

NAACP v. Mount Laurel

22 Aug 1980

Supplemental Brief of Defendant-Respondent Twp of Mount Laurel  
-cover letter to Prof. Payne of Rutgers re enclosed Brief.

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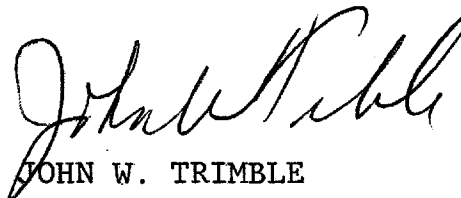
August 22, 1980

Professor John M. Payne  
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Office of the Dean  
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Dear Professor Payne:

Pursuant to your Law Clerk's request of August 21, 1980 I am enclosing my brief on the Southern Burlington County NAACP v. Mt. Laurel Township to the Supreme Court.

Very truly yours,

  
JOHN W. TRIMBLE

JWT:pab  
Encl

-----  
SOUTHERN BURLINGTON COUNTY  
NAACP, et al.,

Plaintiffs-Appellants,

-and-

DAVIS ENTERPRISES,

Intervenor,

v.

TOWNSHIP OF MOUNT LAUREL,

Defendant-Respondent.  
-----

Civil Action

ON CERTIFICATION TO THE  
SUPERIOR COURT OF NEW  
JERSEY, LAW DIVISION,  
BURLINGTON COUNTY

Sat Below:

Wood, J.S.C.

CONSOLIDATED WITH: A-149 Urban League of Greater New Brunswick, et al v. Mayor and Council of Borough of Carteret, et al.; A-150 Joseph Caputo & Aldo Caputo v. Township of Chester, Planning Board of Township of Chester; A-151 Glenview Development Co. v. Franklin Township Planning Board and Environmental Commission of Franklin Township; A-173 Urban League of Essex Co., et al v. Township of Mahwah; A-194 Round Valley, Inc. v. Township of Clinton, Township Council of Township of Clinton and Planning Board of Township of Clinton

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SUPPLEMENTAL BRIEF OF DEFENDANT-RESPONDENT  
TOWNSHIP OF MOUNT LAUREL

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## PROCEDURAL FORMAT

On May 19, 1980, the New Jersey Supreme Court furnished all counsel in this consolidated matter with a list of 24 questions for discussion in a Supplemental Brief.

Point I of this Supplemental Brief addresses itself to the practical effects of exclusionary zoning cases on zoning and housing in New Jersey (Question #5) and the economic feasibility of low and moderate income housing units in developing communities as well as central cities. (Question #6) Point I also touches upon fiscal zoning (Question #8) and the trickling down theory (Question #19).

Point II of this Supplemental Brief addresses the concept and implementation of fair share allocation plans (Question #'s 11 and 13).

Point III of this Supplemental Brief addresses itself to the practical application of the duty not to exclude all types of housing, regardless of income level (Question #1).

Point IV of this Supplemental Brief addresses itself to the per se exclusion of mobile housing and the validity of Vickers v. Glo. Tp. (Question #9).

Point V of this Supplemental Brief addresses itself to the question of a municipality having a duty to house its resident poor (Question #15).

## PRELIMINARY STATEMENT

On May 1, 1971, a Complaint was filed with the Superior Court of New Jersey, Law Division, Burlington County, bearing the caption, Southern Burlington County N.A.A.C.P., et al vs. Township of Mount Laurel, et al accusing the Township of engaging in certain exclusionary zoning techniques where were alleged to be ". . .in violation of the constitution and laws of the United States and the State of New Jersey . . . "

On March 13, 1972, a four-day trial was conducted in Mount Holly, New Jersey, presided over by the Honorable Edward V. Martino. On May 1, 1972, Judge Martino rendered his decision in favor of plaintiffs, holding the Mount Laurel zoning ordinance to be totally invalid. Southern Burl. Cty. N.A.A.C.P. vs. Tp. of Mt. Laurel 119 N.J. Super 164 (Law Div. 1972) Judge Martino's remedial Order was stayed pending appeal, until the controversy was supposedly resolved on March 24, 1975, when the New Jersey Supreme Court affirmed the trial court's holding, albeit with significant modifications. Southern Burl. Cty. N.A.A.C.P. vs. Tp. of Mt. Laurel 67 N.J. 151 (1975).

(Mount Laurel I)

On April 19, 1976, after a full year of arduous research and planning, the Mount Laurel Township Council passed

Ordinance 1976-5 for the purpose of complying faithfully with the Supreme Court's decision. Seventeen days later, on May 6, 1976, the Public Advocate, acting as attorney for the NAACP and other plaintiffs, filed a complaint with the Superior Court, which labeled the Ordinance economically discriminatory, exclusionary, inadequate, patently unreasonable, unjustifiable and enacted in bad faith.

The second trial consumed three calendar months during the summer of 1977; and Mount Laurel stood alone. The bills were incurred, and the bills were honored, notwithstanding the municipal budget crisis which ensued. Mt. Laurel Township v. Local Finance Board of the Department of Community Affairs, 79 N.J. 39 (1979).

On July 8, 1978, the Honorable Alexander C. Wood handed down the long awaited and historic opinion in NAACP v. Tp. of Mt. Laurel, 161 N.J. Super 317 (Law Div. 1978) (Mount Laurel II) which opinion (the mobile home issue notwithstanding) constituted a complete vindication of the efforts of the Township of Mount Laurel, its manager, township planner and engineer, as well as a total repudiation of the Department of the Public Advocate.

Mount Laurel II was a tragedy, a shame, and a pity in that the litigation had served to breed fear, resentment and mistrust between and among so many fine, well-motivated and well-intentioned individuals on both sides of the legal caption. In our post-trial brief we begged the Public Advocate to terminate the litigation once and for all so that residents of Mount Laurel, rich and poor, black and white, could begin to

work together in an atmosphere of mutual respect and trust to make the Township of Mount Laurel the very best place in which to live.

Our plea fell upon deaf ears. Only three days elapsed from the date on which Judge Wood issued his opinion (barely enough time to thoroughly digest the ramifications of the opinion) when the Public Advocate called a press conference to announce that an appeal would be taken. It greatly concerned us that neither the press nor the public was advised that it would cost New Jersey taxpayers approximately \$10,000 just to reproduce the trial transcript and the exhibit list for appellate review. Neither was any consideration given to whether the Township of Mount Laurel could even afford to properly defend such an appeal.

On April 16, 1980, while Mount Laurel II was pending unheard in the Appellate Division, the New Jersey Supreme Court granted the Public Advocate's motion for direct certification and Mount Laurel II was then consolidated with five other "exclusionary" zoning cases which the Supreme Court had previously certified in January, 1980.

By letter to all counsel dated April 28, 1980, the Supreme Court Clerk furnished a list of 24 questions which crystallized the critical issues inherent in exclusionary zoning litigation. On May 19, 1980, the Clerk met with all counsel in the Supreme Court chambers and advised that the Supreme Court required supplemental briefs addressed to the 24 critical issues

to be filed and served on or before June 26, 1980, with reply briefs due 15 days thereafter. Three days of oral argument were scheduled for September 22nd thru September 24th.

Before undertaking to comply with the Supreme Court's directive regarding the preparation of a supplemental brief and thereafter a reply brief, the Mount Laurel Township Council would most respectfully call the attention of the Court to its own plight which, to a somewhat lesser extent, is shared by other municipal defendants in this consolidated litigation.

It has been the misfortune of the Township of Mount Laurel to find itself a defendant, not in an ordinary civil litigation, but in a public interest litigation - a test case. The Township of Mount Laurel has been selected as the target defendant not because its zoning ordinance was the most exclusionary, but rather because it was the least exclusionary; not because the economic discrimination emanating therefrom was blatant, but rather because any resulting economic discrimination was minimal. The Township of Mount Laurel was selected not because the Township was a conservative community, but rather because the Township was a liberal community when compared with New Jersey's 567 municipalities. Indeed, even Justice Hall was forced to conclude that the Mount Laurel zoning ordinance was ". . . not as restrictive as those in many similar municipalities . . ." Mt. Laurel I at 164. After the Mount Laurel I decision was rendered, Peter J. O'Connor, Esq., who served as plaintiffs' co-counsel, publicly commented that,

"They were one of the 'liberal towns.' That's why we picked them. Their zoning was least exclusionary--at least it was supposed to be. Our attitude was, if we won in Mount Laurel, then we'd win in others."

The Township of Mount Laurel was selected as an experimental laboratory for a successful attempt to profoundly alter the course and nature of constitutional law in the State of New Jersey, and the price which Mount Laurel has paid has been enormous. During the past decade, Mount Laurel has lived in a goldfish bowl. Every facet of activity, every municipal transaction, every resolution adopted or rejected by the Mount Laurel Township Council has been subjected to public microscopic scrutiny; by Legal Services Corporation, Office of the Public Advocate, Congress of Racial Equality, Superior Court of New Jersey, Supreme Court of New Jersey, the United States Supreme Court, law review commentators from Harvard to U.C.L.A., land planners, engineers, economists and sociologists from every part of the country, and perhaps most important, by the American communications media.

Throughout the course of this litigation an attempt was made to create the impression that the residents of Mount Laurel were anti-poor people and that a municipal conspiracy existed to drive poor people out of town. For our part we bitterly resent the conspiracy insinuation and suggest that the media and the Public Advocate should have known better.

"These new residents, were of course, 'outsiders' from the nearby central cities and older suburbs or from more distant places drawn here by reason of employment in the region."  
Mt. Laurel I at 161, 162

Mount Laurel is neither a rich community, an aristocratic community nor a snob community. The quotation from Justice Hall makes it clear that most residents of Mount Laurel at one time belonged to low-and-moderate income households, and through diligence, perseverance and hard work were able to elevate their economic status. Mount Laurel owes no apologies to anyone for being a good middle class community.

The economic drain which this litigation has placed upon the Township's municipal budget during the past decade has been enormous. And the same can likewise be said for other target municipal defendants. One example should suffice. A single Morris County municipality has authorized and passed two separate referenda totaling more than \$450,000 to defend itself against the Public Advocate in an exclusionary zoning case which hasn't even reached the trial stage! Even the Public Advocate has admitted to a \$100,000 budget, including \$61,000 for salaries, \$32,000 for consultants and nearly \$13,000 to cover interrogatories and other court papers. And the Morris County zoning case is barely 18 months old. DePalma, Morris County vs. The Public Advocate, New Jersey Reporter, May, 1980. The current costs to the Public Advocate are drastically understated. The only valid comparison is total number of lawyer hours spent on a particular exclusionary zoning case. Information on that subject as it pertains to the municipal defendants is readily available as a matter of public knowledge. For good reason, however, the Public Advocate has never seen fit to publish or



release similar statistics.

The Township of Mount Laurel retained the services of two experienced attorneys to represent and defend its interests. The per hour rate being charged by these attorneys is embarrassingly low. When these two attorneys presented a good faith, conservative estimate to the Mount Laurel Township Council of the total number of lawyer hours needed to adequately and properly prepare a supplemental brief, a reply brief and participate in oral argument, the Council was compelled, solely for budgetary reasons to instruct their attorneys to spend only one half the time reasonably necessary to do an adequate and proper job. What follows in this brief, therefore, is bare bones, not because the Mount Laurel Township Council has yielded one iota in support of its constitutional and public policy positions, but because hard reality requires that responsible local governmental leaders cannot bankrupt the Township's treasury.

The initial thoughts of the then New Jersey Supreme Court in 1973 when the Mount Laurel I was being argued caused Chief Justice Joseph Weintraub, perhaps one of the greatest legal minds the State of New Jersey has ever seen, to state "Cases of this magnitude should be decided by those who will have to live with the decisions." Bergen Evening Record, July 3, 1973. Members of the Court, we are presently agonizing with the decisions since Mount Laurel I.

POINT I

1970 NEW JERSEY ZONING PATTERNS WERE SUFFICIENT TO ACCOMMODATE AN APPROPRIATE VARIETY AND CHOICE OF HOUSING NEEDED TO SOLVE THE PRESENT AND PROSPECTIVE SHORTAGE; HOUSING PRODUCTION AND/OR CONSUMPTION PROBLEMS BEING SOLELY TRACEABLE TO AN EXCLUSIONARY ECONOMY.

The 1975 Mount Laurel decision (Mount Laurel I) contained within itself the three seeds of its own ultimate destruction: a faulty diagnosis, the wrong prescription and an improper course of treatment.

The faulty diagnosis was the proposition that the housing shortage was caused by so-called exclusionary zoning. The wrong prescription was a dose of new low and moderate income housing units to be constructed in developing municipalities. The improper course of treatment was judicial administration, regulation and implementation of the prescription.

The diagnosis was faulty because it constitutionally engrafted a nonexistent relationship. Any causal connection between the housing shortage and exclusionary zoning is as tenuous and fanciful as a proffered, causal connection between cancer and jogging, obesity and sunshine or handholding and pregnancy. Neither the continuation nor elimination of exclusionary zoning, jogging, sunshine or handholding will either aggravate or diminish the housing shortage, cancer, obesity or

pregnancy. Preoccupation with noncausitive factors is not only distracting and diversionary but actually counterproductive.

The prescription was wrong because the construction of new low and moderate income housing units in developing municipalities is simply not economically feasible.

Finally, the treatment was improper because judicial intrusion into and usurpation of fundamental economic, social and political policy decisions was a grave transgression of the separation of powers doctrine.

Shelter is a basic human need and an absolute essential in promotion of the general welfare. The housing shortage is the result of an exclusionary economy and consequently the goal of decent, adequate and suitable shelter for every American family can only be achieved by the eradication of economic barriers, by the transformation of an exclusionary economy into an inclusionary economy. So-called exclusionary zoning did not cause either the housing shortage or the exclusionary economy which produced the shortage. The proper diagnosis is an exclusionary economy and it is upon this diagnosis that our attention should be directed.

In support of this diagnosis we have obtained current statistical data and information from a number of authoritative sources including Economic Report of the President Together with the Annual Report of the Council of Economic Advisers, Transmitted to the Congress, January 1980 (President's Economic Report); Statistical Abstract of the United States 1979,

100th Edition, U. S. Department of Commerce, Bureau of the Census (Statistical Abstract); Breckenfeld, The U. S. Economy in the 80's: A Decade of Catch Up for Housing, Fortune April 7, 1980 (Fortune Report); Land Use Regulation: The Residential Land Supply, New Jersey Department of Community Affairs, Division of State and Regional Planning (1972); New Jersey Residential Building Permits, New Jersey Department of Labor and Industry, Division of Planning and Research, Office of Business Economics (1970-1979); United States Department of Commerce, Bureau of the Census, Current Population Report, Series P-60, Nos. 117, 118, 120 and 121; The American Family: Bent-But Not Broken; Special Section, United States News and World Report June 16, 1980; The Handbook of Basic Economic Statistics, Economic Statistics Bureau of Washington, D.C. January 1980; New Jersey Fiscal Facts 1979, New Jersey Taxpayers Association, July 1979; State Housing Programs and Policies: New Jersey's Housing Element, New Jersey Department of Community Affairs, Division of State and Regional Planning 1977 (DCA Housing Element Report); A Revised Statewide Housing Allocation Report for New Jersey, New Jersey Department of Community Affairs, Division of State and Regional Planning, May 1978 (DCA Housing Allocation Report).

Frankly, we hesitate in referring to the latter two DCA Reports as authoritative. The 1970 housing and economic data appear to be accurate, but their 20-year projections are conjectural and speculative at best. Both Reports are the

products of numerous preliminary drafts and revisions and neither document carries the stamp of executive or legislative approval for very understandable reasons. The 1978 DCA Housing Allocation Report acknowledges that "a number of changes have occurred" during the eight years which have passed since the 1970 data was compiled and projections made. DCA also admits that an accurate assessment of these changes would require a statewide survey which in turn would be impossible until the next Federal census is compiled and distributed, sometime in 1982. Notwithstanding these reservations, however, we will utilize the DCA Reports in our economic analysis to follow.

The relevant statistical data and information from the foregoing sources have been condensed and set forth with specific citations on several exhibits appended to this supplemental brief. All data and information referred to in the body of this supplemental brief will be taken directly from these exhibits. In gathering this information we were mindful of Justice Pashman's cogent observation in Robinson v. Cahill, 69 N.J. 449 at 522, when he expressed his concern about real probability of ". . . rendering a hypothetical and fragmentary decision based on an outdated and sketchy record," not only because of the passage of time but also because of the paucity of current factual data. What's true for education is true for housing and zoning and economics.

NEW JERSEY HOUSING - 1970

In the 1970 base year there existed 2,300,000 housing units in the State of New Jersey and 2,110,666 of these housing units, (92% of the total) provided decent, adequate and suitable shelter for their occupants. The 1970 New Jersey housing shortage was large in terms of absolute numbers, 219,455 units, but small in terms of relative percentage, only 8% of New Jersey's total housing units. This housing shortage (219,455) consisted of 94,835 delapidated units, 94,499 overcrowded units and a need for 31,121 new units in order to create an acceptable vacancy rate. (Exhibit 1)

It should be noted that the original DCA raw and unrefined figure for the 1970 housing shortage was 453,930 units which DCA later rejected because of improper methodology, revised the figure downward and eventually settled upon the 219,455 number which appears in the 1977 DCA Housing Element Report. Better late than never but serious damage has been done during the interim. The incorrect 400,000 number was relied upon by former Governor Cahill in his message "A Blueprint for Housing in New Jersey" addressed to the legislature in 1970. We also feel comfortable in inferring that this same incorrect 400,000 DCA number was understandably relied upon by Justice Pashman when he used that number to define the 1970 New Jersey Housing Shortage in his concurring opinion in Mt. Laurel I at 203.

The point to be made is that the 1970 New Jersey housing shortage was actually and literally reduced by one-half, not by the abolition of so-called exclusionary zoning but simply by proper utilization of numerical methodology by the New Jersey Department of Community Affairs.

The 1970 New Jersey housing shortage (219,455 units), however serious in absolute numbers, must be kept in proper perspective. In 1950 thirty-four percent (34%) of American households then lived in unfit dwellings (that is, structurally substandard or lacking some or all plumbing facilities) but in 1980 that problem only affects three percent (3%) of all households. (Fortune Report) There is no reason to believe that the national housing experience differs in this respect from the New Jersey housing experience.

#### NEW JERSEY HOUSING SHORTAGE - 1970-1990

Based upon speculative and conjectural assumptions involving future population growth, household size and socio-economic trends, DCA has estimated that an additional 1,310,309 housing units must be built during the 20 year period from 1970 to 1990 in order to provide decent, adequate and suitable shelter for New Jersey's citizenry. To satisfy this future need 54,542 housing starts would be required annually for each of the 20 years of the 1970 to 1990 time frame. (Exhibit 2) In order to alleviate the 1970 need (219,455) and also satisfy the 1990 need (1,090,854 units) there must be average annual housing starts of 65,515 units for each year during the 1970 to 1990 time frame.

Should the foregoing blueprint become a reality, then New Jersey would stand proud in the year 1990, as a state in which decent, adequate and suitable housing did in fact exist for all of its citizenry. (Exhibit 3)

#### NEW JERSEY ZONING - 1970

The analysis of New Jersey zoning patterns existing in 1970 clearly demonstrates a surplus amount of vacant developable land properly zoned to accommodate the 1990 projected housing need. In 1970 there existed at least 1,586,231 acres of vacant developable land in the State of New Jersey. 81.7% of these acres were zoned residential, thereby furnishing the State with 1,295,951 acres zoned residential so as to accommodate housing needs and demands.

A further zoning breakdown of the residential land supply is in order. 6.2% of the residential acreage available (80,349 acres) was zoned for multi-family housing. 93.7% of the residential acreage available (1,295,951 acres) was zoned for single family housing units (1,214,306 acres).

Still a further breakdown of single family residentially-zoned acreage is required. 5.1% of the land (61,930 acres) was zoned for less than quarter acre housing. 9% of the land (109,288 acres) was zoned for single family housing on between one quarter acre and one half acre lots. 18.8% of the land (228,290 acres) was zoned for single family housing on lots between one half acre and one acre. 54.7% of the land (664,225 acres) was zoned for single family housing units on



lots between one acre and three acres in size. Finally, 12.3% of the land (149,360 acres) was zoned for single family housing units to be placed on lots in excess of three acres (Exhibit 4).

We have already seen that our projected housing goal to be reached by the year 1990 is the construction of 1,310,309 housing units. Our contention is that 1970 New Jersey zoning patterns are clearly sufficient to achieve this goal.

PROPOSAL I

Assume all the projected 1970-1990 additional housing goal was to be met only by multi-family units.

$$\frac{1,310,309 \text{ units (1970-90 goal)}}{80,349 \text{ acres zoned multi-family}} = 16.31 \text{ units/acre}$$

Thus, 1,310,309 units, or the total 1970-90 projected additional housing goal, would be built on only 6.2% of the total vacant developable land available for residential use.

PROPOSAL II

Assume all the projected 1970-90 additional housing goal was to be met by single family units built on lots less than 1/4 acre in addition to multi-family units.

61,930 acres zoned under 1/4 acre <u>    X 4 units/acre</u> 247,720 units	1,310,309 housing goal - 247,720 units on 1/4 <u>                                </u> acre lots 1,062,589 units for multi-family
---	---

$$\frac{1,062,589 \text{ units}}{80,349 \text{ acres zoned multi-family}} = 13.22 \text{ units/acre}$$

Thus, 247,720 units of single family housing would be constructed on 1/4 acre lots, and 1,062,589 multi-family units would be constructed, utilizing only 10.98% of the total vacant developable land available for residential use.



Every assumption utilized in each one of the foregoing proposals was made with the use of the most conservative statistical information available. The inescapable conclusion is that 1970 New Jersey residential zoning patterns, including multi-family zoning and single family residential zoning on lots ranging from less than a quarter acre up to one full acre were more than adequate to enable us to reach and satisfy our 1990 projected housing goal estimate of 1,310,309 units at multi-family density rates lower than even the rates deemed suitable and appropriate by the Public Advocate. If the problem confronting our State is a present and future housing shortage then 1970 New Jersey zoning patterns can only be characterized as inclusionary.

The discussion of 1970 zoning patterns to accommodate 1990 housing needs assumed frozen zoning patterns and ignored the fact that municipal zoning ordinances periodically change in response to current market demands. The Mount Laurel experience is the most dramatic example of this phenomenon. In 1967 the New Jersey Legislature passed PUD enabling legislation, N.J.S.A. 40:55-54 et seq., which was predicated upon a model act prepared by the Urban Land Institute. In December, 1967, the Mount Laurel Township Council adopted a PUD ordinance which incorporated the provisions contained in the state enabling legislation and the model act. Between 1968 and 1971 the Mount Laurel Township Council entered into four agreements with builder-developers extending tentative approval for PUD developments known as Larchmont, Birchfield, Ramblewood and

Cross Keys. When completed these PUD developments would provide 10,579 units consisting of an appropriate variety and choice of housing, including single family homes, duplexes, town houses, garden apartments and mid-rise apartments. Permitted densities ranged as high as 20 units per acre and lot frontages were as small as 33 feet. This change from half acre zoning to PUD zoning came about as a response to current market demands fully four years prior to the institution of suit by the Public Advocate's predecessor in Mount Laurel I.

PROGRESS TO DATE - 1970 - 1990

The goal is 1,310,309 additional units (219,455 units representing the 1970 need plus 1,090,854 units representing the 1970 to 1990 future need). Ten years have elapsed, one half the time frame in question is now history and empirical data exists by which we can assess progress or lack of progress toward the desired goal. In 1971 national housing starts increased 41.9% from the previous year and in New Jersey housing starts increased by 45.5% over the previous year. Similarly, in 1972 national housing starts increased by 14.1% and in New Jersey housing starts increased by 13%. In numerical terms there were 58,040 housing starts in New Jersey in 1971 and 65,539 housing starts in 1972. (Exhibits 7 and 8)

It is interesting to note that increased housing starts and exclusionary zoning coexisted in 1972 when New Jersey housing starts (65,539) actually exceeded the DCA annual goal (65,515). In 1972 the concept of economic discrimination, the concept that a municipal zoning ordinance, otherwise valid,

but which might have the indirect, unintentional, incidental or consequential effect of limiting or restricting the acquisition, use or enjoyment of land solely by reason of the insufficient financial resources of an individual or group might be legally offensive or repugnant, was nothing more than a concept which had never been reduced to a matter of public policy either by legislative enactment or by a judicial decision. We point this out not for the purpose of establishing any causal effect relationship between increased housing starts and exclusionary zoning, but rather to demonstrate the opposite; that no such relationship exists.

During the years 1976, 1977 and 1978 New Jersey annual housing starts fell below 40,000 units and in 1979 a 10.4% decrease was noted. These numbers are significantly below the annual goal of 65,515 housing starts per year. It is interesting to note that the decline in housing starts between 1976 and 1979 in the State of New Jersey took place during the four-year time period after the 1975 Mt. Laurel decision had prohibited exclusionary zoning. We make this point not for the purpose of demonstrating any causal effect relationship between the absence of exclusionary zoning and a decline in housing starts but rather to demonstrate the opposite; that no relationship exists.

To our knowledge New Jersey is the only State in the Union which has prohibited exclusionary zoning by constitutional mandate and yet New Jersey housing starts and national housing starts during the decade of the seventies are remarkably

similar. First, in every year from 1971 thru 1979 New Jersey housing starts approximated two percent (2%) of national housing starts. Second, in every year from 1971 thru 1979, if there was an increase in national housing starts, there was also an increase in New Jersey housing starts and likewise in every year where there was a decline in national housing starts there was also a decline in New Jersey housing starts. The housing shortage - exclusionary zoning link becomes even more tenuous and elusive.

#### THE NEXT TEN YEARS

We are behind. The goal is 1,310,309 units by 1990. At the rate of 65,515 units per year there should have been 655,155 new housing starts from 1970 thru 1979, but instead total housing starts during that time period only amounted to 406,184 units, a deficiency of 248,971 units, which must be compensated for during the decade of the eighties. The task becomes more difficult. This deficiency requires an upward revision of our annual estimate of necessary housing starts from 65,515 units per year for the next ten years to 90,413 new units for each of the next ten years. (Exhibit 9)

The issue most deserving of our attention is why we fell short of our goal during the decade of the seventies and how we can best achieve our revised goal during the decade of the eighties so as to solve our present housing shortage and future housing needs by the year 1990. We respectfully suggest that our failure during the decade of the seventies

can be placed squarely at the doorstep of our exclusionary economy and that the challenge before us in the decade of the Eighties is to eliminate economic barriers so as to make our economy inclusionary.

#### ECONOMIC FACTS OF LIFE

It is most encouraging that between 1970 and 1978 there was a 72.5% increase in median household income and a 78.8% increase in median family income. (Exhibits 10 and 11) Standing alone these figures appear at first glance to represent an enormous increase in the financial resources and purchasing power of the average American, the power to purchase, utilize and consume the basic necessities of life, be it housing or food or medical care or transportation. Unfortunately, however, median family income increases and median household income increases are terribly deceptive. Part of the decade's increase in median family income is directly linked to the corresponding increase in the number of working mothers by more than one third. (Exhibit 12) Even with the prevalence of two income families the inflation factor exceeded the income increase factor. Between 1970 and 1979 the consumer price indexes for all items increased 87% (Exhibit 13) and the consumer price indexes for housing increased fully 93%. (Exhibit 14) Between 1970 and 1980 existing housing prices increased 149% while new housing prices increased at a staggering 171% rate. (Exhibit 15) The construction loan interest rate increased from a low of 9% in 1970 to a high of 13% in 1979, a

44.4% increase during the decade of the seventies. Similarly, the mortgage loan interest rate increased from a low of 8% in 1970 to a high of 10.5% in 1979, a 31.2% increase during the decade of the seventies. (Exhibit 16)

Not only did the increases in the consumer price index more than offset median household and median family income gains during the decade of the seventies, but the effect of taxation also served to further erode the financial resources and purchasing power of the average American family. Between 1970 and 1978 the average tax of taxable individual income tax returns increased 93.7%. (Exhibit 17) Furthermore, the budgetary receipts, expenditures and deficits of our federal government made matters worse and only served to fuel the fire of our inflationary economy. Between 1970 and 1979 federal budgetary receipts increased 129.8%, federal expenditures increased 130.6% and a budget deficit existed during each year of the ten year time period leaving the total aggregate federal deficit for the decade of the seventies at \$322,205,000,000. (Exhibit 18)

State and Local Taxes also took a brutalizing toll. Between 1970 and 1979 New Jersey State Government Budgeted Expenditures increased 202.4%. (Exhibit 19) In dollar terms local property tax levies were even more onerous; from \$1,967,618,070 in 1970 to \$3,327,574,347 in 1978, a 69.1% increase. Municipalities utilize these revenues to finance essential services such as schools, police and fire protection, roads and recreational services. It is all well and good to



sympathize and deplore our excessive local property tax burden (as Justice Hall did in Mount Laurel I at 186) but to ignore its painful reality or to simply wish the problem away would be governmental irresponsibility!

These are the numbers of an exclusionary economy, the real reasons why America and New Jersey continue to grapple with a housing construction and housing consumption problem. It is only by transforming our exclusionary economy into an inclusionary economy by appropriate legislative and executive action during the decade of the Eighties that we will be able to meet our housing goals by the year 1990. We have searched the literature in vain in an attempt to find even a single economist, sociologist, land planner, builder, professor or reputable politician who has dared to suggest that increased housing starts can be effectuated by zoning changes.

The Public Advocate, blind to reality, wants to talk about zoning in a vacuum. Should our single family homes be placed on half-acre lots, quarter-acre lots, sixth of an acre lots or even one eighth of an acre lots? Should multi-family units be built five to an acre, ten to an acre, fifteen to an acre, or even twenty to an acre? Should lot frontages be ten feet, twenty-five feet, or fifty feet? Should sidewalks be installed? Should streets be twenty-eight feet wide or thirty-two feet wide? Should builders use copper sewer pipes or plastic sewer pipes? Do the answers to these questions really matter and whatever their answers may be, will those answers really have a significant effect upon the total annual number of housing unit

starts? We seriously doubt it.

At the outset of our supplemental brief it was contended that the 1975 Mt. Laurel decision was faulty in its diagnosis, wrong in its prescription and improper in its course of treatment. For our part we claim no pride of authorship or originality of analysis. We simply borrowed the conclusions from those reached by the New Jersey Supreme Court in Oakwood at Madison Inc. v. Township of Madison 72 NJ 481 (1977) (Madison). It took the New Jersey Supreme Court only two years until it politely and diplomatically reversed the Mt. Laurel decision.

Is there a connection between zone changes and housing production? The New Jersey Supreme Court has answered in the negative.

"Firstly, numerical housing goals are not realistically translatable into specific substantive changes in a zoning ordinance by any technique revealed to us by our study of the data before us. There are too many imponderables between a zone change and the actual production of housing on sites as zoned, not to mention the production of a specific number of lower cost units in a given period of time." Madison at 499.

Is it economically feasible to construct new low and moderate income housing units in developing municipalities (or any where else for that matter)? Again the New Jersey Supreme Court has answered in the negative.

"A key consideration in this particular case as well as a factor integral to the entire problem, generally, is the well-known fact, amply corroborated by this record, that private enterprise will not in the current and prospective economy without

subsidization or external incentive of some kind construct new housing affordable by the low income population and by a large proportion of those of moderate income." Madison at 510

Can the government accomplish that which private enterprise cannot accomplish? Once again the New Jersey Supreme Court has answered in the negative.

"The amount and kind of governmental subsidies available for housing has always been fragmentary . . . sources extraneous to the unaided private building industry cannot be depended upon to produce any substantial proportion of the housing needed and affordable by most of the lower income population." Madison at 511 and 512

We pause to note that governmental housing subsidies have already been prioritized and pledged toward urban renewal, not to developing municipalities.

"The Housing Finance Agency set new priorities. There will now be a concerted effort for building family housing in urban areas with a second priority being the rehabilitation of existing structures." Sixth Annual Message delivered to the New Jersey Legislature on January 8, 1980 by Governor Brendan Byrne p. 19.

Can and must municipalities solve the housing shortage? The New Jersey Supreme Court has said no.

"Municipalities do not themselves have the duty to build or subsidize housing." Madison at 499.

Can and should the judiciary involve itself in administration, regulation and implementation of programs designed to cure the housing shortage? At the risk of appearing repetitious we respectfully suggest that the New Jersey Supreme Court has again answered in the negative. Justice Conford, writing

for the majority in the Madison case stated that:

"It is desirable that administrative agencies acting under the legislative authorization assume the regulation of the housing distribution problem."  
Madison at 500

Justice Schreiber in his concurring opinion in the Madison case wrote as follows:

"Clearly the legislature or an administrative agency with the necessary expertise would unquestionably be in a far superior position than the courts to receive all relevant information and data and reach legitimate results using the concepts of 'fair share' and 'region'." Madison at 621,622

Justice Clifford in his concurring opinion in the Madison case characterized judicial intervention into zoning and housing matters as

". . . an unfortunate but inescapable by-product of the judicial function being called upon to resolve the extraordinarily complex problems underlying this litigation--problems whose solution, it may be plausibly argued, should be undertaken elsewhere."  
Madison at 631.

## POINT II

THE PUBLIC ADVOCATE'S FAIR SHARE PLAN, PROPERLY VIEWED AS A MANDATORY QUOTA, IS A COMPULSORY INCOME BALANCE FORMULA WHICH CREATES SERIOUS FEDERAL AND STATE CONSTITUTIONAL PROBLEMS.

Even if the housing shortage never existed, even if the housing shortage disappeared overnight, and even if every American family was sheltered in decent, adequate and suitable housing units, the Public Advocate would still be in Court. The Public Advocate is not concerned with housing shortages or housing surpluses. The Public Advocate's passionate pre-occupation is compulsory income balance, a geographical distribution and allocation of family households on the basis of income quotas otherwise known as fair share plans.

Concepts such as the filter theory, supply and demand, the profit motive, free market mechanisms and urban renewal are anathama to the Public Advocate, not because they won't solve the housing shortage (which they will) but because the resulting geographic distribution will not effectuate a family household allocation which satisfies the Public Advocate's compulsory income balance quota.

In his Amicus Curiae brief in the Urban League case at 4, the Public Advocate proposes that the Court determine

Mt. Laurel I compliance by examining whether or not "the prospective municipal portion of low and moderate income households will roughly correspond to that proportion in the appropriate region, as a whole . . . ." The compulsory income balance formula actually originated with Mary Brooks of the Suburban Action Institute whom the Public Advocate utilized as an expert witness during the trial of Mount Laurel II. During her direct examination testimony a grand design, a master strategy evolved focusing upon centralized judicial planning far into the future so that each municipality's share of low and moderate income households would become equivalent to the regional percentage of low and moderate income households.

Two different municipalities each in the same region, can be used to illustrate the compulsory income balance formula as explained by Ms. Brooks. The Township of Mt. Laurel and the City of Camden are both located in the Region comprising Burlington, Camden and Gloucester Counties respectively. It is undisputed that in the base year of 1970, 42.5% of the Region's housing units were low and moderate housing units. It is also beyond dispute that in the base year of 1970 both the Township of Mt. Laurel and the City of Camden had existing proportions of low and moderate housing units which did not correspond at all with the regional proportion. Specifically, in the base year of 1970 only 25.5% of the total number of housing units in the Township of Mt. Laurel were low and moderate income housing units, more than 50% less than the 42.5% regional

proportion. Similarly, in the base year of 1970 only 66% of the total number of housing units in the City of Camden were low and moderate income housing units, more than 50% more than the 42.5% regional proportions.

The compulsory income balance formula espoused by the Public Advocate and Mary Brooks is ludicrous in concept and nonsensical result. During the cross-examination of Mary Brooks at the trial of Mt. Laurel II it was clearly demonstrated that in order to reduce the percentage of low and moderate income units in the City of Camden from 66% in 1970 to 42% in the year 2000 it would be necessary (a) to prohibit the addition of even one single low and moderate income family or low and moderate income housing unit as the case may be, from the City of Camden during the next 30 years and (b) to compel the construction of approximately 13,500 middle and upper income units in the City of Camden during the same 30 year period and (c) to compel some 13,500 middle and upper income families to move into these units in Camden during the same time period.

The compulsory income balance formula is equally ludicrous and nonsensical when applied to the Township of Mt. Laurel. For example, assuming its implementation, 46% (almost 1/2) of the population growth in Burlington County between 1970 and the year 2000 would be absorbed by the single municipality, the Township of Mt. Laurel. Under the 42.5% formula the percent of Mt. Laurel's population in terms of the total population of Burlington County would increase almost 400% - from 3.5% in 1970 to 13.9% in the year 2000.

The Public Advocate's compulsory income balance plan for each of New Jersey's 567 municipalities is remarkably analogous if not similar to the compulsory racial balance formula envisioned for each of New Jersey's school districts by the former Commissioner of Education.

"Our working definition is that each district strive to establish school attendance areas that make possible, wherever feasible, a student body that represents a cross-section of the population of the entire district. If in the elementary grades, for example, the minority population is 25 per cent, then each building and each class should try to reflect this percentage as is feasible." Dr. Carl L. Marburger, January 21, 1970.

Stripped of the rhetoric, compulsory racial balance and compulsory income balance formulas are nothing more than quota systems which raise serious Federal and State constitutional questions. Washington v. Davis 426 U.S. 229 (1976); University of California Regents vs. Bakke 438 U.S. 267 (1978); Arlington Heights v. Metropolitan Housing Development Corporation 429 U.S. 252 (1977); Washington National Insurance Co. v. Board of Review, 1 N.J. 545, (1949). The common thread woven through every quota case is the critical distinction between a differential or disproportionate impact which flows from a particular governmental law or policy on the one hand and the discriminatory intent and purpose of the law, program or policy on the other hand. The latter does not equal the former. As Associate Justice Rehnquist eloquently stated in United Steel Workers, etc. v. Weber 99 S. CT. 2721 at 2753 (1979):



"There is perhaps no device more destructive to the notion of equality than the numerus clausus--the quota. Whether described as 'benign discrimination' or 'affirmative action', the racial quota is nonetheless a creator of castes, a two-edged sword that must demean one in order to prefer another."

Rather than address the numerous problems posed to low and moderate income families by our exclusionary economy not only in terms of least cost housing, but also in terms of least cost food, least cost medical care, least cost transportation and least cost taxation, the Public Advocate would prefer a solution which would place counters and inspectors at the borders of each New Jersey municipality to include and exclude families from every income group, depending upon whether their entrance into a given municipality would statistically imbalance what the Public Advocate has proclaimed to be an income balanced community.

POINT III

THE DICTUM IN MOUNT LAUREL I THAT EVERY  
MUNICIPALITY HAS A DUTY NOT TO EXCLUDE ALL  
TYPES OF HOUSING CANNOT BE TAKEN LITERALLY.

The Supreme Court said in its opinion in Mount  
Laurel I

"By way of summary, what we have said comes down to this. As a developing municipality, Mount Laurel must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there, of course including those of low and moderate income. It must permit multi-family housing, without bedroom or similar restrictions, as well as small dwellings on very small lots, low cost housing of other types and, in general, high density zoning, without artificial and unjustifiable minimum requirements as to lot size, building size and the like, to meet the full panoply of these needs." at page 187.

The above citation was from a summary by Justice Hall in Mt. Laurel I. It was a broad overstatement of a jurist writing his last opinion in a matter which everyone agreed is a statewide housing problem. This is typically what happens when courts attempt to solve statewide (nationwide?) problems. What the court had before it was a skimpy record which went in without any objection from the Defendant Township on a new subject invented by land planners and sociologists called "exclusionary zoning". Mount Laurel nor any other town in New Jersey was familiar with what "exclusionary zoning" was

and unfortunately after some nine (9) years of litigations the term seems to have little function in the zoning scheme in New Jersey or elsewhere. It has, however, created a lot of heat, expense and frustration but little housing for the low and moderate income family.

Justice Hall's aforementioned statement that developing municipalities have a duty not to exclude all types of housing is one man's dream of a municipality with every type of housing possible including mobile homes if his words are to be taken to their logical conclusion. It is respectfully submitted that no court should go so far as to say that every developing municipality has a duty to include all types "...of course including those of low and moderate income." Mount Laurel I at page 187.

The subsequent Supreme Court opinions have, fortunately, diluted the Mount Laurel I opinion in Oakwood, supra. and Pascack Assoc. Ltd. v. Mayor & Council Wash. Tp. 74 N.J. 481 (1977).

The Court in Pascack supra, has placed Mount Laurel I in its correct perspective when it stated:

"But it would be a mistake to interpret Mount Laurel as a comprehensive displacement of sound and long established principles concerning judicial respect for local policy decisions in the zoning field. What we said recently in this regard in Bow & Arrow Manor v. Town of West Orange, 63 N.J. 335, 343 (1973), is worth repeating as continuing sound law:

It is fundamental that zoning is a municipal legislative function, beyond the purview of interference by the courts unless an ordinance is seen in whole or in application to any particular property to be clearly

arbitrary, capricious or unreasonable, or plainly contrary to fundamental principles of zoning or the statute. N.J.S.A.40:55-31, 32. It is commonplace in municipal planning and zoning that there is frequently, and certainly here, a variety of possible zoning plans, districts, boundaries, and use restriction classifications, any of which would represent a defensible exercise of the municipal legislative judgment. It is not the function of the court to rewrite or annul a particular zoning scheme duly adopted by a governing body merely because the court would have done it differently or because the preponderance of the weight of the expert testimony adduced at a trial is at variance with the local legislative judgment. If the latter is at least debatable it is to be sustained." at page 481.

It is refreshing to see the court place these zoning challenges in the perspective that a court should and has historically done. That frame of reference is clearly set forth in the above citation from Pascack supra where it is citing a case that precedes Mount Laurel I, i.e., Bow & Arrow Manor supra.

The reason this court must be careful in following Justice Hall's words concerning a duty to accommodate all types of housing in a developing municipality is because there is before the court a challenge to its previous decision in Vickers v. Gloucester Tp. Comm., 37 N.J. 323 (1962). Cert. Denied and app. dism. 371 U.S. 233... If this court were to sustain the literal language of Justice Hall in Mount Laurel I it would mean that a developer could demand any variety of housing including mobile homes. If this becomes the law of New Jersey then there is no need for any planning board or zoning board or a zoning ordinance in any developing municipality. The developer will control the destiny of the "developing

municipality."

Justice Hall realized that in order to build housing for the low and moderate income family subsidized housing would be necessary.<sup>1</sup> That very premise was argued before the Supreme Court on two occasions by this writer in Mount Laurel I. Realizing that a Court could not order a local legislative body to form a housing authority in order to receive federal subsidies the jurist stated:

"We have in mind that there is at least a moral obligation in a municipality to establish a local housing agency pursuant to state law to provide housing for its resident poor now living in dilapidated, unhealthy quarters."  
Mount Laurel I at page 192.

This suggestion was resolved in Oakwood at Madison, supra when the Court said:

"While we have described the sponsorship of public housing projects as a moral obligation of the municipality in certain specified circumstances, Mt. Laurel 67 N.J. at 192, we have no lawful basis for imposing such action as obligatory" at page 546.

The duty of a municipality to provide all types of housing is impractical, illusory and beyond the power of a Court to order and therefore impossible to enforce.

<sup>1</sup> The Public Advocate denied at oral argument that that was true but now realizes the obvious.

POINT IV

VICKERS v. GLOUCESTER TP. COMM. SHOULD BE  
UPDATED BY THE SUPREME COURT BUT MUCH OF  
THE WISDOM OF THAT DECISION IS STILL VALID  
TODAY

This question of mobile homes has become pertinent in New Jersey for two reasons. Initially there is very little zoning for mobile homes in New Jersey and it is admittedly cheaper to build than any conventional housing. Secondly, in Mount Laurel II the intervenor, Davis Enterprises, has successfully challenged a zoning ordinance that excluded "trailer parks" and any ruling by this Court will effect a great many municipalities in New Jersey in this area.

This writer unsuccessfully defended Mount Laurel's zoning ordinance against the challenge of the mobile homes intervenor. The depositions of the various experts and the two weeks of testimony on mobile homes was very enlightening.

However, much of the testimony was based on how great things were going to be after June 1976, the date the Federal government placed minimum standards on all mobile homes which would be transported in interstate commerce which is about 100% of all newly constructed mobile homes. The mobile home testimony at the trial took place in May of 1977 and there was little data on the results of these new Federal standards in the construction of mobile homes.

Fortunately, the amicus brief for the legislators clearly shows that there are some serious problems in the mass production of mobile homes after June, 1976 which were not evident or available to the trial court in May of 1977.

Furthermore, one cannot say that because mobile homes are the least cost housing that every developing municipality should be forced to accept them. The density of the units is high; the improvements are nominal because New Jersey has not had to deal with mobile homes on a large scale and, therefore, the only law covering them is Chapter 9 of the New Jersey Health Code. It is the considered opinion of many that mobile home parks will cause an instant ghetto or at least the "filtering down" process will be accelerated to a few years.

Notwithstanding all of the above caveats it is submitted that this court should make some modifications to Vickers, supra. Vickers facts dealt with the old transient trailers and the transient people who lived in them. Mobile homes are permanent and in certain cases, such as senior citizen residents, can be very appealing. That is not to say that a developing municipality such as Mount Laurel which has a variety of housing already there and under construction and has had its amended zoning ordinance blessed by the trial court should be made to carry the burden of a mobile home park.

This court could set up a series of tests on the types of housing permitted from which a developing municipality would have to pass and if it did not then and only then would mobile homes be permitted. Otherwise, the court is taking Justice Hall's words in Mount Laurel I literally and saying that every type of housing must be made available including that for the low and moderate income notwithstanding the Township has already provided housing opportunities in other areas of the municipality. This once again would remove the local choice from the local people and violate the rule in Pascack supra.

The mobile home issue is presently under review by a legislative committee. Several public hearings have been held and this Court should show judicial restraint and permit the legislative process to function in this sensitive area of zoning and housing.



POINT V

MUNICIPALITIES CANNOT FINANCIALLY AFFORD TO  
BE RESPONSIBLE FOR THE HOUSING OF ITS  
RESIDENT POOR

The reasons the municipalities of New Jersey cannot be burdened with a duty to house its resident poor are both financial and legal.

Initially, how would municipalities provide the funds for such housing? The very municipalities that the Mount Laurel I decision was directed at are the ones least able to afford the added burden of building housing for its resident poor. The developing municipalities usually have high tax rates because the new residents require municipal services, the cost of which always exceeds the 5% CAP.<sup>1</sup> The section of the CAP law<sup>2</sup> permitting a referendum is illusory at best. The experience of such elections is that the residents vote against the tax increase. The municipality then must cut some service or play financial games like bonding for road improvements or creating a fire or garbage district because those costs are outside the operating budget of the municipality and therefore outside the 5% CAP.

1. N.J.S.A. 40A:4-45.1 et seq.
2. N.J.S.A. 40A:4-45.3(c)

The Court in Mount Laurel I was correct when it stated:

"Courts do not build housing nor do municipalities. That function is performed by private builders, various kinds of associations, or, for public housing, by special agencies created for that purpose at various levels of government." at page 192.

The Court in Oakwood at Madison removed the legal duty to create a housing authority by a municipality thereby leaving the job to private builders or various kinds of associations.

The Supreme Court has therefore given the legal principle that a municipality cannot be forced to create an agency for subsidized housing; therefore the duty to house its resident poor cannot be sustained on a legal basis. It is agreed amongst all parties to these Mount Laurel-type suits that without subsidies there can be no housing for the low and moderate income family. In fact, a family of four with a gross income of approximately \$20,000 cannot afford the average priced home in the United States which now exceeds \$60,000.

It is respectfully submitted that the resident poor must look to a governmental agency such as the State or Federal government for its housing because the undertaking is beyond the financial means of the developing municipalities of New Jersey.

CONCLUSION

Township of Mount Laurel respectfully submits that the New Jersey Supreme Court should adopt the analysis and conclusions contained in this Supplemental Brief for all of the reasons which have been set forth herein.

Respectfully Submitted,

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\_\_\_\_\_  
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DATED: June 26, 1980

NEW JERSEY HOUSING - 1970

Total Number of Housing Units in 1970 2,300,000<sup>1</sup>

1970 Housing Shortage

A. Dilapidated Units	94,835
B. Overcrowded Units	94,499
C. Vacant Units Deficit	<u>31,121</u>
	219,455 <sup>2</sup>

Decent, Adequate and Suitable Housing Units =

Total number minus A + B  
2,300,000 - 189,334 = 2,110,666 or

92% of total are decent, adequate and suitable.

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<sup>1</sup>State Housing Programs and Policies: New Jersey's Housing Element, New Jersey Department of Community Affairs, Division of State and Regional Planning, 1977, p. 1

<sup>2</sup>These figures add up to 220,455, but allowing 1,000 for overlap, the total statewide housing need figure we will use is 219,455 as reported in A Revised Statewide Housing Allocation Report for New Jersey, New Jersey Department of Community Affairs, Division of State and Regional Planning, May 1978, p. 6

Additional Housing Units Needed by 1990 1,090,854

Units Needed Per Year 1970 - 1990

A. 1970 - 1990 Need	$1,090,854 \div 20 =$	54,542
B. 1970 Shortage	$219,455 \div 20 =$	10,973
C. Total needed per year		<u>65,515</u>

Present Need = 219,455

Prospective Need = 1,090,854

Present and Prospective Need = 1,310,309

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<sup>1</sup>State Housing Programs and Policies: New Jersey's Housing Element, New Jersey Department of Community Affairs, Division of State and Regional Planning, 1977, p. 31

SOLUTION TO PRESENT SHORTAGE PLUS FUTURE NEED

Units Per Year

1971	65,515	1981	65,515
1972	65,515	1982	65,515
1973	65,515	1983	65,515
1974	65,515	1984	65,515
1975	65,515	1985	65,515
1976	65,515	1986	65,515
1977	65,515	1987	65,515
1978	65,515	1988	65,515
1979	65,515	1989	65,515
1980	65,515	1990	65,515

TOTAL NEEDED: 1,310,309

VACANT DEVELOPABLE LAND IN NEW JERSEY . . . . 1,586,231 acres<sup>1</sup>  
 PERCENTAGE OF VACANT DEVELOPABLE LAND ZONED RESIDENTIAL . . . 81.7%<sup>2</sup>  
 VACANT DEVELOPABLE LAND RESIDENTIALLY ZONED . . . 1,295,951 acres  
 ZONING BREAKDOWN OF THE RESIDENTIAL LAND SUPPLY<sup>3</sup>

<u>TYPE OF ZONING</u>	<u>TOTAL ACREAGE</u>	<u>% OF TOTAL VACANT DEVELOPABLE LAND</u>
Multi-family	80,349 acres	6.2%
Single-family	1,214,306 acres	93.7%

MINIMUM LOT REQUIREMENT BREAKDOWN OF THE LAND ZONED FOR SINGLE FAMILY USE<sup>4</sup>

<u>MINIMUM LOT SIZE</u>	<u>TOTAL ACREAGE</u>	<u>% OF TOTAL ACREAGE ZONED FOR SINGLE FAMILY USE</u>
Under ¼ acre	61,930 acres	5.1%
Between ¼-½ acre	109,288	9.0%
Between ½-1 acre	228,290	18.8%
Between 1-3 acres	664,225	54.7%
Over 3 acres	149,360	12.3%

PROJECTED 1970-1990 ADDITIONAL HOUSING GOAL: 1,310,309 units

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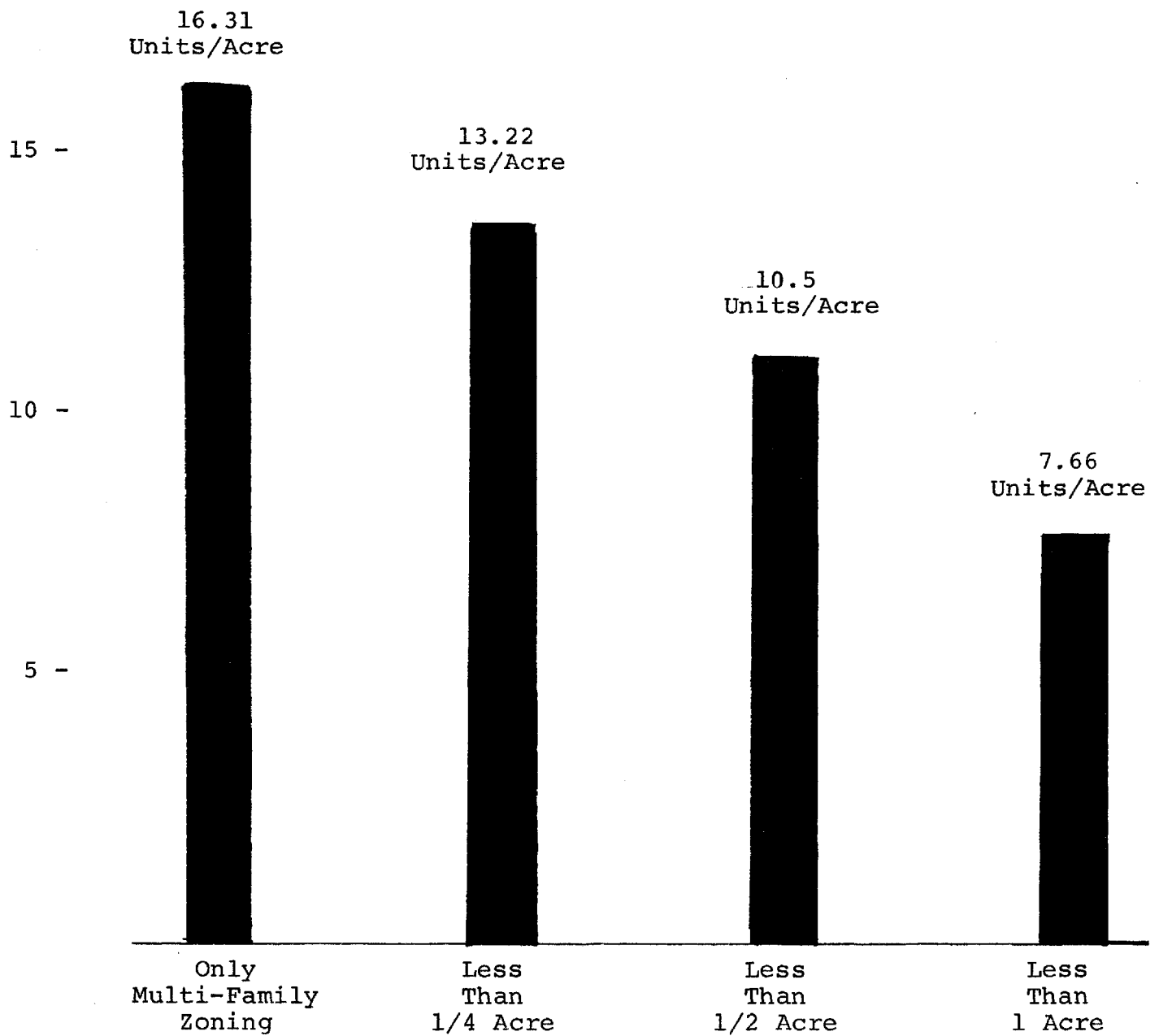
<sup>1</sup>A Revised Statewide Housing Allocation Report for New Jersey, N. J. Dept. of Community Affairs, Division of State and Regional Planning, May 1978, Appendix D.

<sup>2</sup>Land Use Regulation: The Residential Land Supply, N.J. Dept. of Community Affairs, Division of State & Regional Planning, 1972, pg. 5A.

<sup>3</sup>Id. pg. 10A

<sup>4</sup>Id. pg. 15A Table VII

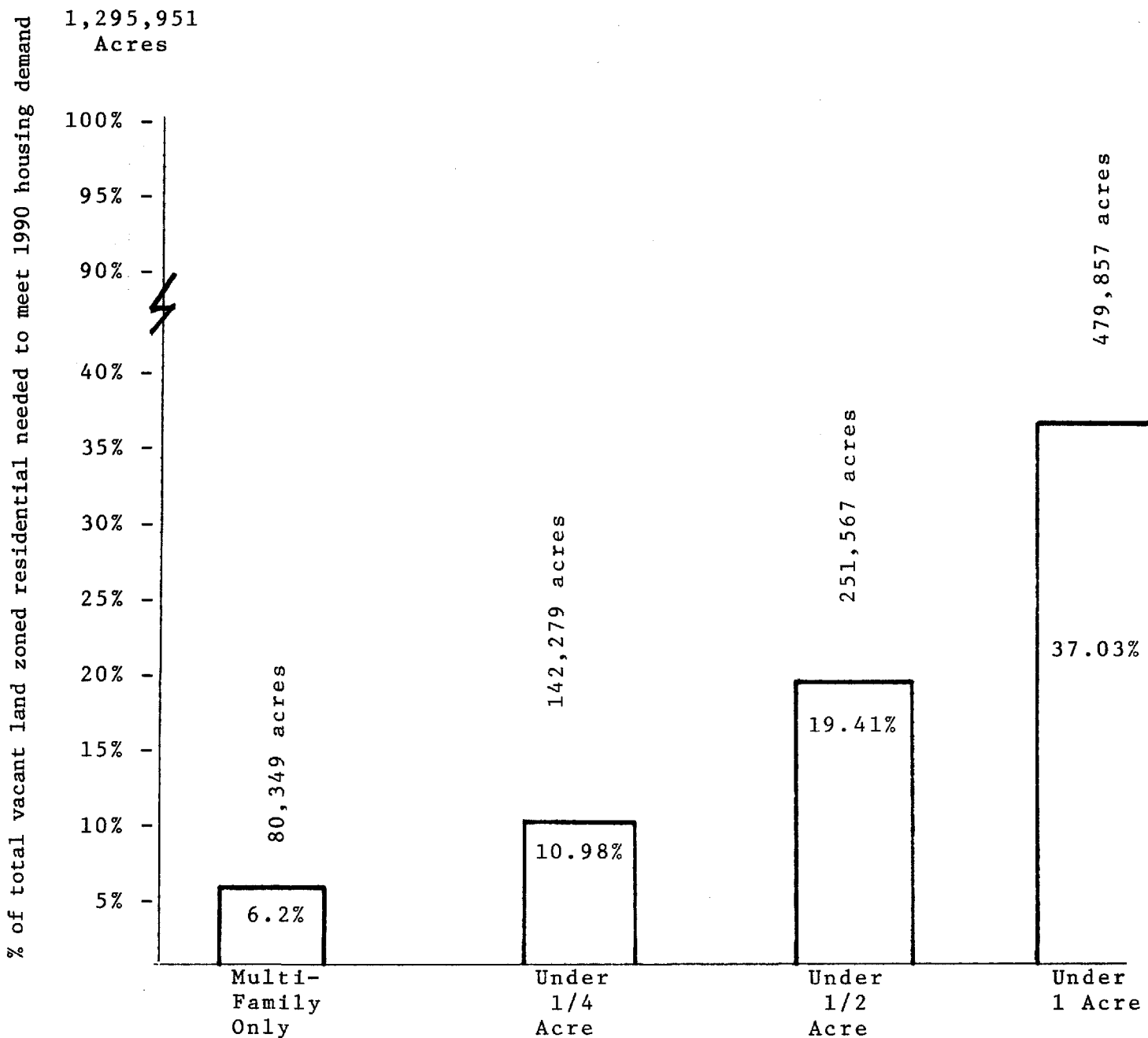
DENSITY REQUIREMENTS FOR LAND ZONED MULTI-FAMILY IN ORDER TO MEET THE PROJECTED 1990 HOUSING DEMAND (ADDITIONAL)



Source: Land Use Reg.: The Residential Land Supply, pg. 6, 10A



PERCENTAGE ACREAGE OF TOTAL VACANT LAND ZONED  
RESIDENTIAL NEEDED TO MEET PROJECTED 1990  
HOUSING DEMAND, GIVEN VARIOUS MINIMUM LOT REQUIREMENTS



NATIONAL HOUSING STARTS\*

		<u>% Change</u>
1970	1,469,000	
1971	2,084,500	41.9
1972	2,378,500	14.1
1973	2,057,500	-13.5
1974	1,352,500	-34.3
1975	1,171,400	-13.4
1976	1,547,600	32.1
1977	1,989,800	28.6
1978	2,023,300	1.7
1979	1,746,600	-13.7
1970-1979 AVERAGE	1,782,000	

\*Private and Public; Farm and Non-Farm

Source: Economic Report of the President  
Together with the Annual Report  
of the Council of Economic Advisers,  
Transmitted to the Congress January  
1980, Page 254, Table B-44

NEW JERSEY HOUSING STARTS\*

		<u>% Change</u>	<u>% of National</u>
1970	39,897		2.7
1971	58,040	45.5	2.8
1972	65,539	13.0	2.8
1973	52,145	-20.4	2.5
1974	25,878	-50.4	2.0
1975	23,215	-10.3	2.0
1976	32,528	40.1	2.1
1977	34,887	7.3	1.8
1978	39,058	12.0	2.0
1979	34,977	-10.4	2.0

1970-1979 AVERAGE 40,616.4

Source: New Jersey Dept. of Labor and  
Industry  
Division of Planning and Research  
Office of Business Economics

<u>DWELLING UNITS AUTHORIZED</u> <sup>1</sup>		<u>DWELLING UNITS NEEDED</u>	
1970	39,897	1980	90,413
1971	58,040	1981	90,413
1972	65,539	1982	90,413
1973	52,145	1983	90,413
1974	25,878	1984	90,413
1975	23,215	1985	90,413
1976	32,528	1986	90,413
1977	34,887	1987	90,413
1978	39,058	1988	90,413
1979	<u>34,997</u>	1989	90,413
TOTAL	406,184		

To reach goal, 655,155 units should have been started by 1980.  
 Deficiency of 248,971.  $248,971 + 655,155 = 904,126 =$   
 $904,126 \div 10 = 90,413$

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<sup>1</sup>State Housing Programs and Policies: New Jersey's Housing  
 Element, New Jersey Department of Community Affairs, Division  
 of State and Regional Planning, 1977, p. 21.

MEDIAN HOUSEHOLD\* INCOME (CURRENT DOLLARS)

		<u>% Change</u>
1970	8,734	-
1971	9,028	3.4
1972	9,697	7.4
1973	10,512	8.4
1974	11,197	6.5
1975	11,800	5.4
1976	12,686	7.5
1977	13,572	7.0
1978	15,064	11.0
1979	Not yet available	

1970-1978 INCREASE 72.5%

\*Household includes related and unrelated persons.

Source: U.S. Dept. of Commerce  
Bureau of the Census  
Current Population Report  
Series P-60, Nos. 117 and 121

MEDIAN FAMILY INCOME (CURRENT DOLLARS)

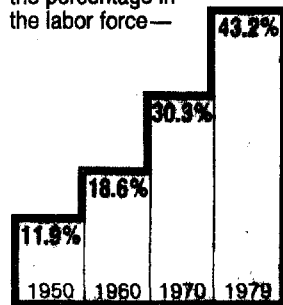
		<u>% Change</u>
1970	9,867	-
1971	10,285	4.2
1972	11,116	8.1
1973	12,051	8.4
1974	12,902	7.1
1975	13,719	6.3
1976	14,958	9.0
1977	16,009	7.0
1978	17,009	10.2
1979	Not yet available	

1970-1978 INCREASE 78.8%

Source: U. S. Dept. of Commerce  
Bureau of the Census  
Current Population Report  
Series P-60, Nos. 118 and 120

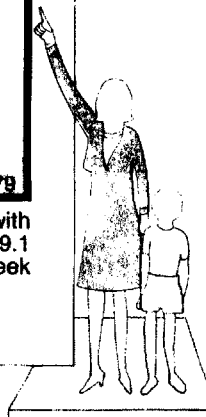
## Working Mothers: A Big Influx

Of married women with children under age 6, the percentage in the labor force—



Of all married women with children ages 6 to 17, 59.1 percent now work or seek jobs—up from 28.3 percent in 1950.

USNAW/R chart—Basic data: U.S. Dept. of Labor



Source: The American Family; Bent - But Not Broken, Special Section U.S. News and World Report, June 16, 1980 at pg. 58

CONSUMER PRICE INDEXES  
ALL ITEMS

1970 - 1979

		%
1970	116.3	
1971	121.3	4.3
1972	125.3	3.3
1973	133.1	6.2
1974	147.7	11.0
1975	161.2	9.1
1976	170.5	5.8
1977	181.5	6.5
1978	195.4	7.7
1979	217.4	11.3
1970-1979 INCREASE		87%

Source: Economic Report of the President  
Together with the Annual Report  
of the Council of Economic  
Advisers

Transmitted to the Congress  
January 1980, Table B-49,  
Page 259.



CONSUMER PRICE INDEXES  
HOUSING

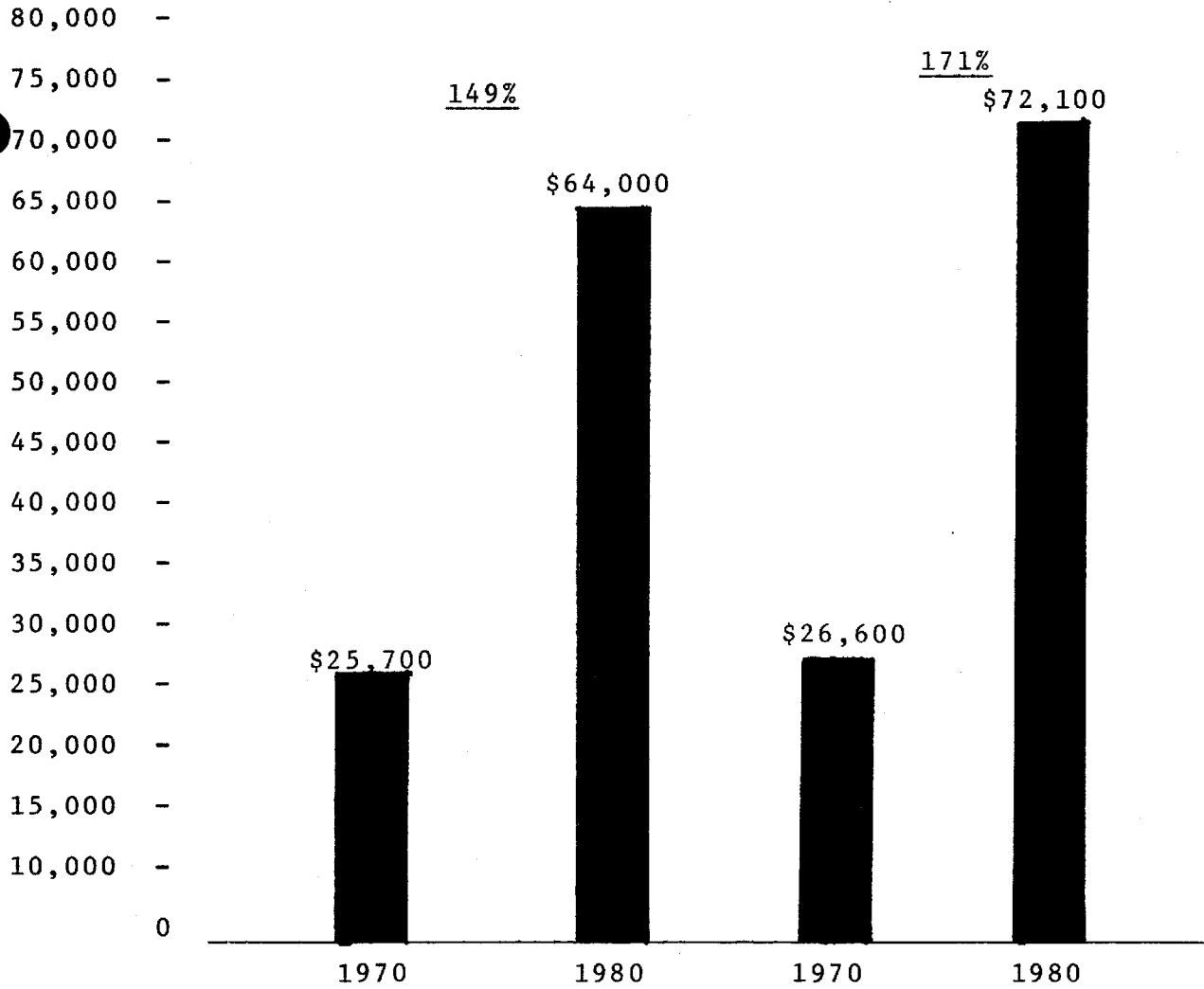
1970 - 1979

		%
1970	118.2	
1971	123.4	4.4
1972	128.1	3.8
1973	133.7	4.4
1974	148.8	11.3
1975	164.5	10.6
1976	174.6	6.1
1977	186.5	6.8
1978	202.8	8.7
1979	227.6	12.2
1970-1979 INCREASE		93%

Source: Economic Report of the President  
Together with the Annual Report  
of the Council of Economic Advisers  
Transmitted to Congress  
January 1980, Table B-49,  
Page 259.

EXISTING HOUSING  
PRICE INCREASES

NEW HOUSING  
PRICE INCREASES



Source: Breckenfeld, The U.S. Economy in the 80's: A Decade of Catch Up for Housing  
Fortune, April 7, 1980

CONSTRUCTION LOAN  
INTEREST RATE (%)

MORTGAGE LOAN  
INTEREST RATE (%)

1970	9.0	8.0
1971	7.3	7.2
1972	7.2	7.1
1973	9.8	8.5
1974	11.5	9.0
1975	9.2	9.1
1976	9.2	9.1
1977	9.4	9.2
1978	11.0	9.3
1979	13.0	10.5
1970-1979 INCREASE	44.4%	31.2%

Source: Breckenfeld, "The U.S. Economy in the 80's :  
A Decade of Catch Up for Housing," Fortune,  
April 7, 1980.

AVERAGE TAX OF TAXABLE INDIVIDUAL INCOME  
TAX RETURNS: 1970-1978

	<u>Average Tax</u>	<u>% Change</u>
1970	1,415	
1971	Not Available	
1972	1,537	8.6
1973	1,682	9.4
1974	1,836	9.2
1975	2,025	10.3
1976	2,201	8.7
1977	2,482	13.0
1978	2,741*	10.0
1979	Not Yet Available	
1970-1978 INCREASE		93.7%

\*Preliminary

Source: Statistical Abstract of the United States 1979  
100th Edition, U.S. Dept. of Commerce, Bureau of the Census  
Page 266, Table No. 443

FEDERAL BUDGETARY RECEIPTS AND EXPENDITURES

	<u>NET RECEIPTS</u>	<u>EXPENDITURES</u>	<u>DEFICIT</u>
1970	190,562,000,000	201,491,000,000	-10,918,000,000
1971	194,010,000,000	216,841,000,000	-22,832,000,000
1972	221,531,000,000	238,437,000,000	-16,909,000,000
1973	250,420,000,000	258,295,000,000	- 7,875,000,000
1974	280,346,000,000	292,323,000,000	-11,977,000,000
1975	281,420,000,000	355,626,000,000	-74,206,000,000
1976	318,514,000,000	374,512,000,000	-55,998,000,000
1977	366,025,000,000	417,026,000,000	-51,001,000,000
1978	416,106,000,000	459,854,000,000	-43,748,000,000
1979*	437,909,000,000	464,650,000,000	-26,741,000,000
	% INCREASE 129.8	% INCREASE 130.6	TOTAL DEFICIT 322,205,000,000

\*January-November only

Source: The Handbook of Basic Economic Statistics  
 Economic Statistics Bureau of Washington,  
 D.C., January 1980, Vol. XXXIV-No. 1,  
 Page 214-215.

NEW JERSEY STATE GOVERNMENT BUDGETED EXPENDITURES

	<u>TOTAL</u>	<u>% INCREASE</u>
1970	1,459,100,000	-
1971	1,628,300,000	11.6%
1972	1,854,000,000	13.9%
1973	2,067,000,000	11.5%
1974	2,359,800,000	14.2%
1975	2,758,300,000	16.9%
1976	2,704,200,000	-2.0%
1977*	3,326,400,000	23.0
1978*	3,953,500,000	18.9
1979*	4,413,000,000	11.6

INCREASE  
1970-1979 202.4%

\*General State Fund, Property Tax Relief Fund and Casino Funds; 1979 figure represents original and supplemental appropriations as of 1/10/79.

Source: Governor's Budgets 1970 to 1980 as reported in New Jersey Fiscal Facts 1979, New Jersey Taxpayers Association, July 1979.

LOCAL PROPERTY TAX LEVIES IN NEW JERSEY

	<u>SCHOOL</u>	<u>MUNICIPAL</u>	<u>COUNTY</u>	<u>VETERANS &amp; SENIOR CITIZENS</u>	<u>TOTAL</u>
1970	1,111,248,145	453,837,828	368,679,057	33,853,040	1,967,618,070
1978	1,804,578,746	744,766,122	778,229,479	-0-*	3,327,574,347
% Increase	62.4%	64.1%	111.1%	8.0%	69.1%

\*State assumed full cost of these deductions 1977-78 (Chapter 73, Laws of 1976).

Source: "State Abstract of Ratables, 1968 to 1978," New Jersey Division of Taxation as reported in New Jersey Fiscal Facts 1979, New Jersey Taxpayer's Association, July 1979.