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Chester

~~Jan 1980~~

Oct. 26, 1977

Stenographic Transcript of proceedings

- R. Lee Hobough director
- charts
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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY
DOCKET NO. L-42857-74 P.W.
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JOSEPH CAPUTO and ALDO
CAPUTO,

Plaintiffs,

vs.

CHESTER TOWNSHIP,

Defendant.

STENOGRAPHIC
TRANSCRIPT OF
PROCEEDINGS

JAN 14 1980

REC'D.
APPELLATE DIVISION

FEB 1 1979

Stephen W. Townsend
CLERK

AG
Elizabeth W. Laughlin
Clerk

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FILED
APPELLATE DIVISION
FEB 1 1979
CM
Elizabeth W. Laughlin
Clerk

Place: Morris County Courthouse
Morristown, New Jersey 07960
Date: Wednesday, October 26, 1977

BEFORE:

ROBERT MUIR, JR., Assignment Judge, Superior Court

APPEARANCES:

MESSRS. KELLRING, LINDEMAN, LANDAU & SIEGAL
BY: PHILIP LINDEMAN, II, ESQUIRE
For the Plaintiffs.

MESSRS. McCARTER & ENGLISH
BY: ALFRED L. FERGUSON, ESQUIRE
For the Defendant.

MESSRS. HILLAS & GOODRUM
BY: FOREST GOODRUM, ESQUIRE
For the Defendant.

John

EARL C. CARLSON, C.S.R.
Official Court Reporter
Morris County Courthouse
Morristown, New Jersey 07960
285-6240

Oct. 26
1977

I N D E X

WITNESS

DIRECT

R. LEE HOBAUGH

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E X H I B I T S

IN EVIDENCE

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POPULATION TABLES

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JK/hl

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THE COURT: All right.

R. LEE ROBAUGH, previously sworn,

MR. LINDEMAN: May it please the Court, if there is a question pending, I will withdraw it and start again.

THE COURT: Okay.

MR. LINDEMAN: Start afresh.

DIRECT EXAMINATION BY MR. LINDEMAN: (CONTINUED)

Q Mr. Robaugh, have you had occasion to determine the character of the Township of Chester with respect to its present state of development and the direction in which it is going in any regard to development?

A Yes, sir.

Q What is that?

MR. FERGUSON: Objection, your Honor. I think that question is so broad that it is totally open-ended. And I would ask a specific question be asked about what the opinions the witness may have about any specific stage or component of development.

MR. LINDEMAN: By development I mean the use to which the lands in the township are put.

THE COURT: All right. I think it is a legitimate

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1 objection, Mr. Lindeman, that you should ask him
2 a little more specifically because there is only one
3 way that I could see that answer could be forthcoming
4 and that would be to have Mr. Ferguson getting up
5 and objecting to things that he didn't feel properly
6 were within the scope of it or that he would like to
7 object to and so it would be interfering with the
8 witness' answer. He couldn't answer it.

9 So it is too broad.

10 Q Mr. Hobaugh, have you examined the township
11 by looking at it, driving around it and seeing what it is
12 as well as studying the data regarding population trends,
13 valuations of property in the township, both today or
14 as of 1970 and in previous periods which the census has
15 reported?

16 Have you looked around the town and have you seen it?

17 A Yes, sir. I have looked around the town and I have
18 examined the factual types of information that you mentioned
19 for various periods so for only one point in time.

20 Q All right. Now, can you tell us just from your
21 experience as a planner and in the other areas which you
22 have referred to with the beginning of your testimony,
23 tell us, please, what you observed as to the present state
24 of the municipality in terms of its, of the use to which
25 the lands are put?

1 By percentages, if you can, or close approximation
2 as possible.

3 MR. FERGUSON: Objection, unless the witness
4 states the source. If he gets to giving percentages,
5 he is going to have a number, the number implies
6 a source.

7 THE COURT: All right.

8 MR. FERGUSON: I think that is only fair.

9 THE COURT: All right. Give the basis for
10 your information.

11 Q Tell us what the basis --

12 THE COURT: Let me just ask something here.
13 We talked yesterday about vacant land and
14 developed land. And I can see that we are going to
15 get into areas where I would like some clarification,
16 particularly in light of the fact that Chester has
17 all this parkland running through it.

18 I would like to make sure that when the witness
19 talks about vacant land that he is not telling me
20 about vacant land that is devoted to public parks
21 or something of that nature. If he is going to talk
22 about residential land, I would like him to distinguish
23 between that which is vacant and developable and
24 that, do you follow me?

25 Not just total facts. In other words, let us not

1 talk about residential land without telling me the
2 residential land versus the vacant because it doesn't
3 mean anything.

4 I am sure he understands what I mean.

5 THE WITNESS: Yes, sir.

6 THE COURT: I just don't want to get into
7 a misunderstanding about what we are talking about as
8 to vacant land.

9 For instance, if he said there is 10,000 acres
10 of vacant land that has potential for development,
11 does that mean he is talking about the parks? That's
12 the kind of thing that I am concerned about.

13 MR. FERGUSON: I think I should just state for
14 the record that it is our argument that all developable
15 land as used in the studies, and I suspect by this
16 witness is a very narrow classification. That is
17 just land without a structure on it. All land in the
18 middle of Texas is developable because it is not,
19 doesn't have anything on it.

20 That doesn't mean it is suitable for development.
21 It might be that it is in the middle of a mountain
22 range. Our conjecture or contention is that all
23 land should not be developed merely because it has the
24 classification by a planner of developable and
25 we will have testimony on that. I, therefore, think

1 it is important that we specify exactly what the
2 terms mean.

3 THE COURT: Now, yesterday there was no question
4 of how much the developable land is there in the
5 township and when that question is asked, when we
6 talk about that, I would ask that all witnesses and
7 all counsel state what their definition is because
8 it is very easy to forget that.

9 MR. LINDEMAN: Your Honor please, I think I
10 understand your point. I daresay that the witness
11 does too.

12 I am frank to say that I do not understand Mr.
13 Ferguson and I submit further that that which he just
14 said is the subject of proof on his part.

15 If a house, for example, sets in the middle of
16 a parcel of land such as Mr. Caputo's house on his
17 tract, I think it is a subject of testimony and perhaps
18 even argument as to what the status of the rest of that
19 land is around it.

20 THE COURT: All right.

21 MR. LINDEMAN: I think that that's what the Court
22 was referring to. It wants a description of the lands,
23 what they are used for and simply because there doesn't
24 happen to be on, anything on a fairly sizeable tract
25 of land, we should know whether or not it was in the

1 view of the witness, is that developable or is it
2 developed land, or just what it is.

3 THE COURT: I am talking, keeping in mind what
4 the figures that were set forth in the Oakwood case
5 where the percentage of residential land was compared
6 to the total. The percentage of vacant residential
7 land was compared to the total. The percentage of
8 developable land was compared to the total. These
9 are the things that I am talking about.

10 And because the environmental factors, obviously
11 this is where we are going and because Oakwood did not
12 consider the environmental factors, as I recall
13 Judge Furman, as I probably would have said, well,
14 there was no proof on it, so I can just exclude it.
15 You haven't applied it to the rest of the area.

16 I want some characterization with respect to
17 that too. But I want to make sure specifically that
18 we at no time are talking about developable land in
19 any of the percentages to compare and including the
20 parkland.

21 MR. LINDEMAN: Right.

22 THE COURT: Because obviously that is not
23 developable land.

24 MR. LINDEMAN: Right.

25 THE COURT: All right.

1 MR. LINDEMAN: I think maybe for the purpose
2 of this question and some of these answers, your
3 Honor, I want one of the, the map of P-19.

4 THE COURT: Has Mr. Hobaugh seen that map and
5 understand what it is?

6 Q Have you seen that map? I don't know whether
7 you have seen this particular one.

8 A I haven't seen this particular one.

9 THE COURT: Basically the green is parkland.

10 THE WITNESS: Right.

11 THE COURT: Okay. The map represents the
12 zoning map of the township in the categories of
13 designation that you have under the ordinance,
14 the present ordinance.

15 I do not believe we have had an explanation
16 for the brown-dashed line, but we have had an
17 explanation for the green-dashed line and the green-
18 dashed line is the Peapack Borough Water Property.

19 MR. LINDEMAN: Okay?

20 THE WITNESS: Okay.

21 THE COURT: All right. Go ahead now.

22 What did you observe as to the present status
23 as to use of land by percentages?

24 THE WITNESS: Well, I would rely on the table 1,
25 Page 18 of the Master Plan of Chester Township for the

1 purposes of reciting percentage of land use.

2 Q That is as of when?

3 A That is as of the field survey done by Candeb
4 Fleissig Associates in the summer of 1972.

5 In 19, contained within the August 1974 Master Plan.

6 THE COURT: Okay. You say Page 1, Page 1 --

7 THE WITNESS: I am sorry. Table 1, Page 18.

8 Q Tell us, please, what the table shows and what,
9 and how that relates to the observations that you made?

10 A Well, this is a table that provides information on
11 the acreage. And then converting that acreage into two
12 percentages, one as percentage, percent of the total
13 developed area within the township, and the other as
14 percent of the total plan which would be the total area of
15 the township.

16 In terms of residential land uses, it lies 2,263
17 acres representing 29.4 percent of the developed area of
18 the town. And 12.3 percent of the total area of the town-
19 ship in terms of commercial, 64 acres in that use represent-
20 ing less than 1 percent in the case of each developed area
21 and total township area.

22 Commercial recreation, 158 acres, representing 2
23 percent of the developed area. And approximately 1 percent
24 of the total township area.

25 Industrial and office uses occupying 127 acres and

1
2 representing 1.7 percent of the developed area of the
3 township and less than 1 percent of the total area of the
4 township.

5 The total for the public category, which is sub-
6 categories, is 4,570 acres representing 59.3 percent of the
7 developed area and 24.8 percent of the total area of the
8 township.

9 Q Mr. Hobaugh, if I may interrupt you?

10 A Yes, sir.

11 Q Can you tell us what, in what way, if at all,
12 the Master Plan defines the word "developed"? Do you
13 know if it does as such?

14 A I am not aware of any specific definition in here.

15 Q In the Master Plan?

16 A And obviously they consider the public lands to be
17 "developed" apparently on the basis that the land is
18 committed to something and not available for further
19 development.

20 Q For the purposes therefore of those computations
21 or those percentages that you read off, that is the
22 assumption that is made?

23 A That is the assumption inherent in the way these
24 figures are put together. Yes, sir.

25 Q All right. Now, tell us, please, what you
consider to be embraced in the word "developed" and leave

1
2 from whatever definition you may have the nature or
3 characteristic of publicly-held lands?

4 A I didn't get that last --

5 Q How do you define developed, leaving out of your
6 definition anything having to do with publicly-held land,
7 such as the green acres land or watershed lands owned by
8 the State or the County?

9 A In my opinion, in this kind of a proceeding, we are
10 better off to consider develop to be the converse of not
11 developed, or remaining and available for development.

12 Either totally or more intensive -- strike that --
13 I will start the entire answer again.

14 In this type of proceeding, it is my opinion that
15 we are better off to consider the term "developed" to be
16 the converse of land that is undeveloped rather than
17 attempting to come up with some definition of developed.

18 Across the top of my definition of developed for this
19 type of thing would be land that is not presently reasonably
20 anticipated to be available for improvement and/or other
21 action to prepare it for activity thereon.

22 THE COURT: Read that back to me.

23 MR. FERGUSON: I am having a difficult time
24 hearing the witness.

25 THE COURT: Read that back.

"That land that is not what?"

1 (The last answer read by the reporter.)

2 Q Now, with respect to regions, Mr. Hobaugh,
3 have you made any determination -- well, first would you
4 tell us, please, what the definition of the region or
5 regions might be in which Chester is located?

6 And I say you, I use the singular and plural so you
7 can tell us if there is one or more regions which it is
8 located.

9 THE COURT: Could we talk in terms of regions
10 and sub-regions? Is that possible or just so we
11 don't get hung up in terminology.

12 MR. LINDEMAN: Let's do it that way.

13 THE COURT: If you can do it.

14 THE WITNESS: Well, I have identified essentially
15 four regions that could be considered to be regions
16 in which Chester is situated. And these vary in
17 size. One being very large. The other being at the
18 other opposite extreme.

19 I would consider to be a practical or, if you
20 will, political region being the County itself,
21 Morris County.

22 THE COURT: I am not trying to suggest an
23 answer, all right? I am not trying to suggest a
24 big area and this is a sub-region.

25 If you can talk in those terms, please do so.

1 If you can't, then I am not saying do it,
2 okay? I want that clear.

3 THE WITNESS: I am perfectly willing to use the
4 terminology "sub-region." However, one of my regions
5 which are defined market region does not, is not
6 entirely included within --

7 THE COURT: Okay. Why don't you go ahead and
8 do it your way. Don't let me set the wrong standards.

9 Q Go ahead, please tell us.

10 A The four regions which we have defined are one,
11 the region covered by the Regional Planning Association
12 based in New York City, which covers areas in three states
13 and I would identify that as essentially the large external
14 influence region within which Chester is situated.

15 Things that happen within this entire region would
16 be difficult to reduce to the specific impact that they
17 have upon Chester. But nonetheless, the sum of happenings
18 within this entire region eventually in most instances
19 would through filtering process, ultimately have some
20 effect upon Chester Township.

21 A sub-region within that is the northeast New Jersey
22 area which is our second region. And based upon the
23 computation patterns to which I testified yesterday, I would
24 label this as an interaction region, economic and social
25 interaction region.

1
2 The third region going from the largest to the
3 smallest which I would identify, is our market area,
4 which is based essentially upon a 30-minute drive from the
5 site that is the subject of this proceeding as calculated
6 on a road map and incorporates portions of Morris County,
7 all of Somerset County, portions of Hunterdon County.

8 And then as mentioned previously, we have to acknowledge
9 the practical region within which Chester is situated as
10 being Morris County.

11 Q Now, Mr. Hobaugh, you have now identified the
12 three regions about which you will testify.

13 Tell us, please, first or give us more of a definition
14 now of the meaning of the external influence region with
15 regard to the Regional Planning Association's use of

16 --
17 A It is a 31-County area in the States of Connecticut,
18 New Jersey, and New York.

19 Q What do you mean by external influence, though?

20 A Well, maybe I can best describe by using an example.
21 If during the '70's, the same kind of development growth
22 were occurring as occurred, for example, in the late '50's
23 and early '60's, Chester Township would long before today
24 have been in the position of having their, either having
25 changed their zoning or having it tested, in my opinion.

Q Having what?

1
2 A Or even, either having changed it or be in the
3 position of having it tested as to its validity.

4 Q Right.

5 A The reason for that being that within this broad
6 area, this 31-County area development would have been
7 occurring at a much more rapid pace.

8 Pressure would have been building more rapidly on
9 the more outlying communities than in fact has occurred
10 over the last several years, five or six years, let's say.

11 So that here is one example of A, an action or event
12 within the large region and the way in which it filters down
13 to have influence upon Chester Township.

14 To be specific, I am saying that the general growth
15 rate of the large region has impact upon the growth rate
16 and/or pressures for growth within Chester Township,
17 among all the other municipalities, included within the
18 area.

19 Q Would you now define the original regional
20 areas and what is meant by why they are thought to be
21 regions and for what purpose they are defined as regions?

22 A A northeast New Jersey area community such as
23 Chester, first of all, has commutation patterns that are
24 predominantly into Morris County, but also extend easterly
25 to Essex County, Newark, and like areas encompassing the
northern New Jersey sector of the larger region which we just

1 talked about a minute ago.

2 In addition to that, what I was going to say would be
3 a circulation. I would like to strike the start of that
4 sentence.

5 The Township of Chester can be considered on that
6 basis to have interaction with the entire northeastern
7 New Jersey region. And this is in fact an accumulative
8 kind of thing. The same type of relationship that I talked
9 about existing between the larger 31-County region and
10 Chester Township also exists between this sub-region of
11 northeast New Jersey and Chester Township.

12 Q Now, so far as the market region is concerned,
13 which you defined as a region embraced by a travel distance
14 of 30 minutes, tell us what the effect of the market,
15 what the meaning of a market means as such?

16 A When you look at a particular piece of property,
17 regardless of its size and you want to establish parameters
18 around the anticipated housing market on that site, it is
19 desirable and in my opinion, necessary, if it is to be
20 manageable, to define what will be utilized and what will
21 be considered to be the primary market region for houses
22 within that site or on that site.

23 This has, this gives a basis for carrying forward
24 two or three factors which are important in estimating
25 future markets for housing.

End of
Tape 1

1 One is the anticipated growth and jobs and/or
2 population combination of each other. And the second is
3 being able to determine the competitive housing units which
4 are likely to be on the market at the same time as a
5 project for which one is doing a market study.

6 THE COURT: I am sorry. Will you read that
7 back, the section being able to determine the
8 competitive housing units.

9 (The last answer read by the reporter.)

10 Q Do you have a fourth one or have you defined it
11 all?

12 A The fourth region again, I have labeled it as the
13 practical region, and it is Morris County. And in my
14 opinion, as a practical matter in the true sense of the
15 process many of the things we are talking about become
16 political in nature in terms of decisions about them.

17 Especially if one is to consider allocation of
18 housing and that type of thing. And therefore, it is
19 my opinion that Morris County must be considered the
20 practical region for these kinds of purposes, in addition to
21 other regions which is that Chester is a part of Morris
22 County together with the other municipalities of the County
23 they share a common County seat which provides a certain
24 common nationality of interest among them as a unit.

25 Q Now, with regard to the Regional Planning

1 Association for the RPA Region or the external influence
2 region, what are the present and projected population in
3 that area?

4 And tell us the source of your information.

5 Please go ahead.

6 A The source of the information are data sheets from the
7 Regional Plan Association utilising in terms of what is
8 presented on here, 1940 and the 1970 census numbers and
9 then projections to 1995 and again 2000.

10 Q Mr. Hobaugh, excuse me. Do you have an extra
11 copy of that document?

12 A No, I don't think so. No, I have one sheet that
13 contains information in population projections and the
14 other that contains information on household projections.

15 MR. FERGUSON: On what?

16 THE WITNESS: Household and dwelling units.

17 MR. FERGUSON: 1940 to 1970?

18 THE WITNESS: Pardon?

19 Q What is the period of time shown?

20 A For population? And this is by County incidentally,
21 within the three-State area. The 1940 and 1970 populations
22 are given and the source for those is the United States
23 Census of Population.

24 Q Tell us what those figures are, please, what
25 they show?

1 A The '49 and '70?

2 Q Yes.

3 A Well, they list the population for each of the
4 Counties in the three States.

5 MR. LINDEMAN: If your Honor please, I think
6 in order to save time on this, I would like to offer
7 the one copy. It is the only copy that we have.

8 I don't have an extra copy of it myself, but
9 I think that would save a lot of court time.

10 MR. FERGUSON: I have no objection to it being
11 marked for identification and the Court seeing it
12 right now to follow the testimony.

13 I don't think it is proper yet to receive it
14 in evidence.

15 THE COURT: You extricate that from your book,
16 Mr. Hobaugh, so we may copy it.

17 THE WITNESS: Yes, sir.

18 THE COURT: You got anything else that you are
19 going to need? Has he got anything else he can
20 refer to?

21 MR. LINDEMAN: May we just go off the record
22 for a moment?

23 (A discussion had off the record.)

24 THE COURT: We can have the original marked
25 for identification. Mark those P-26A and B.

1 (The documents referred to were marked
2 P-26A and P-26B for identification.)

3 MR. FERGUSON: I would ask that the report
4 are
5 from which these/part also be marked because I don't
6 know that anybody can make sense out of the terms
7 in testimony unless we have reference to the
8 definitions used in the report.

9 MR. LINDEMAN: Well, I think for --

10 THE COURT: You mean reference of development --

11 MR. LINDEMAN: I was going to ask that.

12 MR. FERGUSON: That is a good question.

13 I have referred to it in the Morris County Plan
14 that we have, but no one has really defined it for me.
15 So include that. Now you project, what is the
16 basis for the projection, and the development dates.
17 I think they're probably given in the report and I
18 think you ought to have them.

19 THE COURT: Off the record.

(Discussion had off the record.)

20 Q Mr. Mobaugh, what is the Regional Plan
21 Association that prepared this document from which P-26A
22 and P-26B were taken?

23 A It is a non-profit organization located in New York
24 City and supported in part by governmental contributions
25 and in part by contributions from private interests or

1 corporations and the like --

2 Q Do you know --

3 A -- foundations.

4 Q Do you know what the professional personnel are
5 who prepared documents such as P-26A and B in the reports
6 of the Regional Plan Association?

7 A Do I know them?

8 Q No, no. Do you know what, who they are, what
9 kind of people they are, background, et cetera, education?

10 A Not as a specific, no.

11 I am aware that the Regional Plan Association is
12 well staffed by competent people and enjoys a good
13 reputation in terms of its ability to produce factual and
14 projected information about the region with which it is
15 concerned.

16 Q Now, the figures that appear on these two
17 exhibits marked for identification were taken by you,
18 were they?

19 A They were extracted from the book. Yes, sir.

20 Q Are these pages photocopies from the book or --

21 A What I have here are, yes.

22 Q They are photocopies?

23 A Yes, sir.

24 Q Right. Now, would you tell us, please, what
25 the meaning of rings of development at the bottom of P-26A is?

1 A Well, yes. I can explain generally what it is.
2 I cannot give you a listing as to what portion of the area
3 is within each of the rings offhand.

4 Q What the --

5 A I don't think it is going to be important to us
6 in terms of my testimony. It happens to be a method that
7 they use for dividing up the region, their entire region
8 into a central area or course, as they call it, and then
9 a ring immediately around that which they define as
10 the inner ring and then a sub-ring still a little bit
11 further out which they define as a intermediate ring and
12 finally, an outer ring which is the outermost series of
13 Counties in each of the States covered by the Regional Plan
14 Association.

15 Q Can you tell us in what tribunals or forms
16 or places the data as prepared by the Regional Plan
17 Association have been received and accepted?

18 A Well, from my own experience, I have used this data
19 in numerous court cases and before numerous municipal
20 bodies where testimony was being taken.

21 Q And has the data been received?

22 A Yes, sir.

23 MR. LINDENAY: Your Honor, I am going to offer
24 these in evidence. It seems to me that this really
25 takes this much further than it has to go. These are

1 projections which are prepared by the Regional Plan
2 Association. If they cannot be accepted, I don't
3 know how the Bureau of the Census projections or
4 any data of this kind can be accepted. I do think,
5 though, that we can take this to an extent far beyond
6 its justification. So I will offer them in evidence.

7 MR. FERGUSON: Your Honor, a number of objections.

8 One, I do not object to the Regional Plan
9 Association. I think in our form that it is a
10 competent body. It is staffed by planners. It does
11 produce the kind of information which ought to be
12 received in evidence and evaluated by this Court.

13 However, with respect to these two documents,
14 I can't see this Court receiving them into evidence
15 without the assumptions upon which they are made
16 also being stated and the witness can't do it. He
17 hasn't got the report.

18 The population figures for 1940, 1970, I have
19 no objection to. They're apparently from the census.
20 The projections, however, are something quite
21 different. There is no statement in these exhibits
22 as to how the projections are made. I suspect that
23 in the report itself there are. And until we have those
24 statements in the record, I don't think we should have
25 them at all, because it's impossible to evaluate.

1 We can't cross-examine.

2 THE COURT: Well, let's see how successful I
3 am in getting copies of the Regional Plan Association
4 report from the County Planning Board. If I am not
5 successful, then I want to ask you, one of you, to
6 find the report for me. And I guess it would have to
7 be you, Mr. Lindeman. Find the report for me and
8 give me a copy of the report, if you want me to take
9 something from the report. There is reference to
10 rings of development. I think I should know what
11 they're talking about because I know that the inter-
12 mediate ring is the ring that is referred to in
13 the Chester Township Plan.

14 MR. FERGUSON: Yes, Chester Township Plan.
15 I think references the Regional Plan Association
16 along with others as a kind of regional planning bodies
17 one should look to.

18 I do have information, however, that the
19 Regional Plan has departed from their projections
20 made and that's why I am so insistent upon getting
21 those bases in.

22 THE COURT: Okay. Let's try to get a copy.
23 Until we do, let's just have them marked for identi-
24 fication.

25 Q Mr. Hobaugh, do you know of any --

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MR. FERGUSON: Excuse me. I have one other objection I should state. And that is during two depositions I don't recall being shown these documents as the basis for expert testimony. I am not, I frankly, I am a little reluctant to ask this Court to exclude the witness' testimony because it hasn't been shown in depositions. I did look at Mr. Hobaugh's files and there were, I think, fourteen odd folders of one to twenty pages each. It is conceivable I could have slipped over them at the depositions. But I think it is a little bit unfair, you know, to pull them out at the trial without some kind of identification ahead of time during discovery. The discovery has been long and often complicated. I just think it is a little unfair to Chester Township to spring these at the last minute.

I think, perhaps, the best way for the Court to deal with it is in its rulings on admissibility and giving enough opportunity for cross-examination and get the report.

THE COURT: All right.

MR. LINDEMAN: Your Honor, I confess that I just don't know off the top of my head whether these particular documents appeared in depositions or not. I know that the discovery was exhaustive. And if

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they didn't appear, it was accidental.

THE COURT: I think adequate protection with respect to them that I will allow cross-examination and try to get this Regional Plan Association report in its entirety.

MR. LINDEMAN: All right.

Q Mr. Hobaugh, do you know of any action on the part of the Regional Plan Association by which it has departed recently from any of its projections?

A Well, these projections were published in 1973. I don't know specifically when the work on the background that went into the resulting publication was performed, but obviously, it had to be prior to, I think, it is May or June, '73, when this was published which gets us back to, say, 1972.

Q But has it departed, to your knowledge, from any projections that were made in the document which is under discussion, to your knowledge?

A I have no specific knowledge that they have abandoned these projections.

Q Right. Now, tell us, please, in the Morris, Hunterdon, Warren, Somerset Region what is projected for the increase, if any, in the number of jobs for the period 1975-1980-1985?

MR. FERGUSON: Objection. I have, we left P-26A

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and B?

MR. LINDEMAN: Yes, this is jobs now.

MR. FERGUSON: Well, I object then on the ground that we have to identify the projection, the data source, data base, the method of projection.

Q Tell us, please, what the source of the information is?

A Well, I have two sets of employment projections on notes here.

Q What is the source of it?

A One is the Port Authority of New York and New Jersey. The Regional Board Authority and the other is the Regional Plan Association. And also on this page is our own combination of the two.

Q What is your own combination of the two? Tell us how that was prepared?

A It's a striking, a mid-point, really, between the two projections for a given year.

Q Now, the Regional Plan Association is the same document that we have been referring to before with regard to population and household and dwelling units?

A That is correct.

Q And what is Port Authority report?

A The Port Authority Report is called People and Jobs.

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Q Can you tell us about its preparation?

How it is done and by whom?

MR. FERGUSON: May I have a date?

A I don't have the date. It is later than the RPA document.

Q By whom is it prepared?

A It is prepared by persons employed by the Regional Port Authority.

Q On the basis of what information?

A On the basis of census information and statistical projection techniques.

Q And have you taken down particular notes from that report on certain items?

A Yes, sir.

Q You have not copied down the whole report, I assume --

A No, sir.

Q -- is that correct?

MR. LINDEMAN: Well, I persist in the question, your Honor. I think that this is the proper kind of testimony that this witness can offer.

MR. FERGUSON: I have the same objections, your Honor.

MR. LINDEMAN: I believe, I am not positive, but I do believe this is an area that had been explored

1 in the pretrial discovery. I do recall at depositions
2 the combination of the Regional Plan Association
3 and Port Authority figures. But I think for this
4 Court to evaluate what we are talking about, I think
5 the data base and the method of projection ought to be
6 revealed.

7 THE COURT: I will allow him to testify.

8 Go ahead.

9 Q Tell us, please, the projection as to jobs
10 in the area of Morris, Hunterdon, Warren, and Somerset
11 and the period of '75 to '80 and '85.

12 A The Port Authority gives projection for Morris and
13 Somerset Counties only.

14 Q All right.

15 A And they project that by 1980 --

16 Q Mr. Hobaugh --

17 A They project by 1985 in Morris County there will be
18 186,000 jobs approximately.

19 THE COURT: 186,000 jobs what?

20 THE WITNESS: In Morris County, 1985.

21 Q Is that the aggregate or is that an increase?

22 A That is the aggregate total.

23 Q Right.

24 A In Somerset County 113,000 jobs in 1985.

25 The Regional Plan Association makes projections for

1 the four Counties, Morris, Somerset, Warren and Hunterdon
2 and in 1985, they project for Morris, 190,000; for
3 Somerset, 117,000. Excuse me. Reading the wrong numbers
4 at the moment.

5 Strike anything I have read attributed to the
6 Regional Plan Association.

7 For 1985, in Morris County, the Regional Plan
8 Association projection, 195,000 jobs.

9 For Somerset County, the same year, 119,000 some jobs.

10 For Warren County, 34,000 some jobs.

11 For Hunterdon County, 32,000 some jobs.

12 Q Now, the percentage of increase in the period
13 '75-'80 and '85, do you have any information on that?

14 MR. FERGUSON: Increasing what over what?

15 THE COURT: Sustained.

16 Q I would ask for the '75, from '75 to '80 and
17 '85, if they're available?

18 A No, sir. I have not committed those as percentages.

19 Q And do you have the absolute numbers in
20 an earlier period than 1990?

21 A For example, the Port Authority as of this list,
22 as of 1975, approximately 135,000 jobs in Morris County
23 increasing to 186,000 by 1985, which is approximately a
24 50,000 increase in a ten-year period.

25 THE COURT: Where does it start? Does it start

1 with 1970? Do they start with 1970?

2 THE WITNESS: Yes, sir. I have 1970.

3 THE COURT: Can we, for the sake of assuming
4 that it is based upon the 1970 census, which he has
5 stated that they use the census figures.

6 We have the 1970 figures. We know, got the
7 census figures there. We at least got a basis to
8 start with and then can project it for '75.

9 However, it is done in multiples of 5 and
10 multiples of 10 thereafter.

11 MR. FERGUSON: I didn't get any figures for
12 '75.

13 THE COURT: No, we haven't gotten them yet.

14 THE WITNESS: That's right.

15 THE COURT: He says he got them but starts in
16 1970.

17 We are going to use it that way, can we start
18 with 1970 and go through each one of the projections?

19 What is it, 1970, '75, '85?

20 THE WITNESS: It varies.

21 THE COURT: Oh.

22 THE WITNESS: One given for each of the four,
23 '70-five years' information area. One gives a
24 number for each of the five-year periods from '70
25 through '85, but only for two Counties.

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Tape 2

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The other gives information on four Counties,
but only for 1970 and 1985.

Q Well, give us what you have for each separate,
the Port Authority and the Regional Plan Association.

MR. FERGUSON: By the way, has it ever been
established what the Regional Plan Association document
is we are talking about is the same one, 1973?

THE WITNESS: Yes.

THE COURT: Okay. Let's take the Regional Plan
Association document first.

THE WITNESS: All right. This is the Regional
Plan Association for 1970. They list Morris County
at 122,980. Somerset County, 72,570. Warren County
27,290. Hunterdon County, 21,250.

For the year 1985: Morris County, 195,580.
Somerset County, 119,570. Warren County, 34,440.
Hunterdon County, 32,560.

THE COURT: And now the Port Authority.

THE WITNESS: The Port Authority for 1970 lists
Morris County as 115,600. Somerset County as 70,500.

For 1975, Morris County at 134,600. Somerset
County at 8,600.

THE COURT: Right what?

THE WITNESS: For '75, 86,000. Excuse me.
I think I said a hundred.

1 For 1980, Morris County, 156,200.

2 Somerset County, 100,000.

3 For 1985, Morris County 186,000. Somerset
4 County, 115,000.

5 I also have a projection here for Somerset
6 County which were made by the Somerset County
7 Planning Board and a set of projections which we did
8 in our office for 1980 and 1985.

9 Q What are those that you did in your office?
10 Explain how you did them, please.

11 A Well, we used, actually covered employment as a
12 basis and used the trends and growth of covered employment
13 as reported to the now known as the Bureau Employment
14 Security.

15 Q Tell us what the Somerset County Planning Board
16 reports?

17 MR. FERGUSON: May we have a -- is there a date
18 on that report?

19 THE WITNESS: July, 1970. And the projections
20 by the Somerset County are for 1980, 98,000 jobs
21 total. For 1985, 113,000 jobs total. And they are
22 excluding self-employed domestics and unpaid family
23 workers in those numbers.

24 THE COURT: Would you give me the first figure
25 you gave me? The year.

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THE WITNESS: 1980?

THE COURT: Yes.

THE WITNESS: 98,000.

Q Were you able to ascertain from the 1970 United States Census, and this other data about jobs, housing and their relationships to one another in the Somerset, Morris, Warren and Hunterdon County areas?

Have you been able to determine whether there is any commutation by non-residents of Morris County -- into Morris County for employment, and if so, tell us how?

A Computation, yes, sir. I have information on that.

Q Tell us how you arrived at it?

A It's materials taken from the census.

Q From the 1970 census?

A The 1970 census, yes.

Q Would you tell us as succinctly as you can how you went about preparing this computation?

A It is material listed in the census which is kind of a reverse commutation. People who work in Morris County and list the place from which they come into the County to go to their place of work.

Q Tell us what it shows, please?

A From Morris County the largest in migration is from Essex County. Second is from Sussex County. The Essex County amounts to approximately 28 percent of the

1 in commuters. From Sussex County approximately 20 percent
2 of the in commuters.

3 And the third largest category is from Passaic County
4 with almost 13 percent followed closely by Union with
5 approximately 12 percent. Just under 12 percent.

6 Q Now, can you tell us what the absolute number
7 is of the in commuters as of the 1970 census?

8 A Yes, sir. From Essex County, 8,304. From Sussex
9 County, 6,172. From Passaic County, 3,752, and from
10 Union County, 3,514.

11 Q Is there any pattern that you have ascertained
12 from those figures to which you can testify?

13 A Well, the numbers indicate that Chester -- excuse me --
14 that Morris County receives strong commutation both from
15 the east and the west.

16 Essex County being highest, as I said, and then
17 Sussex to the west being the second highest.

18 The remaining areas other than those I specifically
19 mentioned get down to small percentages. Even Somerset
20 County immediately to the south provides only 2,268, or
21 7.7 percent. So that it indicates Morris County being a
22 center of employment for persons residing both east and
23 west. Really, in all directions, especially east and west
24 of the County which, of course, makes sense considering the
25 highway patterns and accessibility of those areas into

1 Morris County and vice-versa.

2 Q Now, on the basis of your analyses of the
3 housing within Morris County, the number of jobs here,
4 the commutation patterns to which you just referred within
5 Morris County, have you formed any judgment regarding the
6 effect of these elements on Morris County as part of the
7 regions that you have referred to?

8 MR. FERGUSON: Objection. I don't think I
9 understand the question.

10 THE COURT: Read the question back, please.

11 MR. LINDEMAN: May I rephrase it?

12 THE COURT: All right. Go ahead, rephrase it.

13 Q I ask you what the effect from a developing
14 point of view the housing units, the number of housing
15 units, the number of jobs, the commutation patterns within
16 Morris County have on Morris County?

17 What will they do, they mean, and what will they
18 mean in the near future from the point of view of the
19 development of Morris County?

20 MR. FERGUSON: I don't know if we are talking
21 about in place of figures or projections. And we
22 have jobs and houses and I don't know that I under-
23 stand the question, frankly, Judge, enough to object
24 to it. But if the witness can -- maybe he can
25 answer and tell us what he means.

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I will leave it to the Court, frankly.

THE COURT: I have difficulty understanding the question, but I am not being asked the question. The witness is. So, Mr. Hobaugh, do you understand the question?

THE WITNESS: Well, there is an answer I can give in response to that question.

Q Do you understand the question?

A It is very broad. I am not certain what you are looking for in that question.

THE COURT: Okay. Then rephrase it.

Q On the basis of your analysis or your determination of the number of housing units now and to be in Morris County in the foreseeable future, say five and ten years, and on the basis of the number of jobs here now and those projected to be in Morris County, and in the environs in that period of time, have you formed any opinion as to the effect of those elements upon the development of Morris County in that period of time?

MR. FERGUSON: Once again, the underlying data, aren't they in evidence? We have argued about that and I don't know what the effect on the development could possibly be.

Once again, it is very broad.

MR. LINDEMAN: Well, it is broad, but developing

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MR. FERGUSON: As rephrased by the Court, I mean, if when the question is, if those projections are true, what will happen in Morris County?

THE COURT: Yes.

MR. FERGUSON: I can understand that.

THE COURT: I don't see how that question is going to help. I don't know why Mr. Hobaugh has to answer that question because I know what the answer is.

If the projections are correct and we are going to have an increase in the number of housing units and an increase in the number of jobs, we are going to have an increase in the development of Morris County.

MR. FERGUSON: If it doesn't happen in Morris County, it will happen someplace else and that will put pressure on Morris County and vice-versa.

THE COURT: I don't see that question. I think we can all answer that question. I would rather have the expertise utilized.

Let me say this --

MR. LINDEMANN: I will withdraw it.

THE COURT: That's not fair. I think that I could answer the question without having had Mr. Hobaugh asked.

MR. LINDEMANN: Right.

Q Now, Mr. Hobaugh, I am at Item 61 of your notes.

1 it is. I think it is a word we all understand.

2 I think the witness has referred to it.

3 If it will be of any help, I will ask him to
4 define what he means by developing?

5 Q Can you tell us what would be meant by the
6 development of a County from the point of view of housing,
7 jobs, and things of that nature?

8 A It would be changes in absolute numbers of units of
9 any one of those specifics as well as could be used to
10 apply to a pattern of development geographically.

11 Q Can you tell us, then, how those items, how
12 those elements, will affect Morris County in the period that
13 I have referred to?

14 THE COURT: I am not too sure that I understand
15 the question and again, of course, I am not being
16 asked. But, you know, if a projection shows that
17 housing units are going to increase, jobs are going
18 to increase, let's stop there. Doesn't that show
19 what the effect on the development of Morris County
20 is going to be?

21 It is difficult to try to force all those things
22 in these. If they're increasing in Morris County,
23 they have to develop to increase.

24 Isn't it a, isn't the answer suggested by the
25 question?

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Did you have occasion to determine the changes in the characteristics of the region of which Chester is a part during the periods 1960 to 1970, 1950 to 1970?

MR. FERGUSON: Objection. We have four regions.

I don't know what characteristics.

Q Tell us the characteristics in the form of the use to which properties are put, the number of people who are in it, who reside in it, who come to work in it, who lives in it, who works outside of it, the extent that farming is and is being used or has been terminated, the influx of industry into the municipality, if any, the development of the municipality from a residential dwelling unit point of view, items of that nature.

Now, will you tell us what changes, if any, have occurred in Chester in the period that I have referred to?

A Yes, sir, I will.

MR. FERGUSON: To understand the question that this is changes in Chester from 1950 to 1970?

MR. LINDEMAN: Yes.

MR. FERGUSON: I object unless the source of the data is --

Q Tell us the, what the sources of your data is?

THE COURT: Can we do it this way? Could we ask Mr. Hobaugh what changes there have been during the period of '50 to '80 and '60 to '70?

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2 Let him give that answer and let him tell the
3 basis upon which he ascertained these changes, all
4 right? So that he doesn't have to mix in one question
5 what is really two questions.

6 Do you understand it?

7 THE WITNESS: Yes, sir.

8 THE COURT: Now, okay. Go ahead.

9 A In previous testimony, I have indicated maybe by
10 reference to stipulation in some instances growth of
11 population within Chester, growth in the number of dwelling
12 units within Chester and there have been significant
13 percentage increases within the township.

14 Q Tell us what they are, Mr. Hobaugh, and the
15 source of your data as you tell us.

16 A Well, relying upon census material, the population
17 increase in Chester, 62 percent between 1950 and 1960.
18 And 202 percent between 1960 and 1970.

19 Q Do you have the figures, by the way, for the
20 State of New Jersey in those periods, at least by
21 percentage?

22 A Not from '50 to '60. No, sir.

23 Q '60 to '70?

24 A From '60 to '70, increase in the State is approxi-
25 mately 18 percent. From 6,066,000 some to 7,560,000 some
thousand.

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Q How about the population of the City of Newark in that period?

A Newark from '60 to '70 declined in population by approximately 6 percent. From 405,000 some down to 382,000 some.

Q Has there been a change in jobs in New Jersey as well as the tri-State area that you have referred to in this period? Change in the character of jobs and the number?

A During the period --

Q 1960 to 1970, or 1950-'60 and '70?

A Yes, sir. There was an increase in both periods.

Q What effect, if any, has that had upon the growth of housing?

THE COURT: Can you tell us what the job change percentages were?

THE WITNESS: Yes, I can. I have it someplace.

THE COURT: May I ask clarification of the questions before me right now, is employment change in the State of New Jersey, is that correct?

MR. LINDEMAN: Yes.

THE COURT: Okay.

THE WITNESS: An easy number, sir, and I have difficulty finding it.

THE COURT: Do you have those figures in Chester?

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THE WITNESS: For Chester itself?

MR. GOODRUM: Excuse me, your Honor. We don't have an answer to that question.

THE COURT: He said for Chester itself. He hasn't given it. I asked him does he have the figures for Chester. He hasn't found the figure for New Jersey or Chester.

MR. GOODRUM: Thank you.

THE COURT: Could I see you gentlemen a minute?
(Discussion had at side bar.)

THE COURT: We will take a break. Why don't you step down, Mr. Hobaugh, and maybe you can go into my conference room at the outside of the courtroom and you can spread your records. And you don't have much area to work there. It will be easier to find.

MR. LINDEMAN: Judge, I am going to pass on to the next question. We do not have the percentage of increase in jobs in Chester Township.

(A short recess was taken.)

THE COURT: Let me tell you what I just found out about that Regional Plan Association report. Number 1, it is out of print. Number 2, the Morris County Planning Board does not have a copy.

Number 3, the Regional Plan Association has one

1 copy in its library and it offered to reproduce
2 pages. It is a forty-two page report. That, of
3 course, would not be satisfactory so, Mr. Lindeman,
4 I'm going to have to repose on you.

5 MR. LINDEMAN: I will get it.

6 THE COURT: The responsibility for getting it
7 one way or the other.

8 THE WITNESS: Yes, I can have a copy made in
9 my office today. I must go off the record on this.

10 THE COURT: Okay.

11 (A discussion had off the record.)

12 THE COURT: All right. Let's move on, then.

13 Q Now, Mr. Hobaugh, with regard to employment
14 in the area of Chester Township.

15 What effect, if any, had the construction and the
16 opening of the A T & T Long Lines have upon the number of
17 jobs in the area?

18 A Well, the offices of A T & T Long Lines report that
19 the employment at that installation will be approximately
20 3,500 percent.

21 Q Where is the Long Lines building?

22 A The Long Lines is in Bedminster Township.

23 Q How far away is that from Chester?

24 A Oh, it's about four miles to the Township line and
25 about eight miles to the Borough.

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Q And how about the A T & T Executive Center?

A On Maple Avenue?

Q Yes, what township is that?

A Bernards Township.

Q How far away is that from Chester?

A About thirteen miles to the area.

Q What do you know about the employment situation in that installation?

A They report their total initial employment will be approximately 3,000 persons.

Q Do you know when the A T & T Executive Center opened?

A When it opened?

Q Approximately.

A No, sir, I don't know. It is open. It has been open at least a year, I would say.

Q That's what I mean. Since 1970, in any event?

A Oh, yes.

Q And the Long Lines Division?

A My impression that's open partially, but not, it's certainly not in full operation yet.

Q Have you made any analyses of the racial composition and the concentration of the various racial groups in Somerset and Morris County?

A Yes, sir.

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Q From what was the source of your information?

A In the 1970 census information.

Q Tell us, please, what that showed as to the various racial groups in Morris and Somerset Counties?

MR. FERGUSON: I object on the ground of relevancy. We have already had a few of those figures. I think it is just cluttering up the record.

MR. LINDEMAN: I don't think --

THE COURT: We have as to Chester Township.

MR. FERGUSON: Mr. Earl gave the township.

MR. LINDEMAN: Yes, but not Morris and Somerset Counties.

THE COURT: Well, I take it you are assuming by racial mixture, you're assuming a correlation between that and low income housing. But I don't know whether that is necessarily correct.

MR. LINDEMAN: Yes. Well, that is the purpose of it, your Honor.

THE COURT: Okay.

MR. LINDEMAN: We offer it for that purpose. But it isn't the only one.

THE COURT: All right. I will allow it. I don't know whether the conclusion is necessarily correct, but I will allow it.

Q Would you --

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MR. LINDEMAN: I haven't heard a conclusion yet.

THE COURT: Well, I mean, the conclusion that there is a correlation. I said you're offering it for the correlation between racial numbers and low income.

And I don't know whether that correlation is necessarily correct.

MR. LINDEMAN: Whether it will, your Honor, I state to the Court, though, that I do not propose to ask the witness to draw any such conclusions.

THE COURT: All right. Okay.

Q Mr. Hobaugh?

A In Morris County, these are all numbers from the 1970 census population.

Q Right.

A Morris County is listed as having 10,186 --

MR. FERGUSON: What date?

A All numbers are from the 1970 census of population. Morris County was listed as having 10,186 non-white population, representing 2.7 percent of the total population of the County.

Q Somerset County?

A Somerset County, 8,238 non-white population, representing 4.7 percent of the population, total population.

Q Now, Mr. Hobaugh, in Morris County, which

1 communities had the highest non-white population?

2 A Morristown, with 4,135, or approximately 40.6 percent
3 of the total population.

4 Q What was the lowest?

5 A The lowest was Netcong Borough with approximately
6 one-tenth of 1 percent. Tied with, roughly tied with
7 Chester Township and Chester Borough.

8 Q Well, although we have had Chester Township
9 before, for the purpose of the record now to put it in
10 one place, tell us, please, what the Chester Township and
11 Chester Borough were?

12 A Excuse me. I believe I misled you with the figures
13 that I have just given you.

14 The percentages I have just given are not the
15 percentage of total population of the communities which are
16 non-white, but rather it is the given percent of the total
17 non-white County population residing in those municipalities.

18 Q The total of non-white population in Morristown
19 was --

20 A The percentage number represents that percent of the
21 total County non-white population residing within
22 Morristown and likewise for each of the other percentage
23 numbers which I gave attributed to a particular municipality.

24 Q What about Chester Township and Chester Borough?

25 A Each of those have approximately one-tenth of a percent

1 of the total non-white population of the County.

2 Q All right. Now, as to Somerset County, which
3 community has the highest non-white population?

4 A Somerset County, the highest is, again, this is
5 percent of the total non-white population within the County.

6 Q Right.

7 A Residing within the particular municipality. And
8 the highest is Franklin Township with approximately 56.3
9 percent. And the lowest are Far Hills and Bedminster,
10 each with approximately one-tenth of 1 percent.

11 Q All right. Now, tell us what the 1970 census
12 shows regarding the commutation patterns of working people
13 in Chester Township?

14 A I would like to acknowledge yesterday I indicated
15 this information didn't exist and it did not exist in the
16 source material I was looking at yesterday.

17 However, we do have additional source materials,
18 specific print-outs from the 1970 census data which
19 specified Chester Township and provides information
20 on the work location of the resident labor force of Chester
21 Township.

22 Q Tell us what it shows.

23 A Yes, sir. The census report indicates a total
24 labor force of 1,600. 12 percent of which 1,590 were
25 employed in 1970. This report which we have a print-out

1 from the census data indicates a total response from
2 1,515 persons.

3 And just to keep the numbers straight later, in
4 addition, the regular census booklet indicates a total
5 commutation group of answering, 1,425.

6 MR. FERGUSON: Excuse me?

7 THE WITNESS: 1,425. In other words, there is
8 a variation in the size of samples that is reported
9 in these different places in the census.

10 MR. FERGUSON: I missed the term that was
11 used. I am sorry. Total sample?

12 THE WITNESS: We have three numbers for total.
13 One is total labor force of 1,612. Out of that 1,612,
14 1,590 is reported as being employed in 1970.

15 The information regarding commutation indicates
16 two different sample sizes within that total number.
17 The particular one that I am using in this response
18 as total sample size of 1,515.

19 Another census book lists 1,425 as being a
20 comparable number for the sample.

21 I don't know the reason for the difference. I
22 am putting this on the record so there would not be
23 confusion about it later, if someone is tracing the
24 numbers there.

25 Utilizing the information from the print-out

1 given specific data on place of commutation, place of
2 work of the Chester labor force, it indicates that
3 29.8 percent of the resident labor force works within
4 the township and 70.2 percent commute out of the
5 township.

6 Q Are you familiar with the number of multi-family
7 units in Chester Township?

8 THE COURT: Before you get on that, could you
9 tell us, Mr. Hobaugh, from those figures whether
10 the 70.2 is broken up into within the community and
11 without the community?

12 THE WITNESS: I haven't.

13 The other breakdown includes Morris County as
14 a whole. And within Morris County there are 987
15 listed as residing in Chester and working in Morris
16 County. This is on the smaller sample number, 1,425.

17 THE COURT: All right.

18 THE WITNESS: In the print-out which gives
19 information allowing us to know what numbers stay
20 within Chester Township, we find that for round numbers,
21 let's say, 30 percent stay within the township.
22 So 30 percent of the 987, one, 275 plus or minus
23 workers just doing it in my head.

24 THE COURT: Do those figures --

25 THE WITNESS: Who reside and work in Chester

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Township.

THE COURT: Okay.

Do those figures show how many commute to say Essex County and work in Essex County?

THE WITNESS: Yes, sir. A total to Essex County from Chester Township is approximately 8.3 percent.

THE COURT: What percentage is working in Morris County?

THE WITNESS: 69.3 percent.

THE COURT: 69.3 percent. All right.

Is there a commutation to say New York City there?

THE WITNESS: Yes, sir.

THE COURT: What is the percent there?

THE WITNESS: 1. -- excuse me. I have to total. Approximately 4.1 percent.

THE COURT: All right. Now, are there any larger totals, any significantly larger totals other than the 4.1 percent that are going to other areas?

THE WITNESS: Somerset County, 7.1 percent. And then Union County, 3.5 percent. And the remainder are all smaller.

THE COURT: Okay.

Q Now, Mr. Hobaugh, are you familiar with the number of multi-family units, single-family units in Chester?

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A Yes, sir. From the census information.

Q And the number of such units in Morris, Hunterdon, Somerset Counties?

A Yes, sir. Again using the census information.

Q Now, have you prepared a, or do you have figures to show the comparison of the multi-family units in Chester with Morris, Hunterdon and Somerset and Newark at large?

A As a percent of total units? Yes, sir.

Q What is that comparison, please?

MR. FERGUSON: Well, your Honor, once again, objection. We are getting comparisons before we know what we are comparing.

MR. LINDEMAN: The number of multi-family units in Chester as compared with that in Morris, Hunterdon, Somerset and Newark from the 1970 census.

THE COURT: Well, let's find out the number first.

MR. LINDEMAN: All right.

Q Tell us what those numbers are, please?

A The number of multi-families in Chester was 55.

Q All right. In Morris, Hunterdon, Somerset Counties and the City of Newark?

A In Morris County, the number of multi-family was 26,367. In Warren --

MR. LINDEMAN: Should we not get the percentage

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at this point?

THE COURT: It is all right. I just want to know what the percentage is.

MR. LINDEMAN: Right.

Q What is that percent?

A That is for Chester, the 55 units are 4.7 percent of the dwelling units.

MR. FERGUSON: In Chester or Morris County?

THE WITNESS: In Chester.

Q But what do you have the percentage as to Morris County?

A Yes. I was going back to pick up the percentage with each of these numbers.

Q Why don't you give them to us as you have it, Mr. Hobaugh?

A In Morris County the 26,367 multi-family units represent 23.3 percent.

Q Of all of what?

A Of all dwelling units.

Q Of all dwelling units in Morris County. All right.

A In Warren County, 5,651 multi-family units representing 23 percent of all dwelling units.

In Hunterdon County, 3,825 multi-family units representing 17.3 percent of all dwelling units.

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In Somerset County, 15,237 multi-family units representing 26.1 percent of all dwelling units.

Q Did you give us the City of Newark? Do you have those?

A No, I did not yet. For the City of Newark, there were 115,000 approximately multi-families representing 90.4 percent of the dwelling units.

Q What percent?

A 90.4.

Q 90.4?

A 90.4.

For the State of New Jersey?

Q Right.

MR. FERGUSON: 90 percent of what?

MR. LINDEMAN: Of all the dwelling units in the City of Newark.

MR. FERGUSON: The City?

THE WITNESS: That's correct.

Q All right.

A In the State of New Jersey, the number of multi-families was approximately 955,800, representing 41.5 percent of all dwelling units.

THE COURT: You said 955,800?

THE WITNESS: Yes, sir.

Q Now, do you have any opinion as to whether or

1 not there is a sufficiency of housing in the Township of
2 Chester for the number of jobs in the immediately -- jobs
3 available in the immediately surrounding market region?

4 MR. FERGUSON: Objection, unless we ascertain
5 what the market region is. Before he testified
6 about how he arrived at the calculation.

7 THE COURT: He told us what the market region
8 was.

9 MR. LINDEMAN: He told us the market region was
10 that area thirty minutes' driving time from the site.

11 MR. FERGUSON: Okay. That's the primary market
12 region he has testified about earlier.

13 THE COURT: Yes.

14 MR. LINDEMAN: We are going to come back to it.

15 THE COURT: I am going to assume, I think, we
16 are going to have to assume -- maybe I shouldn't
17 do it. Maybe I should say this: If we start talking
18 about these regions, these four regions, we got
19 Morris County as one. We got what I called the,
20 i. e., for lack of a, or for the sake of expedience,
21 which is the external influence area.

22 We got the northern New Jersey, which I called
23 northeast New Jersey, and then we got the market region.

24 If there is any reference to a region, we can
25 refer to them that way, all right?

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So the market region we are talking about is the one region he defined. All right, go ahead.

Q Can you answer that question?

A No, sir. I do not have that for Chester Township, vis-a-vis the market region.

I do have it in terms of Morris County as a whole. These are jobs in Morris County.

Q What is it, then, as to Morris County?

A The anticipated increase in employment in Morris County is somewhere in the vicinity of an additional 75,000 jobs between the period 1970 and within the period 1970 to 1990.

THE COURT: 1970 to 1990?

THE WITNESS: 1970 to 1990.

THE COURT: Right.

THE WITNESS: The normal relationship between jobs and housing is that for each approximately 1.3 jobs coming on the line, new employment opportunities, an additional dwelling unit is created. That's a historical relationship.

On this basis the indicated average annual increase in the housing stock within Morris County should be approximately 3,750 dwelling units.

The building permit statistics for the County indicate that during the period 1973 through 1974,

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additions to the housing stock were on an average of 2,675 per year.

Q Which is a deficiency as to the required number under that projection by how much?

A 9, approximately 975 units.

Q Per year?

A Per year. Yes, sir.

Q Right.

Did you make any examination of the number of mobile homes which presently exist in Chester?

A Yes, sir. There are four units, four mobile home units within Chester Township.

Q Representing what percentage of the number of dwelling units?

A Approximately four-tenths of a percent.

Q How about in Somerset County?

A In Somerset County, 147 mobile homes.

Q Representing what percent of its housing stock?

A About three-tenths of 1 percent.

Q Morris County?

A Morris County has a whole, 347 units.

Q That's --

A Three-tenths of 1 percent.

Q Hunterdon County?

A 245 units. Approximately 1.1 percent.

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Q How about in the State of New Jersey as a whole?

A 13,609. 1.6 percent.

Q In our stipulation Item Number 14 we show the --
withdraw that.

Stipulation Number 35, the median income of families
in various localities, Counties, et cetera, if I am not
mistaken. I don't think it shows that for the State of New
Jersey.

Would you tell us, please, if you know, what the median
income was for the State of New Jersey at a particular year,
and if you know, tell us first whether you know and what the
year is.

A Yes, sir. I have it for 1970.

Q What was that amount?

A \$11,407.00 median family income.

Q Now, have you compared that to the median income
of Chester Township?

A Yes, sir.

Q What is the median income for Chester as of that
time?

A \$15,074.00.

Q What percent does the Chester Township median
income bear to that of the State of New Jersey as of that
time?

A Approximately 132-percent.

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MR. FERGUSON: I am sorry, I am lost. Fifteen thousand --

THE COURT: The number was \$15,074.00 against \$11,407.00, which is 132 percent of the State median income.

Q Did you make an investigation of the median family income of Somerset, Hunterdon, and Warren Counties?

A Yes, sir.

MR. LINDEMAN: I will withdraw that, your Honor, because we have that in the stipulation.

Q Now, were you able to determine the median family income of black families living in the four geographical areas we have just been talking about, Morris, Hunterdon, Warren, Somerset, and Newark?

I think Warren should not be in there.

A Yes, sir. I have that.

Q Tell us what they are, please?

A Morris was \$9,671.00. Somerset, \$9,678.00. Hunterdon, \$9,700.00. Newark, \$6,742.00. And for the State of New Jersey, \$7,644.00.

Q Do you have comparable findings with regard to the persons of Puerto Rican background?

A Yes, sir.

Q What are they?

THE COURT: Excuse me. Do you have anything on

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Chester Township?

THE WITNESS: Yes, sir. Chester Township is \$15,077.00.

THE COURT: For the black families?

THE WITNESS: Oh, for black families? No, sir, I do not.

THE COURT: Now, you are asking the same for the Puerto Ricans?

MR. LINDENMAN: Yes, your Honor.

THE WITNESS: Yes, I have that.

Q What is that, please?

A Morris is \$9,055.00.

Q Dollars?

A Oh, yes. Yes, I'm sorry.

Q Go ahead.

A Somerset is \$9,731.00. Hunterdon, \$6,142.00, and Newark, \$5,437.00.

The State of New Jersey, \$6,459.00.

Q Now, on this subject of family income, Mr. Hobaugh, please describe for the Court the quintile method of allocating percentages of various levels of income --

THE COURT: Did you say quintine?

MR. LINDENMAN: Quintile. Q-u-i-n-t-i-l-e.

A It is a means of comparing income characteristics between different areas or among a number of different areas.

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End of
Tape 4

1 MR. GOODRUM: Your Honor, we can't hear him
2 over here.

3 THE COURT: Yes, would you speak up, please?

4 THE WITNESS: Certainly.

5 And in this instance, we have used the State of
6 New Jersey as the base and the 1970 income figures
7 reported by the census as the statistical information
8 and taken the numbers of families in the State and
9 divided them into even fifths or 20 percent so that
10 when you reach the persons who, or family that
11 represents having arrived at an even 20 percent
12 grouping, their income becomes a definition of one
13 and of the quintile.

14 The result of this -- talking only about the
15 State at this moment -- is to say that if we divide
16 the families of the State evenly into five groups,
17 here are the resulting income categories of those
18 five groups.

19 Q And did you do that for the State of New Jersey?

20 A Yes, sir.

21 Q And for other areas as well?

22 A Yes, sir.

23 Q What are the other areas for which you did it?

24 A We did it for the State, for the City of Newark,
25 for Chester Township, for Morris County and Somerset County.

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2 Now did it, when we plug in Newark, Chester
3 Township, Morris County and Somerset County, we keep the
4 income categories fixed. So that we are saying 20 percent
5 of the families in the State in each of the five categories,
6 then we look at the other areas and say what percent of the
7 families of that geographic area are within the same
8 categories.

9 Q All right. Tell us, please, what your quintile
10 compilation was for the Township of Chester in the period
11 1960 and 1970?

12 MR. FERGUSON: Don't we have to have the
13 State figure on the quintile as a frame of reference?

14 MR. LINDEMAN: Well, I intend to ask for the
15 State figures as well.

16 THE COURT: All right.

17 Q Start with whichever one you have first.

18 A Okay. The first point is, I will use Number 1 through
19 5 to indicate quintiles. And Number 1 represents the
20 lowest number. 5 represents the highest income category.
21 And I have percentages here for 1960 and 1970 for each of
22 these units.

23 In Newark in 1960, 32 percent of the families were
24 in quintile 1.

25 MR. LINDEMAN: Your Honor please, at this point,
I have a chart which may make it a lot easier. You

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want to look at this?

MR. FERGUSON: Yes.

It seems to be what the witness is testifying to.
Mark it for identification and --

MR. LINDEMAN: I offer it for identification and
after the testimony, I will offer it into evidence.

Do you have any objection?

THE COURT: P-27.

MR. LINDEMAN: May I ask through the Court if
counsel would have any objection to the Court looking
at it?

MR. FERGUSON: No, no. Of course not.

(The document referred to was marked P-27 for
identification.)

MR. LINDEMAN: If your Honor please, I submit that
really is going to take a lot of time and recording
information to have the witness repeat that which is
on P-27 for identification.

I would just ask the Court and counsel now
to assume that that which appears on P-27 for
identification has been testified to by the witness
and I will now then offer it into evidence.

MR. FERGUSON: I can't assume anything at --
in all good conscience. I think the witness can
be asked.

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THE COURT: Ask him a question.

Mr. Hobaugh, would you testify to everything that is reflected on this sheet as to the quintiles and the various New Jersey, Newark, Chester Township, Morris County, and Somerset County for 1960 and 1970? These are the figures that you made up?

THE WITNESS: These figures have been prepared at my office under my supervision.

THE COURT: Okay.

MR. FERGUSON: And according to the method you gave us just a few minutes ago?

THE WITNESS: That's correct.

MR. FERGUSON: Whatever it is worth.

THE COURT: All right. Let it be marked into evidence, then. I will mark it.

(The document referred to was marked P-27 in evidence.)

MR. FERGUSON: I am not objecting to each little piece of information as to its relevancy, although I have grave doubts.

As your Honor pointed out, the correlation between one piece of information and another may or may not be able to be made. I think in this kind of case without a jury, that judgment has to be made really on a continuing basis and indeed at the end. But just

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1 so it is clear, I am reserving all our objections and
2 I suppose we will have a chance to argue this, although
3 with incremental information, piece of information
4 he gets.

5 THE COURT: Before we leave this quintile,
6 would you just tell me again the method of determining
7 the quintiles?

8 THE WITNESS: The total families in the
9 State as reported in the census giving information
10 on family income are broken down so that an even
11 20 percent of the families occur in each of the five
12 quintiles. Starting from the lowest income to the
13 highest income. And the dollar amount involved is
14 already totaled, is 20 percent of the population in
15 this grouping. And then that is used as a basis
16 State-wide and the percent of families that fall
17 in the same income category and the other units.

18 THE COURT: So whatever the income of all the
19 residents of the State of New Jersey are, whatever the
20 income is, you have just divided it up into fifths
21 and put people in those, each one of those fifths
22 on a percentage basis?

23 THE WITNESS: But the fifth divisions are
24 performed on the basis of the number of families.
25 Not anything to do with the amount of income.

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THE COURT: Yes, all right.

Q I think it would be useful for the record, though, Mr. Hobaugh, if you would tell us what those income spreads are in each one of them.

A Sir, I was looking for them in anticipation of that question and I don't seem to have them here. I don't have the worksheet here.

Q Perhaps you will have to let it go until this afternoon. I think it would be interesting to know.

What, if anything, does that quintile analyses show to the relative economic status of the residents of Chester?

A Well, we pulled out Chester specifically and listed the numbers of families in each of the quintiles for 1960 and 1970 and attempted to show the absolute changes in the number of families in each of the quintiles between 1960 and 1970 within the township.

Q What did it show as to the movement of people up and down in the quintiles?

A It shows --

Q -- in the township?

A It shows, for example, in the lowest quintile, that category which represents the income of the lowest 20 percent of the families in the State, the increase in the number of families was 5 within the township.

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Q By the way, excuse me, Mr. Hobaugh.

A During that ten-year period from 1960 to 1970.

Q You do have a chart for this area of testimony as well, do you not?

A Yes, sir, I do.

Q And I show you a copy of it. Is that a correct copy of that to which you would testify?

A That's correct, it is.

MR. LINDEMANN: I will offer this document into evidence, your Honor.

MR. FERGUSON: You indicate that the 1960 census combined income statistics for Chester Borough and Chester Township?

THE WITNESS: Yes, sir.

MR. FERGUSON: That's family income?

THE WITNESS: That's correct.

MR. FERGUSON: Did they, did the 1960 census combine the figures in any other categories that you have testified about with respect to the quintiles?

I withdraw that question. It's confusing.

You have explained at the bottom of this how you have abstracted out the number for Chester Township in 1960 out of the combined category?

THE WITNESS: That's correct.

MR. FERGUSON: Would you explain for me and

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the Court how you did that?

THE WITNESS: Right. The number of households in the township represent 66.7 percent of the total households in the borough and the township as of 1960.

MR. FERGUSON: How do you know that?

THE WITNESS: From the census.

MR. FERGUSON: That information was broken out?

THE WITNESS: That's correct.

MR. FERGUSON: Okay.

THE WITNESS: When the average household income for the communities was 73.29 for the township and 71.53 for the borough.

MR. FERGUSON: What about the median?

THE WITNESS: Median is average.

MR. FERGUSON: Median and average are the same?

THE WITNESS: Median is average. Excuse me.

MR. FERGUSON: Yes, median is average.

THE WITNESS: Right.

MR. FERGUSON: What is the median family income of the two?

THE WITNESS: I don't have it right here. I don't know if I have the '60 median here anyplace.

MR. FERGUSON: Is that figure available?

THE WITNESS: Without looking, I shouldn't say.

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I assume it is in the census, but I can't be certain of that without looking.

MR. FERGUSON: You have taken the average income family of the borough?

THE WITNESS: The average family income of each, the borough and the township, and we are saying that they're very close. And that the distribution of quintiles will not be affected by that hundred some dollar differential.

MR. FERGUSON: The assumption you are making here is that the distribution and the quintiles is the same in the 1960 for the borough as it was for the --

THE WITNESS: The township.

MR. FERGUSON: -- the township?

THE WITNESS: That's correct.

MR. FERGUSON: Couldn't you test that assumption by looking at the figures for 1970?

THE WITNESS: It certainly gives a comparison. I don't know that it is a valid comparison because I would have anticipated more housing growth has occurred in the township between '60 and '70 than in the borough.

I don't have those numbers here to support that, but I am quite sure it is true.

1 MR. FERGUSON: Isn't it possible to verify that
2 assumption by looking at the census data?

3 THE WITNESS: Sure.

4 MR. FERGUSON: Have you done so?

5 THE WITNESS: I have not done so.

6 MR. FERGUSON: Well, I think this should be
7 marked for identification. I have an objection to it
8 going into evidence since the assumption underlying
9 the breakdown of the township and borough figures for
10 1960 can in fact be tested and the witness hasn't done
11 so. He has made an assumption which may or may not
12 be true. I don't know. He is using average instead
13 of mean and there has been no expert testimony as to
14 the character of the borough versus the character of
15 the township that would allow anybody to make an
16 assumption that the family income levels would be
17 about the same, or would parallel.

18 THE COURT: Mr. Lindeman?

19 MR. LINDEMAN: Your Honor, subject to the
20 assumption being made as Mr. Hobaugh testified,
21 I would nevertheless offer it with that understanding
22 in mind.

23 THE COURT: You know, it is based upon an
24 assumption that I don't know is correct. Without
25 some kind of verification, how can I rely on it?

1 MR. LINDEMAN: Well, the witness has testified
2 as to the means that he used and it is based upon
3 the --

4 THE COURT: I don't know how to test it myself.

5 MR. LINDEMAN: I don't know what the proper
6 statistical method of testing it would be.
7 This witness, who participates, who does this kind of
8 thing for a living and has professional expertise and
9 competence, seems that the 66.7 percent is satis-
10 factory for taking out the number of Chester, or the
11 number of the borough of families. I submit that
12 should be sufficient for the Court.

13 Q Can you explain anything more about it?

14 A One thing.

15 Q About the method and the propriety of the
16 method?

17 A The danger here is that the percentage relationship
18 in each quintile, if there is any danger, is not precisely
19 equal. And the fact that there are 66.7 or as of 1960
20 there were 66.7 percent of the households in both County
21 and the township located withⁱⁿthe township means that
22 on total, the number is correct. It is a matter of do they
23 break down evenly amongst the categories and maybe off a
24 little bit. But certainly category 5 is probably not going
25 to jump to category 1, for example.

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MR. FERGUSON: Well, whatever --

THE WITNESS: So I consider it to be, yes, there is a test that could be run on this to determine, certainly going forward to 1970 would not be a reasonable test because these numbers have nothing to do with 1970.

They have to do with 1960 where we have the fact of the '66.7 relationship.

There are additional tests that could be run on this. No question about it. In my opinion, this gives a representation that is fair and adequate for the conclusions which can be drawn from it.

THE COURT: I will give it, I will weigh it from a weight standpoint rather than admissibility standpoint. I will let you cross-examine him on it. I will mark it in evidence, P-28.

(The document referred to was marked P-28 in evidence.)

MR. FERGUSON: What's it called?

Q What do you call that, Mr. Hobaugh?

A This is a comparison of the number of families in Chester Township in the various income quintiles, 1960 and 1970.

Q Now, as to the residents of Chester who are

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found in the lowest quintile as of 1970, did you make any determination of the characteristics of that population in terms of the age of the population, Number 1, the age of those in the lowest quintile?

MR. FERGUSON: Which are we in, P-27 or P-28?

MR. LINDEMAN: 28.

THE COURT: I don't know that it is either specifically. Just talking about the characteristics of the quintile number 1.

MR. LINDEMAN: Right.

MR. FERGUSON: State-wide?

THE COURT: No, in Chester Township.

MR. FERGUSON: Excuse me.

Q In Chester Township?

A Yes. Yes, we relied upon information regarding income of the elderly published by the State of New Jersey. And within that secured information on poverty within the family sixty-five years and over in Chester Township.

Q And what did you find, what percentage of those in the lowest quintile are of the average family age of sixty-five years or older?

MR. FERGUSON: We have data from another source.

THE COURT: His question was, was he, he is giving a characterization of the residents in the

1 lowest quintile in Chester. And he is telling us
2 how he reached it.

3 Go ahead.

4 THE WITNESS: The document lists twenty-three
5 or 2.3 percent of the families in the township in
6 the category of income below \$3,000.

7 THE COURT: Below \$3,000?

8 THE WITNESS: That is correct.

9 Out of those twenty-three families, six of them
10 were families whose age was about sixty-five.

11 Q What percentage of those in the lowest quintile
12 was that? --

13 MR. FERGUSON: How can you have a family above
14 65?

15 THE COURT: Husband and wife.

16 MR. FERGUSON: Children? I don't know.

17 A Six families with income below \$3,000 per annum.

18 Q Yes, the question is --

19 A Age sixty-five or older.

20 Q Does that mean there is nobody in the family
21 who is under the age of sixty-five in the family unit?

22 MR. FERGUSON: What is the definition of
23 family units in the two publications, the census for
24 quintile and old-age poverty report, whatever that
25 thing was you mentioned?

1 THE WITNESS: They are husband and wife family
2 with head of the family sixty-five or older.

3 Q What was the source of the information as to the
4 incomes?

5 A A booklet called, "Poverty and Other Income Statistics
6 for the Elderly."

7 Q Published by whom?

8 A The New Jersey Department of Community Affairs,
9 Office on Aging.

10 Q What conclusion do you draw from that?

11 MR. FERGUSON: What is the date of that publica-
12 tion?

13 THE WITNESS: It is undated.

14 MR. FERGUSON: Undated?

15 THE WITNESS: Yes.

16 MR. FERGUSON: I object. Got the 1970 census
17 data and without knowing what date it is, how can you
18 compare it?

19 Q Does it show you what year it is being reported?

20 I'll withdraw the question, your Honor. It is not
21 important enough to take the time of the Court on this.

22 Q Mr. Hobaugh --

23 A Yes, sir.

24 Q Forget it.

25 A Okay. I don't find it so listed, so I didn't want to

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say.

Q Mr. Hobaugh, did you have occasion to determine the manner in which Chester's population fell within the New Jersey quintiles in 1967

A Yes, sir.

Q Is that all contained in Exhibit P-27 and P-28?

A Yes, sir.

Q All right. Then I won't go into it. I won't do it.

What conclusion, if any, have you drawn as to the economic status of families which moved into Chester the decade 1960 to 1970 based upon these quintile analyses?

A The quintile analyses indicates that approximately 50 percent of the incoming -- correction -- approximately the number of families in the highest quintile in 1970 had increased over the 1960 number of families in that quintile by an amount that was the equivalent of approximately 50 percent of the total family increase in the township.

Q Did you make any determination of the median value of homes in Chester as compared with the median value of homes in the State of New Jersey and also Hunterdon, Morris, Warren and Somerset Counties?

A Yes, sir. I have some numbers on that. I believe this may be subject to stipulation.

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End of
Tape 5

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MR. FERGUSON: Just one second.

Q Number 14, is that --

MR. LINDEMAN: I will withdraw the question, your Honor, because it is all part of the stipulation. It is Number 14, I am sorry.

MR. FERGUSON: I am lost, totally lost. I am still on quintiles.

MR. LINDEMAN: I am finished with quintiles.

MR. FERGUSON: I know you are.

THE COURT: Will you read back the last answer?

(Last answer read by the reporter.)

Q Now, is there any rule of thumb or any conventional percentage that is accepted in your profession respecting the amount of income which a family should have relative to the value or the purchase price of a house which that family can afford?

A Yes, sir, there is.

Q And what is that ratio?

A Well, it ranges depending upon particulars from 2. -- from 2.0 to 2.5 times annual income.

THE COURT: So I make \$10,000, I can afford a \$20,000 to \$25,000 house?

THE WITNESS: Right.

Q Have you made an analysis of the probable

1 asking price or the offering price of a single-family
2 detached home on a two-acre lot in Chester, in the Township
3 of Chester as of this time?

4 A Yes, sir, we did do that.

5 Q Can you tell us how you did it and what
6 results you obtained?

7 A You're asking for a single-family detached home on
8 property, is that correct?

9 Q Yes.

10 A The method of doing this was to take general site
11 improvement costs as provided by Jaman Engineering and
12 then adding our estimate of building and specific lot
13 development costs, plus builder's profit and overhead type
14 items to come up with an estimated offering price, including
15 the land value provided by the realtor.

16 Q Of what?

17 A The total offering price that we estimated was
18 approximately --

19 MR. FERGUSON: Objection, your Honor. I
20 thought he was still on the method.

21 Now, Number 1, he is not a real estate expert
22 and he based it upon what he told us. What he is
23 doing is calculating, I take it, what Mr. Caputo would
24 have to offer a lot at to make a profit with all those
25 other things factored in.

1 Number 1, it is beyond his expertise, and
2 2, I don't think it is relevant what Mr. Caputo
3 is going to offer a lot for.

4 MR. LINDEMAN: I don't know how that confusion
5 creeps into this. I am merely asking what the offering
6 price of a typical two-acre lot, improved lot, with a
7 house on it.

8 THE COURT: Well, why is it relevant to this
9 man's testimony and why should he be the one to tell
10 us? Shouldn't Mr. Earl?

11 MR. LINDEMAN: It is really corroborative.
12 I think that Mr. Earl has produced testimony on that.

13 THE COURT: Well, I will allow you to take the
14 opinion of Mr. Earl and tell him and use that as a
15 basis of what Mr. Earl told us. But I don't see
16 how as to this man's expertise.

17 MR. LINDEMAN: I will withdraw it, your Honor.

18 THE COURT: Okay.

19 MR. LINDEMAN: It is not that important.

20 Q Assuming, however, Mr. Hobaugh, that a house,
21 a single-family house on a two-acre lot would be priced
22 in the area of \$90,000, approximately \$90,000, what
23 percentage of the families in Morris, Somerset, Hunterdon,
24 and Warren Counties could afford such a house?

25 A Oh, approximately one-half percent. Somewhere in

1 that area. Every County.

2 Q And what about Morris County individually,
3 do you have that?

4 A It's the same breakdown. 1.3 to 1.5.

5 Q Can you tell us, please, from a planner's
6 point of view what is required in order to provide housing
7 which a greater percentage than 1.3 percent of the
8 families in these areas, especially families of lower or
9 moderate and even middle income can afford?

10 Before answering that, please define the conventional
11 wisdom, if you will, of lower, moderate, or middle income?
12 What would that be? What category, what level of income
13 would fall into those?

14 A For low income, anything below approximately \$8,500.00
15 annual family income.

16 Q Moderate?

17 A For moderate up to about \$12,500.00.

18 Q Middle?

19 A Middle, up to \$25,000. These are in category steps.

20 Q Right, right.

21 Now, as to the question, what would be required
22 in order to provide housing so that a greater percentage
23 of those people might afford them as residences?

24 A Well, across the top, or obviously I am talking
25 about the method to be able to produce housing at a lesser

1 cost to the consumer.

2 Q Right.

3 A In terms of making housing available to the low
4 income categories, I don't think there is any way to do
5 it except through subsidies of some type. For many of the
6 moderate income levels, that is also true. It is potentially
7 possible to, I am talking about ownership is potentially
8 possible to create some attached dwellings that would
9 reach the upper end of moderate income affordability.

10 But generally speaking, at best on a small lot, it
11 is difficult to deliver a detached single-family home
12 anyplace in this State for less than approximately
13 \$35,000.

14 Some variation from region to region.

15 If anything, the area of Chester Township is one
16 in which I would anticipate it would be more expensive
17 rather than less expensive.

18 Q What role, if any, does zoning as such play
19 in creating an economic situation where people in these
20 categories can afford homes?

21 A First, zoning dictates lot size or density, let's say,
22 because it may be a multi-family situation where lot size
23 does not apply. And the relationship between the density
24 which can be achieved and the ultimate price to the
25 consumer is that you have a unit of land which has a given

1 value or cost. And it's normal practice to divide the
2 number of units, dwelling units which you will achieve
3 into the total cost or value of the land thereby yielding
4 an assigned cost or value to each dwelling unit.

5 Q How, could you --

6 A This becomes a cost that has to be recovered ultimately
7 from the price paid by the consumer.

8 zoning ordinances also controls minimum floor area
9 in many instances. That with building costs, what they
10 are today even excluding the special costs of bathrooms
11 and kitchens, you can be talking in the area of \$23.00 a
12 square foot for remaining areas for single-family homes
13 in most portions of the State today, and it can be higher.
14 200 square feet, for example, added to a dwelling means
15 that there is more than \$4,000 in costs added to the price
16 of the dwelling.

17 Q If single-family dwellings are as out of reach
18 as you indicate, what form of dwelling is more within the
19 reach of people in these income categories?

20 A Well, obviously the higher the density the less
21 portion of the land cost which is attributable to each
22 unit, and, therefore, critically at least lowering the
23 cost to the consumer what a multi-family or attached
24 dwelling unit, at least, normally would be constructed at
25 densities higher than single-family detached dwellings would

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be constructed.

Q Then for the record, please tell us why it is that construction of multi-family dwellings such as those that you have referred to as attached houses, even adding townhouses and apartment houses are more within the reach of the low income categories?

And tell us about the cost of construction and the cost of land in connection with that kind of dwelling.

A On a relative scale, without going into dollar amounts because that would vary from place to place, it is less costly to create multi-family type housing on a per unit basis than it is to create single-family detached housing.

THE COURT: Mr. Lindeman, is this a good stopping point?

MR. LINDEMAN: Yes, this is a good point.

THE COURT: Okay. Let's break for lunch.

(The noon recess was taken.)

Oct. 25
1977

A P T E R N O O N S E S S I O N

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4 **THE COURT:** All right.

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6 **Q** Mr. Hobough, in zoning ordinances, such as
7 7612, there are provisions which allow owners of property
8 to do things as of right as permitted under the zoning
9 ordinance, and those which are permitted under the
10 discretion of the Planning Board from time to time and
11 under certain circumstances.

12 From the point of view of a planner and the development
13 of a municipality such as Chester, tell us what the
14 significance is of the two kinds of provisions in an
15 ordinance?

16 **A** The two kinds of provisions being uses permitted
17 which is right versus uses permitted as conditional,
18 otherwise discretionary.

19 **THE COURT:** For the sake of discussion, we are
20 talking about conditional uses versus permitted
21 uses?

22 **THE WITNESS:** Yes, sir.

23 **THE COURT:** Okay.

24 **MR. FERGUSON:** I object, your Honor. I don't
25 think there are any conditional uses in the Statute.

1 MR. LINDEMAN: I don't know what conditional
2 means in that sense, your Honor.

3 THE COURT: Well, they used to be called
4 special exceptions. And that was done away with be-
5 cause it was more confusing than anything.

6 What I am talking about is a use permitted in
7 a zone that has to have approval of one of the town
8 agencies before it can be permitted.

9 MR. LINDEMAN: That's exactly what it means.

10 THE COURT: Other than the normal subdivision
11 type procedure. In other words, the Planning Board,
12 the Board of Adjustment, has to make certain findings
13 that are concomitant with the objectives of the
14 zoning.

15 MR. LINDEMAN: Right.

16 THE COURT: Okay. Now, that is in my estimation
17 a conditional use. I am not familiar with the
18 entire zoning ordinance. I haven't read it over.

19 MR. FERGUSON: There are some special exception
20 uses and that's one of the things that are going to be --

21 THE COURT: Okay.

22 MR. FERGUSON: -- changed.

23 THE COURT: That's what I am calling a conditional
24 use.

25 MR. FERGUSON: Article 7, 200.

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THE COURT: Okay. Let me, because then tell me --

MR. LINDENMAN: Counsel says one of the things that is going to be changed --

MR. FERGUSON: Well, to call a special exception by its new title is a conditional use under the Statute.

THE COURT: Okay.

Q All right, Mr. Hobaugh?

A Yes, sir. I am answering not based on any specific of Chester's zoning ordinance, but in general terms which I understood the question to be framed.

Q Right.

A A use that is permitted by right offers the potential to a developer or builder to prepare plans in accord with local requirements and regulations and apply for a building permit, if you will, for that use.

As required to having to make application for a conditional use or other use that may be subject to discretion, such as, for example, flag lot provisions in the Chester Ordinance and normally at this point in time, in any event, the commencement of such a procedure means from my own experience anywhere from three to nine to twelve months involvement in hearings and procedures before reviewing boards, which is both an expense to a potential developer in terms of time delay and also in terms of

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necessary expertise that must be acquired in order to see one through such a series of hearings. And specify that to --

MR. GOODRUM: Excuse me. Your Honor, I have great difficulty hearing the witness. I am picking up maybe half of what he says over here.

MR. FERGUSON: Whenever a car passes.

THE COURT: We are going to have to close those windows over there. Off the record. It will be warm.

THE WITNESS: I will try to speak up first. It is a combination of factors in this courtroom.

THE COURT: Off the record.

(A discussion was held off the record.)

THE COURT: Okay.

Q Proceed, please, Mr. Hobaugh.

A The expense of the expertise is magnified, not so much necessarily because of the additional expertise is required, but because of the multitude of appearances that are frequently required by the parties involved.

In addition to this, it places one applicant in the position of being required to cater to the "discretion of the reviewing body."

Therefore, uses may be either granted or denied for appropriate or very inappropriate reasons.

Q Now, with regard to the flag lot section of the

1 ordinance that you just mentioned.

2 Are there any objective criteria fixed in the
3 ordinance that you know of to determine under what
4 circumstances the use would be permitted?

5 A That's Section 13.100 of the Ordinance.

6 And it says, "Subject to subdivision approval by
7 the Planning Board based on the compatability with the
8 present and future development of adjacent lands, flag lot
9 like lots may be permitted."

10 That last was not a quote. It was paraphrasing.

11 Q Compatible with adjacent land is determined
12 how and by whom?

13 A The Planning Board is the stated approving authority,
14 therefore, I would assume their judgment as to that.

15 MR. FERGUSON: Assume what?

16 THE WITNESS: That the judgment to the compata-
17 bility would be made by that Board.

18 Q Now, Mr. Hobaugh, bearing in mind that
19 stipulation Number 17 of the stipulations submitted into
20 evidence in this proceeding, provides that under the
21 Building Code of Chester Township, the minimum size houses
22 permitted in a residential zone is 1,315 square feet for
23 the R-2 and R-5 zones respectively.

24 Tell me, tell us, please, what the mandated minimum
25 floor sizes under relevant subsidy programs are and identify,

1 please, the subsidy programs that you will refer to?

2 A Well, for example, under the Section 9, Housing
3 Requirements of the Department of Housing & Urban Development,
4 there is a correlation between unit size, that is, square
5 foot and number of bedrooms, which ranges from 415 square
6 feet for an efficiency type unit, zero bedrooms, one
7 bath, through 540 square feet for a one-bedroom and one bath.
8 800 square feet for two bedrooms, one bath.
9 1,050 square feet for three bedrooms, 1 1/2 baths,
10 and 1,150 square feet for four bedrooms and 2 baths.

11 THE COURT: How many baths?

12 THE WITNESS: Two.

13 THE COURT: Two baths.

14 Q Are there any other subsidy programs?

15 A There are subsidy programs in the State of New Jersey,
16 yes, which establish, recommended for floor area sizes
17 the, for example, there are a number of these here.
18 And I would sample them for you.

19 An efficiency apartment for the elderly, 437 square
20 feet.

21 MR. FERGUSON: What standards are these?

22 THE WITNESS: The New Jersey Housing Finance
23 Agency.

24 MR. FERGUSON: All right, go ahead.

25 A A one-bedroom elderly, 598 square feet --

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THE COURT: I am sorry. Would you go back.

Elderly efficiency was what?

THE WITNESS: 437.

THE COURT: 437. All right. One bedroom is what?

THE WITNESS: A one-bedroom elderly, is 598. A one-bedroom family apartment is 690 square feet.

Two-bedroom family apartment, just under 920 square feet. And, for example, for a two-bedroom garden apartment, 910 square feet up to a four-bedroom townhouse, 1,657 square feet.

Q And what impact does the ordinance of Chester regarding its square foot limitations have upon those subsidy programs, or what is possible under the limitations of Chester that the subsidy program can be utilized?

MR. FERGUSON: Objection, your Honor. It is obviously possible you can apply for a variance or relaxation.

MR. LINDEMAN: That is not what my question asked. My question is under the zoning ordinance. Not under any variation from the zoning ordinance.

THE COURT: Wait a minute. I am a little confused. The stipulation on the minimum square footage, comes from where, the building code, doesn't it? Not the zoning ordinance.

End of
Tape 6

1 MR. LINDEMAN: The building code -- I am sorry,
2 it is the building code, yes.

3 THE COURT: Okay.

4 MR. LINDEMAN: Right.

5 THE COURT: No, I think Number P-3.

6 MR. FERGUSON: R-2 and R-5 are 1300 and 1500
7 under the Building Code. But the HDR has, I take it,
8 different requirements.

9 THE COURT: Okay. I will allow the question
10 as it was asked and you can qualify it.

11 Q Would you answer the question?

12 A To the extent that floor area minimums required
13 within the Township are of greater size than the recommenda-
14 tions, for example, of the New Jersey Housing Finance
15 Agency. They mitigate against such housing being able to
16 be created within the Township because, as I pointed out
17 earlier, with the increases in floor area, one also has
18 increases in costs. And from the standpoint of the
19 persons operating the subsidy program, it is desirable
20 for them to incur less costs necessary for each unit
21 in order to have maximum money to spend money over the
22 maximum number of units.

23 Q And similarly with regard to the Federal
24 Subsidy Program?

25 A Yes, sir.

1 Q What about that? You referred to the New
2 Jersey Program.

3 A It is the same principle to the extent that those
4 four area requirements are greater.

5 Q Now, as to the market area that was mentioned
6 earlier in your testimony --

7 A Yes, sir.

8 Q Have you prepared a market area demand profile
9 for housing units?

10 A Yes.

11 Q For the market area, for the market area
12 in which Chester finds itself?

13 A Yes, sir, we have.

14 Q By the way, have you prepared a sketch or a
15 map showing what the market area of Chester is?

16 A Yes, I have.

17 Q And is what I have in my hand a copy of it?

18 A That is correct.

19 Q Would you explain it, please?

20 First, explain whence it cometh, the photocopy of
21 the map.

22 A Where is the map?

23 Q Where is it from?

24 A It is from a map that I happen to have in my file.
25 It shows the appropriate area.

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Q A map of what?

A The map centers on Morris County.

It includes Warren, Hunterdon, Somerset, Mercer, Middlesex, a portion of Monmouth.

In other words, northern, northwestern and central western New Jersey.

Q Now, on this map, are a series of concentric circles.

Tell us what the center of that series of circles is?

A The center of those circles approximate the center, the circle approximates the location of the Caputo tract.

Q And the circles show what?

A They show miles from the site.

Q So that the first circle is five miles and the second ten and third fifteen miles, correct?

A That's correct.

Q What is the red line area?

A The red line area delineates the market area region as we defined it.

Q Which is, that it is thirty minutes by automobile on the average from the site?

A The market area was designed by, or delineated by determining a thirty-minute drive from the site in different directions and then ultimately the red line that

1 is on this map was adjusted to include whole municipalities,
2 entire municipalities rather than dividing individual
3 municipalities.

4 MR. LINDEMAN: I offer the document into
5 evidence, your Honor.

6 MR. FERGUSON: When did you decide on the
7 thirty-minute drive time?

8 THE WITNESS: It's always been a thirty-minute
9 drive time.

10 THE COURT: Do you have an objection to it?

11 MR. FERGUSON: Well, I would only ask, what is
12 assumed as the speed of driving on the roads to get
13 to the funny-shaped red line? How did you figure that
14 out?

15 THE WITNESS: I don't have it committed to
16 memory, sir. Somewhere I do have the assumptions
17 written down in terms of travel speeds.

18 MR. FERGUSON: Do you have them readily
19 available?

20 THE WITNESS: I will tell you in a minute.

21 MR. FERGUSON: I don't want to waste time.
22 Let's mark it. And it is a map and if it is inaccurate,
23 I would like those assumptions stated at some point.

24 THE COURT: Get to them -- ask them on cross-
25 examination.

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MR. LINDEMAN: So, therefore, I would like to offer it.

THE COURT: P-29 in evidence.

(The document referred to was marked P-29 in evidence.)

Q Now, have you arrived at, or have you seen or made a computation of the number of housing units that will be demanded and be a requirement that will be demanded or required in the market area shown on P-29 in the period from 1975 through 1980?

A Yes, sir.

Q Would you tell us, please, how you went about making that study? Tell us what sources of information you used in the process?

A First of all, it was established exclusively to the market area which we have delineated and which is on P-29. The area encompassed within that market area region, geographic area encompassed within in, was examined in terms of anticipated increases in employment and population. The sources of information regarding anticipated future employment and population were based upon certain data previously testified to here by me and some cases in the necessity of assigning that data for the aggregate area to individual municipalities, such as County data, to certain municipalities within the County with the result

1 that the total number of additional dwelling units we
2 anticipate to be demanded within the market area and
3 region can be defined.

4 This, then, is broken down into various income
5 categories and/or the equivalent house price which could be
6 afforded for each of those categories.

7 And then further divided into those units in each
8 of the groupings which are anticipated to be demanded as
9 owner-occupied households and those which are anticipated
10 to be demanded as rented occupied households.

11 Q Now, I show you a document which is a market
12 area demand profile of the housing units which will be
13 in demand as the period '75-'80 in the various income
14 categories that you referred to, do I not?

15 A Yes. Also 1980 to '85.

16 Q Right. Now, just tell me, please, what the
17 left-hand column is.

18 A There are four columns here.

19 Q What is the left-hand column intended to show?

20 A The left-hand column includes the income categories.

21 MR. LINDEMAN: The second, this is, by the
22 way, DH-1 for identification.

23 THE COURT: It is going to become P-30.

24 MR. LINDEMAN: Shall I have it marked?

25 THE COURT: Yes. Let's have it marked P-30 so

1 we have it on the record for identification.

2 (The document referred to was marked P-30 for
3 identification.)

4 MR. FERGUSON: This was indeed marked at the
5 deposition. I suppose it is appropriate to object
6 at the time this is offered into evidence.

7 And let me have a voir dire on the document.

8 THE COURT: Yes, if he is going to read from it,
9 I think it should be done now.

10 However, could we do it this way? Is there any
11 reason why you anticipate that I cannot understand
12 what those columns mean without him having to testify
13 to what is in each column?

14 MR. LINDEMAN: I guess not.

15 MR. FERGUSON: I guess it is appropriate to let
16 you see it because part of my objection is footnoted
17 at the bottom.

18 THE COURT: Okay.

19 MR. FERGUSON: Frankly, as to the source, when
20 it was prepared and how.

21 MR. LINDEMAN: The Court having been now
22 handed a copy.

23 THE COURT: P-30 for identification.

24 MR. LINDEMAN: P-30 for identification.
25 I offer it in evidence.

1 MR. FERGUSON: It is not in evidence. It is
2 identification.

3 MR. LINDEMAN: I am now offering it.

4 MR. FERGUSON: Oh! Well, I object.

5 THE COURT: You object to what?

6 MR. FERGUSON: Wait a minute. The copy I had
7 has something else on it. Excuse me. Could I see
8 that, Judge?

9 The projections by resolving which has
10 Herbert H. Smith Associates crossed out with the
11 use of the survey of "Buying Power & Sales Management
12 Marketing" 1969-1975. That is not what this witness
13 testified to previously as the source of his
14 projections by the R. P. A. and the Port Authority of
15 New York and New Jersey.

16 I recall at the deposition that indeed those
17 projections were made with the aid of a management
18 marketing magazine and I object to that data, or
19 those projections being used as the basis for this
20 exhibit.

21 MR. LINDEMAN: If your Honor please, I recall
22 the witness said that he had used those, or that
23 data that he previously testified to in the preparation
24 of this document. And my recollection is that it
25 was others as well. I think he was --

1 THE COURT: I don't remember him referring
2 specifically to the magazine that is referred to
3 in the footnote on that paper.

4 MR. LINDEMAN: That's correct. I think we
5 really haven't come to that yet. I was going to
6 ask him about that.

7 THE COURT: Well, all right.

8 You have other objections to it?

9 MR. FERGUSON: Well, not until we find out
10 how he did it. I am sure I will then. I mean,
11 the foundation is not in evidence yet and your Honor
12 has already ruled that that report will come in
13 or will be presented.

14 THE COURT: Okay. Let's get to the foundation
15 for the information and the explanation of the
16 foundation, if we could, Mr. Lindeman.

17 MR. LINDEMAN: Sure. All right.

18 Q Mr. Hobaugh, I take it you did use figures
19 from the United States Bureau of the Census as well as the
20 M. P. A. brochure that was referred to earlier, is that
21 correct?

22 A Yes, sir. I haven't talked about any sources about
23 information yet except those that were used in referring
24 to a total housing demand. I believe I would hope the
25 wording on the record would be clear to that.

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Q It is what it is.

Now, tell us what, if any, use was made of the survey known as the Survey of Buying Power and Sales Management Marketing Magazine.

A Yes, sir. The magazine publishes annually indices of effective buying income of various areas of the State and in effect, it becomes an indice which can be applied, for example, to the 1970 census figures regarding family income.

The use of the series of annual effective buying income numbers utilized in the preparation of a chart of this type in order to make it possible to project out in participated groupings of income in the future.

In other words, we use at the top of this column zero to 299 as of 1970 or '75, or any based year that is a certain percentage of the population that is in those income groups. As time goes along, that is going to change.

Q Where?

A Because that change which we project out utilizing the figures from the survey of business.

Q Where do those numbers come from, 2.45 percent and the other percentages?

A They are averages of individual numbers during the five-year period. In other words, during 1975 to 1980, from '75 to '80, there is a movement of a percent of families

1 that are in that category.

2 MR. GOODRUM: There is a what?

3 THE COURT: A movement. It is a moving average
4 from year to year.

5 A And 2.45 would be approximately the mid-point from the
6 beginning number to the end number.

7 Q My question is, though, what is the source of the
8 percentages?

9 A The percentages come from our statistical work
10 projecting income groupings forward.

11 Q Your statistical work?

12 A That's right. Work done in my office based upon the
13 effective buying income indices and information in the
14 survey of Buying Power and Sales Management Magazine.

15 THE COURT: What is the source of the magazine's
16 information?

17 THE WITNESS: They run constant monitoring on
18 this kind of thing. It is an annual edition, special
19 edition of their publication.

20 THE COURT: Okay. Now, you say, you said that
21 it was an indice, index, rather, of the effective
22 buying income. Do they tell you how they arrive, or
23 maybe I should ask it this way: What is the
24 definition of effective buying income? And how do
25 they arrive at it?

1 THE WITNESS: The effective buying income is,
2 without trying to quote their definition, essentially
3 disposable income and it has a non-relationship to
4 the total income on the average.

5 THE COURT: Okay. What are the sources for
6 that information? Do they tell you?

7 THE WITNESS: Do they tell you where they get
8 the information?

9 THE COURT: Yes.

10 THE WITNESS: They use a sampling technique.
11 I do not know offhand what those are.

12 Q Do you know the, who the publisher of that
13 magazine is, Mr. Hobaugh?

14 A No, sir. I don't know offhand what the formal name
15 of the publisher is.

16 Q Can you tell us about the use to which the
17 figures from that magazine have been put in courts and
18 trials and their general acceptance, that is, to say the
19 relative dignity ascribed to that document?

20 MR. FERGUSON: Objection, unless this witness
21 can state how he knows how they have been received
22 by courts in trials.

23 MR. LINDEMAN: All right. I will accept that.

24 Q Can you tell us, Mr. Hobaugh?

25 A That particular source is one that we have used, to

1 my knowledge, on each and every housing market study which
2 we have performed.

3 Q And have you personally used it?

4 A Yes, sir, I have.

5 Q And have you testified from it?

6 A Sir, I really don't recall. I do have a memory of
7 having similar discussions to this about the document
8 previously, but I can't say that I remember that I have
9 testified from it previously.

10 Q I don't mean from the document itself.

11 A Using data from the document, I would have to assume
12 so, because we use it frequently.

13 Q Why do you say you have to assume so?

14 A Because I use it very frequently. Use the information
15 from this document very frequently.

16 Q And have you ever had occasion to have it
17 offered or received in a court proceeding?

18 MR. FERGUSON: I think that is irrelevant.

19 I object.

20 THE COURT: Sustained.

21 Q Are any of the figures that are, if I understand
22 their source in the magazine, also contained in the
23 census and the R. P. A. Report that you referred to?

24 A No, sir. They're two different statistical categories.

25 Q What part of this exhibit which comes solely

1 from the magazine, the Sales Management Marketing Magazine
2 the percent of the families which are in the various
3 income categories?

4 A It is derived utilizing the information from the
5 magazine.

6 Q What, by the way, does that magazine do to
7 break down this data in regions or areas?

8 A Well, it gives information for most Counties,
9 I believe, in New Jersey. In many instances for municipal-
10 ities. In some instances, for municipalities.

11 Q And I take it, it did so for the Morris County
12 area and the area where Chester is, is that correct?

13 A For some areas it was appropriate for us to apply it
14 to our market area. Yes, sir.

15 Q What is your opinion as to the acceptability
16 of the figures that are contained in that magazine?

17 A Well, I think the most direct answer I could give
18 in response to that, is that this table was prepared to
19 make our best estimate as to the number of dwelling units
20 that would be demanded, we could anticipate being demanded
21 within the market region as defined on P-29 over the ten-year
22 period, 1970 to 1985.

23 It was prepared using background data from sources
24 which are frequently used by ourselves.

25 Utilizing methodology that has been developed over the

1 course of preparation of a number of studies. A great
2 many studies of this type and stopping short of some that
3 this is precisely the number because obviously this was
4 prepared some time back and any projection requires
5 provision as one goes ahead. And secondly, no projection
6 is intended from any part, at least, to be precise as to
7 number, but rather to give an indication to quantity.

8 Q Do you know whether --

9 A Subject to those kinds of qualifications, I have
10 confidence in the work that is represented by this piece of
11 paper.

12 Q Do you know whether you still have a copy of the
13 publication from which these figures come?

14 A Oh, sure. Not here, but yes, I have them.

15 MR. LINDEMAN: Your Honor, I offer, I re-offer
16 or stand again on my offer of a document, and not
17 only for the reasons which Mr. Hobaugh expressly
18 stated to the Court, but for this reason too: That
19 obviously to furnish statistics made by a witness
20 who would appear before the Court would be clearly
21 prohibitive. Prohibitively expensive and probably
22 unnecessary because it is just a small element in this
23 huge complex of facts that has to be presented to
24 the Court.

25 I think that from the, from what the witness

1 has said there is a fair degree of reliability
2 that can be attributed to the figures.

3 But that if there is anything about them which
4 makes them way off or incorrect, the defendant has
5 the privilege and obligation to come forward to show
6 us how they are wrong.

7 Now, I stated earlier in the proceeding that it
8 was our position that we didn't even bear this burden
9 initially of producing evidence such as this. That it
10 was, rather, the burden of the municipality to justify
11 the action or non-action which it took in the town.
12 But because of the posture of the case and, perhaps,
13 because I may be wrong, we are going forward. But
14 these are facts which, I think, the Court really ought
15 to have and it can ascribe, it can attribute whatever
16 weight it wants to them, it feels it is entitled.
17 If the defendant puts any other testimony which I
18 doubt it will do that, will contradict this, so be it.

19 THE COURT: Mr. Ferguson?

20 MR. FERGUSON: I find it extraordinarily
21 difficult to articulate my objection to something at
22 this point. I have a very difficult time understanding
23 it. However, I will try.

24 I don't think there has been a foundation laid
25 as to the acceptability of this statistics as yet.

1 I am not quite sure what they are from, the
2 magazine in the Planning profession which Mr. Hobaugh
3 hasn't testified to.

4 Secondly, I am not clear as to whether the
5 statistics from the magazine are being applied to
6 other statistics which are in here from a different
7 source, such as the R. P. A., the Port Authority, and
8 the census. And maybe even the employment statistics
9 from New Jersey, whether they're somehow being
10 cross-manipulated. And I think until a better
11 foundation is laid so we can really see what is going
12 on, it should not be received.

13 THE COURT: Well, with respect to your first
14 objection. As I understand it, he is telling me
15 when he makes a housing profile study, he relies on
16 these indices to give not a specific indication, not
17 a precise indication, but it is an indication as to the
18 quantity. Not, he is not asking me to accept that
19 as the figure. It is a guide. And I would be surprised
20 if he tried to get me to accept it as a specific
21 anyway.

22 He is giving me the number of years he has been
23 in the business and what he has done in the business
24 and the numbers of, number of market studies he has
25 made. And he is telling me he uses this.

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2 Now, from that standpoint, it seems to me he
3 has sufficiently established the basis for which he
4 feels you may disagree or your expert may disagree
5 as to the accurateness. But I think from that
6 standpoint, I would allow it.

7 Admittedly, he says it is not tied in with the
8 other two reports that we have been dealing with.
9 That is a quandary for me. But I don't know whether
10 that makes it inadmissible.

11 MR. FERGUSON: Perhaps we can ask what the
12 purpose of this document is.

13 What is it going to show?

14 MR. LINDEMAN: Well, I think that's, I thought
15 it was fairly -- it is to show the number of housing
16 units that will be required in this market demand
17 area over the period referred to on the exhibit,
18 plain and simple.

19 THE COURT: All right. Compare, as I understand
20 it, compare this with what the zoning ordinance is
21 going to permit?

22 MR. LINDEMAN: Right.

23 THE COURT: Whether or not these projections
24 can be made -- met by the zoning ordinance in these
25 categories.

MR. FERGUSON: As I understand it, is this

1 directed toward Chester Township in any way or only
2 to the region?

3 MR. LINDEMAN: Well, it is being offered for the
4 purpose of this case insofar as Chester Township is
5 at the center of the market demand area.

6 THE COURT: That was one question I had.

7 When you asked the first question about it,
8 it was a housing profile for the market area. And
9 on that point, I am a little confused and perhaps you
10 could clarify it.

11 These are the number of housing units that he is
12 considering to be Chester Township's share of the
13 market area?

14 MR. LINDEMAN: No, your Honor.

15 THE COURT: Or they the number the units in the
16 entire market area without breaking out Chester Town-
17 ship's share?

18 MR. LINDEMAN: That's correct, the latter.

19 THE COURT: Is that the latter?

20 THE WITNESS: Yes, sir, it is.

21 THE COURT: Okay.

22 MR. LINDEMAN: Does the Court have the exhibit?

23 THE COURT: Yes, I do.

24 MR. LINDEMAN: I am sorry.

25 THE COURT: I will allow it to be marked in

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evidence.

It seems to me that it has, in my mind anyway, it has some relevance, sufficient to allow it to be marked. I recognize that there are questions everyone will have about it, but it can be marked and I will mark it.

(The document referred to was marked P-30 in evidence.)

Q Mr. Hobaugh, you are familiar, are you not, to the extent that you have read, at least, the 7612 Ordinance?

THE COURT: Before you get to that, could I ask one question that I have in my mind after ruling on this?

How do you tie the number of units demanded in the area into Chester Township? Or another way, what do you say is Chester Township's fair share of those number of units in demand?

THE WITNESS: I really haven't addressed that on this particular piece of paper as compared to the assignment of units to the municipality. This is a gross number that will be demanded at all price levels within the area including some units that are demanded at prices for which they could not be delivered. Simply too low. Nonetheless --

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THE COURT: Some of these units could not be delivered in Chester Township because they're too low?

THE WITNESS: Anyplace in the market area.

THE COURT: Anyplace in the market area?

THE WITNESS: That is without a significant subsidy.

THE COURT: All right. Go ahead, Mr. Lindeman.

I am sorry.

Q You are familiar with the present zoning ordinance, are you not, Mr. Hobaugh?

A Yes, sir, I am familiar with it.

Q Have you formed any conclusion as to whether or not the provisions of the present ordinance and its creation of its various R-2 and R-5 Zones, its limitation of the R-1 Zones and the new R. M. & I. H. Zones, as to whether or not the ordinance is exclusionary or it is not exclusionary as that term is used in the Mount Laurel and Oakwood at Madison Township case?

MR. FERGUSON: Your Honor, that is a -- objection. That is purely a legal conclusion.

THE COURT: Sustained.

Q Have you formed any conclusions about the consequences upon the real property taxes of the Township of Chester as those taxes are or may not be affected by

1 the zoning ordinance?

2 THE COURT: Would you read that question back,
3 please?

4 MR. LINDEMAN: May I reframe it, your Honor?

5 THE COURT: Okay.

6 Q Have you formed any conclusions as to the
7 impact of the present zoning ordinance upon the real property
8 tax level of the defendant township?

9 MR. FERGUSON: I object, unless it is ascertained
10 through some kind of testimony there is such, that
11 such a thing exists and isolated and talk about the
12 other 10,000 other things that may affect the
13 level of property taxes.

14 MR. LINDEMAN: I don't mean to ask about
15 the levels as such or to --

16 THE COURT: You mean tax structure?

17 MR. LINDEMAN: The tax structure is a better
18 word, yes.

19 A I take it the question is what is the interrelationship,
20 if any, between the zoning ordinance and the tax structure?

21 Q That is better stated.

22 MR. FERGUSON: If there is, he can tell us what
23 he thinks it is.

24 MR. LINDEMAN: Yes, I would say that is better.

25 MR. FERGUSON: Now, is that with specific reference

1 to this ordinance or just in general?

2 MR. LINDEMAN: With specific reference to
3 this ordinance.

4 MR. FERGUSON: And if it is, we can expect as
5 to this ordinance, I would ask that the sections
6 he is relying on be identified quite --

7 THE COURT: He is going to have to tell us
8 how he reaches the conclusion that he reaches.

9 He has first been asked, does he have a
10 conclusion or opinion with respect to the impact
11 of the zoning, zoning opinion that he has, whether
12 he has any opinion upon the impact of the zoning
13 ordinance on the real estate tax structure.

14 I take it that would take a yes or no,
15 Mr. Hobaugh.

16 Do you have an opinion?

17 THE WITNESS: Yes, sir, I do have an opinion.

18 THE COURT: Okay. He has one.

19 All right, then I will allow you to tell us
20 what the opinion is and what he bases that opinion on.
21 All right? Go ahead.

22 Q Go ahead, Mr. Hobaugh.

23 A Generally, those municipalities who have predominantly
24 large lot zoning and very low density of development in
25 terms of absolute numbers, relatively small growth, not

1 necessarily in terms of percentage now, in terms of
2 absolute numbers --

3 MR. FERGUSON: I can't hear.

4 A Usually are found to have lower tax rates than those
5 -- I am talking effective tax rates now -- than those that
6 are rapidly developing because of the relationship between
7 need for expanded facilities and services and development
8 which, in turn, mean tax monies required to support services
9 and facilities, both expansion and new ones coming on
10 a line.

11 Q Now, do you know how many taxable jurisdictions
12 there are in the State of New Jersey?

13 A 567.

14 Q And where does the Township of Chester range in
15 terms of, well, high or low or low taxes from, well, from
16 1 to 567?

17 THE COURT: You mean the tax rate?

18 MR. FERGUSON: I object, I don't understand.

19 THE COURT: Or gross tax income?

20 MR. FERGUSON: All kinds of things. I object
21 until we know what we are talking about.

22 MR. LINDEMAN: I am asking about the tax rate
23 first.

24 MR. FERGUSON: Equalized rate? Local rate?

25 MR. LINDEMAN: Local rate. Not equalized rate.

1 THE COURT: County?

2 MR. LINDEMAN: Pardon me?

3 THE COURT: If the tax -- I don't really want
4 to get into a long discussion of taxes. But as I
5 understand it, all municipalities in the State of
6 New Jersey are supposed to be assessing at hundred
7 percent valuation, but they don't. So you equalize
8 the tax rate.

9 MR. FERGUSON: That's right.

10 THE COURT: That's what the County Board does
11 every year.

12 Are you talking about equalized rates as
13 established by the Morris County Board of Taxation?
14 I don't know whether the State Department of
15 Taxation does this. I don't know whether the
16 equalization of the rate of 567 municipalities of the
17 State or not. I would suspect they don't. Do they?

18 THE WITNESS: To my knowledge, they do not.

19 THE COURT: Yes. So how can he tell us the tax
20 rate? I don't know how that is going to help me
21 with the amount of knowledge that I have, which is
22 limited.

23 I don't know how that is going to help me
24 because I can't tell myself what the basis of the
25 question and answer of it would be. I don't know

1 how I would do it.

2 MR. LINDEMAN: I withdraw it, your Honor.

3 THE COURT: Okay.

4 Q What are the standards, if any, in the zoning
5 ordinance, present zoning ordinance that bear upon the
6 ultimate cost of a house as a general proposition?

7 A The density requirement expressed as a lot size
8 minimum, house size minimum; expressed as a minimum square
9 footage floor area --

10 MR. FERGUSON: I object. It has already been
11 established in the Building Code.

12 THE COURT: Okay.

13 MR. LINDEMAN: What building code?

14 THE COURT: The restriction as to the ordinance
15 of the municipality certainly is relevant.

16 All right, go ahead.

17 A Others would be the improvements required by the
18 subdivision ordinance to the extent that the arguable
19 question comes into what degree are they contributory to
20 the high cost of housing versus to what degree do they
21 protect the public health and safety as a result of
22 the installation.

23 Q Are agricultural uses allowed under the present
24 ordinance, zoning ordinance?

25 A Yes, sir, they are. In the R-1, 2 and 5 zones,

1 agricultural, horticultural uses; not including slaughter-
2 houses or commercial raising of hogs or fowl. And then
3 the paragraph goes on.

4 Q Have you referred to the regulations in the
5 ordinance that deal with the maintenance of livestock or
6 animals in the township?

7 A This paragraph does establish some regulatory
8 provisions in that regard.

9 MR. FERGUSON: What paragraph?

10 THE WITNESS: Section 7.1F4.

11 MR. FERGUSON: 1 --

12 THE WITNESS: 1F4.

13 Q Now, do large animals --

14 A Excuse me. 7.105 also.

15 Q Are there large animals? Large, I mean
16 larger than rats and mice in the Township of Chester?

17 A Sure, in Chester Township --

18 MR. FERGUSON: I object.

19 Q Now, have you ascertained how many there are
20 of the various kinds?

21 A Well, I have a listing of the large animals in
22 Chester as provided by farmers to the Division of Motor
23 Vehicles who have tabulated that information.

24 MR. FERGUSON: For animals?

25 THE WITNESS: Yes, sir.

1 Q Where is that tabulation found? What document?

2 MR. FERGUSON: I got to object. How would this
3 one come into the division? The tabulation by
4 the Division of Motor Vehicles? Where on earth does
5 the Motor Vehicle Division have to do with large
6 animals?

7 THE COURT: Off the record.

8 (Discussion had off the record.)

9 Q Can you tell us about the document?

10 A About the document?

11 Q Yes.

12 A Yes, sir. This was provided to us by the Cooperative
13 Extension Service from Rutgers. And I have here a print-out
14 which is titled Motor Vehicle Data Tabulation, Morris County,
15 1974.

16 THE COURT: 1974?

17 THE WITNESS: 1974, yes. And gives a lot of
18 information on farm sizes, on farm workers, types of
19 crops grown.

20 Q Excuse me, Mr. Hobaugh. Just the print-out.

21 THE COURT: Off the record.

22 (Discussion had off the record.)

23 THE COURT: Okay. Tell us about the number of
24 large animals.

25 Q As of 1974, then, the identity of the animals

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1 and the numbers, please.

2 A Yes. According to this material which, to which I
3 have just referred, there are 86 beef cattle, 322 dairy
4 cows, mature, 131 dairy cows young as opposed to mature,
5 I assume.

6 One goat, 19 horses and ponies, 42 sheep and 2 swine,
7 provisions of the zoning ordinance.

8 Additionally, the table lists 7 chickens and 12
9 rabbits.

10 Q Do livestock produce sewage and waste --

11 A Yes, sir.

12 Q In the traditional sense?

13 MR. FERGUSON: Now, I object. Livestock don't
14 produce sewage.

15 MR. LINDERMAN: Effluent.

16 THE COURT: They produce fertilizer that goes
17 back into the land. That we all want. Sewage goes
18 in a pipe and has to be treated.

19 You can sell it.

20 MR. FERGUSON: I apologize, your Honor, and sit
21 down.

22 THE COURT: Off the record.

23 (Discussion had off the record.)

24 Q Now, Mr. Hobaugh, does the ordinance in question,
25 the zoning ordinance in question, state its goals and

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objectives?

A It states a purpose.

Q The purpose, what are those purposes, briefly?

I know that it speaks for itself.

Would you just read them, please, quickly?

A It is Article 2, Section 2.100.

THE COURT: Isn't that recitation in 40:55-32?

THE WITNESS: Essentially, yes, sir.

THE COURT: Yes.

THE WITNESS: Essentially, not necessarily
word for word.

Q Well, all right. Assuming that it is merely
a re-statement.

Mr. Hobaugh, do you know on the basis of your reading
of that ordinance whether the, its provisions with regard
to the residential development are calculated to achieve
the stated purposes.

MR. SHERIDAN: I think I object, until we have
some direction or question to the witness which will
elicit some concrete answers.

THE COURT: Yes, why don't we let him do that.
Let him say yes or no and tell us the reasons why.
Okay, go ahead.

THE WITNESS: May I have the specific question
I am to answer again, please?

1 THE COURT: Let me paraphrase it.

2 Does the ordinance respecting, as you look at
3 residential development meet the purposes stated in
4 section 2.100?

5 THE WITNESS: My answer to that has to be it
6 is a matter of interpretation. The purpose of the
7 ordinances are general statements and to determine
8 that they do or they don't satisfy those purposes
9 depends upon one of viewpoint.

10 Q Tell us what is the reason for your statement.

11 A Well, for example, it says to conserve and stabilize
12 the value of property. Prevent the over crowding of land and
13 building. Chester Township is a very sparsely developed
14 municipality. My opinion is that they could and should
15 accept some additional development in an appropriate fashion
16 and with appropriate timing.

17 Maybe it's their opinion they have too much already
18 and it is over crowded. I say it is not over crowded.

19 Q But so far as the regulation of density is con-
20 cerned, does the zoning ordinance take care of that?

21 A Of course, they have minimum lot size requirements
22 which are in essence a density regulation, and, therefore,
23 there are sections of the ordinance that relate to that
24 purpose and in terms of their putting together of this
25 supports that purpose on their behalf.

1 Q There are very few purposes. Tell us what they
2 are, please, and whether or not your opinion of the
3 ordinance satisfies them.

4 A To avoid undue concentration of population, the same
5 answer as previously, to lessen congestion in the streets.
6 Certainly very little congestion in the streets of Chester
7 as a matter of course, but again, it is a relative thing.

8 To secure safety from fire, panic and other dangers,
9 buildings would have to be significantly closer together
10 than they are in most areas of Chester in order to pose
11 any such danger or to be contrary to securing safety from
12 those factors.

13 To facilitate adequate provision for community
14 utilities and for facilities such as transportation, that
15 one I have to have to say, no, these particular standards
16 that they have do not facilitate those kind of things
17 because of the large lot sizes. It is not conducive to
18 utilities. It is not conducive to, if you interpret
19 transportation to be public transportation, insofar as you
20 interpret it to be vehicular transportation, yes, it does
21 support it.

22 Water and sewer. Again, that comes under the category
23 of utility and my previous comment applies.

24 Schools. It is a matter of providing for those
25 people who are there and requiring the services.

1 Parks. Obviously a significant area in parks between
2 the township, county, state and Federal lands.

3 Adequate open spaces for light and air. Obviously
4 they have it.

5 Promote health, safety, morals and the general welfare.
6 I have nothing contrary to that here with the exception as
7 one might interpret the large lot characteristics applied
8 to the zoning requirement applied to large areas, of the
9 last portion of the township to be contrary to the general
10 welfare by virtue of tending to become exclusionary.

11 Promote conservation as environmental protection of
12 lands. They certainly do that.

13 Water and air resources, yes; and to accomplish such
14 other projects and purposes of zoning as are now and may
15 hereinafter be set forth in the enabling legislation. So
16 by reference they even connote any specific mention of it
17 at any time.

18 Again, I think, all things are relative in terms of
19 interpretation of that. I have expressed the one area where
20 I think that the provisions of the ordinance may be contrary
21 to the purposes stated there and that's in the area of
22 general welfare and the provision of the utilities.

23 MR. LINDEMAN: Your Honor please, now, subject
24 to Mr. Hobaugh producing for us the document published
25 the Regional Planning Association, I conclude

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my direct examination.

THE COURT: Your timing is excellent. You can step down, Mr. Hobaugh. Thank you.

THE WITNESS: Thank you.

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I, Earl C. Carlson, certify that the foregoing is a true and accurate transcript of the testimony and proceedings in the above entitled matter.

Earl C. Carlson

Date: January 27, 1979.