." He concluded, "Because of what the country has learned, after the fact, about problems like asbestos, atomic radiation, Love Canal, etc., as long as there remain serious questions about microwave radiation the prudent thing for the County to do is err on the side of caution."

In July, representatives of the national Center for Disease Control (CDC) visited Vernon on a fact-finding mission. As a result of that trip, the CDC may decide to do an in-depth study of the health problems in the town. The state health department has put its projects on hold pending the CDC's decision.

(Continued on page 33)

one as yet knows what level of exposure is safe. There is no safe threshold. The effects of non-thermal exposure remain a clinical no-man's land and we do not want to be guinea pigs in this indeterminate climate."

Martin said his group has been conducting "sensitive negotiations" with Edward McGlynn, Governor Kean's deputy chief of staff. McGlynn said the system has never been turned on — and never will be. "We've agreed to install a different system that won't use microwaves," he explained. The Governor's aide said that he and his staff never discussed whether or not microwaves could have serious health effects; they were more concerned with what the neighbors thought.

"There were concerns raised by residents surrounding Drumthwacket, and we met with them on a number of occasions," McGlynn said. "They presented an awful lot of documentation that microwaves could be harmful, and for the good of the neighborhood, we decided it would not be appropriate to turn the system on. We were concerned about being good neighbors."

invalidated when the facts make such disparate treatment unreasonable. The critical question is whether state laws should create a bureaucratic mechanism to calculate and impose the "fair share" of regional housing needs on municipalities.

The declaration of invalidity of exclusionary zoning is one thing; the creation of a state bureaucracy with power to control the development of all or most real estate is another. The concept that carried the process from a commendable declaration of public policy to the adoption of an alien political philosophy is the concept that every municipality must provide a "fair share" of regional housing needs.

It is the "fair share" concept that has converted a generally acceptable principle of justice and equity to a commandment that requires the creation of government megastructure and an army of government officials to do battle with the partisans of real-estate development in the statistical warfare provoked by that concept.

It is important to understand that the requirement of any municipality to undertake the obligation to provide for a "fair share" of regional housing needs is an issue of substantive public policy. The extent of such obligation is *not* an issue of state constitutional law, unless and until the people of the state amend their Constitution specifically to so provide.

It is unfortunate that the New Jersey Legislature felt compelled to adopt the dicta of the *Mount Laurel* decision as the technique for responding to exclusionary zoning. The *Mount Laurel* decision is an aberration. The courts in other states have rejected the "fair-share" test in exclusionary zoning cases. The New Jersey Supreme Court would have been wise to join its judicial brethren in recognizing the limits of judicial propriety. The New Jersey Legislature would have been wise to recognize that it is not bound to follow the dicta and public-policy declarations of the state courts.

Microwaves in Vernon

(Continued from page 19)

In addition, the Vernon Township Committee has appointed a "Blue Ribbon Panel" to keep residents informed about developments in the controversy. The appointment of the panel would seem to represent a victory for CAT, but the organization declined an invitation to send a representative. The Kreindlers say the committee is just playing politics. CAT has chosen to go it alone; its members will not cooperate with the health department, the township committee, or even the CDC, unless they are convinced that the CDC will do what they consider to be a thorough study.

Despite CAT's hostility, Township Administrator Terry Reidy, who serves as the panel's chairman, is confident that the "Blue Ribbon Panel" can help allay residents' fears. "These are all Vernon people," he says. "They wouldn't lie to anybody, and they certainly won't lie to their neighbors."

There is still an abundance of questions surrounding the microwave issue, and a scarcity of answers. While the industry and its opponents are both confident of being proven right, the officials who have to sort through the maze of uncertainty can't be sure of anything.

Most municipalities have chosen the cautious approach, and have kept the industry out or limited its expansion. Vernon has welcomed the companies, and seems intent on providing a good home. This pretty resort community may one day be renowned for its prescience, or for its stupidity.

The microwave debate in New Jersey appears to have reached a stalemate. The parties on all sides of the issue refuse to move off their established positions and appear more interested in defending their actions and attitudes than in seriously discussing the question. Such intellectual entrenchment will obviously enhance neither scientific knowledge nor public welfare.

Furthermore, no one really has a record worth defending. The state health department obviously mishandled its Vernon investigation, missing information that was not only vital but readily available. The Commission on Radiation Protection stubbornly clings to the ANSI standard, despite considerable evidence that the figure is useless. Judge Smith's decision has clearly muted an important debate at a critical time. Even given the judge's ruling, local planners should still not be precluded from considering the public perception of the possible risks of microwaves. CAT's nearly total distrust of government agencies may border on paranoia, and will certainly impede the scientific studies the group professes to advocate. Not cooperating with the agencies will only make an already difficult job that much tougher.

There is more than enough blame to go around. What is lacking is information. The industry may assert that microwaves are safe, but the good health of Archie Miller's six children is hardly sufficient proof of that. At the same time, the Soviet Union's public-exposure limit of one microwatt is shaky ground on which to adopt a similarly conservative limit in the West. The incidence of Down's Syndrome in Vernon may or may not be statistically significant, but it should be sufficiently arresting to warrant more substantive scientific study. The fears of Vernon residents are legitimate, but they are grounded more in the unknown than in any conclusive evidence that microwaves are posing a direct threat to their health and that of their children.

As the microwave debate heats up, the list of questions gets longer and longer. The residents of Vernon – and the citizens of New Jersey – deserve some answers.