

CA

Chesser

Nov. 1, 1977 ~~1979~~

# Stenographic Transcript of proceedings

- R. Lee Hobayh cross + direct exam
- final plot approval, etc.
- ~~can~~

p. 128.

ML666885

A-813-78 A 150 SEP 1979

*no Brf.*

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MORRIS COUNTY  
DOCKET NO. L-42857-74  
A-0813-78

JOSEPH CAPUTO and ALDO  
CAPUTO,

Plaintiffs,

vs.

CHESTER TOWNSHIP,

Defendant.

JAN 14 1980

CLERK

*Stephen Webrnsend*

STENOGRAPHIC TRANSCRIPT  
OF  
PROCEEDINGS

REC'D. (✓)  
APPELLATE DIVISION

FEB 1 1979

AG

*Elizabeth M. English*  
Clerk

FILED  
APPELLATE DIVISION  
FEB 1 1979

Morris County Courthouse  
Morristown, New Jersey  
Tuesday, November 1, 1977

BEFORE:

ROBERT MUIR, JR., Assignment Judge, Superior Court

TRANSCRIPT ORDERED BY:

PHILIP LINDEMAN, II, ESQUIRE

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: FORREST R. GOODRUM, ESQUIRE  
For the Defendant.

*cbm*

EARL C. CARLSON, C.S.R.  
Official Court Reporter  
Morris County Courthouse  
Morristown, New Jersey 07960  
285-6249

Nov. 1  
1977

I N D E X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

WITNESS

CROSS

DIRECT

R. LEE HOBBAUGH

2

57

E X H I B I T S

IN EVIDENCE

PAGE

D-11 FINAL PLOT APPROVAL, MAJOR SUBDIVISION  
CHESTER TOWNSHIP 1954 to 1974

30

D-14 COMPUTER PRINTOUT 1970 COMMUTATION  
PATTERNS

59

FOR IDENTIFICATION

PAGE

D-4 DOCUMENT ENTITLED REGIONAL PLAN  
ASSOCIATION

3

D-5  
through

D-11 SIX MAGAZINES

4

D-12 MUNICIPALITY LIST

38

D-13 WORK MAP

38

D-15 WORK SHEET

79

D-16 WORK SHEET

86

D-17 WORK SHEET

88

JAN 11

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: All right, now let's see. Okay,

Mr. Hobough. Resume the stand.

R. L E E H O B A U G H , previously sworn.

CROSS-EXAMINATION BY MR. GOODRUM:

Q Mr. Hobough, I would like to get a couple of housekeeping details out of the way here first.

The last time we requested you to provide us with certain documents, one of which was the Regional Plan Association. I have here something entitled Regional Plan Association which, I believe, you produced.

MR. GOODRUM: I would like to have it marked for identification.

THE COURT: P-31 marked in evidence.

MR. GOODRUM: No, for identification.

THE COURT: Just for identification? Any reason why it can't be marked in evidence? Don't you want it marked in evidence?

MR. GOODRUM: Well, we don't accept everything that is in it, your Honor.

MR. LINDEMAN: What number is this, your Honor?

THE COURT: P-31.

MR. LINDEMAN: P?

THE COURT: Oh, I am sorry. I apologise. It

PENGAD CO., BAYONNE, N.J. 07002 - FORM 2046

1 should be D.

2 MR. LINDEMAN: Right.

3 THE COURT: Mark it D-4.

4 MR. LINDEMAN: Right.

5 THE COURT: Mark it D-4 for identification.

6 (The document referred to was marked D-4 for  
7 identification.)

8 Q Mr. Hobaugh, I ask you to look at D-4 for  
9 identification and tell us whether it is a true copy of  
10 the report that you referred to in your previous testimony?

11 A As to it being a true copy? This has been out of  
12 my hands. I can't testify that I did make a copy of the  
13 document to which I referred and it was forwarded to you  
14 through Mr. Lindeman. I assume this is the same copy.

15 Q Thank you.

16 A Yes.

17 Q Now, there are some other stuff too.

18 You made reference to some magazine that you used  
19 to compile some of your data?

20 A Yes, sir.

21 Q I think the name of the magazine was Sales  
22 Management, is that correct?

23 A That's correct.

24 Q And you have provided us with six magazines  
25 for our review?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. GOODRUM: I would like to have them marked for identification, please.

THE COURT: Okay. D-5, 6, 7, 8, 9, 10, 11.

(The documents referred to were marked D-5 for identification, D-6, D-7, D-8, D-9, D-10, and D-11, for identification.)

Q Mr. Hobaugh, I show you D-10 for identification which appears to be a sales management magazine dated Monday, July 8, 1974.

Is that one of the magazines you provided to us?

A Yes, sir, it is.

Q I show you D-9 for identification, which appears to be a sales management magazine dated July 10, 1971. Is that one of the magazines you provided to us?

A Yes, sir, it is.

Q And is this the same magazine dated June 10, 1970, marked D-8 for identification? Did you also provide that to us?

A Yes, sir.

Q And D-7 for identification, the same magazine dated June 10, 1969, did you provide that to us?

A Yes, sir.

Q D-6 for identification, the same magazine dated July 23, 1973; did you provide that to us?

A Yes, sir.

PENGAD CO., BAYONNE, N.J. 07002 - FORM 2046

1           Q       The same magazine dated July 10, 1972, did you  
2 provide that to us -- excuse me -- just so the record is  
3 clear, that is D-5 for identification?

4           A       Yes, sir.

5           Q       Okay. And these six magazines I have just shown  
6 you are the six magazines that you provided to us, is that  
7 correct?

8           A       That's correct.

9           Q       And you didn't provide any more to us, did you?

10          A       No, sir, six issues.

11          Q       And these comprise all the issues of this  
12 magazine that you used in compiling your figures, is that  
13 correct?

14          A       I believe that's correct.

15          Q       All right, thank you.

16                 Now, just so we are clear as to the dates and the  
17 figures. I want to go back to the 1974 issue. Now, the  
18 facts and figures in the 1974 issue, could you look at that  
19 issue and tell me what time period the data in it was com-  
20 piled?

21          A       I don't know the time period in which it was compiled,  
22 but it is 1973 data, since the date of the document is  
23 July 8, 1974.

24                 It had to be during 1974 or prior to July 8th less  
25 enough time for the mechanical publication of the booklet.

1 Q So basically it is 1973 data?

2 A That's correct.

3 Q Is that correct? This is D-10 for identifica-  
4 tion, isn't it?

5 A Yes, sir, it is.

6 Q Okay. And D-10 for identification reflects --  
7 strike that -- D-10 for identification is the most recent  
8 issue to which you referred in compiling your data, wasn't it?

9 A That's correct.

10 Q So it is fair to say that any projection you  
11 make based on the figures in the sales management magazine  
12 are based on figures that were for the year 1973 or older,  
13 is that right?

14 A How is that again, sir?

15 From the year 1973 or --

16 Q Older?

17 A Or prior issues for prior years information. Yes, sir.

18 Q Now, referring to my notes of your testimony  
19 of October 25, 1977, they indicate that you were retained  
20 for two purposes.

21 The first was to examine the Master Plan and Ordinance  
22 and the second was to determine growth which would occur  
23 and the character of the growth. Is that a fair recapitula-  
24 tion of the scope of your employment?

25 A Yes, sir. There are many, many things that

1 came up that were, we were asked to perform in conjunction  
2 with this matter during the course of the work on it.

3 Essentially, the establishment of the demand for housing was  
4 one of our primary assignments to which the second statement  
5 you read relates.

6 Q All right. Let's focus a second on the second  
7 statement to determine growth which would occur and the  
8 character of the growth.

9 That was one of the purposes for which you were  
10 employed, Mr. Hobaugh?

11 A Yes, sir.

12 Q Now, when you made this analysis to determine  
13 growth which would occur and the character of the growth,  
14 did you take any sort of zoning restrictions into account?

15 A Yes, sir.

16 Q How did you take them into account?

17 A We had information on the current zoning as of that  
18 time in evidence of the municipality that within our market  
19 area, primary market area.

20 Q And how did you plug those zoning ordinances,  
21 those current zoning ordinances into your projections?

22 A Well, the zoning ordinances were used in order to  
23 determine potential employment centers within the market  
24 area.

25 To your question says how did we plug them into the

1  
2 projections. And I don't want this answer to lead me to  
3 the point of indicating a more direct plug in of those two  
4 and use of those projects that may exist. One of the things  
5 we did among others was to look at the zoning ordinances  
6 to determine employment potential within the market area  
7 as a result of the zone.

8 Q In other words, you looked to see what areas  
9 within the market area were zoned for industrial or  
10 commercial uses. Is that what you are telling us?

11 A That's correct, yes.

12 Q Okay. And on that basis you made some sort  
13 of a projection for jobs?

14 A Yes, sir, among other projections in terms of  
15 employment that were available to us. We did do that, yes.

16 Q Okay. When you were projecting the basis  
17 on land presently zoned for industrial or commercial uses,  
18 did you make any analyses in any of these other municipali-  
19 ties to determine whether or not they were over-zoned for  
20 industry and commerce?

21 A In what respect do you mean that, sir?

22 More land than would be demanded?

23 Q Yes.

24 A We did not do precisely what your question implies.

However, the, looking at the zoning is simply a means of

1 been made, or used by us in the process of doing all of  
2 the work.

3 If, for example, there were a projection of an increase  
4 of 200,000 jobs and the zoning would indicate that that  
5 number was in excess of the land area available for housing  
6 jobs, obviously something is wrong with that projection.

7 It is not an achievable projection.

8 Q Okay. You have just given me a for example.  
9 I would take it that's a hypothetical, for example, is  
10 that correct?

11 A There is an example on the other side as well.

12 Q Excuse me. The thing I, what I wanted to do here, Mr.  
13 Hobaugh, if we may, is to get away from hypotheticals and  
14 dealing with concrete terms. With what you actually did  
15 in making your projections, okay?

16 Now, you said that you examined the zoning ordinances  
17 of the other municipalities within your market area?

18 A All municipalities within the market area. Yes, sir.

19 Q All right. When you say the market area,  
20 you are referring to the one based on drive time, is that  
21 correct?

22 A That's correct.

23 Q Okay. Thank you.

24 Now, you looked at each and every individual zoning  
25 ordinance for every municipality in there, is that right?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A It seems to me we used a composite zoning map for one of the Counties. And I don't recall which one. But we did have information on the zoning from each municipality.

Q Okay. Did you know, for example, the number of acres that were zoned for industrial or commercial uses within each County?

A Within our market portion of each County. Yes, sir.

Q All right. Did you know the acres that were zoned for industrial or commercial uses within each municipality within your area?

THE COURT: For industrial and commercial uses?

MR. GOODRUM: Yes.

A I can't answer that. The reason that I can't answer it is, for example, all of Somerset County is within our market area. And if figures were available summarizing in composite all of Somerset County's municipalities, then that number may have been used as opposed to a number for each municipality.

Q Excuse me. You just confused me when you started out your answer.

You said that all of Somerset County is in your market area.

Did you mean to say that?

A Yes, sir, I meant to say that.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Okay. Does it have all of Somerset, part of Morris, part of Hunterdon, and part of Warren?

A All of Somerset, part of Morris, part of Hunterdon, part of Warren.

Q So that is correct?

A Yes, sir.

Q Okay. All right. So you took Somerset County as a unit and got the acreage that was zoned for industrial or commercial uses of some sort. Is that what you are saying?

A I don't know that to be a fact, sir. You asked me the question if we had zoning acreages broken down by each municipality.

Q Uh-huh.

A And my answer is I am not prepared to answer that, if we had it by each municipality or not.

In the instance where we have the entirety of the County included within our market area, maybe a great amount of data for the entire County was available and used. So I can't say yes, we had it for each municipality individually.

Q So is it your answer that you don't recall?

A Essentially, that's right. I can testify that we did have information on the zoning for our market area and obviously in counties where the entire County is not there,

1 it means one of two things. Either taking the aggregate  
2 figure for the County, subtracting out the numbers from  
3 the municipalities which were excused or aggregating the  
4 municipalities included.

5 Q Excuse me. Are you telling me now your  
6 specific recollection of what you did? Do you have a  
7 specific recollection?

8 A The only specific recollection I have, and knowledge  
9 that I have, is that I am sure we, that we specifically  
10 gathered information on the acreage devoted to commercial  
11 and industrial uses.

12 Q Okay. Where did you get your figures?

13 A The figures came from zoning documents which are  
14 a prepared composite zoning information or by securing  
15 individual zoning ordinances and maps from municipalities.

16 Q Okay.

17 A I do not recall at this time where individual  
18 municipality programs and information was gathered for which  
19 geographical areas or for what geographic category, for  
20 what geographic areas County composite information may have  
21 been gathered.

22 Q Okay. And you just took the data you got from  
23 these zoning documents without examining it to find out  
24 if there were any areas that were over-zoned for business

1 A It's all different subjects, sir.

2 Q I'm asking --

3 A At this point, that subject has no bearing on  
4 what we were doing. One thing we did was to look at the  
5 zoning.

6 Q Mr. Hobaugh, the question I asked you was,  
7 did you examine the zoning information you collected to find  
8 out if any of the Counties or municipalities were over-zoned  
9 for any industrial business or commercial uses?

10 MR. LINDEMAN: I object, your Honor. I did not  
11 before because I didn't think we were going to  
12 extend this so greatly. I know of nothing in the  
13 law, and perhaps in real estate parlance which  
14 says that over-zoning is a word of art that we  
15 should all understand.

16 I personally don't understand it. I think  
17 perhaps it would be good for the record if we  
18 have, if we had some definition of over-zoning.

19 THE COURT: I think that is fair comment.  
20 What do you mean by over-zoning?

21 MR. GOODRUM: Well, your Honor, I think the  
22 witness has already indicated his comprehension of  
23 the term and I am willing to go with it for the sake  
24 of cross-examination.

25 He indicated, I believe, that he understood it

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

to mean more area than could be, reasonably be  
utilized for the uses specified.

THE COURT: Do you agree with that, Mr.  
Hobaugh?

THE WITNESS: Yes, sir. That's what I took the  
term to mean.

THE COURT: Okay.

I didn't get that. All right.

MR. GOODRUM: The definitional problem out of  
the way, could you read the question back for the  
witness, please?

(Last question read by the reporter.)

A No, sir, I did not. No, sir, we did not. That was  
not part of my concern or reason for examining the zoning.

Q Yet, you were using the acreage as a cross-check  
against other sources to see if it lined up the way you  
wanted it to, weren't you?

A I don't know about the to see if it lined up the way  
we wanted it to. The existing zoning is, in point of time  
is a fact and we wanted to ascertain that the existing zoning  
within the market area would accommodate the employment  
projections made. That was the critical checkpoint, if you  
will, in terms of that aspect of our work. As to whether  
or not more employment than was projected could be handled  
by the existing zoning is not really critical because the

1 access does not interfere with achievement of projected  
2 rates of growth or the amount of growth.

3 Q So you just wanted to see if there was enough  
4 land to locate offices and factories sufficient to provide  
5 the jobs that you were projecting for the area?

6 A Correct.

7 Q Okay. All right.

8 So the only thing you used is existing zoning for,  
9 was to determine whether there was land available for  
10 the jobs you were projecting, is that right?

11 A To say the only thing is dangerous. That's the,  
12 one of the things I would recall us using it for at this time.  
13 Yes, sir.

14 Q You don't remember using it for anything else?

15 A That's correct.

16 Q Okay. I would like to move along to the  
17 analyses you made of land in Chester Township. I believe  
18 you said that 58 percent of the acreage in the township,  
19 which included farmland was not developed, is that correct?

20 A I believe I made that quote from the 1974 Master Plan,  
21 sir.

22 THE COURT: The stipulation, it is also in the  
23 stipulation.

24 MR. GOODRUM: All right.

25 Q Did you do anything to determine how much of that

1 15 percent of the raw acreage is undevelopable or difficult  
2 to develop by reason of terrain or water table?

3 A I have -- no, sir, I did not.

4 Q So it is fair to say that the only thing you  
5 really know about it is there aren't any houses built on  
6 it right now, is that right?

7 A The only thing I really know about it, sir, is  
8 that is a quote from the Master Plan. It was not part of my  
9 assignment in this matter to investigate that area.  
10 And we asked questions. I relied upon the documents of  
11 Chester Township to give an answer.

12 Q I want to make sure it is clear on the record  
13 then, Mr. Hobaugh. Now, this 58 percent that you referred  
14 to included farmland, is that right?

15 A That's correct. Yes, sir.

16 Q Now, you had some figures that you referred to  
17 on the 25th concerning mean income in Chester Township from  
18 1970 to 1975.

19 Do you recall that testimony?

20 A Not Form 2. I recall giving information on mean income  
21 in 1970 as taken from the census of, United States Census,  
22 and I recall that we had updated that to 1975.

23 I gave that number also, I believe.

24 Q Okay. And what was your 1970 figure?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Okay. Just take your time.

MR. LINDEMAN: The mean income of what?

MR. GOODRUM: The mean income per capita.

THE COURT: While he is looking that up, just to clarify mean versus median, all right? It is my understanding that median means that there are so many below as above. Mean is the mathematical definition where you take an average and that is the average income. Just so we all agree.

I have not read the United States Census, so I don't know what their census means. I think, well, I will put it this way -- I looked it up in the dictionary because it has always bothered me.

Is that what is meant by mean versus median in these discussions that we are having? Whether it becomes a salient point at some later point, I don't know.

MR. LINDEMAN: I accept that, your Honor. I don't know whether the witness does.

THE COURT: Is that about -- Mr. Hobaugh, did you hear that?

THE WITNESS: Yes, sir, I did. Mean is the, on the basis of the numbers of units. I am sorry, mean is the mathematical average dividing the total number of units into the aggregate total. And median

1 is by taking the total number of units when you get  
2 to the --

3 THE COURT: The middle.

4 THE WITNESS: The middle of the number of  
5 units, whatever the number is.

6 THE COURT: Okay. Off the record.

7 (Discussion had off the record.)

8 A All right. The mean income in 1970 was \$10,990.00.

9 Q Your figures show what the median income  
10 was?

11 A Excuse me, I gave a wrong number unintentionally.

12 The mean income in Chester Township as of, reported in  
13 1970 census, which is the 1969 income, is \$14,736.00.

14 The median income on the basis of the same data is \$13,627.00.

15 Q You do quite a bit of mathematical analyses  
16 in your work, do you not, Mr. Hobaugh?

17 A Yes, sir.

18 Q All right. I noted that the median income  
19 and the mean income weren't the same, but the median income  
20 was lower than the mean income?

21 A That's correct.

22 Q What does that mean?

23 A That indicates that there are great numbers of  
24 people -- well, strike that.

1 income distribution contains a greater mathematical quantity  
2 than does the lower 50 percent of the units.

3 Q Would you repeat that again? I am not sure  
4 I heard you right. I don't want to get this all confused.

5 A The median income is arrived at by going to the  
6 mid-point of the population. The mid-point of the total  
7 number of units which are within the matter that you are  
8 looking at. So that if we have 100 families, the income of  
9 the 50th family we all listed in order, lowest to highest,  
10 or the reverse is the median income.

11 In the case of Chester Township as with the 1969  
12 median income was approximately \$13,600.00.

13 Now, if we take the total aggregate income of all  
14 families in the unit, in this case of Chester Township,  
15 and divide that number by the number of families in the  
16 sample, we come up with an average income per family, or  
17 a mean income. And in this instance, that mean income is  
18 higher than the median.

19 Therefore, there must be greater quantities of  
20 money involved in the upper 50 percent of the families in  
21 this sample in Chester Township than there are in the  
22 lower 50 percent of the sample, or the families in Chester  
23 Township.

24 Q Mr. Hobaugh, I don't want to try to put words  
25 in your mouth. I just want to try to simplify this a little

1 bit so we can all understand it.

2 Are you trying to say that there are a few wealthy  
3 people in Chester Township who have had a significant impact  
4 on what the average income or mean income is in Chester?

5 A I'm saying that your example could be the reason  
6 for that difference, yes.

7 Q Have you investigated to find out to see if that  
8 is the reason?

9 A No, sir. I haven't specifically chased that ground.

10 Q That could have been the cause of it, couldn't it?

11 A And by cause, you are referring to what?

12 Q Cause and effect?

13 A I understand that, but --

14 Q That could be the reason?

15 A I want to hear your statement again in your example  
16 previously before I answer.

17 Q That could be the reason that the median  
18 income is lower than the mean income?

19 A And first that --

20 Q That would be that there are a few wealthy  
21 families in Chester that have a great impact on the average  
22 income?

23 A Well, it would be a few families who have very high  
24 incomes.

25 Q Right. Excuse me.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A Yes.

Q Thank you for making that distinction.

A It could be that.

Q Now, from 1970 you made a projection, is that correct?

A Sir, if I may, just so the record is clear. The figures I just used in that discussion we had in all that series of questions as to income are both family and unbroken families and unrelated individuals. The numbers for families alone are both higher than the numbers I just used.

Q All right. We are talking about per capita income, is that right?

A No, we are talking about family income.

Q Family income?

A Yes, that's correct.

Q My note indicates per capita. Perhaps I am mistaken.

A I may at some point talk about per capita income. However, the numbers here are all family income.

Q Okay, fine.

Now, you made some projections, I think, at some point. Excuse me, Mr. Ferguson called my attention to something. We have a stipulation here that shows a discrepancy. I am referring to BA of the stipulation which was marked D-3 in

1 evidence.

2           Would you like to refer to that? Do you have a copy  
3 of that?

4 A       Yes, sir, I do.

5           Q       Just for the sake of clarity, what's the  
6 reason for the discrepancy?

7 A       Precisely what I talked about on my answer when I  
8 said I wanted to, the record to be clear.

9           The numbers in SA agree with family income, mean and  
10 median, not including unrelated individuals.

11           THE COURT: I didn't get that. Read the answer.  
12           (Last answer read by the reporter.)

13           Q       What do you mean by unrelated individuals?  
14 I am confused.

15 A       Well, a single person occupying a household unit  
16 is in one sense a family unto themselves, but nonetheless,  
17 they do not qualify as a definition of a family. So they  
18 are referred to as unrelated individuals.

19           Q       Okay. Fine. Thank you for that clarification.

20 A       Yes, sir.

21           Q       Now, you started out with the 1970 census figures.  
22 From then you accumulated the mean and median incomes for  
23 Chester Township as we just discussed. Then you make some  
24 projections to 1975, is that correct?

25 A       Yes, sir. I have figures for 1975. '72 and 1975.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Let's talk about 1972 first, then.

A How did you go about making your projection from 1970 to 1972?

A We utilized material from the Bureau of the Census.

Q Yes.

A Published in 1975 entitled Population, 1970 and 1973 and related per capita income for revenue sharing areas.

Q Wait a second. This is for revenue sharing areas?

A That's correct.

Q All right. Let's talk a little bit about it. Do you know how that information was collected?

A This is the same problem we got into before.

A Yes, sir. I think I said previously, no, I do not know.

Q You don't know?

A No, sir, I don't.

Q Okay. So you don't know if it was collected on the same basis as the census or not?

A No, I do not know that.

Q All right. And your '75 projections were based on the same sort of data, is that right?

A No, sir. The June, 1975, document included information on income increase between 1969 and 1972.

The further extension to 1975 as previously testified

1 to was based upon the assumption that the same percentage,  
2 average annual percentage increase continued from 1972  
3 into 1975.

4 Q So to put it in graphic terms, you had an  
5 income curve with a certain slope to it, is that right?  
6 Income was going up in Chester Township based on these  
7 figures you were talking about?

8 A Essentially, that's correct. Yes, sir.

9 Q Okay. What you did was just extended that  
10 curve along the same plane?

11 A That's essentially correct. Yes, sir.

12 Q Okay. Did you do anything to verify whether  
13 income or economic growth had actually continued along that  
14 same plane?

15 A No, sir.

16 Q So in fact, you don't know your, if your income  
17 continued to increase at the same rate during that period,  
18 do you?

19 A I don't know that. No, sir.

20 Q Okay. Any figures you gave to '75 are based  
21 on that assumption, aren't they?

22 A This figure for '75 is based on that assumption. Yes,  
23 sir.

24 Q Okay. I think you indicated before that part  
25 of your employment was to analyze the 1974 Master Plan?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A Yes, sir.

MR. LINDEMAN: 1974, did you say?

MR. GOODRUM: Yes, I did.

MR. LINDEMAN: Right, yes.

MR. GOODRUM: All right.

Q I believe you indicated that on Page 19 of the Master Plan you found that the R-1, R-2, and R-5 zones comprised 72 percent of the area of the township, is that correct?

A On Table 2 of the Master Plan, it does contain information on percentages in proposed zones in accord with this document.

Q Excuse me. Could you repeat that last answer? I am having trouble following.

A I am on Page 19, at Table 2 of the Master Plan of 1974. I don't know the number of it. It indicates different zoning categories, the current zoning and acres included in the current zoning and the acres proposed by this plan for certain zone categories. And the percentages are an allocation which is added in pencil to this copy of the document.

Q All right. I see a designation of M. D. R.?

A Correct.

Q That's medium density residential?

A Right, I believe that is what it is called. Yes, sir.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Okay. That's the terminology that was used in the Master Plan?

A Yes, sir.

Q I just want to make sure it is clear to all of us.

A Right.

Q Is there anything shown there for proposed zoning of H. D. R.?

A Yes, sir, there is.

Q And what is it?

A 267 acres or about 1/2 percent of the total land area.

Q Okay. Now, this portion of the Master Plan just so it is clear to everyone, is Table 2, which is entitled "Acreage of Current and Illustrative Zoning", is that right?

A Yes, sir. That's the title.

Q Okay. Now, let's focus in on this illustrative zoning a little bit.

Is there any reference to that anyplace else in the Master Plan?

A Yes, sir, there is. On Page 21 there is a map which is also entitled "Illustrative Zoning Map."

Q All right. I am referring you to Page 17. What is the last sentence there on Page 17?

A For the single paragraph or single sentence paragraph?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Yes.

A For the purpose of illustration, the concept of this plan have been incorporated into the illustrative zoning map on Page 21.

Q Okay. So this is just for the purpose of illustration as to how the zoning might have come out, is that correct?

A Well, it is for purposes of illustrating the manner in which the Master Plan could be carried forward by zoning.

Q All right. Did you make any comparisons between this illustrative zoning plan and the actual zoning that was adopted by ordinance?

A I did not. No, sir.

Q Okay. So the figures that you previously gave us aren't actually reflective of the existing zoning plan, are they?

A No, sir. They are from the Master Plan document.

Q Okay. Now, also on the 25th you made reference to major subdivisions in Chester Township and you referred -- let's see -- I think we are talking about the time span 1954 to 1974. You referred to 19 major subdivisions in Chester Township, is that correct?

THE COURT: Off the record.

(Discussion had off the record.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A Yes, sir, 19 major subdivisions.

Q You further indicated that these 19 subdivisions consisted of 869 acres and a total of 390 lots, is that right?

A That's correct.

Q And you showed that an average lot size for a major subdivision in this grouping was 2.23 acres, is that right?

A That's correct.

Q Now, that's the average or mean lot size, right?

A That's correct.

Q Did you get a median?

A No, sir.

Q So you didn't run any sort of a statistical cross-check to see if there was any skewing here, is that fair to say?

A Well, I have the specific numbers here in front of me and the smallest I see is 1.0 acres and there was only one of those. But I did not run a median analysis.

Q Okay. Now, just so things will be clear.

You're referring to what? You have a page here. Where did it come from?

A It came from the County Planning Board.

Q Could I see it, please?

A Certainly.

1 Q These are figures that you procured from the  
2 County Planning Board.

3 A The Morris County Planning Board. Yes, sir.

4 MR. GOODRUM: Right. Okay. I think it would be  
5 informative to have these marked in evidence.

6 Would you have any objection, Mr. Lindeman?  
7 Would you like to look at them?

8 I think that's much more evidential than just  
9 the average figures that your witness previously  
10 referred to.

11 MR. LINDEMAN: I see the second page refers to  
12 Chester Borough. I don't know, is that intended to  
13 be included?

14 MR. GOODRUM: Let's see. Oh, I haven't noticed  
15 that. Thank you for calling it to my attention.

16 I can't imagine that the Chester Borough's  
17 proportion would be very evidential. But there is  
18 a note too that refers to both pages.

19 THE COURT: If you have no objection, we will  
20 mark it as, staple it together and we will mark it in  
21 and it will only be for the first and not the second  
22 page that refers back to the first page.

23 MR. LINDEMAN: I have no objection to it going  
24 in evidence, your Honor.

25 THE COURT: All right. Mark it D-11.

1 MR. LINDEMAN: It is going to be D-11 in  
2 evidence?

3 THE COURT: Yes, since it is coming in under his.  
4 It is out of order, but ---

5 MR. LINDEMAN: All right.

6 (The document referred to was marked D-11 in  
7 evidence.)

8 MR. FERGUSON: It says the final plot approval,  
9 major subdivision, Chester Township, 1934 to 1974.  
10 All right.

11 Q Turning to Page 2, Mr. Hobough, there is a note  
12 that says that the table does not include the lots created  
13 through minor subdivisions in Chester Borough and the  
14 Township.

15 A Yes, sir. That's correct. The title states major  
16 final plan approvals, major subdivisions.

17 Q Okay. Did you investigate to find out how many  
18 minor or exempt subdivisions were granted during that time  
19 period?

20 A No, sir.

21 MR. GOODRUM: I don't guess anyone wants a  
22 definition of minor subdivision. I suppose we all  
23 know what that means, although strangely enough,  
24 I don't think there was such an animal during the  
25 period. I think it was just a word that everyone used.

1  
2 MR. LINDERMAN: If your Honor please, I am  
3 curious to know whether it was under the 1954 Zoning  
4 Ordinance. I don't know whether it was limited to  
5 a particular number of lots. I am sure it had nothing  
6 to do with the creation of roads and the installation  
7 of utilities. But I think it is something we can  
8 check later, really.

9 MR. GOODRUM: All right.

10 Q Now, later on here again referring to the  
11 1970 census figures, I believe, you indicated a median value  
12 for a house, a single-family house in Chester Township,  
13 didn't you?

14 A Yes, I talked about that at one point.

15 Q Okay. Let's go into where the figures came from,  
16 Mr. Mobaugh. You said it came from the 1970 census.

17 Are you familiar with the procedures that were used  
18 in the 1970 census?

19 A For what purpose, sir? Procedure for what purpose?

20 Q Well, about how the, whether, how did they go  
21 about taking the census as compared with prior years.

22 A You mean over-all how they went about taking the  
23 census?

24 Q Did they change the method in 1970, do you know?

25 A Yes, there was a difference in 1970 as compared to  
prior years. But what they are, I don't recall offhand.

1 Q Mr. Hobbaugh, I recall that in years past,  
2 I think I recall specifically the 1950 census my Mom  
3 in North Carolina got a job as a census taker, it was a  
4 door-to-door checking census data, wasn't that the procedure  
5 that was used back in 1950 and 1960?

6 A Yes, sir.

7 Q Okay.

8 A Primarily. I am not sure exclusively, but I know  
9 it was one of the procedures used.

10 Q All right. And they didn't use that method  
11 in 1970, did they?

12 A No, sir.

13 Q In fact, didn't they mail people forms and  
14 ask them to fill out the forms and mail them back in?

15 A That's correct.

16 Q Okay. And so the information that was on the  
17 form that was mailed back in to the United States Census  
18 people was information provided by the individual home-  
19 owner, is that right?

20 A Yes, sir.

21 Q And among the items of information we would  
22 find the homeowner's best guess of what his house was  
23 worth, is that right?

24 A Well, I don't know if I can necessarily testify to  
25 your characterization of it because I can't suggest how each

1 and every person answered the question.  
2

3 But the information was provided by the respondent.

4 Q By the homeowner, right?

5 A Correct.

6 Q And so this information reflects the homeowner's  
7 own opinion of what his house is worth?

8 A I can't testify to that, sir. I can say that the  
9 forms were sent to homeowners. They were filled in  
10 theoretically by the homeowner or the person receiving a  
11 census questionnaire. Whether they were a homeowner or  
12 not and returned to the Bureau of the Census.

13 Now, as to whether or not the value that they wrote  
14 down was their own opinion is a matter of speculation,  
15 beyond the fact that I suppose we can agree generally that's  
16 what would have happened.

17 Q So what you're really telling me, you don't  
18 even know where the value came from, is that correct?

19 You might have a homeowner's impression, it might  
20 have come from some place else, right?

21 A That's correct.

22 Q Okay. These figures were the basis of the  
23 average value of a house in Chester Township that you gave  
24 to us, true?

25 A I gave you median value. Yes, sir.

Q All right. But it was based on figures collected

1 in the manner that I described, wasn't it?

2 A It was based upon figures published in the Census.

3 Q And collected in the manner which I described,  
4 is that right?

5 A Yes, sir. It was collected by distribution of the  
6 questionnaires and returned the same.

7 Q Okay. And everybody didn't necessarily send  
8 their questionnaire back, did they?

9 A I don't know that to be a fact or not a fact. But  
10 I would not imagine that every, each and every person did.

11 Q Okay. Let's pursue income just a little bit  
12 more.

13 Now, you talked about the income in Chester Township  
14 in 1970. Did you make any comparison of income in Chester  
15 Township on the one hand versus income in other municipali-  
16 ties within Morris County on the other hand?

17 A With other municipalities? No, sir. I do have  
18 information on other Counties and Chester Township.

19 Q I think you also mentioned some SR-1A Data  
20 reporting house sales in the community, is that right?

21 A If I referred to those forms, I don't recall doing it  
22 during the course of my testimony.

23 Q What is the SR-1A Form?

24 A It is a form that is found in the County Offices  
25 dealing with house sales, information on house sales, pro-

1 viding data for updating of assessment records.

2 End Tape  
3

4 Q Did you ever refer to these SA-1A Forms in  
5 compiling your data?

6 A No, I did not refer to them. I don't recall testifying  
7 to them.

8 Q They are a readily available source for  
9 determining price of real estate, though, aren't they?

10 A Yes, sir. And it is my belief that other experts  
11 in this matter did refer to them, but I did not.

12 Q But you, yourself, didn't?

13 A That's correct.

14 Q All right. Now, moving along to October 26,  
15 1977, in the testimony you gave on that date. You defined  
16 four regions for us. I think I am pretty clear on the  
17 first region that you referred to. The third region was  
18 the market area, is that right?

19 A That's correct.

20 Q And I believe that your testimony was that the  
21 market area was based on a 30-minute drive to work from the  
22 center of Chester Borough, is that true?

23 A Essentially from the site.

24 Q Okay.

25 THE COURT: Did you say from the site?

THE WITNESS: From the site. Yes, sir.

Q When you say from the site, what is your locus?

1 Would you say the intersection of 24 and 206 or what?

2 A No, it would be from the site of the Caputo tract.

3 Q Oh. Okay. All right.

4 Now, I just want to take a quick look here. I  
5 believe you had an exhibit?

6 A Yes, sir.

7 Q That showed that. And I believe that the  
8 exhibit was marked --

9 A P-29.

10 Q -- P-29 in evidence, right?

11 A Correct.

12 Q Do you have a list of the municipalities  
13 that are encompassed in P-29 in evidence?

14 A Yes, sir, I do.

15 Q May we have that list? I think it would make  
16 things a lot simpler for all of us.

17 A I have a work sheet here someplace.

18 MR. GOODRUM: Okay. Frankly, your Honor,  
19 I don't think that the map, even though it gives us  
20 sort of a pictorial representation doesn't adequately  
21 identify the municipalities that we are dealing with  
22 because maybe your eyes are better than mine. I  
23 just can't read some of the names on here.

24 THE COURT: Not today.

25 Q Could we mark this? Do you have any objection?

1 A That's a work paper. I object to losing it completely.  
2 I would like to have it for my file.

3 THE COURT: Make a photostatic copy of it.  
4 You need something photostatted? Off the record.

5 (A discussion had off the record.)

6 THE COURT: All right. I guess we can mark that  
7 once she gets back.

8 MR. LINDEMAN: I would just like to state that  
9 I see that on the document it's referring to Somerset  
10 County generally and doesn't identify the municipalities.  
11 I suppose it speaks for itself. If it is being  
12 offered to show the municipalities, it doesn't  
13 do them with regard to Somerset. It merely embraces  
14 the local communities.

15 I have no objection to the document.

16 MR. GOODRUM: Okay.

17 Q Now, you recall having your deposition previously  
18 taken, right?

19 A Yes, sir.

20 Q And in the course of your deposition there was  
21 a map marked P-44B?

22 A That's correct.

23 Q I believe I have a copy of the letter. Would  
24 you look at it and see if that's a true copy?

25 A This is a true copy of a work map which was the only

1 thing I had available at that time. And it was given to  
2 Mr. Ferguson as a work map.

3 Q Okay, fine.

4 Now, since this was a work map, what is the discrepancy  
5 between the work map --

6 MR. GOODRUM: Maybe the work map should be  
7 marked just for identification while we are about it.

8 THE COURT: All right. Let's have the municipality  
9 list marked D-12 and the work map can be marked  
10 D-13 for identification.

11 (The documents referred to were marked D-12  
12 and D-13 for identification.)

13 Q Okay. Now, referring to D-13 for identification,  
14 could you tell me how that differs from P-29 in evidence?

15 A The differences are very slight. P-29 is marked to  
16 include entire municipalities. In some instances, the  
17 information on D-13 --

18 Q You want this number?

19 A Would not include an entire municipality. For  
20 example, the line describing or encompassing the primary  
21 market area does not include all of Washington Township  
22 in Warren County on D-13. On P-29, it does, which is  
23 consistent with the testimony on whichever day it was  
24 last week.

25 Q Okay.

1 A I described the market area and the process of  
2 defining it, saying that we first used computer time and  
3 then adjusted in order to use entire municipality boundaries  
4 simply as a means of avoiding very, very difficult data  
5 manipulation problems.

6 Q Okay. Now, are there any other differences  
7 between P-29 in evidence and D-13 for identification?  
8

9 A As far as identification in the market area is  
10 concerned, I would have to very carefully compare the  
11 lines on each of the documents in order to answer that.  
12 But basically the explanation I have just given would cover  
13 any differences.

14 Q All right. Well, I am still confused then.  
15 Maybe we are just going to have to get right to it because  
16 you testified before, I think, that this is based on  
17 a 30-minute drive time, yet at your depositions commencing  
18 on Page 41 you indicated a 40-minute drive time. Which is it?

19 A I'm aware of the discrepancy, sir. The problem was  
20 one of sloppy wording. I'll describe in detail precisely  
21 how that has been performed.

22 Q Okay.

23 A We have used an approximate 30-minute driving time  
24 from the site. That's literal driving time. We consider  
25 that to encompass approximately 40 minute commuting  
portal to portal commutation time as compared to literal

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

driving time.

Q I was just noticing something on D-12 in evidence. Perhaps you could tell us what it is. There are four items, Somerset County, Morris County, Hunterdon County and Warren County with some figures and percentages beside each one.

Could you tell us what those represent so the record will be clear?

A Yes, sir, I could. It is an arithmetical calculation as to what percent of the population of each of the four counties is included within the market area.

Q Is that populations based upon what?

A Based upon the year 1974 population estimate of the State of New Jersey.

Q You show Somerset County, 100 percent. Morris County, 85.4 percent included. Hunterdon County 41 percent included, and Warren County 31 percent included.

Is that correct?

A Yes, sir, that is correct.

Q Why would you want those percentages?

A It gives an indication, it is a fact about the market area which we have defined.

Q Okay.

A It is a fact.

Q Now, obviously you wanted that fact for some

1  
2 purpose. What purpose did you use it for?

3 MR. LINDEMAN: I object. I don't know whether  
4 counsel is aware that this is testimony which he  
5 has adduced, not we. This is a document which  
6 I understand is to be D-12 in evidence. Insofar as  
7 that, I know that information, while it may have been  
8 prepared by the witness, it is not something to which  
9 he has testified, but which is evidence produced  
10 by the defendants. Not the plaintiff.

11 THE COURT: Right. I have not heard anything  
12 about those figures until you brought them up.

13 MR. GOODRUM: Your Honor, I suggest and  
14 here I guess I am maybe speculating. Maybe I  
15 should ask the question -- I will withdraw the  
16 previous question.

17 Q Do these percentage figures have something to  
18 do with the way you made job projections for this drive  
19 time area?

20 A No, sir.

21 Q Did these percentages have something to do with  
22 the way you broke down County data to use it for purposes  
23 of making projections in your drive time area?

24 A Sir, to my knowledge at this moment, subject to my  
25 memory being tickled by a specific question which you may  
ask me subsequent to this, I do not recall any use to which

1 those figures were put. Just pieces of information that  
2 is at the bottom of this paper,

3 Q Okay. By the way, when you computed your  
4 20-minute drive -- excuse me -- your 30-minute drive time --

5 A Yes, sir.

6 Q What assumptions did you make about traffic?  
7 Did you make any assumptions at all about traffic?

8 A We made an assumption as to traffic, yes.

9 Q I realize that you derived this 30-minute  
10 travel time somehow. What I am saying, did you make any  
11 assumption about what traffic conditions were going to be?

12 A Well, maybe you ought to define for me what you  
13 mean by traffic conditions because apparently I didn't  
14 respond to it in your question.

15 Q Other cars present on the roadway.

16 A We have made the assumption about the achievable  
17 speeds and inherent in that assumption is the condition  
18 of traffic on the roadway.

19 Q What assumptions did you make about achievable  
20 speed?

21 A We assumed an achievable 45 mile an hour on 206,  
22 55 on 287, 45 on 513, 45 on 517, 45 on Route 24, 55 on  
23 Route 80.

24 I'm looking to see if there are any more numbers on  
25 here.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Did you say 45 on 24?

THE WITNESS: Yes, sir.

Q I'm not familiar with the speed limit of every road that you just mentioned within the whole area you're talking about. I do recognize that the speed limit on Route 80 is 55 miles an hour because that is an Interstate Highway and that's uniform.

Did you make any reference to the posted speed limits when you made these assumptions about speed?

A Yes, sir.

Q Okay. And are these speeds directly related to the posted speed limits?

A No, sir. They're related to our anticipation of experience. For example, to achieve 55 miles an hour on 287 or another Interstate Highway somebody probably is going to travel, traffic conditions permitting, 57, 58 miles an hour. Conversely, where there might be a 50 mile per hour speed limit on 206, we are establishing 45 miles per hour achievable speed.

Q And you have just utilized your own judgment in whether you want to fudge down from the speed limit, is that right?

A Yes, sir.

Q Okay. Is 45 miles an hour, is 45 miles an hour the speed limit on most stretches of Route 24 in the area

1 we are talking about?

2 A I don't know the answer to that offhand, sir.

3 Q You testified that you made an assumption of  
4 45 miles an hour for Route 24, is that right?

5 A Yes, sir. That was what was used.

6 Q Okay. Did you make any allowance for the  
7 traffic being slower than that at the rush hour?

8 A The times that are on here were derived by actual  
9 driving on these roadways and --

10 Q Excuse me. Did you do the driving yourself?

11 A No, sir, I did not.

12 Q Okay. So this is data that someone gave you,  
13 is that a fair statement?

14 A Data that was gathered by people in my office, yes.

15 Q Okay. And you don't know what time of day  
16 they were doing their driving, do you?

17 A I don't recall. But I know it was that they did  
18 examine the roadway during peak hours.

19 Q But you don't know what time they were driving,  
20 is that right?

21 A I don't recall that specifically. No, sir.

22 Q Okay. And the drive time certainly wouldn't  
23 incorporate any allowance for the projected increase in  
24 population that you are suggesting for this area, do they?

25 A Population that -- you're relating population and

1 driving time?

2 Q Well, obviously if the population increases  
3 as you project, you're going to have more people and more  
4 cars on the road, aren't you?

5 A That is likely. Yes, sir.

6 Q All right. Have you included any factors for  
7 that in your driving times?

8 A Not as an individual factor. No, sir.

9 Q All right.

10 THE COURT: Take five minutes at this point?

11 MR. GOODRUM: That would be fine, your Honor.

12 THE COURT: Step down.

13 (A short recess was taken.)

14 THE COURT: Okay.

15 Q Mr. Hobaugh, on the 26th, there were two  
16 papers marked for identification, P-26A and P-26B. I  
17 believe at the time you indicated that these were pages  
18 from a publication on an out of print publication, is that  
19 right?

20 A I didn't state that it was out of print, sir. I  
21 said I didn't know whether it was out of print.

22 THE COURT: Off the record.

23 I indicated it was out of print. It was me that  
24 said it because I tried to get the document. We  
25 called the Morris County Planning Board and the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Morris County Planning Board called the Regional Planning Association. What's that, three times removed hearsay? And he never made any representation with respect to it being printed or non-printed or out of print.

Q In any event, the publication entitled Projections for New York Urban Region 31 Counties, 1985, 2,000 --

A Yes, sir.

Q And the date of the publication, July 10, 1973?

A Yes, sir.

Q In P-25 and P-29 -- strike that --  
I just read you the page number rather than the number for identification.

P-26A and P-26B are pages 25 and 29, respectively, of that document.

A I believe that to be correct. Yes, sir.

Q All right. This is the same document which was marked D-4 for identification, correct?

A That's correct.

Q To your knowledge, are there any figures used in D-4 that are any more recent than the 1970 census?

A If I interpret your question correctly, it is my understanding the latest hard data upon which this document is based is the 1970 census.

1 Q Okay. Fine. I think you do understand it  
2 correctly.

3 So any figure for any date subsequent to 1970 is  
4 a projection rather than hard data, is that right?

5 A That's correct. That is the purpose of the document.

6 Q All right. I call your attention to a statement  
7 on Page 3 of P-4 for identification, D-4 for identification.  
8 It says, and I quote, "The following allocation of population  
9 is neither a prediction of what will happen nor a recommenda-  
10 tion of what should happen. It is a projection of what  
11 will happen if present trends continue under the above  
12 assumptions."

13 And it's got four numbered assumptions above, is that  
14 right?

15 A That's correct. That's what it says.

16 Q All right. Had you previously read this  
17 section that I just quoted?

18 A I have in the past. Yes, sir.

19 Q So you were aware that among other assumptions  
20 this document is assumed that present trends, that is to  
21 say, trends based on the 1970 census data continued?

22 A If it were not based upon that, I don't think it  
23 would have been correct as a document that it has enjoyed.  
24 That would be a rather standard assumption in projecting  
25 something.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Okay. So referring now to P-26A, the columns head 1940 and 1970 are census data columns, right?

A That's correct.

Q Okay. And the column headed 1958 and 2,000 are merely projections based on assumptions that the trends which were in existence in 1970 would continue through the year 2000, is that right or wrong?

A They are projections which are based upon experience up to the latest available information prior to the preparation of these projections.

Q Which was 1970, you said?

A I said 1970 is the last hard data upon which these projections are based.

Q Okay. So let's start over.

Is it fair to say that the 1985 and the 2000 columns are mere projections based upon the assumption that the trends in existence in 1970 would continue through the year 2000?

A I don't know if it fair or unfair to say that. But you use the terminology mere projections for that reason I am avoiding a yes or no answer. And I attempted by re-stating my thoughts on it to indicate that they are projections.

I don't subscribe to the fact that they are mere projections.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Okay.

A They're projections which have been prepared carefully by recognized groups. They're contained in a document that is in essence a working paper and has been a working paper of the profession.

Q When was the last time that you tried to procure a copy of this document from the Regional Planning Association?

A No, personally?

Q Yes.

A I never tried to secure it.

MR. LINDEMAN: I am sorry. What was that?

THE WITNESS: I never have tried to secure one and as far as other people in my office, I have no idea when was the last time.

Q Where did you get the copy that's -- strike that. Where did you get the original from which the copy marked D-4 for identification was made?

A From my office.

Q But you don't know how it came to be in your office?

A Only on the basis that obviously at one way or another, it came from the Regional Planning Association. The route it took when it arrived there, no, sir, I do not know.

Q Okay. Have you had any communication with the

1  
2 Regional Plan Association about the data contained in  
3 this document, D-47

4 A Have I, personally?

5 Q Yes.

6 A No, sir.

7 Q Okay. So you don't know whether they are  
8 still projecting on the basis of the data reflected in  
9 this report, do you?

10 A They have not published any replacement for that  
11 document to date.

12 Q Do you know whether they published a replacement  
13 for the document?

14 A No.

15 Q Have you tried to get one?

16 A I have not personally, but I --

17 Q Okay.

18 A They have not published.

19 Q So it is not within your personal knowledge  
20 whether or not they have published a replacement document.  
21 Is that a fair statement?

22 A That is correct. I have not personally contacted  
23 them.

24 Q Have you tried to verify from any independent  
25 source whether or not trends in existence in 1970 have  
continued through 1977?

1 A You say have I tried to verify from any independent  
2 sources? Obviously I continuously am working with  
3 numbers of that type, so the answer has to be yes, I have  
4 in many, many different ways.

5 Q This 1973 document is one of the things that  
6 you have relied on in preparing many of your exhibits,  
7 isn't that right?

8 A Yes, sir, we have used those numbers among others.

9 THE COURT: When you say this 1973 document,  
10 you're referring to --

11 MR. GOODRUM: P-4 for identification. Sorry,  
12 your Honor.

13 Q On the 26th, I believe you also testified  
14 concerning commutation into Morris County and you indicated  
15 that the 1970 United States Census was your source?

16 A Yes, sir.

17 Q You indicated an immigration from Essex County,  
18 from Sussex County, from Passaic County, from Union County,  
19 from Somerset County, is that right?

20 A At that time I testified as to the numbers provided  
21 by the census. Yes, sir.

22 Q Okay. I don't see any point in going into those.  
23 The census data speaks for itself.

24 I am curious. Did you do a reverse analysis of  
25 out migration from Morris County?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A Yes, sir, we did.

Q Could I see that?

A If you give me a minute.

Q Okay.

THE COURT: You used the word migration. Migrate in my mind is a permanent movement. You're just talking about computers?

MR. GOODRUM: I think that is what the witness intended. I am using his term.

Q Is that what you meant, Mr. Hobaugh?

A Yes, sir. I intended to be talking about commutation when I used the word migration. It was an error of speaking.

Q Okay.

MR. LINDEN: We are going to use commutation?

THE WITNESS: Yes, sir.

Sir, I'm certain these numbers are here some place. I am having a little difficulty finding them.

Q Well, perhaps if we all try to remember we can go back to them after lunch.

A I will make a note and get those numbers for you.

Q Well, in connection with the same subject, perhaps while you're looking you can also look for the computer print-out you referred to that has the 1970

1 census commutation patterns for Chester Township.

2 A I have that right here, sir.

3 Q Oh, good. Okay.

4 May I see it, please?

5 A Yes, sir.

6 Q Thank you.

7 MR. GOODRUM: Mark this for identification,  
8 please?

9 (The document referred to was marked D-14  
10 for identification.)

11 MR. LINDEMAN: This is a computer print-out  
12 of what?

13 MR. GOODRUM: HAS to do with commutation.

14 MR. LINDEMAN: Into Morris County?

15 MR. GOODRUM: From Chester Township. I am  
16 going to try to clarify it.

17 Q Now, I am looking at the first page of D-14  
18 for identification. Are any totals reflected on here?

19 A I would judge that this third from the last line  
20 on Page 2 on D-14 is a total line, but I can't confirm  
21 that without adding all those numbers up.

22 Q What is the line that is circled in red on the  
23 first page?

24 A That's a line of Chester Township residents. Chester  
25 work site.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Oh, okay. All right.

Now, when you say Chester work site, did you distinguish between Chester Township and Chester Borough?

A No, sir. It is not possible to do because it is done on the basis of zip codes.

Could I just see, so I know what we got?

Q But all the people do live in Chester Township, is that right?

A Well, that's correct. That's in Chester Township working in Chester Zip Code Area.

Q Oh, so the place of employment -- residents are by the municipality but the place of employment is by zip code?

A That's correct.

Q All right. And this contains a breakdown for each zip code area in Morris County, is that right?

A Well, this deals with Chester Township. This particular document is for Chester Township.

Q Okay.

A And it in fact, now that my memory is being jogged, I am sure that that third from the last line on Page 2 is the total because if you recall, I spent some time explaining the discrepancy between the two different sources.

Q Okay.

1 A And the purpose of this print-out is to show the  
2 work location by zip code number, employed residents of  
3 Chester Township.

4 Q Okay. Would it be fair to say that each  
5 horizontal line on here except, of course, for the total  
6 lines on the captions would represent a zip code area.  
7 Is that the way it is summarized?

8 A Yes, sir. And a quick look I don't see any repeats.  
9 So each line would represent a different zip code area  
10 or otherwise there are a couple of areas here where there  
11 is not a zip code identification. Only a place name  
12 identification such as Ocean County, Clifton, Passaic  
13 County.

14 Q All right. The last nine, or some vertical  
15 columns on here are captioned Over-all Mode, and you have  
16 got drive, ride, bus, sub, I assume that's subway?

17 A I would assume so, sir. I am not certain offhand.

18 Q RR for railroad?

19 A I assume that.

20 Q Taxi, walk, and other, I guess that's other,  
21 o-t-h-e-r. Is that other?

22 A Yes, sir.

23 Q What's included in other?

24 A Sir, I haven't paid any attention to those columns  
25 which you just read off because they played no part in my

1 investigation. I know what they refer to, but I haven't  
2 used them for this purpose.

3 Q You're saying you don't really know what is  
4 included in other?

5 A No, I am not saying I don't. If I can look at the  
6 document.

7 THE COURT: The air of, full of helicopters out  
8 in that area. What difference does it make? That's  
9 the point.

10 MR. GOODRUM: Just curious, Judge, because I  
11 thought --

12 THE COURT: I'm not curious and I don't know  
13 that it has that much relevancy.

14 Let's move on a little bit.

15 MR. LINDEMAN: I was going to object, but  
16 frankly I couldn't.

17 MR. GOODRUM: I don't want to seem to be  
18 dilatory other than horseback riding, just couldn't  
19 think of anything.

20 THE COURT: Well, I answered it. The air is full  
21 of helicopters in Morris County.

22 MR. GOODRUM: Okay, your Honor. This provides  
23 a lot of detailed information about how people in  
24 Chester in 1970 were getting from their house to their  
25 job. I think it should be marked into evidence so

1 that that information will be before the Court.

2 THE COURT: Motorcycle?

3 THE WITNESS: Bicycle.

4 THE COURT: Bicycle.

5 THE WITNESS: Wheelchair.

6 MR. LINDENMAN: Your Honor, this is going to be  
7 a curious kind of a matter of handling this case.  
8 Do you mind if I ask some questions of the witness  
9 because I didn't see this document on direct  
10 examination. I think we ought to have something on  
11 the record to explain some of that.

12 THE COURT: You know, just to add a little  
13 aside. Maybe before in reference to a question that  
14 Mr., was asked of, first of Mr. Hobaugh, there was a  
15 comment by counsel that knew the comment about the  
16 R. P. A. being out of print had come from some  
17 reliable source, indicated to me that he was finding  
18 Mr. Hobaugh very reliable. I thought that was a  
19 compliment to you, Mr. Hobaugh.

20 Go ahead. You can ask your own witness.

21 MR. LINDENMAN: I'm sorry, your Honor, to do  
22 it this way.

23  
24 DIRECT EXAMINATION BY MR. LINDENMAN: (CONTINUED)

25 Q Mr. Hobaugh, the numbers under Drive-Ride,

1 at cetera, what are they, trips? Is that what that means?

2 A Persons.

3 Q A person, all right.

4 A Yes.

5 Q Okay.

6 A A person.

7 Q And this is designed to show the trips that  
8 are made by persons out of Chester Township into the areas,  
9 which is the third column, is that correct?

10 A The first four distinct columns have numbers are  
11 identification of area by numbers used by the census.  
12 The, following that is the place name identification and  
13 then the following three columns. The four columns have  
14 numbers, are again identification of a place by census  
15 code numbers. Then the next column gives the zip code  
16 followed by the place name and then a series of columns  
17 of numbers. The first of which are the total persons  
18 who reside in the area identified by the first set of  
19 code numbers and the first place name appearing, if the  
20 row and the travel to the second set of code numbers and  
21 zip code and place name in the row.

22 As far as our use of this document in this matter  
23 is concerned, the two numbers that were pulled from here,  
24 one is the 451 persons who reside in Chester Township  
25 and are employed within the Chester zip code area.

1           The second number that was used was the total that  
2 appears on Page 2, third line from the bottom in that  
3 same column in order to arrive at a percentage of work force  
4 or residents labor force within Chester which is employed  
5 within Chester Zip Code Area.

6           And I put that number, at least the percentage,  
7 I don't recall if I put the number in on direct. And in  
8 addition, I spent some time explaining the fact that this  
9 particular print-out comes up with a different total  
10 sample size than did the less detailed information which  
11 was contained in the census booklet and gave a more  
12 general breakdown as to the location of place of work of  
13 the resident labor force of Chester Township.

14           MR. LINDEMAN: The document is fine with me,  
15 your Honor.

16           THE COURT: All right. We will mark it into  
17 evidence, then, as D-14.

18           (The document referred was marked D-14 in  
19 evidence.)

20  
21 CROSS-EXAMINATION BY MR. GOODRUM: (CONTINUED)

22           Q       I think you said you didn't look at the mode  
23 of transportation contained on this print-out when you  
24 were preparing your data, is that correct?

25           A       We did not utilize it in any way.

1 Q Okay. Did you do any cross-check of these  
2 zip code areas to see how many of them were within and  
3 how many were without your drive time region?

4 A I did not. And I am not aware of anyone else doing  
5 it. It may have been done.

6 Q Okay. So far as you know, no one has made  
7 any actual cross-check to see if existing commutation  
8 patterns of people correspond with the region you have  
9 selected in employee drive time?

10 A If you recall, we did have another table from the  
11 census which I have here in front of me. And this is  
12 the published version. When you buy the booklet and you  
13 get this table and it indicates the number of commuters  
14 and percent of commuters to various locations from Chester  
15 Township. And this aggregates all of Morris County  
16 being just under 70 percent. The location of work just  
17 under 70 percent.

18 Q Excuse me. Let me stop you right there before  
19 you go into it any further.

20 You said it aggregates all of Morris County.

21 A I am trying to explain why we used that in the way  
22 we did.

23 Q All of Morris County isn't included in your  
24 region. How can you aggregate Morris County and make that  
25 sort of analysis?

1  
2 A It is not my aggregation or my figure. I am  
3 reporting to you, telling you what the census has reported  
4 as to the place of work of the resident labor force of  
5 Chester Township.

6 And it indicates that just under 70 percent of the  
7 resident labor force of Chester commutes to a place within  
8 Morris County.

9 Q Okay.

10 A And if you will recall initially when I was asked,  
11 I did not remember that I had that other data and subse-  
12 quently determined that I could make a finer breakdown  
13 as to the location of work for Chester residents or the  
14 resident labor force than simply the bulk of Morris County.

15 Q All right.

16 A The document provided the means for doing that.

17 Q You are referring to another page there in  
18 your notebook. Are you saying that that other page in your  
19 notebook was used to make an analysis of how the people  
20 were commuting to areas within your drive time region and  
21 how many were commuting to areas without your drive time  
22 region?

23 A No, sir, I am not.

24 Q Okay. Thank you. You have answered my question  
25 finally.

So based on P-14 in evidence and on the other data you

1 have collected and analyzed, you still don't know whether  
2 the region you selected by drive time corresponds to  
3 actual commutation patterns, do you?

4 MR. LINDEMAN: May we amend that to say

5 D-14? I think that is what you meant.

6 MR. GOODRUM: Yes.

7 MR. LINDEMAN: Right.

8 MR. GOODRUM: I did mean D, if I didn't say it.

9 THE COURT: Okay.

10 A I do not know and it does not have importance to me  
11 because Chester is not presently in a situation of  
12 encouraging normal commutation patterns. The market  
13 area region normal commutation pattern.

14 Q In your opinion?

15 A Yes, sir, in my opinion.

16 Q Okay. Now, later on you gave us an opinion of  
17 the statistics of multi-family housing in Chester, in  
18 Morris County, and Warren County and Hunterdon County, and  
19 Somerset County, and Newark, and in the State of New Jersey,  
20 right?

21 A Yes, sir.

22 Q Okay. I guess those statistics speak for  
23 themselves and there is no point in going back over them.

24 The thing I am curious about is what's the definition  
25 of multi-family for the purpose of those statistics.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A Multi-family is two units or more per structure.

Q Does it include two-family houses?

A With the exception that a single-family attached homes are included within single-family houses.

Q I see, excluding townhouses, is that what you are saying?

A I am saying townhouses would be in single-family category.

Q But two-family houses would be in multi-family?

A That's correct.

Q Okay. So when we are talking about these multi-family units in Morris County and the State of New Jersey or wherever, that includes two-family houses but does not include townhouses, right?

A That's correct.

Q Now, you're also making some job projections. And I believe, correct me if I am wrong, you made the statement that in the twenty years from 1970 to 1990, you would project there would be 75,000 new jobs in Morris County, is that right?

A I don't remember the number offhand, sir. But I will check it.

Q Okay. Please take your time.

I don't want to rush you.

THE COURT: Off the record.

(Discussion had off the record.)

A Yes, sir. I did testify that approximately 75,000 additional jobs in Morris County from 1970 through 1990.

THE COURT: Through what?

THE WITNESS: 1990.

Q Okay. Now, what was the basis of the data from which you derived that projection?

A Well, it is a round number that is based upon the various employment projections which, to which I had talked about.

Q Well --

A Including R. P. A. That's the Regional Plan Association, Port of Authority and such projections as were made by the Counties.

Q All right. Let's back up a little bit.

Now, take this one thing at a time because I would like to understand how you went about making this projection.

Now, have you got the base documents that you used?

A Yes, sir. I am sure they're here, but they're not with that number.

Q Well, I am a patient person. Take your time and find the base documents. I think this is worth taking some time over.

A That number comes from the Morris County Master Plan,

1 Future Land Use Element, dated April, 1973, and is con-  
2 tained in the first paragraph on Page 57.

3 Q Could I see it?

4 A Yes, sir.

5 Q Okay. You have taken this figure from the  
6 Morris County Master Plan and you obviously consider it  
7 reliable, right?

8 A Yes. It's a statement by the County Planning Board  
9 regarding the relationship between jobs and housing,  
10 or population and jobs, I should say. Excuse me.

11 Q Okay. Do you consider the other information  
12 contained in there to be reliable?

13 A Yes, sir.

14 Q So you are going to sink or swim on the basis  
15 of all the data contained in that Master Plan, is that  
16 right?

17 A Well, it's a pretty broad thing to ask me to commit to.  
18 It is the document that has been prepared by the County  
19 Planning Board. I would accept it as being a document  
20 prepared with both to diligence or diligently and with  
21 appropriate background and knowledge regarding the area  
22 for which the plan has been prepared.

23 At the moment I have no basis for arguing with  
24 anything in it.

25 Q Okay. Now, I think we had some figures that

1  
2 you were talking about in connection with this same thing.  
3 I believe you said that based on this projection of  
4 75,000 new jobs per year, you assumed that for each 1.3  
5 jobs an additional dwelling unit is needed, is that right?

6 A That's correct.

7 Q All right. Now, here is where I get confused.  
8 I want you to check your arithmetic because I think you  
9 left something out here, perhaps, or perhaps I am just  
10 figuring it wrong.

11 If you take 75,000 new jobs a year, you divide it  
12 by the twenty years in the period, that works out to  
13 3,750 jobs per year, if you want to just even it out,  
14 right?

15 A That's correct.

16 Q And I think that you indicated that you needed  
17 3,750 dwelling units per year in your previous testimony?

18 A What you're saying I am recalling it. Yes, sir, it's  
19 not an inaccurate number.

20 Q You forgot to divide it by 1.3?

21 A No, I didn't forget to, but I didn't testify  
22 properly either. It comes out to about 2,285 houses.  
23 It's 3,750 jobs and I am quite sure what has been said  
24 is correct. That I said additional houses.

25 Q Okay.

A Previously.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Fine.

A For dwelling units is approximately 2,300.

Q I certainly don't mean to imply that it was an intentional misstatement. I just want to get the figures correct on the record.

A Yes, sir.

Q So in fact, the demand was only 2,977 dwelling units per year rather than 3,7507

A My number 1, 2,885, but I wouldn't quibble for the difference.

Q Okay. I don't think I will either. So rather than having 975 units per year deficiency based on housing starts, it is actually more like 200 units, isn't it?

A Yes, sir. I have 210 units.

Q That's for the whole County, right?

A That's correct.

Q Next, I think, you went into the quintile analysis and you had some income categories?

A That's correct.

Q Where did you get your income categories, Mr. Hobaugh?

A From the census. We got our information from the census.

Q Okay. I want to understand where you got the categories.

End of  
Tape 3

of the quintile

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A Well, as you are aware from my explanation/analysis the categories are arrived at by dividing --

Q Excuse me. Excuse me. Let me save us some time.

A Yes.

Q I'm talking not about quintile categories.

A Okay.

Q But about income categories. Did you understand me correctly in the first place?

A No, sir, and I am still not clear what it is you are looking for.

Q All right. You indicated there was a low income category which was zero to \$8,500.00, for example. Where did you come up with that category? Where did it come from?

A Still talking about the quintile analysis?

Q I don't think so. You were referring to low income categories of people with an income of zero to \$8,500.00 per year.

A The definition of low and moderate income categories.

Q Okay. You defined that as being a low income category. Where did you get that definition?

A That definition derives from the zero to approximately, I think, it is \$5,600.00 low income as of 1970, and updated to 1976, based on consumer price index.

1 Q Wait a second. Low income, in the low income  
2 category, the 1970 is from where?

3 A Well, one thing I can tell you as to where it comes  
4 from. It was accepted in the Mount Laurel case as  
5 a definition of low income.

6 Q Okay. Fine.

7 So low income in the Mount Laurel category is zero  
8 to \$8,500.00 and you just adopted that category, right,  
9 from the Mount Laurel opinion?

10 A Our updating of that number as of 1970, yes. The  
11 same thing for moderate.

12 Q I am sorry. What was the figure for low income  
13 as of 1970 again?

14 A Approximately zero to \$5,600.00.

15 Q So \$5,600.00 increased by the consumer price  
16 index between '70 and '77 yielded \$8,500.00. Is that what  
17 you are telling us?

18 A That's correct. Those are approximate numbers.

19 Q Okay. Fine.

20 Did you get your moderate income category the same way?

21 A Yes, sir.

22 Q Once again, from the Mount Laurel decision?

23 A Yes, sir.

24 Q Where did you get that middle income category,  
25 \$12,500.00 to \$25,000 per year?

1 A That's mine, and my office's.

2 Q Why did you choose those figures?

3 A They represent what in our judgment is, if you're  
4 going to lump one middle category, let's say you're going  
5 to use four categories of income; low, moderate, middle  
6 and upper, after \$12,500.00 in our judgment, twenty-five  
7 is, let's say, a '76 number, and an appropriate division  
8 point.

9 Q Why did you think it was appropriate?

10 That is what I am trying to get at.

11 MR. LINDEMAN: Now, I object, your Honor, on  
12 the ground this is irrelevant. It just contributes  
13 nothing to the case.

14 THE COURT: Why is it relevant?

15 MR. LINDEMAN: Irrelevant.

16 THE COURT: No, no. I am saying to you. I am  
17 saying to counsel.

18 MR. GOODRUM: Your Honor, I am trying to figure  
19 out why he delineated this in the first place.  
20 I have been a little mystified by it. I don't under-  
21 stand how it is relevant either to even look at  
22 a middle income category.

23 THE COURT: Well, then let's move on.

24 MR. GOODRUM: Okay.

25 Q Now, I think when you were testifying about the

1 cost of dwelling units, one of the elements you considered  
2 was land, am I correct?

3 A Sir, my recollection is that my testimony about the  
4 cost of dwelling units was not permitted.

5 Q No, I am not talking -- I think you were  
6 talking about how to determine -- maybe I should rephrase  
7 it, make myself clear.

8 I believe what you said was you have a unit of land  
9 which has a given value to determine that cost component.  
10 You divide the units into the land, that is, the number of  
11 dwelling units, I assume, and this cost of land must be  
12 recovered from the consumer. Do you recall making a  
13 statement like that?

14 A Yes, sir.

15 Q Okay. Isn't it a fact that the zoning of the  
16 land is a very significant factor in determining how much  
17 it will sell for?

18 A It has a bearing on it. Yes, sir.

19 Q Okay. So if a tract of land is zoned so that  
20 you could put 832 units on it, its sales price would be  
21 significantly higher than if it was zoned to put say  
22 30 units on it, wouldn't it?

23 A I would anticipate that. Yes, sir.

24 Other factors would have a bearing, but I would  
25 anticipate that to be a fair statement.

1 Q All right, yes.

2 So in fact, it is a fallacious assumption to start  
3 out with a unit price for the land and then back into the  
4 land costs without regard to the zoning, isn't it?

5 A Sir, I'm a little confused as to how we get into  
6 this. My, I believe that the statement I made last week  
7 from which you are pulling portions now, was general in  
8 terms of the manner in which one has to arrive at the  
9 price of which a unit would be offered to the consumer and  
10 zoning is not really a consideration in that particular  
11 portion of examination of a proposed project.

12 It's independent of what the zoning might permit on  
13 the land. It's a financial analyses providing information  
14 usable in a couple of different ways. A portion of the  
15 market would be specific, how big that portion of the  
16 market is expected to be.

17 Q Okay.

18 A Cash return to the people who are developing,  
19 this kind of thing.

20 Q All right. I understand it that you're contending  
21 that there are other factors also.

22 Now, you also are testifying about ordinance provisions,  
23 I believe?

24 A Yes,

25 Q Correct me if I am wrong, but didn't you say

1 that one of the factors that differentiated a permitted use  
2 from a conditional use was that the conditional use required  
3 three to nine to twelve months extra for application  
4 procedures?

5 A Yes, sir.

6 Q Are you acquainted with the provisions of the  
7 new Municipal Land Use Law, Mr. Hobaugh?

8 A Yes, sir.

9 Q You are aware that there are strict time limits  
10 imposed by this new law, aren't you?

11 A Unless there is a voluntary waiver by the applicant.  
12 Yes, sir.

13 Q Okay. Do you happen to know the time specified  
14 for the processing of a conditional use application?

15 A I don't recall well enough to testify to it. No, sir.

16 Q But it certainly is not nine to twelve months,  
17 is it, Mr. Hobaugh?

18 A That's not the time that is specified from receipt of  
19 the complete application, no.

20 MR. GOODRUM: Okay. Bear with me a moment, your  
21 Honor. There is some information that I want to check  
22 out.

23 Q I believe you said that you had made a computation  
24 of housing units needed in the market area shown on  
25 P-29, is that right?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A We prepared a demand profile for the market area.

Q Okay. What base data did you use in preparing that demand profile?

A We used the projections of the employment made by various agencies.

Q Okay. Have you got those?

A I got what?

Q The projection of employment by, made by various agencies. I don't want to shut you off. I just want to try to keep track of these things.

A It is in the 31 County projection which is D--

Q Are you referring to the pages that were marked P-267

A I think it was A and B for identification.

Q Here, to refresh your recollection.

A No, sir. Neither of these have employment projections on them, but other pages in D-4 do.

Q Uh-huh.

A So it would be from there. From the publication "People in Jobs," published by the Port Authority, projections published by the various County Planning Boards. And those sources were used in preparing, in arriving at employment anticipation as part of the whole process of preparing a profile.

Q All right. The market area demand profile re-

1 suited in a document that was marked P-30, is that right?

2 MR. GOODRUM: Excuse me, your Honor. Was this  
3 marked in evidence or was it marked for identification?

4 THE COURT: What is that?

5 MR. GOODRUM: P-30.

6 MR. LINDEMAN: It was admitted into evidence.

7 THE COURT: Still for identification. No.

8 MR. FERGUSON: Evidence.

9 MR. LINDEMAN: I do too, your Honor.

10 THE COURT: Okay. I missed it, then.

11 Q Would you like to see this?

12 A Okay.

13 Q Is this your market area demand profile and  
14 resultant work product?

15 A Yes, it is.

16 Q Okay. Now, why don't you show me which pages  
17 in D-4 you used.

18 A Page 38 would have been one of the pieces of source  
19 material.

20 Q Were there any other pieces of source material  
21 in D-4 for identification?

22 A We are now talking only about employment and the  
23 answer is no, if we are expanding the subject, the answer is  
24 yes.

25 Q I am talking about the market area demand

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

profile which has been marked P-30 in evidence.

A Yes, sir.

Q And I am talking about the base data you used to prepare P-30.

A Correct.

Q So there will be no mistake --

A I began enumerating those. First I mentioned was employment and you more or less channeled me into that.

THE COURT: You interrupted him. I'm going to interrupt you as well. It is 12:30.

MR. GOODRUM: All right.

(The noon recess was taken.)

Nov. 1  
1977

AFTERNOON      SESSION

1  
2  
3            MR. GOODRUM: The first area of inquiry will  
4 be the data base for the projections shown on  
5 P-30.

6            THE COURT: Okay.

7            Q        I would like to explore these individually,  
8 one at a time, to see what they are and how they relate  
9 to P-30.

10           A        I anticipated that.

11           THE COURT: You have all that?

12           THE WITNESS: Yes, sir.

13           THE COURT: Okay. Off the record.

14           (Discussion had off the record.)

15           THE COURT: All right.

16           Q        Mr. Hobaugh, just before lunch, I believe we  
17 were talking about Page 38 of B-4 for identification  
18 as being one of the source materials you used. Is that  
19 right?

20           A        That is correct.

21           Q        All right. Specifically which data on Page 38  
22 did you employ?

23           A        From the Regional Plan Association we utilized  
24 employment estimates which were given for 1970 and 1985.  
25 And I don't know if those appear on this page or on another

1 page.

2 Yes, they do. We utilized the employment figures  
3 for 1970 and 1985 for the County of Morris, Somerset,  
4 Warren, and Hunterdon. We also utilized, sir -- I don't  
5 mean to interrupt your questioning -- but you led me into  
6 the area of employment figures and how we utilized them.

7 There are several sources and there is a particular  
8 use to which those would be put and I would be very happy  
9 to just explain that, if that's what you would wish.

10 Q I think I would prefer to do it in a question  
11 and answer format, if possible. But thank you for the  
12 offer.

13 Now, you got County-wide figures for Hunterdon,  
14 for Morris, for Somerset, and for Warren shown on here.

15 I note that the market area referred to on P-30  
16 does not correspond to those County geographic boundaries.

17 What adjustment, if any, did you make to account for  
18 that?

19 A To those particular figures, none. Ultimately adjust-  
20 ments were made in all of the categories of data that I have  
21 talked about. It is necessary in some instances to collect  
22 it on a larger than, if it is County data, collect it from  
23 the entire County and then parcel out to that portion of the  
24 County that is included within the market area.

25 The same thing applies to population figures is used.

1 Any of the figures as are used.

2 Q How do you go about parceling it out, Mr.  
3 Hobaugh?

4 A We didn't parcel out those numbers, sir.

5 Q You did not parcel out those numbers?

6 A Not the specific number you're questioning me about  
7 now, no.

8 Q Okay. So these specific numbers aren't reflected  
9 anywhere on P-30 directly, just --

10 A Not directly. That's correct.

11 Q Okay. All right.

12 Then you said you took these figures off of Page 38  
13 of D-4 for identification. When you took them off here,  
14 where did they go physically?

15 A On some, this work sheet.

16 Q May I see it, please?

17 A Certainly.

18 MR. GOODRUM: Okay. I would like this sheet  
19 marked for identification, please.

20 THE COURT: Okay. D-15 for identification.

21 (The document referred to was marked D-15 for  
22 identification.)

23 THE COURT: What do you call that, Mr. Hobaugh?

24 THE WITNESS: It is a work sheet on employment  
25 projections for the four counties.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Okay.

Q These figures are under the second heading, are they not?

A That's correct.

Q All right. Now, would it be a logical way to ask you, would it be a logical way to progress to ask you where you got the other figures on D-15?

A Yes, it would.

Q Let's go back to the top of Page, the first caption.

A The first set of numbers are employment projections for Morris and Somerset Counties prepared by the Regional Port Authority of New York and New Jersey and contained within people and jobs.

Q All right. Is that document from which those figures came, has it been previously identified in this court?

A Not in this court. No, sir.

Q Do you have it with you?

A No, sir, I do not.

MR. GOODRUM: Okay. I am just reading the footnote here, if you will bear with me a moment, your Honor. I am not sure just what it says. Okay.

Q You have a third heading going down to the bottom of it and says Employment-Combination of Above, and

1 it shows the counties in your district and it has got  
2 a vertical column for the year 1970, '75, '80, and '85?

3 A That's correct.

4 Q Now, where did you get the figures that are  
5 reflected in those columns?

6 A Those are our synthesis of the two sets of figures  
7 above which was prepared with knowledge of and I don't  
8 have any specific sheet right here now, but such populations  
9 or employment projections as were available from the  
10 County Planning Boards as well.

11 Q Okay. Let's take them one by one.

12 Under Morris County, you have the four years. Where  
13 did those four figures come from?

14 A From our synthesis.

15 Q I understand.

16 A And the other sources available.

17 Q I understand. But what I want to get at, how  
18 did you synthesize it? From which sources?

19 A Okay. I already explained at the, looked at the  
20 zoning market area and in some instances that includes,  
21 it does include the entire County of Somerset, a vast  
22 majority of the County of Morris.

23 Q Okay.

24 A Let's assume at this point that we have available to us  
25 some knowledge about what the zoning pattern is within the

1  
2 area. All right?

3 We have knowledge as to covered employment trends  
4 through 1974 for each of the four counties. We have  
5 available to us certain information published by some of  
6 the county planning boards, especially Somerset I know,  
7 and Morris County.

8 So with all of this knowledge in hand, different  
9 secondary source material in hand, these are the numbers  
10 which we bring together and say these are the numbers  
11 we will use for this purpose.

12 Q Okay. You tell me if I am wrong now, there  
13 are, were other source material of this third category  
14 near the bottom of the page?

15 A Yes, sir.

16 Q Other than the ones that are toward the top  
17 of the page?

18 A Yes, sir. There are other factors that were known,  
19 the degree to which each is used is something that could  
20 not be recovered at this time.

21 Q In other words, you synthesized the data  
22 which you just described in that fashion?

23 I don't remember how you did it at this point.

24 A Sure, I remember.

25 Q Which factor, and so forth?

A No, I do not recall how much one weighs.

1 Q But you looked at the data reflected on the  
2 first top two sections of D-15 and you looked at the other  
3 source materials you have mentioned and at that point you  
4 made a judgment call and you made some sort of synthesis  
5 for each county, for each year. Is that a fair statement?

6 A Yes, that's a fair statement.

7 Q And at this point, you couldn't tell me  
8 exactly which factors you took into account, how much in  
9 making the synthesis, right?

10 A That's correct, I could not.

11 Q Okay. Now, are these employment figures that  
12 are set forth on D-15 for identification reflected directly  
13 on P-307

14 A No.

15 Q Okay. How do we get from here to there?  
16 What do we do?

17 A At this moment we have arrived at a point of having  
18 employment projections which we will use in continuing this  
19 process. Let's now set those aside.

20 Q So these are the final employment projections  
21 on D-15. Is that a fair statement?

22 A Yes, sir.

23 Q Okay.

24 A At the bottom of D-15.

25 Q Right, I understand. Okay. Let's set that

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

aside now.

Other than employment projections, what else did you use to arrive at the projection shown on D-30?

A We now look at -- again, I don't mean to testify to precise order in which everything was done here, but I do mean to cover those things that were accomplished.

Q Okay.

A We now look at population projections.

Q All right.

A And again I have here population projections made by the State of New Jersey for each of the four counties for the years 1975, '80, and '85.

Q Excuse me now before we get too far past that.

Do you have the source materials from which you got those population projections?

A Do I have them here?

Q Yes.

A No, sir.

Q Could you tell us what they were?

A It is a document published by the Bureau of Business Economics, I believe it is called. Maybe it is the Office of Business Economics in the Department of Labor & Industry.

It is the same group which maintained and publishes data regarding numbers of building permits issued by

1 municipalities on a monthly basis and with an annual  
2 summary. And they publish projections by county several  
3 years back. I don't recall the exact date of them.

4 Q Okay. Some years in the past an agency of  
5 the State of New Jersey made some population projections?  
6

7 A That is correct.

8 Q You do not now have a copy of those projections  
9 with you, right?

10 A That's correct.

11 Q Do you know the methodology by which the  
12 projections were made?

13 A Sitting here? No, sir.

14 Q You do --

15 A It is explained in the document, but I don't pretend  
16 to remember.

17 Q Okay. You have another page here?

18 A No, sir, but I have other information on this page.

19 Q All right.

20 A I do have another page. Excuse me, yes.

21 Q Well, what I was getting at is, we seem to  
22 be, you seem to be referring to a page in your notebook  
23 there and I am sort of looking over your shoulder.

24 MR. GOODRUM: Perhaps we should have it marked.

25 THE COURT: D-16.

(The document referred to was marked D-16 for

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

identification.)

MR. GOODKIN: This is a population projection work sheet, I suppose, your Honor.

Q Okay. So D-16 for identification, the first section, the top section of it is the population projections that you got from the State of New Jersey, right?

A From a document published by the State of New Jersey.

Q Yes.

A Yes, sir.

Q That we were just referring to?

A That is correct.

Q Okay. You have a second category here?

A Yes, these are numbers dealing with population projections as published by the various County Planning Boards.

Q Okay. Do you have a source document for these population projections?

A I may have some of them. I doubt if I have them all here.

Q All right. Let's take the -- excuse me -- are you looking for something?

A I was just looking quickly to see if I have the projections here.

Q Okay. I don't want to interrupt you.

A If I don't find it quickly, I will know. I am not

1 certain that I have any source material with me except from  
2 those sheets in here and that may not cover all of them.

3 Q Okay. Referring to the population projections  
4 made by the Morris County Planning Board, do you have  
5 personal knowledge of the methodology they used in making  
6 the projection?

7 A No, sir, I do not.

8 Q How about the projections by the other three  
9 County Planning Boards? Do you have personal knowledge of  
10 the methodology they used?

11 A No, sir, I do not.

12 Q Okay. Let's move on to the next category.  
13 Appears to say, well, you tell me what it says.

14 A These are the population projections from P-26, I  
15 believe it's A, deals with population.

16 Q P-26A, right, is population. Would you like to  
17 look at it to refresh your recollection?

18 A No, I don't need it, which is population projections  
19 by the Regional Plan Association.

20 Q Okay.

21 A The last grouping of numbers on here are population  
22 projections for Morris and Somerset Counties from people  
23 and jobs published by the Port Authority of New York and  
24 New Jersey.

25 Q Yes, okay.

1 A And as with employment projections, we have  
2 combined those four sets of numbers into our own projection.

3 Q Is that a separate sheet?

4 A Yes, sir, it is.

5 MR. GOODRUM: All right. Perhaps we could mark  
6 this separate sheet for identification so we can keep  
7 track?

8 THE COURT: D-17.

9 (The document referred to was marked D-17 for  
10 identification.)

11 Q So D-17 is your synthesis of your figures shown  
12 on D-15?

13 A That's correct.

14 Q Did you take anything into account other than  
15 the figures reflected on D-15?

16 A On population projections I do not believe so, sir.

17 Q Okay. Do you recall how you went about it,  
18 synthesizing this population projection together to reflect  
19 what you show on P-17?

20 A Well, in this instance, we are talking about County-  
21 wide. And if I may just take a look? It is largely striking  
22 an average between the four available projections which have  
23 quite a wide numerical spread.

24 Q Is that what you did? Did you average them?

25 A Sir, I don't know if it is an average or not.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q So --

A It is a synthesis of the four numbers here. I determined that, but I don't know offhand.

Q So once again, you don't recall exactly how you went about putting the numbers together, is that right?

A Beyond what I have testified to, no, sir, I don't recall exactly.

Q You know it is some sort of a combination of these, but you're not sure how you went about the combination, is that correct?

A We know there are numbers within the range of the four projections listed on D-16.

Q Okay.

Now, are these your final population projection figures shown on D-17 here?

A Yes, sir.

Q Am I correct in assuming that these are not reflected directly on P-30?

A That's correct.

Q Okay. Now, what other than the employment projections and the population projections did you use in arriving at your P-30 projections?

A A number of things, but it might be appropriate for understanding, for me to explain how we used employment and population increases in arriving at certain numbers on

1 P-30.

2 Q Right, that is vary helpful.

3 Could you explain to me -- you synthesized the  
4 employment projections and the population projections in  
5 some fashion and they are reflected here on P-30?

6 A Yes, sir.

7 Q Okay. Perhaps you could explain what you did.

8 A We now have, we established previously the relation-  
9 ship between job and dwelling units. We know the --

10 Q Excuse me. You had established previously  
11 a relationship between jobs and dwelling units?

12 A Yes, sir.

13 Q You're talking about that 1.3 job per dwelling  
14 unit ratio that you talked about before?

15 A That is correct.

16 Q Okay. Please continue.

17 A And the relationship between population and households  
18 can be established by working with information on the number  
19 of persons per household so that from two different sources  
20 now we can equate projected increases. Difference between  
21 totals anticipated at a future date and time and totals  
22 known to exist at the present time and arrive at indicated  
23 gross additional dwelling units which will be demanded.

24 Now, I have skipped something that is very important.  
25 The figures you have had me talk about so far are on a

1 County basis. Those must be translated in a market basis,  
2 in a County basis prior to performing the step of estimating  
3 the number of additional dwelling units required.

4 Q All right. How do we go about translating these  
5 County-wide figures that we have on P-15, P-16, and P-17  
6 for identification?

7 A D, I beg your pardon. D-15, 16, and 17.

8 Q Into your market area based on drive time?

9 A By working with the specific numbers for the  
10 municipalities which are within the market area as compared  
11 to the County total.

12 In some instances it might be the reverse process,  
13 for example, as I alluded to earlier with Morris County.  
14 There are greater numbers of municipalities included than  
15 excluded. In that instance it would be the same process  
16 in reverse to extract out that portion of the numbers  
17 assigned to the excluded communities rather than building  
18 up that portion of the numbers assigned to included communities.

19 Q I don't want to belabor the point too much,  
20 but I really don't understand how you are doing this. Let  
21 me try a question.

22 A I haven't really told you yet.

23 Q I am sorry. Maybe that's why I didn't.

24 A The point is, I was trying to explain and be clear on  
25 the fact that it may not be a building up of individual

End of  
Tape 4

1 municipal numbers. It may be a reverse process of taking  
2 out some individual municipal numbers.

3 Q Okay.

4 A Working with the specific numbers in terms of  
5 population and employment for the municipalities where less  
6 than a full county is included, we, by our own methodology,  
7 and judgment, must assign portions of these numbers to our  
8 market area from the total for the County.

9 The trend of growth of population within each of  
10 these municipalities would be the household, would be  
11 one method, two things that ought to be examined as  
12 would growth of employment. This gives one a sense for  
13 what is happening in those specific municipalities as  
14 compared to the County in its entirety.

15 Then in addition one must get into the subjective  
16 kind of considerations, such as to make a point, suppose  
17 that four municipalities from Hunterdon are included  
18 in our market area. And suppose that all the remaining  
19 municipalities within Hunterdon County are, have a  
20 condition or state of development where there is very little  
21 remaining area for further development. This means that  
22 the vast majority of future anticipated development within  
23 Hunterdon County would fall within our market area.  
24 The reverse could be the case also.

25 Q All right. Excuse me. Are you through?

1 A Well, I will stop.

2 Q Well, I think I am to the point where you're  
3 describing a general method, right? The over-all method  
4 that you used to allocations?

5 A That's correct.

6 Q All right. I wonder if we could clarify this  
7 a little bit by using specific examples.

8 You were talking about Hunterdon County?

9 A Right.

10 Q We have some municipalities in Hunterdon  
11 County that are included in our drive time area, as I  
12 recall. I also recall that there is an exhibit here  
13 someplace which would set them forth, which has been  
14 marked in evidence. Would have been D-12. D-12 has a  
15 list of ten municipalities in Hunterdon County which are  
16 within your area, is that right?

17 A Yes, sir. That's correct.

18 Q You have two Lebanons on here. Is that a  
19 mistake or what?

20 A No, sir.

21 Q Is one a Borough and one a Township?

22 A Yes, sir.

23 Q Okay. All right. Let's take the first one,  
24 Readington in Hunterdon County.

25 Now, how did you allocate -- let's take the population

1 first -- how did you allocate a portion of Hunterdon County's  
2 population to Readington?

3 A By looking at Readington's population, experience  
4 by considering the character of Readington, the zoning  
5 in Readington, all which I previously testified we had  
6 available. By considering development patterns within the  
7 larger region in terms of what kind of pressures are on  
8 Readington. What is the marketplace going to happen in  
9 Readington. If I did not say so, by considering the trends  
10 of population, housing and employment within the municipality.  
11 By considering its accessibility which in my mind is  
12 part of what's happening in the larger region and its  
13 affect upon Readington.

14 Q After considering all of these, what did you  
15 come up with for Readington?

16 A I have no idea, sir. It is now aggregated in the  
17 numbers that are here on our sheets of paper.

18 Q So based on everything you observed and all  
19 the data you had seen, you made a judgment about what you  
20 should be allocating to Readington, is that a fair statement?

21 A Yes, sir. I believe that's what I said.

22 Q Okay, fine. And you did this with each of the  
23 municipalities reflected on D-12?

24 Is that a fair statement?

25 A Within the exception that all of Somerset County is

1 included, and, therefore, total County numbers can be  
2 used there.

3 Q Of course.

4 A And particularly in the case of Morris County, in  
5 view of the fact that there are very few municipalities  
6 included. I believe there is five in number excluded the  
7 reverse process may have been undertaken rather than the  
8 aggregating those that are included.

9 Q Do you remember whether you aggregated or  
10 reversed the process with respect to Morris County?

11 A No, sir. I pay very good salaries for me to do that  
12 and I was not there at the specific time it was done.  
13 Direction was given by me and was aware of the methodology  
14 that was to be used and I trusted the people to carry that  
15 forward.

16 Q What did you tell them to do?

17 A Just what I have explained here today.

18 Q You told them to make judgment calls about what  
19 should be assigned to say Jefferson Township --

20 A It is --

21 Q -- or would you make the judgment yourself?

22 A No, sir, I did not make the judgment.

23 Q So this figure is based on somebody else's  
24 judgment of what weight should be given to Jefferson  
25 Township in the over-all context of Morris County, is that  
correct?

1 A That's correct.

2 Q Who was this other person, do you know?

3 A James Zeminek.

4 MR. GOODRUM: Do you intend to call him as a  
5 witness, Mr. Lindeman?

6 MR. LINDEMAN: No, I don't.

7 Q Was this the process that was followed with all  
8 these municipalities?

9 A Yes, sir, the entire market area.

10 Q You say Mr. Zeminek looked at all these  
11 factors and picked a figure as to what portion of the County  
12 should be reflected in each municipality?

13 A Sir, I would not portend to remember my specific  
14 wording to him, that he is well trained, he is capable  
15 and diligent.

16 Q Okay. Did you follow essentially the same  
17 process for making allocations with respect to the employment  
18 figures reflected on D-15 for identification?

19 A For all allocations? Yes, sir, from County to market  
20 area.

21 Q Okay. All right. So in both instances, someone  
22 who was not before the Court made a judgment call and you  
23 can't tell us the precise methodology they used. Just  
24 factors that they were supposed to have taken into  
25 consideration, is that right?

1 A I can't give you the specific weighting that was  
2 assigned to the different factors. No, sir.

3 Q Okay. You told him to look at those factors  
4 though, is that right?

5 A Yes, sir.

6 Q But not what to do with them once he had seen  
7 them, right?

8 A If at that point in time I had, still had to explain  
9 it to him as though he were a new employee, he probably  
10 would no longer have been an employee.

11 Q All right. So now that we have got these  
12 figures weighted and converted from County figures into  
13 your drive pattern district, what are we going to do with  
14 them?

15 A Being a little fussy and exactly how far I got in  
16 the over-all previous things, we are to the point now of  
17 having an over-all housing demand allocated to the market  
18 area. You want to start at that point?

19 Q Well, as I understand it, what we have done  
20 so far is we have got the population figures for the Counties  
21 from the sources you described. We got the employment  
22 figures. We have taken the County figures for population.  
23 The County figures for employment and we have through  
24 a weighting process that you can't precisely describe  
25 allocated these to your drive time area?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A That's correct.

Q Okay. Now, so we have got population figures for the, that have been converted for the drive time area. We've got the employment figures that have been converted to the drive time area.

A The employment figures can be converted to household figures based upon 1.3 ratio which we talked about earlier.

Q Excuse me. Let's back up a minute.

Do you have a writing of any sort that reflects the allocations from Counties to drive time area that we were just talking about?

A A writing of any sort?

Q Yes.

A A work sheet?

Q Yes.

A No, sir. I do not.

Q You do not?

A No, sir.

Q So there were some figures that were derived at some point, but you don't have it any longer. Is that a fair statement?

A Yes, sir. That is a fair statement.

Q Okay. So how do we get from these pages that have been marked for identification to F-30? I don't want to belabor the point, but it is not clear to me yet.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P-30 is what?

Q P-30, that's what I am trying to --

A P-30, that is our market profile. I lost track.

Q Yes, it is.

A Okay.

Q That's right. Here, as a matter of fact, is P-30. Would you like to look at it?

A I have it here.

Q All right.

A Excuse me. I am confused as to what the question is that was posed to me now.

THE COURT: Now did you get to P-30 from the exhibits, the work sheets that he has been referring to you with respect to the population, employment, et cetera, projections?

THE WITNESS: I made the allocation to the market area. We have totals for those, for the market area.

Q Yes.

A Employment can be converted to housing on the basis of 1.3 ratio.

Q Okay. That's what you did?

A That's correct.

Q We will come back to that later. All right, go ahead.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A The population can be converted to households based upon a person per household on an average.

Q Where did you get that figure?

A The latest information would be available in that as a matter of course would be the '70 census.

Q So the 1970 census is in the United States of America, the average household is 7.1 people or whatever?

A No, no.

Q Is that correct?

A Not for the United States, no.

Q No? What is the sample area?

A Well, the census lists that information by municipality.

Q So you are going to make the assumption that the size of the household remains the same in the municipality, is that right?

A It is the best assumption available, sir, yes.

Q Okay.

A Right.

Q Okay. I am not arguing. Just trying to clarify it.

A Yes, sir.

Q What was it in this instance?

A I don't know.

Q You have it there?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A No, I do not have a record of that.

Q Okay. So your best recollection is that from the 1970 census you took the average number of people from a household in Chester Township, is that right?

In Chester Township?

A Chester Township is a portion of the market area and would have been utilized in the aggregation, yes.

Q Did you use the market area?

A Of course, that's what we are now talking about.

Q Okay. What I am trying -- excuse me -- I don't want to confuse you and I don't want to be confused myself either.

You have an average number of people per household that you got from the 1970 census?

A That's correct.

Q Now, I thought I understood you to say that you used the figures for Chester Township. Did you mean to say that you used the figure for the whole market area?

A I hope I didn't say either one of those things. I said with that number is available for each municipality and it also is available for County-wide.

Q Okay.

A So that again in the case of Somerset County, we are able to use the County-wide figure because of all of Somerset County is within our market area.

PENGAD CO., BAYONNE, N.J. 07002 FORM 2046

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Fine.

A For Hunterdon County we aggregated the figure for ten municipalities which are included in our market area.

Q Excuse me. With Hunterdon County, did you in fact weight the number any to reflect the different population in the different municipalities?

A We would have taken the specific persons per household number for each of the ten municipalities in Hunterdon County from either census material or materials published by others containing census materials.

Q Okay. And would you take a straight numerical average for the municipalities, is that what you're saying?

A In other words --

Q In other words, you have ten municipalities, you have ten figures for an average number of people for household and you would average, is that what you did?

A In Hunterdon County.

Q Yes, right.

A I don't know that. I am not prepared to testify that it was average or that it was weighted.

Q Did someone else in fact prepare those figures?

A Yes, sir, the same person.

Q You didn't do it yourself and you don't know how it was done, is that a fair statement?

A I know how it was done. I don't know what the value of

1 the number is that you're asking.

2 Q You know what the raw data was, but you don't  
3 know how it was synethized, doyou?

4 A That is correct.

5 Q Okay. Now, we have followed this process through  
6 where on the one hand you're multiplying your drive time  
7 area -- strike that, -- where you're dividing your drive  
8 time area employment projections by 1.3 jobs per household,  
9 right?

10 A Correct.

11 Q And you're taking your population figures,  
12 you're here again for the drive time area and you're dividing  
13 them by this average number of people per household figure,  
14 is that correct?

15 A That is correct.

16 Q All right. What are the two results you came  
17 up with?

18 A Two numbers, resulting numbers.

19 Q Yes, do you have those numbers?

20 A No, I do not.

21 Q You do not have those numbers?

22 A No, those two numbers go into the total that is  
23 represented on P-30.

24 Q Okay. So that total shown on the bottom of  
25 P-30 are some sort of a synthesis of the employment numbers

1 derived by the method you have described and the population  
2 numbers derived by the method you described, is that right?

3 A That's correct. When you say totals, you're talking  
4 about the handwritten numbers on the right side of the page?

5 Q Yes, I am.

6 And you don't know what the employment numbers were  
7 and you don't know what the population numbers were taken  
8 individually?

9 A No, sir, I do not. I cannot tell you.

10 Q Did you prepare them yourself?

11 A No, sir.

12 Q They were prepared by someone else and that  
13 someone else is not going to be a witness, is that right?

14 A That's correct.

15 Q Okay. Do you know how those two numbers were  
16 synthesized? Do you know how they were weighted together  
17 to come up with the figures shown on P-30?

18 A The only thing I can tell you in response to that,  
19 is that Mr. Zemanek told me last evening that they were  
20 so close together that it was no significant difference at  
21 all in terms of meaningfulness unless it was a specific  
22 number here.

23 MR. GOODRUM: Your Honor, I am going to request  
24 that this answer be stricken as hearsay.

25 MR. LINDEMAN: Well, if your Honor please,

1 counsel has been very deeply digging at the manner  
2 in which the information was obtained. The way it  
3 was done. He was asking how it was done and it seems  
4 to me that when the witness answers that as he did,  
5 that that's an appropriate answer.

6 THE COURT: I think the question and the scope  
7 of the cross-examination engendered the answer and  
8 I will allow it.

9 Now, would you read the answer back? The question  
10 and the answer back.

11 (The last question and answer was read by the  
12 reporter.)

13 Q Okay. Isn't it a fact that you could assure  
14 that these two numbers would dovetail the way you wanted  
15 them to by the methodology that you used in weighting various  
16 factors when you were allocating to the municipalities?

17 In other words, couldn't you back into a figure very  
18 easily that way?

19 A It is theoretically possible to do it, sir, but I  
20 wouldn't want to be given that assignment without also  
21 having a computer used because it would be very laborious  
22 statistically.

23 Q Did you ever try it?

24 A No, sir.

25 Q How do you know it would be laborious?

1 A I know that process that one would have to go  
2 through.

3 Q Oh. Then you do know how to back into a figure  
4 like that?

5 A If I know how to arrive at it from one direction, I  
6 certainly can reverse the order of the steps in order to  
7 back into it. Yes, sir.

8 Q How would -- I assume your colleagues who  
9 prepared these figures would have that same knowledge. Is  
10 that a fair assumption?

11 A Sir, the answer to that question is yes. I am certain  
12 he has the knowledge and I hope there is no inference in  
13 that question.

14 Q Okay. Now, there is other information contained  
15 on here other than just the totals.

16 Let's talk -- you got a bunch of income categories  
17 on here and you have also got categories as to whether or  
18 not the units will be owner-occupied or renter-occupied.

19 Let's take --

20 A Could I see that a minute, please?

21 Q Sure.

22 A Okay.

23 Q Let's see now. Do you think it would be  
24 productive to try to isolate these two factors and take  
25 them one at a time and examining your methodology\_

1 A I know that process that one would have to go  
2 through.

3 Q Oh. Then you do know how to back into a figure  
4 like that?

5 A If I know how to arrive at it from one direction, I  
6 certainly can reverse the order of the steps in order to  
7 back into it. Yes, sir.

8 Q How would -- I assume your colleagues who  
9 prepared these figures would have that same knowledge. Is  
10 that a fair assumption?

11 A Sir, the answer to that question is yes. I am certain  
12 he has the knowledge and I hope there is no inference in  
13 that question.

14 Q Okay. Now, there is other information contained  
15 on here other than just the totals.

16 Let's talk -- you got a bunch of income categories  
17 on here and you have also got categories as to whether or  
18 not the units will be owner-occupied or renter-occupied.

19 Let's take --

20 A Could I see that a minute, please?

21 Q Sure.

22 A Okay.

23 Q Let's see now. Do you think it would be  
24 productive to try to isolate these two factors and take  
25 them one at a time and examining your methodology\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A One at a time? Yes, sir.

Q Okay. Now, where did you get the base data for breaking the unit demand down into income categories?

A From Sales Management Magazine.

Q Okay. And the projections you have are for the period 1975 through 1980 and for the period 1980 to 1985, is that right?

A That is correct.

Q Are these the same Sales Management Magazines that were previously marked for identification?

A That's correct.

Q And there weren't any more of them other than just these that were marked, were there?

A There were more. Those are the ones that were used.

Q Okay. So you took the data from Sales Management Magazine from 1973 and backwards to make projections for the two periods, 1975 through 1980 and 1980 through 1985, is that right?

A What you say is factually correct, sir, in terms of making a projection. I would prefer to say the other way. That we took numbers from 1968 forward and made a projection with the last numbers from Sales Management Magazine for the year 1973.

Q Is the Sales Management Magazine still being published?

1 A Yes, sir.

2 Q And do they still publish this yearly summary  
3 that's reflected in the issues you gave to me?

4 A Yes, sir, they do.

5 Q Did you utilize the subsequent yearly summaries  
6 published after July 8, 1974?

7 A No, sir, I did not. We did not.

8 Q Why not?

9 A That was the latest edition available at the time this  
10 was prepared.

11 Q And you haven't updated your work?

12 A No, sir.

13 Q Okay. Do you know the source of the data shown  
14 in the Sales Management Magazine?

15 Do you know where they got it?

16 A They get it through their own assembling technique.  
17 I do not know what they are.

18 Q Okay. But I think you did previously testify  
19 that you rely on them as a matter of course, right?

20 A Yes, sir.

21 Q Okay. Did you have the owner-renter breakdown  
22 derived from the same source?

23 A No, sir.

24 Q Where did it come from?

25 A That came from information on Metropolitan Housing

1 Characteristics from 1970, published by the Bureau of  
2 Census.

3 Q Would you repeat that again for me?

4 A Information on Metropolitan Housing Characteristics  
5 published by the 1970 Census.

6 Q You mean the United States Census in 1970 had  
7 a breakdown as to how many units were owner-occupied and how  
8 many were renter-occupied?

9 A Yes, sir.

10 Q And you say Metropolitan area, what does that  
11 include?

12 A Well, specifically it's for standard Metropolitan  
13 statistical areas that that data is published.

14 Q Well, I am not sure I follow you. You mean  
15 that the figures you employed were for the New York Metro-  
16 politan area?

17 A I did not say that, sir.

18 Q Well, what did you say?

19 A I said the figures are published for standard  
20 Metropolitan statistical areas.

21 Q What is a standard Metropolitan statistical  
22 area?

23 A I am not sure I recall the exact definition offhand.  
24 It is an area with a central place of more than such and such  
25 a size. The number I don't remember with surrounding

End of  
Tape 5

1 County and/or Counties that are closely related to that  
2 central area.

3 Q Is it some sort of a hypothetical model by the  
4 census people?

5 A No, sir. It is a report reporting factual information  
6 from the 1970 census.

7 Q Does this include cities?

8 A It's for, it is published to my knowledge only for  
9 the entire standard Metropolitan statistical areas.

10 Q Is there any breakdown in the statistic areas  
11 between center city areas and suburbs as such?

12 A No, sir, not to my knowledge.

13 Q So this is an over-all average that would include  
14 figures for inner city areas, close in suburbs and say  
15 second rate suburbs, whatever the terminology is?

16 A That's correct.

17 Q You're a planner. As a general matter, aren't  
18 there more rental units in center city areas?

19 A Yes, sir. I believe my testimony about the number  
20 of multiple family units in Newark as compared to other  
21 areas would bear that out.

22 Q Have you made any adjustment in this allocation  
23 to reflect that Chester is in a suburban area?

24 A Yes, there was some adjustment. In an effort to make  
25 it clear, the statistics that we used were for the Newark,

1 New Jersey standard Metropolitan statistical area.

2 It includes Morris County as well as Essex, Union, and I  
3 am not sure of others. And adjustments were made to those  
4 numbers to reflect lesser renter demand in the outlying  
5 area which would include Chester and/or the market area  
6 than the average for the entire statistical area.

7 Q Do you have any writing reflecting that adjust-  
8 ment?

9 A No, sir, I do not.

10 Q Do you recall how the adjustment was made  
11 specifically?

12 A No, sir.

13 Q Did you make it yourself, in fact?

14 A No, sir. It was made by the same person who did the  
15 other work on this table.

16 Q If you don't recall how it was made, then you  
17 obviously don't recall giving any instructions about it,  
18 right?

19 A Sir, I gave him full instructions to the extent  
20 necessary and consistent with his knowledge because of  
21 prior experience and practice in performing this kind of  
22 work. The extent that I did not instruct him, I would take  
23 that to mean I did not know what the values were or what the  
24 weighting was that was given.

25 I do know the methodology that was used.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q Okay. All right.

Now, I want to go back to your employment base figures for, P-30 for a moment because there is something about it that puzzles me a little bit.

A All right.

Q The employment figures that you have are your projections of the jobs that you think you're going to see developed in this drive time area that you described. Is that right?

A No, that is not correct. These are County --

Q Okay. But you said, then, that you --

A Excuse me.

Q You made an adjustment?

A I misunderstood your question. The specific numbers on D-15 are for Counties. We did adjust those, yes.

Q All right. Okay.

So you would have just hypothetically say 100,000 jobs in your drive time area during the development, new job development in the next twenty years, okay? Just take that as an instance for a moment.

Now, some of those jobs are going to be in the center of the area and some of those jobs are going to be on the edge of the area. Is that a fair statement?

A They're going to be distributed throughout the market area, yes.

1 Q Okay. Now, let's look at the example where  
2 the new factory is built on the edge of your drive time  
3 area. You have allocated all those jobs to your drive time  
4 area where the factory is going to be built toward the  
5 edge of the area, right?

6 A That's correct.

7 Q Isn't it true that some of the people who work  
8 at that factory are going to want to drive outside of the  
9 drive time area?

10 A Sure. Carrying this methodology that we have been  
11 describing to its logical conclusion you have a never-ending  
12 series of market areas all over, overlapping. It becomes  
13 a question of value of additional statistical value as  
14 compared to cost and effort to refine it as to how fine  
15 one goes. There is no question development at the periphery  
16 of this market area or any other market area has a market,  
17 has another market area all of its own.

18 Q There are statistical techniques you can use to  
19 do this, aren't there, to allow for the factory that the  
20 job is near the edge of the area, there is going to be  
21 a lesser likelihood that the person wants to live in that  
22 area?

23 A Yes.

24 Q But you didn't do it, right?

25 A We did not make a specific allowance for that, no.

1           We have prepared a market study in accord with our  
2 usual procedure recognizing that the factual propensity  
3 of one who lives, who works at the periphery of the market  
4 area is going to be less to seek a residence at our site  
5 as compared to one who lived, who has a place of employment  
6 fifteen minutes from our site.

7           Q       Let me see if I got you straight. You recognize  
8 the problem, but you didn't do anything about it. Is that  
9 what you just said?

10          A       No, sir. I think certain things are inherent in  
11 the methodology to account for that.

12          Q       What in particular?

13          A       Well, in particular the fact that we use, if anything,  
14 a short thirty-minute drive time from the site in order to  
15 keep the market area less than a full thirty-minute drive  
16 time that we allow additional ten, fifteen minutes to get  
17 up to the forty-five, forty or forty-five minute commuting  
18 time for delay and other events that are necessary as a  
19 part of the commuting portal to portal.

20                I think those factors.

21          Q       Uh-huh. So it was just a sort of a judgment  
22 factor that you tried to fudge into it to account for that,  
23 is that a fair statement?

24          A       No, sir, it is not fair to say we try to fudge it.

25          No, I didn't try to fudge it. We used straightforward

1 methodology as I am attempting to explain to you.

2 Q I guess I am not following you too well.

3 Do you have any papers that reflect how you did that?

4 A How we did what?

5 Q How you took into account that a job on the edge  
6 of the district wasn't going to, wasn't going to generate  
7 a one-for-one demand for housing because some people would  
8 want to live outside the district?

9 A As I recall, sir, I answered you just a few minutes  
10 ago saying we have not taken a specific allocation or factor  
11 into account for that.

12 MR. GOODWIN: Okay. Thank you.

13 I think I am just about as tired of P-30 and I  
14 expect everyone else is.

15 Let's move on to something else.

16 THE COURT: Why don't we take a recess? The  
17 Grand Jury is coming in at three o'clock.

18 (A short recess was taken.)

19 Q Okay. There is one final thing I would like  
20 to touch on. My notes indicate that you testified about  
21 housing unit sizes. You mention the housing unit sizes.  
22 Excuse me. These were minimum square footages required  
23 by HUD?

24 A Right.

25 Q And you also mentioned, I believe, here again

1 it was minimum square footages required by the New Jersey  
2 Housing Finance Agency.

3 Did you refer to those also?

4 A Yes, sir, I did.

5 Q Okay. Then you said something, I want to try  
6 and clarify because I don't think I understood it at the  
7 time. You said it.

8 The question was asked, can subsidized housing be  
9 built in Chester and you indicated that the minimum floor  
10 area in the ordinance as compared with the New Jersey  
11 and Federal minimum floor size standards militated against  
12 it because of a discrepancy.

13 Am I re-stating that fairly?

14 A That's a fair representation, yes.

15 Q Okay. I don't want to put words in your mouth.

16 Now, the reason I am confused by your statement  
17 I suppose, is that I don't know what the minimum floor area  
18 requirements in the ordinance you're talking about.

19 Could you clarify that for me?

20 A Okay. First of all, we are talking about the ordinances  
21 and it is my understanding potential previous loose language  
22 notwithstanding that, it is in fact the building code of the  
23 Township that establishes a minimum floor area for  
24 dwellings.

25 Q Excuse me. Now, you say for dwellings. Do you

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

mean single-family dwellings?

A Single-family, yes.

Q Okay. Is there, you realize that there are some provisions made in the ordinance for multi-family?

A Yes, sir, there are.

Q Are there any restrictions that you are aware of on the floor areas of these multi-family units?

A I am not aware of any. No, sir.

Q Okay. And --

A I do not have a copy of the building code here to look at, however.

Q Okay. I will represent to you that I am not aware of any either. That's why I was confused.

Now, isn't it a fact that the HUD minimum floor areas for efficiency units, one-bedroom units, two-bedroom units, et cetera, refer to multi-family housing?

A It is not restricted to multi-family housing, sir.

Q Certainly included?

A Very difficult to build single-family detached subsidized housing, but it is not restricted to multi-family.

Q Okay. But you would concede its primary application would be to multi-family?

A Yes, sir.

Q Likewise with the New Jersey Housing Finance Agency standards that you referred to?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A That is correct.

Q So you're really comparing apples and oranges, aren't you, Mr. Hobaugh?

A Well, if that is your conclusion, we will let it stand on the record as your conclusion.

Q Well, I'm wrong?

THE COURT: You're argumentative. You made your point. Move on.

MR. GOODRUM: Okay.

Your Honor, at this point, I don't have any further questions for this witness. I would like, however, to renew our objection to P-30 and to be heard on having it excluded from evidence.

MR. LINDEMAN: Your Honor please, P-30 --

THE COURT: Wait a minute. Hold it just a second.

MR. LINDEMAN: I'm sorry.

THE COURT: Let it in evidence. Oh, I already ruled on it.

MR. GOODRUM: If your Honor please, I think there is a substantial body of information about P-30 now before the Court that you didn't have the benefit of previously.

THE COURT: Okay. I acknowledge that, but if you recall my statement, what I said was I will admit it in evidence and evaluate it on the basis of weight

PENGAD CO., BAYONNE, N.J. 07002 - FORM 2046

1 that I give to it.

2 MR. GOODRUM: All right.

3 THE COURT: I think I can do that as the trier  
4 of the facts.

5 MR. GOODRUM: Certainly, your Honor. I would just  
6 like to note one exception on the record in light of  
7 the testimony of this witness.

8 We take the position that we are being denied  
9 our right to cross-examine the preparer of this  
10 report.

11 MR. LINDEMAN: At this point, if it please the  
12 Court --

13 THE COURT: Let me just say this one thing with  
14 respect to that. Oftentimes when you have an expert  
15 who has had something done under his guidance, you're  
16 denied the right to cross-examine the preparer of  
17 a report. And you pointed out the unknowns, therefore,  
18 you have pointed out to me some of what you feel are  
19 its unreliability. I think that is, fiction under the  
20 circumstances, okay?

21 All right, you have any further questions?

22 MR. LINDEMAN: Just this, your Honor, and they're  
23 not questions. I will offer into evidence what is now  
24 designated as D-4, which is the Regional Planning  
25 Association document.

1 I would be glad to offer it as a joint exhibit  
2 or even as the plaintiff's exhibit alone. But is now  
3 identified as D-4 for identification.

4 MR. GOODRUM: I will object to that, your Honor.

5 THE COURT: Well, how about those pages of  
6 D-4 because, as I recall the objection to those pages in  
7 P-26A and B, you wanted an opportunity to look at the  
8 RPA so that you could question further with respect  
9 to those pages.

10 Now, do you still object to P-26A and B?

11 MR. GOODRUM: Absolutely, your Honor. May I  
12 be heard on that point?

13 THE COURT: Yes.

14 MR. GOODRUM: P-26A and B, which are part of  
15 D-4, contain information, actual projections that were  
16 based on 1970 information. The witness concedes that  
17 he had made absolutely no effort to verify whether  
18 those projections are still valid or indeed to verify  
19 whether the organization that published this data  
20 still stands, whether they still contend it is  
21 accurate. Under the circumstances, I would suggest  
22 that this would have no real probative weight. That  
23 would be the first ground of my objection.

24 The second ground of my objection would be  
25 these constitute data that were used by someone other

1 than this witness and we don't even know how they  
2 were using it.

3 So at this point, I also suggest that on the  
4 second alternate ground, it would have no probative  
5 weight.

6 THE COURT: Don't both of your objections have  
7 any reference to the Regional Plan Association's  
8 report?

9 MR. GOODRUM: Yes, your Honor.

10 THE COURT: Okay. How about the references  
11 to it in the comprehensive plan of the Township of  
12 Chester there is already in evidence.

13 MR. GOODRUM: What reference do you refer to?

14 THE COURT: Starting off with the paragraph,  
15 a background review, the first written page of,  
16 or summary of background data analysis based upon a  
17 separate report, reference based, which include a  
18 relevant background data, then goes on, regional  
19 context. The following principal County, State,  
20 and Regional Reports were reviewed and evaluated.

21 One, the Regional Plan Association includes  
22 Chester Township in the intermediate ring. So part  
23 of the criteria for the entire comprehensive plan  
24 of the Township of Chester is the Regional Plan  
25 Association's report defines those sentences correctly.

1           Now, what you're telling me it is all right  
2           for the comprehensive plan to refer to the Regional  
3           Plan Association's Report, but I can't see the  
4           Regional Plan Association's Report because you consider  
5           it unreliable. If that is true, then the logical  
6           conclusion that we are going to run into that may be  
7           the comprehensive plan of the Town of Chester is  
8           unreliable, if it is based upon that.

9           MR. GOODRUM: With all due respect, I can't  
10          agree, your Honor, because I think it has been  
11          utilized in two different places for entirely different  
12          things.

13          There is a big difference between, on the one  
14          hand saying that you follow in a certain geographic  
15          area which is a, sort of a vague general description.

16          THE COURT: Look, I understand the vagueness of  
17          this market area problem and things of that nature.  
18          All I am saying is that really we are in an area of  
19          vagueness anyway to a certain degree. In all deference  
20          to the planners, they have to be. They don't have  
21          their projections. They're problems that they have to  
22          deal with. They have to deal with them in their  
23          opinion whatever the appropriate informational  
24          bases. They have to rely on data collected by others.  
25          This is by nature the business of planning and

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

projecting.

It is not an exact science. I won't decide whether it is a science or not a science. It is not an exact science and as such, there have to be reliance on other things.

If this gentleman cannot rely on data like the Regional Plan Association, then it would seem to me that the firm of Candeb, Fleissig & Associates also don't have the right to rely on it. But I have already have it in evidence, the comprehensive plan.

I think what you're saying really to me is we don't like this part of it, so don't let it in. But to the extent that we have relied upon it, let it in.

That's a very difficult thing for any single human being to do except unless he wants to participate in mental gymnastics. And I am not criticizing your position other than to say that if you want part of the apple you've got to get the whole apple in.

If you want me to accept the Regional Plan Association's Report as a basis for the comprehensive plan to some degree, then I have to be allowed to see the other degree that Mr. Hobaugh says it is relevant because of the nature of planning.

I think I will allow it to be marked. The

1 pages specifically, and I think I should be allowed  
2 to see the entire plan.

3 MR. LINDEMAN: I offer it.

4 THE COURT: If there are specific pages that you  
5 wish to bring to my attention, I will ask that you  
6 note those pages and direct my attention to them.

7 I am sure that if we went through it we could  
8 find a good section here for the Township and a bad  
9 section for the Township and a good section for the  
10 plaintiff and a bad section for the plaintiff.

11 Let me just say this. That I recognize, I think,  
12 the nature of what this planning association is trying  
13 to do. And I recognize that there is a certain  
14 amount of evaluation in the language of Candeb, Fleissig  
15 & Associates. When I was practicing law as a  
16 municipal attorney, attorney after attorney I heard it  
17 referred to as guesswork and other things. I think  
18 it is not an exact science, but there has to be  
19 some reliance placed on these things, so I will allow  
20 it to be marked.

21 MR. LINDEMAN: Shall we mark it P-30, your  
22 Honor?

23 THE COURT: I think we better since it is not  
24 going to be a D exhibit. Let the record show that  
25 it was marked D-4, becomes P-31 in evidence, which is

1 the way I wanted to mark it in the beginning because  
2 I could foresee the problem.

3 (The document referred to was marked F-31 in  
4 evidence.)

5 (Discussion had off the record.)

6 THE COURT: That is what I called it. This is  
7 perhaps a misunderstanding I have. This is what I  
8 called, titled my call to the Morris County Planning  
9 Board. The Regional Plan Association Report of,  
10 were of 1970 and I thought that's what I was getting.  
11 It is based upon information prepared in 1973,  
12 but it is not the information that I had that it was  
13 a 1973 report based upon 1970 information, and,  
14 therefore, is considered belonging to 1970.

15 That's what they called it, RPA, 1970. But I  
16 don't know, I really don't. It is all hearsay.

17 MR. FERGUSON: Frankly, now you have put enough  
18 doubt in my mind so I don't know either. I know the  
19 RPA has a lot of documents.

20 THE COURT: I was concluding it is the same.  
21 Maybe somebody knows. If it is, it puts a hole  
22 in the theory I have on admissibility.

23 MR. LINDENMAN: I don't think so, your Honor.

24 MR. FERGUSON: I think it is the same thing.  
25 Mr. Kasler tells me, he was with Candeb, Fleissig

1 when the Master Plan was prepared. He tells me  
2 that in fact it is not the same document. He will  
3 bring a copy of it when he comes.

4 THE COURT: Well, all right. Keep it then  
5 as D-4 for identification. Let him bring the  
6 RPA 1970 and we will compare it to see just how it  
7 differs and I will rule on it at that time.

8 MR. FERGUSON: The RPA does hold a lot of things  
9 and, I think, they generate a whole lot of reports.  
10 Some are, you know, gone out of date. Some are good,  
11 some are bad. Some they retracted. Can't say what  
12 they have done anything with respect to anything in  
13 the case so far.

14 MR. LINDEMAN: Well, if your Honor please,  
15 I think it should be accepted even now.

16 THE COURT: Let me see it, Mr. Lindeman.  
17 I have got to revise my thinking with respect to it,  
18 to the admissibility of it. It creates an intriguing  
19 question. You may even prevail at that point. But  
20 let's just leave it that way. Let's leave it marked  
21 D-4.

22 MR. LINDEMAN: The other thing I would like to  
23 see, your Honor, is that exhibit D-5 through D-10  
24 are the Bible for Mr. Hobaugh's work and I would just  
25 state to the Court that he intends to take it back with

1 him.

2  
3 THE COURT: Okay. Do you want them for any  
4 reason?

5 MR. GOODHUN: No, your Honor. I previously  
6 indicated to Mr. Hobough. It was fine with us  
7 if he took them.

8 THE COURT: I just want to see them so Mr.  
9 Hobough may take them.

10 MR. LINDEMAN: I have no further questions.

11 THE COURT: Okay. I don't see any sense in  
12 starting with another witness at five to four.

13 Okay, Mr. Hobough. Thank you.

14 THE WITNESS: Thank you, sir.

15 THE COURT: All right. See you all tomorrow  
16 at nine o'clock. Thank you.

17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, EARL C. CARLSON, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of my stenographic notes.

*Earl C. Carlson*

---

*1/29/79*