

MM - Field v. Frankln Twp

10/1/84

Deposition of George M. Raymond
- transcript

p 68

~~ML 000 621 S~~

ML 000 621 S

*portions marked
in read all in evidence
10/1/84 - EDS*

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - SOMERSET COUNTY
Docket No. L-006583-84-PW

J. W. FIELD COMPANY, INC.,)
and JACK W. FIELD,)

Plaintiffs,)

vs.)

THE TOWNSHIP COUNCIL OF THE)
TOWNSHIP OF FRANKLIN; THE)
TOWNSHIP OF FRANKLIN, SOMERSET)
COUNTY; AND THE PLANNING BOARD)
OF THE TOWNSHIP OF FRANKLIN,)

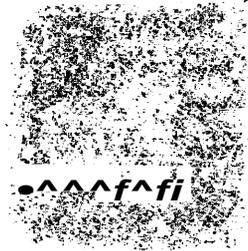
Defendants.)

(And all consolidated cases))

CIVIL ACTION

Depositions Of:

GEORGE M. RAYMOND



T R A N S C R I P T of the stenographic
notes of the proceedings in the above-entitled matter,
as taken by and before JACQUELINE M. VARHLEY, a
Certified Shorthand Reporter and Notary Public of

n

^W^IfiHHBNnicipal- Building, DeMott Lane, Franklin,

^^^K3SMmmn Monday, June 18, 1984, commencing

at approximately ten o'clock in the forenoon.

VARHLEY & VITALE
Certified Shorthand Reporters
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I N D E X
(WITNESSES)

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NAME

DIRECT

CROSS

GEORGE M. RAYMOND

By Mr. Cafferty

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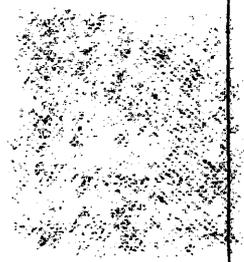
By Ms. Hirsch

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By Mr. Auciello

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E X H I B I T S

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NUMBER

DESCRIPTION

IDENT.

DFT-3

Report entitled Region, Housing Needs and Fair Share Allocations for Franklin Township, 5/8/8*

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DFT-M-

Report entitled Region, Housing Needs and Fair Share Allocations for Franklin Township, 6/12/8*

8

1 G E O R G E M . R A Y M O N D , doing business at
2 555 White Plains Road, Tarrytown, New York, is duly
3 sworn and testifies on his oath as follows:

4 DIRECT EXAMINATION BY MR. CAFFERTY:

5 Q Good morning Mr. Raymond. My name
6 is Tom Cafferty, as you know. I represent the
7 Township of Franklin in this consolidated matter.

8 The proceedings this morning are what is
9 known as a deposition. I'm going to ask you a series
10 of questions concerning the lawsuit and more speci-
11 fically your report that you prepared as an expert in
12 this lawsuit.

13 Should I ask you any questions and any of
14 the attorneys here this morning object to my question,
15 would you please refrain from answering the question
16 until the objection is placed on the record. And
17 your attorney will advise you whether you should then
18 respond or not.

19 Furthermore, if I ask you any question and
20 you ~~do not~~ understand the question, would you please
21 indicate that to me and I will attempt to rephrase
22 the question.

23 Finally, the court reporter, cannot take
24 down a shake of the head. She can only take down
25 verbal responses. So would you please verbalize all

1 your responses?

2 A Fine.

3 Q Do you have any questions concerning
4 the nature of this proceedings this morning?

5 A I do not.

6 Q Now, Mr. Raymond, you^fve prepared a
7 report and apparently a supplemental or revised report
8 in this matter. Do you have a copy of your original
9 report with you this morning, an unmarked copy?

10 A I don^ft have an unmarked copy.

11 Q I have a copy, but it's marked up.

12 So I really -

13 MS. HIRSCH: You could use
14 that.

15 MR. CAFFERTY: Suppose we
16 have that marked DFTN3.

17 (Report entitled Region,
18 Housing Needs and Fair Share Alloca-
19 tions for Franklin Township (Somerset
20 County, New Jersey) dated May 8, 198[^],
21 received and marked Defendant's
22 Exhibit DFT-3 for identification.)

23 Q Now, you also have a revised report.

24 MR. CAFFERTY: Perhaps we
25 can mark that as DFT-H.

1 (Report entitled Region,
2 Housing Needs and Fair Share Alloca-
3 tion for Franklin Township (Somerset
4 County, New Jersey) revised June 12,
5 1984 received and marked Defendant's
6 **Exhibit DFT4 for identification.**)

7 Q Mr. Raymond, for the rest of the
8 depositions this morning we will **refer** to your report
9 of May 8, 1984, which has been marked DFT-3, as the
10 blue report, and your report of June 12, which has been
11 marked as DFT-4, as the red report. Is that satisfac-
12 tory to you?

13 A That's fine.

14 Q Perhaps in order to expedite this,
15 let me ask you this question. Are you able to summarise
16 in what respects the red report differs from the blue
17 report?

18 A It differs in two respects. One, I found an
19 **error** in the blue report. I had indicated I had pre-
20 **pared a Table A, I believe it is, or Table One.**

21 **MR. SILVER: Referring to**
22 **what page?**

23 **THE WITNESS: It's in the**
24 **Appendix.**

25 **MR. LINNUS: A-1.**

1 A Page A-1 which showed what the total growth
2 area is in the five county region and three county
3 region that I used.

4 And in the text of the report on Page 16 --
5 I'm sorry, on Page 19, a different figure appeared for
6 the growth area. And the correct figure is the one in
7 Table One.

8 Q Let's just identify that, Page 19 of
9 the blue report. When you say an incorrect figure
10 appears for the growth area, I note that there are two
11 figures, Franklin Township's growth area and the growth
12 area prospective region. ?

13 A The prospective region was in error.

14 Q The number 709,823?

15 A Is not the correct number. The correct number
16 is shown in Table One. It's 28,003.

17 Q Now, on Page 19, if I may again return
18 you to that page of the blue report, the local growth
19 percentage of the region is expressed at
20 4 percent. Is that the correct ratio?

21 A That's no longer the correct ratio. Once you
22 change the region, then, of course, everything changes.
23 And the red report then makes the corrections that
24 flow from the initial correction.

25 The second thing that I did was after preparing

1 the May 8 report -- I testified in another case before
2 Judge Serpentelli and I became aware during that testi-
3 mony that a set of maps exists at the Department of
4 Community Affairs which was prepared and from which
5 the little maps that appear in the State Development
6 Guide Plan were then prepared. The maps in the
7 Department of Community Affairs are a larger scale,
8 more detailed.

9 So that we went to the Department. We copied
10 their lines on their map onto the Franklin Township
11 map, and that produced a different growth area within
12 the Township.

13 So that the results of using that growth
14 area appear in the red report as Footnote IB on Page
15 2H. So that on Page 2* in Footnote 18 we have another
16 set of figures using this different ratio for the
17 Township. And, for the record, this number is 15,635
18 acres as compared with the original number which was
19 11,743 acres.

20 Q That number would be the number of
21 acres in the area designated as growth area under the
22 Development Guide Plan; is that correct?

23 A That's correct.

24 Q How did you ascertain that number in
25 those instances?

1 A By using a planimeter.

2 Q In the latter second instance you
3 planimetered the more specific maps in the Department
4 of Community Affairs?

5 A We translated those lines onto a large scale
6 map of the Township, And then we planimetered the
' area onto the Township map.

8 Q Let me just now see if I understand
9 what you've done,

10 You for the preparation of the red report
11 went to the Department of Community Affairs in Trenton
12 is that correct?

13 A Yes,

14 Q And you obtained the copies?

15 A No, We copied them. They have one set of
*6 atlas sheets. And we took a Township map to the
17 Department and we copied the lines from the atlas on
18 to the Township map.

19 ; ^\, --/"B^ I see..

20 htf..^ ; then we planimetered the resulting area on
21 the Township map.

22 Q Were the two maps, the atlas map,
23 the Department of Community Affairs map and the map
.24 of the Township on the same scale?

25 ^ Not They were not on the same scale. But

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1 it's easy enough when you deal with large-scale maps
2 to draw the lines reasonably accurately from, one map
3 on to the other,

4 Q Do you recall what the scale of the
5 maps in the Department of Community Affairs was?

6 A No, I don't.

7 Q Do you recall what the scale of the
8 map that you utilized of the Township of Franklin was?

9 A No, I don't recall.

10 Q Would you have a copy of the map that
11 you utilized from the Township of Franklin to draw the
12 line on?

13 A I don't have it here, I can make it avail-
14 able.

15 Q Would you do so?

16 A I would be glad to,

17 Q Are they the only differences between
18 the two reports, Mr» Raymond, what you've described

19 so far.

20 A Oh, I corrected a couple of Footnotes, I
21 think 5 and 6.

22 Q That would be Footnote 5 and 6?

23 A Footnote 6 and 7 in the blue report made
24 reference to the Tables in the Appendix when, in
25 fact, the references should have been in the Lerman

1 Report, which is the consensus report.

2 Q Let me back up a little bit then.

3 Mr. Raymond, could you give me the benefit

4 ^f your educational experience, please?

5 A I have a degree in architecture from
6 Columbia University.

7 Q Are you a Licensed Professional
8 Planner?

9 A I am.

10 Q In the State of New Jersey?

11 A Yes.

12 Q When did you become so licensed?

13 A Immediately upon the passage of the Act,
J⁴ when that was »

15 Q Do you have an idea of approximately
*6 how many years ago?

17 A I should know by the number of years that
18 I paid dues, but I don't remember.

19 Q Now, have you taken any planning
20 courses while you were in Columbia?

21 A I took some.

22 Q Do you recall the nature of the
23 courses that you took while at Columbia?

24 ^ Well, I took classes in land use and zoning
25 and the like, but my planning experience is what givejj

*in evidence
10/1/81*

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1 me the expertise, such expertise I have, rather than
2 education.

3 Q Do you recall how many courses you
4 might have taken at Columbia? Not might, do you re-
5 call how many courses you took in Columbia that dealt
6 with planning and zoning?

7 I A Only one, specifically planning and zoning.
8 But, of course, an architecture course deals with
9 land planning to a very substantial extent.

10 Q The one course that you took at
11 Columbia, was that a two-semester course or a one-
12 semester course? Do you recall?

13 A Two-semester •

14 Q Now, you indicated to me that based
15 upon your experience you feel you are an expert.
16 Could you tell me the experience that you have had
17 in the area of planning and zoning?

18 A Well, I never practiced architecture.
19 Almost immediately after getting out of school I got
20 a job with a planning firm.

21 Q Do you recall the name of that firm?

22 A Churchill Fulmer Associates.

23 Q Where are they located?

24 A In New York, on West 15th Street.

25 Q What was the nature of your duties

1 at Churchill Fulmer?

2 A I did a Master Plan for the City of Hoboken.
3 And I did some planning of a large-scale development,
4 planning of residential developments*

5 Q Do you have an approximate time
6 frame in terms of years when you did the Master Plan
7 for Hoboken?

8 A In f*8.

9 Q How long did you remain at Churchill
10 Fulmer?

11 A Until fi*9. Then I joined the fir* of
12 Harrison, Ballard & Allen, a planning firm, and with
13 them I did a number of Master Plans in Connecticut
14 and in Virginia. And I was one of the first planners
15 to be involved in the urban redevelopment program,
16 national urban redevelopment program and I prepared
17 a number of redevelopment plans for cities, mostly
18 in Virginia.

19 V And I stayed with them until 1954. And
20 then I opened my own firm.

21 Q In 195*f what was the name of your
22 firm?

23 A George Raymond Associates.

24 Q Where was that firm located?

25 A It was located to begin with on Lexington

1 Avenue and 39th Street in New York. Then it moved
2 to Westchester County. And it had several addresses,
3 of course. It's been in operation continuously since
4 then in Westchester.

5 Q For the last 30 years?

6 A For the last 30 years.

7 Q Now, in the last ten years, let's
8 say, have you had occasion to prepare any Master
9 Plans, your firm?

10 A Doing it all the time.

11 Q Specifically

12 A I might just to put things in perspective,
13 the firm has a staff of about 50 people and 3 offices,
14 including an office in Princeton, which we have
15 maintained a New Jersey office for the last 10¹² *and*
16 **14 years.**

17 Q Have you prepared in the last ten
18 years any Master Plans for communities in the State
19 of New Jersey?

20 A Well, one of them was Franklin Township.

21 Q What year was that?

22 A '78? «80* something like that.

23 Q Would that have been under the name
24 of Raymond, **Pariah** Pine?

25 A Yes.

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Q Is that the name of your New Jersey firm?

A No. The Raymond, Parisl* & Pine was the name before Mike Weiner became one of the principals.

Q Other than the Franklin Township Plan have you prepared any other Plans for New Jersey communities in the last ten years, Master Plans?

A We did Plainsboro and Cranbury, East Brunswick. I wasn't personally involved in any of these except Cranbury,

Q You weren't personally involved in the preparation of the Franklin Master Plan?

A Not at all. For th« record, this is my first visit to Franklin Township except passing through on 287 .

Q Other than the communities you've named for me so far, were there any other communities that come to your mind that you prepared Master Plans for i» t&e last ten years in New Jersey?

A We did, but I can't remember which ones they *f#?-

Q Would you have some documentation readily available to you in your office that would enable you to determine what communities in New Jersey you prepared Master Plans for in the last ten

1 years?

2 A Yes. I will look it up and provide it.

3 Q Thank you.

4 MR* CAFFERTY: Off the
5 record.

6 (Discussion off the record)

7 Q Mr. Raymond, have you had occasion
8 in the last ten years, either you or your firm, to
9 prepare a zoning ordinance for any communities located
10 in New Jersey?

11 A Yes, we have.

12 Q Do you recall which communities you
13 prepared such zoning ordinances for?

14 A Well, I know definitely we did the Cranbury
15 zoning ordinance. What others, I don't recall.

16 Q Might I also ask you to produce the
17 same information with respect to the zoning ordinances
18 that I've requested with respect to Master Plans?

19 A I will supply them.

20 Q Now, are you a member of any profes-
21 sional/ organizations?

22 A Yes, I am.

23 Q Can you tell me which ones?

24 A I'm a member of the American Institute of
25 Certified Planners * of the American Planning Associa-

1 tion. I am a member, one of the founding members and
2 the former president of the American Society of
3 Consulting Planners. I'm still a member of the Board,
4 I'm a member of the American Institute of
5 Architects. I'm a member of a large number of organi-
6 zations that are involved in the planning and develop-
7 ment field.

8 Q Now, have you received any professional
9 honors that you recall?

10 A Well, I am currently the president of the
11 New York Chapter of the American Planning Association,
12 New York Metropolitan Chapter* I received a
13 Distinguished Service Award some years back from the
14 Chapter. I didn't receive awards as such, other than
15 in school I had a number.

16 But I was president of a number of these
17 organizations I'm still a member of.

18 Q Have you had any writings published
19 in professional periodicals or journals?

20 A Yes, quite a few.

21 Q Would you have a list of those which
22 is readily available?

23 A Not completely. But if you want examples *
24 I'd be glad to supply them,

25 Q Let me ask you specifically. Have

1 you ever written in any professional periodical or
2 journal concerning Mt. Laurel?

3 A Yes, I have.

4 Q Do you have copies of those writings
5 available?

6 A I can supply them, yes.

7 Q If you would do so, I would appreciate
8 it.

9 A I served as court appointed master in the
10 Allen Dean vs. Bedminster Township case since 1980,
11 and one of the writings is an account of my early
12 experiences which was published in the Planiiiog *&4
13 Zoning Law Report.

14 Q Now, Mr, Raymond, we previously
15 identified your red and blue reports that you prepared
16 in this matter. In the blue report, and I assume the
17 red, which I havei^t read, and correct me if I'm
18 wrong, you indicate that you followed the Lerman
19 feW#3*J|smt formula for your fair share methodology
20 except f« you specifically note otherwise in your
21 report; xs that correct?

22 A That's correct.

23 Q Did you participate in any manner
.24 in the preparation, discussion and arrival at the
25 Lerman consensus formula?

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1 A Yes.

2 Q Can you tell me the nature of your
3 participation in that formula?

4 A Well, the formula was, if I may use the
5 term, hammered out in the three sessions that were
6 held in the Ocean County Courthouse, participating
7 with all the planners -- I don't know whether they
8 were all -- but the planners involved in the Urban
9 League case.

10 And the idea of the sessions was. to see
11 whether or not inasmuch as every single report that
12 had previously been supplied to the court by the
13 planners had -differences of approach, whether those
14 differences were really substantive or whether or not
15 we all agreed on some method of determining these
16 things.

17 The Supreme Court decision very clearly
18 indicated that this is a thicket, and that without
19 some effort at rationalising the process, one is over-
20 whelmed with data and figures and variations.

21 So that this formula was hammered out, as
22 I say, in those three sessions. And I was one of the
23 participant3.

24 Q Were you involved in that case by
25 virtue of your representation as a professional planner?

1 of Cranbury?

2 A And Plainsboro, yes.

3 Q Both of them?

4 A Yes.

5 Q Both communities; is that correct?

6 A Yes.

7 Q Let me ask you a few questions con-
8 cerning your report now. And I'll be asking them
9 based on the blue report, because obviously I haven't
10 reviewed the red document. After I reviewed them,
11 then you can show me again where there's a variation,
12 if you would indicate for me, between the blue and red
13 reports, and we can discuss that variation.

14 A Just to put things again in perspective, the
15 only thing that differs between the blue and red report
16 is the fair share figure that comes out of the formula
17 by using a different regional growth area, in one
18 instance. And the other one using a different growth
19 arsa ffcf|ranklin Township. Otherwise, there are no
20 changes* ta the report,

21 Q Let us, if we might, first address
22 that aspect of your methodology that deals with the
23 present need. And I guess it commences specifically
24 on Page 11 of the blue report. That's where I'm
25 looking at at this point.

1 You define present need as the aggregate of
2 all units in all the municipalities which are over-
3 crowded or lack adequate plumbing or heating and which
4 are now occupied by lower income households.

5 Do you adopt as part of that definition the
6 definition of Ms. Lerman as to what constitutes an
7 overcrowded unit?

8 A Well, that's the Census definition of when a
9 unit contains more than 1,01 people per room.

10 Q So you utilize the same definition?

11 A Yes.

12 Q Do you also utilize the same definition
13 as Ms. Lerman for units lacking adequate plumbing or
14 heating?

15 A Yes.

16 Q Again, that's a Census definition; is
17 that correct?

18 A Yes.

19 q Do you recall what those definitions
20 are with respect to those latter two categories?

21 A Well, the lack of complete plumbing for per-
22 sonal use means that the unit does not have all three
23 types of fixtures that are commonly used in a bathroo^a.

-24 And the lack of heating deals with units that
25 lack flue-connected heating devices.

1 Q Now, you've identified a region for
2 present need. And I understand you've adopted again
3 the 11 county region utilized by Ms. Lerman; is that
4 correct?

5 A Yes.

6 Q Now, I'm directing my attention now to
7 Page 12 of your blue report. And you have an asterisk
8 after the number 161, which is a combined total, as I
9 understand the report, of those units possessing
10 deficient plumbing and those units possessing deficient
11 heating.

12 And you indicate that they may or may not also
13 be overcrowded?

14 A That's correct*

15 Q In your opinion, is there some potential
16 overlapping between the category of overcrowded and
17 the category of deficient plumbing and deficient
18 heating?

19 A !!#• Not in the sense that those are used in
20 the Ta>le«

21 Overcrowded but standard is a separate category.
22 And the others ape deficient. It doesn't make any
23 difference for purposes of declaring deficient whether
24 they're deficient only because they have plumbing
25 deficiencies or heating deficiencies- or whether they

1 have overcrowding as well.

2 Q Let me see if I can understand that,
3 I'm sorry if you have to go over it.

4 A Let me restate it anyway. Maybe I can do it
5 better,

6 A unit is declared to be deficient if it lacks
7 adequate plumbing or lacks adequate heating or is
8 overcrowded.

9 It is deficient also if it has - if it lacks
10 adequate plumbing and is overcrowded* It's ftllll ft
11 deficient unit.

12 So that once the deficiency is characterized
13
14 by lack of plumbing or lack of heating, the possible
15 overlap does not change the fact that they are
16 deficient.

17 Now, if a unit is standard, however, and is
18 only deficient by reason of being overcrowded, that
19 has to be separated out* This was done.

20 ^ Q Does the Census separate out those
21 units that are standard but overcrowded?

22 A Well, what the Census does -- one has to inter-
23 pret the Census a little bit in order to arrive at
24 these categorisations.

25 The Census categorizes the overcrowded units
that have complete heating and heating and plumbing.

1 Then the Census categorizes the units that lack central
2 heating. Then among the units that lack central
3 heating is a certain percentage that not only lack
4 central heating, but lack a unit that is connected to
5 a flue.

6 The units that are not centrally heated units
7 but are connected to a flue are not counted as defi-
8 cient,

9 Then if one takes the percentage of units that
10 are deficient by reason of not having a flue "connected
11 heating device of the total number lacking central
12 heating, and applies it to the units that lack central
13 heating and that are overcrowded* one gets the number
14 of deficient units by reason of heating.

15 You can separate those out from the total over-
16 crowded category.

17 Q Would not some of the overcrowded also
18 include units that had sufficient heating but lack
19 sufficient plumbing? Is my question clear or not?
20 Let me rephrase it.

21 A* In the Census I take it from your previous
22 answer that there is a category overcrowded. And
23 you've indicated that in order to find or determine -
24 and perhaps I'm misunderstanding - in order to deter-
25 mine those units that have deficient heating, you

1 apply a percentage to that overcrowded number?

2 A But the reason for that is because the units
3 are not deficient if they lack central heating but
4 have flue-connected heating devices. I separate that
5 out. That's why I applied that percentage.

6 In the case of plumbing, the same thing does
7 not apply, because the category, overcrowded, says
8 with complete plumbing. And I don't have - that is
9 a standard unit from the standpoint of plumbing. So
10 I don't manipulate that figure at all.

11 Q Is the term "overcrowded" the Census
12 definition for any unit that has more than 1*01 people
13 per room; is that correct?

14 A that's correct,

15 Q Other than categories for deficient
16 plumbing and deficient heating, are there any other
17 deficiencies that the Census recognizes in dwelling
18 units?

19 A ~~Not~~ Not in the current Census, 1980 Census. There
20 was a time when the Census tabulated dilapidated and
21 deteriorating units, but that's no longer true.

22 Q Now, as I understand what you've done
23 then to arrive at deficient heating units is you've
24 taken the category of overcrowded from the Census
25 and you've applied a percentage to that number, that

1 percentage being the percentage of units that did not
2 have a flue?

3 A If you want, I'll go through the whole thing.
4 There is in the Census a tabulation of units by
5 heating equipment. And that lists a number of cate-
6 gories* Several categories are categories which are
7 not central heating. Among those are some that have
8 flue-connected heating devices like a wood stove
9 connected to a flue to the chimney*

10 The formula does not consider these to be
11 heating deficient. So, therefore, we can take all of
12 the number of units which are heating deficient fro*
13 the heating tabulation in the Census, We take those
14 units, the number of units that do not have flue-
15 connected devices. Of course, anything that has cen-
16 tral heating we don't worry about at all.

17 Q Right.

18 A Then the second problem was how to separate
19 *fp^ttomdvvrctofded* table, how to separate those
20 units* which even though they lack central heating,
21 have flue-connected devices and, therefore, are not
22 substandard. And that's where we applied the percen-
23 tage of units in the heating table,

24 We take all the units that lack central heating.
25 We see how many — what percentage of those are units

1 that do not have flue-connected devices. And we
2 apply that percentage to the units lacking central
3 heating in the overcrowded table,

4 Q That gives you --

5 A That enables us to separate out those units
6 that are standard and overcrowded. So we don't
7 duplicate heating deficient units in both categories.

8 Q What indication do you have that as to
9 those units that fall within the category overcrowded,
10 they also have a heating deficiency?

11 A Well, because we took the percentage of units
12 lacking central heating and applied it to the number
13 of units that lack central heating. We took the
14 percentage of non-flue-connected devices among those
15 that lack central heating in the heating table and
16 applied it to the lacking central heating in the
17 overcrowded table,

18 Q So there's a category in the overcrowded
19 table that is entitled overcrowded and lacking central
20 heating; is that correct?

21 A That's correct.

22 Q Now I understand,

23 Now, after the number 207, which is, I guess,
24 overcrowded but otherwise standard, on Page 11, you
25 have a double asterisk. And you indicate that 75.4

1 percent or 156 of these units were built since 19H0.

2 What, if anything, is the import of that state-
3 ment to you?

4 A Well, it implies I was trying to emphasize the
5 fact that unlike communities like Newark or Jersey
6 City where there's a great percentage of the housing
7 is old and decrepit and dilapidated and also over-
8 crowded, and that a large percentage of the overcrowded
9 units in those kinds of cities occur in the dilapidated
10 housing.

11 In Franklin Township I wanted to emphasize the
12 fact that overcrowding occurs in units that ate fairly
13 recent. Therefore* the likelihood of their being
14 dilapidated or having other deficiencies much less
15 than it would be than one could suppose by simply
16 listing them as substandard*

17 Q So there is some identity in the Census
18 data as to the date of construction of each of these
19 homes wlpssh fall within the category of overcrowded
20 but ot&t\$!wise standard; is that correct?

21 A All of the overcrowded table has a classifica-
22 tion by built before 19H0 and 19m) or later.

23 Q Is one table to determine anywhere in
24 the Census as to the specific buildings that fall int<
25 the category constructed prior to 19»f0 or after 1940?

1 A No.

2 Q Now, as I understand your analysis on
3 P&ge 12, you then apply a percentage, namely 82 per-
4 cent, to both physically deficient and overcrowded
5 to arrive at the number?

6 A Yes.

7 Q Can you tell me where the 82 percent
8 comes from?

9 A It comes from a study that was done by the
10 Tri-State Regional Planning Commission called People,
11 Dwellings, and Neighborhoods.

12 Q Do you have a copy of that study?

13 A In the office we have it, yes.

14 Q Could you make a copy of that available
15 to me at the cost of reproduction?

16 A Yes, I'll be glad to.

17 Q What is the basis for that 82 percent
18 figure and what does that represent?

19 A That represents the percentage of units that
20 were found by Tri-State in their study to be deficient
21 that were inhabited by people of low and moderate
22 income.

23 Q The remaining percentage for whatever
24 reason are inhabited by people who don't fall within
25 that category then; is that correct?

1 A That's correct.

2 Q You then proceed in the succeeding
3 Pages, 12 through 15, to discuss the present need.

4 I Is it fair to summarize that those pages in
5 your view contained in those pages as a view that the
6 solution to the present need problem, if I may use that
7 word, is not necessarily a zoning solution?

8 A That^fs correct.

9 Q Specifically, in your opinion how may
10 a municipality address the present need problem and
11 solve that problem?

12 A Well, obviously physically deficient units,
13 the first thing that municipality could try to do is
14 to fix them up in some fashion. There is a federal
15 program available even to help municipalities with
16 that type of activity of the community development
17 program.

18 And my recommendation would be, if you will,
19 that a municipality undertake a housing survey to iden-
20 tify *thm* apecific units that fall within these physi-
21 cally deficient categories, and then mount a program
22 to try to resolve the problem in place.

23 i have pointed out that if a municipality
24 builds new units to try to solve the problem of those
25 that are physically deficient, and even if one could

1 move physically the families living in this deficient
2 unit to the new communities> which is not a device
3 which is not available to communities, but even if one
4 were to do that, the physically deficient units remain
5 in being. It is likely to be reoccupied because the
6 prospective need households are going to move in to
7 cheaper units they can find if that's what their in-
8 clination is. And they are going to perpetuate the
9 present need in Franklin Township.

10 So that to solve the problem, the only way to
11 solve the problem is to fix them up or tear them down.

12 On the overcrowded, the overcrowded units are:
13 a little more complicated. My theory is that an over-
14 crowded unit is simply a unit that is too small for
15 the number of people inhabiting it. Some families
16 that inhabit units smaller than they need are families
17 with eight and ten children or whatever situation,
18 or extended families. And there's no way to build
19 units big enough to accommodate them* So you can't
20 solve that problem. They'll always be overcrowded.

21 r f. vfv / i

21 Unless they have an awful lot of money and can buy
22 a mansion.

23 So that if a large-scale construction program
24 were undertaken in Franklin Township or any other
25 community for that matter, and if among the units

1 built were two and three-bedroom units, which is pro-
 2 bably the limit of what is achievable today, any
 3 families living in overcrowded units, let's say a
 4 family of four living in three rooms, could find a
 5 unit among the units that are going to be built.

6 Now, of course, units that will be built are
 7 built to satisfy other needs. Those needs are the
 8 reallocated needs from other municipalities and
 9 the prospective need. So one could say → could argue
 10 that how can a unit satisfy two needs at the same
 11 time? i

12 But if vacancies occur in the municipality,
 13 if there's a turnover, if there's movement in a
 14 municipality, and if the movement is by families that
 15 leave the region, leave the prospective need region,
 16 if someone from this region moves to - I forget what
 17 the counties are involved -~ but move to somewhere
 18 outside of the region, they become part of the prospec-
 19 tive need of that region, and the unit that they vacate
 20 could be that same token be deemed to be available to
 21 satisfy a prospective need in this region,

22 so that to some degree there's movement in
 23 the housing supply whereby if the number of over-
 24 crowded units is not too large, that could be solved
 25 to the extent that it's solvable at all- That need

1 could be solved by the large construction program that
2 is going to be implemented as a result of the fair
3 share, of the Township's trying to satisfy its fair
4 share. So that the total actual number that needs to
5 be built would come out of a process of finding out
6 what's happening, what kind of movement there is in
7 the housing supply.

8 11 My recommendation would be that the Township -
9 I mean all municipalities in this position establish
10 some kind of an agency, an existing agency to monitor
11 the existing housing supply to the extent it is
12 deficient and see the extent to which that problem
13 can be resolved without new construction, which doesn't
14 ~~solve the problem necessarily.~~

15 Q Now, the second component of the pre-
16 sent need in your formula is the reallocated excess
17 present need; is that correct?

18 A That's correct.

19 ^ And in the blue report it commences on
20 Page I#*. I'd ask you to direct your attention to
21 that page, because the next series of questions will
22 deal with that aspect*.

23 You utilize a regional excess present need
24 of 35,000 units. That's from the German Report; is
25 that correct?

1 A That's correct.

2 Q You accept that number?

3 A Yes. Well, actually, I question it because the
4 table in the Lerman Report that details that number
5 didn't come up to that figure. But I was told that
6 that table does not include all the municipalities
7 that exceeded their average percentage of deficient
8 units, and that this is the correct figure.

9 Q Well, let me just ask you a fair
10 questions. Let me first ask you this question. I
11 should have asked it first perhaps of you.

12 You footnote the 35,014 units. Why tie
13 Footnote 1 to a report by Mr, Cappolla? Is that report
14 from the Ler«an Report or is that a table in the
15 Lerman Report from whe*« the Lerman Report gets the
16 number of 35,000?

17 A This is where I got it first. That's why I
18 used! it. I used that reference, but it's the same
19 number in the Lerman Report.

20 Q Now, you were then told that although
21 the Lersan Report uses the number 35,014 units, the
22 source table for that number in the Lerman Report,
23 as I gather from your testimony, does not total that
24 number. It totals some number les6 than 35,000?

25 A That's correct.

1 Q But you were nonetheless told that
2 that source table did not include certain communities,
3 which if included, would total 35,01**; is that correct?

4 A That's correct.

5 Q Were you told which specific communities
6 were not included in that table in the Lerman Report?

7 A I didn't ask*

8 Q Do you know what the total number
9 represented by the table in the Lerman Report is?

10 A I think it's 35,01H minus, I think. 1,065,
11 if I remember right. The reason that figure sticks
12 in my memory is because it's exactly the figure that
13 is the number of excess units in East Orange. And I
14 wondered, I called up and I said, "Did you count
15 East Orange twice¹?^{tf} And they said it's a pure coin-
16 cidence that the two numbers are identical.

17 Q Who told you, if you recall, that if
18 the missing communities were added to the Lerman
19 table the number would be 35,014 units?

20 I A Mfs. Lerman.

21 Q But you don't have any recollection of
22 what the missing communities is *QT* are?

23 A I didn't ask.

24 Q Now, as I understand your earlier
25 testimony, in distinguishing the red report from the

1 blue report, there would then be a correction made in
2 the blue report under the category "Franklin Township's
3 Growth Area." And that section would be now 15,635;
4 is that correct?

5 A I want to emphasize that I used two maps. The
6 obviously adopted map is the small map in the State
7 Development Guide Plan, I did my best to approximate
8 the line on that map on the Franklin Township map.
9 And then we computed, planimetered the resulting area.
10 And it came to 11,7H3. That's one figure that could
11 be deemed to be a correct figure.

12 Then we found out that this atlas, which has
13 no official standing, was not adopted by anyone.

14 The atlas has a series of maps on which there
15 are certain lines which purport to have been the lines
16 from which the small maps were drawn. But we plani-
17 metered the resulting area using those maps and we
18 got a second figure. The red report presents both
19 figures•

20 Q Then let me use the word rather than
21 correction, and I didn't use it in an attempt to trick
22 you, but revision, if we could agree on that word,
23 or alternative number. In any event, that number or
24 alternative number in the red report was 15,635; is
25 that correct?

1 A That's correct.

2 Q AIR I correct -- if not, tell me so -
3 that any planner in determining the number of areas in
4 Franklin Township in the growth area would follow the
5 same methodology that you followed, namely would he or
6 she locate a map and then planimeter that map to deter-
7 mine the acreage?

8 A I would suppose so, I don't know how others
9 might have done it.

10 Q Let me just ask you perhaps more directly.
11 To your knowledge, is there any official document,
12 whether it be a state document or a court document,
13 that identifies the exact number of acres of Franklin
14 Township located in the growth area?

15 A Not by Township. There is a report, the
16 Housing Allocation Report, which has figures, if I
17 recall correctly, on the county basis. But I don't
18 think it has figures by community.

19 Q If I were to tell you that one planner
20 rendered a report in this matter which designated'
21 1*,*51 acres of Franklin's land is in the growth area
22 and another 12,800 acres, would you have any ogiaion
23 as to the difference and the source of that difference
24 in acres?

25 A I have no way of doing so. Now, if the small

1 map was used, it's so small and the line is so undefined
2 that it's possible that in trying to translate the line
3 from the small map onto a map of the Township, one can
4 make a substantial error very easily.

5 I did the same thing in Cranbury. I used the
6 small map and I drew -- to the best of my ability I
7 translated the line, and then during the testimony in
8 court somebody noticed that the point at which the line
9 crossed the boundary was a little curlicue in the
10 boundary, and ay line was to the east of it and should
11 have been further west. So that it's possible to make
12 an error of that kind.

13 Q Given the scales that one is working at,
14 that translates into a substantial number of acres?

15 A It can be.

16 Q Now, you then have a category, "Growth
17 Area, Present Need Region."¹¹ Let me first ask you, that
18 is the 11 county region we're speaking of; is that
19 correct?

20 A That's correct.

21 Q And that number is 699,163; is that
22 correct?

23 A That's correct.

24 Q How was that number derived from?

25 A This is from the report, from the Consensus

1 Report.

2 Q Do you have any knowledge as to how Ms.
3 Lerman arrived at that number?

4 A Well, the county numbers are available in the
5 Housing Allocation Report.

6 Q I see.

7 A So that she probably totaled up all the counties,
because we're dealing with entire counties here.

8 Q Let me then ask you this question. Do
10 you have any question as to how the Housing Allocation
11 Report arrived at the acres in the growth area?

12 A Well, I would assume that they were using what-
13 ever maps they used to devise the State Development
14 Guide Plan. The Housing Allocation Report precedes the
15 adoption of the State Development Guide Plan.

16 Q Do you know, and if not, indicate to me
17 whether the State then used the planimetering method
18 to arrive at the 699,163?

19 A I don't know.

20 q. You then have a category* "Franklin
21 Township's Median Income, 1979." What is the source
22 of that figure?

23 A That's the Census.

24 Q That would be the '80 Census based on
25 the '79 median income?

1 A That's correct.

2 Q You then have a "Median Income Present
3 Need Region," and a Footnote, Table 2.

4 A Well --

5 Q Is this one of the changes?

6 A This is. No, it's in Table 2. That's correct.
7 Sorry.

8 Q And Table 2 is derived from the Census;
9 is that correct?

10 A That's correct.

11 Q Now, the question I have with respect

12
13 to that, however, is Table 2 discusses either a five
14 county or a three county region. Did you arrive at
15 the median income for the 11 county region or only for
16 a 3 county region?

17 A I did correct that in the red report. It's
18 really from the Larman Report, not from Table 2, It's
19 on Page 16.

20 q On Page 16 of the red report in Footnote
21 Table 65 is that correct?

22 A Seven.

23 Q It's Footnote 7 which refers to Table
24 6 of the red report?

25 A Of the Lerman Report, Table S of the Lerman
Report.

1 Q Table 6 of the Lerman Report is the 11
2 county region median income; is that correct?

3 A That's correct.

4 Q So am I correct then, and I'm looking
5 now comparing the red report and the blue report, that
6 apparently the blue report utilized the correct median
7 income but had a wrong reference to a table; is that
8 correct?
9

A That's correct.

10 Q Because it states the same?

11 A That's correct.

12 Q Therefore, of course, the ratio of local
13 to regional median income would remain the same; is
14 that correct?

15 A That's correct*

16 Q Now, there are several allocation fac-
17 tors, if I may use that term -- and if that's not a
18 familiar term, indicate that to me and I'll try to re-
19 phrase it -- that you utilize in arriving at a re-
20 allocated excess present need; is that correct?

21 A " That's correct.

22 Q And essentially there are three alloca-
23 tion factors. Is that not also correct?

24 A That is in the Consensus formula uses three
25 factors.

1 Q And they include the growth area factor,
2 the wealth factor and the employment factor?

3 A The existing employment factor* right.

4 Q Now, in your report, in the blue and I
5 assume also in the red, you express some different
6 viewpoints, perhaps, with respect to those allocation
7 factors. Is that not correct?

8 A That^fs correct.

9 Q Would you, if you could, summarize for
10 me your view of those respective allocation factors
11 and the relationship of each to the formula?

12 A Well, broadly speaking, the Supreme Court
13 identified as the factors that would favor employment
14 growth, particularly recent employment growth accom-
15 panied by rateables and existing employment of the
16 community. To my mind those are th« two factors that
17 have the greatest relevance to the housing issue,
18 particularly housing for low and moderate income
19 families.

20 Employment growth generates need for housing
21 in the region. Because th« whole theory of Mt. Laurel
22 is that people should be able to live in the region in
23 which they work. And existing employment provides the
24 employment base to the job choices, particularly for
25 families that reallocated present need which theoreticall:

1 are families not being allocated to a given region or
2 to given municipalities because the jobs that are there
3 that they can take advantage of, simply because they're
4 living in deficient units and the community where they
5 live has too many of them*

6 So existing employment provides the employment
7 base. The chances for their becoming employed once
8 they move - I will not dwell on the fact on how does
9 one make the move, because that's another matter. The
10 growth area factor suggests that there's some relevanc[^],
11 that the amount of growth area land in a municipality
12 is the percentage of the region, has some bearing on
13 the housing responsibility of that municipality. In
14 my opinion, there's absolutely no connection between
15 the two. Because the growth area in one area may be
16 totally developed and another may be totally vacant.
17 So that if one tries to use growth area as a surrogate
18 for vacant land, that correlation does not exist.

19 Furthermore, the whole spirit of Mt. Laurel
20 and of th# State Development Urban Guide Plan, which
21 is confirmed by the Mt• Laurel decision, is to try to
22 put housing where the infrastructure is, near where
23 existing infrastructure can be extended and channel
24 new growth in some fashion in a way that would prevent
25 it being spread all over the map. Nevertheless, if a

1 community has a large growth area and thereby reduces
2 the share of the fair share of a municipality that has
3 a lot of employment growth and existing employment,
4 but that municipality is located MQ miles away on the
5 edge of a region, it seems to me that the use of the
6 formula of that kind would channel development into a
7 municipality, that while it has a lot of growth area,
8 it may have nothing else.

9 So that for these types of reasons -•* and I
10 recently wrote a 16 page analysis of the Mt. Laurel
11 decision in relation to this particular issue, which
12 I'll be glad to make available to you, if you like,

13 Q If you would.

14 A So for this reason I question the relevance
15 of the growth area factor in the computation of the
16 fair share. I stated that in the report in brief.

17 The wealth factor again was used ostensibly
18 in the discussion that led to the adoption of that
19 factor* The reason given was that a municipality
20 which has a higher median income is more able to pro-
21 vide for the Mt. Laurel families the infrastructure
22 and so on. But the higher median income in the
23 municipality is not necessarily equivalent to a higher
24 municipal income.

25 When we deal with building streets and sewers

1 and schools and the like, one deals with the figures
2 which is the real estate base rather than the median
3 income of the families. To that extent again it's a
4 factor which may or may not be relevant. And I stated
5 that.

6 But it is my belief that ultimately the decision
7 as to what constitutes a fair share is made by the
8 court. And I thought the best way to deal with this
9 issue was to state what the consequences of one or
10 another approach might be and let the court decide.

11 Q The Lerman Report gives equal weight
12 to each of those three allocation factors; does it not?

13 A Except that the wealth factor is a derived
14 factor. It is not the direct portion of local income
15 to the regional income. It's a derived factor. But
16 then once it is built into the formula, it gives equal
17 weight.

18 Q Do you have an opinion as to whether
19 it might be equally appropriate to give greater weight
20 to one or more factors than another factor to arrive
21 at the fair share number?

22 A Existing employment and existing wealth, it
23 seems to me that those are equal, I agree that those
24 two factors are so strong in their relevance to housing
25 needs that I would give them equal weight.

1 The others, I would personally dispense with.

2 Q But if one were to give a greater weight
3 to existing employment and employment growth as opposed
4 to growth area and wealth, would that be a valid
5 approach, in your opinion?

6 A Then one guesses. At that point one begins to
7 say, what weight to give? Two-thirds, one-third, two
8 to three, two to one?

9 Q Of course, in some degree the Lerman
10 formula in allocating one-third, one-third, one-third,
11 therefore, involves a guess; does it not?

12 A Yes.

13 Q Now, you calculate the obligation, and
14 again we're talking with respect to the reallocated
15 present need, to the year 1990; do you not?

16 A Yes.

17 Q Have you given any consideration or is
18 it your opinion rather that despite the fact that this
19 is--the year 1984, the entire ten-year period is due
20 between BOW and 1990?

21 A You mean that the total need is being compressed
22 into six years?

23 Q Into a six-year period?

24 A When it comes to Mt. Laurel communities, it is
25 my impression *- I can't back it up with surveys or

1 anything else -- but it is my impression that very
2 little Mt. Laurel housing has been built in the last
3 four years. Therefore, one can say that the need re-
4 mains the same.

5 Q Now,, the next category or section of
6 your report deals with -- before I move to the next
7 section, in finalizing your reallocated number you
8 also utilize a 20 percent surcharge, as you call it,
9 and a 3 percent vacancy factor. They're from the
10 Lerraan Report; are they not?

11 A They're part of the Consensus approach.

12 Q Da you know the basis for the 20 percent
13 surcharge?

14 A Yes.

15 Q Can you tell it to me, please?

16 A It was contended during the discussion sur-
17 rounding the formulation of the methodology that some
18 municipalities will probably not be able to accomodate
19 their fair share by reason of lack of vacant land.

20 And, therefore, if one didn't make provision
21 for those units, which the need for exist in some
22 fashion, that need will not be satisfied. If you have
23 100,000 units that represent the need an4 20 municipal-
24 ities* each one taking 5,000 a piece, and one of them
25 can't satisfy any of the 5,000 units, you can only

1 satisfy a 95,000 unit need out of 100,000 that exists.

2 So that the 20 percent add-on to the fair share
3 of all municipalities was used as a device to make sure
4 that if some will not be able to accomodate that need,
5 it will have been aceomodated by others.

6 And the three percent vacancy is simply that
7 that's the desirable rate of vacancy. Well, it's the
8 average really desirable rate of vacancy between one
9 and a half percent for sale-type housing and five
10 percent in the rental housing. It's determined a
11 three percent would provide for the necessary mobility
12 within the housing supply.

13 Q As an expert, do you yourself subscribe
14 to the 20 percent surcharge theory?

15 A Well) I do, but I don't subscribe to the double
16 county in the sense <♦>

17 Q Could you explain to me what you mean
18 by double county?

19 A f atean it's a good idea to have a surcharge to
20 jiafce f^^is' the communities that can aecomodate more
21 than their fair share accomodate a little more to
22 compensate for those that can't.

23 But I th,ink that the communities that in the
24 first instance showed that they cannot satisfy the
25 fair share should not be saddled with a 20 percent

1 surcharge. They should not have to demonstrate that
2 they can't accomodate their fair share plus 20 percent].
3 It suffices that if they can show that they accomodate
4 their fair share period. It may be important to the
5 case of communities that barely can or almost satisfy
6 their fair share, but which appear not to be able to
7 satisfy the fair share plus 20 percent by a big margir).

8
9 Q Now, the next section of your report
is the prospective need section; is that correct?

10 A That's correct.

11 Q Now, in the prospective need section
12 again you followed the Lerman methodology and adopt
13 a different region than you do with respect to the
14 present need; is that correct?

15 A That*s correct,

16 Q And you utilize, as I understand your
17 report, the concept from the Lerman Report of the
18 30-minute commuter shed as the basis for determining
-- the appropriate region for a community% is that

on
*w correct?

21 A That's correct. Now* to be precise about it,
22 it's a 30-minute commuter shed region delineated on
23 the b*sis of length of highways of different types
24 based on an assumed rate of speed on those types of
25 highways.

1 the beginning point?

2 A It's fairly central to the Township. It's
3 closer to the growth area in the Township than to the
4 area which is outside of the growth area. I mean,
5 how shall I put it? It's closer to the center of
6 gravity of the Township.

7 Q Would it be fair to say that it's in
8 your opinion closer to the geographical center of the
9 Township? Is that what you mean by the center of
10 gravity?

11 A It's not. The center of gravity -- I mean,
12 I'm not using it in any precise way, that term* Most
13 of the population of the Township is concentrated
14 near 287 to the Raritan River and up in that section
15 of the town. And along the tail of the town is no
16 growth area. It's mostly agricultural and undevelope<l.

17 And the Township, the center, this place where
18 we are, it's on the edge of the growth area* And it
19 seemed to be a good place to use.

20 Q Let me again probe the criteria you
21 utilized to designate this Municipal Building as the
22 center point. I take it that one of the criteria is
23 not the mere fact that it is the Municipal Building;
24 is that correct?

25 A No. But one could use any point in the

1 Township because there's no -- the Township is not a
2 square where you can draw two diagonals and find the
3 center. And one had to use judgment in deciding
4 what constitutes the center of the town.

5 So I used the Township center because it seemed
6 to satisfy the criteria that one would look for in
7 establishing a starting point.

8
9 Q And those criteria again are the dis-
10 persion of population and how population is dispersed
11 in the town; is that a criteria then?

12 A It's a good set of criteria, what you just
13 described.

14 Q You utilized that?

15 A Yes,

16 Q Now, I take it you also utilized the
17 intensity of development?

18 A Very generally. I mean, it's impressionistica-
19 ly, if you like. But we didn't attempt to pinpoint a
20 starting point.

21 q Other than the dispersion of the popu-
22 lation and the general impression of intensity of
23 development, were there any other criteria that you
24 utilized in designating the Municipal Building as the
25 center starting point for your commuter shed analysis?

A Like Mt. Everest, we used it because it was

1 there.

2 Q Now, you then did your analysis of roads
3 and assumed speeds having established the Municipal
4 Building as the center point; is that correct?

5 A Yes.

6 Q Did you plot that out in any particular
7 type of map?

8 A Well, we used the State Transportation State-
9 wide map. And a draftsman with instructions to
10 follow that formula measured the different lengths and
11 came up with a conclusion that was stated in the
12 report.

13 Q Would you have a copy of that map
14 available?

15 A No, But I could probably reproduce it.

16 Q Well* is one available in your files?
17 I don't want you to redraw it.

18 A No. We have one map with an overlay that we
19 use, tfo&t I've used for every community that I've
20 been involved with. Because once you measure a
21 certain distance, they're on the map and you don't
22 have to remeasure them.

23 Q Would you have that map available, and
24 could I examine it rather than take it out of your
25 office at some time?

1 A I'd be glad to show it to you.

2 Q Now, as I understand your report, you
3 determined utilizing the assumed speeds on the variouts
4 types of roadways, that the 30-minute commuter shed
5 penetrated six counties?

6 A Five.

7 Q Just bear with me a second.

8 A It's on Page 11.

9 Q Let me ask it this way. What counties
10 did you determine to be part of the region for
11 Franklin Township for prospective need?
12

13 A Hunterdon, Mercer, Middlesex, Somerset and
14 Union. It's on Page 11 of the report, the top.

15 Q I'm sorry. What I'm referring to is
16 your Footnote on Page 11, specifically Footnote 2.
17 It indicates a very slight penetration in both
18 Hunterdon and Union counties; is that correct?

19 A That's correct.

20 Q In adopting a Consensus Report, you've
21 included those counties nonetheless; is that correct?

22 A Yes. I showed the figures for using a five
23 county region. And I also showed what the figures
24 would be for a three county region.

25 And I might say that I reviewed - I became
aware that others had included Monmouth County as

1 part of the region and rechecked that. And Monmouth
2 County, using the map that we used, we barely reach
3 the boundary. We cannot say that one penetrates into
4 Monmouth County the way we measured those highways.

5 Q Now, I take it, however* from your
6 Footnote and from your report, as you analyzed it
7 both on a five and a three county region that you have
8 some particular view as to whether a county should
9 be included where there's slight penetration; is that
10 correct?

11 A Yes. Well, I mean, I think it's a valid con-
12 sideration that if adding an entire county makes a
13 big difference to the prospective need of a given
14 municipality - to the fair share of a given munici-
15 pality, then if you barely cross over ;a county line,
16 perhaps using the entire county is not appropriate.
17 Maybe using it at &\1 is inappropriate.

18 But certainly this is something that is open.
19 I mean, fair minds can differ on that.

20 Q Now, with respect to the prospective
21 need in the allocation criteria or allocation factor,
22 I assume your view with respect to the relationship
23 of those factors would be the same as it was with
24 respect to the reallocation of present need?

25 A Yes. I mean, in the prospective need we're

1 dealing with four factors rather than three, the
2 additional factor being employment growth.

3 Q And you would view that the whole area
4 of employment or employment growth is an important,
5 if not paramount factor; is that correct?

6 A That's correct.

7 Q Now, the allocation of growth area,
8 both for the Township and for the prospective region,
9 I assume again that that was derived by the same
10 methodology that you've previously explained to me;
11 is that correct?

12 A The computation of what, sir?

13
14 Q Growth area in terms of acreage both
for the municipality and the region?

15 A Yes. As you recall, the red report corrects
16 the growth area for the prospective region.

17 IT
18 Q Now, again, you arrive at the median
19 income for the five county region. And you, at least
20 in the blue report cite Clarke & Caton as to the
21 source of that information. Is that from the Lerman
Report or is that the Cappolla Report?

22 A Well, you notice I use - I cited Clarke &
23 Caton. But the same figure appears in Table 2 based
24 on my own getting these figures out of the Census.

25 Q I see. Now, the number 23,357 as the

1 median income for the five county prospective need
2 region, is that an average number?

3 A ^y®^s» That's the number of households multi-
4 plied by the median income for households for the
5 county, then totaling the results for the five
6 counties and dividing by total number of households.

7 Q Bear with me for a second. I want to
8 check something in the red report.

9 Directing your attention to the red report,
10 I guess Page 19 is the formula section, you have
11 growth area prospective region b28,003 acres. That
12 differs from the growth area prospective region from
13 tKe blue report which is 705,823.

14 A That Was just pure error.

15 Q The growth area for prospective region,
16 comes from the Census; isn't that correct? I'm sorry.
17 From the Housing Allocation Study; isn't that correct?

18 A That's correct,

19 Q It's just a mathematical calculation;
20 is that not correct?

21 A Ko. Because growth area in urban aid municipi-
22 palities in each county is deducted from the total
23 growth area. So that the figure H28,< 003 is a net
24 growth area excluding the growth area of urban aid
25 municipalities.

1 Q In the figure 705,823 that included the
2 growth area from urban aid municipalities, is that the
3 basis for the difference?

4 A No. That's a pure error. That was a figure
5 that stayed in the word processor and unfortunately
6 wasn't caught.

7 Q So that the correct figure is «+28,0Q3?

8 A That's correct.

9 Q Now* correct me if I'm wrong -- I guess
10 this question isn't going to help me any, but I might
11 as well find out - the Franklin Township growth area
12 you have as 11,743, I thought you testified the growth
13 area was 15,635?

14 A But you will find a reference to that in the
15 red report in Footnote 18 on Page 2*K

16 Q So you've done the 15,000 as an alterna-
17 tive analysis?

18 A That's correct.

19 Q Then you've also done it as an alterna-
20 tive analysis considering both a five and a three
21 county region and then considering various allocation
22 factors or deleting various allocation factors?

23 A That's correct.

24 Q That's the purpose of Footnote 18 on
25 Page 24?

1 A. That is.

2 Q Now, let me turn to that section of the
3 blue report that commences on Page 25, which is the
4 20 percent - your analysis of the 20 percent mandated
5 set-aside zoning technique.

6 In the first sentence of that analysis you
7 referred to innovative local programs. Can you tell
8 me what type of program you would consider to be
9 innovative?

10 A Well, do you want to use that adjective or not?

11 Q Let me ask you how you use it and what
12 you determine it to be?

13 A I mean there are municipalities that they make
14 available dollars to a non-profit group to put up
15 Mt. Laurel-type housing. By doing that they reduce
16 the cost of - they eliminate the cost of land from
17 the total production cost of the units, which makes a
18 difference.

19 Qae could conceive of municipalities, and some
20 do, they provide infrastructure so that the developer
21 of Mt. Laurel housing does not have to do that. So
22 to the extent municipalities have access to community
23 development funds, they can use them for infrastructure.
24 They can use them for site development work and
25 things of that sort.

1 Whatever may be done to enable communities
2 to build 100 percent Mt. Laurel-type housing in a
3 development, of course, reduces the amount of zoning
4 required by five.

5 Q One question that I meant to ask you on
6 the topic we just left, and that is your prospective
7 need. Did you determine in determining your region
8 whether any portion of Morris County was penetrated
9 by the 30-minute commuter shed analysis?

10 A To the best of our ability, if we didn't list
11 it, I guess we didn't think we could get into it.

12 Q Well, Morris County is not one of the
13 five counties that you would place within the region?

14 A Yes.

15 Q So is it fair to conclude from that
16 that your analysis reflected that no portion of Morris
17 County was penetrated by the 30-minute commuter shed
18 analysis?

19 A That's correct.

20 Q Now, again, returning to Page 25, you
21 also refer to densities that will make production of
22 such housing economically feasible, on the first
23 paragraph on Page 25. Can you tell me what type of
24 density in your opinion would make production of
25 such housing, namely Mt. Laurel housing economically

1 feasible?

2 A Well, the density is a resultant of many
3 factors. The cost of development. The cost of
4 financing at the particular time, the sales price
5 that one can command for the market rate units, and
6 so on and so forth. So that there is no predetermined
7 density that is "a Mt. Laurel-type density."

8 Q Is it fair to say then that the density
9 that would permit the production of Mt. Laurel housing
10 is site specific?

11 A It's pretty much so. Not necessarily site
12 specific. Well, it is site specific to the extent
13 that construction costs and conditions are site spee-
14 fie.

15 Q Now, in your analysis --

16 A Can I add something to that statement?

17 Q Sure,

18 A It is my view that certainly a starting point
19 is the existing zoning in the municipality that deals
20 with the same type of housing. I mean, not necessari:y
21 Mt. Laurel housing.

22 But if one has townhouse zoning in a munici-
23 pality or garden apartment zoning, whatever density
24 that is ought to be a starting point in testing
25 whether that density can also produce Mt. Laurel

I

* units.

2 I wouldn't subscribe to the view that one can
3 start with a lesser density than the density which
4 legislatively has been determined to be appropriate
^
6 in the community before that.

7 Q When you say "legislatively has been
8 determined to be appropriate in the community before
9 that," you mean a density less than what the present
10 zoning permits?

11 A That's correct.

12 Q Returning now to your analysis on Page
13 25, you conclude that the 1890 Mt. Laurel need for
14 the region is H3,5«9 units. And that number is 39.4
15 percent of the total type - of the total projected
16 increase in housing for the region between 1980 and
17 1990j is that correct?

18 A That again is part of Consensus methodology.
19 The need ia determined independently of any of the
20 factors that go into determining of fair share. The
21 need is determined on the basis of a population pro-
22 jection by the Department of Labor of the State. The
23 have two projections, one high and a low one. And
24 the methodology -- the Consensus methodology adopted
25 an average between the two.

Q Is that methodology, is that the section

1 in the methodology that also utilizes the regression
2 formula?

3 A No. That deals with the employment growth.
4 That is not a formula. That is purely taking figures
5 from the State Department of Labor report for the
6 counties involved and averaging out the two models
7 that the State used,

8 Q Turning to the employment growth and
9 that section of the formula that utilizes the regres-
10 sion formula, in your opinion do you deem utilization
11 of the regression formula in the context of the
12 employment growth appropriate?

13
14 A Yes, It's appropriate because the employment
15 line fluctuates and takes a trend line more or less
16 averaging the figures representing each individuals
17 year's growth,

18 But I've tested it against an average, as
19 against the regression formula derived average, and
20 '%•' forncip*ry little difference between them,

21 q Now, the 13,589 here in this section of
22 the report w«t_re now dealing with is 39.* percent of
23 the projected households.

24 A That's based on the fact that statewide the
25 Mt. Laurel-type households represent 39.* percent of
the population of the total number of households.

1 Q Can you tell me the basis for the 39.h
2 figure?

3 A That is - to tell you the truth, I don't recall
4 the basis, the precise basis. But it's a formula,
5 a figure derived from the State's own computations
6 based on the Census. But I don't know exactly. I
7 haven't seen the exact formula that they used.

8 Q In any event, someone determined that
9 39.il percent of all households are Mt. Laurel house-
W holds in New Jersey; is that correct?

11 A Based strictly on income.

12 Q And I assume if it's based on Census
13 data, that that would be a figure as of 1988; is that
14 correct?

15 A That's correct.

16 Q Was there any thought given in the
17 Census group as to whether one could expect during
18 the period af 1980 to 199ft that that figure would
19 remain at 39.H or decrease or increase?

20 A Well, there's a lot of evidence to the effect
21 that poverty is increasing in America. So maybe the
22 figure is larger. I don't know.

23 THE WITNESS: May I ask for a
24 glass of water?

25 MR. CAFFEfcTY; Why don't we take

1 a break,

2 (There is a brief recess •)

3

4 AFTER THE RECESS:

5 CONTINUED DIRECT EXAMINATION OF MR. RAYMOND

6 BY MR. CAFFERTY:

7 Q Mr, Raymond, I think we arrived at a
8 number of H3,589 Mt. Laurel units.

9 A The need prospective.

10 Q Through 1990; is that correct?

11 A Right.

12 Q Now, from that you arrive at a number
13 of unsubsidised units at being 67,9H2, which I take
14 it if one does the mathematics, is the difference
15 between the total number of units projected to be
16 built between 1980 and 1990?

17 A Well* the total need projected by the Depart-
18 ment of Labor, or includes housing -- includes house-
19 holds of all types.

20 Q Both Mt. Laurel and non-Mt. Laurel?

21 A Yes. And, therefore, if you take the total
22 number projected by the Department of Labor or deduct
23 the Mt. Laurel households, it leaves you with what
24 i term market rate households.

25 Q That's the 67,000?

1 A That's the 67,000.

2 Q Now, you then take that 67,000 number
3 and make a number of assumptions with respect to the
4 number.

5 As I read your report, the first assumption
6 that you make is that the Mt. Laurel portion of that
7 market has been satisfied to only a very small degree?

8 A Right.

9 Q Now, I assume that that is an assumption
10 that you make as of 1980; is that correct?

11 A In other words, the period between the Census
12 upon which the Department of Labor projection was
13 based and today, I'm assuming that there will probably
14 have been very little Mt. Laurel construction.

15 Q What's the basis for that assumption?

16 A Because if one could build that kind of
17 housing without subsidies, and subsidies have not
18 been available since 1980, if one could build, then
19 one wouldn't need all this complicated method of
20 20 percent set-asides in getting Mt. Laurel housing
21 produced.

22 The fact is that Mt. Laurel-type housing is
23 very difficult to produce. And without some sort of
24 subsidy, probably impossible to produce. I mean,
25 Mt. Laurel housing is strictly constructed housing