

Clonster

'1984

Oct 1984

Fair Share housing Allocation Analysis  
8 pgs

- additional - draft of above

8 pgs

total - 16 pgs

\* blue sticky notes

ML 000399 F

FAIR SHARE HOUSING ALLOCATION ANALYSIS FOR GLOUCESTER TOWNSHIP

Prepared by

Alan Mallach  
Roosevelt, New Jersey

October 1984

# FAIR SHARE HOUSING ALLOCATION ANALYSIS FOR GLOUCESTER TOWNSHIP

Alan Mallach

The following analysis of Gloucester Township's fair share housing allocation under the doctrine set forth by the New Jersey Supreme Court in the Mount Laurel II decision has been prepared using the method set forth by Eugene Serpentelli J.S.C. in his recent decision in AMG et al. v. Township of Warren. This decision sets forth all of the allocation factors, as well as the definition of need, used below. It should be noted, however, that the subject off 'credits'; i.e., the number of units that can be subtracted from a municipality's fair share based on present or past performance, is not dealt with in the Warren decision. The analysis of that question presented below is based on my own judgement as to what credits can be granted within the explicit framework laid down in the Mount Laurel II decision.

Before presenting the actual allocation procedure, a brief discussion on the subject of fair share, and the locus of fair share responsibilities under the Mount Laurel II doctrine is appropriate.

## I. THE MUNICIPAL FAIR SHARE OBLIGATION

A fair share obligation is, simply stated, a quantification of the lower income housing units that a municipality should seek to have provided, over a fixed period of time. Under the Mount Laurel II doctrine, a central part of the process of meeting lower income housing needs is the determination of a fair share obligation for each community. The "numberless" approach suggested in the Madison decision has been superseded; the underlying logic of the more recent decision is that a precise number is necessary to serve as a basis for a community to develop an explicit and concrete program which will indeed create the realistic opportunity for lower income housing which the Court is seeking.

Within a municipality's overall obligation are two elements, which will be defined in more detail below: The municipality's indigenous need, which is the need created by households already living within the municipality; and the municipality's fair share of regional needs. The Court was explicit with regard to the locus of responsibility for the first:

Every municipality's land use regulations should provide a realistic opportunity for decent housing for at least some part of its resident poor who now occupy dilapidated housing. (92 NJ at 214)

The Court then indicates one set of circumstances under which this obligation can be limited:

...Each municipality must provide a realistic opportunity for decent housing for its indigenous poor

except where they represent a disproportionately large segment of the population has compared with the rest of the region (at 214-215)

This, the court notes, is meant to apply principally to the core cities of the state, such as Newark or Trenton.

The Court then turns to the second category, the fair share of regional needs. After making clear that the 'developing municipality' standard adopted by trial courts from the first Mount Laurel decision is no longer applicable, the Court states:

The [fair share] obligation extends....to every municipality, any portion of which is designated by the State, through the State Development Guide Plan, as a "growth area". (at 215)

Thus, none of the tests previously used in litigation - rapid growth, vacant land, etc. - are relevant. The only threshold test of whether a municipality does or does not have a regional fair share allocation is whether it is located, in any part, in an SDGP growth area.

## II. THE FAIR SHARE ALLOCATION PROCESS

In this discussion we will seek to provide a step-by-step description of the fair share housing allocation process, and a thumbnail definition of each category of housing need, or allocation factor. The rationale for defining need in the particular manner chosen, and for selecting the particular allocation factors, is long and detailed. Those interested in reviewing the rationale for the different elements in the methodology are urged to read the Warren decision, in which a cogent statement of the rationale, as well as some discussion of rejected alternative approaches, is provided.

The fair share allocation process is made up of three elements: (1) the determination of the housing needs to be allocated; (2) the identification and quantification of allocation factors or criteria; and (3) the framing of a formula by which those criteria are used to allocate lower income housing needs to any municipality.

### A. Need Factors

There are three need factors in the allocation process: indigenous housing need, and two separate components of regional housing need.

(1) Indigenous Need: This need element is the number of households in the community living in deficient housing conditions. In order to quantify this need, using Census data, three measures were used as "surrogates" of housing deficiency generally: overcrowding, deficient plumbing, and deficient heating. These surrogates were then adjusted to reflect the (small) number of non-lower income households living in such substandard conditions, estimated to be 18% of all such households. Indigenous housing need in Gloucester Township, based on 1980 Census data, after elimination of the overlap between categories, is as follows:

Overcrowded, not otherwise deficient	251
Inadequate plumbing, not overcrowded	51
Inadequate heating, not overcrowded	<u>94</u>
	396
less non-lower income households in substandard housing (18% of total)	(71)
<b>TOTAL INDIGENOUS HOUSING NEED</b>	<b>325 UNITS</b>

(2) Reallocated Present Need: This represents the number of units reallocated out from core cities, for the reasons given in the Mount Laurel II decision and cited earlier. The region in which Gloucester Township is located, for purposes of reallocating present need, is made up of Burlington, Camden, Gloucester, and Mercer Counties. The total regional present need to be reallocated is 4892 units.

(3) Prospective Housing Need: Prospective housing need represents the number of additional lower income households projected to be added to the total number of households within the region between 1980 and 1990. It is determined by projecting the total number of households, and dividing that total between lower income and non-lower income households on the basis of the 1980 household income distribution. The region used for purposes of allocating prospective need is what is known as a commutershed region; in this case, it is defined as the whole of any county, any part of which can be reached within a driving time of 30 minutes from Gloucester Township. In this case, this includes the counties of Atlantic, Burlington, Camden, Gloucester, Mercer, and Salem. The total regional prospective housing need to 1990 to be allocated among the municipalities in the region is 45,807 households.

Gloucester Township's indigenous housing need, combined with its fair share of each of the two regional housing need components, represents the municipality's total fair share housing obligation under the Mount Laurel II doctrine.

### B. Allocation Factors

Three allocation factors are used to allocate both present and prospective housing needs:

Growth area acreage: The acreage within the SDGP Growth area located within the municipality, which reflects the physical capacity of the community to accommodate growth.

Employment: The total number of jobs within the municipality, as reported by the New Jersey Department of Labor.

Median income ratio: The ratio between the median household income in the municipality and that in the region, which reflects wealth and fiscal capacity.

A fourth factor, employment growth from 1972 to 1982, is used only in the prospective need allocation process. These factors are consistent with the language in Mount Laurel II, which notes that:

[Fair share] formulas that accord substantial weight to employment opportunities in the municipality, especially new employment accompanied by substantial rateables, shall be favored (at 256).

With regard to growth area acreage, employment, and employment, the procedure to be followed is to determine the regional total, the total for Gloucester Township, and the percentage of the regional total represented by the Township. With regard to median income, the ratio between the median household income in the Township, as determined by the 1980 Census, and that of each of the two regions is determined, and utilized in the formula. The actual data for each factor is shown in the table on the following page.

### C. Allocation Formula

In addition to application of the allocation factors, the formula adds three elements which affect the final fair share allocation figure:

Phasing of reallocated present need: Since it can be expected that the reallocation of present need from the central cities will be a gradual process, the formula phases it over three six-year allocation periods. Thus, only 1/3 of the reallocated present need is included in the 1990 fair share allocation.

Adjustment for re-allocation of fair share: Since many municipalities will lack enough vacant land to accommodate their fair share, each allocation is increased by 20% to provide directly in the formula for the reallocation that would otherwise be necessary, but which would be technically unfeasible.

---

 TABLE OF GLOUCESTER TOWNSHIP FAIR SHARE COEFFICIENTS

## 1. NUMERICAL COEFFICIENTS

	GLOUCESTER TOWNSHIP	PRESENT NEED REGION	PROSPECTIVE NEED REGION
Growth Area	14180 A	389521 A	485740 A
1982 Employment	4616 jobs	326966	415099
1972-1982 average annual employment increase (note)	17 jobs	NA	11232
Median household income	\$20652	\$22188	\$21586

## II. PERCENTAGES/RATIOS (GLOUCESTER TOWNSHIP PERCENTAGE/RATIO)

	PRESENT NEED REGION	PROSPECTIVE NEED REGION
Growth area	3.80%	3.05%
1982 employment	1.41%	1.11%
1972-1982 employment increase	NA	0.15%
Median income RATIO	.93 to 1	.96 to 1

NOTE: Average annual employment increase determined by linear regression method.

---

Adjustment for vacancy rate: A further 3% is added to each allocation component to allow for a minimum vacancy rate within the pool of housing to be provided.

The actual formula calculations are presented on the following page. It will be noted that the initial 'run' of the formula is to determine the adjustment that must be made to the formula for the median income factor; i.e., to convert the ratio given above to a percentage. The formula is then rerun with the income adjustment included. All of the coefficients come either from the table above, or from the three adjustments described above.

The formula yields the fair share allocation for Gloucester Township prior to any accounting of credits for lower income housing provided within the Township, a matter which is discussed subsequently.

---

COMPUTATION OF GLOUCESTER TOWNSHIP FAIR SHARE ALLOCATION

INDIGENOUS NEED 325

Calculation of reallocation of present need:

$$3.80 + 1.41 / 2 = 2.605 \times 0.93 = 2.42$$

$$3.80 + 1.41 + 2.42 / 3 = 2.543\% \times 4,892 \text{ units} = 124 \text{ units}$$

$$124 / 3 = 41 \times 1.2 = 49 \times 1.03 = 50$$

REALLOCATED PRESENT NEED 50

Calculation of prospective need:

$$3.05 + 1.11 + 0.15 / 3 = 1.437 \times .96 = 1.38$$

$$3.05 + 1.11 + 0.15 + 1.38 / 4 = 1.4225$$

$$1.4225\% \times 45,807 \text{ units} = 652 \times 1.2 = 782 \times 1.03 = 805$$

PROSPECTIVE NEED ALLOCATION 805

TOTAL FAIR SHARE HOUSING ALLOCATION 1180

---

III. ADJUSTMENTS TO FAIR SHARE

The opportunity to make adjustments to the fair share, particularly for prior provision of lower income housing by the municipality, is expressly recognized in the Warren decision:

It [the methodology] acknowledges that some towns have made inclusionary efforts - and so rewards them through the use of the median income factor and by direct credits where appropriate (at 77)

Subsidized housing can clearly be credited. In the case of units provided after 1980, which is the starting point of the fair share projection period, the units can be counted in their entirety. Subsidized housing constructed prior to 1980 can still be given partial credit, on the basis of the units made available through turnover during the fair share period from 1980 through 1990.

One limitation should be noted. The prospective need is made up of a NET increment in lower income households within the region. In order to meet the full extent of prospective need, common sense dictates that there must be an increment of lower income housing units equal to or greater than the increment in households. Since the prospective need projection period began in 1980, only units added to the lower income housing stock since 1980 represent that



net increment. It is therefore not appropriate to take credits for turnover units in excess of the municipality's present need, both indigenous and reallocated. As it happens, this is not an issue in the case of Gloucester Township.

Gloucester Township contains two types of lower income housing. Housing constructed under programs of the Farmers Home Administration (FmHA), and senior citizens housing constructed under the Section 202 program. The senior citizens housing project (Franklin Square) contains 242 units, constructed prior to 1980. Since this project was constructed prior to 1980, the turnover can be counted toward the fair share. Based on experience with senior citizen housing developments elsewhere, we estimate the projected turnover in this development at 5% per year, or 50% for the entire decade of the 1980's. Thus, the Township will receive a credit of  $242 \times .5 = 121$  units for this development.

With regard to FmHA housing, information provided by that agency indicates that 106 subsidized units have been provided under that program since 1980, for which the Township is entitled to full credit. With regard to units funded prior to 1980, it is doubtful whether any credit should be allowed. While these units undoubtedly met PRE-1980 housing needs, they do not represent a continuing resource through which POST-1980 housing needs can be met; indeed, information from FmHA sources indicates that many of these units have since been removed from the subsidy rolls, and are no longer considered subsidized housing at all. The same sources indicate that this can be expected to happen over time to most, if not all of these units.

The 'credits', or adjustments to Gloucester Township's fair share housing allocation, and the resulting allocation, are as follows:

FORMULA FAIR SHARE ALLOCATION	1180 UNITS
less turnover at Franklin Square	( 121 units)
less Farmers Home Administration units since 1980	( 106 units)
NET GLOUCESTER TOWNSHIP FAIR SHARE ALLOCATION	953 UNITS

DRAFT

FAIR SHARE HOUSING ALLOCATION ANALYSIS FOR GLOUCESTER TOWNSHIP

Prepared by

Alan Mallach  
Roosevelt, New Jersey

October 1984

## FAIR SHARE HOUSING ALLOCATION ANALYSIS FOR GLOUCESTER TOWNSHIP

Alan Mallach

The following analysis of Gloucester Township's fair share housing allocation under the doctrine set forth by the New Jersey Supreme Court in the Mount Laurel II decision has been prepared using the method set forth by Eugene Serpentelli J.S.C. in his recent decision in AMG et al. v. Township of Warren. This decision sets forth all of the allocation factors, as well as the definition of need, used below. It should be noted, however, that the subject off 'credits'; i.e., the number of units that can be subtracted from a municipality's fair share based on present or past performance, is not dealt with in the Warren decision. The analysis of that question presented below is based on my own judgement as to what credits can be granted within the explicit framework laid down in the Mount Laurel II decision.

Before presenting the actual allocation procedure, a brief discussion on the subject of fair share, and the locus of fair share responsibilities under the Mount Laurel II doctrine is appropriate.

### I. THE MUNICIPAL FAIR SHARE OBLIGATION

A fair share obligation is, simply stated, a quantification of the lower income housing units that a municipality should seek to have provided, over a fixed period of time. Under the Mount Laurel II doctrine, a central part of the process of meeting lower income housing needs is the determination of a fair share obligation for each community. The "numberless" approach suggested in the Madison decision has been superseded; the underlying logic of the more recent decision is that a precise number is necessary to serve as a basis for a community to develop an explicit and concrete program which will indeed create the realistic opportunity for lower income housing which the Court is seeking.

Within a municipality's overall obligation are two elements, which will be defined in more detail below: The municipality's indigenous need, which is the need created by households already living within the municipality; and the municipality's fair share of regional needs. The Court was explicit with regard to the locus of responsibility for the first:

Every municipality's land use regulations should provide a realistic opportunity for decent housing for at least some part of its resident poor who now occupy dilapidated housing. (92 NJ at 214)

The Court then indicates one set of circumstances under which this obligation can be limited:

...Each municipality must provide a realistic opportunity for decent housing for its indigenous poor

except where they represent a disproportionately large segment of the population has compared with the rest of the region (at 214-215)

This, the court notes, is meant to apply principally to the core cities of the state, such as Newark or Trenton.

The Court then turns to the second category, the fair share of regional needs. After making clear that the 'developing municipality' standard adopted by trial courts from the first Mount Laurel decision is no longer applicable, the Court states:

The [fair share] obligation extends....to every municipality, any portion of which is designated by the State, through the State Development Guide Plan, as a "growth area". (at 215)

Thus, none of the tests previously used in litigation - rapid growth, vacant land, etc. - are relevant. The only threshold test of whether a municipality does or does not have a regional fair share allocation is whether it is located, in any part, in an SDGP growth area.

## II. THE FAIR SHARE ALLOCATION PROCESS

In this discussion we will seek to provide a step-by-step description of the fair share housing allocation process, and a thumbnail definition of each category of housing need, or allocation factor. The rationale for defining need in the particular manner chosen, and for selecting the particular allocation factors, is long and detailed. Those interested in reviewing the rationale for the different elements in the methodology are urged to read the Warren decision, in which a cogent statement of the rationale, as well as some discussion of rejected alternative approaches, is provided.

The fair share allocation process is made up of three elements: (1) the determination of the housing needs to be allocated; (2) the identification and quantification of allocation factors or criteria; and (3) the framing of a formula by which those criteria are used to allocate lower income housing needs to any municipality.

### A. Need Factors

There are three need factors in the allocation process: indigenous housing need, and two separate components of regional housing need.

(1) Indigenous Need: This need element is the number of households in the community living in deficient housing conditions. In order to quantify this need, using Census data, three measures were used as "surrogates" of housing deficiency generally: overcrowding, deficient plumbing, and deficient heating. These surrogates were then adjusted to reflect the (small) number of non-lower income households living in such substandard conditions, estimated to be 18% of all such households. Indigenous housing need in Gloucester Township, based on 1980 Census data, after elimination of the overlap between categories, is as follows:

Overcrowded, not otherwise deficient	251
Inadequate plumbing, not overcrowded	51
Inadequate heating, not overcrowded	<u>94</u>
	396
less non-lower income households in substandard housing (18% of total)	(71)
<b>TOTAL INDIGENOUS HOUSING NEED</b>	<b>325 UNITS</b>

(2) Reallocated Present Need: This represents the number of units reallocated out from core cities, for the reasons given in the Mount Laurel II decision and cited earlier. The region in which Gloucester Township is located, for purposes of reallocating present need, is made up of Burlington, Camden, Gloucester, and Mercer Counties. The total regional present need to be reallocated is 4892 units.

(3) Prospective Housing Need: Prospective housing need represents the number of additional lower income households projected to be added to the total number of households within the region between 1980 and 1990. It is determined by projecting the total number of households, and dividing that total between lower income and non-lower income households on the basis of the 1980 household income distribution. The region used for purposes of allocating prospective need is what is known as a commutershed region; in this case, it is defined as the whole of any county, any part of which can be reached within a driving time of 30 minutes from Gloucester Township. In this case, this includes the counties of Atlantic, Burlington, Camden, Gloucester, Mercer, and Salem. The total regional prospective housing need to 1990 to be allocated among the municipalities in the region is 45,807 households.

Gloucester Township's indigenous housing need, combined with its fair share of each of the two regional housing need components, represents the municipality's total fair share housing obligation under the Mount Laurel II doctrine.

### B. Allocation Factors

Three allocation factors are used to allocate both present and prospective housing needs:

Growth area acreage: The acreage within the SDGP Growth area located within the municipality, which reflects the physical capacity of the community to accommodate growth.

Employment: The total number of jobs within the municipality, as reported by the New Jersey Department of Labor.

Median income ratio: The ratio between the median household income in the municipality and that in the region, which reflects wealth and fiscal capacity.

A fourth factor, employment growth from 1972 to 1982, is used only in the prospective need allocation process. These factors are consistent with the language in Mount Laurel II, which notes that:

[Fair share] formulas that accord substantial weight to employment opportunities in the municipality, especially new employment accompanied by substantial rateables, shall be favored (at 256).

With regard to growth area acreage, employment, and employment, the procedure to be followed is to determine the regional total, the total for Gloucester Township, and the percentage of the regional total represented by the Township. With regard to median income, the ratio between the median household income in the Township, as determined by the 1980 Census, and that of each of the two regions is determined, and utilized in the formula. The actual data for each factor is shown in the table on the following page.

### C. Allocation Formula

In addition to application of the allocation factors, the formula adds three elements which affect the final fair share allocation figure:

Phasing of reallocated present need: Since it can be expected that the reallocation of present need from the central cities will be a gradual process, the formula phases it over three six-year allocation periods. Thus, only 1/3 of the reallocated present need is included in the 1990 fair share allocation.

Adjustment for re-allocation of fair share: Since many municipalities will lack enough vacant land to accommodate their fair share, each allocation is increased by 20% to provide directly in the formula for the reallocation that would otherwise be necessary, but which would be technically unfeasible.

---

TABLE OF GLOUCESTER TOWNSHIP FAIR SHARE COEFFICIENTS

1. NUMERICAL COEFFICIENTS

	GLOUCESTER TOWNSHIP	PRESENT NEED REGION	PROSPECTIVE NEED REGION
Growth Area	14180 A	389521 A	485740 A
1982 Employment	4616 jobs	326966	415099
1972-1982 average annual employment increase (note)	17 jobs	NA	11232
Median household income	\$20652	\$22188	\$21586

II. PERCENTAGES/RATIOS (GLOUCESTER TOWNSHIP PERCENTAGE/RATIO)

	PRESENT NEED REGION	PROSPECTIVE NEED REGION
Growth area	3.80%	3.05%
1982 employment	1.41%	1.11%
1972-1982 employment increase	NA	0.15%
Median income RATIO	.93 to 1	.96 to 1

NOTE: Average annual employment increase determined by linear regression method.

---

Adjustment for vacancy rate: A further 3% is added to each allocation component to allow for a minimum vacancy rate within the pool of housing to be provided.

The actual formula calculations are presented on the following page. It will be noted that the initial 'run' of the formula is to determine the adjustment that must be made to the formula for the median income factor; i.e., to convert the ratio given above to a percentage. The formula is then rerun with the income adjustment included. All of the coefficients come either from the table above, or from the three adjustments described above.

The formula yields the fair share allocation for Gloucester Township prior to any accounting of credits for lower income housing provided within the Township, a matter which is discussed subsequently.

---

 COMPUTATION OF GLOUCESTER TOWNSHIP FAIR SHARE ALLOCATION

 INDIGENOUS NEED 325


---

Calculation of reallocation of present need:

$$3.80 + 1.41 / 2 = 2.605 \times 0.93 = 2.42$$

$$3.80 + 1.41 + 2.42 / 3 = 2.543\% \times 4,892 \text{ units} = 124 \text{ units}$$

$$124 / 3 = 41 \times 1.2 = 49 \times 1.03 = 50$$

 REALLOCATED PRESENT NEED 50


---

Calculation of prospective need:

$$3.05 + 1.11 + 0.15 / 3 = 1.437 \times .96 = 1.38$$

$$3.05 + 1.11 + 0.15 + 1.38 / 4 = 1.4225$$

$$1.4225\% \times 45,807 \text{ units} = 652 \times 1.2 = 782 \times 1.03 = 805$$

 PROSPECTIVE NEED ALLOCATION 805


---

 TOTAL FAIR SHARE HOUSING ALLOCATION 1180


---

 III. ADJUSTMENTS TO FAIR SHARE

The opportunity to make adjustments to the fair share, particularly for prior provision of lower income housing by the municipality, is expressly recognized in the Warren decision:

It [the methodology] acknowledges that some towns have made inclusionary efforts - and so rewards them through the use of the median income factor and by direct credits where appropriate (at 77)

Subsidized housing can clearly be credited. In the case of units provided after 1980, which is the starting point of the fair share projection period, the units can be counted in their entirety. Subsidized housing constructed prior to 1980 can still be given partial credit, on the basis of the units made available through turnover during the fair share period from 1980 through 1990.

One limitation should be noted. The prospective need is made up of a NET increment in lower income households within the region. In order to meet the full extent of prospective need, common sense dictates that there must be an increment of lower income housing units equal to or greater than the increment in households. Since the prospective need projection period began in 1980, only units added to the lower income housing stock since 1980 represent that



net increment. It is therefore not appropriate to take credits for turnover units in excess of the municipality's present need, both indigenous and reallocated. As it happens, this is not an issue in the case of Gloucester Township.

Gloucester Township contains two types of lower income housing. Housing constructed under programs of the Farmers Home Administration (FmHA), and senior citizens housing constructed under the Section 202 program. The senior citizens housing project (Franklin Square) contains 242 units, constructed prior to 1980. Since this project was constructed prior to 1980, the turnover can be counted toward the fair share. Based on experience with senior citizen housing developments elsewhere, we estimate the projected turnover in this development at 5% per year, or 50% for the entire decade of the 1980's. Thus, the Township will receive a credit of  $242 \times .5 = 121$  units for this development.

With regard to FmHA housing, information provided by that agency indicates that 106 subsidized units have been provided under that program since 1980, for which the Township is entitled to full credit. With regard to units funded prior to 1980, it is doubtful whether any credit should be allowed. While these units undoubtedly met PRE-1980 housing needs, they do not represent a continuing resource through which POST-1980 housing needs can be met; indeed, information from FmHA sources indicates that many of these units have since been removed from the subsidy rolls, and are no longer considered subsidized housing at all. The same sources indicate that this can be expected to happen over time to most, if not all of these units.

The 'credits', or adjustments to Gloucester Township's fair share housing allocation, and the resulting allocation, are as follows:

FORMULA FAIR SHARE ALLOCATION	1180 UNITS
less turnover at Franklin Square	( 121 units)
less Farmers Home Administration units since 1980	( 106 units)
 NET GLOUCESTER TOWNSHIP FAIR SHARE ALLOCATION	 953 UNITS