

ML - Morris County Fair Housing Council  
v. Boonton

April 25, 1977

§ Transcript of Alan Mallaek's deposition (by Platt)

pg. 31

ML0008825

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - MORRIS COUNTY  
DOCKET NO. L-6001-78 P.W.

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,

Plaintiffs,

v.

BOONTON TOWNSHIP, CHATHAM TOWNSHIP,  
CHESTER TOWNSHIP, DENVILLE TOWNSHIP,  
EAST HANOVER TOWNSHIP, FLORHAM PARK  
BOROUGH, HANOVER TOWNSHIP, HARDING  
TOWNSHIP, JEFFERSON TOWNSHIP, KINNELON  
BOROUGH, LINCOLN PARK BOROUGH, MADISON  
BOROUGH, MENDHAM BOROUGH, MENDHAM TOWN-  
SHIP, MONTVILLE TOWNSHIP, MORRIS TOWN-  
SHIP, 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,

Defendants.

ML000882S

CIVIL ACTION

NOTICE TO TAKE  
ORAL DEPOSITIONS

B E F O R E:

VICTOR SELVAGGI, JR., a Notary Public  
and Certified Shorthand Reporter of the State of New  
Jersey, at the MORRIS TOWNSHIP MUNICIPAL BUILDING,  
Morris Township, New Jersey, on Monday, April 23,  
1979, commencing at 9:30 a.m.

**KNARR - RICHARDS, ASSOCIATES**

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  VICTOR SELVAGGI, JR.  
  Certified Shorthand Reporter

I N D E X

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WITNESS

DIRECT

ALAN MALLACH

By Mr. Platt

2

1 A L A N M A L L A C H, previously sworn, recalled;

2 DIRECT EXAMINATION BY MR. PLATT:

3 Q Mr. Mallach, my name is Gary Platt. I'm  
4 here on behalf of Denville Township to ask questions  
5 with regard to that Township specifically. As Mr.  
6 Bernstein noted previously, I assume you have been  
7 sworn and that you continue to be so at this point.

8 A That's correct.

9 MR. BISGAIER: Let me ask you before you  
10 continue, do you have any problems with the fee  
11 arrangements that have been made with regard to  
12 the reimbursement of Mr. Mallach?

13 MR. PLATT: I must admit in all candor  
14 I'm completely unaware of what the fee arrange-  
15 ments are. I'm sure Mr. Einhorn is aware of  
16 them and might have an opinion with regard to  
17 them.

18 MR. BISGAIER: I have to have an assurance  
19 that Mr. Mallach will be reimbursed at the agreed  
20 upon rate before the deposition can continue. I  
21 sent two letters to that effect already. I think  
22 you had ample time to make a judgment on it. The  
23 Common Defense Committee has agreed on an arrange-  
24 ment and Mr. Bernstein did also prior to taking  
25 his deposition.

1 Q Was that for purposes of your involvement  
2 in this particular lawsuit? A No.

3 Q If I may be so inquiring, what were the  
4 purposes of that particular visit, as a professional?

5 A I was invited by a number of organizations, I  
6 believe, including the local League of Women Voters  
7 and the Environmental Commission to make a presentation  
8 at a public meeting having to do with planning and  
9 environment in Denville.

10 Q Who was the chairperson of that particular  
11 meeting, do you have any recollection?

12 A None whatsoever.

13 Q Since that visit approximately four to  
14 five years ago as you have recollected, have you had  
15 occasion to be in Denville?

16 A I passed through Denville briefly during the  
17 field visits mentioned earlier.

18 Q Was it for purposes of a field visit or  
19 was it for purposes of going from one municipality that  
20 you were visiting to another?

21 A The latter.

22 Q All right. So that you did not stop in  
23 Denville for purposes of a field visit for this particu-  
24 lar litigation? A Not at this time, no.

25 Q Do you consider Denville to be a developing



1 Q As a matter of fact, during the course  
2 of the depositions for the Common Defense you stated  
3 that you have serious doubts whether any community  
4 within the eight county northeast New Jersey area is  
5 not a developing municipality. Is that correct?

6 A That I distinguished in that between two things.  
7 One is the literal meaning of developing, meaning  
8 capable of or reasonably capable of further growth and  
9 the court's meaning of development, which limited that.

10 For example, I would argue personally that if  
11 you, the term developing in its literal sense could  
12 hardly exclude any community because communities that  
13 are largely built up, they are core cities and so on.  
14 The court in its decisions has adopted what I guess one  
15 might call a term of art for the use of the term, which  
16 is different.

17 Q So that your comments to Mr. Bernstein  
18 which I just summarized in which you don't seem to  
19 disagree with, you seem to qualify, would be based upon  
20 your personal concept of a developing municipality. Is  
21 that correct?

22 A That's correct, a  
23 very literal reading of the term.

24 Q Would it be fair to say, again based upon  
25 your personal concept, that you disagree with the  
decision to exclude certain Morris County municipalities

1 from this suit? A No.

2 Q Again, as a planning expert, not as an  
3 attorney? A It's academic. It's in  
4 terms of a suit, so clearly in terms of a lawsuit you  
5 operate within the court's definition. The term  
6 developing, as I was just using it, the nonlegal or the  
7 literal term has no legal frame of reference, so it's  
8 really irrelevant when it comes to decide who you sue  
9 or don't sue.

10 Q Indulge me momentarily. From your personal  
11 point of view, or let me rephrase the question. Some of  
12 the municipalities that have been left out of this  
13 lawsuit, from your own personal point of view of what's  
14 a developing municipality, are, in fact, developing  
15 municipalities? A They are capable of  
16 being developed, certainly.

17 Q All right. Are you aware of the history  
18 of Denville from a development point of view?

19 A In very general terms.

20 Q Again, realizing that it's in general  
21 terms, briefly what would your knowledge be?

22 A Well, the town is shaped somewhat like a dumbbell  
23 or figure eight.

24 Q I prefer the figure eight.

25 A And the older part of the community which I

1 guess began developing as a subcenter before World War  
2 II is located more or less at the waist of the figure  
3 eight. This is the area that is most directly accessible  
4 to transportation, had the old Route 46 and now it's  
5 reasonably close to Route 80 and this area tends to be  
6 more developed after World War II, and after World War  
7 II additional development started to move up into the  
8 wider parts of the figure eight in the form of single  
9 family subdivisions.

10 Q And what was the early basis of the  
11 development in Denville, if you know?

12 A I believe there was some of the same resort  
13 development that characterized other communities in  
14 Morris County as well as what you might call a semi-  
15 suburban market center development.

16 Q In fact, Denville might be characterized  
17 as a lake community. Is that correct?

18 A Part of Denville, yes.

19 Q Are you aware interspersed through  
20 Denville are man made and natural lakes?

21 A Yes.

22 Q Are you aware what public transportation  
23 is available in Denville? A Again, if

24 I can refer to this. There are a number of bus routes  
25 that serve Denville and there is also a railroad.

1 Q Are you aware of what industry is in  
2 Denville? A No.

3 Q When you say no, is that both as to  
4 general type? I assume it's initially as to the  
5 specific industries. Would that also include a lack  
6 of knowledge as to types of industry?

7 A I have a general impression that there is a  
8 certain amount of fairly intensive industry in Denville,  
9 but I don't have any specifics on it.

10 Q You have no firsthand knowledge of that?

11 A I have some general visual impressions.

12 Q Would that be by virtue of your previous  
13 visits there? A Yes.

14 Q Do you have any idea of the number of low  
15 and moderate income dwellings that are in Denville,  
16 either single family or multi family?

17 A Well, in the sense of units that have been  
18 specifically constructed for low and moderate income  
19 families, I believe there are none.

20 Q All right. I assume what you are getting  
21 at is units that may not have been specifically  
22 constructed, but may serve that function.

23 What about units of that type?

24 A That I'm not familiar with, the number.

25 Q Are you aware as to any suggestions, any

1 A Not offhand.

2 Q How many lots are there of the 7500 square  
3 foot size? A I have not looked into that.

4 Q How many lots are there of the 15,000  
5 square foot size? A I have not looked  
6 into that.

7 Q What is the percentage of land in Denville  
8 which is undeveloped? A I don't know.

9 Q Do you have any idea of the percentage  
10 of land which, although undeveloped, is in the process  
11 of being developed? A No.

12 Q Do you have any idea as to the percentage  
13 of undeveloped land which is capable of development?

14 A No.

15 Q And I would assume that you have no idea  
16 of the percentage of undeveloped and developable land  
17 which is attributed to multi family housing use by the  
18 Denville Ordinance? A It's an extremely  
19 small percentage. There, I believe are two or three  
20 small tracts that were zoned that have been developed  
21 for apartments that are shown as being zoned A-1 on the  
22 zoning map.

23 Q Are you speaking of the actual develop-  
24 ment or the fact that an area is zoned potentially for  
25 development? A Both. The combined

1 areas just number two or three very small parcels.

2 Q Are you aware of the environmental  
3 considerations that are peculiar to Denville?

4 A No.

5 Q Yet can we agree that such considerations  
6 and limitations are important considerations for a  
7 planner in working on a zoning ordinance?

8 A Well, they are considerations that have to be  
9 taken into account. Of course, they aren't bars to  
10 development in most cases.

11 Q In most cases?

12 A That's correct.

13 Q The possibility exists that they be so  
14 extensive and multi faceted that they could --

15 A In extreme cases.

16 Q And again, although you are completely  
17 unaware of any environmental considerations that are  
18 peculiar to Denville, you are competent that Denville  
19 is not an extreme case? A Well, I'm  
20 confident that within Denville there remains land on  
21 which the environmental constraints, if they exist, are  
22 not so extreme as to preclude development.

23 Q So I would assume, given your answer,  
24 that you are unaware of any excessive slope conditions  
25 in Denville. Is that correct?

1 A Well, I'm aware that parts of Denville are hilly.

2 Q You are unaware, I would assume of the  
3 precise percentage of Denville's undeveloped and  
4 developable land which is given to excessive slopes?

5 A I don't have the precise percentage. I am aware  
6 that the DCA study did exclude all lands which have  
7 slopes of 15 percent or more from its calculations.

8 Q Are you aware of Denville's role as a  
9 prime aquifer recharge area within this region of Morris  
10 County? A No.

11 Q Are you aware of the flood plain data  
12 for Denville? A I've noted, I believe  
13 on the Denville zoning map there are certain flood plain  
14 lines that I reviewed.

15 Q And that, of course, would have a  
16 significant affect upon whether an area is developable  
17 for anything, let alone multi family housing. Is that  
18 correct? A That's correct.

19 Q And if anything, it would have more of a  
20 significant affect for its capability of being developed  
21 for multi family houses?

22 A Actually not necessarily.

23 Q Why do you make that distinction or lack  
24 of a distinction? A Well, the principal  
25 reason for limiting construction in flood plains is a

1 function of the amount of surface coverage that inhibits  
2 the flow of water as well as inhibiting the drainage  
3 flow. Also, for a safety standpoint one does not want  
4 to build housing where there is a likelihood that the  
5 people would have to evacuate because the house would  
6 be flooded. There are a number of flood plain areas  
7 where multi family housing has been constructed because  
8 it is more efficient than single family housing. For  
9 one thing, the same coverage of the soil in multi  
10 family housing can house much more people, or alter-  
11 natively the same number of people can be housed with  
12 less coverage which makes a less harmful use. Secondly,  
13 when you are building a multi family building, you can  
14 build it so there is no human habitation on the first  
15 floor.

16 There is a development in Lambertville, New  
17 Jersey at present in a flood plain where the entire  
18 first floor is going to be used for parking facilities.

19 Q So that would not endanger life and limb?

20 A Would not endanger life and limb and it would  
21 inhibit the flow of water significantly less in the  
22 flood situation than if there were a conventional  
23 structure.

24 Q It would have no affect on the access of  
25 those living in that structure during a flood situation?

1 it must live under will be down to approximately 4200  
2 gallons per day? A No.

3 Q You have discussed with Mr. Bernstein  
4 your opinion that public sewerage treatment really  
5 doesn't play any significant role in developing a  
6 municipality for least cost housing because there exists  
7 certain package plants, package facilities that are  
8 available. Is that correct?

9 A I suggested that under many circumstances on  
10 site or package treatment facilities could be an  
11 alternative and make development possible where public  
12 sewers were inadequate or nonexistent.

13 Q I believe two of types that you previously  
14 touched upon, one would involve lagooning and one would  
15 involve a spray dissipation of treated sewerage?

16 A That's correct.

17 Q All right. Are you aware of the char-  
18 acteristics and requirements of land use that are  
19 required to make a package plant like that workable?

20 A Well, they vary. The requirements for spray  
21 tend to be a function of soil characteristics and a  
22 variety of other things. The lagooning requirements  
23 usually are considerably more modest.

24 Q And are any of those type facilities in  
25 existence in Morris County at this point in time?

1 A I'm not specifically familiar with any.

2 Q Would any of those types of package  
3 units be workable in Denville given the characteristics  
4 that you -- A I can't think of any  
5 reason why not.

6 Q All right. But by the same token, I  
7 would assume you have not specifically made a study of  
8 Denville to see if they would be?

9 A That's true. Though the facilities of these  
10 sort do not require exceptional conditions to be  
11 workable.

12 Q Well, for instance, with regard to spray  
13 facilities, you made reference to soil characteristics.

14 A Correct.

15 Q Could you briefly tell me what the  
16 significance would be? A Well, it's  
17 a function of the permeability of the characteristics  
18 of the soil. The better permeability or percolation,  
19 the smaller an area that's needed to disperse the spray  
20 over.

21 Q What interrelationship, if any, would  
22 there be between the establishment of a spray facility  
23 and the fact that a municipality depended upon ground  
24 water for the source of its water supply?

25 A Well, properly done it is my understanding that

1 a spray facility returns the water into the ground  
2 water at a high quality.

3 Q But again you have made no study and  
4 you know nothing of the specific characteristics of  
5 Denville which would allow you to conclude that it  
6 could or could not be properly done in Denville?

7 A That's correct.

8 Q All right. Mr. Bernstein made reference  
9 to a study that you authored, I believe, which was  
10 published in 1974 known as Housing in the Suburbs.

11 A Housing and Suburbs.

12 Q And his question to you was did you feel  
13 it was still valid today, 1979, and I believe you stated  
14 that it was with a few qualifications. Is that correct?

15 A That's correct.

16 Q And in qualifying that statement you  
17 alluded to the fact that there had been changes in  
18 school aid, in caps, municipal cap laws, etc. and you  
19 said that it affected the technical aspects.

20 Could you explain briefly what you mean by what  
21 you throw into the category of technical aspects and  
22 what you meant by that statement?

23 A Well, for example, a very large part of the  
24 study was devoted to evaluating physical affects of  
25 different types of housing and comparing them in terms

1 of their relative cost and revenue implications.

2 Now, the overall thrust of the study has not  
3 changed. For example, a typical garden apartment  
4 development is still lengthy to be a better physical  
5 proposition say than a typical subdivision. However,  
6 because of the changes in the school aid formula and  
7 the capita, the actual numbers that would appear or  
8 the actual mathematical formulas which would appear  
9 and are presented in ways of calculating the physical  
10 impacts of the different potential developments, would  
11 not be applicable.

12 Q Is it fair to say the type of housing  
13 which you envision or which the court envisions in  
14 fulfilling the fair share of a region is not likely to  
15 be built by public entities given the age that we are  
16 now in and economic facts of life?

17 A Some of it would be. Certainly less than one  
18 would hope would happen, but some of it would be. There  
19 is ongoing subsidy programs available, not in the amount  
20 that one would like, but there are some.

21 Q So if anything, as a reality whether we  
22 like it or not, certainly the distant minorities of  
23 such units would be likely to be built by public  
24 subsidies. Is that correct?

25 A Most probably, yes.

1 Q So to that extent the fact that municipi-  
2 palities are governed by municipal cap laws would have  
3 little affect upon the development of housing of this  
4 type. Is that correct? A That's correct.

5 Q All right. But by the same token, even  
6 assuming that it was some private subsidy or developer  
7 that overtook this, the municipality would still be  
8 responsible for bearing the cost of having that  
9 additional number of people in the town?

10 A That's correct.

11 Q So at least to that extent municipal cap  
12 laws, etc. potentially have a tremendous affect upon  
13 the ability of a town to develop, be it for multi family  
14 housing or not?

15 MR. BISGAIER: What was that question  
16 again?

17 MR. PLATT: Would you read it back, please.

18 (The Reporter reads back the last  
19 question.)

20 THE WITNESS: I'm not sure. What happens?

21 MR. BISGAIER: It might really take some  
22 legal expertise in the cap laws to be dealt with.  
23 You go ahead with your question. I don't mean  
24 to stop Alan from answering. I think you are  
25 dealing with a very complex legal area right now.

1 MR. PLATT: That might be. I've been  
2 enlightened by reading law review articles by  
3 Mr. Mallach and if he is incapable of answering  
4 it, he can state that.

5 THE WITNESS: How the cap laws affect  
6 development is complicated. Strictly speaking,  
7 the worst case situation would be not that they  
8 would hinder development, but that they would  
9 reduce a municipality's ability to maintain a  
10 given level of public service if additional  
11 development took place, and if the demand of that  
12 development were significantly in excess of the  
13 additional tax resources provided by the develop-  
14 ment. Remember, so long as the municipality's  
15 ratables increase, then its revenues increase  
16 independently of the affect of the caps. So  
17 that it's not a blanket either or. It would  
18 vary very much depending on the specific situa-  
19 tion. At the same time, the municipality always  
20 does have the opportunity of either getting an  
21 exception from the division of local government  
22 services or God forbid, having to go to the  
23 voters.

24 Q That exists as a possibility?

25 A The last is fairly remote, but it's there.

1 Q How about the former?

2 A The former would depend, it would depend on the  
3 **situation** and circumstances. I think the local finance  
4 **board** tends to take a pretty jaundice view of most  
5 municipal requests for exceptions, but it's there.

6 Q So we are talking in a matter of  
7 possibilities as opposed to probabilities?

8 A The whole thing is a question os possibilities.

9 Q Would it be fair to say that given your  
10 view of the zoning ordinance of Denville, not only is  
11 it fair, but it's true that you certainly considered  
12 Denville to be lacking in its openings for development  
13 of least cost housing? A That's correct.

14 Q I would assume that in order to allow  
15 for the sufficient development of least cost housing  
16 it would take a complete revamping of Denville's Zoning  
17 Ordinance. Is that correct? A Yes.

18 Q Which aspects of Denville's Zoning  
19 Ordinance, assuming you are capable of dissecting it,  
20 which aspect of Denville's Zoning Ordinance for purposes  
21 of **argument** could remain unchanged and still allow for  
22 the type of development that you have in mind?

23 A Well, the R-4 zone as it presently reads does  
24 provide for one and two family houses on modest lots.  
25 I think, as I mentioned in my testimony to Mr. Bernstein,

1 that the two family provisions in the R-4 are in excess  
2 of what would be required, but the one family provisions  
3 are within the least cost framework. As I believe I  
4 mentioned earlier, it's my understanding that there is  
5 very little land available for development in the R-4  
6 zones, so that if, for example, additional lands were  
7 available in the R-4 zones, then that would provide an  
8 opportunity for least cost single family detached  
9 housing.

10 Q What about the zone that is labeled A-1?

11 A The A-1 would require what one might call cleaning  
12 up in order to provide adequate housing opportunities.

13 Q To what extent?

14 A The standards listed in my report should be  
15 either deleted or modified.

16 Q All right. Now, with regard to the  
17 remaining residential zones, may I assume that those  
18 would be totally unacceptable as they exist or as they  
19 are designed? A They do not provide  
20 least cost housing in any of them.

21 Q And briefly is it a function of the lot  
22 size or density or of the unit size that's provided?

23 A All of them.

24 Q Each of them is a function of both short-  
25 comings in both areas? A Well, yes.

1 Least cost housing requires that they be modest in both  
2 regards and the other residential zones are in each  
3 case greater than least cost in both of those regards.

4 Q Assuming that the conclusion is ultimately  
5 reached that Denville is a developing municipality and  
6 it must bear a share of the responsibility to provide  
7 least cost housing, in determining what Denville's fair  
8 share would be do you take into consideration all  
9 aspects of its development? A I have not  
10 done any study and do not expect to do any study on  
11 Denville's fair share, so I would have to talk only in  
12 very general terms.

13 Q Any community's fair share, more specifi-  
14 cally if I can probably narrow your response, do you  
15 consider that a given municipality may be contributing  
16 more than its fair share in terms of other aspects of  
17 the quality of life in a region in balancing what its  
18 fair share would be in least cost housing?

19 A I can't think offhand of any such things that I  
20 would see as directly affecting a municipality's fair  
21 share of housing. I could react to examples.

22 Q For instance, if a significant portion of  
23 a municipality's land were devoted to health care  
24 facilities, regional school facilities, etc.

25 MR. BISGAIER: You are asking if that

1 should be taken into consideration in the  
2 computations of the fair share methodology?

3 MR. PLATT: Yes, as relating to the  
4 possible quantities that might be attributed  
5 to other municipalities which may not have  
6 those type facilities within their boundaries.

7 THE WITNESS: I don't think -- well,  
8 there are two answers to that. The first one,  
9 I don't think it would have any direct bearing  
10 on a fair share methodology as such. If anything,  
11 one could argue that the proximity of such  
12 facilities would make a community a more desirable  
13 location for housing, especially for such things  
14 as senior citizens housing or housing for low  
15 income families with children who would want  
16 access to the schools without having to use  
17 vehicular transportation. That's hypothetical.  
18 So, I don't see reducing the fair share for those  
19 things. I think something that would certainly  
20 be an option is that ideally a fair share plan  
21 should be a regional plan and should be a process  
22 where it could be worked out cooperatively  
23 between the different municipalities in an area  
24 or region and I think it might be legitimate for  
25 a municipality with such facilities to try to

1 negotiate with the adjacent municipality and get  
2 the benefit of those facilities or share in the  
3 benefit of those facilities, but as far as the  
4 basic plan is considered, I don't see it relevant.

5 Q You would narrow your opinion or the  
6 number that you would produce specifically to a  
7 municipality's fair share of housing as opposed to the  
8 fact that it might provide the fair share of other  
9 characteristics of a decent standard of living?

10 A That's correct.

11 Q All right. Can we agree, and I think we  
12 have previously agreed that the housing which is going  
13 to fill the needs, the type of least cost housing that  
14 we are speaking of within this case is likely to be  
15 subsidized housing as opposed to privately developed?

16 A Part of it would be subsidized and part privately  
17 developed.

18 Q Where is there a privately developed  
19 least cost housing? A Well, I think that  
20 least cost in the absolute strictest sense I think is  
21 hard to tell. I think from looks around the New York  
22 Metropolitan area as a whole, one finds that the cost  
23 of single family houses varies very, very widely.

24 For example, areas such as central Suffolk County,  
25 Long Island, you find detached single family houses

1 being built, very modest houses on small lots being  
2 built and selling in the mid to upper \$30,000 range.

3 Q In New Jersey, if we can narrow our  
4 point of view and in your experience, are you aware of  
5 any great development of least cost housing unsubsidized?

6 A Again, I doubt if I would, given the existing  
7 state of ordinances, I would not necessarily characterize  
8 it as least cost housing because it works within the  
9 constraints imposed by the ordinance. I would consider  
10 it considerably closer to least cost housing than, for  
11 example, what is permitted under the ordinance at issue  
12 here. I think you can see modest housing being developed  
13 in a number of parts of Jersey, part of the Philadelphia  
14 Metropolitan area where again you have small lots,  
15 small houses, considerable construction of townhouses.

16 Q But again modest as opposed to least cost  
17 within the definition? A They may be  
18 least cost, but without looking at them more closely  
19 I would not characterize them explicitly as least cost.

20 Q Most of the endeavors that you have  
21 personally been involved in involve some form of a  
22 subsidized housing? A That's correct.

23 Q Either Governmentally subsidized or  
24 privately subsidized with Government grants involved?

25 A That's correct.

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Q I believe in your discussion with Mr. Bernstein you stated that as a reality one of the things that subsidized least cost housing was dependent upon was the availability of tax abatements. Is that correct?

A For the principal program which is the Section 8 Program, yes.

Q And as a matter of fact, in several of the projects that you have been personally involved in, it was the unavailability of tax abatements which had, at the very least, slowed them, if not killed them?

A One project in particular, yes.

MR. PLATT: All right. I have nothing further.

\* \* \*

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - MORRIS COUNTY  
DOCKET NO. L-6001-78 P.W.

MORRIS COUNTY FAIR HOUSING COUNCIL, :  
et als, :

Plaintiffs, :

-vs-

CERTIFICATE

BOONTON TOWNSHIP, et als, :

Defendants. :

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I, VICTOR SELVAGGI, JR., a Certified Shorthand  
Reporter and Notary Public of the State of New Jersey  
certify that the foregoing is a true and accurate  
transcript of the deposition of ALAN MALLACH who was  
first duly sworn by me at the place and on the date  
hereinbefore set forth.

I further certify that I am neither attorney  
nor counsel for, nor related to or employed by, any of  
the parties to this action in which this deposition was  
taken and further that I am not a relative or employee  
in this case, nor am I financially interested in this  
action.

*Victor Selvaggi, Jr.*

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A Notary Public of the State of New Jersey

Dated: 4/27/79

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