

ML2 - Round Valley, Inc. v.

6/29/77

Twp of Clinton

Transcript of Proceeding
witnesses

- John Rahenkamp

- Clarence Blazure

- George Kahosi

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MLCWD 433S

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION : HUNTERDON
COUNTY
DOCKET NO.-L-29710-74-P.W.
A-2964-77

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ROUND VALLEY, INC.,
a corporation of the
State of New Jersey

v.

TOWNSHIP OF CLINTON,
a municipal corporation
of the State of New Jersey,
TOWNSHIP COUNCIL OF CLINTON
and PLANNING BOARD OF CLINTON,

Defendants.

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: TRANSCRIPT OF
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: PROCEEDINGS
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B I T E D
: SUPREME COURT.

APR 2¹ 1977

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Henri Lambert
Hunterdon County Cognate
Fleming, New Jersey
June 29, 1977

B E F O R E :

HONORABLE THOMAS J. BEETEL, J.C.C.,

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MAR 5 1980

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I N D E X

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. THE COURT: Go ahead.

J O H N R A H E N K A M P , previously sworn,
testified further as follows

CROSS-EXAMINATION BY MR. CAIN:

Q Mr. Rahenkamp, we were discussing yesterday
the problems of zoning from the township point to fit into
the series of Mt. Laurel and Oakwood, O-a-k-w-o-o-d. And
we have discussed the fact the developer appreciates the
land market analysis for that particular tract and makes
a decision as to what portion, houses, would go, the apart-
ments and townhouses and single family, but I believe your
testimony was that the municipality really couldn't do that,
because there was only on a much larger scale, the question
how would you recommend the municipality approach the
problem, if they can't do it the same way the developer
would?

A Well, I think the town has to bracket in the intensity
that a piece of ground can sustain in terms of numbers of
units, but there is no defensive way that I know to say
that a particular piece of ground could be used in a
particular way, based upon the changing circumstances.

In other words, the information base from
which the town is operating, is constantly changing. To

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1 put down a specific use and zone on a particular piece of
 2 ground, probably is not defensive over any length of time.

3 i I would put the town in a place like a 'baseball game. The j
 i II umpire doesn't respect and tell me what the final score of
 5 the game is going to be, but he administers to the game
 6 and tells you the bags you have to touch and he doesn't
 7 tell me bats you have to hit a run single or he tells that
 8 ! these are the rules of the game thereafter, go ahead and
 9 ; play. We are not going to predict the final score.

10 I Obviously, there are too many strikes to predict that. The
 11 town is—they can establish the rules and they should
 12 ! administer the rules and should and tell you which bags
 Id to touch* It's impossible that they can defend projecting
 14 out forever and telling you what the final score is going
 15 to be with so many variables.

16 Q Do you think that they can project six years j
 17 forward? i

18 A I think to the point, for example, doing capital
 19 improvements, setting out fiscal policy, to the point of
 20 anticipating where the probable growth is going to be, I
 21 think they can to the point of precluding any alternate i
 22 patterns happening, yes, I think probably defensive. |

23 ! Q To what extent can the municipality zone by con-
 24 i jstricting, -which I think are in our zone law and have been in
 25 0 our zoning?

PERGAD CO., HAYDEN, N.Y. 07802 - FORM 511 8402

1 A In the old technique, the old Euclidian technique,
2 I suspect yott constrict, if there is enough common character-
3 istics that it is defensive.

1 | For instance, you can certainly direct for a
5 flood plain, because it's obviously in the public's
6 interest in the direction, that area. X suspect you could
7 probably even defend in Clinton Township, directing Roy
8 in for industrial zoning, directing to the interesting ways
9 I where the noise or pollution comes up from the roads,
10 j would not make it a habitable area. Most particularly,
11 I remember the area west of Lebanon. I see one area
12 could very easily be all right. That should be in those
13 kinds of uses and probably there should not be residential
14 uses in those areas. However, to specifically say that
15 there ought to be a specific residential type, based upon
K> the information that you have at hand, probably in defense,
17 probably no way of getting to that logically. There is not
18 a collection of facts that build up to finally get to that
19 point.

20 In addition, in Euclid, you have a real old
21 town and an older town, perhaps, is easy. In Clinton
22 Township, it may be easier to base or work on Euclid,
03 zoning them a growing town. It is possible. There is
24 ; simply not a factual basis to that kind of district. It
25 | has to be really treated more open-ended

1 Q I recognize at examination of the time of
2 qualifications, that most of your work has been done out
3 of state, but I think from a planning concern, that doesn't
4 make any difference?

5 A Agreed.

6 Q How have you approached then the construction
7 of a zoning map and construction of a zoning ordinance,
8 based upon your philosophy right now, how do you think it
9 can be defended?

10 A - Well, in Sparta, we did district, but we would
11 I allow ranges of options in the rural areas, those which you
12 would zone or did zone three and a half acre lots. We
13 would allow differential expression between that. One
14 could be directly and one gained very quickly, perhaps,
15 minor subdivision to that which one could be done by
US special procedure.

17 In other words, you are trading quality for
18 quantity in a development to perform there. That's con-
19 sistent with our agent philosophy in that the developer
20 is able to perform better retaining water on site, put
21 in clearing controls, do better quality development.
22 Basically he could increase the intensity on the grounds
23 without adversely affecting the properties surrounding him.
24 And basically, the same theory on ID. You could interest
25 the single then. And then you should break off.

1 Therefore-, a direction would allow a range of options that
2 would allow one to know the bottom line by right then and
3 in size and intensity, as the developer or landowner would
4 perform better and give a range of intensity in each case.

5 Q You are talking about the residential homes?

6 A Yes, and the industrial zone and commercial
7 zone in Sparta. We eliminate strict commercial and I think
8 you should have done the same, and you could do industrial
9 and commercial only as an integral part of a mixed com-
10 munity, that it would be part of a total application, so
11 that the commercial would not be stretched, but it would be
12 serving neighborhoods, etcetera. There are some specific
13 areas that we did zone for industrial in Sparta, but they j
14 are in the range of 200 and 300 acres, not to the point of
15 2400 acres, that housing zone.

16 If) In other words, that which we can see in the
17 reasonable future, be planted and taken down.

18 Q X believe you indicated before and in discus-
19 sion, that you disagree with a philosophy of a holding zone,
20 nor do you disagree with the philosophy of trying to keep
21 the discord or the -

22 A That's not-

23 Q Your problem was getting too much zone for
24 industrial more than you might reasonably?

25 A I do object to holding zones* I don't see-

1 there is no way to defend that.

2 Q Well then, maybe a small certain percentage of
3 old zones, I believe you said?

* A Yes, that's accurate.

5 Q That would be consistent, wouldn't it, with
6 your previous testimony, indicating, indicating the
7 information the municipality had at hand, in addition to
8 accurate prediction?

9 A Yes, so there should be a range.

10 Q You should have a range?

11 A Yes.

12 Q At least as broad as the accurate information?

13 A Yes.

14 Q Would it be your opinion that a PPH option
15 should be available in any residential zone?

16 A I would say that PUB, PRP option, should be avail-
17 able in every zone. That's virtually in effect in the
18 ORON type. Specifically, it would be an extraordinary
19 advantage too, when going through the special procedure to
20 go through the PUB, OPRD process, thereby being an agree-
21 ment and contract when you contract for the promotion of
22 the town and the developer is extraordinarily better, I
23 would say, any, any strong special kinds of uses, probably
24 are best going through that process. There is a framework
25 for a finding of fact. There is a framework for filing in

1 the courthouse the appropriate documents. Everybody is
2 basically better protected by that technique. Now, the
3 bottom line by right, obviously, could be done in the
4 conventional techniques and should have been, probably
5 should have been.

6 Q If you allowed those so-called options or
7 conditional uses or whatever method you would use to allow
8 PUD in any zone, who is going to make the decision,
9 Mr. Rahenkamp, as to whether PUS or PUD of a certain PRB
10 of a certain size is allowed in that?

11 A Well, obviously, you are having to bring parties
12 together to make a decision. However, the burden is
13 mutual, on the one hand. The developer has to confirm
14 that there is a market and, in fact, that this unit will
15 move at a reasonable pace. You don't want to end with a
16 job being belly up that inflicts a wound on the town.
17 They may have put out campaign funds in anticipation of
18 that project moving. There is some exploring of that
19 basis.

20 Conversely, it seems to me, with the finding
21 of fact required, PUD, that the town has to be fairly
22 accurate and disciplined in either approach or does ap-
23 proving of the project. And the burden would be on the
24 town in that case to say, this is why we did a certain
25 thing and thereafter defend it. If the developer did the

1 appropriate job and didn't create negative impact, I would
2 say be hard-pressed to simply turn it down out of will.

3 Q Then, probably the idea and maybe the decision
4 to put a planning community in or PRD in, would be
5 initiated by the developer at the planning board level, and
6 as long they could, the developer substantiate the
7 reasonableness of the plan, the municipality probably could
8 not prevent it from going in in this particular area.

A . Probably not.

9 Q In your-

10 A Probably not, if it tied to health and safety and
11 the capacity of the land to absorb that kind of sensitivity.
12 The town, however, is not in a dead-end. Obviously, by
13 their capital improvements program, by the official map,
14 they have extraordinary influence over how the land would
15 be used and at what time.

16 For instance, by extending sewer and water in
17 an area, you are getting the process moving and encouraging
18 processes. So, there are many positives for the town to
19 see that the developer is fairly consistent, without
20 creating havoc on the area.

21 It's fairly predictable where the developer is
22 going to go. It's not that open-ended. In addition, we
23 are really not talking that many units in the state. We
24 are only talking 25 Or 30,000. The whole mass of New Jersey
25

1 is over four million acres, if you took out the land that
 2 is flood plain and all this sort of thing, and talking a
 3 million-seven. We are talking, about taking better than
 4 two million acres for 25 to 30,000 units a year. We are
 5 really not talking that horrendous a number on every one
 6 of the towns, if each kept a reasonable proportion of the
 7 agreement.

8 THE COURT: Four million acres in New Jersey?

9 THE WITNESS: Plus, yes.

10 THE COURT: Four million plus. Four million,
 11 ~~minus~~ .1.7.

12 THE WITNESS: Actually already built. In
 13 other words, the land already committed or restrained
 14 from growth or development.

15 THE COURT: Two point three.

16 IK THE WITNESS: Yes. It's better than two
 17 million acres is available for development. That's
 18 excluding Class 1 and 2 farm zones. We are not
 19 putting pressure. We are excluding the Class 1 and
 20 2 farms in the millions.

21 THE COURT: Two point three million. How
 22 many units?

23 THE WITNESS: Between 25 and 30,000 units a
 24 year.

25 THE COURT: How much acreage do they take every

1 year?

2 THE WITNESS: Obviously, that depends on what
3 the market would want and it will be anywhere from
4 one to probably eight units of the acre on the top
5 range.

6 THE COURT: Did you work it out? Mathematical-
7 ly it comes out even.

8 THE WITNESS: Well-

9 THE COURT: Where two lines meet. The avail-
10 able line with the growth line, when did they meet?

11 THE WITNESS: It's almost infinitive, because,
12 in fact. New Jersey is not growing. Most of the
13 housing is replacing housing, so that the major
14 growth in the country now is in the southeast and
15 in the western states. So, really, not talking in
16 New Jersey about a lot of new population growth. We
17 are talking primarily of replacements, as expressway
18 and otherwise to determine our housing existing in
19 the cities and so on.

20 THE COURT: Projects?

21 THE WITNESS: Finally no. It's an infinite
22 number. The difficulty of projecting and anything
23 like that is that the demand of people for instant
24 change right now, let's estimate 300 gallons per day
25 per person or per unit in a housing unit. If we use

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conservative technics that could come down as much as 100 a person, which could increase the amount of capacity of the system. So, there is no, the system could work, in fact, as long as there is enough money to solve the problem.

THE COURT: And replacement, how would it trickle down, part of it trickle down? If the replacement--we are not trickling down at the same level.

THE WITNESS: That's because we are building less than the 30. We are only building 17 or 18 units a year. We are building half of what is required. Therefore, the prices are higher. The market demand is greater. The prices of houses are going up faster than the income ranges, so that we are not producing lease cost housing. It's getting more and more expensive for fewer and fewer people.

THE COURT: Replace where it is, rather than, rather than dedicate more land to it?

THE WITNESS: Conventional wisdom would say that. The difficulty is that the cost of maintaining the same facilities, the cost for maintenance of maintaining for the city is \$250,000 in Clinton Township, if I am not mistaken, is about 31 for municipal services, not school and education. The

PENNSAID CO., BAYONNE, N.J. 07002 - FORM 551 640Z

1 , point being that as the intensity gets much higher,
2 the cost of maintaining that cost of service is
3 extraordinarily greater. Basically, New York City,
4 the metropolitan area have outgrown their area and
5 New York has to import water from too far. It has
6 to export air•

7 THE COURT: Import?

8 THE WITNESS: Import.

9 THE COURT: You are saying import.

10 THE WITNESS: Okay. It depends on from high.
11 Exporting from Clinton to support.

12 THE COURT: importing into the city of New
13 York.

14 THE WITNESS: The point is, it is very expensive!
15 I to maintain those high intensity and fairly expensive,
16 I in addition, with a clean air standard, it's very
17 difficult to revitalize those areas, bringing the
18 jobs, etcetera, except at extraordinary high cost.
19 It's improbable that the major metropolitan areas
20 can absorb more. The probability is they will lose,
21 rather than-

22 THE COURT: We are talking about replacements?
23 In other words, confining the site to wherever it is
24 that considerable people live, the land is already
25 dedicated and already paid. The sewers, water.

1 electricity, everything that goes with it.

2 THE WITNESS: Perhaps, that's true. Perhaps
3 the capital land plan of those areas is very old.
4 Most is ready for rebuilding or redoing, in many
5 cases. The sewers and storm sewers are in the same--
6 the storm water and the sewage are in the same line,
7 so it is very difficult to treat it. Once we get
8 that sewage down to the end of the line, we are in
9 a treatment plant and taking it by barges out in the
10 ocean* It's a very difficult thing to go back and
11 redo that plant. To build and restore sewage is very
12 expensive in the long run.

13 Another good solution probably is better
14 housing further out in the country, where they can
15 absorb the sewage and enormous green on the ground
16 with spray application or something like that.

17 THE COURT: Here, raising the intensity. This
18 way, do not come into your cost for goods and
19 services, also go up and approach that level where
20 the present cities already are.

21 THE WITNESS: Our experience on PUD, that
22 doesn't happen* These are more than self-supporting
23 and we have charted them as regional from Rutgers.
24 These have charts and PUD will produce more money,
25 then, obviously, they are very sufficient. In fact,

1 if there is a magic number, it is in the PUD change
2 in the four to eight units per gross area. As the
3 density gets higher, the cost per capita gets
4 higher. The social services begin breaking down.
5 The monopoly of the transit workers and trash workers,
6 so they can leverage to get higher wages, etcetera.
7 As the intensity gets higher, the cost per room is
8 extraordinarily high, and there is really no way to
9 work it. The PUD is the least expensive way we can
10 go. I am trying to be objective as I can.

11 THE COURT: Subjective or objective.

12 BY MR. CAIN:

13 Q You recognize, of course, that in this pro-
14 cedure, you have a point of view to establish. You
15 recognize my question. X represent the Township. And I
16 am more concerned with the social and political aspects
17 of it. And my question is slightly different than
18 Mr. Sutton's and have to bear-

19 A We spend about 50 percent of our time doing public
20 work. We respect your position.

21 Q One of the things that you led up in your
22 testimony was the shifting of the population out and it
23 seems to me that X read, I think it was read in the paper
24 a couple of weeks ago, HUD or some governmental agency,
* ! perhaps, you are familiar with it, had criticized the

1 cities for not providing their fair share. We are talking
2 about the development in the municipality. We are talking
3 about the cities that were unable to keep their people
4 there, because they weren't providing for their fair share
5 of modern housing. Are you familiar with that? Do you
6 think that the answer might be for the time and energy we
7 have spent on keeping some of the people in their homes,
8 rather than having them shift around and, perhaps, create
9 new problems elsewhere in the state?

10 I A I suspect the answer is both. Obviously, the
11 deteriorating cities are a problem we have got to re-
12 habilitate. The question is at what intensity
13 if it's an inhabitable place, because the air quality is
14 bad, because the drinking water is bad, the cost per and
15 is extraordinarily high, thereby, so high, they have to
16 move out. That doesn't seem very easy or a desirable
17 way to go. There is probably not federal subsidy money
18 around to support the city as they have in the past. So,
19 it's improbable that it's going to be easy for this to
20 happen.

21 Q We appear to be in a quick throw-away container
22 society. I have a feeling we are throwing away our
23 existing cities and maybe creating new problems out in the
24 suburbs, where you don't have the ability to service?

25 A Let's just say we get a little overzealous with a

1 developer because of extraordinary subsidy money. In other
2 words, what we did, was tax heavily in some areas and take
3 it back in the cities. That may be a defensive way to go,
4 but, in fact, it backfired on us. We got the cities up to
5 such a high intensity, and at such a level of furor, that
6 they can't be sustained. So, they have gone beyond the
7 point that we can support them ordinary, without providing
8 subsidies that are just not expensive. There is simply no
9 way of making logical choice. You realize, as well, better
10 than 65 percent of the poverty in the country, the poverty
11 in the low income, does as a rule, tend to be in the urban
12 areas. What we have done by subsidizing the cities at
13 such a rate is encouraging return to the rural areas. And
14 cities, when, in fact, have done it at much less cost and
15 lots of low income by solving the problem where they start,
16 rather than encouraging the cities, so that the whole
17 urbanizing theory backfired. I don't think we can support
18 that any longer. In particular, in terms of environmental
19 interest, we can support any longer environmental hot spots
20 that cost us a bundle of money to try and solve.

21 Q Well now, if Clinton Township area, perhaps,
22 this is somewhere in the watershed area, producing, col-
23 lecting the water, which is necessary to support a lot of
24 the things downtown, I suppose, really, that use inventory,
25 since we are really supplying some of the large amounts of

1 the municipality downstream with resources, is it reasonable
2 to come back up into the headwater area and do intensive
3 development right in your resource of supply area?

4 A It's a good point. The point, however, is that with
5 a PUD, at least with these kind of man-made technics, is
6 that tie water doesn't disappear. In other words, the rain
7 water coming down on the ground is not all of a sudden
8 going to evaporate and go away. The question is whether
9 simply going to be recycled into the system. In fact,
10 every stream has several people who are borrowing water,
11 using it and recycling it back into the stream. So, in
12 fact, you are not changing the gross value of the water
13 somewhere down the stream. And, in fact, all we are simply
14 doing with these, is replacing the water with a return. We
15 are replacing virtually everything as it is now. In fact,
16 if anything, on the global side, we are probably replacing
17 a little bit better than it is now, because the retention
18 ponds will hold the silt and some of the fertilizers away
19 that, in fact, now recreates some source problems. So, we I
20 will not change the volume of water going downstream in
21 qualitative terms. Any project will affect the quality.
22 However, all water quality is affected. In other words,
23 there is no such thing as pristine water. If you have
24 manure, you have animals there, you have litter coming down.
25 And you are creating pollutants in the stream. Those

1 pollutant loads, in fact, are beneficial to the stream in
2 some cases, because the fish and others live on the nutrients
3 that are generated, as do the plants alongside. So, the
4 question is thereafter, well, what level of nutrient load j
5 can that stream support before so much nutrients, that it's
6 overriched, that it creates health hazards. Dr. Horton
7 will sustain the fact that we would not create such a load
8 on the stream, that either the State was concerned or that !
9 it was affecting the people downstream. i

10 Q We will leave that for Dr. Horton. I am writing
11 against it.

12 THE COURT: Your voice is lost over on this
13 side.

14 Q The testimony yesterday started to get in a
15 little bit of the development of ROM industrial plan
16 development and you had indicated that you could not do
17 a viable ROM industrial development on that easterly side,
18 and gave your reasoning that there wasn't a market at the
19 present time for industry. I believe that was correct.
20 That answer I believe was based on the total utilization
21 of the entire tract at one time, wasn't it?

22 A No.

23 Q Even with basing of the ROM area, you say
24 anything you could not have a viable project?

25 A Yes. It's going to cost ten to 12,000 an acre to

1 prepare the ground and even if you took it by pace, you
2 need users to come along to absorb those costs. And I
3 would say there is not sufficient market to know that there
4 is going to be somebody coming along at a reasonable pace
5 to take down that land to absorb the construction costs,
6 to absorb the costs of the land, etcetera.

7 Q Isn't it reasonable that if you put a thousand
8 units, say on the westerly side, and I believe your:
9 pacing of that 300 units approximately a year, that you
10 could at the same time do an industrial development on
11 the easterly side to provide some jobs for the people that
12 you are bringing into the Township?

13 A Yes, but we are taking relatively different pro-
14 portions. If you could get some proportional relationship
15 between the two, perhaps, that would be appropriate or,
16 perhaps, there would be some normal end that would be ap-
17 propriate under that. But, certainly not to the extent
18 on the entire tract and certainly not to the extent that
19 your extraordinary exposure that the land would be taken
20 down under a reasonable pace under the ten year life of
21 the project, like this 30 project ROM type users generate.
22 However, freedom from any kind of strain that mounts an
25 ordinary market strain on taking the land at reasonable
24 rates and at a reasonable pace.

25 Q If you were representing an industrial

1 developer, and had that southeastern quadrant in mind,
2 which includes the Gobel farm, and saw a residential PRB
3 in process on the opposite side, would that influence your
4 thinking in terms of, perhaps, some job market?

5 A Yes, sure, but let's be reasonable about the market.
6 If I am looking for an industrialist or one looking at
7 a series, of pieces of grounds, in the first place, we know
8 the commercial and industrial market is very soft right
9 now in the northeast. I think we all know that, at least
10 we should. It doesn't appear it's going to come back
11 within the reasonable future. Obviously, when the south-
12 east, the costs gets too intensive, will start to come.
13 That looks like a 20 year cycle. And if I am an in-
14 dustrialist, looking for various pieces of grounds, where,
15 New York Life or A T & T, obviously, I am looking at all
16 the different prospects. I draw a radius around the
17 place or draw it along, draw 78 or 80 and look at each one.
18 The industrialist asks me which one I am better off in.
19 What they are looking at probably is, perhaps, 15 or 20
20 qualified sites, in addition to the whole connection site,
21 as qualified areas, that they can go to each of which
22 may or may not have the size house. Each of which may
23 have the same xatte and movement or movements of people
24 and goods, so that it's extraordinary competitive market
25 area. It's very difficult to lend these guides. You have

1 to put in quite a bit of improvement in order to get thorn.
2 And you don't simply overzone each one of the towns with
3 that kind of growth prospect is just not very realistic,
4 nor deferrable. I am saying I would acknowledge that in
5 ten growth life span of the project, perhaps, there are a
6 couple that could be landed, but to go much beyond that,
7 is just beyond any realistic sense of it.

8 Q Would your opinion be that even a portion of
9 the Gobel property or the easterly property could be
10 utilized for the ROM, if you had some kind of other
11 options or for other uses in that zone?

12 A Yes, but I will tell you how realistically we would
13 have to do it. What we would do, is take the whole end
14 price and price it against the residential, make sure we
15 would carry it thereafter, industrial and commercial,
16 because of the soft demand may or may not go beyond the
17 structure of the whole job, beyond the commercial and
18 industrial to pull it out. We have to absorb the land
19 cost on the residential that we knew we could develop.
20 Therefore, anything we got, that would certainly be of
21 benefit. Unfortunately, many developers didn't do that
22 and that's why we had so many turning belly up two or
23 three years ago.

24 Q Belly means bankrupt. The problem, I think,
25 from a social and political point is in terms of a

.1 municipality, if. you have this problem of not being able
2 to develop in the area across the street, perhaps, or in
3 the area, the jobs for a thousand people, then over a ten
4 year or three year period, how are we going to handle the
5 jobs for ten thousand, for the workers from a 3500 unit
6 development? *

7 A Obviously, you are not going to. It has relatively
8 little to do with town boundaries and relation to the whole
9 region. How it will be and where the jobs are with
10 i A T & T and the income generated for jobs, we know already
11 i the house demand is rather phenomenal for even the number
12 of units coming on the market are the jobs that are there
13 now.

14 We are not producing enough housing in the
15 area now to match the jobs. I don't think that's a
16 problem. Secondly, I would say that there may be some
17 appropriate areas to be zoned for industrial or ROM in
18 Clinton Township. I submit that's probably less likely
19 on the Gobel tract and some of the others, maybe some
20 that have sound problems for air pollution, which would
21 make residential uses uninhabitable and very unlikely. It's
22 probably not going to exceed the four or 500 acres that
23 s the county was going to talk about. It's not anywhere
24 near the range of 2400 acres. That's for sure.

25 Q Now, you did use the county figures. I think

1 you relied on the county master plan and the county
2 population projections for Clinton Township. Do you recall
3 what the county population projection was by the year
4 2,000 for the township?

5 A No. If you would like to review the chart.

6 Q All right.

7 A All right, what?

8 THE COURT: We are going to the chart.

9 THE WITNESS: Fine.

10 Q I am sorry. It's not on those charts. It's
11 in the county master plan, which is submitted as an
12 exhibit.

13 THE COURT: I think it's a green covered
14 one. The green cover. What number? D.

15 Plaintiff P-74.

16 THE WITNESS: May I go through it? I am
17 looking at P-65 and 65 land use alternatives,
18 county master plan, population projections for
19 one town under figure two, page four, Clinton
20 population, Clinton Township. The following is
21 projected to be 14,000 in the year 2,000.

22 Q That was a number, wasn't it?

23 A I think so.

24 THE COURT: Based on the county population
25 of the county population.

1 THE WITNESS: Total population is projected,
2 10,149. Let me refine that.

3 THE COURT: That sounds about right.

4 THE WITNESS: They gave a range in the
5 '69 plan. This is P-64, looking at table two on
6 page five, Clinton Township. They gave a range
7 from 3.601 gross to six percent of this county
8 population to nine percent, which would project
9 Clinton Township in a range from as a 1985 population
10 between 8200, as the bottom range, up to 2300, as
11 the top range.

12 THE COURT: That's 23,000.

13 THE WITNESS: Sorry.

14 THE COURT: 8200 to 23,000. That would give
15 a county population of between 124,085 to 350,085.

16 Q \ Now, the figure then of 14,000 by the year
17 2,000, is that an average or best guess or their estimate?

18 A 1995 with 8200 to 23,000. It shows the difficulty
19 of doing population projections, which is a very subject-
20 ive substance. Again, the areas are so extraordinary,
21 that they don't trust them very much to the point that
22 this '69 master plan talks of 13,300 being the intermediate
23 range at six percent growth rate in 1985. The '75 plan
24 talks of 14,000 in the year 2,000. So, obviously, there
25 is a discrepancy somewhere.

1 Q Not a lot, though?

2 A Well, no, but they are talking in 2,000 here of
3 23,000.

4 Q Maybe you have already answered my ultimate
5 question. Do you accept as a reasonable figure the 14,000
6 of Clinton Township by the year 2,000?

7 A I accept any population projection in the context
8 that of what it is. It's based on a whole series of
9 events, a whole series of assumptions, and gives us a
10 number on the end. The answer to any population is sub-
11 jective. Frankly, you accept it, but not as an operating
12 number, but not as a heck of a lot.

13 Q You have to start somewhere and it might be
14 on a whole foundation of variables. I guess we have to
15 accept something for argument's sake.

16 A Perhaps a six year population projection, as to the
17 municipality is reasonably more predictable.

18 Q Would the six year prediction be then based on
19 the county figure?

20 A They usually do that, nor do we. That's an odd
21 number.

22 Q Even if it's 14,000, by the year 2,000, and
23 I believe you established an estimate of the present
24 population in Clinton Township was 6500, approximation?

25 A In '75, right.

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. . Q I believe the '70 census, roughly?

A Right.

Q Do you happen to know if that 6500 includes the folks in the two institutions that we have? In 1970, the government had the habit of including the inmates at the reformatories in the population. It's not funny, I think they do. I just wondered if that 6500 figure, if you knew included the population. But, if you are talking in terms of population and population explosion made in terms of development and increase the population in a reformatory wouldn't be appropriate.

THE COURT: But that in-

Q The 6500.

THE COURT: You will have to ask your planner that.

MR. CAIN: We will ask him later.

THE COURT: Put away in the institution, a little more than eight.

MR. CAIN: Probably not as quite as ideal.

Q Assuming the 6500 is the present population, assuming the 14,000 by 2,000, that doesn't portend well, does it, for your being able to absorb your 10,000 people, in the Township by 1985?

A That's one of the problems with projecting population. I honestly don't think the population—I think the game

1 sometimes is as much a political game as it is a statistical.
2 I don't know how defensive the number. They give UJ a
3 range to work with, but I think not an advantage. I would
4 just say the 69 number they gave is a range of probability
5 and a different growth kind projection that's more probably
6 a defensive technique to follow.

7 Q How defensive then and how defensive then is
8 the 10,000 population over a ten year period? It would seem
9 .to me if you're looking at a definite in terms of pro-
10 jection, it ought to tell a reasonable developer something
11 that you are talking about, belly up in Round Valley
12 being-

13 A No. It doesn't tell me very much, because the
14 population projections are assumed medians ... that they
15 assume, median kind of house in a PUB. Generally in a
16 market you are producing something of a higher quality and
17 something better, so you're clustering a market, and
18 doesn't give a problem. The marketing is defensive.

19 Q If then you are talking of a ten projection
20 of some 300 units per year, which assuming the accuracy
21 for the county figure exceeds that projection?

22 A Yes.

23 Q And if you think you are correct in the pro-
24 jection is a qualification to your development, what effect
25 is that going to have on the development of the township,

1 Ninety some percent of the community, which is zoned pro-
2 portionately zoned residence?

3 A I don't; think it will affect the minor subdivision.
4 Odd lot kind of thing. I certainly think it will, it will
5 affect the normal kind of housing, in that I think that the
6 PUD competes better against conventional housing. I think
7 the State law is tjoing in that direction and good economics
8 and good developer acceptance are going to do this kind of
9 development, I think will reduce the demand for land in
10 other areas of the Township. I don't think there is any
11 question about that.

12 Q It would certainly preclude another 3500 units,
13 PUD in the Township?

14 A Well, even from a marketing point of view, it would
15 be unlikely it would be that many. Normal treatment will
16 constrain where we are talking about. You don't have to
17 be worried about being inundated by development in
18 Hunterdon County or elsewhere. The marketing demand is
19 only so strong and it can only sustain so many. And you
20 know it's not like they are simply going to be all over
21 everyplace. Frankly, the banks aren't going to issue any
22 more casual money. I don't think you are going to be
23 overrun. You are going to get some part of PUD, ROM and
24 release the pressure on agricultural land and rural land.

25 Q It wouldn't be like anything we would get.

m

1 Many young PUD.

2 A I think you will get small PUD. I think you may get
3 50 or one acre PUQ. They are using the PUD for 200 cluster
4 housing and better moderate priced single family houses.
5 I don't think there is any question about that.

6 Q One more philosophical question. As you just
7 brought it up, the PUD, let's say 500 to a thousand range
8 in a rural area, you mean population now, 500 to a thousand
9 units?

10 A Right.

11 Q PRD, what is your—as it would be better to
12 have several in the 500,000 range distributed appropriately,
13 as pop, as to put it, what, all your eggs in one basket,
14 the 3500?

15 A Well, there is obviously an economy of scale, as you
16 get larger. Conversely, as you get too large, the carrying
17 cost of the land are so extraordinary, you can't carry the
18 land and absorb quickly enough. So, the new towns have had
19 problems. I would say under a thousand acres is reasonably
20 defensive and probably can be carried, if it goes.

21 THE COURT: How many?

22 THE WITNESS: I would say—

23 Q In other words, a thousand acres would probably
24 be too large. A The new towns are difficult to do at best,
25 unless they are publicly funded, and that's not probable.

1 I would say anything that would take much more, about ten
2 years, is probably too long, that the interest and carrying
3 on the land, probably would eat you before you could come
4 out to the other end, even on this project on the cash
5 flow. We were having a deficit for many years before we
6 started to show positive cash flow, just to the point of
7 having to put in investments to put in and get it to carry
8 the ground. The improvements mean a lot to the economic
9 scale, is very real.

10 In addition, the PUD process, and simply the
11 process of getting all the approval required, is getting
12 so onerous and so heavy, that there is an economy of
13 scale, simply on the processing time. And it takes a
14 year to get the agreement set. That's better than taking
15 a year on each one of them of smaller ones.

16 Now, there is that one statement and I would
17 defend that. And I think that's the only way we are going
18 to lease cost* And I think Madison addressed that ac-
19 curately. There will be some areas in agricultural areas
20 and in some of the difficult land areas where PUD probably
21 is appropriate on a smaller scale. The difficulty, by the
22 way, is in defining PUD, is a separate breed of cat. It's
23 simply a legal technique to try to get some flexibility to
24 "the developer., to denote more flexibility"/ so we can assign
23 it-a legal flexibility for chat, a planning tool. " "

1 Planning always should be done this way. All we are doing
2 is trying to set up a legal flexibility to make sure both
3 sides are protected. It's not a strange breed of cat at
4 all. It's an appropriate use of PUD techniques for five,
5 as it is for three million.

6 Q Then, your idea is that economy of scale comes
7 up to lease cost housing?

8 A There is no question about that.

9 Q That PRD kind of development should be per-
10 mitted in any zone, I believe you said?

11 A Yes, with the exception of flood plains or which the
12 public is the over-

13 Q Available lands?

14 A Yes, including agricultural PUD.

15 Q Those too. Those two items seem to be important
16 in your zoning philosophy then, and the fact then that j
17 the initiative for when and how large the PUD or PRD
18 comes from the developer, rather than from the municipality?

19 A No. I said before I think the municipality has some I
20 ntechanisioa to effect the rate and pace in terms of their
21 capital budget. j

22 Q I was just thinking from a practical point,
23 if you allow in the zone, then isn't it the developer
24 coming in seeking, the one that initiates?

25 A Yes, but you have the, the municipality has a

1 positive way of planning, managing or effecting where that
2 probably is going to happen by using their capital
:\ 1 budgeting, and their official map.

4 Q By providing service?

5 A Either providing service or excluding service on a
6 paced basis.

7 Q You are not, it's not a dead-end situation.
8 That's the crux of it. I believe somewhere in your
9 testimony you have indicated Clinton Township was, I think
10 the fact is a growing faster grow area of the county?

11 A I don't believe that's accurate.

12 Q Faster?

13 A It's faster than the county, yes.

14 Q Faster than the county?

15 A Yes.

16 Q I took a look at table six in the land use
17 plan.

18 MR. CAIN: I have forgotten the number of
19 it, your Honor. I think it's—the land use plan
20 of the Township. I will check it in a minute.

21 THE WITNESS: J-1, I think.

22 Q J-1 or J-3. J-3.

23 THE WITNESS: Sorry.

24 THE COURT: What page is that?

25 MR. CAIN: Well, it follows, your Honor, page 18

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1 .in my copy•

2 THE COURT: Page 18, Table six.

3 Q Go ahead.

4 THE WITNESS: The U.S. Census population,
5 • is that it?

6 MR. CAIN: Yes.

7 A These are real numbers.

8 Q Yes.

9 THE COURT: Which one, like five or six?

10 THE WITNESS: We made a comparison between
11 Hunterdon County and Clinton. There are other
12 townships growing faster than Clinton Township.
13 But it is growing faster than the county, as a
14 whole.

15 Q I believe the column, which is the third from
16 the right, which is the percentage increase in growth,
17 62, is it? You have indicated before in comparison to
18 Clinton town and Clinton Township, Clinton town is the—you
19 had a percentage increase of 50.4 percent^, whereas Clinton
20 Township only had 35.8 in 60, 70 range. And looking down,
21 down the list, there are several other municipalities, which
22 are growing at a faster range than Clinton Township, is
23 there not?

24 A Yes. The point being that you are better at the game
25 than others.

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1 Q No. Because if you look at one of the faster
 2 growing, the third from the second from the bottom, which
 3 is today, they have a 55.1 percent increase. And I think

4 ii maybe a study of the surroundings, you find they are better
 5 at the game, too?

6 A However, they started from a very low population base;
 7 The difficulty, I think, in any of these kind of statistical
 8 manipulations, is that if you start from a very low base,
 9 it looks like you are growing at an extraordinarily greater
 10 rate, even the gross number may not be as high. My point

11 was simply that the Township, in the whole county is
 12 growing faster than the county. There are other towns
 13 that may have grown faster.

14 Q Yes. There are several.

15 MR* HERBERT: Tewksbury.

16 THE COURT: In actuality, they gained 634
 17 people. Clinton Township gained 1350. Increased
 18 number. Increased number. And the increase low
 19 base gives you a higher number. Smaller denominators.
 20 The smaller denominator, the higher number. You have
 21 a higher percentage, and taking actual numbers.
 22 And 634 to Tewksbury Township, alleged between 1970.

23 Then, 1349 in Clinton Township in the same period.

24 MR. CAIN: Well, looking at the percentage,
 25 because the Mt. Laurel-

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THE COURT: I am looking at actual numbers.

MR. CAIN: Well, I believe that the Mt. Laurel case and the Oakwood case talked about the growth in terms of percentage and increase, rather than actual numbers, and comparing, say something with Clinton Township. And X say they are growing faster, because they got 2,000 in one year, and we only got 500 relative, in terms of percentage that might be very small.

THE COURT: Looking at it another way, 634 people moved into town over ten years. 1345 moved into a 34.06 area square miles. And play games with all these.

MR. CAIN: I wasn't trying to play games.

THE COURT: Even that you are 107 per square and 162.

MR. HERBERT: Your Honor, I am trying to—been sitting here listening to the questions about the population. I am wondering where this is going. Evidently, from what Mr. Cain just said, he is somehow going to contest that this is some—Clinton Township is not a developing community. And I would, as we pointed out earlier, on page nine of his own expert's report, states that the last page in the summary, to the effect there would be a high

1 rise, etcetera. There is a promise to maintain the
2 Township's position, as one of the more rapidly
developing municipalities in Hunterdon County- And
3 I just want to know, because he gets the volume of
4 these questions. Is Mr. Cain somehow now contending
5 that Clinton Township is not a developing community?
6 If so, the questions are appropriate. If not, then
7 I would say they are irrelevant.
8

9 THE COURT: I would think they are relevant.

10 BY MR. CAIN:

11 Q I took it, Mr. Rahenkamp, Clinton Township was
12 comparable to Mt. Laurel.

13 MR. HERBERT: Right.

14 Developing•

15 THE COURT: It does place a little bit of
16 experience on your own expert. Your own expert
17 will come along and say. I think both he and
18 Mr. Rahenkamp are saying the same thing, that
19 Clinton Township is one of the more rapidly develop-
20 ing communities in Hunterdon County. And both may
21 have different comparisons, but the width of that
22 base to Mt. Laurel-

23 MR. CAIN: More rapidly is a relevant term.
24 I believe Mt. Laurel and Oakwood are talking about,
25 ..explosives growth. And I think one of the things

1 the Court is going to have to wrestle with in the
2 determination of the case, that would be the test
3 for development in municipalities. I believe your
4 Honor can take—

5 THE COURT: Still going through the zoning
6 process and zoning ordinance situation. You have
7 that.

8 A The point is, however, that by using the exclusionary
9 techniques and slowing down the pace, that you have effected
10 the town in its relationship into whatever growth pattern
11 they wish, and thereby reduced the growth rate. Therefore,
12 it's almost a self-inflicted hardship. You can't very
13 well say, look, we have been successful at the manipulation
14 game. We have been able to slow down the rate. Therefore,
15 we shouldn't be compared to Mt. Laurel and Madison. We
16 are not growing at a fast rate. You have used extra-
17 ordinary techniques to slow down the pace.

18 Q Do you really think that the techniques have
19 been intended for that, or that during the period from
20 and until the 70 market really had more effect on the
21 development of Hunterdon County municipalities, specifical-
22 ly?

23 A I think the manipulation techniques have existed
24 in the normal marketing process. I think the market would
25 have been stronger, given an opening, given an open market.

1 Q If that's the case, you have introduced a
2 variable that makes it almost impossible to analyze changes
3 in growth. What was the population in Mt. Laurel in 1940?

4 MR. HERBERT: My objection, he is making
5 a statement here. It's not a question.

6 THE COURT: Getting something in which
7 isn't in evidence. Ask him the straight question.

8 Q What was the population of Mt. Laurel in 1940?

9 A In one of these piles I have it. I can't give you
10 '40, but I can give you '50. It was 2100.

11 Q 2817. In 1950?

12 A Yes.

13 Q What was it in 1970?

14 A 11,221.

15 Q 11,000?

16 A Yes.

17 Q . Approximately five times?

18 A Sure, because the zoning was relatively more open.
19 In other words, you could do 9375 square foot lots. You
20 could do third acre houses, and the town had PUD ongoing,
21 etcetera, so that the zoning was relatively more open than
22 most of that which we see in Hunterdon County.

23 Q Wasn't it also in a marginal area, where there
24 was greater demand for housing during that period of time,
25 because of jobs from Philadelphia, Camden and so forth?

1 A Yes. Mt. Laurel is on Exit 4 of the Turnpike.
 2 Therefore, it was generating more. That's a comparable to
 3 Clinton Township on the exit of 78. So, to that extent,
 4 they are comparable* I think you are—I think it's mis-
 5 leading, by the way, to think of the cities, still as the
 6 generating force, 4 Cities are not generating forces. The
 7 prime for generating this area, nor is Philadelphia the
 8 prime generating force for Mt. Laurel. As many as 65 per-
 9 cent, of the people in the town, work within ten minutes,
 10 fifteen. They don't all work in Philadelphia. That's not
 11 the prime generator. It's certainly one of the facts.

12 Q I am misleading, comparing-

13 THE COURT: Since Clinton Township, '70
 14 population was 5,119. And in 1950, the population
 15 was 2,926, or approximately the same as Mt. Laurel.

Hi A My extension, if you had the same zoning categories
 17 available in Mt. Laurel, probability you have a growth
 18 approximation the same pace and perhaps even greater.

19 Q Then, in your opinion, Clinton Township would
 20 have the same population as Mt. Laurel in 1970, if its
 21 zoning had been the same as Mt. Laurel?

22 A Perhaps, yes. It would be defensive. In other words,
 23 there would have been the job starts, that would have de-
 24 veloped that pace, yes.

25 Q But, I have to say, your point is then, that

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1 Mt. Laurel, over 11,000 in 1970, got that way primarily
2 because the zoning was appropriate, rather than because
3 of the demand for housing?

4 A It got there because of both of those.

5 Q Would you say the biggest fact?

6 A Both. If you need a supply and demand, obviously,
7 both of them interlock. If there is a demand, then the
8
9 lot sizes and the zoning is accommodating that demand, then
10 you have a mix. If you change your supply, by changing
11 lot size and making it more difficult to go through the
12 process, obviously, you can't match the demand. That's the
13 situation here.

14 © Do you know, Mr. Rahenkamp, some of our
15 municipalities in Hunterdon County, didn't have zoning until
16 almost 1970? i

17 A Yes.

18 Q And we don't see any of them with the pop-
19 ulation, even close to Mt. Laurel.

20 A That's not quite probably the word to Clinton
21 Township on '78.

22 • Q Well, let's take Bethlehem Township which is
23 on 78.

24 A I don't know the location of it, sir.

25 Q I believe the first ordinance came in about
1968. It appears there, their population. They didn't

1 select. I see that they did not* This chart does not
2 have Bethlehem Township.

3 THE COURT: It wasn't on it. The county plan
4 does. Do you have the county plan?

5 Q It might be interesting to check with the
6 county exhibit of ,which you have before you, Mr. Rahenkamp,
7 and see what Bethlehem^fs population is in 1970, two years
8 after, j

9 A .. The population is 1400. That's all it gives me. I j
10 I have no sense of how comparable it is, but it is not mentioned
11 in the county plan as one of the growing towns.

12 Q The county plan does have the projection, New
13 Village will be the heaviest, almost, or at or around the
14 site.

15 A Yes. Our site ring goes following 202 and 31
16 Interchange, basically, following the major interchanges
17 on the Expressway.

18 Q As a matter of fact, Lebanon was one of the
19 high, Lebanon Borough, was it not Lebanon Borough, one
20 of the sites selected for high intensity apartments?

21 A Let's take a look at it. It would depend on the
22 drafting accuracy. Obviously, Clinton Town, Lebanon,
23 Clinton Township area, is one of the clusters.

24 Q Did you want to take a look, if you want. My
25 recollection was that it was partly scheduled in Lebanon.

1 THE COURT: Put up the exhibit. What, sir?

2 THE WITNESS: 64-B. 64-B, P-65-B.

3 A Yes. I think it's accurate to say all three of them
4 are involved. It shows Clinton Borough and Clinton and
5 Clinton Township. Primarily addressed, 22, 70, 31
6 Interchanges•

7 Q Did you have occasion to examine the Lebanon
8 Borough zoning ordinance in your studies?

9 A No.

10 Q Then you don't know whether they have any
11 apartments or high intensity?

12 A No.

13 Q I believe one other point on housing. I
14 would like to know if you had indicated it is a simple
15 density of four to eight. I believe you indicated, did
16 you not, that-

17 A It's overheld zoning.

18 Q Not even close to New Jersey?

19 A But, it's a good excuse to go there.

20 Q That the optimum was the magic number, was
21 four to eight?

22 A The magic number was four to eight units per acre in
23 terms of density.

1 Q As Clinton Township multiplied family zoning,
do you know what zoning that eight units per acre are

1 allowed?

2 A Yes. Well, talking, when you talk multiplying
3 family, you are talking net, not gross. Talking about
4 PUD and gross density, we are talking about averaging out
5 and trading off. When you are talking a specific number,
6 family, then you are talking a different kind of numbering
7 system than we are doing as gross density.

8 Q My recollection it was eight, eight per acre
9 gross in multiple family.

10 A Well, yes, but we are taking specific zoning
11 direction. That's not gross. To talk about gross zoning,
12 when we are talking about family and PUD, there are-

13 THE COURT: There are two different types
14 of comparables in number?

15 THE WITNESS: If you look at the whole of
16 Clinton Township area, then you could talk about
17 gross density and in a meaningful way or in one of
18 those areas within that frame and multiple family
19 area.

20 Q Is it your opinion that lease cost housing can
21 be achieved in multiple family zoning of eight gross units
22 per acre?

23 A I don't think it can be produced at eight to the acre,
24 no.

23 Q So that multiple family is a gross density of

1 eight per acre, cannot produce?

2 A It would be very difficult.

3 THE COURT: Or the net non-tradeoff basis.

4 That's what he is saying.

5 THE WITNESS: Right.

6 THE COURT: Columbia projection, correct?

7 THE WITNESS: Right.

8 THE COURT: You actually tap beyond with
9 Columbia?

10 THE WITNESS: Yes.

11 THE COURT: Are you acquainted with any other
12 development?

13 THE WITNESS: That might be the one in
14 Reading. The one in Reading is four and a half to
15 the acre.

16 THE COURT: But, again, on a trade-off
17 concept?

18 THE WITNESS: Yes.

19 THE COURT: It's a more rural area. It's
20 comparable to Clinton Township.

21 Q A couple of other small points on impact. It
22 ascribes a new context, to the Court, which came in the
23 cases, the money to fees.

24 THE COURT: Fees.

25 Q Like money. And I believe you criticized the

1 Clinton Township ordinance, bonding ordinance, for allowing
2 a 120 percent, is that correct?

3 A No. I criticized it for 150 percent in the preliminary
4 land use. A subsequent change to 120 percent. And that is
5 consistent with the State law. I have no challenge-

6 Q I wasn't sure from your prior testimony, the
7 way you criticized the 120,

8 A. I used the 120 in the ordinance that we have been
9 revising.

10 Q You have represented the planning board and you
11 do know that fees are necessary?

12 A Oh, yes,

13 Q Do you have any objection to fees, as long as
14 they are reasonably related to the municipality cost and
15 expenses in processing these developments?

16 A I would say if the Town hasn't prepared factual information
17 that's available, thereby reducing the amount of review time
18 and reduce the amount of fees of review and laying off
19 essentially, assume the revision preparatory to the develop-
20 ment, if it's, not in that context, I would say it's too .
21 high. I would say the Town has some responsibility to
22 get enough base information that one can gain access to
23 revise the amount of fees that would be required for each
24 particular application in Clinton Township. That isn't, ap-
25 parently, the case. The burden is extraordinarily high on the

1 develop application.

2 Q | Do you actually know whether the municipality,
3 the planning board has done studies, based on experience to
4 support fees, which they have subdivisions?

5 A Perhaps they have. Then, I would say they are not
6 efficient with their—but the fees are extraordinarily
7 higher than anyplace that I know. The general review for
8 our P-5 for \$170, something in that range. In other words,
9 there is no way you could spend the money.

10 Q You recognize that when you are reviewing a
11 subdivision or a PUD, you generally have a planning man
12 watching out for the planning board?

13 A Sure.

14 Q An engineer. And somehow determine going to
15 fit into this thing?

16 A In Mt. Laurel, we hired the best expert we could
17 find on this evaluation on the first PUD and we spent less
18 than \$35,000 on expenditures, and they were the most
19 expensive we could find. They were good people, well
20 qualified. Straight answers. You just can't spend that
21 much money, either, or there is not homework already done.
22 So, they are starting from a base of information. So,
23 the cost of each review of each project is reasonable. If
24 you are going to generate information on the whole town,
25 that gets horrendous.

1 Q , Now, on the-

2 A Let me go one point further.

3 The difficulty is that in terms of lease cost,
4 that every increment of \$100 added cost of the unit, is
5 factored by interest rates and carrying charges. You are
6 not talking casual numbers. The difficulty is that I think
7 you are putting together lease cost, low moderate and your
8 fair share responsibility. And that sort of comes from
9 those together, lease cost addresses of all houses. It's
10 important that we bring the cost of housing back, even to
11 these minor incorrections that sort of added on the reason
12 we are building, to which the housing in the 75 and over
13 range, even at the market plan, is not there, because of
14 all these add-on's that, you know, don't seem significant,
15 except when you start to put this all together.

16 Q But, as long as the fees are related to
17 reasonable expense of processing the application, then you
18 don't think they would be?

19 A If the Town had done its initial homework and provided
20 substantial base information. If you are starting from
21 ground zero, having to generate new information based on,
22 then I would say an exception.

24 I Q Now, with respect to offsite improvements, I
25 think you cited them as extractions?

A I think I cited that we are concerned about that, but.

1 in fact, I don't know until we or either the town, whether
2 there would be extractions.

3 Q As long as they could tend land-

4 A I think.

5 Q -pro rata share?

6 A Exactly.

7 Q And that would be the same for off-track?

8 A Basically, yes, to the degree, by the way, that the
9 town does have a capital budget, and didn't begin moving
10 some of the improvements.

11 By the way, some of those offsite improvements
12 are extractions, to the degree that the town isn't par-
13 ticipating in improving areas, as well.

14 Q One other criticism you had of Clinton Township
15 zoning regulations, was the free step process, as opposed
16 to some other step process. Isn't your opinion, then, the
17 traditional step has no purpose whatever?

18 A Well, in the first place, I think it is beneficial i
19 for a developer and the town to sit down and review the !
20 application. We proceed through an informed process to j
21 do that. I think that's a fairly positive thing to do. i
22 However, if it institutionalizes to the point it requires
23 days and time periods in the checklist, to do that, and if
24 there is a checklist, that information that is required,
25 mandated by the town, that's onerous, and that's not, that's

1 not what I am talking about. I am saying the developer can
2 come and disclose and the town can react and say, look, wa
3 need an improvement. In an informed way, no mandatory in-
4 formation, and no mandated process at all. That's the
5 beneficial opportunity. Generally, that can happen through
6 the classification stage in minor or maybe maximum sub-
7 divisions. And it can happen as an informed process. And
8 it always has. As a matter of fact, what you have done,
9 is go to the next step and install that phase.

10 j Q You are saying, if it's required, that a step,
11 if our ordinance has set forth a 45 day time period in that,
12 and doesn't leave any option to skip a stage, that would
13 constitute a delay in your opinion?

14 A Yes. And frankly, it doesn't get you anywhere by
15 i skipping a stage. You have got an extended review - process.
16 And it makes sense to combine together good findings of
17 fact, good clean information, and let everybody know the
18 score. i

19 Q If, under our ordinance, you could come directly
20 with your preliminary plat stage, and I am not aware of the
21 certainty, you can, as long as it comes, all of the in-
22 formation, which would have been in the sketch plat, anyway? i

23 A Yes.

24 ii Q Then you wouldn't have any problem?

25 A You can go directly to the sketch to preliminary

1 plat,

2 I would have less a problem. I think in the
3 classification you should institute a discussion, an
4 informal discussion.

5 Q The one other thing you considered in the fee,
6 CR-2 zone, I believe you indicated that the setback was
7 200 feet, which would eliminate, for example, trailer parks*
8 i Is that your testimony?

9 i A I don't think I said 200. I would say it may be difficult
10 ! to produce lease, cost housing. j

11 Q I think you were referring to page 43 in the j
I large document. P-1 for identification composite, paragraph
12 large document. P-1 for identification composite, paragraph
13 705.2B. I

14 A Wait a minute. I am looking for my marker. I am
15 { sorry. Do it again. ;

iii Q 705.2B, page 43. j

17 it A Right. \

18 I Q Used to be page 29? i

19 A Yes, sir.

20 Q I believe your testimony was that
21 200 foot setback would be detrimental to the trailer park
22 !| development. It would be very costly.

25 !! A Yes. It would make it less probable you would cct-
24 |jj lease cost and it's not related to health and safety. I
25 i! think that's what I said.

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1 Q The 705•, about four lines up, talks about
2 commercial recreation facilities?

3 A Yes.

4 Q Is the same setback applied to trailer parks,
5 as to commercial recreational facilities?

6 A A good point. We had some difficulty understanding
7 it. The CH, I was only relating to commercial recreation,
8 or as it's on the map, commercial residential. A com-
9 mercial residential has one foot setback, compared to the
10 200 foot in the commercial recreation. And I must admit
11 some confusion on that.

12 Q I was getting to that, because yesterday, I
13 looked at page 89, which is, of course, a long page of the
14 same exhibit, and down the column somewhere around the
15 middle, which is a minimum front yard?

16 A Yes.

17 Q And it's one foot front yard?

18 A Yes.

19 THE COURT: What number is that? I am looking
20 at page 89. Where do you find it?

21 MR. CAIN: Page 89. In mine, P-91. There are
22 two page 89 's. And that's how I happened to look
23 at that yesterday, when Mr. Rahenkamp was referring
24 to it. Page 68.

25 THE COURT: On page 69 of the first chart in the

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1 , column marked minimum yards. Minimum yard fronts.

2 Q And coming down the front of the column, down
3 to any of the CI-1, CR-2, CR-2, they all have 100 foot
4 setbacks, rather than 200?

5 A X would acknowledge confusion on the page. I am not
6 sure that's the one foot change. The substance of what I-

7 MR. CAIN: I haven't had a chance to go
8 over this.

9 THE COURT: Instead of acres, 200 feet on
10 each side, get a half acre?

11 THE WITNESS: Yes.

12 Q You indicated yesterday, that there was plenty
13 of water in New Jersey, but it was a plumbing problem?

14 A Yes •

15 Q Were you aware that, I guess you don't use
16 Mr. Haas, a witness, are you not?

17 MR. HERBERT: We both listed. At this stage,
18 we may call him.

19 Q Were you aware that Mayor Smith, I believe last
20 week and also one of the water supervisors, issued a
21 proclamation for water rating?

22 A Am I aware of it? No.

23 MR. CAIN: I don't have any further questions.

24 THE COURT: In other words, he got a plumbing
25 problem.

1 i MR* CAIN: He probably does.

2 THE COURT: Take a break. About ten minutes.

3 MR. HERBERT: Your Honor, we did have some
4 questions, which may be in the nature of rebuttal.
5 In view of your comments yesterday, that should be
6 reserved to proper rebuttal. We have no questions
7 on redirect for Mr. Rahenkamp.

8 THE COURT: No redirect.

9 MR. HERBERT: Your Honor, in that regard,
10 obviously, we want to have a right to recall
11 Mr. Rahenkamp, only for the purpose of rebuttal.

12 MR. SUTTON: I want to ask Mr. Rahenkamp just
13 a few questions.

14 THE COURT: That Mr. Cain didn't.

15 MR. SUTTON: Mr. Cain has covered those areas,
16 but I want to develop. I will be very short.

17 MR. HERBERT: I would have to object.

18 THE COURT: Tell me what it is.

19 MR. SUTTON: There was a discussion about
20 population projections. Now, Mr. Cain went into
21 that. I did not go into that area.

22 THE COURT: Well, it seems that should be
23 in your own cross-examination. Part of the direct,
24 open to your cross, Mr. Cain's cross, didn't open it
25 up.

1 What else?

2 MR. SUTTON: That's substantially it.

3 THE COURT: There is going to be a population
4 man here, I gather.

5 MR. HERBERT: Well, of course, with regard to
6 flow of work*, etcetera. I don't know whether he is
7 making projections. If that's what you are talking
8 about, as to what the population will be in 1980.

9 THE COURT: What, specifically, do you want
10 to know?

11 MR. SUTTON: There is a quote, that I was not
12 able to locate yesterday from the vicker's
13 case. I wanted to ask Mr. Rahenkamp. I wanted to
14 ask him, very short, and ask him whether he agrees
15 or disagrees.

16 MR. HERBERT: Your Honor, I think that we have
17 asked Mr. Rahenkamp several questions about Madison.
18 And I respect the fact that counsel was allowed this
19 interweaving in direct. I would say that any comments
20 about the Vicker.'s case, which was cited a long,
21 decided a long time, and was overturned by Mt. Laurel,
22 as far as the presumption of validity, etcetera,
23 wouldn't be appropriate. Item two includes in
24 any post-trial brief.

25 MR. SUTTON: I could have finished my question i

1 BY MR. SUTTON:

2 Q What portion do you disagree with?

3 A Well-

4 ij MR. HERBERT: Could Mr. Rahenkamp be allowed
5 to have the quote in front of him? We had the Okla-
6 homa land rush and other things stuck in there.

7 A Page 254. '

8 THE COURT: Note the date of the case,
9 Mr. Rahenkamp.

10 A In the beginning. Yes. Basically, I would agree
11 that there are some logical to manage, place and time to
12 the extent that, however, that's manipulated. For instance,
13 in safety of revised numbers of housing units to possibly
14 to 17,000, when, in fact, the market plan is 30,000, to
15 the extent it's maintained by a municipality, to the
16 extent, for instance, that you don't draw down your
17 capital budget to make improvements. Therefore, making
18 housing available to the extent that you extend the time
19 relationship, so that people can't process their ap-
20 plications within a reasonable time frame, to the extent
21 you have used exclusion defenses to that extent. I don't
22 think that type of pace control is being, is being ad-
23 dressed by Justice Hall. I think what he addressed, I
24 would agree this has got to be some reasonable balance.
25 But, the municipality certainly plays a role in providing

1 for that reasonably, not sitting back and saying, we
2 can't do a single thing. We can't provide the sewers, and
3 we can't provide the water. We are not going to process
4 the application within a reasonable time. I don't think
5 even Justice Hall would agree with that. That's kind of
6 management of pace. I don't think you can characterize
7 this developer, who has generated this kind of information,
8 and had it available in 1974, as a sort of irresponsible
9 Texas boom town developer at all. He has generated a
10 plan of high quality. He has been consistent in mandating
11 us to generate that high quality. And I think you have got
12 a very responsible respectable bidder. It's not, in fact,
13 we have incorporated extraordinary high quality standards,
14 and have said we would do that all the way along the line.
15 I don't think you have got a boom town, kind of promotion
16 here at all. And I don't think that characterization is
17 fair. And I don't think it's accurate.

18 MR. SUTTON: My question was simply,
19 whether you agree or disagree. However, you
20 commented at quite some length. I would like,
21 as a result, follow-up.

22 THE COURT: Now, you do the one question,
23 you get the answer. You don't like the answer.
24 You have got the answer. The answer is no. One
25 question.

1 MR, SUTTON: Agree or disagree and I got a
2 speech.

3 THE COURT: You agree or disagree. You got
4 your answer. That's it. From the book in the
5 ART OF DISCUSSION by well-meaning men, never ask
6 a question you don't know the answer to.

7 MR. SUTTON: Your Honor, I am not the least
8 concerned about Rahenkamp's answer. I threw out
9 his testimony.

10 THE COURT: You are not the least concerned.
11 That's all the more reason we don't have to go on.

12 Thank you very much, Mr. Rahenkarap.

13 MR. HERBERT: I would like to call Mr. Clarence
14 Blazure, please. It had to do with my comment for
15 the remainder and examining the next witness.

16 MR. SUTTON:
17 Your Honor will indulge me, I was permitted
18 to go off to my daughter's school and Mr. Herbert
19 and Mr. Rahenkamp teamed up against me and I was
20 cut out of that. I do intend to continue the
21 rest of it.

22 MR. HERBERT: It had nothing to do with his
23 comment yesterday afternoon.

24 MR. CAIN: I had expected—I don't mind you
25 examining Mr. Blazure, but would you be good enough
to give me a copy of his report?

1 MR. HERBERT: I will try to. I only have
2 Mr. Blazure's. My question of Mr. Blazure, as you
3 know, as we have discussed in the report, which
4 was for strictly statistical data.

5 MR. CAIN: No objection. I just wanted to
6 see something to follow.

7 MR. STERNS: If you want, I have no objection
8 to making Copies of it. I assume you have a copy?

9 THE WITNESS: I have a copy, yes.

10 MR. HERBERT: I have a copy. I indicated on
11 the record that Mr. Blazure would probably testify
12 today.

13 THE COURT: I thought we had agreed Mr. Arrs
14 (phonetical) was our next logical witness.

15 MR. HERBERT: That's exactly what we agreed
16 upon yesterday.

17 MR. STERNS: Let me say that Mr. Blazure's
18 testimony, and I will be glad to give you with
19 regard to actual size in the Hunterdon County
20 situation, Mr. Ourzhook (phonetical) report is
21 partly: based and since it would take very few minutes,
22 I think we can dispose of it in ten minutes. What
23 I will do, I will give him my copy.

24 j

25

1 CLARENCE BLAZURE , sworn•

2
3 THE COURT: Place of residence?

4 THE WITNESS: Pottersville, New Jersey,
5 Hunterdon County.

6
7 DIRECT EXAMINATION BY MR. HERBERT:

8 Q Mr. Blazure, how long have you resided in
9 Hunterdon County?

10 A Most of my life.

11 Q And what is your occupation?

12 A Real estate, insurance.

13 Q Mr. Blazure, were you requested by the plaintiff
14 in this matter, Round Valley, Incorporated, to undertake
15 certain statistical work?

16 A Yes. , Mr. Jimmy Dishner called. My
17 son and myself, Mr. Dale Blazure, who is here, entered
18 his office and asked us to compile these statistics on
19 sales in Hunterdon County for 1976.

20 Q And Mr. Blazure, as a result of that call, did
21 you compile such statistics?

22 A Yes, sir.

23 Q And is that a copy of the-

24 A Yes.

25 MR. HERBERT: May I have these marked, please?

1 THE COURT: Next number, please.

2 MR. HERBERT: M-92 for identification.

3 (M-92 for identification.)

4 Q Mr. Blazure, can you tell us what you did?

5 A Yes. My son and myself. I said my son, Dale
6 Blazure, who is here, went down to the County Board of
7 Taxation, got all the SR-1-A forms, which shows each
8 transaction taking place during 1976, and I recorded it.

9 Q What did you use the number, SR-

10 i A SR-1-A.

11 Q What is SR-1-A? Can you tell us, please.

12 A Yes. I have a copy. I have a copy of the SR-1-A
13 form, which shows the grantor, the grantee, tax book, i
14 block and lot, the type property, where it is, whether it's
15 vacant residential, industrial or apartments and, of course,
16 all this was on residential, which is not included, any
17 vacant land.

18 Q Who required that form?

19 A This is required by the Division of Taxation for
20 the State of New Jersey. It shows what everything is j
21 i assessed at and what the sales price is.

22 Q So, in effect, this information is a govern-
23 i mental public record?

24 i A That is correct.

25 Q Open to anyone in the Hunterdon County Board I
i
i

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1. of Taxation for examination of those?

2. MR, HERBERT.: May I have this marked for
3. identification, Judge?

4. THE COURT: Mark it 92-A.

5. (IH2-A for identification.)

6. Q Now, this is simply a blank copy of the forms,
7. and I gather this is the basis for your information, these
8. various forms?

9. A ~ That's right.

10. Q Now, Mr. Blazure, would you tell us what you
11. did and what your findings were, your facts that you
12. compiled, just go through the report on your own, as briefly
13. as possible, highlighting everything. i

14. A What we did was to take the towns and townships in
15. Hunterdon County and break them down in the number of sales
16. and the category. Our first range of sales was 20,000 to
17. 29,999 and 99,000. And then we took it up to 100,000 and
18. over. We did not show anything at \$125,000 or \$130,000,
19. just 100,000 and over.

20. Q Please go ahead.

21. A The Borough of Lebanon, the price range, \$20,000 to
22. \$29,999. The number of sales, zero. The percentage of the
23. market, of course, zero. In the 30 to 39, nine, the number
24. of sales was five or a 21.7 percent. In the 40 to 49, the
25. number of sales, of sales, was seven and 30.5 percent. In

1 the 50 to 59, was seven sales again, 30.5 percent. And
 2 60 to 69, number of sales was four. And a percentage of
 3 17.3. We broke a line in between 50,000 and over. Under
 4 50,000 and the Borough of Lebanon was 52,000, 52. percent.
 5 In the 50,000 to 70,000 market, was 47.8 percent.

6 THE COURT: At this point, Mr. Blazure-

7 MR. HERBERT: With the indulgence of counsel,
 8 with the Judge, you use the same format for every-
 9 thing?

10 THE WITNESS: We used the same format for each
 11 one.

12 MR. HERBERT: I wonder if you will acknowledge
 13 that all as part of the record, if we could stipulate
 14 the individual break. And as I asked Mr. Blazure
 15 for every one, with the exception of Clinton, where
 16 I think we should read the percentage.

17 THE COURT: You don't have anything in
 18 Hunterdon?

19 MR. HERBERT: I am sorry. The northern part
 20 of the county.

21 THE WITNESS: We did not use Lambertville.

22 MR. HERBERT: That's correct.

23 THE WITNESS: I am sorry. When I said we used
 24 Hunterdon County, we used the northern part of the
 25 county, areas surrounding the subject.

(5)

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1 MR. HERBERT: I would like, of course, the
2 information on the record, but I don't want to
3 burden the Court's time, unless you feel-

4 THE COURT: The document speaks for itself.
5 The statistics show what he did with the various
6 price changes and what falls in what category. Very
7 easily charted.

8 Q So, therefore, Mr. Blazure, would you go ahead
9 and just give the percent breakdown for the rest of the
10 community that you charted?

11 A The Borough of High Bridge, from 15,000 up to
12 50,000, the number of sales was 70.5 percent. And 50,000
13 to 79 was .01. 01.7 or 29.2 percent. The Town of Clinton,
14 the sales from 20 to 50,000 was 41.4 percent. 50,000 to
15 90,000 was 58.5. The Borough of Califon was 51.8.

16 THE COURT: 58.25, around.

17 THE WITNESS: 41.4.

18 MR. CAIN: In the report.

19 THE COURT: He is breaking it down. Just .
20 . follow what he is saying. One, two, three figure
21 of 50,000. By 41 of the sales in there, which
22 doesn't require a deal of 26 and 12 is 38. And the
23 other-

24 THE COURT: You get 41.4. Give a breakdown
25 over and under 50,000.

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THE WITNESS: Right. That is correct,

THE COURT: Over and under 50,000.

THE WITNESS: Under 50, from 20 to 50,000, the Borough of Califon, 51.8 percent.was in that category. 50,000 up was 48.1 percent. The Borough of Flemington, 20,000 to 50,000, was 54.5 percent. And from 50,000 to 90,000 was 45.6 percent. The Township of Readington, 15,000 to 50,000 was 10.9 percent. And 50,000 to 100,000 plus was 89.1 percent. And I have noticed, as we went through and calculated these, the areas with the larger, with the larger zoning and open space, ran much higher percentages than under 50. Do you want the Township of Clinton?

Q Clinton Township, why don't you go through that in detail.

A Clinton Township, from 20 to 29, number of sales was one or 0.6 percent. 30,000 to 40,000 was .06, 3 percent. 40,000 to 50,000 was 23 sales, 14.4. And a total of 50 and under was 21.3 percent. 50 to 60, there were 40 sales, which is 25 percent of the market. 60 to 70 was 33 sales or 20.6 percent. 70 to 80 was 26 sales or 16.3. 80 to 90 was 13 sales, 08.1 percent. 90 to 100,000 was four sales, 02.5. And 100,000 plus, was ten sales, for a total of 6.3 percent. So that there was 21.3 percent from 20 to 50 and 78.8 percent from 50 to 100 plus.

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1 The Township of Raritan was 17.1 percent of the market.
2 And up to 50, 82.9 percent. From 50 to 100 plus. The
3 Township of Lebanon was 61.1 percent. Of 20 to 50,000,
4 38.9 percent. From 50 to 90,000. The Township of Franklin
5 was 29.6 percent. 20 to 50,000. And 50 to 100,000 plus
6 was 70.3 percent. The Township of Tewksbury. I gather,
7 large showing lots was 20,000 to 50,000, was 5.2 percent.
8 And 50 to 100,000 plus, was 95.percent of the sales. The
9 Township of Union, 20 to 50,000 was 59.4 percent. 50,000
10 to 100 plus was 40.5 percent. And of the 118 sales that
11 were in Union Township, 64 of them were complex units
12 situated from the Union Gap Village.

13 Q Can you describe Union Gap Village, please?

14 A Union Gap Village joins Route 78 to the west of
15 Clinton. And I think it's a landed course.

16 MR. CAIN: 108 form.

17 A All of the Union Gap sales are on the SR-A-1, 1-A
18 forms. There is a description that tells where each one
19 of those properties are located. Each one of the sales
20 of Union*Gap is so stated on SR-1. The plan gives the
21 lots the maximum for the apartment number.

22 MR. CAIN: I don't want to prolong this. I
23 believe we are going beyond the production of
24 Mr. Blazure's view. If Mr. Sterns wants to qualify
25 him as a broker—

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THE COURT: He did.

MR. CAIN: He did.

MR. HERBERT: I asked.

MR. CAIN: Giving expert testimony.

MR. HERBERT: I don't think it's expert testimony to read SR-A-1 forms.

MR. STERNS: Starting around large lot zoning.

MR. CAIN: I don't mind you doing it.

MR. HERBERT: Let me just ask my question.

There is a divergence from the statistics with regard to the Township and Mr. Blazure's testified that of the number of sales, they are attributed to one of the following. All I intend to do is ask him if he has testified thus far that development sales of Union Gap are reproduced on the status form that you are talking about. All I intend to do was ask him what is Union Gap. If he doesn't know, I am not going to form an opinion as to whether it's good, bad or indifferent. It would tend to follow, what it is, how many units and what the sales prices are, and what they sold for, and that's all. If he doesn't know any of those answers, I would expect him not to answer. I believe they are all factual and do not involve an opinion.

MR. CAIN: As I stated before, I have no

1 objection to opinion evidence, provided we did not
2 anticipate, provided that we have the same op-
3 portunity to want counsel to come back later and
4 say we don't have a deposition of your real estate
5 broker, then you can testify. That's all I ask. I
6 think it's a very important case, regarding social
7 issues, as stated before. I think the plaintiff
8 should have ample opportunity to bring in whatever
9 is necessary. And I believe we are entitled to the
10 same courtesy.

11 MR. HERBERT: Your Honor, the defendant feels
12 that the question I have just put out—all I intended
13 to ask Mr. Blazure, call for an opinion. I will
14 withdraw the question.

15 THE COURT: Wait a minute. He wants the same
16 opportunity. I think it would be helpful. When
17 you see 64 or 118 sales, which is something like
18 49 percent of the sales on Route 78 and Union Gap,
19 submit his project, which I am familiar, living in
20 the County and not know. It's only done at the

21 time of the environment within the county.
22 But, it's on the 78 corridor. It's in the so-called
23 region. I don't mind expert opinion. All he wants
24 to say—I think he should be afforded.

25 MR. HERBERT: I don't have any problem with

1 that. It's just to characterize. I don't believe I
2 asked Mr. Blazure any question that would call for
3 opinion. Mr. Haas offered an opinion the Court would
4 find to be very valid, but I haven't done that. And
5 I think it's fair to characterize the questions I
6 asked him as opinion.

7 In other words, if I should ask him, and if i
8 you want we can go into this at great length, if I • i
9 should ask him what do you think about Union Gap, is
10 it a hot seller. That's an opinion. If I ask him
11 the price of Union Gap and he knows, if I ask him,
12 i are units sold and he knows, I don't believe those
are opinions. I believe those are facts. It's the
14 only point, i

15 MR. CAIN: We have already addressed the question
16 I to Mr. Blazure's testimony, I believe, in the letter
17 memorandum, which is probably the subject of some ;
18 J of the motion, which you have ruled on. Yet, I
believe-

20 THE COURT: The motion will become moot, as
21 the case goes on.

22 MR. CAIN: I am not concerned. We took the
23 position, the selection of certain municipalities,
24 j, the price range, the particular year. These are
25 things which may involve severe tests, just from the

1 press of the reports.

2 THE COURT: Not the ordinary layman test.

3 MR. CAIN: I did not object a couple of moments
4 ago when Mr. Blazure volunteered certain zoning had
5 something to do with this. Now, we are getting
6 beyond the s'tatistical answer. I believe I don't
7 object to it. We had all along, we have been very
8 liberal, I think, with the great amount of documents
9 and getting the testimony. And I have no reason to
10 want to cut off anything that the plaintiff wants
11 to put in. But, I looked down the page and I
12 anticipate lots of objections. And we are trying to
13 get the same kind of treatment.

14 MR. HERBERT: This is, of course, I think that
15 there is an iceberg under the water here. And I
16 think the iceberg underneath the water is that at
17 some point in time, not being satisfied with the
18 expert opinions that have been rendered already
19 in this case, there may be an attempt, wholesale,
20 to bring in new experts.

21 Now, I will not object without having the
22 opportunity to study them and with them having the
23 opportunity to prepare the opinion, based on 64
24 here. All right. I will even object to that, if
25 you are talking about the possibility that you want

1 to bring in more real estate, more zoning statistics
2 - for other kinds of statistics or real estate experts,
3 than are here. There is a good base here. Mr.
4 Blazure is going to testify whether that he knows
5 the price of Union Gap. And you feel at some point
6 you should be entitled to bring in a new planner, ;
7 you're not satisfied with, I am going to tell you
8 I am going to object very strenuously.

9 MR. CAIN: What I am trying maybe I haven't.
10 The record in this case will not be very useful, if
11 you don't have broker for broker, planner for planner.
12 I think there should be some—I said we want equal
13 experts in terms of numbers, as far as quality is
14 concerned. The Court will have to make that deter-
15 mination.

16 MR. HERBERT: I want it to be understood, I
17 have absolutely no objection to any broker you feel
18 may be necessary for any further statistics, if this
19 is a method in that you are now having to say we
20 brought in a broker and, therefore, you want a
21 planner,,, I am going to object very strenuously.

22 THE COURT: It's limited to broker. Broker.
23 Whatever the broker would testify. Not going for
24 broker for statistics. Broker for population and
25 broker for hydrolosis.

1 MR. SUTTON: I don't think either Mr. Cain
2 or I said anything about bringing in a new planner.
3 We never mentioned anything- We had never thought of
4 it. And for some reason, Mr. Sterns mentioned
5 bringing a new planner. The only planner Blazure
6 is going to testify, we were understanding, that they
7 were not going to have any real estate broker. Then
8 they told us Mr. Blazure would testify. We want an
9 opportunity to bring the real estate broker as an
10 expert.

n MR. HERBERT: I asked. They have known for a
12 month we were going to have Mr. Blazure. I don't
13 want to take the Court's time. I don't want to pro-
w long it. I will produce the letter and show it, if
15 they got the letter we sent. I just don't think
16 it's appropriate to continue this and perhaps I
17 am oversuspicious. I apologize.

18 Q Now, Mr. Blazure, if you know, can you tell us
19 what the Union Gap is, what its sales for how many units,
20 if you know? If you don't know, please say so. I am not
21 asking for an opinion. I don't care whether you like it
22 or not. What facts do you know about Union Gap?

23 A I do know as a fact that the price range runs 39,9
24 to around fifty-nine-nine. You can have some features,
23.1 if you want, to increase that price. I do not know the

1 M total number of units that have been sold to this date,
2 nor do I know how many units are going to go there.

3 Q That year you studied what were the sales in
4 Union Gap?

5 A There were 64 sales made in Union Gap in 1976.

6 Q Do you know if there are any unsold units
7 there at the present time?

8 j A Yes. I know that as a fact that they have a backlog
9 on orders. They are now in full progress and trying to
10 deliver as fast as they can. The numbers that are sold
11 ahead, I do not know.

12 Q Mr. Blazure, would you go on with your report.

13 A There are no unsold. They are ordered ahead. There
14 are no unsold units. Did I give the percentage of up to
15 50?

16 THE COURT: You have 59, four, being the price
17 of sales twenty-two-fifty and 40.5, fifty-two-100
18 and over. And then you went over the attached 64
19 of those sales.

20 Q Down the bottom is a summary. I would like
21 the breakdown of each unit for the summary about the number
22 of units sold and percentage of 1500. Why don't you give
23 us the number, a summary as all the community study?

24 A This is.

25 Q Why don't you give us the entire breakdown?

1 A In the 15 to 20,000, there were three sales or three
2 tenths of one percent. 20 to 30, there were 22 sales or
3 2.1 percent. 30 to 40 was 111 sales, 10.8 percent. And
4 40 to 50, there were 184 sales, 17.9, for a total of up
5 to 50 and 30.31.1 percent. 50 to 60,000, there were 210 j
6 sales, or 20.4 percent of the market. 60 to 70 was 196
7 sales, and 19.1 percent. 70 to 80 was 151 sales, at 14.7
8 percent. 80 to 90, there were 72 sales at 7 percent. !
9 90 to 100, 30 sales, 2.9 percent. And 100 plus was 49
10 sales, 4.8 percent. There was 41.1 percent. And up to the
11 50 range, 68.9 percent, up to the 100 plus range.

12 Q And does that conclude this study that you
13 undertook? i

14 A That concludes the study of the sales of the northern
15 part of the county, yes. i

16 Q Would you just repeat, again, what time period I
17 that study covered? j

18 A Our time study was made from January 1st to December !
19 31st, 1976. i

20 MR. HERBERT: Thank you very much. I have
21 no further questions.

22 THE COURT: The report should be marked for
23 identification•

24 THE WITNESS: Available residential units.

25 Q Mr. Blazure, there are, I note an additional

1 | : work, five pages of the report that you haven't covered,

2 | Can you tell us what that is?

; A That was a number of sales that was available in the
i •; area for the same period, January 1st, '76, through
5 \ \ December 31, '76.

6 | Q Now, gathering those statistics-

7 jj A That came out the only way, the most accurate way.

3 i | This is about, this would not include private listings that
iji wasn't listed through a member of ML. There are about 100
10 i | offices belonging to the Hunterdon County Board of Multiple
11 j | Listing. International Graphic Corporation, 2117, West
12 I | River Road, North Main Street, Minnesota, the booklets for
! |
13 jj | the ML. And they have a quarterly booklet for the number
\\ |
14 |j | of sales, the type of sales, the units, and then they put
\\ |
15 jj | down one book for the whole year. And these figures came
\\ a ij | from the ML book, printed for the members of the
17 i | Hunterdon County Multiple Listing.

18 ! | Q Just in summary, tell us what each of those
19 | sheet covers?

20 | A Yes. The ML book does not break down a town or town-
21 j | ship. They break it in districts. And, in fact, district
22 | one, there are eight districts. And then, the ninth. The
23 | ninth district, which is out of the county, such as Warren
24 | County, Somerset or any out. In the tenth district,
25 | commercial properties. The number one district includes

1 Raritan Township and Flemington Borough. Do you want the
2 percentages?

3 Q I think if I--no. I think if you will--have
4 you broken those down in under and over? If you will just--

5 A The price range, 20 to 50,000 was 22.2 percent.

6 50,000 to 100-plus-thousand, was 77.8 percent. Now, there
7 was another number of offerings, 162 properties in the
8 district. Do you want all of them?

9 Q Yes. Please go on in summary.

10 A District two is Clinton Township, Clinton Borough,
11 Lebanon Borough and High Bridge Borough. There was a total
12 number of offerings in the ML and in '76 of 427. And,
13 again, these are all residential. From 15 to 50,000 was
14 31.3 percent. 50 to 100-plus-thousand was 68.6 percent.
15 District three is Readington Township. The sales from
16 15 to 50,000 was 11.4 percent and from 50 to 100-plus
17 was 88.5 percent. Lebanon Township, Hampton Borough,
18 Union Township and Franklin Township, 52. 15 to 20,000
19 was 30 percent. 50 to 100-plus-thousand was 70 percent.
20 District eight, which includes Lebanon Township, Califon
21 Borough, Tewksbury Township and Glen Gardner Borough,
22 15 to 50,000 was 28.5 percent. 50 to 100-plus-thousand
23 was 71.4 percent. And, again, the summary, the number of
24 offerings in these districts was 1365 units. The 15 to
25 50,000 range was 25.8 percent. And the 50 to 100-plus-thousand

1 was 74.3 percent. And that concludes it.

2 MR. HERBERT: Thank you. I have no further
3 questions.

4 THE COURT: Mr. Sutton?

5 MR. SUTTON: I have no questions.

6 THE COURT: Mr. Cain.

7

8 CROSS-EXAMINATION BY MR. CAIN:

9 Q Mr. Blazure, who selected the price ranges that
10 you set forth in this analysis?

11 J A Who selected the price ranges? *

12 Q Whose idea, picking the 20,000 and twenty-nine-
13 nine and 60,000 and sixty-nine-nine, who made that I
14 decision?

15 A Well, we met with Mr. Dishner. He asked us to place
16 it into ten thousand categories.

17 Q And you then started with the 20 to twenty-nine-
18 nine was your first category?

19 A That is correct.

20 Q Then, it was your idea to start at 20 and end j
21 at fifty-nine-nine?

22 A I am sorry, Mr. Cain.

23 Q I just asked.

24 A I didn't remember.

25 Q There is nothing really important about it. I

wondered

1 suppose. I just/whose idea, who structured the category,

2 Mr. Dishner?

3 A No. Myself, Dishner and my son, structured the
categories.

5 Q Now, the SR-1-A forms, are the source of the
6 information, then for these communities that you selected, j
7 is that correct? ' There was no other source of information!
for the first-

9 A No. The SR-1-A form is the most accurate form. I
10 know of no other way to get the accuracy that they have.

11 Q That's the source of information, that's the
12 total source of information in the community?

13 A Yes.

14 Q Now, on the SR-1-A form, does it tell the type
15 of, the type of product or dwelling was sold, if you look
at an SR-1-A form, does it tell with regard to apartments
17 or single family house? i

18 A It's broken down. It's broken down. I think I read
-- this when I read it off here.

20 Q I don't remember the type.

21 A There is, it's called property classification. Number;
22 one is vacant land. Number two is residential. Number three
23 is farm. And number four is commercial. Number four-B is
24 industrial and four-C apartments. And we use the number two,
25 residential.

1 Q Now, then, using both categories, tax categories
2 for these categories? .

3 A That is correct.

4 Q If then you had a condominium, which category
5 would that be?

6 A It was classified as residential. j

7i Q So, it would not be shown as an apartment?

8i A No.

9 | Q A townhouse, where would that be on that list?

10 : A I would assume--now I am not saying this for a fact,
a that a townhouse or are you talking where there is rental
12 units in it?

13 Q I am talking about sales. Doesn't show up on
14 one-

15 A If the building is sold as a building, as real estate,
16 yes, it shows up. Every sale gets onto one of these forms. ,

17 Q There's a change of occupancy in terms of
18 rental, doesn't show up on an SR-1-A form?

19 i A If you sell the apartment building, then that sale
20 I shows up on the SR-1-A. If a tenant is changing an apart-
21 ment, that's not a sale of property.

22 Q What I was getting at, if a townhouse were sold,
23 where would that show up?

24 i A Well, if it was sold as a rental unit, it would show
25 up under apartment house.

G

1 Q If it were sold as a rental unit?

2 A A complex and townhouse, it depends how you categorize
it. Sold as a rental unit. When you are buying a condo-
3 minium, you are buying a piece of real property. When you
4 are selling an apartment house or you are selling real
5 property, but it doesn't show up. There could be fifty
6 people living there. It represents each or fifty units,
7 rather.
8

9 Q Well, suppose we had a townhouse and it was
10 sold to a person who is going to live in it and not rent
11 it, take or, where would that be?

12 A I am quite sure through my six years on the Hunterdon
13 County Board of Taxation, that would come under apartments.

14 Q What I am getting at is, Mr. Blazure, is it
15 possible for these forms like in the Borough of Lebanon,
for example, to tell what house types were sold?

17 A Yes.

18 Q The garden apartment, townhouses?

19 A Yes. I

20 Q Single family residence?

21 A Yes. Each one of these forms, it says address of
22 property. It says remarks. And it is required to fill in
23 the type of property and its use in there. If you don't
24 do that, the State Board of Taxation will be sending it back
25 and asking for more information.

1j Q Then, assuming the association did its job,
2 you can take these SR-1-A forms, and not only get a
3 statistical study of the gross number of sales in a par-
4 ticular time, but you can also get the housing type?

5 A Yes.

6 Q Okay.

7 THE COURT: The first between, they are pre-
8 pared independently, aren't they?

9 THE WITNESS: Yes.

10 THE COURT: The local assessor?

11 THE WITNESS: That's right. These are all
12 prepared. Let it go at that.

13 Q, Now, did you look at all of the SR-1-A forms?

14 A Yes, sir.

15j Q For each of these municipalities?

Hi j A Yes.

17 Q Irrespective of whether they were included or
18 excluded by the director, the sales area you studied?

19 A We examined. I say we, I am referring back to my son
20i again. We examined each SR-1-A form. If it was checked
21 vacant land, we did not use it. If it was checked other,
22 we did use farm sales, because many of the sales over
20 \$100,000 pertain to farms, which is residential.

24 Q Then, there are then some vacant pieces of
25 property, included in these statistics?

1 A No. We used no vacant land as a statistic.

2 Q You might have a large farm.

3 A It could be 100 acres with one house. That is true.

4 Q And you then took all of them?

5 A And broke them into this category, which I read.. ;

6 Q It didn't matter to you whether the director j
7 included them or excluded them, as sales with a direct
8 study, you took every one of the assessors?

9 A I don't quite understand you, Mr. Cain, when you say
10 I excluded by the director. ;

11 ; Q Arm's length transaction, I believe from ;
12 I 27 items of sale, included?

13 A Willing seller, willing buyer. Is that your question?
14 i We used all the sales.

15 Q You used all the sales?

16 A Yes.

17 Q It didn't matter to you if this was a trans- •
18 action in the family or whether it was an arm's length
19 transaction? I

20 A Well- i

21 Q For the purpose of your study, it didn't
22 matter, trying to find—did you get all the transfers?

23 A We used all of the transfers, and we did not—we
24 read all the transfers, but we did not use the ones that
25 i didn't pertain to what we were checking for.

1 Q, So you are talking about sales. I was getting
2 to some, whether some was a sale or not?

3 A Yes,

4 Q If it had no consideration stated in the deed,
5 would it still be in here?

6 A I didn't find any with no consideration in the deed.

7 Q Now, why was the line drawn at 50,000 in order
8 to make a comparison? Why didn't you compare above forty*
9 above sixty?

10 Q We felt, and I said we, again referring to
11 Dale and I, felt that breaking it in the middle, I call
12 that middle, 50,000, would give a good percent, or show the
13 percentage of what prices are. It's the middle in terms
14 of the price range.

15 Q Which you initially selected?

16 A That's right.

17 Q It's not the mean for middle in terms of
18 number of sales, though?

19 A No. It couldn't be.

20 Q Now, you indicated that municipalities, which
21 have larger lot zoning, came up with the high percentage
22 of sales over 50?

23 A 50,000.

24 Q Is that correct?

25 A Using Tewksbury as an example, 5 percent is under 50

i. and 50 under. 95 percent was over.

^ ; Q I NOW-

A Which is zoned for three and five acre lots. There is some one acre lots of 40,000 square feet.

5 Q Tewksbury then was 5 percent below 50,000 and
6 95 above?

7 A I think that's what I read. I will check it here to
8 make sure. That is correct, 5.2.

9 THE COURT: That's logical. More land required
to buy, the higher the price is going to be.

11 THE WITNESS: That is correct.

12 Q Now, Tewksbury, you say, has 3 and 5 acre
13 zoning?

14 A Right around the village they have some and I don't
15 think there is any left. Maybe one or two lots at 40,000
in 1 square feet, which has been developed. The remaining
17 areas of Tewksbury is 3 and 5 acres. That is correct.

18 Q Do they still have any ten acre zoning, like
they used to?

19 A Tewksbury never had ten acre zoning. I was on the
20 planning board when the original zoning was put in. They
21 never had ten acre zoning. To my knowledge, is Far Hills.
22

23 Q Then, they have five acre and three acre?

24 A Right.

25 Q And how about Lebanon Township?

1 A Lebanon Township, they for years did not have a zoning
2 ordinance. Then they had an acre and a half and now I
3 understand they have but several. In three acres, they
4 are with a new master plan. They were talking about five
5 acre lots, which I think they did not go through with. ;

6 Q If I represent to you that they have an acre
7 and a half, three acre and five acre zoning, would you
8 expect a similar result from Tewksbury Township?

9 A Not necessarily, because Lebanon Township is further
10 west, doesn't have good access to 78, such as Tewksbury.
11 And it's a much heavier terrain area, I think, than
12 Tewksbury, from my experience.

13 Q I notice on your chart there was 77. There
14 were 77 sales in the Township of Lebanon and also 77 sales
15 in the Township of Tewksbury and the neighboring Township
16 of Lebanon below 50,000 or 61.1 percent and 12 or 38.9
17 percent, is that correct? ;

18 A That is correct. !

19 Q Tewksbury, which was 5.2 and below 95 above?

20 A What?

21 Q As compared to Tewksbury, which was 5 percent,
22 and below 50,000 and 95 above.

23 A These figures I have on here.

24 THE COURT: What is the point? The point is
25 further west. That's the point.

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; MR. CAIN: But they, nevertheless, have the

same number.

THE WITNESS: What is on?

THE COURT: The same number of sales?

THE WITNESS: Yes. Whatever is on that paper.

Q Now, I am looking at district three which happens to be Readington Township.

A Are you talking about the ML figures?

Q These are the ones, which you said were the only practical way that you could get the information.

A As to the number of sales on the market. Are you talking actual sales or number of sales that were on the market?

Q The stuff you got from International Graphics. I believe you said the only practical way to get this information. I notice in Readington Township, which is district three, the only one that's all by itself, below 50,000, was 313.

A One was 11.4 and above was 885. Above, 50,000. 88.5;

Q You have .88.5 percent?

A In the chart, which you have. You have 10.9 percent and 89.1 percent above 50,000.

Q Could you explain why the percentages are different?

A Township of Readington.

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THE COURT: 11.4.

THE WITNESS: .05. Well, in on your sheet that you are looking at, in the beginning, the Township of Readington, is actual sales from the SR-1-A. The others are listings that were available. Those two figures would not be alike.

Q So then, with respect to the chart of price ranges are the same, is that correct?

A Price ranges?

Q Yes.

A Yes.

Q The difference then is that in Readington there were 255 offerings, is that correct, you said?

A If my sheet shows that, Mr. Cain, that is what-

THE COURT: The offer, as to 257 sales.

But* I think one ccras for 200 offers, which is 11.4 .under 50,000 and 257 sales is 10.9, assuming in that same category.

THE WITNESS: There could be a difference between, because the actual sales are also sales that were made private. I do not know this percentage of sales that weiemade by the individual. This was, these were the listings that were put through the ML service. There could be more homes sold privately, that would not show in the back figure of

T-5

the year.

THE COURT: The price range, still sales, in the sales situation?

THE WITNESS: Right.

THE COURT: All in the same general area.

MR. CAIN: The reason I asked the question, statistical studies. And it looks like the same direction. And I was questioning why.

THE COURT: Was my answer satisfactory?

MR. CAIN: We have no way of going beyond these.

THE COURT: Anything else?

MR. CAIN: Yes.

BY MR. CAIN:

Q Why was the year '76 selected?

A That is the year Mr. Dishner asked us to use.

Q And you explained before the difference between Tewksbury and Lebanon Township, because they were further west. You are saying with a larger lot zoning, the percentage of sales above 55?

A My answer-
er Generally is higher.

A My answer between Lebanon Township and Tewksbury, was that the accessibility, I will add to that, Tewksbury has easier access to the Erie-Lackawanna Railroad out of

1 Gladstone or Far Hills. They have, 78 goes right through
2 Tewksbury. And they also have easier access. Three miles
3 from 78 is 22. Lebanon Township,, you have two--well it's
4 a stretched out township, and further west.

5 Q Do you have any knowledge of how the year '76
6 would compare with, say the period from '70 until now?

7 A I did nothing of that study.

8 MR. CAIN: No further questions.

9 THE COURT: Redirect.

10 MR. HERBERT: At this point, I would ask that
11 this, Mr. Blazure's report, which has been marked--
12 I think you have it--

13 THE COURT: Put in evidence.

14 MR. HERBERT: Your Honor, also on that, if
15 we can put this in evidence, P-92.

16 (P-92 in evidence.)

17 THE COURT: I have a plea at 1:30. I will see
18 you promptly at quarter of 2:00, and raise one
19 question with you with regard to evidence. You will
20 recall yesterday, the defendant's counsel asked for
21 time to examine over lunch. Come back at 1:30 and
22 use the court and go over the list.

23 MR. HERBERT: I can't. I would like to eat.

24 THE COURT: Come back at 1:30.

25 MR. CAIN: It will be late.

1 MR. HERBERT: I will make it practical, I
2 don't intend to object to moving those exhibits
3 in at the end of the plaintiff's case.

4 THE COURT: That will give us an opportunity.

5 MR. HERBERT: I have no objection. I just
6 wanted to maintain—•

7 THE COURT: I have a marvelous suggestion.
8 Take from quarter of 9:00 and cover the first 15
9 and tomorrow morning from quarter to 9:00 to check
10 over the next 15. And then at 1:30 tomorrow to
11 quarter of 2:00, cover the next 15. In that way
12 I will insure you are on deck ready for action when
13 we go to work at the proper time. That's marvelous.

14 (Luncheon recess.)

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1 A F T E R N O O N S E S S I O N

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THE COURT: The next witness.

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MR. HERBERT: Kahosi.

5

6

G E O R G E T . K A H O S I , sworn.

7

8

THE COURT OFFICER: Your full name?

9

THE WITNESS: George T. Kahosi.

10

THE COURT OFFICER: Spell your last name.

11

THE WITNESS: K-a-h-o-s-i.

«

THE COURT: Please proceed.

DIRECT EXAMINATION BY MR. HERBERT:

15

Q Address?

16

A 160 East 84th Street, New York.

17

Q Mr. Kahosi, what is your occupation?

18

A I am a real estate economist.

19

Q And where is your office located?

20

A My office is located at 22 East 80th Street, New York,
21 New York. And the zip is 10021.

22

Q Mr. Kahosi, starting with, I would like to go

23

back now and place your professional e:q?erience, I would

24

like to start with your educational background and the

25

academic degrees.

1 ii A I do not, I went to college over a period of ten
2 years, from 1936 through 1946, but never, finished, because
3
4 I didn't have the money.

5 Q «: ,i Up until 1946, did you have any employment that
6 would be relevant to your present occupation, as real estate
7 economist? # !

8 A I was a wage economist for the National Labor Board
9 during World War II.

10 Q Now, going on from that period, what it took,
11 starting from what position, if any, did you take that
12 would qualify you for your-

13 A Starting-

14 Q -starting from your first professional oc-
15 cupation.

16 A I was employed by the Chicago Housing Authority,
17 which adminsters a low rent housing program for the City
18 of Chicago.

19 Q Approximately when was that?

20 A From 1949 until January of 1958.

21 Q How would you describe your duties from during
22 that period in which you worked for the Chicago Housing
23 Authority and indicate if there were changes in duties and
24 changes?

25 A Yes. At the beginning, I did field survey work in
slum areas.

1 Q What is that?

2 A Well, I talked to families in their homes, who would
3 have to be relocated for the building of new public
4 housing. And then I later was in charge of operational
5 search, research for the Housing Authority from about 19,
6 sometime in 1950 until 1952. i

7 Q What do you mean operational?

8 A Internal research on how the organizations operated,
9 whether it was, how we could improve the operations of the
10 Authority and so on. From 1952 until the beginning of
11 1958, a period of a little more than five years, I was the
12 chief of research and statistics for the Housing Authority. i

13 Q And what did that involve?

14 A One of the primary things it involved was to measure
15 the gap between the available private housing and that which
16 was needed for low income families. So, it was a deter-
17 mination of the housing needs for the entire city. In
18 conjunction with this, of course, I made studies from
19 time to time of prevailing rent levels and the rent levels
20 that should be charged in the Housing Authority projects,,
21 and also the appropriate income levels that would best
22 service this low income population in the city.

23 Q Okay. Now, I believe you testified that you
24 were with the Housing Authority for a period of about eight
25 years, to 1958. What did you do in 1958?

1 A In 1958 I took a position with the City of Milwaukee,
2 Wisconsin, as a planning analyst. • This was in the area
3 of both urban renewal, let's say federal financed urban
4 renewal and public housing, as well. And in this function,
5 I did many of the things that I did before on a smaller
6 scale, since the two programs were quite different in size,
7 and also did most of the research work for the urban
8 renewal program.

9 - Q And how long did you stay with the City of
10 Milwaukee?

11 A I was there for a year and a half.

12 Q That would bring us to approximately 1959?

13 A Yes, it would.

14 Q And what did you do in 1959?

15 A In the middle of 1959, I went to work for an organ-
16 ization called Real Estate Research Corporation. They
17 are a firm of real estate economists. They also are ap-
18 praisers. They engage in community affairs and analysis
19 and so on. It's the largest company of its kind in the
20 United States.

21 Q How big a company?

22 A Approximately 200 people throughout the country. They
23 are a subsidiary of the First National Bank of Chicago.

24 Q They are owned by the First National Bank?

25 A -Wholly owned. And I was with them for nine and a half

1 years.

2 Q | Can you indicate what position you held, what
3 you started at and how-

4 Over a period of time.

5 A Yes. I joined them-as, well what you would call a
6 counselor, working, on various types of studies. And after
7 about a year and a half, they created a new division of
8 the company and put me in charge of it. It was called the
9 Department of Urban Renewal Studies.

10 And then after I had been with them four and
11 a half years, and this was all in Chicago, they asked me
12 to come to New York to establish a branch office for them,
13 whereupon I came here and was made a vice president of
14 the company. And I headed their New York operations for
15 five years, from the beginning of 1964 through the year
16 1968.

17 Q And what happened in 1968?

18 A In 1968, I decided to go into business on my own.
19 And I am still in business on my own under the company
20 name of George T. Kahosi & Associates, Incorporated.

21 Q That business has been continual?

22 A Yes.

23 Q How long, then, would you say you have been a
24 real estate economist?

25 A Twenty-eight years.

1 Q That would span the period from the Chicago
2 Housing Authority to your present occupation?

3 A Exactly.

4 Q And how long have you been, in effect, a
5 consultant?

6 A Eighteen years.
#

7 Q Eighteen of those?

8 A As a fee consultant.

9 Q Can you estimate, just in gross terms, how
10 many different consulting assignments you have handled over
11 the last 18 years?

12 A I would say at least 250.

13 Q And can you further estimate how many you may
14 have handled since you have established your own company?

15 A About 100, I would say.

16 Q Can you give us any approximation of the number
17 of markets or housing market areas that you would have
IK studied?

19 A Well, different markets.

20 Q Or worked in?

21 A Yes, at least 120i In the United States, Canada
22 and once in the Republic of Panama.

23 Q All right. Can you now, so that we can get a
24 picture of what you're most actively involved in, describe
25 the types of services that you provide your clients? And

1 you have more than just clients. I am talking about clients
2 in the real estate industry,

3 A Yes. I suppose the most typical type of study that
4 we real estate economists or real estate market analysis
5 do, is generally referred to in real estate business as
6 a feasibility study. And what this consists of is basically
7 the highest and best use analyst, a determination of the
8 price at which one can rent or sell the development or the
9 housing unit or whatever they are, the office space, the
10 rent per square foot and so on. And finally, the pace
11 at which the product can be sold or rented in the market
12 place.

13 Now, in some instances where the client does not
14 have the in-house capability of doing an income expense
15 statement, which generally is referred to as a proforma,
16 I will do that, also. I will also work with municipal
17 governments, as often as a consultant in the planning
18 comprehensive planning or downtown areas, and in some
19 instances, program the downtown area for renewal. In some
20 cases, the clients are urban renewal agencies, sometimes
21 the planning agency, sometimes the municipality itself.

22 I also do considerable amount of what you would
23 call straight consulting work, at which, for example, a
24 long portfolio. Let us say a real estate investment trust
25 will be reviewed in its entirety to see which properties

1 are likely to work themselves. They have those which need
2 assistance and which ones are in pretty bad shape.

3 Q What kinds of real estate, I am not talking
4 about housing, have you worked on? I am talking about,
5 have you worked on planned unit development? Would you
6 describe, particularly, any area, if you can, what kind
7 of-

8 A Yes. I worked on a planned unit development pro-
9 posed unit development in Sterling Forest, which is a
10 more than 20,000 acre parcel of land in Orange County,
11 New York, which is owned by the City Investing Company.
12 I was consultant back in 1964 for an organization called
13 Metropolitan Structures, based in Chicago, who are
U developing Nunction Island.

isi Q Where is that? Where is that?

A Nunction. This is in the Montreal area. It's an
IKI island in the St. Lawrence River, which ultimately is
17 expected to have 15,000 units. It's approximately 700
18 acres of land. It's a relatively high intensity project.
19 I have done shopping centers. There is one in existence
20 up in the Albany area that I referred to specifically ;
21 called the Ohawk Mall (phonetical), which has three ;
22 department stores operational. I have been consulted
2:1 on office buildings, the stock exchange towers in Montreal.
24 The location of the first-it's the Cascale Bank & Trust j
25

1 Company, up in Portland, Maine.

2 As I mentioned before, I have done considerable
3 amount of multi-use analysis. One that comes to mind is
4 the St. Annabelle in Quebec, City of Quebec. Let's see.
5 Lots of urban renewal studies, as I have mentioned before.
6 Second home projects in Stowe and up in Lake Tahoe,
7 California.

8 Q Let's cut you off. I would like, specifically,
9 to center, if you can, on any experience that you may have
10 had working in the Metropolitan area and, particularly,
11 of course, in New Jersey.

12 A Yes. Let me start with the farthest point av*y_w being
13 Connecticut. I have done a small planned unit development
14 study in Bridgewater, which is in Richfield County in
15 Connecticut. I did a regional sales and service office
16 building for the IBM Corporation in Hampton,, Connecticut.
17 I did a citywide renewal program for the city of Norwalk,
18 Connecticut. And I have done an office building in
19 Westchester County, that is to say in White Plains.
20 Shopping center in New Rochelle. Covered Ohio, or ten
21 different kinds of properties under one operation and
22 spread out of Westchester and Putnam Counties. And I men-
23 tioned before the large piece of property owned by the
24 City Investing Company in Orange County, New York, Sterling
25 Forest.

y!| In the State of New Jersey, I have worked on
 2 a couple of things in Vineland, New Jersey, one of which
 > was an urban renewal project right next to downtown. And
 •* another is a small regional shopping center in Montclair,
 5 ij New Jersey. I worked with the City there, in their
 6 i| Lackawanna Station* renewal project, as well as with the
 ? I; Montclair Savings Bank in respect to a new branch bank
 3 :! and office building up in Upper Montclair. I did a
 9 renewal study in South Plainfield, New Jersey, done a
 10 ; shopping center in Monmouth County. And, of course, I
 • 1

11 j have worked with the present client, Round Valley
 12 ,j Incorporated, for a number of years.

13 ;; Q Describe for us, rather than the subject matter
 14 today, which is, of course, Clinton Township, what else
 in have you done for Round Valley Incorporated?

1«) . A Round Valley, I did the market studies for the property
 17 . • in Lambertville, as well as their properties in
 18 ij Readington Township. And these studies were done over a
 19 ;| period of beginning about in April, 1974, about a three
 20 I year period.

21 ;; Q How frequently have you been in Hunterdon
 22 County over that three year period?

2- A I checked my records on that and I think I have been
 25 i; years.
 24 i; in Hunterdon County thirty times during the last three

1 j Q This would be on research or meetings or what?

2 ? A Both.

3 Q Now, in the various market studies that you
4 have conducted over the years, was it ever necessary for
5 you to establish, delineate a market area of a region as
6 part of your- .

7 A Yes, in practically every one. It is very difficult
8 to analyze real estate prospects, without establishing
9 some kind of marketing area.

10 j Q I am sorry. My mind, you said practically
11 every one of them?

12 A Yes, in practically every case.

13 Q Are you familiar with the termination or the
U concept of lease cost housing?

14 A Yes. I have read the definition of it in the
15 Madison case. I couldn't repeat it word for word. However,
16 it's the lease cost housing consistent with health and
17 safety requirements. I can picture it.

ISM! Q That's all right. I really want to know if
20 you felt, with the concept of lease cost housing, and
21 how so, if you have. I don't need the exact wording of
22 the case, but I want to know your own background in that

23 A Yes. And, in fact, in the course of my work with
24 the Chicago Authority, well, not dealing specifically with
25

1 the cost of lease cost, it's a term, has gained currency
2 only relatively recently. We were quite aware of the
3 process of filtering down, which is an internal, integral
4 component of these costs. And, as a matter of fact, going way
5 back in the thirties, at least the concept of filtering
6 down was a well-known term.

7 Q Do you want to explain filtering down?

8 A The filtering down process is a very simple one. It
9 refers to the building of a new product, let's say housing
10 for a certain income segment of the population, generally,
11 the higher income families. Those that can afford a price
12 of a new home. And as the home ages, as the family income
13 improves, they move into something even more costly.
14 Meanwhile, the old house then filters down to the next
15 economic segment in the scale. Now, one of the things
16 that one must remember about filtering down, and one of
17 the reasons why it was largely rejected back in the
18 thirties, and for building public assisted housing, was
19 that filtering down, in and of itself, does not work until
20 there is adequate supply of decent standard housing. So,
21 in the thirties, they shifted to building subsidized
22 housing to add to the housing supply.

23 Q Mr. Kahosi, I want to show you a piece of
24 paper, which is a background statement, May 1975, George
25 T. Kahosi. I ask if you can identify that?
26

1 A Yes. It's something that I prepared.

2 - Q ' Is it in the nature of a resume?

3 A Yes.

4 Q Does it give a representative indication of
5 the kind of clients and background?

6 A Right.

7 MR. HERBERT: May I have this marked for
8 identification.

9 THE COURT: P- 93for identification.

10 (P- 93 for identification.)

11 MR. HERBERT: Your Honor, at this time, I would
12 like to offer, pursuant to Rule 8, George T.
13 Kahosi, as an expert and housing and land economist,
14 and on the concept of lease cost housing.

15 MR. SUTTON: I would like to examine him.
16 I would like to examine him on some questions.

17 THE COURT: Did you ask the questions at
18 deposition?

19 MR. SUTTON: Not in detail.

20 THE COURT: We couldn't incorporate your
21 deposition into the cross-examination on the back-
22 ground by reference and save a few hours?

23 MR. SUTTON: Well, I will try to cut down
24 my questioning, to confine it to-

25 THE COURT: You have already covered it.

1 MR. SUTTON: I am not completely familiar with
2 what is in the deposition that there might not be
3 some overlapping. I will try.

4 THE COURT: I thought you might have read them.
5 It's a presumption on my part.

6 Go ahead.

7 BY SUTTON:

8 Q Mr. Kahosi, for what period of time have you
9 had your own company?

10 A Slight and a half years.

11 Q Is there anyone else in your company besides
12 yourself?

13 A No.

14 Q Do you have a secretary?

15 A No.

16 Q Now, you are working-

17 THE COURT: On page 7 of the deposition, line
18 13, the same question. You have already asked
19 in the deposition taken.

20 MR. SUTTON: One of the problems, the deposition
21 in the record-

22 THE COURT: Why can't it be?

23 MR. SUTTON: I always have a problem.

24 MR. HERBERT: Let me say I have no objection
25 to the deposition being included in the record.

1 ;;
MR. SUTTON: Then, are you willing to do that
- ,
also, so far as the questions you have asked of our
' ;
witnesses?

i MR. HERBERT: Well-

5 MR. SUTTON: Do you want to question on quali-
; ;
6 |
fications or witnesses?

7 'I THE COURT: Qualifications. Going to give the
:
« " same qualifications both times.

a i
- MR. HERBERT: I certainly will stipulate then
10 we will not ask the same questions. I don't want to
I
11 ! make a blanket statement of which expert we have asked
12 the stipulation in deposition. I will stipulate-

(io \, MR. SUTTON: I would also be willing to do that
14 on the future case, but I may have some problems in
; , this particular case, because I have not read, I
in did not read the deposition, but I didn't spend much
i7 time on the qualifications, frankly.

\ i THE COURT: It would take all of about three
ID i minutes, and we can save three hours.

2M MR. SUTTON: I feel I can complete it in ten
; ; minutes/ easily. I want to confine myself more or
> . » less to a little bit more detail to the New Jersey
; - works, than I do on the deposition, but not in
detail.

25 Q Mr. Kahosi, have you always had your office in

1 a city, a larger city?

2 A Yes.

3 Q And over the last eight and a half years, your
4 office is in New York City, is that correct?

5 A That's correct.

6 Q Now, during that period of time, other than the
7 jj Round Valley work, have you done any work in Hunterdon
8 % •! County, Somerset County, or Morris County or Union County?

9 i A . Other than Round Valley Incorporated?

10 j Q Yes.

11 A South Plainfield is located in Union County, as I
12 ! recall.

13 ;| Q What work did you do in South Plainfield?

it :| A I did what they call a land utilization and market-
io ; ability study for the Borough of Park Urban Renewal project,
16 which is immediately adjacent to the city of the community.

17 Q What was the purpose of the study?

•8 • A The purpose of my study was to evaluate the raarket-

ID / \ ability of redevelopment uses on cleared land, in this
2{)! urban renewal project.

•M ; Q Who owned the land?

22 i A I am not sure who owned the land. It was slated as
•j,, an urban renewal project, which meant the municipality or
2i its urban renewal agency would acquire the land.

25 j Q What kind of buildings were involved?

1 A The proposed, some commercial uses. It was a very
2 small- project and also some housing.

3 Q How big was the project, how many units?

4 A I don't recall offhand.

5 Q Can you estimate?

6 A Fifty, sixty,, something of that sort, perhaps. I

7 Q Were there townhouses or garden apartments? •

8 A We were talking about single family houses, as I
9 recall, and perhaps some town houses, but this was back in
10 1969, so I don't remember too clearly.

11 Q Now, in the counties that I mentioned, did you
12 do any other work in New Jersey?

13 A Yes. In 1969, in these counties, these counties were
14 included in the area of inquiry. I looked over a good part
15 of Northern New Jersey for a client of mine, who is in
16 Los Angeles, who is looking around this area for likely
17 planned unit development sites, and I covered a good part
18 of Hunterdon County, Somerset County. I think we were up
19 in Sussex, the area around where the Great Gorge is. This
20 was a search.

21 Q Yes. And did this client buy property?

22 A No, he did not, because he found anything that would
23 permit the building of a planned unit development, they were
24 all sound out and this client has a requisite, the land be
25 zoned•

1 MR. SUTTON: I have trouble with this witness
2 - when I ask him a question, the answer is not re-
3 sponsive.

4 Now, if his attorney wants to develop it
5 further, he can do that.

6 THE COURT: Try to confine your questions,
7 so that you get a responsive answer. And, again,
8 ask the question.

9 Q I asked a simple question. Did he buy any land
10 in Hunterdon County? That's all. That was the question.
11 Did he buy any land in Hunterdon County?

12 A He did not, sir.

13 Q Did he buy any in Somerset, Union or Morris
14 County?

15 A No,

16 Q Have you had any other experience or any other
17 work for clients in any of these counties?

18 A Not to my recollection. That I will qualify that by
19 saying, since the beginning of 1969.

20 Q Now, you included, as I recall, in your depo-
21 sition, also Essex County, is that correct? And study
22 for Round Valley?

23 A I don't understand your reference, sir.

24 Q Did you make a study of Essex County, also, on
25 your work for this Round Valley project?

1 THE COURT: Swinging over from 1969 search?

2 Qj Since 1969, have you performed any work in
Essex County?

3 A Oh, yes.

4 I Q And what work did you perform in Essex County?

5 A In Essex County, Montclair is located in Essex
6 County. And I have done a study for the Lackawanna Station
7 renewal for the Town of Montclair.
8 I

9 - Q Would you tell us what that work consisted of?

10 A What that work consisted of? It was, again, what they
11 i! call a land utilization and marketability study to deter-
12 mine what centers of usage would be appropriate. And
13 marketability on this project that was to be cleared and
14 to determine how fast it could be sold or rented, and what
15 kind of prices, and this is for the town. That was done
16 in 1974.

17 Q What kind of units were involved?

18 A In this instance, it is a proposal for an addition
19 to a convenient retail center and some apartments that
20 would have been for rental purposes at that time.

21 Q How many units?

22 A How many units were we talking about? I don't
23 remember. Several hundred, maybe 300, 400.

24 Q Now, did you do any work in Essex County?

25 A In Essex County, yes. I did a pilot study for three

1 rather different areas in the Town of Montclair. One was
2 a kind, of an old commercial area right on Bloomfield
3 Avenue, and I believe it's called Park Avenue, in the
4 center of town. One was an area to the north, which is
5 locally referred to as Frog Hollow. And the other one
6 is an area adjacent to the Lackawanna Station, which con-
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13 Q What were you trying to do?

14 A We were trying to devise a renewal strategy, which
15 had no preconceived notions, whether to what extent we
16 could stimulate rehabilitation, and to what extent we
17 would have to make some modifications in the land usage or
18 to make added public improvements.in order to make these
19 areas function as a better place to live, or as a better
20 place in which to keep business.

21 Q Were there any others?

22 A Yes. I did a marketability study for the Montclair
23 Savings Bank on a piece of property that they owned up in
24 Upper Montclair. The Upper Montclair railroad station,
25 which they have since built, I believe it's something in

1 the order of 30,000 square feet. It's a small building,
2 and the bank occupies the first floor. And they rent out
3 the remainder of the building. I understand that it's
4 100 percent full.

5 Q Anything further in Essex County?

6 A Not that I can recall offhand.

7 #

8 Q Now, other than the Round Valley work, you have
9 had no experience in Hunterdon County or Somerset County,
10 is that not correct or Morris County?

11 A Well, no. I didn't say that, sir. I said that I
12 have looked over most of these counties in the process of
13 the search for appropriate planned unit development sites.

14 Q That was for your California client?

15 A That's for my California client, that's correct. He
16 operates all over the country.

17 Q But, other than that, you have had done no
18 work in either, involving Somerset or Hunterdon County or
19 projects in Round Valley, is that correct?

20 A I mentioned the one itself in South Plainfield, did
21 I not?

22 Q I am talking now about South Plainfield, is
23 that in Somerset?

24 A I believe it's in Union County.

25 Q Now, most of your work has been in city areas,
is that not correct?

1 I A If I say urban areas, yes, and metropolitan areas,
 2 • i! for the frost part, yes. Sometimes smaller communities.
 The bulk of the work is in these larger communities.

\ Q And in New Jersey, you have not performed work,
 : , | except for Round Valley on any proposed PUD of this scope,
 6 i is that not correct?

I *

T-6

T '• A That's correct.

8 Q Now, you mentioned the study, the Madison
 o j Township case on least cost housing. Tell me this. Have
 io i you studied the Madison Township case for any other client,
 Ui except for Round Valley?

12 A Have I? You mean read the opinions?

13 •! Q That is correct.

i, i A For any other client besides Round Valley. No, I have
 i: ! not.

\.i ' Q And you have not studied law, is that not
 17 ij correct?

I, ; A That's correct.

19 | MR. SUTTON: That's all the questions I have,
 20 i your Honor.

21

CROSS-EXAMINATION BY MR. CAIN:

22 Q Mr. Kahosi, I am sure Mr. Sutton asked you if
 23 you studied law, and wanted to know, I suppose, if you have
 24 a law degree, and you said no. In the initial questioning,
 25

1 counsel I don't think asked about any degrees. So, do
2 you belong to any professional societies?

3 A Do I belong to any professional societies? I belong-

4 Q Related to your work.

5 A Yes. I belong to the organization called the
6 International Fraternity of Landa Alpha. It is an honorary
7 land and economic fraternity.

8 Q How many members does it have?

9 A I don't know. Nationwide, it may have 200 people or
10 so. Some local people that unite.

11 Q What are the qualifications for being in that
12 organization?

13 A There are no specifics, let's say, precise quali-
14 fications. You have to be, in the judgment of your peers,
15 have rendered a contribution to the knowledge of land
16 economics. The peers are as the members. There is a
17 chapter in New York and there is one in Washington, D.C.
18 The original chapter was founded by Grover Eleaf (phonetical)
19 of Northwestern in Chicago. There was one in Los Angeles,
20 Toronto. There may be some others. Those are the ones
21 that come to mind at the moment.

22 Q I don't want to cut you off. I am interested,
23 I would like to get on with the direct examination.

24 How about any academic degrees? Do you hold
25 any academic degrees?

1 ;j A No, I do not. I told—I mentioned that earlier.

•J '! , Q; I think you indicated that you had gone to college for over a period of ten years, '36 to '46. You couldn't complete, because of money?

5 ;i A That's right.

6 THE COURT: Page 3 and 4 of the deposition.

7 MR. CAIN: I didn't attend the deposition*

3 i Q The license, are you licensed as a planner or

9 do you hold any license for your profession?

10 i A No, sir.

11 : Q Is one necessary?

12 ' A No, sir.

U ;: Q You mentioned before working for the municipal!"
is ties in the planning studies, I guess you were not doing
17 ;! it as a professional planner?

! A No. I was doing it as an economist.

:7 Q It's not necessary to have you licensed?

i- i A I know of no place where they require a license.

2, Q I am asking.

2, < A I know of none.

2i ;! THE COURT: Page 7 of the deposition. He

explains the type of work that he does. It is

.. S; part of the record. The qualifications, part of
the record.

0 -^ MR. CAIN: I didn't know how it was resolved.

1 Mr. Sterns.

2 - ; MR. HERBERT: We had no objection to the
3 deposition of Mr. Kahosi being part of the record.

4 MR. CAIN: Talking about the qualifications.

5 THE COURT: That's part of it. Describe the
6 type of work, I am doing now. The type I am doing
7 since 19—I am a consultant to developers who wish
8 to build and want to know what to build, how to and
9 finance and how they can market the product, and
10 lending institutions, mortgage brokers, and evaluate
11 the feasibility of the project. I have worked with
12 banks and evaluated and advised them how much ad-
13 ditional space they can build in an office building
14 that they want to put a branch office into. I have
15 worked with shopping centers, major housing develop-
16 ments. I had architects and planners and bank
17 companies and Wall Street research houses. They
18 call them institutional research houses.

19 MR. CAIN: No questions.

20 THE COURT: There is no license. There is
21 no license. Directed to the degrees. There is no
22 licensing in New Jersey.

23 MR. CAIN: The answer is no.

24 Q You did bring up the one study, other than the
25 Round Valley study, which, apparently, covered research.

1 And what, Hunterdon and surrounding counties for your client
2 in Los Angeles?

3 A Yes.

4 Q You directed that he did not purchase in New
5 Jersey because of rone problems, was that the only reason?

6 A Yes. The primary reason, because one of the pre-
7 conditions of this development is that he would not enter ;
*I into a situation where he anticipated going to Court to
obtain zoning.

9 :
iu; Q Have you found that it is the usual thing when
n! you are making studies for possible PUD sites for the
12 zoning already to be appropriate?

13 A Not as a rule.

U Q Then, in that case, part of your search was to
15 find an area already zoned for PUD?

16 A Or at least there was a permissive situation, so
IT that he could get in without too much trouble, but it's
18 relatively well known, that it's very difficult to obtain
19 that kind of zoning in most parts of New Jersey.

20 Q Is it also true of other states?

21 A No, not necessarily. It's relatively easy to get it
22 in the Chicago area. It's almost like nothing to it. And
23 very simple to do with in Rochester, New York. Very easy
24 to do it in Farmington, Connecticut. There is no problem
25 at all.

1 Q What were the balance of the recommendations i
2 made as a result of that study, assuming one of them was
3 the zoning, was not appropriate or what the balance of the
4 recommendations in determining of market and jobs, etcetera.

5 A Well, there were no—you don't make recom-
6 mendations, sir, based upon a non-site. Real estate is a j
7 piece of property that is discreet, unique and secular.
8 And unless you have a piece of property to analyze and
9 to make recommendations on, you simply do not make recom-
10 mendations. You drop the matter.

11 Q Then, in that particular case, having found
12 that the zoning wasn't appropriate, and that it didn't
13 appear to be permissive, you wouldn't go to any trouble
14 making a lot of detailed specific market studies, I take
15 it?

16 A No. I advised. My client didn't want to spend any
17 more of his money, looking for situations, because it's
18 like trying to find a needle in a haystack.

19 Q Now, on least cost housing, I can't quote
20 Court definition either, but in good company or you are in
21 bad, I don't know which, but with respect to filtering
22 down, you said that filtering down is an integral component
23 of least cost housing, and the concept of filtering down
24 has been around for a long time.

25 A Yes. The term filtering down has been well known in

1 the profession for a long time, yes.

2 ,Q • Yes, sir. And if I understand, it's the house
3 which the family that's moving up is no longer using that
4 goes down. The house itself filtering down to a less
5 affluent section of society, is that the way it works?

6 A Yes. That's the general description of the process.

7 Q Could you make an analogy to new cars and used
8 cars?

9 A Well, I suppose somewhat similar, although the one
10 big difference in housing, is that it's not so easy to
11 move around.

12 Q With respect to the point you made that \f
13 filtering down is going to work, you must have an adequate
14 supply of housing?

15 A Yes.

16 Q I suppose that with the analogy, if you didn't
17 have new cars, then you wouldn't have used cars?

18 A Precisely.

19 Q That was the-

20 A The used car would not change hands* \

21 Q So that you have
21-f got to have new housing coming in all the time, then, for
22 the filtering down to work.

23 A Yes, unless you lose your population. It's
24 very, very fast.

25 MR. CAIN: Thank you.

1 THE COURT: Have any trouble with the objections!
2 of the expert, limited to his field as a real estate
3 and economist, over a period of years?

4 MR. SUTTON: Your Honor, I think that I am not
5 quite certain what the testimony is that Mr. Sterns
6 is trying to^ elicit, about the ones he will ask
7 Mr. Kahosi, whether or not these units are marketable.
8 I think that's one of the questions probably to
9 be asked. And I certainly, I certainly would want
10 to reserve at a later time to make an objection that
11 the study was not efficient. There is not suf-
12 ficient background. He may have the expertise,
13 but whether or not the study has been sufficient. I
14 would want to reserve the right to make such an
15 objection.

16 THE COURT: Talking about waiting on admis-
17 sibility.

18 MR. SUTTON: That is correct. I think that he
19 has the background possibly in the metropolitan
20 area. I am not sure whether in a rural area, whether
21 the study is sufficient. The general custom.

22 THE COURT: My question now, say he does have
23 a background.

24 MR. CAIN: I have no problem with Mr. Kahosi.
25 being an expert in urban renewal. I don't know of

1 anybody with better qualifications in urban renewal.
2 I think probably, your Honor will rule that we have
3 enough background to develop information on even
4 in terms of least cost housing. I would like to point
5 out, though, with respect to qualifications, I don't
6 -think there .has been a lot of experience on the part
7 of this witness in our area.

3¹ THE COURT: I don't have any problem with it.
9 The man is pretty well qualified in the area when he
10 describes real estate, economist who advises not only
n developers, lending institutions, bank institutions
12 and so forth, public authorities in the marketable
13 ii product feasibility studies and so forth.

14 I assume, Mr. Sutton, you have a copy of the
15 study?

16 MR. SUTTON: Yes.

17 THE COURT: Do you have a copy of the study?

18 MR, CAIN: Yes, your Honor.

19 THE COURT: You have a copy of the study?

20 MR. HERBERT: Yes, sir. I will identify it
21 and mark, it right away. It has been marked in
22 depositions. I will use the same copy that was
23 marked at that time. Let me just say in that con-
24 nection, just for ease of reading, we have made a
25 table of contents tothe chart, etcetera. And

1 unfortunately, I don't have the copy, but I would j
2 like to give that to counsel.

3 THE COURT: P-4 for identification. Resume
4 and qualifications.

5 MR. SUTTON: Somehow the deposition, I got this
6 copy, which has been marked. I gave it to Mr. Herbert
7 this morning and I asked him to give me one in ex-
8 change. I haven't gotten it yet.

9 MR. HERBERT: Keep that one.

10 THE COURT: Do you have P-93, Mr. Sutton?

11 MR. SUTTON: I have a copy. i

12 THE COURT: Do you have Exhibit P-93?

13 MR. SUTTON: The resume.

14 THE COURT: Could you give it to the clerk,
15 please.

16 MR. HERBERT: Let me see that P-93. Does that
17 appear in P-94?

18 MR. STERNS: Your Honor, I think a copy has
19 been supplied to the Court.

20 THE COURT: Someone gracefully took it away.

21 MR. STERNS: I will give you that one.

22
23 DIRECT EXAMINATION (CONTINUED) BY MR. HERBERT:

24 Q Mr. Kahosi, are you acquainted with Round
25 Valley, the plaintiff in this case?

1 jj A Yes.

2 ;i Q And how so? Let me rephrase that.

5 Did you undertake a certain study in connection
t • with a certain proposed plan?

6 1 A Yes.

6 Q Can you describe the nature of that study?

7 A Well, the study is a study of the housing needs in the
8 i Beaver Brook planned unit development. It covers the
9 I subjects of the character of the site and the proposal for
10 o the site. As to the planned unit development, a
11 i , , delineation discloses a house market area analysis of the
12 needs for housing for low and moderately income families
13 in the primary housing market area and the analysis of the
14 gap between the needed houses, the available houses in
15 specific parts of Hunterdon County and an estimate, estimate
16 of the allocation of their share of housing of least cost
17 housing to the Clinton Township, based primarily on the
18 concept of vacant dsvalopalle land.

19 Q And I ask you—I show to you what has been
20 marked—

21 Your Honor, may I just take that to verify—

22 I show you what has been marked as P-94 and
23 ask you if you can identify that? Is that the study that
24 you referred to?

25 A That's the report on the study that I am referring to.

1 Q Thank you very much.

2 Now, if you can, Mr. Kihosi, if you can, Mr.
Kahosi, v/ill you please describe for us the basis for this
3 report, that is, whatever data, whatever material you
4 utilized in preparing your report?
5

6 A The materials used in the preparation of the report
7 include, of course, the planning analysis made by
8 • Mr. Rahenkaiup's company, discussion with the client on the
!> property. As a matter of fact, first of all, I have only
10 gotten involved in this study in November, 1976. I have
11 ' . been acquainted with the property since April, 1974,
12 ! because at that time, Mr. Haas, the president of Round
I.J Valley, Incorporated, took me on a rather extended site
U examination of the Beaver Brook properties, including the
V) golf course and farm, which is on the east side of Route 31,
\r. so that I have had a fix on the property for a long period
I? of time. The fix on the property, of course, is extremely .
\i important, and I would not have undertaken to begin work
19 on this study without knowing what the property looked like
20 I and smelled like. This is a cardinal rule in real estate
«j analysis. So, understanding the property's, accessibility,
oo ; its environment and its relationship to the larger urban
•yi areas, which it is associated, and which it is associated*
21 I undertood to gather together a great deal of update
25 information* Some of this information had already been

1 gathered in a more general sense as it applies to Hunterdon
2 j County for the two properties that I had analyzed for
Round Valley Incorporated, previously. These are identified
as Larabertville property and the Township of Readington
5 , property.

6 j | Now,- the usual sources of public data that * j
7 !! are available to everyone were used. These included almost! j
\$ •• anything that the bureau census puts out that had any ap- j
9 ' plicability to this study and the determination of need. I i
10 ; analyzed the work done by the Department of Community
11 | Affairs in estimating of low and moderate income housing
12 ; needs, as well as the statewide allocation plan. I have
l;j | used a great deal of information that I have obtained from
ii ' the State of New Jersey, the Department, I guess it's the
l" Division, of Labor and Industry Division on covering
^ employment trends. I have looked at studies of the land
- I use plan for Clinton Township, which is prepared by Catlin
m : Association in 1976. I have looked at the future land use
u. plan for Hunterdon County. Am I being redundant?
•(0

20 •! Q Any other source material you used is what I
21 want.

22 A I have taken another hard look at the property and
23 its relationship, taking drives to various points of
24 significance and community shopping. I have looked at the
25 town in Clinton to see whether there are any convenient

1 shopping facilities nearby that could be used by the >
2 residents in the early stages of the project, when the ,
3 market possibility, not just to have full grown convenient
4 shopping facilities. I have looked at the shopping center
5 here in Flemington, which is relatively new. The one
6 that contains Parker's Department Store and another I
7 believe it's a local department store chain. There may be i
8 some. A number of other things that I have looked at and
I I have done various kinds of analysis and income projections,
based on these data.

9 Q With regard to, you have indicated on your
10 visits to the Round Valley area, you, so to speak and your
U J sites, could you tell us how frequently? Now, I am
11 focusing in on this report on the Beaver Brook site. How
U focusing in on this report on the Beaver Brook site. How
12 frequently and over what period of time your visits occurred?
13 And you have indicated the number of them, just any ad-
14 ditional visits or site research?

15 A You mean in connection with since 1976?

16 Q That's correct.

17 A I suspect that I have made only two field trips, as
18 such, since November, 1976, but I don't feel deprived of
19 knowledge, after having been in the community thirty times
20 or more before that.

21 Q Now, -

22 A I might add, almost every time I have been outto
23
24
25

1 ; Hunterdon County, I have stopped in at the Round Valley
2 ; location, which is at Beaver Brook.

" Q Okay. Now, going on. then. Can you define the
\ term housing market.

5 I A Yes.

6 Q By the* way, if you have your report, you can
7 j refer to it, if it's necessary. You can refer. I just- >
! |
,3 | Answer anyway you want. I just wanted you to know you do :
9 : not have remember- :.

10 ; THE COURT: It's in part three. :

11 I THE WITNESS: Thank you, sir. !
1

!2 | A The obvious thing is that there are some references •
•3i to housing market area and regions, which were noted in
•i !' the Madison opinion, one of which refers to it as a general
area, which constitutes more or less, the housing market
•» , area of which the subject, the municipality is a part and
.7 from which the prospective population of the municipality
;i* ' which substantially be drawn in the absence of a conclusionary
jy ; zoning. It is also a reference to an FHA definition, which
2(j is as the geographic entity. This is on page three of the
n >! report within^ non-farm dwelling units are in a mutual
competition. It refers to a HUD report.

2- ; THE COURT: Page 32.

;; A It's on page 32. It's in the footnote number, which
.- :: refers to another footnote, number 44 in the original draft

1 of the opinion. Basically, a housing market area is
2 determined by the principle of suitability, where a housing
3 unit of like quality and like price, substituted for
4 another, house unit of like price and like quality located
5 in different places.

6 Obviously, no two housing units are ever located
7 in exactly the same place. That is one of the unique things
8 about real estate, which sets it apart from all other kinds
9 of markets and products.

10 Now, suitability, according to the region, ac-
11 cording to the region plan association of New York, the
12 region that we are concerned with covers some 31 counties,
U 13 14 of which are in northern New Jersey, 14 of which are in
H 15 the State of New York and three of which are in
16 Connecticut. Now, this is a massive region, but the
17 obvious thing is that a person were to be working, say
18 in midtown Manhattan, he could be living in New Jersey
19 and widely separate places. He could be living at the end
20 of Long Island or, perhaps, on the kind that's a lot
21 further away than the Delaware River, and he could also
22 be living in Connecticut, which he does so. These are
23 called macro-housing regions. Now, one of the evidences
24 of a region having cohesion is the process by which pop-
25 ulation census .. takes place. Now, obviously, every
major metropolitan area in the United States are composed

1 I, of a core and the surrounding area, which in the classical
2 instance, gets broader and broader and farther and farther
3 away from the center of the community. In the case of cities
4 that are on major bodies of water, like Chicago, the outside
5 perimeter of this populated area gets farther away, because
6 it can grow in-one direction, and that is away from the
7 water. In other instances, where you have just a river,
8 and almost every city in the United States are located on
9 bodies of water on one kind or another. And in the case
10 like a community like Indiana or Columbus, where there are
11 no major waterways and can . oe reached very easily by
12 bridges, the community grows in all directions, so the
13 center remains the center and it is less far away from the
14 population center in the community. On census process
15 has been very evident in the New York area.

16 Q Could I interrupt you for a minute and ask you
17 if we could, perhaps, describe what this is and perhaps we
18 can use it in the case you make reference to.

19 A This is a map. This is a map which was put out by
20 the Hagstrom Map Company, very commonly found in bookstores.
21 It's sold in almost any stationery store in this area,
22 which has as its center, Columbus Square, at the foot of
23 Central Park. And I believe it's Seventh Avenue in New York.
24 And the white area shows an area, which its radius of 50
25 miles from that point. Now, you will see that both

V1
H

Kahosi - direct

130

1 Clinton Township and Flemington are within this 50 mile
2 circle, as the crow flies. It extends well up into-it
3 touches Dutchess County on the north. It excludes a good
4 part of Orange County, New York. It includes almost all of
5 Sussex County/ And it's also interesting to note, that the
6 eastern two-thirds of Long Island, really say the eastern
7 «
8 two-thirds of Suffolk County, New York, is beyond the 50
9 mile radius. We are a lot closer to each than some things.

9 j MR, HERBERT: May I just have this marked
10 for identification.

11 THE COURT: Identified by date. P-95

1 population. And the actual net loss of population through-
2 out' is actually much larger than the net overall loss,
3 because they continue to experience an excess of birth over
4 death.

5 Now, at this point in the last five years, the
6 Bureau of Census made some estimates, which indicate that
7 for this fourteen county area in northern New Jersey lost
8 72,000. The old community, that is to say, older, because
9 of a 123,000 plus increase in population, in what we call
10 a poor outlying counties in northern New Jersey. These are
11 Sussex, Warren, Hunterdon and Ocean Counties.

12 Q What we call?

13 A That's RP. That's the region plan, the outer ring.
14 That's the 14 county area, as a whole, experience modest
15 increase, some 50,500. This means that had it not been
16 for the 123,000 plus increase in the outer ring of counties,
17 they would have an actual net-loss of population for the
18 entire fourteen county area.

19 Now, this gives you an indication and almost
20 by following, by permit data, is a very good indication
21 what is the worth of the Bureau census is on their toes by
22 declaring sanitary metropolitan areas, as being sufficiently
23 large to encompass the growing urban area, so that there is
24 a classical situation taking place here, and Hunterdon
25 County is on the recipient end of the population that is

1 not receiving any inner community. As a matter of fact,
2 the absolute increase in Hunterdon County increased pop-
3 ulation in the 1975 period was 8,132. And that compares
4 favorably with Morris County with 8,456. And only a
5 1,028 in Somerset County, meaning that, in other words, we
6 have gone past Somerset County out into Hunterdon. And ;
7 Hunterdon is the most logical successor county to Somerset
8 as a bedroom community in the larger New York northeast at
9 their New Jersey metropolitan area.

10 Now, that's one test of the way population moves
11 is taking. Now, defining the metropolitan, the housing
12 market area. It is also very essential to determine home
13 to work and travel patterns. Now, what we have shown in
14 this report is a table, which is-

15 THE COURT: It is on 312.

16 (A short recess is taken to take some
17 criminal matters.)

18 THE COURT: Gentlemen, have you arrived at a
19 possible resolution as to-

20 MR. HERBERT: Your Honor, just with only one
21 minor, two minor exceptions. There is a summary
22 of the report that I would ask be read into the
23 record, and then if we can assume that all of the
24 report is as if-

25 THE COURT: Testified. As if testified, then.

1 I think we would be ready and he can give that
2 summary now on Monday morning.

3 Part one, summary is part 1.1 through 14.

4 All right.

5 MR. HERBERT: X would like those points read
6 and not necessarily now, but Monday.

7 THE COURT: Like a PUC hearing, they have got
8 canned,
9 the testimony completely/ Monday, if you bring this
10 here on Monday. Just testify to points 1 through 14.
11 And you have to augment.- . It's terrifically boring
12 to sit here and have somebody read line by line.

13 MR. HERBERT: I won't.

14 THE COURT: One of the requests that you can
15 read. It may be comprehensible. At least you can
16 read.

17 MR. SUTTON: One of the problems that we would
18 have is a reading of the whole report. I believe
19 that's a quotation from newspapers and other items.
20 I think we should have an opportunity to go through
21 the report and advise of what parts we would object
22 to that we think are too blatantly hearsay to be
23 admitted into evidence.

24 THE COURT: Well, all right. Well, don't you
25 do that up until now. You haven't that opportunity.
26 Sure. All right. Some blatant hearsay in here that

1 bothers you to the extent that if you feel it would
2 have some material situation and not extend to the
3 hearsay. Rule 63 and all of its sub-parts, which we
4 will look at very carefully, of course.

5 MR. SUTTON: Not only hearsay, but unreliable
6 hearsay.

7 THE COURT: Unreliable. The sum of it is
8 reliable. I am willing to accept that. Suppose we
9 do that and get back Monday morning ready for cross.

10 MR. HERBERT: Can I just narrow it? We will
11 not have further direct examination of the witness,
12 except if either counsel substantiate or chooses to
13 suggest that there are certain portions that they want
14 testified to because they are—

15 THE COURT: In other words, we won't, I assume.

16 MR. CAIN: I don't want to preclude Mr. Sterns
17 from asking any new questions.

18 MR. HERBERT: My question is the reliability
19 and is there anything blatant.

20 MR. CAIN: Stating conclusion since his report.

21 THE COURT: You may ask. The first question
22 on—

23 MR. CAIN: Not unless we hear something about
24 it on direct.

25 THE COURT: This is now the testimony that you

1 can assume that he gave today, including the summary.

2 MR. CAIN: He had mentioned he examined the-

3 THE COURT: Something he was about a Harvard
4 study.

5 MR. HERBERT: We can get that in or drop it.

6 Now, it's not crucial to the-

7 THE COURT: It's not.

8 MR. HERBERT: It's in addition.

9 MR. CAIN: We will start cross-examination
10 Tuesday.

11 THE COURT: That will give him the record to
12 read it.

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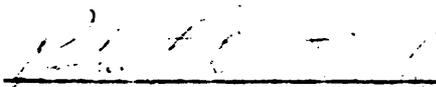
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C E R T I F I C A T E

I, **ROBERT L. EICK**, state that the foregoing
is a true and accurate transcript of my stenographic
notes, to the best of my ability.



ROBERT L. EICK
Court Reporter

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