

MC - Morris County Fair Housing Council
v. Boonton

April 17, 1977

Transcript of Deposition of Mabel Robinson, Paul L. Cooper, + Blair B.
Mae Innes

pgs. 204

ML000880S

Notes: poor quality

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MORRIS COUNTY FAIR HOUSING COUNCIL, :
MORRIS COUNTY BRANCH OF THE NATIONAL :
ASSOCIATION FOR THE ADVANCEMENT OF :
COLORED PEOPLE and STANLEY C. VAN NESS, :
PUBLIC ADVOCATE OF THE STATE OF NEW :
JERSEY, :

ML000880S

Plaintiffs :

-vs- :

DEPOSITION OF:

BOONTON TOWNSHIP, CHATHAM TOWNSHIP, :
CHESTER TOWNSHIP, DENVILLE TOWNSHIP, :
EAST MANOVER TOWNSHIP, FLOREHAM PARK :
BOROUGH, MANOVER TOWNSHIP, HARDING :
TOWNSHIP, JEFFERSON TOWNSHIP, KINNELON :
BOROUGH, LINCOLN PARK BOROUGH, MADISON :
BOROUGH, MENDHAM BOROUGH, MENDHAM :
TOWNSHIP, MONTVILLE TOWNSHIP, MORRIS :
TOWNSHIP, MORRIS PLAINS BOROUGH, :
MOUNTAIN LAKES BOROUGH, MOUNT OLIVE :
TOWNSHIP, PARSIPPANY-TROY HILLS :
TOWNSHIP, PASSAIC TOWNSHIP, PEQUANNOCK :
TOWNSHIP, RANDOLPH TOWNSHIP, RIVERDALE :
BOROUGH, ROCKAWAY TOWNSHIP, ROXBURY :
TOWNSHIP and WASHINGTON TOWNSHIP, :

Mabel J. Robinson
Paul L. Cooper
Blair B. Mac Innes

Defendants :

T R A N S C R I P T of deposition in the above-
entitled matter, taken by and before Elizabeth A. Quagliani,
a Certified Shorthand Reporter and Notary Public of the
State of New Jersey, on Tuesday, April 17, 1979, at the
offices of Villaresi & Susak, 729 Main Street, Boonton,
New Jersey, commencing at 10:00 p.m.

Stenographic Services Arranged through:
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J.
Arrowsmith
4/28/79

1 A P P E A R A N C E S:

2 STANLEY C. VAN NESS, PUBLIC ADVOCATE
3 BY: PETER A. BUCHSBAUM, ESQUIRE
4 On Behalf of the Plaintiffs

5 MESSRS. VILLORESI & BUZAK
6 BY: ALFRED J. VILLORESI, ESQUIRE
7 BY: CARY EDWARDS, ESQUIRE
8 BY: JOHN P. JANSEN, ESQUIRE
9 On Behalf of the Common Defense

10 MESSRS. EINHORN & HARRIS
11 BY: GARY R. PLATT, ESQUIRE
12 On Behalf of Denville

13 MESSRS. YOUNG, DORSEY & FISHER
14 BY: JAMES H. MAC DONALD
15 On Behalf of Hanover Township

16 MESSRS. CLAPP & EISENBERG
17 BY: ROGER S. CLAPP, ESQUIRE
18 On Behalf of Harding Township

19 MESSRS. SCANGERELLA & FEENEY
20 BY: LAWRENCE D. KATZ, ESQUIRE
21 On Behalf of Lincoln Park

22 MESSRS. MATTEON, MADDON & POLITO
23 BY: MARY LYNNE MC DERMOTT, ESQUIRE
24 On Behalf of Passaic Township

25 KARL Z. SOSLAND, ESQUIRE
26 BY: BERNARD P. SACCHETTA, ESQUIRE
27 On Behalf of Pequannock

28 MESSRS. WILEY, MADDOCK & GIBSON
29 BY: ROBERT GOLDSMITH, ESQUIRE
30 On Behalf of Rockaway Township

31 MESSRS. STILES, WICKOFF, VECCHIO & FILLMAN
32 BY: JOSEPH J. VECCHIO, ESQUIRE
33 BY: RONALD D. NICOLA, ESQUIRE
34 On Behalf of Roxbury Township

I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>
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M. Robinson

- By Mr. Villoresi
- By Mr. Vecchio
- By Mr. Platt
- By Mr. Goldsmith
- By Mr. Bacchetta
- By Mr. Katz
- By Ms. McDermott
- By Mr. MacDonald
- By Mr. Buchsbaum

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P. Cooper

- By Mr. Villoresi
- By Mr. Edwards
- By Mr. Vecchio
- By Ms. McDermott
- By Mr. Katz
- By Mr. Bacchetta
- By Mr. Goldsmith

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B. MacInnes

- By Mr. Villoresi
- By Mr. Bacchetta
- By Mr. Katz
- By Mr. Nicola
- By Ms. McDermott
- By Mr. Goldsmith
- By Mr. Clapp

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(Taken by and before Elizabeth A. Quagliani,
a Certified Shorthand Reporter and Notary Public of
the State of New Jersey, at the offices of Villaresi
& Dunak, 720 Main Street, Esonton, New Jersey,
commencing at 10:00 p.m.)

M A B E L J. R O B I N S O N, Being duly sworn, testi-
fied as follows:

MR. BUCHSBAUM: Just for the record, I under-
stand that the depositions have been conducted with
the plaintiffs waiving -- or not waiving objections,
but reserving objections to particular questions
until trial, with the understanding that we will
have the right to make the objections to any portion
of the depositions sought to be admitted to trial
and we will operate under that understanding here
unless I hear otherwise from anybody. There's no
objection.

MR. GOLDBERG: No objection.

MR. BUCHSBAUM: Okay, we'll proceed under
that assumption then.

DIRECT-EXAMINATION BY MR. VILLARES:

Is it Mrs. or Miss Robinson?

1 Q Always Madison?

2 A Always Madison.

3 Q Do you know whether Madison is one of the
4 municipalities in this litigation?

5 A Yes.

6 Q Do you know what other municipalities are
7 involved in this lawsuit in Morris County?

8 A Madison, Harding Township -- well, they're twenty-
9 seven, I can't name all of them. I read in the paper where
10 there was about twenty-seven.

11 Q Do you know how many towns there are in
12 Morris County?

13 A There are -- how many towns in Morris County? How
14 many towns or how many --

15 Q How many municipalities are there in Morris
16 County?

17 A In Morris County. I'm not quite sure, I think it's
18 about --

19 Q Do you know whether all the municipalities
20 in Morris County are in this lawsuit?

21 A Twenty-seven of them are. I don't know whether all
22 of them are or not.

23 Q You do not know, then, whether any have been
24 excluded from the lawsuit?

25 A Well, the one where this thing first began,

1 particular, they just -- they were just certain parts of the
2 towns that you could not live in, period.

3 Q But it didn't have anything to do with the
4 zoning of the town?

5 A Well, when I first went to Madison, it wasn't zoned
6 to that extent. Zoning is something that's relatively new
7 in a lot of these counties, the way I understand it, a lot
8 of these towns.

9 Q Do you understand that, in this lawsuit,
10 it is the claim of the plaintiffs, of which your organiza-
11 tion is one, that the zoning is the sole reason that low
12 and moderate income are unable to find housing?

13 MR. BUCHSBAUM: That's not a fair statement
14 of the claim, I don't think. Our claim is that the
15 zoning is illegal under Mount Laurel. Why don't
16 you ask the question in those terms, I think that
17 would be a fairer question.

18 MR. WILKINSON: I don't know whether it's
19 a fair question or not, but it seems like all she
20 has to say is, no, that isn't the sole purpose, if
21 she knows anything about the litigation.

22 MR. BUCHSBAUM: Why don't you ask her what
23 she understands to be the purpose of the litigation.

24 THE WITNESS: Why I ask a question. Isn't
25 it true that a lot of these municipalities never even

1 Mount Bethel -- Is that where the first one was?

2 Q Mount Laurel.

3 A Mount Laurel, that's excluded, is it, because --

4 MR. BUCHSBAUM: It's not in the county.

5 THE WITNESS: It's what?

6 MR. BUCHSBAUM: It's not in the county. He's
7 asking you about municipalities in the county.

8 THE WITNESS: Oh. I really don't know,
9 because I don't have all that information at hand.

10 Q Your counsel has said that you're appearing
11 here as a witness today because you may be used as a witness
12 at the time of trial to give testimony concerning your
13 experiences in Morris County when you have lived where you've
14 lived for fifty-one years and, further, your experiences
15 when you were president of this Morris County chapter of the
16 NAACP. Can you tell us what experiences, if any, you had
17 regarding housing between the two years 1961 and 1977?

18 A I could write a book on that. A lot of experiences,
19 because Morris County was very -- the areas that I was
20 familiar with are very prejudiced, very difficult for colored
21 people to find housing. Areas that they could not live,
22 could not even buy property, or rent it.

23 Q Did these, the problems that you've just
24 discussed, relate to the zoning of the land?

25 A Well, I don't think a lot of them had zoning

1 had zoning for low and middle income and this is
 2 relatively something new and that's why zoning has
 3 to be done, in order to eradicate this problem that
 4 exists? I know Madison didn't used to have any
 5 zoning, period. It was a little country town, like
 6 some of these other towns.

7 Q Do you know why the NAACP has gotten involved
 8 in this lawsuit?

9 A Would you like to know the purpose of the NAACP,
 10 sir?

11 Q No, I would like to know if you know why
 12 the NAACP has gotten involved in this lawsuit.

13 A Because the purpose of the NAACP is to function in
 14 the areas where there is discrimination and prejudice against
 15 people, black people, and this is one of the purposes of
 16 the NAACP. We fight prejudice where we find it, if it's
 17 possible, legally, and there's a lot of it in Morris County,
 18 always has been.

19 Q So, it's your understanding that they've
 20 gotten -- the NAACP is a plaintiff in this lawsuit in order
 21 to fight prejudice, is that right.

22 A That's one of our purposes, to fight prejudice,
 23 improve conditions and wherever they arise, for all people,
 24 educationally.

25 Q Are there any other reasons that you know

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of why the NAACP is a plaintiff in this lawsuit?

A Well, I think that's a big reason, fight segregation, prejudice wherever it exists.

Q When you were president of the NAACP, were you familiar with the term low income housing?

A Yes and no. There wasn't as much -- It wasn't played up as much as it is now. We had housing problems. Low and middle income housing is something that's relatively new within the last years. Prior to that, I mean, if it was housing, low, middle income or what kind of income, if people didn't want you to live in a certain area, you just didn't live there, whether what kind of housing existed and if you had the money to purchase it or rent it.

Q Do you know or do you have a definition of what the NAACP considers low income and moderate income housing?

A I think Mr. Cooper can answer that better than I can, because they made -- they have some new rules since I'm not president any more and he probably could answer that better.

MR. STENSBACH: I think the question line that, it will be a matter for our experts to define those terms.

Q When you were --

MR. STENSBACH: These are lay people.

1 Q -- president of the NAACP, did your organiza-
 2 tion make any attempt to provide or get the municipalities
 3 to provide low and moderate income housing in this county.

4 A I don't think we did it -- I worked along with the
 5 Fair Housing in whatever way we could, because they took the
 6 lead, I think, in solving some of the housing problems in the
 7 county.

8 Q Did you personally work with a fair housing
 9 council?

10 A Yeah, I used to be on the committee at one time.

11 Q Do you know approximately what year that
 12 was?

13 A Oh, I don't recall. It may have been -- I do so
 14 many things. I don't know exactly what year it was when they
 15 first started. When they were first organized, I worked with
 16 the committee. What year it was, I can't recall at this
 17 moment.

18 Q Have you had any experiences with low or
 19 moderate income people attempting to buy or rent housing
 20 in Morris County?

21 A Oh, yes, plenty of them.

22 Q Were these experiences when you were
 23 president of the NAACP or before or after or what?

24 A Before and when I was president, yes, and we had
 25 special committees that worked to try to find decent housing

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1 for people, low and middle income people.

2 Q And were these committees successful?

3 A In some cases, they were and in some cases, they
4 were not. Because we still have a lot of prejudice in
5 Morris County.

6 Q Can you give us any cases of municipalities
7 where you were successful in finding low income and moderate
8 income housing for these people?

9 A Specifically, no, because we were really up against
10 a brick wall. Probably, you don't have any idea what the
11 problem is. It's a very tough problem and, as I say, we
12 help people find apartments. We first -- Our first case
13 was out in Parsippany-Hoy Hills, they kept black people out
14 of the apartments for a number of years and we would go in,
15 have the people come to us, talk with them and try to deal
16 with the landlords, if we could. Very difficult.

17 Q Now, it seems that your testimony is center-
18 ing around prejudice and discrimination because of your black
19 skin. I'm talking about my report now you've had where
20 the zoning has caused you --

21 A We are not acquainted with a whole lot of zoning
22 in those days. Zoning is relatively one part of this
23 whole picture of keeping people out of certain areas, in
24 my estimation, having experienced -- I go back to a long
25 days. Even when my husband first came to New Jersey, he

1 practiced veterinary medicine. What a difficult time he had
 2 right there in Madison trying to find a place to set up his
 3 practice. I go back a long ways. Zoning was not in the
 4 picture at that time.

5 Q Are you aware right now, today, of any town
 6 in Morris County which, through its zoning, is prohibiting
 7 poor, low income or moderate income people from living there.

8 A Well, I read in the papers about wording township
 9 not so long ago. I don't know who lives out there, but
 10 according to what I read in the papers, I don't think they
 11 want any low or middle income people moving in the area.
 12 They raised a lot of money to fight it, so I'm sure they
 13 don't want them.

14 Q But are you personally familiar with any town
 15 in this county, aside from what you've read in the paper, are
 16 you familiar that, in your relationship with NAACP, certain
 17 people have come to you or to your organization and said, we
 18 need housing, and you have attempted to find them housing
 19 and the zoning has prohibited them.

20 A I don't know if you'd like to touch on the zoning.
 21 Zoning -- how -- it's nice to have a question answered,
 22 because zoning didn't -- by then, there wasn't much said
 23 about zoning.

24 Q I'll try to answer it.
 25 A It was relatively new.

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the suit states nothing about prejudice or
discrimination --

A I wouldn't expect it to.

Q -- against minorities.

A I wouldn't expect it to.

Q The suit that you've brought says that the
zoning in twenty-seven municipalities in this county is
prohibiting low and moderate income people from living in
Morris County and I'm asking you if you've had any personal
experiences during the period you were president for six
and a half years or before or after that you can point to
that would indicate the zoning in any one of these twenty-
seven towns has excluded low and moderate income people.

A Well, I guess zoning was the thing that was set up
to cover up prejudice and segregation that existed. In my
estimation, they zoned this because we can't do this here
and we don't do that there.

Q But have you had any personal experience
that you can tell us about in any of these twenty-seven
towns when you were president of this organization or before
or since?

A Well, that's the zoning we made in those days as it
wasn't strictly to keep blacks out and we don't want
blacks there. I don't think there was much said about
zoning in those days. I don't recall a whole lot being said

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1 about zoning. This is something that --

2 MR. DOUGSBROOK: Excuse me. He's asking about
3 up to the present as well as --

4 THE WITNESS: Well, I'm not president any
5 more. I've been out of the office quite a while.
6 Mr. Cooper can answer that question better than I
7 can, I guess.

8 Q Do you know whether there's a housing
9 shortage in Morris County right now?

10 A Oh, yes.

11 Q How do you know that?

12 A Because people can't find houses to live in. I
13 mean --

14 Q How do you know they cannot?

15 A I mean, housing that people can rent or purchase,
16 there's a shortage. All right, they're building a lot of
17 eighty-thousand, ninety-thousand dollar houses. I have them
18 all right around in Madison, surrounding areas. But the
19 average person can't buy those houses. There's a shortage
20 of moderate income houses.

21 Q But how do you know that.

22 A Because I know that a lot of people can't find
23 housing.

24 Q Do you know anyone whose name you can tell
25 us here today who can't find a house?

1 A I don't know whether these people would like their
2 names -- I'm not going to name anybody, I'm sorry. I know
3 some people who can't.

4 Q I didn't ask for the name. I said, do you
5 know anyone --

6 A Oh, yes.

7 Q -- you could name?

8 A I thought you wanted the names. Yes, I know a lot
9 of people that can't find houses.

10 Q How many people do you know that can't
11 find them?

12 A I can't break it down.

13 Q Approximately how many people do you know
14 that can't find housing in Morris County right now?

15 A There's an awful lot of people can't. I wouldn't
16 like to name -- I might underestimate, but from what I
17 talked with people, there's a lot of people who can't find
18 adequate housing.

19 Q Where are these people living now, if they
20 can't find housing?

21 A They're living in run down, poorly equipped, bad
22 housing anywhere they can find it in order to keep a roof
23 over their heads.

24 Q But is that run down housing in Morris
25 County?

1 .. Oh, there's plenty of it in Morris County, got
2 plenty of it right there in Madison, houses that I wouldn't
3 want to live in.

4 Q Are you familiar with any studies or statis-
5 tics or reports that specifically identify how many houses,
6 units, we're short in Morris County?

7 A The Housing Authority in Madison has all that informa-
8 tion.

9 Q Are you familiar with it, though?

10 A I have heard it, but I couldn't quote the statistics
11 accurately. So, therefore, I shall not quote it. I think
12 at the meeting the other night, they said there were about
13 a hundred families in the Madison area who need housing.
14 That was quoted at the Housing Authority meeting the other
15 night, but I don't have the statistics in my hands.

16 Q Do you feel that Morris County should pro-
17 vide housing for low and moderate income people that live in
18 other parts of New Jersey.

19 A No. I think they should provide housing, low and
20 middle income housing, for people who are residents of
21 Morris County and who have lived here over the years, who've
22 worked here and brought up their families here. I think they
23 should come alive.

24 Q Are you aware of the actions are being taken
25 in the different towns in Morris County to provide such housing

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right now?

Yes. Madison, I'm very familiar with.

Q Well, what's happening there, what action is the town taking?

Well, the Housing Authority, since this case has come up, they've become active. The mayor has approved of the Housing Authority that he appointed. They have received back in 19 -- well, in 1971, when Mayor Wordling (phonetic) was mayor, the Housing Authority received four thousand dollars seed money to start something. That fell through because too many people fought it, right. '75, they got another four thousand dollars for seed money; nothing happened then. This has been going on for almost twenty years, because I served on the committee.

The present Housing Authority, which Bill Primers (phonetic) is chairman, since this suit has started, Madison got wise and started something to get to provide income -- low and middle income housing in Madison, since this suit has started. So far, they have, I think, \$7,000 in late 1978 to purchase land. Two pieces of land have been purchased. The third one is -- they're still negotiating on.

I have some pictures of the proposed low and middle income housing that's proposed in Madison. The mayor got on the ball when he found out the situation was going on, much to our surprise, and here are pictures of the present Housing

1 Authority plans now in action. I attended one of the meet-
2 ings. I don't attend all of them, because I have too many
3 other things to do and they have too many meetings. Where
4 they are. These are the present plans for Madison low and
5 middle income housing.

6 * Are you familiar with what plans there are
7 in the other twenty-six municipalities in this suit?

8 No, I have too much to do to think about Madison,
9 the community I live in, to worry about the other. I let
10 the people who live in their areas do their own fighting.
11 Madison, I mean, you have enough to do in Madison because
12 there are a lot of people objecting to this.

13 * What --

14 on what basis, I don't know.

15 * What kind of housing is that going to pro-
16 vide?

17 It's going to provide public housing plans for
18 thirty units. There are about a hundred people, according
19 to the statistics of Madison, who need housing. There is
20 very little land available in Madison for housing. So much
21 of it has been used for parks. We got more parks in Madison
22 than any town around. Nobody sits in these, but they're
23 there. They tear down beautiful houses that people could
24 live in to make green areas parks, because they all end at
25 the end of my street that I live on, which is a highway to

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1 the town. A park, nobody goes there.

2 The mayor said we needed parks for people to cook
3 their hot dogs. Well, everybody got their own hot dog cookers
4 in their backyards. But this is a proposed two-story plan-
5 ning for thirty units.

6 Q Is it going to be apartments?

7 A They'll be apartments.

8 Q How much will the rent be?

9 A That I don't know. I'm not on the Authority. That
10 I mean, the Authority members have charge of that. I go to
11 the meetings as a member of the --

12 Q You've said that Madison needs housing for
13 a hundred people.

14 A This is a survey they took and this is what the
15 Housing Authority came up with.

16 Q Do you agree with that number?

17 A Yes, I agree with it. The existing apartments that
18 are in Madison are privately owned. There's nothing owned
19 by the borough and you can't get a decent apartment in
20 Madison -- I could live in one, I'd give up my house today
21 or tomorrow if I could find a decent apartment less than
22 four or five hundred dollars. But I can't. Of course,
23 some of these people are subsidized, you know, that are
24 living in some of these apartments, for rent.

25 Q Do you know how the various municipalities

1 were selected to become defendants in this lawsuit?
2 .. I think they were the ones who didn't have zoning
3 for low and middle income housing, that's the way I under-
4 stand it. I may be wrong, but that's what I read in the
5 paper, that the twenty-seven municipalities that were selected
6 were the ones that were not zoned for low and middle income
7 housing. And I'm sure every town has some people of that
8 sort. Boonton, I'm sure, has some.

9 Q Have you personally ever attempted to buy
10 or rent a house in any of the twenty-seven municipalities?

11 A Have I?

12 Q Yeah.

13 A No, I didn't need one. I got one I've been living
14 in for fifty years, in Madison. I didn't need to live in
15 any other community, didn't want to live in any other
16 community, for that matter. I've been in Madison all these
17 years and saw no reason to move out. I have a son who
18 practices veterinary medicine there and I had no reason to
19 move out.

20 MR. VILLORASI: I don't have any other
21 questions of this witness. There may be questions
22 from other attorneys etc.

23
24 DIRECT-EXAMINATION BY MR. VILLORASI:

25 Q Mrs. Robinson, may I ask you a couple of

1 questions?

2 A Surely.

3 Q Are you familiar with Roxbury Township, at
4 all?

5 A No, I'm not. I know a few people who live in that
6 area, but I'm not familiar with it.

7 Q But are you aware of the housing shortages
8 or supply that exist in Roxbury Township?

9 A I read about these things in the paper.

10 Q I see. But aside from your examination of
11 the newspapers, you don't have any personal knowledge as to
12 what the conditions are in Roxbury Township?

13 A No, I don't. Because --

14 Q All right.

15 A -- it's all I can do to keep up with Madison.

16 Q I can certainly understand that. Now, you
17 indicated that you felt that there was some prejudice in-
18 volved as a result of the zoning, and I am fairly characteriz-
19 ing your testimony. If so, could you explain how?

20 A I don't know how it could make you understand that
21 there's always been prejudice and segregation in Madison,
22 where I live, there's always been, when they had zoning and
23 they weren't do anything, and, in this case had not
24 come up, I'm sure of that, as far as supplying low and middle
25 income housing.

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Q Is the type of prejudice that you're talking about directed toward any particular ethnic or a racial group, or is it directed toward economic groups?

A Purely racial.

Q Purely racial?

A My experience, from my experience. Purely racial, no other reason.

Q I see. Thank you.

A You could have a million dollars and if you're black and you want a house in a certain area and you couldn't -- I mean if there was a restriction on that house not to sell to black people, you couldn't buy it.

Q Thank you.

DIRECT-EXAMINATION OF MR. PLATT:

Q My name is Gary Platt and I represent the Township of Denville.

A I remember that town very well.

Q Fine. Could you tell me what you know about Denville, personal experience.

A My first impression of Denville goes way, way back. My husband was a veterinarian and he worked throughout the county, and there were a lot of farms all around and he took care of large animals. My first experience with Denville was when I entered into the town and there was --

1 Q Did you try to find housing in Denville?
 2 A No. How would I, how could I? Because it was a
 3 big sign said: For Christians only. Therefore, they didn't
 4 need me. I was a Christian, but not the kind of Christian
 5 they wanted. That was my first experience going into the
 6 town of Denville.

7 Q Did you ever try to find housing in Denville?

8 A Yes. I used to be in the real estate business.

9 Q When was that?

10 A 1963, for three years.

11 Q And when you say you were in the real estate
 12 business, what was the nature of your involvement?

13 A Trying to find houses for black people to live in.

14 Q Where were you a --

15 A I worked in Essex County, because I couldn't work
 16 with a realtor in Morris County because they didn't take,
 17 in those days, they didn't want black people.

18 Q Were you a salesperson or broker?

19 A Salesperson. I still have my license.

20 Q And who were you affiliated with?

21 A Mattie Jackson Real Estate, Central Avenue in
 22 East Orange.

23 Q What was the basis of your experience in
 24 Denville?

25 A I was up there a few times trying to find houses

1 for people, but I didn't succeed.

2 Q Well, could you tell us -- could you be more
3 specific? You say you were up there a few times, could you
4 zero in on the years that you --

5 A Well, it was about 1964.

6 Q Um-hum. And what was the nature of your
7 involvement at that time?

8 A Looking for houses that people could buy and people
9 who were eager to find better housing, people who had the
10 money -- in those days, property hadn't gone up like it is
11 now -- and who were eager to move out, say, from East Orange,
12 the Oranges and somewhere, where it was becoming overcrowded.
13 But I had no luck in Denville.

14 Q Well, did you have occasions to involve
15 yourself in negotiations for a particular --

16 A I didn't go that far, because, you know, when people
17 tell me they don't want certain people --

18 Q So, this involved single-family housing,
19 is that right?

20 A Yes.

21 Q Did you ever have occasion to attempt to
22 find an apartment in Denville?

23 A No.

24 Q Do you know of anyone who has attempted to
25 find an apartment in Denville?

1 I don't know. I imagine Fair Housing Council was,
2 because they do more of that, apartments.

3 Q But you don't personally, though?

4 A No.

5 Q Do you know how many apartments exist in
6 Denville?

7 A No, I don't. I haven't been active in my real
8 estate work for some time now, because --

9 Q Well, this is either out of -- either as a
10 result of your real estate involvement or as a result of
11 your personal involvement?

12 A Denville was always a town that was very closed to
13 our people, very, very.

14 Q Closed to Christians, closed to non-
15 Christians?

16 A Closed to non-Christians. I never know any black
17 people who lived in Denville. There may be some now, but
18 in days gone by, I never knew anybody who lived up there.

19 Q Well, are there --

20 A There may be some now, I don't know.

21 Q There are black people who are Christians,
22 is that correct?

23 A That sign did not mean -- they knew that they didn't
24 want black people, but the Christians meant that they didn't
25 want Jews, they didn't want Jews in these days either, you

1 know.

2 MR. PLATT: I have no further questions.

3 THE WITNESS: For Christians only, that's
4 what the sign said, for Christians only. That was my
5 first introduction to Deenville. So, I wanted no
6 parts of it.

7 MR. GOLDSMITH: Robert Goldsmith for Rock-
8 away Township.

9
10 DIRECT-EXAMINATION BY MR. GOLDSMITH:

11 Q Mrs. Robinson, have you ever been to Rockaway
12 Township?

13 A Oh, yes, sir, I've been up there.

14 Q You're familiar with it?

15 A A little bit.

16 Q How would you describe the community?

17 A Robert, overcrowded, a lot of apartments, houses.

18 I had a white friend who lived up there, I don't know whether
19 she's still up there or not. She invited me to visit her one
20 time, but I never went. She told me there's one section
21 of Rockaway where black people live, one little sec-
22 tion. Some of the houses weren't too hot, but I don't know.
23 I haven't been up there in a long time.

24 Q Okay, thank you.

25 A I don't see any of the people who live up there.

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MR. GOLDBLUM: No further questions.

MR. STEINBERG: You're talking about Rock-
Borough or Rockaway Township?

THE WITNESS: It's all one. Which is it?
Rockaway Township is where that one section of the
colored people lived. I don't know, I'm not that
familiar with Rockaway.

MR. GOLDBLUM: I'm not that familiar with
it.

DIRECT-EXAMINATION BY MR. SACCHETTA:

Q My name is Bernard Sacchetta and my office
represents Pequannock Township. Have you ever been to
Pequannock?

A I used to live there with my husband?

Q When was the last time you were in Pequannock?
A Pequannock, who used to go up there. Let me see.
Several years I worked for the OEO and I directed educational
programs for young people, working with the school. They
used to have projects in a summer high school. That was
my connection out there.

Q When was the last time you were in Pequannock,
more than one year ago?

A No, it was little less, about seven years ago.

Q Are you familiar with the housing situation

1 in Pequannock?

2 A No, because I wasn't, really, I didn't do housing
3 out there. I was working with the school kids, kids in the
4 schools.

5 Q Are you familiar with the number of apart-
6 ments?

7 A No, I'm not.

8 MR. SACCHERIN: I have no further questions.

9 THE WITNESS: Are there some new ones since
10 I was out there?

11 MR. SACCHERIN: Maybe.

12 THE WITNESS: I don't know, because I didn't
13 used to see many when I went out there.

14
15 DIRECT EXAMINATION BY MR. WINE:

16 Q My name is Lawrence Wine, Borough of Lincoln
17 Park. Are you familiar with Lincoln Park?

18 A You know, I know all of those towns, I've been to
19 all of them. I don't know much about their politics or
20 about their housing or anything of that sort.

21 Q When was the first time you were in Lincoln
22 Park?

23 A I haven't been in Lincoln Park in maybe two or three
24 years.

25 Q How long of those years?

1 A Um-hum.

2 Q What brought you to Lincoln Park two or three
3 years ago?

4 A It's a good question. I know all of Morris County
5 fairly well. The last time I went to Lincoln Park, I had
6 a friend who lived there who since moved to Florida, and I
7 visited her and I haven't been to Lincoln Park since. It's
8 been maybe three or four years ago.

9 Q I take it you're not familiar with the
10 present housing situation?

11 A No, no, I'm not.

12 Q Where do you presently reside?

13 A Fifteen Walnut Street in Madison.

14 Q How would you describe that, your home,
15 is it a one-family home?

16 A One-family house, Dutch colonial.

17 Q What's its assessed valuation?

18 A It was built in -- Does this have anything to do with
19 the case? I don't think so, the assessed valuation of my
20 house, does it?

21 MR. KANE: Is this an objection?

22 THE WITNESS: I'm not here --

23 MR. BOCHSNER: We give the objection.

24 But since the witness has brought it up, it was an
25 outrageous question. I don't see where it was

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anything --

THE WITNESS: I don't think it pertains to the case at all.

MR. KATZ: It relates to standing, doesn't it?

THE WITNESS: I beg your pardon.

MR. KATZ: I was talking to your attorney.

MR. DUCHSBAUM: She's not here as a person who has personally sought to find housing. So, that's -- it's not relevant in that context.

MR. KATZ: She will not testify as to her attempts to find housing at all?

MR. DUCHSBAUM: I think she's made it clear in this deposition what her personal situation is.

MR. KATZ: I have no further questions.

MR. VILLORESI: I guess we have no other questions.

MS. MC DERMOTT: Would you call Mary Lynne McDermott from Passaic Township.

DIRECT-EXAMINATION BY MS. MC DERMOTT:

Mrs. Robinson, I just have a few questions. My firm represents Passaic Township. Are you familiar with that area?

No, I'm not.

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Q You're not. Do you know anything about the housing in that community?

A No, I don't --

MR. BUCKENHORN: It's Stirling, Clilates, those places?

MS. MC DERMOTT: Right.

A -- Passaic Township, I know a couple of people who live in Stirling. Dr. Goldberg (phoretic) was there for a number of years. I don't know the new people who bought his house. And I know when I was in the real estate business, I sold a couple of houses out there.

Q And who did you sell these houses to?

A To colored people, fortunately. That area was a little more liberal than a lot of the other areas and people were anxious to sell their houses. They didn't care who they sold them to, just that they got their money and I found they were much more liberal than some of the other areas. I sold houses in Mountainside. Morris County was very difficult.

Q Now would you evaluate, from your real estate experience, the prices of houses in Passaic Township; were they low, moderate, high, or --

A They were not quite as high as Morris County houses. They were a little less. Nice houses, but I think they sold for a little less.

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Q Did you deal with any multi-family housing at that time?

A No, no.

Q You mentioned your experiences with Madison where you live. Have you had any dealings with people who were denied housing strictly on economic, as opposed to the racial, basis?

A Racial was always at the top of the list, always.

Q Have there been any experiences, though, with just on economics, because of the zoning people could not get housing?

A No. I was -- as far as I know, it was mostly racial. That's my experience. Now, somebody else might have other experiences, but that was my experience.

MS. ROBERTSON: Okay, I have no further questions.

MR. THE COURT: I have a few questions.

James McDonald, County, Doris, Fisher, representing Hanover Township. Before I proceed with my questions, there's been some discussion by your attorney, Mrs. Robinson, as to what areas you're going to be presented for or proposed to testify in at trial and I wonder if your attorney would rather to close for us, since I haven't seen any real correlation between that, Mrs. Robinson's testimony, to what and

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the issues presented in the complaint, so that I might know where to direct my questions.

MR. BUCHSBAUM: Well, Mrs. Robinson's testimony has been presented on the basis of the questions that were asked.

MR. MAC DONALD: Yes, and there has been certain questions presented to you as to what areas she's going to be called to testify to on behalf of the plaintiff and I'm not clear on that at all.

MR. BUCHSBAUM: Well --

MR. MAC DONALD: Her responses were with respect to people purchasing houses and their ability to do so with respect to the color of their skin.

MR. BUCHSBAUM: Um-hum.

MR. MAC DONALD: I'm wondering if that's the area that she's going to be testifying to at trial.

MR. BUCHSBAUM: No. It could be in line with the case, which would be the case of the office of housing or local income people.

MR. VILLORESI: She's going to have to have a lot of coaching.

MR. MAC DONALD: In English responses as to housing, she was also unrecalled not as someone seeking housing.

MR. BUCHSBAUM: Right.

DIRECT-EXAMINATION BY MR. MAC DONALD:

Q Mrs. Robinson, I wonder if you have any familiarity with the variety of housing in the Township of Hanover?

A No.

Q Do you have any familiarity with the Land Use Ordinance of the Township of Hanover?

A No.

Q Do you --

A See, I live in Madison. I don't concentrate much in these other towns. It's all I can do to look after some of the problems that exist in Madison.

Q I understand that. I'm just asking you these questions for the purpose of the --

-- can't spread yourself out too far.

Q I've learned that too. Do you know anyone who is attempting to live housing in the Township of Hanover?

A No, I don't, right now.

MR. MAC DONALD: I have no further questions of Mrs. Robinson. Thank you.

MR. VILLORESI: All right. I guess that's all the questions for you, Mrs. Robinson. Thank you for coming.

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MR. BUCHSBAUM: I just have one.

THE WITNESS: I'm sorry I couldn't answer
what you wanted, but I have to tell the truth.

CROSS-EXAMINATION BY MR. BUCHSBAUM:

Q Have you reviewed any of the plaintiff's reports with respect to housing need in Morris County?

A Any of the -- No, I haven't had any material, only what I see in the papers and what comes in from various -- Fair Housing Council, I read their reports and that sort of thing. I don't get any other information.

Q Okay, thank you.

MR. VILLOREASTI: All right. Mr. Cooper, please.

THE WITNESS, J. COOPER, being duly sworn, testified as follows:

DIRECT-EXAMINATION BY MR. VILLOREASTI:

Q Mr. Cooper, what is your address?

A Van Buren Road, Morris town.

Q And what is your position with the Union?
A Member of the Board of Directors and ex president.

Q How long have you been president?
A Since 1970.

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x Is this an elected or appointed position?

Elected.

Q How did the NAACP happen to become involved as a plaintiff in this litigation?

A Because of our interest in expanding the housing supply.

MR. VECCHIO: I'm sorry, I can't hear you.

THE WITNESS: Because of our interest in expanding the housing supply.

Q Did your organization take the initial steps to bring about this litigation or were you approached by someone?

A We collaborated with other groups in the community.

Q But did you contact them initially or did they contact you?

A I don't recall how that transpired at the moment.

Q Did you have meetings with these other groups?

A Yes.

Q Who are the other groups?

A Well, we first have our own group, your committees and then the Board of Directors.

Q Yeah, but who are the other groups that you collaborated with?

A I -- rather than say "collaborated," I would we joined

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Cooper-direct

1 the suit. We didn't actually collaborate because I had no
2 joint meetings with Fair Housing on the suit, which is one
3 of the other people who --

4 Q Did Fair Housing contact you?

5 A No, they did not.

6 Q Did the Public Advocate contact you and ask
7 you to join?

8 A We contacted the Public Advocate in our discussions.

9 Q When you contacted the Public Advocate, were
10 they already in the process of starting such a suit?

11 A We are in constant contact with the Public Advocate,
12 all state agencies, in trying to do our job.

13 Q And when you contacted them, were they
14 already in the process of starting this suit?

15 A Not to my knowledge.

16 Q Did they start the suit as a result of your
17 contacting them?

18 A Well, they have, and you can use it, they have
19 an equal interest in the suit.

20 Q Do you know whether they started this suit
21 as a result of you suggesting that they ask them to do so.

22 A Mr. DeLoach: I suggest that what's going to
23 be written in the position of going to the realm
24 of communication between them and our clients and are
25 privileged. I don't think the business should be the

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then.

MR. VECCHIO: And others free to speak to the
issue?

MR. VILLORASI: Yes.

MR. VECCHIO: I think it's extremely pertin-
ent because of the fact that I wonder whether an
attorney-client privilege applies when you are also
party to the action. Public Advocate is a party to
the action and these people are parties to the
action. Now, you're representing yourself pro se.
I would doubt very much that there is a -- that the
attorney-client privilege does apply and then,
secondarily, I would also suggest that it would be
somewhat important to determine whether the attorneys
involved in the action precipitated the litigation
without contact by the client. I think that is a
main issue in the appellate portion of this case
and at the present time.

MR. BOGERTON: Well, that's a matter for
the Appellate Division. It has no probative bearing
on the issues as to whether the zoning ordinances
are valid or not. So, that's a second objection I
have to the question. And as for the attorney-
client portion of it, we take the position that there
is a privilege here.

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MR. MAC DONALD: Between you and Mr. --

MR. BUCHSBAUM: Between us and our clients.

MR. MAC DONALD: Mr. Cooper is your client.

MR. BUCHSBAUM: Mr. Cooper and Mrs. MacInnes.

MR. MAC DONALD: Is Mr. Cooper being presented
as a present president of the NAACP?

MR. BUCHSBAUM: Right.

MR. MAC DONALD: And in a representative
party capacity of that plaintiff.

MR. BUCHSBAUM: That's correct.

MR. VECCHIO: Am I to understand that you're
directing your client then not to answer the question --

MR. BUCHSBAUM: That's correct.

MR. VECCHIO: -- on the issue of who
precipitated this litigation?

MR. BUCHSBAUM: That's correct.

MR. VECCHIO: Do you also contend that the
Public Advocate also has the same privilege?

MR. BUCHSBAUM: That's a question for the
Appellate Division to determine.

MR. VECCHIO: I see.

BY MR. VILLORESI:

Q How did the NAACP make the decision to join
this litigation?

1 A From a recommendation of a committee meeting and
2 that meeting with the attorneys and the board of directors.

3 Q With the attorneys for the NHO?

4 A The attorneys in this case, yes.

5 Q Well, could you name what attorneys you know.

6 I don't understand your answer.

7 A We do have attorneys in this case which we are
8 represented -- are representing us in this case. We met
9 with them.

10 Q And who are the attorneys?

11 A Public Advocate's office.

12 Q Was the decision made to join this case by
13 a vote of the membership or how do you -- how does your
14 organization give authority in order to act?

15 A The board of directors has the authority.

16 Q And does the board of directors actually
17 vote --

18 A Yes.

19 Q -- to do this.

20 A Yes.

21 Q The complaint uses a lot of language, for
22 example, low income, moderate income, develop the land,
23 low-cost housing, these types of terms. Are you in a
24 position to define these terms.

25 A Only --

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MR. BOULSDROM: These are questions for our
impact, as you know.

A I would like to say, I think those are legal terms
which I'd have to rely on counsel to assist in defining,
technical and legal.

Q Do you know how many municipalities there
are in Morris County?

A I used to know, but I don't know exactly, I can't
quote the number. I am familiar there are quite a number.

Q Are you familiar with the fact that not all
of them are included as defendants in this litigation?

A Yes, I am.

Q Do you know why?

A It's my understanding that those that are most
blatantly in violation, that we feel most blatantly in viola-
tion.

Q Did your organization or you personally have
anything to do with the selection of what terms to be used
and what would be used and?

A We advised on it, in the selection.

Q Did you recommend more or less than the
twenty-seven that are in the lawsuit.

A None.

Q How many more?

MR. BOULSDROM: I'm going to object to this

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1 line of questioning, because this goes to the attorney-
 2 client privilege. It's communications between our
 3 client and us. He answered the first question before
 4 I could stop him, but this is clearly matters of
 5 communication between the attorney and client about
 6 the litigation.

7 Q Can you tell us what are the standards that
 8 you used in recommending municipalities to be included in
 9 this suit?

10 A It was through the research of the zoning laws of
 11 the towns.

12 Q Did your organization research these zoning
 13 laws?

14 A We had researched them.

15 Q And you say that you recommended more than
 16 the twenty-seven, but you can't tell us what additional
 17 towns or how many more?

18 A Mr. McCosker: I can't tell you because I
 19 object to the question.

20 Q Let me rephrase the question that all thirty-
 21 nine towns in Bergen County have declaratory zoning?

22 A In some form or another, in my opinion, yes.

23 Q Did you personally have anything to do with
 24 the researching of the zoning ordinances in the thirty-nine
 25 communities?

1 A That depends on what you mean. Did I have anything
2 Q Well, did you participate in the research
3 the zoning in the thirty-nine municipalities that led up to
4 this litigation?

5 A It -- depending upon what you mean, I could say yes
6 and be wrong and I could say no and be wrong.

7 Q Can you explain? Say whatever you want and
8 explain it.

9 A I can't, because I don't know what you mean by
10 "participation."

11 Q Are you familiar with the zoning in any
12 of the thirty-nine municipalities in Morris County?

13 A To some degree.

14 Q Are you familiar with the zoning in Boonton
15 township?

16 A Not intimately.

17 Q The town of Boonton?

18 A Not in detail, no.

19 Q Is there any municipality which you're
20 familiar, in detail, with the zoning of the thirty-nine?

21 A I would have no particular occasion to authorize the
22 zoning of any town.

23 Q Are you casually familiar with the zoning
24 of any of the thirty-nine?

25 A Casually, I think I could say yes to that.

1 Q Do you know, for example, what municipalities
2 in Morris County have apartments and what municipalities
3 don't?

4 A To give you accurate information, I would have to
5 refer to statistics and the research on it. I cannot just
6 by memory tell you that. I know an idea. As idea and as
7 a principle and as a general practice, perhaps, I have a
8 feel for it.

9 Q Were you familiar that the NAACP was in-
10 volved in a similar suit against the Township of Randolph
11 in 1972 as a complainant with Suburban Action Institute?

12 A I was somewhat familiar with that.

13 Q Are you familiar with the outcome of that
14 case?

15 A Not exactly, I'm not. I have, let's say, I have some
16 understanding and idea of the case.

17 Q Do you know whether the S.A.I. and the NAACP
18 were successful in that litigation?

19 A It seems to me that the case fell apart for lack
20 of finance, legal work. That's what it seems to me, as I
21 recall. It was not -- it was a litigation case, as far as I
22 understood it.

23 Q You indicate that the NAACP joined because
24 they wanted to expand housing supply. Is it your position
25 that the housing supply in Morris County is insufficient for

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* What action have you taken.

Q In joining other community groups and forming committees to foster middle income and moderate income housing and participation on the part of municipalities in providing this housing and industry, for that matter.

* And when did you do this; has it been something that you've been doing all along or was there a specific incident or two?

A A specific project was in the town of Morristown, where, as a result, we gained some fifty private homes on a joint program basis, strictly by -- I believe mostly by the municipality and the local people.

* When did this happen?

A I would have to look it up to get you the actual date.

* Approximately.

A I would say approximately in the later part of the sixties.

* Were there any other projects which you undertook which were either successful or unsuccessful in this area?

A There's a -- I don't know about -- I always feel we made a contribution. Besides most every progressive liberal movement for the people has been in Morris County, whether the NAACP or some of the other similar organizations have

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1 been involved in stimulating -- as during the period --
 2 -- as a member of the board, I participate in several housing
 3 surveys in this area; I think about one in Brenton, a couple
 4 in Madison, Norristown. And resulted that Brenton used the
 5 information in developing their program which they have,
 6 which is pretty small, public housing.

7 And, as I recall, I believe there's some where
 8 our information contributed. We feel it contributed to
 9 some limited dividend, apartments and stuff like that.

10 Q Is there any reason why, in the towns that
 11 do not have such projects, your organization did not get
 12 involved and seek to have a project erected?

13 A We were not invited.

14 Q Were you invited in Norristown and Brenton.

15 A Yes, we were.

16 Q And who invited you, the government or individual.

17 A The mayor of the town.

18 Q Have you ever sought to push or create such
 19 a type of projects in the community in Morris County, where you
 20 were not invited?

21 A Well, the nature of the nature of our activity,
 22 which is more like stimulating the willingness to meet their
 23 needs, it's an ongoing thing, with the providing county
 24 government, state institutions -- and the state -- industry,
 25 in any part of the county and we've had, over the years, we

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had some input and have spoken out and tried to stimulate
this type of development for expanding the housing supply.

I've at least participated, since I've been on the
NAACP the longest. I have been working with the other
organization, too, in the community which work for the same
objective.

Q Have you been involved in your organization
in any other litigation in Morris County, other than the
Randolph suit I mentioned, in order to attempt to get more
housing for low and moderate income people?

A I don't recall at this moment. I could probably
check the records and see. Perhaps individual cases, I know
we've had some involvement in litigation in individual
cases. I can't be specific at this moment.

Q In your opinion, is there a housing crisis
in Morris County right now for low and moderate income
people.

A In my opinion, yes.

Q And upon what do you base that opinion?

A The people who are not being housed at all.

Q And how are you familiar with it? Do you know
the names of people who need it?

A From reading, inquiries that I receive and through my
recognition, not only in the house, but in the community.

Q How many inquiries do you receive over a

1 month or a year.

2 I can't give you a specific number, but I could
3 research it a bit and come up with some.

4 Q Do you have any approximation on what it
5 might be?

6 A Let's say -- I'll put it this way to you, if -- you
7 can do it as well as I can. Daily, someone is calling trying
8 to find housing and, in most cases, they are people with
9 moderate, limited or low income.

10 Q Now, when they call, are you able to assist
11 them in any way or do you just tell them you can't help
12 them?

13 A Well, in some way, yes, always. You can tell them
14 there's no housing available that you know of, that's some
15 help. So, we start with that when there isn't, when that is
16 the answer, the correct answer. We know of something,
17 some avenue, I could refer them.

18 Q These people who are calling, are they
19 people who live in Orange County?

20 A Um-hum.

21 Q Where are they living at the time they call
22 you?

23 A Some of them are living in Orange County, and some
24 of them are living outside, but they are here on the
25 want to move into town, live to enjoy some of the good living.

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1 Do you have any approximation as to how many
2 housing units would be needed in this county.

3 A Well, that would take a good deal -- I could consult
4 the research on that. I couldn't give that to you right
5 off the top of my head.

6 Q Is it your opinion that every one of the
7 twenty-seven towns in this litigation has insufficient
8 low and moderate income housing?

9 A Correct, it is.

10 Q Are you familiar with whether those twenty-
11 seven towns have any low or moderate income housing right
12 now?

13 A Some of their reports indicate they have something,
14 but our research is not sufficient, it's insufficient.

15 Q Mr. McCLELLAN: Now, you're talking about
16 subsidized housing or is that -- what do you mean
17 by low, moderate income housing, in that question.

18 A Mr. McCLELLAN: I thought your question was
19 going to tell me how that. When he's answering
20 the question, I would like to know what your reports
21 are going to say.

22 Q Mr. McCLELLAN: I can't read your mind, can
23 I?

24 A Mr. McCLELLAN: I don't know. The twenty-
25 seven defendants in this case don't know that either.

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back it is. We're waiting for your experts to call us. When I asked the question, I assume that your witnesses know, although when I asked before, I was told that the expert would give me the definition, that these witnesses can't.

MR. BOGANSCHON: Well, maybe your expert already has, I thought.

MR. VILLOREISI: Our expert says he never heard of it.

MR. BOGANSCHON: Maybe he said something about the housing supply then.

Q Do you have any specific cases that you could tell us about where you know of someone who sought housing in Morris County, and was unable to find it?

A We could go to the records and get you some.

Q Do you have any that you can think of while you're sitting here?

A Well, I think a most serious one could be my own housing situation when I came to town to serve the community.

Q And how long ago was that?
A '58.

Q Twenty-five years.

A Yes.

Q Do you know of any cases that have happened within the last five or ten years --

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1 A Oh, yes.

2 Q -- that you could recite right now?

3 A No, I can't recite them for you. I'd have to look
4 the record up.

5 Q Do you remember, even off the top of your
6 head, a municipality at least that was involved where they
7 couldn't find it?

8 A I would rather find the cases for you, but a number
9 of the municipalities have been involved at one time or
10 another, such as Lenville, Rockaway, Hanover, Dover, Madison.
11 These are just towns that I can recall, towns where we were
12 involved in at one time or another. And as previously been
13 stated, any here, if you are moderate income and black, you
14 had a dual problem.

15 Q Do you agree with Mrs. Robinson that it's
16 rarely discrimination as opposed to economic level which is
17 causing the housing crisis.

18 A Well, now, if you're speaking from the concept of
19 what Mrs. Robinson said, I think she spoke from a different
20 point of view. What she tried to emphasize, as I discussed,
21 was that at the top of the list in the list which people couldn't
22 get housing was racial, that's just one aspect, you see.
23 Now, that's the point that I understand Mrs. Robinson to
24 state and make and that I would agree with. But the answer
25 to your question, if you expanded on that, that better way

Cooper-direct

1 I know, blacks are in Jersey.

2 I said Randolph.

3 A Oh, Randolph too. Blacks are there, as far as I know.

4 Q Well, Randolph is a defendant in this suit,
5 aren't they?

6 A Yes, but they don't have enough housing.

7 Q How much housing is enough housing for
8 Randolph?

9 A Well, now, that I can't answer for you.

10 Q Well, how do you know they don't have enough
11 there?

12 A Based on the research and the people who need it,
13 who feel they would need it.

14 Q But you don't know how much is enough?

15 A Mr. DeLoach: That's a question for our
16 experts, again. As you know, these are precise
17 levels of need that we're going to be relying on
18 at trial. Not a question for lay witnesses.

19 A Mr. DeLoach: While it is true he is saying he
20 knows there's not enough and that he says he doesn't
21 know why. But it's hard to say an expert is what
22 you're calling me.

23 A Mr. DeLoach: So. I have many inquiries
24 he receives, from general and large in the black
25 community.

1 Q Have you received any inquiries from people
2 in Randolph that they couldn't find housing?

3 A In Randolph, to find housing within their means to
4 pay, yes.

5 Q Why don't they live in the two thousand
6 apartment units, why don't they find housing there?

7 A They're rather expensive. I've had calls from, not
8 just black people, but white people couldn't live there, I
9 think.

10 Q Are the apartments expensive because of the
11 zoning or because of the cost of building the apartments?

12 A Well, I can't -- I don't believe I can answer that
13 one.

14 Q If you can't answer that one, how can you
15 make the statement that the zoning is what is excluding and
16 harming the low and moderate income? Isn't it the cost
17 of the building that's --

18 A It is my opinion, Mr. Attorney, that there is not
19 enough housing. If you expand a basic economics, you have
20 to deal in that a little bit even though we don't -- we have
21 sort of monopolies and so forth now. But if you have an
22 adequate supply, your prices will be moderated.

23 Q Even if it costs such an amount to build
24 the unit that you have to get a high rent just to make
25 ends meet?

1 .. That's a little bit twisting the question,
2 Mr. Attorney. I am not able to determine costs, as you
3 are putting it. I don't quite follow that in terms of my
4 answers.

5 * Well, Randolph Township, for your edifica-
6 tion, has a rent leveling ordinance which says that the land-
7 lord could only charge six per cent more than what it's
8 costing them to operate; therefore, if the rent's four or
9 five hundred dollars a month and he's only making six per
10 cent, then the cost to build and operate those buildings
11 is costing him the majority of the four or five hundred
12 dollars a month.

13 * May I point out to you, since you're informing me
14 here, that the very fact that you have rent leveling tells
15 us that there's an inadequate supply. That's a fact in
16 itself. It shows you there's a crisis at hand for housing
17 when you have rent leveling. That's the basis to bring
18 about these ordinances.

19 MR. BUCHSBAUM: Do you have your information
20 that you were going to give on the vacancy rate in
21 Randolph as you are going through this?

22 MR. VILLORESI: There's no use to really
23 even discuss this topic with this particular witness,
24 since you need economists and so on to discuss it.
25 But it's just -- it seems to be a matter, to me, of

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common sense that if housing costs x amount of dollars to build and a town allows the apartment owner to charge only six per cent more than enough to cover those costs, then building more housing will still cost the same.

THE WITNESS: What increases the cost?

Q Four or five hundred dollars.

A What increases the costs?

Q What increases the costs?

MR. BUCHSBAUM: You're also talking --

Well, we can get into a little discussion. We're also talking about one bedroom, which leaves out families. You're talking about very tight supply situation. That's a matter for the lawyers and the economists to judge.

THE WITNESS: I think it would be better, because costs involve a lot of things, a lot of elements.

Q Do you know how it came about that only municipalities in Morris County were included in this lawsuit?

A Only --

MR. BUCHSBAUM: I think the question should be phrased in terms of the privilege that we are discussing in terms of its probative value as to why

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the MAACP of Morris County chose only municipalities in Morris County. That's really the gist of what you're asking.

A We would have no jurisdiction in other counties, the MAACP would not -- the local branch, I mean. The local branch would not have jurisdiction and we would not be in, I think what you lawyers call it, standing as far as another county is concerned.

Q Is that the reason why the MAACP, as far as your participation, limited this matter to Morris County?

A That would be my reason for limiting it, because it's our jurisdiction.

Q Do you feel that municipalities outside Morris County would also have a responsibility to provide low and moderate income housing?

MR. BUCKENBAUM: That's irrelevant, isn't it?

This case involves a designated twenty-seven municipalities.

MR. VILLORESI: It's certainly not irrelevant when you're wacking up a hundred thousand some-odd units, very relevant.

When you're doing what?

Q The experts from your side of the isle have told us that Morris County, in the twenty-seven towns that are involved in this suit, should provide approximately

1 forty-eight or forty-nine thousand housing units because,
2 in a region encompassing eight counties, there's a require-
3 ment of x number hundred thousand units. And I'm asking you,
4 is there a requirement, as far as the MAND is concerned,
5 for other towns outside of Morris County to provide some of
6 this housing?

7 A Well, I hadn't addressed that question myself. I
8 was addressing Morris County needs primarily. Perhaps if I
9 did address myself to it, I might conclude the same thing.

10 Q You're addressing Morris County needs,
11 but you've indicated you don't know what Morris County needs
12 are. You would rely on the experts, is that right?

13 A That is correct, but you put in a little too much
14 in there. You were saying I don't know. I feel that I
15 know; but when you come down to specifics, I have to rely
16 on research and experts.

17 MR. BUCHSBAUM: You're talking about needs
18 in the statistical sense in that question?

19 MR. WILKINSON: In a broad sense is what
20 I'm talking about.

21 MR. BUCHSBAUM: Because he's indicated he
22 knows there are needs. He can't give you a figure,
23 he needs experts for that.

24 Q Do you think the need is in the magnitude
25 of fifty thousand housing units for low and moderate income

1 people?

2 MR. BUCHSBAUM: That's the expert's statement.

3 He's indicated he relies on it.

4 MR. VILLORESTI: I didn't hear him indicate
5 anything.

6 Q Do you want me to restate the question?

7 A Yes.

8 Q My question is: Is it your opinion that
9 these twenty-seven towns should provide fifty thousand hous-
10 ing units for low and moderate income people?

11 A If that is supported by and throughout research,
12 I would.

13 Q Well, without research, from your intimate
14 knowledge, from twenty-five years on the board and president
15 for the last nine years of the Morris County branch, have
16 you seen a need in the magnitude of fifty thousand units?

17 A How could I give you a figure like that?

18 Q Well, I'm sure you must have a feel for some
19 ball park number.

20 A Why should I?

21 MR. BUCHSBAUM: That's over twenty years,
22 isn't it? It's not fifty thousand tomorrow. I mean,
23 aren't you misstating what the statement of the
24 experts is?

25 A I think I would have to --

1 Q Twenty years starting in 1970.

2 A I would have to refresh my thinking in line with the
3 **research** material that might be available.

4 Q Do you know the population of Morris County?

5 A It is changing rapidly. It's somewhere over three
6 hundred thousand -- I've seen several figures just recently
7 on it. Yes, it's changing very rapidly.

8 Q Assuming the number actually is somewhat
9 over four hundred thousand --

10 A In one figure, yes, that is true. But in another,
11 it wasn't.

12 Q So, somewhere between three hundred and four
13 hundred thousand, let's say.

14 A Right.

15 Q Fifty thousand units at the average American
16 family of slightly under four would be two hundred thousand
17 additional people. Do you, from your experience of twenty-
18 five years on the board of directors and the last nine as
19 president, see a need in this county for two hundred thousand
20 people being accommodated?

21 MR. JUDGE: I think the question --
22 excuse me -- the question is a bit confusing,
23 because I don't think we're testifying that the
24 average is four persons per family. As I recall
25 the DCA report, it's considerably less. So, if the

1 question is limited to the fifty thousand units,
2 that's fine. I don't think you're accurately dealing
3 with anything in the record or in the discovery record
4 with respect to that two hundred thousand total
5 population.

6 Q If the county's population is three to four
7 hundred thousand people, do you see a need, from your exper-
8 ience as -- and the phone calls you've been receiving every-
9 day, to add a hundred-fifty to two hundred thousand --

10 A If you give me statistics --

11 Q -- people housing in this county?

12 A If you give me the statistics on how many of these
13 four hundred thousand are ill-housed, then we could get
14 together on a figure.

15 Q But you would be the one who would be giving
16 us that figure, because you're in a field where you're
17 receiving phone calls every day.

18 MR. LUCKENBACH: Mr. Villorresi, you know,
19 these specifics are for our experts. I think you're
20 really -- he's already indicated five times that
21 he relies on the experts for this data. I don't
22 know what more he can say.

23 MR. VILLORESI: I know if I was receiving
24 calls for the last twenty-five years, I sure as hell
25 would know whether two hundred thousand was realistic

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or not, I'll tell you that.

MR. BUCHSBAUM: Well, it's probably obvious not everyone with a problem calls you.

THE WITNESS: Now can you say that when the attorney doesn't even know which municipality --

Q Do you know how many housing units there are in Randolph Township?

A I have seen the figures, but I can't -- I don't recall.

Q Do you know how many of the housing units in Randolph Township are apartments?

A I've seen that figure also, but I don't recall the actual figure.

Q Do you know whether Randolph Township has enough apartments?

A I would say, in my opinion, I would say they don't.

Q And why do you say that?

A Because of the need for additional units of moderate income housing.

Q Now do you know that those additional units shouldn't be in the next town, Roxbury, why do you say they should be in Randolph?

A Because Randolph has been indicated to me as being somewhat, in comparison, undeveloped. Now, Roxbury may be more undeveloped, I'm not sure about that.

Q Is it your position that regardless of how

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1 many apartment units there are, as long as there's undeveloped
2 land, that town should take the additional burden?

3 A You just want my opinion on that, right?

4 Q Yeah.

5 A I wouldn't say -- I wouldn't say that that should be
6 necessarily the case.

7 Q In this litigation, is that the case, how-
8 ever?

9 A This what?

10 Q In this litigation, isn't that the criteria
11 that was used, those towns that were not developed, regard-
12 less of the fact of how many apartments they already had,
13 have been joined?

14 MR. BUCHSBAUM: Well, I think that --

15 A That sounds inaccurate to me. That doesn't sound --

16 MR. BUCHSBAUM: You're overlooking the matter
17 of legal obligation, which varies and depends on a
18 variety of factors.

19 MR. VILLORESI: I'm asking the witness --

20 MR. BUCHSBAUM: I just don't think you're
21 phrasing the question accurately --

22 MR. VILLORESI: Well, you're objecting to
23 the question. The witness was answering it.

24 MR. BUCHSBAUM: Well, my witness was being
25 very generous.

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MR. VILLORESI: I have nothing further at this time. See what other questions develop before I bother going through a lot of this other stuff.

MR. EDWARDS: I have a specific area of questioning.

MR. BUCHSBAUM: Could we just stretch for five minutes?

MR. VILLORESI: Let's go get some coffee, as a matter of fact.

(Whereupon, a brief recess is taken.)

DIRECT-EXAMINATION BY MR. EDWARDS:

Q Mr. Cooper, I want to ask you a couple of questions about the background work that you've done prior to this litigation with reference to these problems. Have you ever contacted any of the municipalities in question or the governing bodies of those municipalities with reference to their coming on behalf of the N.A.A.C.P. or, to your knowledge, has anyone in your organization done that?

A Well, I can't answer for anyone. I'll have to check with them, to be absolutely correct on this. The contact we've had has been in the interest of more housing or low income housing.

Q Well, what kind of contacts? You're the

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1 president of the organization, you've been the president for
2 nine years.

3 A Right.

4 Q Has the organization in any official capac-
5 ity, which you've indicated prior to this would have to go
6 through its board of directors, contacted any of the municipal-
7 ities that are defendants in this action with reference to
8 complaints about their zoning ordinances?

9 A Since or before the zoning suit?

10 Q Since you've been president of this organ-
11 ization.

12 A I don't recall. I don't recall on that question,
13 whether I have or not.

14 Q So, you don't have any specific knowledge
15 of ever having contacted any municipality, you never have
16 as president.

17 A I said I didn't recall it.

18 Q Well, would your records indicate that you
19 records would.

20 Q Would you be prepared to review those and
21 produce that information?

22 A I can review the records.

23 Q How long would it take you to do that?

24 A About -- I don't know.

25 A.K. Beckwith: I just want to state

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something about these questions. I have not objected to them in this context, in view of the waiver or reservation of rights. But in our answers to interrogatories, we've been stating that the suit in question alleges denial of housing opportunities to a needy class, that the issue of whether this particular plaintiff has tried to build housing in particular communities --

MR. EDWARDS: That's not my question. This particular witness is the president of the party plaintiff and I'm asking him whether he has taken any other actions on behalf of that organization in the nine years that he's president to challenge, question or request amendments to the zoning ordinances of any of the twenty-seven defendant municipalities.

MR. LUCASBAUM: All right. What I'm saying as to that question is that I'm not certain as to relevance. I'm not objecting, but, again, our reservation of rights to object later to that one. And as to production of documents, if these then are in the minutes of the organization which have been requested in connection with the interrogatories, they'll be produced as part of the answers to the interrogatories.

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1 MR. EDWARDS: Well, I'm asking specifically
2 now, does he have any recollection. He said he
3 doesn't and I think the question is a fair question.
4 I think the information is relevant to this particu-
5 lar case as to whether or not this party plaintiff,
6 all right, has taken any other actions to question
7 the zoning ordinances of the municipalities in
8 question.

9 There's a procedure by which the zoning
10 ordinances are adopted. Under the existing land
11 use law, all the zoning ordinances should have been
12 amended during his tenure. This is in Morris County.
13 He's the president of the party plaintiff in this
14 matter and there are other avenues he could have
15 pursued other than this litigation and I want to
16 know what avenues they were and what the party
17 plaintiff -- and he is the witness that's going to
18 be testifying.

19 And I think it's a relevant question and
20 I think it's one he should be answering now or at
21 a future adjourned date of this deposition if he
22 has to go get his records. That's why I asked him
23 how long.

24 MR. DUCHSBAUM: Well, we may disagree as to
25 relevance, but as far as answering, now, I'm not

1 suggesting that he not answer at this point.

2 MR. EDWARDS: Okay.

3 THE WITNESS: So, your question is --

4 Q My question is: Has your organization, you
5 in particular or representatives of your organization --
6 you can answer them one at a time -- ever taken any actions
7 to question or challenge the existing zoning ordinances of
8 the twenty-seven defendant municipalities in this litigation?

9 A Yeah. I would have to check the records for that.
10 I don't recall at this moment.

11 Q You don't have any recollection of ever
12 having done it yourself, though. Did you ever write a
13 letter to Boonton Township, Chatham Township?

14 A You mean at zoning meetings?

15 Q That's right.

16 A Oh, sure, I've done that.

17 Q Which ones have you attended?

18 A I said, I don't recall exactly. I'll have to
19 research the records as to that information.

20 Q How long will it take you to search the
21 records and have that present, so that you can respond to
22 that question?

23 A See, I don't know how long it would take.

24 Q Week, two weeks.

25 A You know, I'm not a hired hand, you know.

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Q Yes, I know that. Three weeks?

A About six months, I imagine.

Q Six months? How long would it take to reproduce --

MR. BUCSBAUM: I don't know what his files look like. So, I can't tell. It's a voluntary organization. The file may not be in great shape, as it's never had paid staff. I think that is the reason for his hesitancy. I think we'll just do what we can in good faith to search the records and come up with relevant material on this question.

MR. EDWARDS: Okay.

MR. BUCSBAUM: I think that's the reason for the hesitancy, not anything else.

Q You indicated you personally have appeared at various zoning meetings. What municipalities do you recall right now that you've appeared at?

A In the suit, I think the only one that I can recall at the moment that's named in the suit -- yes, there are a couple -- Morris Township in Madison.

Q Morristown in Madison?

A These are the ones in the suit.

Q In what context did you appear before those governing bodies?

A Had to do with zoning -- I'm trying to think. In one

1 instances, it had to do with zoning and rezoning, master
2 plan.

3 MR. EDWARDS: All right, I'll let it go.

4 If anyone else has any questions --

5 MR. VECCHIO: I do.

6
7 DIRECT-EXAMINATION BY MR. VECCHIO:

8 Q Mr. Cooper, pardon me if some of my questions
9 are somewhat naive, because I'm sure you know much more
10 about the subject matter than I do. What is your occupation,
11 sir?

12 A I'm a social worker.

13 Q And by whom are you employed, sir?

14 A By the board of education.

15 Q And which board of education is that, sir?

16 A Elizabeth, New Jersey.

17 Q And that's in Union County, sir?

18 A That's correct.

19 Q How long have you been so employed?

20 A For fourteen years.

21 Q Could you state that your educational
22 background is, sir?

23 A Well, I'm a college graduate, theological school
24 graduate, and a master's degree in social work.

25 Q I see, and your area of expertise, then, is

1 social work?

2

3 Q Could you indicate to us what type of social
4 work you are involved in?

5 well, my specialty is community organization and
6 my present practice is in working with handicapped children.

7 Q I see. Now, you indicated that there was
8 a meeting of the board of directors of the local chapter
9 of the NAACP, is that correct?

10 A That's right.

11 Q And a determination was made to become
12 involved in this litigation, is that correct?

13 A Correct.

14 Q And how many members of the board of
15 directors are there?

16 A Approximately twenty.

17 Q Were they all present at the time of the
18 meeting?

19 Not all of them, no.

20 Q Approximately how many were present, if
21 you recall, sir?

22 Approximately fifteen.

23 Q And what was the vote at the time that
24 resolution was presented to join this litigation?

25 Unanimous.

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1 Q All voted in favor of joining the litigation?

2 A Correct, correct.

3 Q And who presented the topic at the time of
4 that meeting?

5 A I did.

6 Q And could you tell us what, to the best of
7 your recollection, you presented at the time of that meet-
8 ing?

9 A I presented the --

10 Q In other words, if you recall what you said.

11 A Well, I can't recall exactly what I said, but I had
12 certain information available to me and I had met with the
13 attorneys and I proposed the situation as I saw it in terms
14 of our program and to the objectives of the organization.
15 And then we discussed it among ourselves.

16 Q What attorneys did you meet with?

17 A Attorneys from our -- I advised with our national
18 office attorney, as well as one attorney I met with from
19 the Advocate's office.

20 Q Who were they, sir?

21 A Was Linda Mard, Deputy Director, I believe, is her
22 title and I can't recall the name of the other guy.

23 Q It's all right.

24 A Carl is his first name.

25 Q Mr. Disgoli?

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A Yes.

Q And when did you meet with them, sir?

A I met them on several occasions. I mean, we had a committee that met with them, actually.

Q And do you recall when this meeting took place when you adopted this resolution?

A Sometime in '78.

Q Did you meet with Miss Murd and Mr. Bisgaier prior to the time that this resolution was adopted or subsequent to?

A I met with them prior, in person.

Q Approximately how long before the meeting did you meet with them?

A Well, we had several meetings, something like a month or two.

Q And where did you meet with them?

A In my office.

Q And did they come to visit you?

A Yes.

Q Did you call them to come visit with you or --

A Yes.

Q -- had they called you?

A MR. WOODBURN: I'm going to object to this one. This is getting into communications between

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attorney and client. It's also utterly non-
probative on the issues in this case. I just don't
understand why the defendants are so fascinated by,
you know, who talked to who first. The issue in
this case is whether there's exclusionary zoning,
not who said what to who.

MR. VECCHIO: If I may, for the purposes
of the record, I would like to know what precipitated
the institution of the litigation, whether it was
this particular plaintiff, whether it was the
Public Advocate's office, or otherwise. I also
feel that there may be some additional problems in-
volved with the manner in which this litigation was
precipitated.

If I may continue for the record, however,
if you direct the witness not to answer the question,
then we can have that determined at a later date.
I would like to know, however, the basis upon which
you direct the witness not to answer the question.
If that be attorney-client privilege, I would like
that stated for the record.

MR. BUCHSBAUM: There are two bases on which
I'm objecting to the question and instructing the
witness not to answer and in making this brief state-
ment, I'm not prejudicing any further arguments we

1 may wish to state in a brief. But right on the
2 top of my head, these two things occur to me; number
3 one, attorney-client privilege and, number two, the
4 utter irrelevance of the subject matter to any
5 potential gathering of relevant evidence from this
6 case, admissible evidence in this case, under the
7 discovery rule.

8 MR. VECCHIO: Thank you.

9 Q Mr. Cooper, how long have you been a
10 resident of Morristown?

11 A Since December 15 of 1973 -- December 1.

12 Q Of 1973?

13 A Right.

14 Q And your initial feeling was to join all
15 of the municipalities in Morris County, is that correct,
16 as parties defendants to this action?

17 A That was a possibility, yes.

18 Q Was there some particular reason as to why
19 Morristown wasn't joined, where you resided since 1973?

20 MR. BUCHSBAUM: You live in Morristown or
21 Morris Township?

22 THE WITNESS: Morris Township.

23 MR. BUCHSBAUM: He resides in Morris Town-
24 ship --

25 MR. VECCHIO: Oh, in Morris Township, I see.

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MR. BUCHSBAUM: -- which was joined.

Is there some particular reason why
Morristown was not joined?

A I can think of a couple, a couple of reasons.

What I'm asking you, sir, is, was there
some particular reason why Morristown was not joined in this
particular litigation?

MR. BUCHSBAUM: Before he answers that ques-
tion, could I just find out what the relevance of
that is?

MR. VECCHIO: What the relevance --

MR. BUCHSBAUM: What, we would have done
someone a favor by joining Morristown?

MR. VILLORESI: We'd have more towns to
divide up to forty-nine thousand units, we'd have
another eleven towns.

MR. BUCHSBAUM: I'm not sure that's neces-
sarily the case, but be that as it may.

MR. VECCHIO: If I may, first of all, I
think --

MR. BUCHSBAUM: More people to ask questions.

MR. VECCHIO: -- the process of discovery is
to permit me not only to ask questions that are
relevant, but also questions that may lead to rele-
vant evidence.

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MR. BUCHSBAUM: That's correct.

MR. VICCHIO: And it's not of particularly
admissible -- If you want to direct the witness not
to answer questions, feel free to do so and the
court can determine those issues at a later date.
But I would just like to have an answer to the
questions that I am asking, relevant or irrelevant,
unless you direct the witness not to answer them.

MR. BUCHSBAUM: Well, except with the matters
of privilege or questions that are improperly phrased,
I'm trying to conduct it so that the questions of
relevance, hopefully, can be raised later so we can
have a deposition here. And what I'm asking of you
now, I'm trying to determine what you feel to be the
relevance, so I can understand what the question's
all about.

MR. VICCHIO: The relevance is --

MR. BUCHSBAUM: The relevance of it doesn't
immediately leap into my mind.

MR. VICCHIO: You just stated the question of
relevance is to be determined later. So, if you're
directing the witness not to answer, it must be on
some other grounds.

MR. BUCHSBAUM: There's nothing to stop me
from making an objection to the general reservation

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for questions that are particularly hard to understand.

MR. VECCHIO: My purpose --

MR. BUCHSBAUM: And just curiosity, too.

MR. VECCHIO: Unfortunately, you and I have a difference of opinion. I think that the question is relevant and does have certain relevance to issues that I have raised in this litigation and am attempting to raise. If you desire to direct the witness not to answer the question, then he doesn't have to. You know, just do that and we'll have the court determine whether it's relevant or not.

Mr. Villorasi gave you one reason why it's relevant. If you want to expound and make this transcript larger through colloquy between the attorneys, I'll do so in this instance. And that's this, that this lawsuit is imposing an economic burden. That economic burden is being imposed upon certain select communities, both by way of the trial of this case and, additionally, in the event that the zoning takes place in the various municipalities.

And I want to know why this plaintiff chose not to join certain other municipalities to spread the burden equally if it is a constitutional mandate

1 of the state of New Jersey that is being sought
2 to be enforced. Because I have some difficulty with
3 that and, hopefully, the court will.

4
5 BY MR. VECCHIO:

6 Q Do you recall the question, Mr. Cooper?

7 A No. What is the question?

8 Q The question is, sir, why was it determined
9 not to join the town of Morristown in this litigation?

10 A Are you acquainted with Morristown?

11 A Somewhat, sir, but I'm supposed to ask the
12 questions.

13 A Right, you ask the questions. I apologize. I
14 realize you're asking the questions. You want my opinion,
15 right?

16 Q No. I want to know why they weren't
17 joined, sir, if you know, since you're the plaintiff.

18 A It takes a joint decision to determine that.

19 Q And did you --

20 A I'm not the only complainant.

21 Q Did the local chapter of the NAACP concur
22 in the recommendation not to join Morristown as a party
23 defendant?

24 A Now, you're getting down to a question I can answer.

25 We concurred in the litigation of the twenty-seven

1 municipalities.

2 Q But did you make a determination, also, your
3 local chapter?

4 A Made our own determination, yes.

5 Q Did you make a determination not to join
6 Morristown?

7 A It wasn't made like that. We made determination on
8 those we wanted in this suit.

9 Q And there was no determination not to join
10 the other municipalities made by the local chapter of the
11 NAACP, is that correct?

12 A Not to join. We made a determination to join litiga-
13 tion between twenty-seven municipalities. That is our deter-
14 mination.

15 Q And the other municipalities were not discussed
16 by the local chapter of the NAACP, is that correct, sir?

17 A They were somewhat discussed, yes.

18 Q And where did these discussions take place,
19 sir?

20 A In the committee meeting. We had -- We usually have
21 a committee on these things prior to a board meeting.

22 Q Were you present at those committee meetings?

23 A Yes.

24 Q Do you recall what he said at any of those
25 committee meetings?

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Q Let me see. In reference to what?

A In reference to joining these twenty-seven towns and leaving out the other twelve or so that were left out.

MR. SUGARMAN: Other than the communications between attorney and client, of course.

MR. VECCHI: That's your objection, not mine.

Q In the case of -- one of the things that was discussed was the development of a town and in the case of Morristown, they probably wouldn't have included that with those fifty thousand units because they already have a fully developed town and they have a large number of, not one type, but several types of moderate income and low income housing.

A But that was with reference to Morristown. Do you recall who made that -- I'm sorry.

Q That would be one of the criteria that was used.

A And who made that observation at the time of the meeting, yourself or some other member of the committee?

Q No, how you're getting into something I can't exactly pinpoint, but I know that would be my opinion.

Q Do you recall whether there were any conversations with reference to Victoria Gardens?

A Yes to -- as I say, this was a general criteria that was looked at in reference to the towns that were included

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1 in the suit.

2 Q Do you recall anything was said at any of
3 those meetings with reference to any of the other municipali-
4 ties that were not joined in this litigation?

5 A I don't recall specifically, but I do know that
6 there was some discussion.

7 Q Do you have any -- Do you recall whether
8 there was any specific discussion about Roxbury Township?

9 A Not specifically. I remember Roxbury Township being --

10 MR. BUCSBAUM: Excuse me one second.

11 Q Mr. Cooper, how long have you been associ-
12 ated with the MACCP, sir?

13 A All my life -- well, all my adult life that I've
14 been old enough to know about it.

15 MR. VILCOMB: That's all I have. Thank you
16 very much.

17
18 DIRECT EXAMINATION BY MS. TOBIASOFF:

19 Q I just have a couple of points for clarifica-
20 tion, Mr. Cooper. Perhaps I didn't understand when initially
21 the question was asked by another attorney, but you mentioned
22 that research of the zoning laws of the municipalities was
23 conducted prior to instituting the suit. Can you tell me
24 who did the research?

25 A From time to time, various ones have done research.

1 We utilize research of other agencies as well in terms of
2 information. In our own organization, you see, the kind of
3 feedback that we get is not like what the lawyers use, you
4 know, highly professional people all the time or experts in
5 our basic knowledge. Then when we formulate our mind on
6 what the situation is, then we look forward to someone who
7 is capable, either legal or technical, who can interpret
8 for us how to proceed and what we should do about a question
9 that we are concerned about.

10 Q Do you recall researching the zoning laws
11 of Passaic Township?

12 A I don't recall specifically just what they are, but
13 I'm sure that could be provided.

14 Q You mentioned before that, in your opinion,
15 all the towns in Morris County, the twenty-seven, have
16 exclusionary zoning. I would like you to define what you
17 mean by exclusionary zoning. What is your opinion of that
18 type of zoning?

19 A Is one that excludes some of the people or segments
20 of the people or part of the population from getting the
21 most for their housing.

22 Q What type of people are you referring to?
23 A In my mind, it's more the -- it's more in the --
24 well, that isn't accurate either. It's in the area of
25 economic -- you see, whenever you deal in economic problems,

1 anything that is impeding or eliminating or retarding
2 automatically affects blacks. Or, anytime you exclude on
3 an economic basis, we know that it is a concern of ours.

4 Q By that, do you mean that you're saying that
5 most blacks then are of the lower economic levels?

6 A What you say?

7 Q Most blacks are in the lower economic level?

8 A Let's say, substantial numbers. I would have to,
9 again, rely on research to give you a direct answer to what
10 you just said, that most -- they are in substantial numbers.

11 Q You also mentioned that, in your opinion,
12 anyone who wants housing in Morris County should be able to
13 find a place in this county, some form of housing. Who,
14 in your opinion, is paying for this housing, regardless of
15 the income -- low, okay, I'll rephrase that.

16 A By "anyone," do you mean regardless of their
17 economic level they should be able to find a house?

18 A Within reason, yes.

19 Q Could you explain "within reason"? Is there
20 any -- My concern is, who pays for this? I'm not sure, I
21 want to know.

22 A There are three methods, I believe, or several
23 methods. One is actually out of your pocket or out of sub-
24 sidized housing, low rent or federal subsidy. One rents,
25 what other way -- I don't think we have any company housing

1 yet.

2 Q Do you believe it's the obligation, then,
3 of the communities to have subsidized housing?

4 A Sure, sure. My personal belief, that is the best
5 kind that you can have.

6 Q And, also, that they should provide other,
7 like, rent subsidies, other features for low income people?

8 A They should have some, yes, they should have some
9 of the available programs in housing to house the people
10 in the municipality. They pay for it, why shouldn't they
11 have it. They're going to pay for it anyway.

12 Q Okay. I have just a few more questions.
13 Have you ever been contacted regarding any housing shortage
14 in Passaic Township?

15 A It seems that I have. I'm just trying to recall.
16 I wouldn't, at this point, I wouldn't be able to say speci-
17 fically who or how or what circumstances.

18 Q But do you recall actually being contacted
19 by someone?

20 A It seems that I was.

21 Q Are you familiar with Passaic Township?
22 A Not very.

23 Q Are you aware of the housing, types of hous-
24 ing, provided in Passaic Township?

25 A Let's say I am somewhat aware of it, yes.

1 Do you know if they have multi-family housing?
2 I don't know.

3 Q Do you know if they have housing for low or
4 moderate income people?

5 A No, but it's my opinion that they don't.

6 MS. MC DERMOTT: No further questions.

7
8 DIRECT-EXAMINATION BY MR. KATZ:

9 Q Mr. Cooper, my name is Lawrence Katz. You
10 described -- or you testified briefly as to initial research-
11 ing of zoning ordinances by other groups. Would you please
12 describe in what manner that was done and what reports, if
13 any, you received from them?

14 A I can't tell you the manner in which it was done,
15 or.

16 Q Who or what are the other groups?

17 A Well, one of them, I believe, was the group that in-
18 volved some specific -- planning or similar research in Fair-
19 field.

20 Q What name was that?

21 A And, of course, the Fair Housing Council.

22 Q Were there any other groups involved?

23 A And, of course, the -- I believe, you know, the
24 planning council and the, of course, the various city, state,
25 government provided grants for that type of research.

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MR. BUCKLEIGH: You mean the planning board?

MR. WILKINS: County planning board.

Q Was any of that received prior to the institution of the suit?

A Sure. We couldn't -- the information is already there, all you have to do is look at it.

Q How did you receive this information, orally or in written form?

A In both.

Q Was any of that received prior to your contact of the public advocate's office?

A My basic -- most of the basic knowledge I have is prior to, you know, such contact.

Q Are you aware of anyone contacting your organization alleging that they could not find housing in Lincoln Park?

A Let me think. The nature of housing increases that you -- I know you have some. We get involved in all kinds of housing problems at all ages and at all rates. I don't think the way that I can recall right now is relevant.

MR. WILKINS: I have nothing further.

RECONSTRUCTION BY MR. BUCKLEIGH:

MR. Cooper, by name of Lincoln Park.

1 You stated that you participated in several housing surveys
2 in the past year on the basis of line 11. What municipi-
3 ties were affected by these housing surveys?

4 A The extensive surveys were in Morristown, Doonton
5 and Madison.

6 Q Did you ever participate in any housing
7 survey regarding Pequannock Township?

8 A Pequannock Township? I don't believe that I have.

9 Q Have you ever received contact from any
10 individual or agency regarding the failure to obtain housing
11 in the Township of Pequannock?

12 A I have been to the Township of Pequannock. I have
13 been there and I have -- if I'm not mistaken, it was on
14 municipal business, it had to do with a municipal official.
15 The exact -- whether it was the nature of the housing
16 problems, I don't -- see, we have different types of housing
17 problems than what we are experiencing ourselves to here and
18 I can't recall the specific nature, but probably would come
19 up with that one.

20 Q Are you familiar with the number of housing
21 units, single-family, in Pequannock Township?

22 A Only in reference to the records I have there.

23 Q What is the best estimate of research done
24 regarding the township of Pequannock that you're familiar
25 with?

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1 During our preparation.

2 for this limitation.

3 A Um-huh.

4 Q So, that would be the latter part of 1973.

5 Yes, middle or latter part.

6 Q Personally, are you aware of any apartments
7 presently constructed in the Township of Pequannock?

8 Personally, I'm not.

9 This information is available to you?

10 It is available.

11 MR. BROCKERT: I have no further questions.

12 MR. VILLORESI: I want to ask you a couple
13 of things.

14
15 CONTINUED DIRECT EXAMINATION BY MR. VILLORESI:

16 This reason that you keep talking about --
17 or maybe I should ask you.

18 MR. VILLORESI: Is that all to be provided
19 to you?

20 MR. BROCKERT: I said in the document he's
21 talking about in fact that's included in

22 my opinion with the report on it. I don't --

23 MR. VILLORESI: Do you identify what
24 that is -- is that for certain?

25 MR. BROCKERT: That's for certain. That is

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the research he's talking about, that he's relying on.

MR. GOLDSMITH: There was some reference to

MR. SUCHBACH: I can't seem to take care of that answer, but that's the material I'm familiar with, is that which you've asked for in interrogatories and, pursuant to Judge Linn's orders, that which we've provided to you.

MR. VILLORESI: All right. I got another point then: That research that you've provided to us only relates to those twenty-seven towns. They would have needed this research on all thirty-nine in order to make a determination to leave twelve out. Where is the research on the twelve? What was that shown and where is it?

MR. SUCHBACH: Well, as to that, we stated in the interrogatory answers, which are -- some of which have been done, with respect to, on the primary basis, the New Jersey State Police, which is the only source of the data on that matter. All right. So, that's --

MR. VILLORESI: Well, I don't get answers that are satisfactory. Thank you very much.

MR. SUCHBACH: Yes, sir.

MR. VILLORESI: All right. Thank you, I will

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know --

MR. BOONSTEIN: I think he set forth the standards that he used.

MR. WILLIAMS: I don't think he did. In fact, we were given a lot of gobbledygook that that was client-attorney privilege. I asked how were these defendants led to be the defendants in this litigation early along in the game somewhere --

MR. BOONSTEIN: And when --

MR. WILLIAMS: -- and the questions started to lead to answers like, you know, well, we wanted more than twenty-seven and you wouldn't let us pursue that, saying it was attorney-client privilege. I think that we're entitled to all the data as to the twenty-seven that aren't in this suit.

MR. BOONSTEIN: Well, the data consists essentially of the son report, which has already been made available to you, which is public data. That's it.

MR. WILLIAMS: But as I said, he said they reviewed witnesses and they did all this report. So, it can't be the report you're talking about.

MR. BOONSTEIN: If you're talking about substantial data, I think that's what your question

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just referred to, essentially --

BY MR. VILLORESI:

Q Were the ordinances reviewed for the twelve towns that were not included in this suit?

A Ordinances, I didn't say anything about reviewing ordinances.

Q All right. Can you tell us?

A I said the research.

Q Starting all over again at the beginning, what did you review?

A The research on what the towns had in terms of ordinances and --

Q Who did that research?

A -- and I told you -- boy, we got it from so many places I don't know who did it.

Q Where are those documents now? Where was the research -- where is it kept?

A Don't you have it.

Q Don't you? Was it all the way suit against twenty-seven towns.

A I said I had it, but I said, don't you have it?

Q No, and I think that --

A I'm sorry --

MR. VILLORESI: I think you do.

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-- I didn't mean to ask you a question.

MR. VILKOMISH: I think I asked in his notice for depositions today that all that material be brought here today. Now, are you telling us that everything that is considered by these two organizations and the Public Advocate's office has been provided to us?

MR. BUCKLE: Essentially, it was the D.C. report and the ordinances.

MR. EDWARDS: Not essentially. Was it or wasn't it?

MR. BUCKLE: That's all I know of.

Q What is a D.C. report, Mr. Cooper?

A D.C. report? I don't know.

Q Did you rely on that in making the decision on what twelve towns to include.

A Indirection, yes, and I use the information, yes, came from reliable sources.

Q Did you rely on that in the information?

A Sure.

MR. VILKOMISH: Now, you're telling us, correct, that they relied on a D.C. report which this witness says he doesn't know what it is?

THE WITNESS: District census, isn't it? "D.C." is the initial.

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MR. BOCHSBAUM: It's the housing allocation
study, which contains a list of ordinances.

MR. VILLORESI: Was that on the report?

BY MR. VILLORESI:

Q Was there any review of the ordinances for
the twelve towns that are not in this litigation done?

A Was in this information that you say, there was some.

MR. VILLORESI: Well, when you asked that everything that
been provided to us when you said that everything that
they considered has been provided to us?

MR. BOCHSBAUM: If you want us to send you
the twelve ordinances of the other towns, that would
be the only additional information I could conceive
of.

MR. VILLORESI: We said that information was
provided concerning other ordinances to him and in
a BOA report. And that you go to go with those
ordinances?

MR. BOCHSBAUM: We have a description of all
the ordinances that are included in the
list of ordinances, and, which includes, obviously,
some of the ordinances. And you question it now,
do you want to see the ordinances of ordinances of
the other towns?

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A Do I have any?

Q Yes.

A I've seen them.

Q Where are they now?

A If you want me to come up with them, I'll try to do that for you.

Q But do you know where they are now?

A I don't know, in the desk drawer, on top of the table or wherever.

Q Are they in your office?

A Some of them, some of the information. We supplied all we can to the attorneys.

Q Your counsel says that you relied on the DCI report and that, I guess, really, that's all, because that's the only thing that had any information about the other twelve towns. Is that true, did you rely on the DCI report?

A Describe the DCI report to me so I know what you're talking about.

Q Now, Mr. Cooper, on March 1, 1954, you relied on the advice of counsel, which is just you're seeking to determine, how counsel advised you and that gets into the question of whether a third. I think that's the basic problem.

Q Do you have any location, the Town of ...

1 was not included in this litigation?

2 ... Borough is included.

3 Q Do you know what towns are not included?

4 A I would look at the --

5 MR. JUDGE: Refresh your recollection

6 here.

7

8 (Witness is handed document.)

9

10 -- Boonton Borough, it's Boonton Township.

11 Q Do you know why the town of Boonton was not
12 included?

13 A According to our standards, the standards that were
14 considered was the development of the town and the amount
15 of programs that they had in the areas of moderate and low
16 income housing. That was the prime guiding standard.

17 Q And was Boonton developed and did it have
18 programs for this housing?

19 A It does have some programs, yes.

20 Q Did you include Mount Arlington?

21 A Mount Arlington. Mount Arlington, not Mount Olive.

22 Q ... Mount Arlington.

23 A ... believe they're included.

24 Q Do you know why?

25 A Based on the same standards that we used for all,

1 considering all the townships.

2 Q And those standards were how much it was
3 developed and whether it already had programs for low and
4 moderate income housing?

5 A Keep in mind, the standards for use as a key group
6 and standards technically and legally would also be involved.
7 In other words, in my opinion, if the town, of course, has
8 little or no developable land and has nothing in the way of
9 providing the type of housing that we feel would accommodate
10 most of the moderate and low income people, those were
11 real firm standards in our mind. Now, there are, certainly,
12 there are other legal and technical, when you look at re-
13 search and get information pertaining to zoning and ordin-
14 ances, to be considered. In that context, you might decide
15 for one or against the other.

16 Q Did you include every town in Morris
17 county that wasn't fully developed?

18 A I'm not sure we did. I'd have to check the records.

19 Q Did you include every town in Morris county
20 that did not have the housing program for low or moderate
21 income?

22 A Yes, if a question is that.

23 Q Did you include every town in Morris
24 county that did not have a program of low and moderate income
25 housing?

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MR. DOUGLASS: To the best of his knowledge,

to the best of your knowledge,

A To the best of my knowledge, yes.

Q Now, if a town had a program for low and moderate income housing, did you include all of them? Any town that had a housing program for low and moderate income, were they all included from this suit?

MR. DOUGLASS: You know, I think these facts speak for themselves as to what towns are in, that towns have programs. Some of the towns in here do have some minimal amount of Section 8 existing assistance. I don't know whether that would -- that just speaks for itself. None of the towns have any subsidized housing at present in terms of new construction for families and that's self-evident and will be provided in terms of -- or has been provided already.

Q Is your client also financially supporting this litigation in terms of legal fees or costs incidental to the suit?

A No, but, I mean, bear in mind, you know, I have to be here today, which cost me a hundred and twenty-five dollars, per diem.

Q Did you say in your deposition that the suit against Newark was filed in 1970?

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The local branch didn't. I believe that involved
the national organization as well and they probably
lawyers in it as well.

Q All right. The only thing I have left is
I want -- I do want to get the material that was used and
reviewed by your organization in determining what municipalities
to bring into this suit and what municipalities to leave out,
which you said may be on your desk or in your office or
nevertheless, because I do not believe that Counsel is correct
that we've been provided with that information; or if we
have, we haven't been provided with the kind of information
that you've testified about today.

MR. VILLORESI: So, do we get it?

MR. BOONBACH: We'll look and see what's
known and I have the question as to relevance of it
whole issue. Subject to that, we will provide it
to you.

MR. VILLORESI: What does that mean?

MR. BOONBACH: In other words --

MR. VILLORESI: We're going to decide
relevance.

MR. BOONBACH: First of all, I don't know
if there's anything else there might not be, if it
is, that doesn't's in.

MR. VILLORESI: We've been told there was --

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and it has been provided. In conjunction with the
... (phonetic) report, there's been a large
amount of data provided and I'm not sure in time --
I don't recall whether that covers the other
... towns or not. It may. It may cover the whole
county, because it was extracted from the county
planning board's reports, a lot of it.

MR. EDWARDS: We're not interested in what
you can scrape up now. We're interested in what
Mr. Cooper relied upon at the time when the litiga-
tion was brought and that information he has in
his office to make a determination as to who to
include or not to include. That's what the question
is, not what information you can come up with, but
what information he had at that point in time that
led to the determinations that were made.

MR. EDWARDS: Again, I have questions as
to the relevance of this. I will undertake to review
any additional information that you're able to provide to your
request. If you don't have any responses, you have
you. ...

MR. VILLORESI: Well, the DCJ report indi-
cates that there's some information that
should be provided in a ... that are
left ...

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this morning to find out why those twelve weren't included. Are you just throwing in the towel for the four thousand, saying they don't really need them, or are we going to be asked in the other twenty-seven towns to provide for those four thousand?

We can't get any answer here today as to why they were left out except to be told the DCH report has the answer.

MR. BUCHSBAUM: That was used in a prima facie basis. The answer to those questions will be when you depose our experts. You want to ask them what our feelings are about the obligations of, technical and legal obligations, of the other towns

MR. VILLOREST: This is one of the three plaintiffs in this case, I would hope he would know.

MR. BUCHSBAUM: He's relying on experts, like plaintiffs do.

MR. EDWARDS: What experts did he talk to at the time that that information did he base that decision on as a party plaintiff? Not you and not --

MR. BUCHSBAUM: The only question that's relevant, and we're really overlooking this record here, is whether the town have a preliminary finding.

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That's the only question that's relevant.

MR. EDWARDS: Well, that's your opinion of what's relevant.

MR. BUCHSBAUM: You're perfectly free to join other towns if you feel like it.

MR. VACCARO: Is that a stipulation for the record?

MR. BUCHSBAUM: That's not a stipulation. You're perfectly free to attempt.

MR. VACCARO: I thought -- Is that, I mean, a statement that was made, is that a stipulation for the record that you have no objection to our joining the other municipalities?

MR. BUCHSBAUM: It's not. It was a very careless statement.

MR. VACCARO: Is there some reservation you have about the statement that you said?

MR. BUCHSBAUM: Thank you for correcting me. If you wish, I will rephrase our position on it at the time.

MR. VACCARO: That's all right. I just thought that you didn't have any objection to our joining the other towns, because I really would like to, in order to get to the bottom of the entire matter. Because I think that that's the way

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Justice Freeman indicated matters of this nature
should be handled in his concluding opinion in the
Mount Laurel case. I'm sorry, did you have some
more questions, Mr. Villorasi?

MR. VILLORASI: I had a couple.

BY MR. VILLORASI:

Q Does the NAACP have any position on what
size, minimum lot sizes, these municipalities should have?
A State your question again.

Q Does your organization have any position on
what the minimum lot size should be in these twenty-seven
municipalities, how big should the lot be, how small?

MR. RECONSTRUCTION: You know, this is again
a matter that's going to be referred to the experts.
I think it's rather technical.

Q Suppose these municipalities had had
lots that were fifty foot wide, five in an acre, parking.
And they were not just for the litigation, but for
the NAACP in general.

A Well, that's hypothetical. I'm the chairman of all
the groups. I don't know what they would be
wondering about. I don't know what they would be
also.

Q Does your organization take any position on

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How many apartment units should be permitted per acre?
Our position is to provide the housing. If you
to put them in quarter of an acre, or more, which, I think,
it's unreasonable, but if you want to do that --

MR. BUCHSBAUM: I'm going to -- these answers
will be supplied by experts, who all the plaintiffs
are relying on to produce this data and, as a matter
of fact, you've gotten expert reports on these issues.

MR. WILLIAMS: I didn't have those reports
when this litigation was instituted, though, and I
wanted to know the answer. Suppose the town had
fifty-foot lots, would it have been joined? Now,
the reports are coming in after the fact, saying
that these towns should have. There were no reports
at the time the litigation was instituted.

MR. BUCHSBAUM: That's the normal course of
legal procedure. How do you have an expert
report written prior to the institution of litigation.
It's unusual.

MR. WILLIAMS: I don't want to rely on the
expert reports as a means to this party plaintiffs'
position as to what is allowed to be done as
a matter of fact. If that's the case, yes, it is
part of the character of litigation. It should be
not joined as a subsidiary, but as fifty-foot lots,

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answer yes or no, in his mind? It's not a difficult
question. He's representing a party plaintiff here
who made the judgment.

MR. MCCORMACK: He's not an expert witness
and he was tendered as a representative of the
organization.

MR. EDWARDS: I'm not asking him to be an
expert, I'm only asking him what was in the mind
of that party plaintiff at the time they filed the
petition. Would they have included the other
municipality? He can answer yes or no. Not difficult
to understand. It's not incomprehensible. It's
not irrelevant. It's part of his processes in
deciding whether to include one municipality and not
another and what his basis was for making that deter-
mination and that, in my opinion, is a fair question.

MR. MCCORMACK: All right.

MR. EDWARDS: And the expert witnesses or
other reports are not things he relied upon at that
time.

MR. MCCORMACK: The question is also out
of context. A thirty-foot lot is only one part of
a zoning case, is it not? For the five fifty-
foot lot --

MR. EDWARDS: He can't even get to that --

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to any question that revolves around that without
objection interjecting that his answer would be to do
We're trying to elicit an answer to a party
plaintiff, not the Public Advocate who's represent-
ing that party plaintiff, and I think you should
allow him to answer to the best of his knowledge
without interjecting at this particular point or
instruct him not to answer. One of the two.

MR. BUCHSBAUM: Why don't you answer to
the best of your ability, because we can argue about
the relevance later.

MR. WILLIAMS: I gave the answer in stating
that that would be only a factor in consideration
of whether to include them or not.

MR. WILCOX: I don't have anything.

MR. GOLDBERG: One question.

DIRECT EXAMINATION BY MR. GOLDBERG:

Q. Now, you stated that there had
been some attempts to locate certain documents of the
defendant which you said were in the possession of the
defendant's attorney. Now, if you don't
know where to locate the records in the defendant's
possession, including the records of the defendant, if they are
available, produce them.

MR. BUCHSBAUM: I believe asked about that

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... ..

... .. with all deliberations.

MR. BUCHANAN:
... .. agreed we would do our best to search those records
and see what we could find.

MR. COOPER: Okay, thank you.

MR. VECCHIO: Could I just ask a couple of
questions?

CONTINUED DIRECT EXAMINATION BY MR. VECCHIO:

Q Mr. Cooper, in any event, a determination
was made not to join twelve municipalities in the county,
is that right?

A My answer to that is, a determination was made for
to have twenty-seven municipalities.

... .. as defendants.

... .. as defendants.

Q twelve municipalities were not joined in
this litigation, is that right?

A There are not joined, whether it
involves or ...

... .. I think it involves,
but I can't

... .. I can't

... .. out of that wasn't joined

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1 was Morristown, is that correct, sir?

2 A That is correct.

3 Q Now, what is your feeling about this lawsuit
4 as to the municipalities, what is it that you and your
5 organization seek to have the twelve defendant municipalities
6 do?

7 A Spend some of this money on housing that they're
8 spending on legal fees.

9 Q All right. So that what you seek to have
10 done, then, in this litigation is to require these particu-
11 lar municipalities expend funds to subsidize or construct
12 housing in the twenty-seven defendant municipalities.

13 A Not specifically, Mr. --

14 Q Vecchio.

15 A -- Vecchio. We would like to eliminate all barriers
16 to the expansion of the housing supply that might be put on
17 by municipalities.

18 Q Now, Mr. Cooper, how do you conceive the
19 accomplishment of that end through this particular litigation?

20 A I see that by --

21 Q And I'm not, you know -- I'm trying to make
22 my questions somewhat clear.

23 A It's okay, you're very clear.

24 Q Okay.

25 A Through the conscientious forthright treatment of the

1 housing and zoning as where zoning might affect housing
2 in the municipality by the needs of the municipalities,
3 including the lawyers.

4 Q Okay. Now, Mr. Cooper, will the construction
5 of this type of housing in the twenty-seven defendant
6 municipalities, in your opinion and that of your organiza-
7 tion, impose certain cost burdens upon those defendant
8 municipalities by way, if you will, since you are in
9 schooling, by way of costs of education, by way of municipal
10 services, by way of fire department, police departments,
11 etc.?

12 A Now, you're going to have to rephrase your question,
13 you lost me.

14 Q Would the creation of the type of housing
15 that you seek in the various defendant municipalities impose
16 additional cost burdens upon those municipalities?

17 A Let's say there is a possibility, yes.

18 Q I see, and are there certain areas in the
19 defendant municipalities, for example, Morristown, that are
20 quite wealthy -- or -- Strike that question.

21 Q Are there certain areas of Morristown that
22 are quite wealthy wherein people of higher income strata
23 live?

24 A In Morristown?

25 Q Yes.

1 A There is some, yes.

2 Q There's some. And if those cost burdens are
3 imposed upon the defendant municipalities alone, will the
4 cost burdens be shared by the persons of higher incomes that
5 are located in the municipalities that were left out of this
6 litigation?

7 A Well, that would depend on how the funding was
8 provided.

9 Q And if it were funded by way of local
10 property taxes, would that leave out the persons in the
11 other municipalities from sharing in that burden?

12 MR. BUCHSBAUM: What do you mean by "it"?
13 What's the "it" you're referring to there, the
14 housing?

15 MR. VECCHIO: Yes.

16 MR. BUCHSBAUM: There's no -- well, you can
17 answer that -- housing funded by local property
18 taxes.

19 A Let's go over that again.

20 Q Certainly. If there's housing that you're
21 talking about and are providing for rezoning for, it is
22 funded by local property taxes. Would the persons of higher
23 income in the municipalities that were left out share in
24 the burden being or attempted to be imposed upon the
25 defendant municipalities, if you understand that one?

1 A You said, if the funds were raised by real estate
2 taxes or income taxes?

3 Q I'm talking about real estate taxes.

4 A Then how could other municipalities support another
5 municipality if they're only paying real estate taxes?

6 Q That's precisely the point. And then my
7 last question to you, or next to last question to you,
8 Mr. Cooper, is, well, why didn't you join all the rest of
9 them to impose the burden equally upon everybody to pay
10 for the cost burdens that are imposed upon the defendant
11 municipalities?

12 MR. BUCHSBAUM: That one's been asked and
13 answered about five times.

14 MR. VECCHIO: I don't think this question
15 was.

16 MR. BACCETTA: Not this question.

17 A I heard you, but I'm going to have to hear it again.

18 Q Okay. In the event that the cost burdens
19 are going to be imposed upon solely the persons within the
20 defendant municipalities, why did you make a determination
21 not to join the other municipalities to require them to
22 share in the cost burden also? And I'm asking it because
23 that seems to be the fair way to do it, to me.

24 A Well, that isn't the way it operates altogether
25 in the end results. If the municipalities are found guilty

1 in this case, if there are any semblance of violation in
2 other municipalities, being well-thinking people and intel-
3 **ligent people**, I would think they would correct their own
4 **situations** as a result.

5 Q But my question to you, sir, is: Is it not
6 your opinion, as it is mine, that all of the persons should
7 be required to share in the cost burden in addition and
8 what I'm talking about specifically, are those persons
9 residing in the municipalities that were left out instead
10 of imposing the cost burdens just upon the defendant
11 municipalities?

12 A Well, I don't know to use the word "should," but
13 it would be probably helpful if we had more funds and more
14 organizations joining the plaintiff in the case, if that
15 makes sense.

16 Q Could you read the question back, please?

17
18 (Whereupon, the Reporter complies with the
19 above request and reads back the following:

20 "QUESTION: But my question to you, sir,
21 is: Is it not your opinion, as it is mine, that
22 all of the persons should be required to share in
23 the cost burden in addition and what I'm talking
24 about specifically, are those persons residing in
25 the municipalities that were left out instead of

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imposing the cost burdens just upon the defendant municipalities?")

A There is some fairness in this that some of the municipalities that were included have a very low tax rate, they could stand it.

Q Which ones have low tax rates, which ones have high tax rates and which ones were left out on that basis?

A Well, you keep coming over which ones was left out on that basis. I keep pointing out to you that no one particular criteria was used to include or exclude. That clarifies that a bit. Now, I can't give you a definite answer. I have to look at reports to find out specifically all the townships. I can think of one, which is Harding Township, has a low tax rate, Morris Township. Morris Township itself is lower than some.

Q So then it is your opinion that the cost burden should be borne just by the defendant municipalities and those communities which are already developed should not share in those cost burdens by happenstance of their living across a municipal boundary line, is that correct?

A Now, your question, just for clarification, do you have to do with the legal cost or cost of housing?

Q I'm talking about the cost of housing and

1 the costs imposed upon various municipalities as a result
2 of the construction of the housing.

3 MR. BUCHSBAUM: The basic problem with this
4 whole line of questioning is you're assuming su-
5 sidized housing is financed by the property tax,
6 which it is not.

7 MR. VECCHIO: I'm saying cost burdens.

8 MR. BUCHSBAUM: And you've not established
9 any amount. We're talking -- It could be three
10 bucks based on your questions.

11 Q Did you consider it, Mr. Cooper?

12 A Well, I was answering the question based upon your
13 framing of the circumstances, which you said that it would
14 come from the tax. If you supposed that if it came from
15 the tax burden, that was the basis for your premise of your
16 question and that's what I was speaking to. Now, of course,
17 that is not usually the basic source of funds for housing.

18 Q For the subsidization of housing. But what
19 I'm talking about are essentially the cost burdens of the
20 housing.

21 A For any of it, that's not the sole basis. You see,
22 you are supposing -- you cited if this were the case.

23 x That's correct.

24 A And I was answering in that context. But this is
25 not the basic source of improved housing.

1 Q I belabored it long enough, Mr. Cooper.
 2 Are you in favor of the -- Is your organization and are you
 3 in favor of providing for this type of least-cost housing
 4 in the various defendant municipalities by way of mobile
 5 homes and mobile home parks?

6 A If that is the best method?

7 MR. VECCHIO: Let the record indicate that
 8 the attorney gestured the witness.

9 MR. BUCHSBAUM: That record would then be
 10 incorrect.

11 THE WITNESS: The record would be incorrect.

12 MR. VECCHIO: How is it incorrect?

13 MR. BUCHSBAUM: I nudged the witness.

14 Q Can you answer the question?

15 A You asked me about that I felt mobile homes should
 16 be included, is that the essence of your question?

17 Q Let me rephrase the question then.

18 A Right.

19 Q Is it your opinion that mobile homes --

20 MR. VECCHIO: Let the record indicate that
 21 the attorney is now talking to the witness.

22 MR. BUCHSBAUM: That's correct.

23 MR. VECCHIO: I may again be incorrect,
 24 however.

25 THE WITNESS: You are correct.

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MR. VECCHIO: I was correct, thank you,
and that the attorney is still talking to the
witness.

Q May I ask you, Mr. Cooper, what your attorney
just told you?

MR. BUCHSBAUM: No, you may not. You can
ask, you won't get an answer.

MR. VECCHIO: And is there some basis for
the witness not answering what I asked him?

MR. BUCHSBAUM: It's a discussion with his
counsel.

MR. VECCHIO: And is that the attorney-
client privilege again?

MR. BUCHSBAUM: That's at least one basis.
If it's raised in motion and we think of others,
we'll raise those too.

MR. VECCHIO: I'm sure that you will.
And are you directing the witness not to answer
the question?

MR. BUCHSBAUM: No.

MR. VECCHIO: You are directing him --

MR. BUCHSBAUM: Ask your question. I have
not directed him not to answer.

Q It may have been, what time will you break
for lunch, I don't know. What did your attorney tell you?

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1 MR. BUCHSBAUM: I objected to that.

2 MR. VECCHIO: Oh, I see, and are you directing
3 him not to answer it?

4 MR. BUCHSBAUM: Wait a second, which question
5 are you talking about, the substantive question in the
6 first place?

7 MR. VECCHIO: No, as to what you told him.

8 MR. BUCHSBAUM: No, that I've instructed him
9 not to answer. Your basic question about his position
10 on mobile homes he can answer.

11 MR. VECCHIO: Fine.

12 Q Now, could you tell me, Mr. Cooper, is it
13 your position and the position of the NAACP, the local
14 chapter of Morris County, that this type of housing should
15 be provided by way of mobile homes and mobile home parks?

16 A There's some information available that would be
17 in favor of that.

18 Q Yes, but I asked you what your --

19 A See, I explained, Mr. Vecchio, that we have goals
20 and purposes in our organization. One is to provide housing.

21 Q Mr. Cooper, let me ask you in a different
22 way. Mr. Cooper, is it your position that least-cost
23 housing should be provided in the twenty-seven defendant
24 municipalities by way of mobile homes?

25 A Maybe.

1 Q Your position is maybe?

2 A Right.

3 Q Okay. Did any of the other plaintiffs in
4 this particular litigation take a different position, to
5 your knowledge?

6 A I don't recall that they did.

7 Q So that all the plaintiffs' positions with
8 reference to mobile homes was similar to yours, that being
9 maybe?

10 A Well, I haven't heard all of their testimony.

11 Q I see. But as far as you know, their
12 position is somewhat equivocal.

13 A There is some information available in favor of
14 using mobile homes to expand the housing supply.

15 MR. BUCESBAUM: I think the confusion is that
16 you're relating to every municipality in every
17 particular site.

18 MR. VECCHIO: It sure is some of the confusion
19 in this litigation. Thank you, Mr. Cooper.

20 MR. CLAPP: Before we break for lunch, I
21 want to ask Mr. Fuchsbaum if there's a stipulation
22 on the record that these three witnesses are the
23 only fact witnesses that are being provided by
24 plaintiffs, is that correct?

25 MR. BUCESBAUM: As far as the plaintiffs

1 are concerned and representatives of the plaintiffs,
2 it's not clear to me exactly. There may be some
3 public officials that we will subpoena for the trial
4 and it is not clear to me whether they would be
5 considered fact witnesses or expert witnesses by
6 virtue of their public position. They have knowledge
7 of certain facts, but they're professionals in the
8 field.

9 MR. CLAPP: Apart from officials you may
10 subpoena, are these three the only fact witnesses
11 you'll be producing?

12 MR. BUCHSBAUM: As far as I know now, yes,
13 and if there's any change in that answer, we will
14 get back to you as soon as we can.

15 MR. CLAPP: All right. And the only other
16 question is, are these fact witnesses being offered
17 in the maxi or the mini-trial?

18 MR. BUCHSBAUM: You mean as to each com-
19 munity?

20 MR. CLAPP: That's correct.

21 MR. BUCHSBAUM: It would be my assumption
22 at this point that they would be offered in the
23 first phase of the case with respect to all the
24 communities.

25 MR. CLAPP: And if your assumption changes,

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if you're going to offer these witnesses in the mini-trials, will you so advise us?

MR. BUCHSBAUM: Fine.

MR. CLAPP: Because I would like to reserve my right to question them if they're going to be used in the mini-trials.

MR. BUCHSBAUM: Right. We will advise you of that. As far as I know, that's not my understanding presently.

MR. CLAPP: I may not question now if they're only going to be used in the maxi. If they're going to be used in the mini, I would like some questions.

MR. VILLORESI: I think we should take an hour break and come back at twenty minutes after two.

MR. BUCHSBAUM: Are you done with Mr. Cooper?

MR. VILLORESI: Yes. So, we just have one witness to go.

(Whereupon, the luncheon recess is taken.)

B E A R E D. M A C I E R E S, being duly sworn, testified as follows:

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MR. EUCISBAUM: Just for the record, can we state we're operating now under the procedures we discussed at the beginning with respect to reservation of objections?

MR. MAC DONALD: Yes.

DIRECT-EXAMINATION BY MR. VILLORESI:

Q What is your address?

A Twenty-six Harter Road, H-a-r-t-e-r, Morristown, which is my mailing address, but it's in Morris Township.

Q Which plaintiff are you associated with?

A Morris County Fair Housing Council.

Q And what is your position there?

A I'm president.

Q What is the Morris County Fair Housing Council?

A It's an organization made up of volunteers, primarily, and a staff who do housing counseling services for people in Morris County, primarily.

Q And housing counseling, what does that mean? You find housing for them or --

A We try.

Q Do you do other things?

A Yeah.

Q Like?

1 A Well, we have two hundred counselors to do the --
2 they do a lot of budget counseling, pre-occupancy, post-
3 occupancy counseling. We run an emergency shelter program.
4 We run a security deposit loan program. We generally pro-
5 vide a lot of information for people calling up with housing
6 inquiries. We cannot help as many as we would like, but
7 we're the place that they are referred to often on housing
8 matters.

9 Q Now, you said it's volunteers. Are you a
10 volunteer?

11 A Yes.

12 Q How long have you held this position as
13 president?

14 A Since January 1, 1978.

15 Q Were you associated with this before that?

16 A No.

17 Q Does this Morris County Fair Housing
18 Council have a board of directors?

19 A Um-hum.

20 Q Is that how it runs?

21 A Yes, we have a board of directors.

22 Q And how was the decision made to become
23 involved in this litigation?

24 A It was made in October, '78, by a unanimous
25 decision of the board of directors of the Fair Housing

1 Council.

2 Q What occasioned or motivated the Fair Housing
3 Council to get involved as a plaintiff in this action?

4 A I think it was frustration at not being able to serve
5 as many people as came to us with housing problems over many
6 years and we saw this being involved in the suit as just
7 one of many avenues that we had pursued to enable people
8 to find more and adequate housing.

9 Q Who approached you to become involved?

10 A Well, it was, you know, we had long been wondering
11 what we could do more than what we were already doing in
12 our frustrating experience and were unable to do more and
13 then we discussed the matter with the Public Advocate's
14 Office.

15 Q Did you approach them or did they approach
16 you?

17 A Well, we had a meeting, myself and two other board
18 members, with someone from the Public Advocate's Office.

19 Q And who instigated the meeting?

20 A I think it was a combination of one particular
21 board member and the Public Advocate's Office.

22 Q After a decision was made to proceed with
23 the suit, how did you make the decision on what municipali-
24 ties to include and exclude?

25 A With informal discussions with the Public Advocate's

1 Office and among ourselves and when I say "ourselves," there
2 are members of our board who are more experienced in housing
3 in the housing field, certainly than I am, and I relied on
4 their judgment, particularly, as far as the Housing Council
5 was concerned and, you know, then there was discussion.

6 Q Who on your board were those more experienced
7 people that you relied on?

8 A What's their names? Well, one person who comes to
9 mind immediately is Jim Roberts (phonetic), who joined our
10 board, who was formerly the director of community develop-
11 ment for the county.

12 Q Yes.

13 A At that time, he was no longer the director, he
14 had gone onto another job. It was not a government job.
15 He was very instrumental. The former president of the
16 Fair Housing Council who had been the president for two
17 years before myself was involved.

18 Q What was his name?

19 A It's a her.

20 Q What was her name?

21 ~~LOIS~~ Lois Fazirani, F-a-z-i-r-a-n-i. Stuart Sendell
22 is on our board who has had long interest in housing
23 matters. I would say that these are the people whom the
24 board looked to, along with myself, for guidance.

25 Q Was each of the thirty-nine municipalities

then independently discussed?

A To my recollection, we did not do thirty-nine one at a time.

Q Do you know how it ended up that twelve were not included in the litigation?

A It was my understanding that they were not included because they didn't meet the qualifications that were set up.

Q By who?

A As I understood it, it was explained to us that it was primarily a follow-up to the Mount Laurel decision and that the criteria that were set forth in that decision were to be applied.

Q And who explained that to you?

A Well, I mean, you know, a number of people have explained that to me informally and the Office of the Public Advocate clarified the legal points for us, as well as we have an attorney on our board who helped us.

Q What's his name?

A His name is Ray Korona and he gave us the legal advice from the Council's perspective.

Q Were the twenty-seven towns that are in this litigation actually selected or recommended to you by the Public Advocate?

A All right, I will answer that. They were not.

1 A I think we were comfortable with the list as it
2 existed at the time that the complaint was filed.

3 Q In these discussions, was it indicated to
4 you that a similar lawsuit had been brought against the
5 Township of Randolph in 1972 by similar organizations,
6 including the NAACP?

7 A I knew about that suit before any discussions. I
8 mean, I knew about that privately, it was not discussed
9 particularly, as I recall, under these circumstances.

10 Q Were you aware of the outcome of that suit?

11 A Yes, I believe I was, although I'm not -- I'm not
12 sure -- I mean, I thought I was. I'm not sure if my
13 recollection is exactly what happened.

14 Q Was there any independent discussion about
15 it, though, by your organization?

16 A No.

17 Q So that the fact that a similar suit had
18 been discussed against Randolph was not discussed by your
19 organization, including them again in this new one, is that
20 right?

21 A As I recall, the only discussion pertaining to the
22 Randolph Township suit was whether or not this case would
23 be better documented, could be better documented.

24 Q The suit uses several terms, such as low
25 income, moderate income housing. Are you able to define

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any of these terms?

A I could define them for myself.

Q All right.

A I am not entirely sure I could define them to any expert's satisfaction.

Q What does low income housing mean to you as president of Morris County Fair Housing Council?

A It means housing that can be provided for people whose incomes are -- I'm trying to think of -- whose incomes are such that they cannot afford to live in housing that is mostly available in this county. I saw the figures recently, I think, for the average selling price of a home in the county and I think it was seventy-eight thousand dollars. I would not consider that anywhere near low and moderate income housing.

Q Well, in your opinion, what is the difference in income between low and moderate, is there any distinction?

MR. BUCESBAUM: Let me interject again.

This is, again, a matter for our experts to fully wash out. This is a lay witness and you will be getting information on those issues from our experts prepared on behalf of these clients.

MR. VILLORESI: I think -- I don't know.

It just seems to me if she's the president of the

1 Morris County Fair Housing Council, she should be
2 competent to testify on what constitutes low,
3 moderate income housing for, you know, for the
4 purposes of the Housing Council. I mean, people
5 must be calling every day for housing and if you
6 don't know what low and moderate income housing
7 means, you couldn't perform your job.

8 MR. BUCHSBAUM: The trouble is, if you're
9 talking in a very general way, fine. There's
10 also a term of art that has specific meaning under
11 the federal statutes. I wouldn't expect a lay
12 witness to be necessarily familiar exactly with
13 the cutoff levels established pursuant to
14 federal regulations. That's something our experts
15 will be giving you information on. A general
16 feeling she just gave you.

17 Q When your organization felt this frustration,
18 were they consulting experts to be told what the definition
19 of low income and moderate income was or is that a product
20 that's come about after the lawsuit? I mean, nobody was
21 defining for you low and moderate income when you were
22 getting calls and feeling frustrated, you couldn't find
23 housing, were they? You just knew it when a person called
24 and said whatever they told you.

25 A We knew we could not find housing for a lot of the

1 people who sought our services.

2 Q And what were the income ranges that these
3 people, you know, in general terms, had that were calling
4 you?

5 A Well, I mean, we are -- people are referred to our
6 organization, referred to us, who are from the Morris County
7 Welfare Board, from social service agencies that primarily
8 deal with low and moderate income clients. So, to that
9 extent, there is -- we're basically serving many of the
10 same people as those organizations that traditionally deal
11 with people of low and moderate income.

12 Q When a person calls your office and advises
13 you of a housing problem, do you inquire as to what their
14 income is?

15 A It depends on what they're asking us about. You
16 know, in certain cases, yes, we obviously do, if they are
17 asking us if we know of housing that's available, particu-
18 larly when it comes to rentals. There are people, for
19 example, who borrow money from us under a security deposit
20 loan program, where that information is required.

21 Q But if someone called and said they were
22 having difficulty finding housing, wouldn't you just
23 logically have to ask them, well, how much do you have to
24 spend for a house, how much do you make or how much do you
25 make?

1 A We do ask.

2 Q And what would be the lowest number they
3 could tell you that you would tell them that your organiza-
4 tion wouldn't help them because they could help themselves?

5 A I guess it would depend on the area that they were
6 looking for --

7 MR. BUCESBAUM: You mean highest number?

8 MR. VILLORESI: No. I want to know what
9 the lowest income is, is it ten thousand or twenty-
10 five thousand or thirty thousand, that they would
11 be told, don't look for legal aid, go out and get
12 your own, you know.

13 A -- Well, we do not have compiled the record of income
14 levels on our clients. We could get that, because it comes
15 in on our intake sheets. I will say that we have gotten
16 money under the Community Development Program and we have
17 been funded for a couple of years under that and part
18 of the guidelines of that program requires that you meet
19 the need of low and moderate income people and we have
20 met that need, because we have gotten the money under that
21 program.

22 Q And under such a program, what income would
23 make a person ineligible for help, how much would you make?

24 A I think it depends on the family size, you know,
25 whether -- you know, how much per family, per child, etc.

1 We could get those figures. I don't have them at the moment.

2 Q Are you aware of -- when I say "you," I mean
3 your organization.

4 A Right.

5 Q Is your organization aware of the amount of
6 housing units that this suit is demanding these municipalities
7 supply?

8 A No.

9 Q Did you ever make any recommendations, your
10 organization, to the Public Advocate on what the need for
11 housing was in Morris County in terms of numbers?

12 MR. BUCLEBAUM: I object to that as being
13 within the privilege. If you want to ask about their
14 findings, any studies they've done, independently
15 of consultation with counsel, it's fine.

16 Q Do you have any figures on, in terms of
17 numbers, the housing need for low and moderate income in
18 Morris County from your organization?

19 A Do we project such a need? I mean, do we have
20 numbers in our own mind --

21 Q Yes.

22 A -- as to what the needs would be? No, we have no
23 projected figures. We do not, internally, have communities
24 and what we consider their -- what they should provide in
25 terms of --

1 Q From the magnitude of calls that have been
2 referred to you and cases and so on, you have never come up
3 with any guidelines or any projected figures at all as to
4 how many units we need out here?

5 A No. I mean, we know where, we have a breakdown on
6 where our clients are coming from. But, I mean, we have
7 never gotten to that point, because it has never even been
8 a possibility for us to consider providing the housing.

9 Q Now, you say you have a breakdown of where
10 the clients are coming from. By that do you mean the county,
11 the town, what do you mean?

12 A We have, by town, a generalized breakdown of where
13 the contacts are coming from. This is not to say we're
14 providing strong services. It just means when people --

15 Q Do you have those numbers with you?

16 A I have a working sheet. It's based on an incomplete
17 sample.

18 Q What does that indicate?

19 A Well, it indicates that most of the context we have
20 come from Morristown and then we have quite a few from
21 Parsippany and we also have some from Dover. I think they
22 would be the top three, with Morristown being the bulk
23 of the -- or the largest.

24 Q Now, the three towns you've just mentioned,
25 are any of them excluded from this litigation, do you know?

1 A Um-hum, two.

2 Q Which two?

3 A Morrystown and Dover.

4 Q So that if people in Morrystown and Dover
5 make up two of the three towns that had the most requests,
6 why were not those two towns included in this lawsuit to
7 provide housing for the people in their own community?

8 A I'm not saying that in Morrystown and Dover we were
9 able to provide housing for these people. I'm saying that
10 those are the people who qualified.

11 Q I understand that. But wouldn't you first
12 look to the municipality they reside in to provide their
13 housing? Yet you've excluded them from the lawsuit.

14 A I don't know where they were intending to live.
15 I don't know whether the people from Morrystown wanted to
16 move to someplace else. I'm just saying that they called
17 us and had some contact with our office.

18 Q How big of a sample do you have, how many
19 people called from Morrystown?

20 A That's based on a twenty per cent sample.

21 Q And what was the number?

22 A Well, it was thirty-seven per cent.

23 Q Of the calls you received for housing prob-
24 lems?

25 A Contacts was the definition.

1 Q Were presently residents of Morristown?

2 A (Witness gestures.)

3 Q And what per cent was Dover and Parsippany?

4 A Eight for Dover, fourteen for Parsippany.

5 Q And who was the fourth town?

6 A Morris Plains.

7 Q What per cent?

8 A Five. Do you want the point? I mean, I'm giving
9 you just --

10 MR. KATZ: Could we have the document?

11 If you have a document, could we have it marked for
12 identification? You refer to a document, make it
13 available to everyone.

14 MR. BUCHSBAUM: This is a working paper which
15 we reserve the right to update. It was done as a
16 reference material for this particular deposition
17 and it's an incomplete sample. Your anticipating
18 questions along these lines?

19 MR. KATZ: For purposes of the deposition,
20 let's mark it.

21 MR. VILLORESI: Let me look at it.

22
23 (Document is handed to Mr. Villorresi.)

24
25 MR. VILLORESI: Mark this, please.

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1 (Whereupon, the Reporter complies with the
2 above request and marks the above-described exhibit
3 as P-1 for identification.)
4

5 Q What are the other sheets that I see you
6 have there, worksheets, what do they relate to?

7 A They relate to sources of funding and total number
8 of contacts made by the Council over a year, as well as a
9 breakdown by months on those contacts.

10 Q And was your organization ever able to make
11 any projection as to the housing need based upon review of
12 these annual and montnly contacts that you received?

13 A Nothing specific. I mean, we -- it was a broad
14 base concern that there simply was not enough of what we
15 needed to provide, the services we were being asked to pro-
16 vide.

17 Q What does it show for how many contacts you
18 had in the course of the year?

19 A Two thousand, the figure is 2,057 for total number
20 of contacts made to our office.

21 Q Now, if the same person contacted you on
22 more than one occasion, would it be recorded as more than one
23 contact or just one?

24 A I did not do this analysis. I could find that out.
25 My guess -- my judgment would be that it would be new contacts.

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Q And what year is that for?

A That's for March, '78, through March, '79.

MR. VILLORESI: Could we have that marked, please?

(Whereupon, the Reporter complies with the above request and marks the above-described exhibit as P-2 for identification.)

Q Of these 2,057 that are identified there, how many of them related to contacts from persons that couldn't find housing, however --

A As opposed to what?

Q Well, I notice a lot of those things -- a lot of these categories would appear to indicate other problems.

A You mean, tenant-landlord, for example, as opposed to shelter needed?

Q It says here you had 147 requests for listing of housing.

A Um-hum.

Q Which wouldn't mean the person didn't have any, right, it would mean they were asking you, so you know whether there was some available?

A Right.

1 Q Another 237, it just said, requested informa-
2 tion.

3 A Um-hum.

4 Q Another 1,017 tenant-landlord problems,
5 code violations, all kinds of breakdowns. In other words,
6 the number 2,057 did not represent 2,057 contacts saying
7 we can't find housing.

8 A That's right.

9 Q Can you tell from that sheet how many
10 refers to problems where people said, we can't find housing,
11 in the course of a year?

12 A Well, there's a figure of 481 under a heading called
13 "Shelter needed," either which -- underneath it says either:
14 apartment wanted, security deposit money requested for
15 emergency shelter.

16 Q Do you have a statistic as to those four
17 hundred people of how many you found housing for?

18 A No, we don't.

19 Q Did you find housing for any of the four
20 hundred?

21 A Yes.

22 Q More than half of them?

23 A I can't answer that.

24 Q Now, you've said that your organization
25 does not know how many housing units the Public Advocate is

1 Demanding in this litigation, is that correct?

2 MR. BUCHEBAUM: I think that's --

3 A We don't know how many their experts have projected,
4 no.

5 Q Would it make any difference to your
6 organization how many they were demanding in this case?

7 A I think, yes, it would be of interest.

8 Q But, I mean, would you support them if they
9 were demanding a million units when you've had four hundred
10 requests in the course of a year, would your organization
11 support that?

12 A Is that a serious question?

13 Q Exactly.

14 A No, we would not support them if they were seeking a
15 million units.

16 Q Four hundred contacts in one year for housing
17 would seem to indicate a lesser number than a million, isn't
18 that correct?

19 A Yes.

20 Q Does your organization have any projection
21 whatsoever as to how many units would satisfy the Morris
22 County Fair Housing Council?

23 A No.

24 Q Does your organization care about how many
25 units are forced on Morris County?

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1 MR. BUCHSBAUM: I object to the phrasing of
2 the question. Just --

3 A. Our organization cares very much that the needs of
4 people in the county, as far as adequate and decent housing,
5 affordable, decent housing, it is concerned very much.
6 Historically, we have been concerned about whether or not
7 those needs are being met.

8 Q Then why haven't they, your organization,
9 ever taken the time to figure out how many units there
10 should be?

11 A. Because it was never conceivably possible for us
12 to provide that. So, there's never --

13 Q Why do you say that you would need to provide
14 it, wouldn't you simply need to come up with a number and
15 then approach the thirty-nine municipalities to have it
16 satisfied?

17 MR. BUCHSBAUM: Wait a second. I think
18 there's a misunderstanding here. Our experts are
19 producing numbers and, as I understand it, at this
20 point, there's no firm single number they've yet
21 arrived upon. That will be prepared on behalf of
22 the Fair Housing Council.

23 MR. VILLORESI: We've been told that the
24 DCA report you gave us is the number that will be
25 required of each municipality. That's what it says

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in the information that I've seen. It said that's
the report that you've relied on.

MR. BUCHSBAUM: That's the report we
initially relied on as a --

MR. VILLORESI: Is that being shaved down
now --

MR. BUCHSBAUM: I can't say at this point,
no. We regard that report as conservative. I don't
know.

MR. VILLORESI: -- in light of the fact that
there's been four hundred and some requests a year
from the organization in this county that handles
the very problem?

MR. BUCHSBAUM: Which you will be receiving
and you'll have the opportunity to depose the particu-
lar experts involved. Why don't you leave that matter
to them?

MR. VILLORESI: What I'm trying to get from
this witness is, is the Morris County Fair Housing
Council blindly proceeding in this litigation without
even knowing how many units are needed and how many
units the Public Advocate is demanding these municipali-
ties provide?

MR. BUCHSBAUM: They're relying on the
advice of experts, like most plaintiffs do.

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1 MR. VILLORESI: Well, I'm asking that question,
2 are you objecting to that question?

3 MR. BUCHSBAUM: You can answer it. It answers
4 itself. Are you blindly following anybody?

5 THE WITNESS: Would you please repeat the
6 question?

7 Q I want to know if the Morris County Fair
8 Housing Council is a blind plaintiff in this suit without
9 regard to how many units they feel are necessary in Morris
10 County?

11 MR. BUCHSBAUM: I'm going to object to the
12 question and instruct her not to answer, because
13 it appears to be seeking consultation with counsel
14 and the ultimate purpose of that question is to
15 derive information about conversations between the
16 plaintiff and its attorney. That's where the question
17 leads and I object to it on that basis and instruct
18 the witness not to answer.

19 Q Are you privy to any of the pleadings,
20 affidavits, documents and data in this lawsuit, is your
21 organization?

22 A Yes.

23 Q Has your organization looked at any of that
24 material?

25 A I have done my very best to read through the briefs

1 and the motions.

2 Q But your organization or at least you do not
3 know how many units are being required in this litigation
4 under the reports that have been provided to us --

5 A No.

6 Q -- is that right?

7 A At the moment, I do not. I have not received a
8 copy of those reports.

9 Q From your experience as president since
10 January of 1978 of the Morris County Fair Housing Council,
11 do you see a need for fifty thousand units in Morris County
12 in these twenty-seven towns?

13 A I can't give a specific answer to that. My experi-
14 ence as president is one mostly as head of a volunteer
15 organization. We have a staff, a paid staff, that perhaps
16 could give you a more complete answer to that. I cannot.

17 Q Suppose when these four hundred people had
18 called, you had been able to place every one of them in
19 decent housing in Morris County. Would your organization
20 have been party to this suit?

21 A I think that -- my response, my instinct, would be
22 that this 401 is a very small percentage. I'm sure we don't
23 talk to anywhere near the numbers of people who would like
24 to live here or would like to move from one town to another
25 to different kinds of housing. We don't submit this in any

1 way to suggest that there are only 481 people who would like
2 shelter in the county. This is just --

3 Q What do you think that does indicate then?
4 Is it worth anything?

5 A I think it shows -- I mean, we are a very small
6 organization. We operate on a small budget and we're
7 constantly busy.

8 Q So that I deduce your answer is that if
9 you had satisfactory accommodations for those 481 people,
10 481 families, that would not have satisfied you, you still
11 would have become part of this lawsuit, is that right?

12 A That's a hypothetical question. I can't imagine
13 what we would have done.

14 Q Well, I think your opening statement was
15 that your organization was frustrated.

16 A Um-hum.

17 Q Now, is there anything beyond the complaints
18 on this page that you receive -- this is apparently the
19 calls you receive every day or the people that come in to
20 see you -- is there anything beyond that that frustrated you?

21 A Well, I don't think we meet the needs as well as we
22 would like to of those people who come to us for services.

23 Q But I'm saying, hypothetically, suppose you
24 could?

25 A I can't answer that. I mean --

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Q You would feel frustrated if you could provide housing for the 401 that needed it?

MR. BUCHSBAUM: First of all, she's already said three times she can't answer it. Second of all, there are some other categories in there, such as evictions, another 202, which clearly sounds like people being tossed out of housing. So, I don't know that your characterization of the total amount is accurate. The main point is she's answered the questions three times already to the best of her ability. Let's go on to something else.

MR. VILLORESI: I don't think she's answered it at all. That's where we're going on, because it's not a proper answer to say it's hypothetical and, therefore, I can't answer it. It certainly is not a proper answer.

MR. BUCHSBAUM: It's the best answer she can give.

Q Did your organization ever contact any of the thirty-nine of the twenty-seven municipalities that you've viewed to discuss with them providing housing for these people?

A Well, in this sense, yes, because we are -- we participate in the Community Development Program. One of the offshoots of our organization is something called the

1 Community Development Monitoring Task Force. It is that we
 2 are one of the -- we were one of the people who were monitor-
 3 ing where the community development funds went. In light of
 4 that, we had urged for some time that the communities come
 5 up with goals for their communities.

6 We had a hard time with housing goals, getting all
 7 communities to do that. I think we have urged municipalities
 8 to join -- to form either their own housing authorities or
 9 become members of the Community Housing Authority. I think
 10 that we have lobbied, certainly, to get communities to assess
 11 their --

12 Q Have any of these communities joined this
 13 Morris County Housing Authority that you've lobbied for?

14 A Yes, I believe so. This is before my tenure. I
 15 could check.

16 Q Are any of these communities that have joined
 17 still defendants in this litigation?

18 A I don't know the answer to that.

19 Q Had your organization ever gone directly
 20 to a municipality and met with its council or planning board
 21 and suggest~~ed~~ed or asked that they provide housing for low and
 22 moderate income people?

23 A I personally have not. I think there have been
 24 members of our board who have, but I would have to check that
 25 out.

1 Q Do you know whether any of those efforts
2 have been successful?

3 A I don't know. I know we have board members who have
4 been very active in their own communities pressing for
5 increased housing.

6 Q Were these factors considered when the
7 twenty-seven municipalities were selected to be sued?

8 A The factors, basically, that we consider that I
9 think touch on your question are that we felt that we had
10 done as much as we possibly could and will continue to do as
11 much as we can to get communities to help us in providing
12 this housing. We saw this as one more means of increasing
13 the supply.

14 Q But a municipality that had, let's say,
15 joined the County Housing Authority, partially as a result of
16 your urging, was that considered as a factor in not including
17 that municipality in this litigation?

18 A I'm not sure that we discussed it that way. I think
19 that we gave some information as to which municipalities we
20 thought were moving in a certain direction or not moving
21 in a certain direction, but that's as specific as it got.

22 Q Does the Morris County Fair Housing Council
23 seek to provide housing in Morris County for non-county
24 residents?

25 A We provide services for people who call us from

1 other counties, if that's what you mean.

2 * But is it the position of your organization
3 that Morris County should provide housing for low and moderate
4 income from other towns?

5 A It would be our position that for people who wanted
6 to live here to be able to purchase housing that they could
7 afford, if they were being transferred from another state,
8 if they wanted to --

9 Q Suppose they weren't being transferred at
10 all, suppose they lived in Paterson right now, had a job
11 outside of Morris County; is it the position of your organiza-
12 tion that Morris County should be required to provide hous-
13 ing for them?

14 MR. BUCHSBAUM: Do you mean some such people
15 or all such people?

16 MR. VILLORESI: Some such people.

17 A That the county should provide housing that they --

18 * For a person who presently lives and works,
19 let's say, in Passaic County.

20 A Yes. If that person that you're speaking of wanted
21 to live in Morris County, our feeling would be that he should
22 have an option of housing in different kinds of housing that
23 he could afford.

24 Q Would Morris County be required to provide
25 transportation for him to his job in Passaic County?

1 A We have no influence on transportation routes.

2 Q No, but is that a factor that you would
3 consider in determining whether we should provide housing?

4 A I think we would consider it. I mean, I don't
5 think that that's what we spend our time doing.

6 Q Of the 2,057 contacts in the twelve-month
7 period terminating a couple of weeks ago, how many of them
8 came from residents outside of Morris County?

9 A I don't know, I don't know.

10 Q Well, if you had a breakdown by municipality
11 you do, on P-1, it says 2.4 per cent of the contacts in this
12 sampling came from outside Morris County.

13 A Um-hum.

14 Q Do you have any statistical data from any
15 period other than this sampling here that would indicate
16 the percentage of contacts from outside Morris County you
17 received?

18 A In the years preceding this period?

19 Q Yes.

20 A I don't think we have it in that kind of form. I
21 think we could get it.

22 Q Do you have any personal recollection as to
23 whether this sampling of 2.4 per cent is consistent with
24 prior years?

25 A No, I don't.

1 Q Do you usually answer the phone whenever a
2 housing call comes in or is there a staff member who does
3 it?

4 A It's a staff.

5 Q When these people make contact with you,
6 are there cases where you can't find them any housing?

7 A Yes.

8 Q Can you give us any rough percentage how
9 often that would be, half the time, one out of ten?

10 A I mean, apartments, of course, would differ,
11 requests for apartment shelter would differ from housing.

12 Q Apartment, for example, what would be,
13 off the top of your head -- in other words, are you sending
14 away mostly dissatisfied customers or are you finding ac-
15 commodatons for most of the people that come to you?

16 A We're finding few accommodations for most of the
17 people that come to us.

18 Q Few?

19 A Few.

20 Q So that most people are sent away without
21 accommodations?

22 A Yes.

23 Q Do you ever find out where those people go,
24 what happens to them?

25 A Followup, you mean?

PERGAD CO., BAYONNE, N.J. 07002 FORM 2046

1 Q Yes.

2 A Vary rarely, to my knowledge, vary rarely. We have
3 other ones to replace them.

4 Q Why is it that only towns in Morris County
5 were included in this lawsuit?

6 A When we discussed it as from our perspective as a
7 council, there was a unit known as Morris County that we
8 served and it was that unit that was considered, at least
9 in our discussions. There was never any discussion of going
10 beyond that and that's what we were interested in.

11 Q Do you ever have occasion when someone
12 seeks housing through your organization to attempt to locate
13 them outside of Morris County by contacting the Housing
14 authority or a housing council in some other county?

15 A There is only one other housing council in the
16 state of New Jersey and that's in Bergen County and we
17 have little formal communication with them.

18 Q Do you ever locate people in the more
19 rural counties, like Sussex and Warren, that ask from
20 Morris?

21 A We may have. That is not something that we spend
22 a lot of time with. We, basically, have enough to do in
23 Morris and we don't have any affiliation with any other
24 housing organization, other than the one in Bergen, at all.

25 Q You said that this was discussed by your

1 membership and you mentioned the names of three or four
2 people who had special expertise. What were the factors that
3 were discussed in this meeting or these meetings that were
4 determined that a town should be included in this suit?
5 A As a board, we spent little time discussing -- as
6 a whole group, we spent little time discussing individual
7 communities. What we did do was to figure out whether in-
8 volvement, our involvement, in this was consistent with our
9 philosophy and/or ideals and when you mentioned those board
10 members with expertise, I would change that to say influence.

11 Q From your knowledge, does any member of the
12 Fair Housing Council know how many units are being sought
13 in this litigation, from what you know?

14 A I would expect that some would.

15 Q But you don't know whether they do or not.

16 A No, I don't.

17 Q If your organization was successful in this
18 litigation, how do you feel that it would help the situation
19 which you're trying to remedy?

20 A How would our organization help?

21 Q No. How would winning this case help?

22 A It would make available more housing to low and
23 moderate income people, hopefully. At least our expectation
24 was, as a board, that it would at least be one step in that
25 process.

1 Q Is it your organization's position that if
 2 municipalities zone for more apartments and more small
 3 lots, that this will, in any significant way, help the
 4 housing situation?

5 A I think it would be a fair statement to say that
 6 that would be our position.

7 Q Is it your position that you're also seeking
 8 subsidy in this litigation or simply zoning change?

9 A At the time that we began, it was to address the
 10 zoning change problem, that's why we got into the litigation.
 11 We felt it was a philosophical decision on our part.

12 Q Do you have statistics on what the rentals
 13 are, monthly rentals are, in this county for one and two-
 14 bedroom and so on?

15 A As part of our community development application,
 16 I just read a figure that said that the average rental was
 17 \$240 per month, average rent in the county is \$240 monthly.

18 Q Now, is that a rental that can be afforded
 19 by a low or moderate income person?

20 A Well, I would think that that would be a, perhaps,
 21 a low figure to start with, \$240 a month, but --

22 Q Where did that figure come from?

23 A That came from a county --

24 MR. DUCESBAUM: Explain this figure is

25 several years old and we will be undertaking some

1 further analysis. This figure is based on material
2 that was submitted several years ago and not updated
3 over the last year or so. This figures does not
4 constitute a final analysis of the --

5 Can I see that, where you read that figure
6 from, please?

7 This is our community development application.

8

9 (Document is handed to Mr. Villoresi.)

10

11 MR. VILLORESI: On what do you base the
12 statement that this is two years old? This, I mean,
13 this application says it's for '79, '80 and '81
14 community development funds.

15

16 MR. BUCHSBAUM: Because it was on an
17 application that was submitted in previous years
18 and the same figure was contained and just carried
19 through. It was obvious there's no updating of it.
20 The context of that particular application, too,
21 there was no real need to update it.

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26

(Whereupon, the Reporter complies with the
above request and marks the above-described exhibits

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Identification.)

County Fair Housing Council

litigation?

this application here marked

and Application?

the executive director with the

with.

director of who, of your organiza-

with the statement that the

years old?

do you know the answer?

72,000 housing units in, I

twenty-one per cent are owner-

rental.

three per cent missing. That

it seems that they're single-

PENNSAID CO., BAYONNE, N.J. 07002 - FORM 2048

1 A I think the housing units, and I would have to check
2 this, of course, I think the units means a combination.

3 Q Everything.

4 (Witness gestures.)

5 Q Okay.

6 A Units being where people can live.

7 Q Are you familiar with what the ratio of
8 owner-occupied and rental units are in other counties?

9 A No.

10 Q Do you know whether a 71-26 ratio is good,
11 bad or in the middle?

12 A I don't know.

13 Q What other goodies did you bring for us here?

14 A I brought none of this for you, in fact, I brought
15 it for me. The rest of this, to the best of my knowledge,
16 you've been supplied with, including our bylaw, our board
17 list.

18 Q What is that, the --

19 A This is an estimated income from what we do with
our money.

20 Q Where you spend your money.

21 A Well, where it comes from, primarily. Mostly, we
22 spend it on salaries.
23

24 Q Can I look at the papers that you have?

25 A Bylaws, reporting staff.

Documents are handed to [redacted]

2



Is your organization supported by contributions from municipalities?

3

A No.

4

Do you ever get contributions from municipalities,

7

ties, from municipal budgets?

8

A Not to my knowledge.

9

Q How do you get to be a member of the Fair Housing Council, are they appointed by the

10

know you're volunteers, but how do you get

11

A To be a member, you really have to

13

which is two dollars a month, and, mostly, it

14

are interested in the general purposes of the Council. We

15

do also, of course, have people whom we have tried to serve

16

or served who support what we do and then become a member of

17

the organization. What you're looking at is the executive

18

board.

19

Q Are any of the members on this sheet planners,



by profession, if you know?

22

(Document is handed to witness.)

23

24

A I suppose I'm not really sure. You know, a degree

25

in planning, anyone who has a degree in planning?

PENGAD CO., BAYONNE, N.J. 07002 FORM 3244

1 Q Yes, that, you know, practices in their
2 profession.

3 [REDACTED] 1, there are two members of our board who are
4 [REDACTED] constantly involved in housing, you know, whether or
5 not they are, in fact, planners by degree --

6 Q And how are they involved in housing?

7 A Well, as I explained, Jim Roberts was the director
8 of the Community Development and he has long been involved
9 in housing and housing issues. Another member of our board
10 works for a mortgage company and deals with housing.
11 I'm trying to think of anybody else. Most of the [REDACTED]
12 our board are simply people who are interested [REDACTED]

13 Q Do you have any charts, guidelines, when
14 someone calls you that, after they tell you what their
15 income is, you put them into a, you know, into a chart as
16 to what they could afford for housing; do you have any
17 such numbers?

18 A I don't with me.

19 Q But do you have it in your job or does
20 [REDACTED] of your organization -- Is there such a formula if a
21 [REDACTED] person calls and says, you know, I make nine thousand dollars
22 a year?

23 A Do we put them in the nine thousand-dollar box?

24 Q Yes.

25 A Yeah.

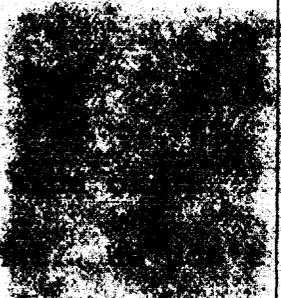
PENGAD CO., BAYONNE, N.J. 07002 FORM 2046

1 Q That you can afford rent of two hundred and
2 four dollars then or some such -- is there any such relation-



3 all, I mean, as part of the HUD counseling that
4 we do -- and we have, at this point, three people on our
5 staff who perform that -- they are required to take a
6 fifteen-week course. Part of that course is to counsel
7 people as to what they can afford and the formula, I think,
8 that I've heard them use is that a week's, one week's,
9 salary should be the rent.
10

11 Q Be the rent?

12 A Be the rent. I mean, if you mean that 
13 thing, we do do counseling for families like that --
14 I don't think we keep, as you're saying, well, all these
15 people in this box need, you know, have this income level
16 and would have that need and then have a progression. We
17 don't, to my knowledge, do it that way. It --

18 Q Do you find, when you try to place people,
19 that they can't get housing because there is none or because
20 they can't afford it?

21 A There is no affordable housing for those particular
22 people.

23 Q But there is housing if they had the sufficient
24 income or funds.

25 A Well, you know, I am sure that before I could find

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1 another house, but I think that fewer and fewer people are
2 finding that. I think people are worried about whether or
3 ~~they~~ had to move they could buy back their own house.
4 ~~Do you think that that's as a result of~~
5 zoning or other factors?

6 A I think it's certainly a combination of factors and
7 I think the Council feels that it was true, that our involve-
8 ment at this level is just to address one part of that
9 problem, not the complete picture, by any means.

10 Q Does your organization take any ~~position~~ on
11 the question of what the small lot zoning size ~~is~~
12 a municipality?

13 A No.

14 Q Do you take any position on how many apart-
15 ments an acre a municipality should zone for?

16 A No, we have no figures like that.

17 MR. BUCHSBAUM: Just to clarify, we are
18 preparing some expert reports in those areas as
19 well, which will be the position of the plaintiff.

20 MR. VILLORESI: I have nothing else. Pass
21 on to other attorneys, if there are any, that want
22 to ask anything.

23 MR. BACCHETTA: I have a couple of questions.
24 If I could have P-1, whatever it is.

25

1 DIRECT-EXAMINATION BY MR. BACCETTA:

2 Q Mrs. MacInnes, on P-1, which I show you here,
3 [REDACTED] of contacts made during the year ending September 30,
4 1978, I don't see Pequannock listed on here. Was there any
5 contacts made from the Township of Pequannock?

6 A If it's not listed on there, I think, probably not.

7 Q So that would be on September 30, 1977,
8 to September 30, 1978?

9 A Um-hum.

10 Q Okay. You stated that you are a volunteer
11 president of the Fair Housing Council and before that you
12 were not a member of the Fair Housing Council. [REDACTED]
13 from --

14 A Nothing to president.

15 Q How did you get to that position?

16 A I think the nature of a volunteer organization is
17 such that when you find somebody who says that they are
18 interested, committed and available, that they are snapped
19 up.

20 Q Nobody else wanted the job?

21 A That's it.

22 Q There's no hard and fast cutoff, as far as
23 dollar figure goes, as to what would constitute a low and
24 moderate income family, as far as the --

25 A We do not have one that is a working figure for us.

1 Q Okay.

2 A Let me just say, I am saying that from my point of
3 [REDACTED] the executive director was here, she, perhaps,
4 [REDACTED] you that answer. I'm speaking for myself more
5 than for the entire organization on that one.

6 Q You stated before when Mr. Villoresi asked
7 you a few questions that Fair Housing Council gave input
8 regarding certain towns which were moving in certain direc-
9 tions.

10 A Um-hum.

11 Q This input was given to whom, the Public
12 Advocate?

13 A We shared our feelings on that with the Public
14 Advocate.

15 Q Was this information given to anyone else?

16 A For example.

17 Q Any other agency.

18 A No, not that I can think of.

19 Q Were there any standards set for what
20 constituted a town moving in a certain direction?

21 [REDACTED] MR. BUCHSBAUM: Getting into the details
22 of this conversation which was discussed with the
23 Public Advocate goes to the question of a discussion
24 between an attorney and client.

25 Q The statement was made, towns moving in

1 certain directions. What does that mean?

2 " Certain directions, as far as we were concerned,
3 cooperation.

4 Cooperation with what?

5 A Cooperation with this Community Development Task
6 Force monitoring process and other cooperation, you know,
7 willingness to discuss and a little foresight.

8 Q How would this cooperation be manifested,
9 that's what I'm trying to find out?

10 MR. BUCHSBAUM: Again --

11 A I think it would help if I clarified this for every
12 body. Up at the top of what's now P-1, which is the list
13 of contacts made, it says, community development housing
14 counselor. This is one person in our office, okay, this
15 is not the office.

16 MR. BUCHSBAUM: That question, again, is
17 calling for a discussion between counsel and client
18 and I think it's not a proper question and I instruct
19 the witness not to answer.

20 MR. BACCHETTA: I'm not asking for anything
21 that's privileged. I want to know what was meant
22 by, moving in certain directions. All I got so far
23 is cooperation. I don't know what cooperation with
24 what. Does this mean you have to rezone your entire
25 town to show cooperation or does this mean a simple

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

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hand shake and a nod of the head, yes, means cooperation?



MR. BUCESBAUM: That gets to the details of the conversation that they had with their counsel.

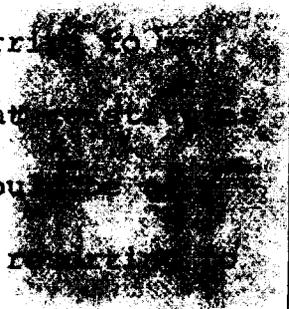
MR. BACCHETTA: When you say "with their counsel," you mean with their attorney?

MR. BUCESBAUM: Right.

THE WITNESS: Are you referring to them?

MR. BUCESBAUM: Hold it.

MR. BACCHETTA: I'm just referring to



and I go back to my same question, what is moving in certain directions. This would be a standard that can be supplied without revealing any attorney-client privilege information.

MR. BUCHSBAUM: No. These are in the context of discussions that were held with counsel and advice back and forth with respect to the litigation. It's clearly within the privilege and I instruct the witness not to answer.



The Fair Housing Council spoke to a representative of a certain municipality and that representative of that municipality said, yes, I will go back to my council, we will consider putting up a four hundred-unit low income apartment building. Would this be considered cooperation?

MR. BUCESBAUM: Well, now, you're asking a

question as to what terms we would settle the lawsuit
on our --

MR. BACCHETTA: I'm not asking that at all.

Would that be considered cooperation, pure
and simple, yes or no?

MR. BUCHSBAUM: If you're asking generally
rather than with respect to discussions with counsel --

MR. BACCHETTA: I am.

MR. BUCHSBAUM: Okay.

A You'd better repeat it now.

Q The Fair Housing Council spoke to [redacted] [redacted]
ity through its representative and that representative
yes, we will put up a building with x number of units to
service a low and moderate income family. Would that be
considered cooperation?

A That would be considered more than cooperative.
I mean, there have been certain towns that we deem cooperative
with even less.

Q And if that --

A Willingness to discuss, willingness to even set a
goal, willingness to make an assessment of housing avail-
ability or housing needs.

Q So, if that same representative --

A That's what I consider.

Q -- in the example I gave said, yes, I'll go

1 back to my council and we will consider such a construction
2 such unit, would that be considered cooperation?

3 [REDACTED] It would be considered better than some.

4 Q Would that municipality in the hypothetical
5 that I'm speaking of be considered to be moving in a
6 certain direction?

7 A Yes, but it would not necessarily mean that we felt
8 that that municipality was doing all it could to provide.
9 It would simply set it apart from those who would not even
10 be willing to discuss.

11 Q Can you provide me with any names
12 municipalities who have moved in a positive direction?

13 A Before I do that, I would want to have a confer-
14 tion with the person who monitors this kind of activity
15 for us.

16 Q It wasn't you personally?

17 A No, it was not.

18 Q So, you have no personal knowledge at this
19 time.

20 A Yes.

21 MR. BACCHETTA: I have no further questions.

22

23 DIRECT-EXAMINATION BY MR. KATZ:

24 Q Mrs. MacInnes, you are aware, of course,
25 that a number of towns, municipalities, in Morris County are

1 not named in the suit.

2 A Yes.

3 Q Would it be a fair statement to say that these
4 [redacted] were not named in the suit as a result of advice you
5 received from the Public Advocate?

6 A I wouldn't say exclusively. That was a large --
7 some part of it.

8 Q That was part of it. What are the other
9 parts?

10 A Our own judgments.

11 Q Okay. What factors did you rely
12 to your judgment in the matter?

13 A We relied upon our own information as a
14 own experience.

15 Q I assume that there came a time when you made
16 an indication to the Public Advocate as to which towns you
17 felt should be included.

18 A We discussed it with him, yeah.

19 Q Was there at any time -- did you come to a
20 conclusion and advise the Public Advocate of your conclusion
21 being the Council's conclusion?

22 A We made recommendations to them.

23 Q Okay. Were those recommendations accepted
24 in whole by the Public Advocate?

25 MR. BUGASBAUM: I object to that question.

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same grounds, asking for the substance of conversations between attorney and client.

MR. KATZ: I don't think I'm asking for the substance of the conversation.

MR. BUCHSBAUM: Yes, you are, in my judgment, trying to determine whether there was a -- whether the client-attorney had a disagreement concerning discussion of the case. That's the heart of the attorney-client privilege right there.

Q Did at any time you advise Public Advocate's office that you wish all municipalities to be included in the lawsuit?

MR. BUCHSBAUM: I object to it on the same grounds and instruct the witness not to answer. These objections are also indicated in the last depositions, supported by a brief that they're not probative.

Q The Fair Housing Council has an attorney --

Yes.

Q -- Mr. Korona.

A Yes.

Q And is he a paid staff member?

No.

Q And you continue to receive advice from Mr. Korona relative to this suit?

1 We -- he receives, I think I'm right on this, the
2 documents --

3 MR. BUCHSBAUM: Right.

4 A -- all the documents that I see that come from the
5 Public Advocate's office from time to time. I have called
6 him to help, you know, with some legal information or to
7 help me from a paralogistic point of view.

8 Q With regard to this particular action?

9 A Yes.

10 Q So, you do receive some legal advice from
11 Mr. Korona relative to this action.

12 A Yes.

13 Q You also testified as to a number of calls
14 or one of the documents marked for identification indicates
15 as to a number of calls that one of the staff members re-
16 ceived. I think the number was some four hundred and some-
17 thing for housing.

18 MR. BUCHSBAUM: That was all the calls in
19 the whole year that the whole organization received
20 on apartments.

21 Q Would it be true that there are a number of
22 calls for people who have no assets, no income, who are
23 in need of housing?

24 A I don't know. I mean, I know basically the kind
25 of clientele that we serve. I could guess that over a year,

1 perhaps, we have some. That certainly would not constitute
2 the vast majority of people that we deal with.

3 Q And the Council has no projections as to the
4 number of moderate, low income housing that would be needed?

5 A No, we have none of our own.

6 Q And you have no records or no indications
7 that you know of as to how many people you've actually --
8 how many people who have actually called that you've been
9 able to help?

10 A That I could get easily.

11 MR. KATZ: I have nothing else.

12

13 DIRECT-EXAMINATION BY MR. NICOLA:

14 Q My name is Ronald Nicola. I represent the
15 law firm of James, Wyckoff, Vecchio & Pitman and I'm here
16 for Mr. Vecchio for the Township of Roxbury.

17 Mrs. MacInnes, when you were asked a little
18 while ago with respect to whether you had -- whether your
19 Council had any projections for lot size that you thought
20 would be appropriate for --

21 A Our Council being not --

22 MR. BUCHSBAUM: Fair Housing Council.

23 Q -- meaning the plaintiff, the plaintiff
24 Council --

25 A Yes.

1 Q Okay. -- your organization had any projec-
2 tions regarding lot size and you indicated no.

3 A That's right.

4 Q And as far as apartments per acre, you
5 indicated no; in other words your organization has not
6 independently, through the use of any other experts prior
7 to getting involved with the Public Advocate, come up
8 with some projections for housing in Morris County other
9 than your own philosophical feelings that there is an
10 inadequacy of housing for the clients you serve, is that
11 correct?

12 A We had no plan.

13 Q Before any involvement with the Public
14 Advocate, you had no plan, that is, no independent survey
15 by any of your members, no independent hired expert with
16 respect to trying to take the samples you have and define
17 them more clearly as to whether or not the sample figures
18 you were talking about represented, based on the percentage
19 you have there, whether there was a greater demand than what
20 figures came through your office, that is, what actual phone
21 calls came through your office; you have no other projections
22 outside of that, is that correct?

23 A Yes --

24 Q Do you understand what I'm saying?

25 A I think I'll --

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

1 Q Maybe I'll rephrase it.

2 A All right.

3 Q You have a feeling, a gut reaction, that
4 there's more demand out there than comes through your office.
5 That's what you've, in essence, said.

6 A Yes.

7 Q Prior to getting involved with the Public
8 Advocate, did you or your organization do anything to see,
9 through a survey or the hiring of an expert or counseling
10 with any people in the field of planning or housing accom-
11 modations, try to ascertain whether your feelings, in fact,
12 could be supported in any other way by other objective
13 evidence, such as sampling --

14 A All right.

15 Q -- knocking on doors or whatever?

16 A During my term, to my knowledge, we did not do that.
17 We had no -- We had no resources at all to hire experts to
18 make the kind of survey that I think that you're talking
19 about, as I understand.

20 Q So that you dealt with the Public Advocate
21 purely from the point of view of the information you had
22 from those counselors indicating that x percentage dealt
23 with concerns for housing, and certain percentage dealt with
24 security deposit requests and a certain percentage dealt
25 with racial discrimination, whatever, in terms of the contacts

1 that come in through your office, correct; so, not all the
2 contacts that come into your office are actually seeking
3 to have an apartment or a house, correct?

4 A Not all.

5 Q Okay. I think you made that clear, but I
6 just wanted to go over that, because you knew that and yet
7 you didn't do anything else on your own during this last
8 year before this suit to try to find out whether your
9 beliefs that there was inadequate housing could be substan-
10 tiated?

11 MR. BUCHSBAUM: I think that's a form of
12 argument with -- an argument rather than a question.
13 You have a question, state it.

14 MR. NICOLA: It was a question. It was a
15 rephrasing of the question.

16 MR. BUCHSBAUM: Could you rephrase it?
17 Because I understood it to be a statement and
18 argument rather than a question.

19 MR. NICOLA: Maybe it was and I don't want
20 to do that.

21 Q I think you answered the question, you
22 didn't do anything else in terms of trying to ascertain
23 whether your beliefs of inadequate housing could be supported
24 by any other surveys or experts.

25 A We did not, nor can we -- are we able to right now,

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1 nor were we able to have any expert kind of survey done. We
2 simply are an organization that now has three paid staff
3 members and the volume of housing requests, shelter, you
4 know, whether you're talking about housing or apartment,
5 is very high. We are very busy.

6 Q I'm sorry, go ahead, I didn't mean to
7 interrupt you. You said the volume of requests is high.
8 The volume of requests is high in comparison to what, the
9 number of staff members you have available to answer the
10 phone or in comparison to the population of Morris County?

11 A What I'm trying to -- I'm trying to answer you by
12 saying -- to describe us as an organization that is over-
13 loaded trying to find -- to deal with people's housing
14 problems. And, to that extent, we are busy in the office
15 in trying to meet those needs, inadequately as we find that
16 we are able to meet them from time to time.

17 Q Do you think you need to triple your staff
18 to accomplish what you want to do in terms of answering
19 phone calls and trying to find housing or what?

20 A I'm not sure that the doubling of the staff or the
21 tripling of the staff would be the answer.

22 Q Now, a reference was made by counsel here
23 that they are going to prepare -- or they're having certain
24 expert reports prepared or studies done with respect to
25 the relationship of possible lot size or apartments per acre,

1 what have you, to solving the low income and moderate income
2 housing problem, okay. Will your Council, that is, your
3 body, Fair Housing Council, be reviewing those expert reports
4 with the experts before they are, in fact, presented --

5 MR. BUCHSBAUM: I object.

6 -- to the various defendant municipalities
7 as projections that you, your Council, have accepted?

8 MR. BUCHSBAUM: I object. The formal
9 consultation between the attorney-client and that's,
10 again -- would be going into --

11 MR. NICOLA: I'm not asking what the discus-
12 sions were.

13 Q I'm asking whether or not, in fact, you have,
14 as a matter of fact, reviewed those reports with the
15 offered experts before those reports were, in fact, pre-
16 sented, if they have been presented, and if they have not
17 been presented, whether you have reviewed them prior to
18 their presentation, that is, your Council.

19 A I have not seen the expert reports.

20 Q Do you know whether any members of your
21 board or your council have seen any of those reports?

22 A I don't know for a fact. I would be very surprised
23 if anyone had even them. I would be the person to whom they
24 would come first.

25 Q Do you know whether or not, in fact, reports

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1 have been prepared by experts on behalf of the Public Advocate
2 in the area of zoning land use projections for Morris County
3 for additional housing, do you know if such reports have
4 been prepared?

5 " I know they were promised to Judge Muir, because I
6 was there listening and I ascertained that -- I checked in
7 and was assured that they, in fact, were prepared or, at that
8 point when I called, were being prepared.

9 " You haven't done any review with the board
10 yet. Do you know if your board or yourself is planning to
11 see these reports before they are presented?

12 " I have gotten a copy of all the voluminous amount
13 of material that's been passed back and forth in this case
14 and I would suspect that I would see a copy of it. But I
15 don't know.

16 " Assuming that you were -- when I say "you,"
17 your Council -- were to see the reports of the various experts
18 projecting figures for additional housing needed in low and
19 moderate income areas. Would you feel, at this point, that
20 if your Council disagreed with those projections, they would,
21 number one, express their differences of opinion and, number
22 two, if they were, if those projections were above the real-
23 istic position of your Council, do you think you would have
24 the reports reflect that?

25 " MR. ECKENBAUM: That question calls for

1 speculation about a communication that would occur
2 with counsel. Am I understanding that correctly?

3 MR. NICOLA: Look at it plainly from the
4 point of her -- of the Council as a body, but it
5 may call for a conclusion. I'm trying not to ask a
6 question in that fashion.

7 Q But you must have some kind of projections in
8 your mind, that is, your body, your Fair Housing Council
9 must have some idea in mind of what would be fair for Morris
10 County, okay, is that true, or are you relying completely
11 on what experts are going to come up with in terms of their
12 figures?

13 A Your question is, if the reports come -- expert
14 witness reports come back with figures with which we don't
15 agree --

16 Q Right.

17 A -- will we make an objection to them.

18 Q What are you going to do?

19 A I mean, I can't presuppose that we will do.

20 Q Can you tell me why the township of Norbury
21 was joined in this lawsuit?

22 A Because, as I understand it, like the other towns
23 that were included, they fell short under the standards that
24 we applied of meeting the needs of the low and moderate
25 income people.

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Q I mean, when you say "we," do you mean the Fair Housing Council or the Fair Housing Council and the Public Advocate together?

A Together as part of this litigation.

MR. NICOLA: I have no other questions.

MS. MC DERMOTT: I have a few questions.

DIRECT-EXAMINATION BY MS. MC DERMOTT:

Q How many members are there in the Fair Housing Council?

A We have approximately two hundred dues-paying members. We send our newsletter to about six hundred individuals and organizations.

Q Are they subscribers or something?

A Yes.

Q And the purpose of this Council is to assist those of low and moderate income to find housing?

A The purposes, as originally stated in the bylaws, when it was set up in 1963, the Council was to be used to combat racial, primarily, discrimination, you know, discrimination, you know, racial, national origin, that kind of thing. The purposes -- the bylaws were amended in 1977, I believe, to include economic discrimination so the people could find suitable housing without any of those kinds of discriminations.

1 Q And the members, are they mainly persons of
2 low and moderate income?

3 A That would be hardly for me to answer. We certainly
4 have a spectrum. We have, I know personally, some people
5 on our -- who are members, who are wealthy and some who are
6 not wealthy at all, some of them for whom two dollars a year
7 is a major contribution. So, I think it goes across the
8 spectrum.

9 Q And when someone calls the Council seeking
10 housing, how do you find housing, I mean, what is the
11 process you go through?

12 A It depends whether they want a home or whether
13 they want an apartment or whether they need emergency
14 shelter.

15 Q Okay. For apartments, how would you go
16 about finding them an apartment?

17 A Well, as I understand it, this is the job of the
18 housing counselor, primarily, or the housing aid, in terms
19 of apartments. One finds out what the income is, you know,
20 whether or not they are in what category they are in and
21 if we can help them at all to budget themselves, you know,
22 that might have something to do with why they are not able
23 to find an apartment. So, we get involved at that level as
24 well.

25 Q There are certain apartments that are required to

1 list with us vacancies under an affirmative action plan.
 2 We try and match that. Often times, the people who seek those
 3 particular apartments are not able to meet the rent.

4 MR. BUCHSBAUM: Off the record for a second.

5
 6 (Whereupon, a brief off-the-record discussion
 7 is held.)

8
 9 Q How does the Council refer people to houses,
 10 opportunities for homes?

11 A That counseling is certainly, if you look at the
 12 sheet, I mean, we do a lot more apartments and that has
 13 diminished over the years at the Council. Basically we
 14 try and match, you know, people with incomes to housing
 15 that's available. But housing is --

16 Q What I was concerned with, where do you get,
 17 like, the list of houses, a realtor or --

18 A We're used as a referral agency for many places,
 19 housing authorities, even the realtors use us, as a matter
 20 of fact, in a different capacity. I mean, we have a
 21 working relationship, we have a lot of working relationships.

22 Q Do you have, like, lists of houses that are
 23 available for low incomes or --

24 A We don't have an up-to-date list. I know, for example,
 25 in Bergen County they do a lot more of that than we do. They

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1 almost -- They act as a real estate agent in and of them-
2 selves. We do not have the capacity to do that, nor is there
3 that kind of turnover in housing that we will be seeking.

4 Q You mentioned before that, in discussing
5 about, I guess, the housing problem in general, that people
6 today were afraid if they sold their house they couldn't
7 buy it back. Would you say that statement would be true
8 regardless of income, in the sense that of the type of market
9 that there is housing or would you want to clarify that
10 statement yourself?

11 A I have heard that statement used not only about the
12 housing problem in Morris County, but in other places as well.
13 I am sure there will always be people who are wealthy enough
14 to buy back their own homes.

15 Q But is that limited just strictly to those
16 of the low income group?

17 A Oh, I would say not just low, I mean, it is my under-
18 standing that that group is expanding.

19 Q If you win this suit, what are your expecta-
20 tions of the municipalities, what do you want them to do?

21 A If we win the suit, our expectation would be that
22 they would amend their zoning ordinances in order to comply
23 with the thrust of what this decision will be, which is to
24 provide more low and moderate income -- the zoning laws in
25 a particular municipality will be amended to allow for an

1 increased supply of low and moderate income housing.

2 Do you expect the municipalities themselves
3 to actually supply the housing?

4 A I am not enough of a housing economist to know how
5 that would work. I would expect that simply the ordinances
6 would have to change first off and then --

7 Q Is your Council looking for subsidized
8 housing?

9 A We have not been in that business at all.

10 Q I mean, as an outcome of the suit, do you
11 want subsidized housing in these municipalities?

12 A I think that that, you know, if that was one of the
13 outcomes of this, that would certainly be compatible with our
14 desires, because we feel it would meet the needs that we're
15 talking about.

16 Q I also just wanted to request: You mentioned
17 before that there are certain figures that were cutoff
18 levels in the Council -- I guess the programs for the income --

19 A Yeah.

20 Q -- how high they would have to go to seek
21 their own services -- could you supply us with that cutoff
22 figure --

23 A Okay.

24 Q -- for income?

25 MR. BUCKENBACH: Let me just check something.

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That question has been asked in one of the interroga-
tories and we're responding to it with a definite
reference to a set of figures.

MS. MC DERMOTT: With reference to the
Council.

MR. BUCHSBAUM: Okay.

MS. MC DERMOTT: No other questions.

DIRECT-EXAMINATION BY MR. GOLDSMITH:

Q Does the Fair Housing Council have a specific
position with respect to mobile homes?

A We do not have a specific position.

Q Do you favor them as a general matter or --

A I'm not sure it's something that we've ever as a
board discussed as an independent topic.

MR. GOLDSMITH: Thank you.

DIRECT-EXAMINATION BY MR. CLAPP:

Q Does the Fair Housing Council have any
knowledge as to where subsidies would come from?

A I don't have an, no, an itemized knowledge.

Q Do you or does the Fair Housing Council
know, if the zoning was changed, who would build the new
housing that would be zoned for?

A Specifically, no.

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1 Do you know who would pay for the various
2 services in the structure in the communities to support that
3 new housing?

4 A I think that, traditionally, the municipalities
5 through the taxation process provides the services.

6 Q And would it be only those municipalities
7 where the housing is being built or would it be other
8 municipalities?

9 A As in a regional kind of plan?

10 Q Yes. I'm asking you whether or not the
11 sources for the support of services, the sources of funds,
12 would come only from the municipalities where the housing
13 is being built.

14 A Traditionally, that's been the responsibility of the
15 municipalities, as I understand it.

16 Q And you said that you and the Fair Housing
17 Council had urged municipalities to form their own housing
18 authorities and join the Morris Housing Authority. Did
19 you or any agents of your Council communicate with the
20 municipalities in any other way prior to the institution
21 of this suit with respect to the objectives of the suit?

22 A I think I had said that we had urged them as a
23 part of the monitoring process of the community development
24 funds to come to some sort of terms with their own housing
25 resources and set goals.

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1 That was through the Community Block Develop-
2 ment Program.

3 A Yeah.

4 Q Was there anything else that the Fair Housing
5 Council did with respect to these communities?

6 A Not that I could think of now.

7 MR. CLAPP: No other questions.

8 MS. MC DERMOTT: You said that these witnesses
9 are only going to be used in the first phase of the
10 trial, at this point.

11 MR. BUCHSBAUM: That's right.

12 MS. MC DERMOTT: I just want to say for the
13 record that I also reserve my right to depose them in
14 the event they are used in the mini-trial.

15 MR. BUCHSBAUM: That wasn't said as --

16 MR. CLAPP: I meant to say that as to all
17 three witnesses.

18 MR. BUCHSBAUM: I more or less understood
19 that. I do have that understanding now.

20 MR. CLAPP: If these witnesses are going to
21 be used in the mini-trial, they will be made avail-
22 able for further questioning as to the mini-trial.

23 MR. BUCHSBAUM: That's correct.

24 MR. VILLORESI: I have a question: Are we
25 going to have an opportunity to depose whoever is the

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fact witness from the Public Advocate? So that he can't hide behind the statement that he's the counsel to the other plaintiffs.

MR. BUCHSBAUM: That's a matter for the, that seems to me, for the Appellate Division.

MR. VILLORESI: Well, wait a minute. If I see this complaint right, it says here that one of the plaintiffs is Stanley C. Van Ness, Public Advocate, which would mean he or somebody from his organization should be a deposed fact witness to give us the facts on how they chose the twenty-seven towns. I mean, he is a named plaintiff here and --

MR. BUCHSBAUM: Mr. Villorresi, I think the fairest answer to that question is, submit the notice and we'll respond to it. I don't want to tell you exactly how we would respond. So, if that's your desire, we can't stop you from submitting a notice and we'll deal with it in the appropriate way.

MR. VILLORESI: Actually, we understood, at least I did, that the fact witnesses on the twelve or thirteen names you gave us were going to be prepared to give this, you know, until you've blocked it today with a statement that it's attorney-client privilege. So, I don't know whether

1 another notice is appropriate or what. It just
2 seems to me that it's ludicrous that we have to go
3 to trial without being able to be told exactly how
4 and why twelve were left out of thirty-nine and the
5 theory that it's attorney-client privilege, it
6 just doesn't hold water. It's not fair.

7 I mean, the whole matter is being gummed
8 up here. We're being told we've got to ask for
9 more depositions and schedule more and so on when
10 it's just not legitimate and I think you even
11 know that. And I don't know why that road block
12 has been thrown in today.

13 MR. LUCASBAUM: Well, you've stated your
14 position. I don't think there's a need for me to
15 respond any further. I've given my position on those
16 issues.

17 MR. VILBORAS: Why can't Stanley C. Van Ness,
18 or whoever the hell is represented, be produced and
19 deposed? Why do I need to go through another notice?
20 I noticed you for the fact witnesses. You did not
21 say we were not going to allow our fact witnesses
22 to testify as to how we chose the towns.

23 When a plaintiff puts his name to a
24 complaint, we have to be able to assume that he's
25 going to be prepared to sit here and tell us why

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he sued somebody and we're being told today that that's client-attorney privilege.

MR. BUCHSBAUM: Essentially, as I've stated earlier, I, aside from the attorney-client problem, I don't think the issues that you're probing, that you're discussing now, are relevant. The other issue that's relevant is, do these towns have exclusionary zoning, or not, that is the issue in this case.

MR. VILLORESI: But we can't ask on what basis you determine that we had it, we can't have a witness here tell us, you, Town A, have exclusionary zoning because these were the five factors.

MR. BUCHSBAUM: You will get witnesses of that kind from our -- testimony of that kind from our experts, those are the reasons the zoning is exclusionary.

MR. VILLORESI: The reports are not the plaintiffs. The plaintiffs are those three people we've had today.

MR. BUCHSBAUM: They testify on behalf of the experts, the plaintiff's experts.

MR. VILLORESI: Earlier this morning, you said your expert reports were prepared after the litigation was commenced, which is the usual

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procedure. Well, then, obviously, the decision to sue twenty-seven of thirty-nine towns was made before the experts were resorted to. We just want to know. We deposed two of three plaintiffs. None of the three people that we deposed today had any idea why twenty-seven of thirty-nine towns were named as parties defendant.

So, obviously, the other plaintiff must have an idea and we just want to know which representative of that other plaintiff has the idea and who can tell us and that's not really an area where an expert is needed, because an expert wasn't resorted to until that decision was already made.

MR. BUCKENHILL: Okay. We have many -- This is a little premature on that. The question was put in interrogatories. There are about four or five sets that are on my desk ready to go out which, just for various reasons of typing, have not gone out. They do answer that question, as to what we prima facie relied on in determining which municipality to sue, and you'll get that answer.

MR. DE BENOIT: I would --

MR. VILLONCHI: Who's "we"? The plaintiff is Morris County Fair Housing Council. Why aren't we allowed to be told by a fact witness from them

1 what they relied on? What we've been told here today
2 is that the Public Advocate made all the decisions
3 and is hiding behind attorney-client privilege, we're
4 being told; therefore, we're not going to tell you
5 those reasons.

6 MR. BUCHSBAUM: I think --

7 MR. VILLORESI: Really, we shouldn't be
8 getting that in interrogatories. We've got a
9 deposition where we have one of the flesh and blood
10 plaintiffs in here, the president of Fair Housing
11 Council, and she can't tell us why. We had the
12 NAACP president for the last fifteen years, between
13 the two of them, or twenty years, they couldn't
14 tell us why.

15 So that, obviously, they don't really know
16 why. The Public Advocate is the one that picked
17 the towns and singled them out and told them, look,
18 these are the good legal reasons we have against
19 these towns. Yet no witness has been produced from
20 any of these plaintiffs to tell us this on deposi-
21 tions. We could have delved into it --

22 MR. BUCHSBAUM: All I can say is if you're
23 dissatisfied with the depositions, you have your
24 legal recourse and you can use it.

25 MR. CLAPP: Is it your position, Mr. Buchsbaum,

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that Mr. Van Ness is both a plaintiff, a party to the action and also the attorney for all the plaintiffs at one and the same time?

MR. DUCHSBAUM: He's named as a plaintiff in the complaint. He's also named as counsel in the complaint. So, subject to any further discussion I would have with the other attorneys on this matter -- and I'm a little reluctant to give a definitive answer because there are -- I'm not the chief counsel on this matter. But that would, at this point, seem to me to be a fair statement.

MR. CLAPP: We would like an answer, because it may obviate a motion. It follows from your saying that if he's both a party plaintiff and the attorney for all the plaintiffs, that he does not have to testify the way a party plaintiff would have to, that he could hide behind the attorney-client privilege and say, I don't have to testify as to any facts, any elements of the decision, in my bringing this suit.

And, therefore, he could have it both ways. He can be a party plaintiff and lead the case among the plaintiffs and he could also be the attorney for himself and for the other plaintiffs and not testify as is the decision he's made. This may

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involve a court determination, but if you can clarify your position on it, it may avoid it.

MR. BUCHSBAUM: All right. I'd prefer to deal with that in writing, in response to your question after I've had some time to carefully consider the matter. Because I'm very reluctant to deal with that off the cuff.

MR. VILLOREASI: What did Lincoln say about a plaintiff who represents himself? Anyone else have anything else?

MS. MC DERMOTT: I'd like to just note for the record, you mentioned the questions of relevance and I realize you're concerned for the appeal, but I particularly want to know how my town is distinguished from the twelve towns that weren't sued and this is something that's factual and that went into your decision. Obviously, nobody else knows, they aren't even too sure where my town is.

MS. MC DERMOTT: I know where your town is.

MS. MC DERMOTT: I didn't ask you that question. But it does have relevance and I just wanted to note that for the record, depending on the point of view.

MR. BUCHSBAUM: That concludes the deposition.

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MR. CLAPP: subject to the reservation on
the record.

MR. BUCHSBAUM: Yes, we understand that.

(Whereupon, the depositions are concluded
at 4:15 p.m.)

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C E R T I F I C A T E

I, ELIZABETH A. QUAGLIANI,
a Shorthand Reporter of the State of New Jersey,
do hereby state that the foregoing is a true
and accurate transcript of my stenographic notes
of the within proceedings, to the best of my ability.

Elizabeth A. Quagliani
Certified shorthand reporter
Notary Public