

AL-
Morris County Fair Housing Council
v. Benton Twp

4/26/79

examination of Bernhard Haekel

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I N D E X T O W I T N E S S E S

WITNESS

DIRECT

Bernhard Haekel
by Mr. Ferguson

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I N D E X T O E X H I B I T S

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>FOR IDENT.</u>
DH-1	Report on Mobile Homes	24
DH-2	Letter dated March 18, 1979	44
DH-3	Mobile Homes in New Jersey - The Need for a New Look at Land Use Controls	96
DH-4	Chapter 9, Mobile Home Parks	102

1 B E R N H A R D H A E K E L , having been duly
2 sworn according to law by the Officer,
3 testified as follows:

4 **DIRECT EXAMINATION BY MR. FERGUSON:**

5 Q Mr. Haekel, my name is Alfred
6 Ferguson. I am with the firm of McCarter &
7 English. We represent the Township of Chester in
8 this action. I am going to be asking you ques-
9 tions today on behalf of The Common Defense
10 Committee in a procedure with which you are
11 familiar as you have been advised by your counsel.

12 If at any time you do not understand a
13 question, please let us know. If at any time
14 your counsel objects, wait until the objection is
15 stated and then follow the instructions of your
16 counsel.

17 Mr. Haekel, do you have a--

18 MR. MEISER: Just a little back-
19 ground. I assume we are reserving all
20 objections?

21 MR. FERGUSON: All objections,
22 except to form.

23 MR. MEISER: Okay.

24 MR. FERGUSON: All objections as to
25 form should be stated now so that they can

1 be cleared up on the record.

2 MR. MEISER: Fine.

3 Q Do you have a resume or a curricu-
4 lum vitae with you? A No.

5 Q Okay. Would you tell us whether
6 you consider yourself to be an expert or an
7 expert witness with respect to this case?

8 A Yes.

9 Q In what field?

10 A Mobile homes, mobile homes, particularly
11 land use of mobile homes.

12 Q Would you give us your educational
13 background and those things which you would
14 ordinarily tell the trier of fact to qualify you
15 as an expert.

16 A I have a--the Austrian equivalent of a
17 master's degree in architecture from the Institute
18 of Technology in Graz, G-r-a-z, Austria, 1959.
19 And I have a master's degree in city and regional
20 planning from Harvard University, 1971.

21 Q Where did you go before you went to
22 Graz? A I went to--Before I went to

23 Graz, I went to high school in Hamburg, Germany.

24 Q When you say that is the equivalent
25 of a master's in architecture--

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A Right.

Q --is that the first advanced degree that you got?

A As you may know, the educational system in Europe is somewhat different. It is not divided into bachelor's and master's degree. The degree offered by the Institute of Technology is the equivalent of a master's in architecture in this country.

Q Okay. Now, that was 1959?

A Yes.

Q Your master's from Harvard--

A Yes.

Q --in regional and city planning--

A Right.

Q --was 1971? A '71.

Q Do you hold any professional licenses?

A No.

Q Have you ever applied for a professional license? A No.

Q Either in this country or abroad?

A I had a--I should correct this. I did hold a license as a licensed architect in Austria from 1961 to I believe 1975 when I gave it up.

Q Did you practice architecture in

1 Austria? A Yes, I practiced as a
2 licensed architect from the time I received the
3 license to 1968.

4 Q Now, I noticed there's two years
5 between getting the license and your graduation
6 from the Institute of Technology?

7 A Right.

8 Q Would you tell us what you did
9 during that two-year period?

10 A Well, I worked as an architect. The
11 regulations in that country are that you have to
12 be employed as an architect, work in a firm with
13 a licensed architect, for a certain number of
14 years until you can apply for a license itself.

15 Q And who did you work for?

16 A I worked for a number of architects, let
17 me try to recall, from receiving my degree in
18 architecture. I was first employed with Gerhard
19 Frisee, F-r-i-s-e-e, in Graz, G-r-a-z. That was
20 from '59 to the summer of 1960. Then in the
21 summer of 1960, I was employed by Professor
22 Lorenz, L-o-r-e-n-z, till 19--I believe 1961.

23 And then I was employed by an architect
24 named Elmer Keckeis, K-e-c-k-e-i-s, in Lustenau,
25 L-u-s-t-e-n-a-u, in western Austria. And after

1 that, I was employed with Professor Gruenberger
2 in Vienna. After that I was self-employed.

3 Q What is the latest date you worked
4 for Professor Gruenberger?

5 A I believe it was 1962.

6 Q Okay. Now, before you were self-
7 employed, describe if you would your employment
8 with these four architects or firms.

9 A The work included all phases of architec-
10 ture, design, working drawings, submission draw-
11 ings for building permits, costing and supervision
12 of construction. I also participated in a number
13 of architectural competitions during this employ-
14 ment period and obtained a number of prizes in
15 these competitions.

16 Q Were they for students?

17 A No, those were regular professional
18 competitions usually for public buildings.

19 Q So you would compete and then be
20 awarded a--

21 A Yes, that is--at
22 least used then to be the prevailing method for
23 obtaining a contract for the construction of a
24 public building in Austria.

25 Q Was the prize the contract or was
there something else along with it?

1 A No, no, there was a monetary prize to
2 obtain and to obtain the contract additional
3 negotiations had to be held.

4 Q I see. A The reason for
5 becoming independent was that with a colleague I
6 won the first prize in a major competition,
7 international competition, for a new university
8 in--I believe this was in 1962. And we subsequent-
9 ly got the contract for the design and construc-
10 tion of that university.

11 Q Where was that located?

12 A In Linz, L-i-n-z, Austria.

13 Q And you did get the contract?

14 A Right.

15 Q Was that--

16 A As part of a joint venture.

17 Q With whom?

18 A With an architect named Perotti,
19 P-e-r-o-t-t-i.

20 Q From Austria?

21 A Right, from Linz, L-i-n-z.

22 Q Were these structures built?

23 A Yes, these structures were built.

24 Q What is the name of the university?

25 A It was called then Hochschule for Sozial

1 und Wirtschaft Swissenschaften, H-o-c-h-s-c-h-u-l-e
2 f-o-r S-o-z-i-a-l - u-n-d W-i-r-t-s-c-h-a-f-t
3 S-w-i-s-s-e-n-s-c-h-a-f-t-e-n.

4 Q Now, the English translation for
5 that is the University for the Study of Sociology?

6 A Call it Institute for Social and Economic
7 Sciences.

8 Q Okay. How big a project was that?
9 What was the total construction cost? Do you
10 recall? A No, I don't recall
11 that.

12 Q How many buildings were there?
13 A We started with one major building for
14 classrooms, lecture halls and seminar rooms.
15 The second phase was the rehabilitation of an old
16 mansion for the administration. And the third
17 phase, construction of a, what would you call it,
18 like a student center mostly with a restaurant,
19 cafeteria facility, a main cafeteria.

20 Q All right. What was your part of
21 the joint venture? What did you do?

22 A Participated in the design, mostly in the
23 design, of this particular project.

24 Q Did you have any responsibility for
25 supervision of construction?

1 A No, a colleague of mine did that part.

2 Q Now, I think you indicated that you

3 became self-employed as a result of getting this

4 contact? A Right.

5 Q Did you have your own firm?

6 A Yes.

7 Q What was the name of the firm?

8 A Schindler, S-c-h-i-n-d-l-e-r, Haekel and
9 Eisendle, E-i-s-e-n-d-l-e, that was the name of
10 the firm.

11 Q And where was that located?

12 A That was located on Blumauergasse,
13 B-l-u-m-a-u-e-r-g-a-s-s-e, in Vienna, Vienna,
14 Austria.

15 Q Is that firm still practicing?

16 A No.

17 Q Was it dissolved?

18 A Yes.

19 Q When was it dissolved?

20 In 1968.

21 Q Did you practice in that firm from
22 1962 to 1968? A Yes.

23 Q Would you tell us, did you have any
24 other employment during that time period except

25 for that? A No.

1 Q Would you tell us briefly, if you
2 would, what you did when you were self-employed
3 with that firm?

4 A I participated
5 in the design of the institute in Linz as a part
6 of the joint venture. My partner Eisendle had
7 the main responsibility of actually working in
8 Linz. I designed and developed construction
9 documents for a prefabricated public housing
10 complex in Vienna. I designed and developed
11 construction documents for conventionally built
12 public housing in Vienna.

13 I've participated in a number of architec-
14 tural competitions. I designed several single-
15 family homes, a number of other projects that I
16 don't recall immediately.

17 Q Did you do any work in mobile homes?

18 A Not there, I never knew about mobile homes
19 before coming to this country.

20 Q Are there any mobile homes in
21 Vienna that you know of?

22 A There may be now, but not at the time,
23 certainly not.

24 Q When did you come to the United
25 States? A 1968.

Q Have you been back to Europe since

1 1968? A Yes, the last time in 1973.

2 Q Did you look around to see if
3 mobile homes had been used in Europe in 1973?

4 A I did not specifically look out for that.
5 I know there are many travel trailers in use in
6 Europe. And without having done any recent
7 research on it, I would expect that the mobile
8 home as it exists in this country is very
9 unlikely to become a major housing resource in
10 Europe for a number of reasons.

11 Q What are those reasons?

12 A I think there is a complex array of
13 reasons. And I could try to sketch out a few of
14 them as I can think about them.

15 One is perhaps the most obvious. The road
16 network that has been developed in this country
17 since 1956, since the interstate highway system
18 began to be built, this road network is in a far
19 larger scale than the network in Europe. It
20 accommodates loads that are much wider than any-
21 thing you could transport on the roads in Europe.
22 It also, of course, covers an enormous land area,
23 just enormously larger than the market that you
24 would have in Europe. So this is one reason.
25 There simply would be transportation problems.

1 Secondly, the mobile home in this country
2 has developed out of a peculiar evolution or
3 history of building codes and building standards.
4 It is the first mass-produced housing system for
5 perhaps a paradoxical reason, namely that it
6 could only develop into a mass-produced housing
7 system by starting out not as a house, but as a
8 vehicle; and thereby during the initial years not
9 being subject to traditional building codes which
10 at the time were extremely fragmented.

11 So again the different legal situation you
12 have in Europe would preclude that type of
13 evolution. This is not to say that mass produc-
14 tion in housing has not become a major force in
15 Europe, but it has taken different directions.
16 It is much more concentrated on the mass
17 production of multi-family housing.

18 Q You said the different legal system
19 would preclude. Would you expand on that from
20 your perspective as an expert on mobile homes?
21 Compare the difference of legal systems in Europe
22 and the U.S. and how that would affect the
23 development. A I don't offer myself
24 as an expert on the European legal system. I
25 would like to say this in the beginning.

1 Q Only insofar as it affects mobile
2 homes, if you know.

3 MR. MEISER: To the extent that you
4 can give an answer, give what you know.
5 You are not being held as an expert in law.

6 A Okay. I would assume that it would have
7 been impossible in Europe to produce for nearly
8 two decades a housing system that did not have to
9 comply to any established and state-monitored
10 standard for two decades and use it in large
11 quantities for human habitation. I think that's
12 inconceivable in Europe. And this fact, that
13 this was possible in this country, made it
14 possible for this industry to develop.

15 Q You said two decades?

16 A Roughly, this is a floating line, not a
17 particular date when all of a sudden a standard
18 was there. Standards began to develop since the
19 1930's, but for a long time they were voluntary.

20 For a long time, they were fairly broad and open.

21 So what I meant by the different legal
22 system is also related just to the different
23 social system and different economic system. At
24 least in my view and my experience, this country
25 has traditionally permitted a much wider range

1 of experimentation than you would find in Europe.

2 Q Is that confined to mobile homes or
3 that just a general observation?

4 I think that is true in many other fields
5 that I can think of. I've seen people build
6 homes in rural areas with no building permit what-
7 soever and live in them. I don't think that's
8 possible anywhere in Europe that I can think of.

9 Q I take it then that for 20 years at
10 least plus or minus, two decades, the development
11 of mobile homes was not subject in your opinion
12 to strong legal controls by local or national
13 authorities? A Yes.

14 Q Do I get that inference from what
15 you said? A Right, that's right.
16 I think that's a fair inference. If you--Again,
17 you have to qualify when those two decades would
18 begin.

19 Mobile homes began to be built in the '30's.
20 So if we talk about 1935 to 1955, this would be
21 approximately the span of the two decades.

22 Q I would like to come back to that
23 later, if I could. I think I left off in 1968
24 when you came to the United States.

25 A Right.

1 Q You had dissolved your firm and you
2 came here? A Right.

3 Q May I ask why you decided to come
4 to the U.S.? A Partly personal
5 reasons I wouldn't want to dwell on. But mostly
6 because of a desire to move on and to learn new
7 areas of my field. I came because I was admitted
8 to this program at Harvard and I thought that
9 this would open new opportunities.

10 Q What program were you admitted to?
11 A To city and regional planning master's
12 degree.

13 Q And when did you start at Harvard?
14 A In the fall of 1968.

15 Q And when did you arrive in this
16 country? A In June, 1968.

17 Q Was it a full-time course of study
18 at Harvard? A Yes.

19 Q How long did it last?
20 A The program was a three-year program.
21 And I completed it after two-and-a-half years in
22 January of 1971.

23 Q And you got a master's in city and
24 regional planning? A Right.

25 Q And have you had any degrees other

1 than those you already told us about? That is the
2 Harvard and the Linz. A No.

3 Q Harvard and the Graz?

4 Right.

5 Q You built Linz?

6 A Right.

7 Q You have no other degrees from any
8 institution? A No.

9 Q What did you do upon your receipt
10 of the degree in January of 1971? Where were you
11 employed next?

12 A After receiving my degree in 1971, I
13 traveled for a number of months. And then I was
14 employed with Abeles, Schwartz and Associates at
15 10 Kenmare Street in New York City.

16 Q Who are the principals in that firm?

17 A At the time, it was Peter Abeles and Harry
18 Schwartz.

19 Q And who are the principals now?

20 In addition to Peter Abeles and Harry
21 Schwartz, myself and Richard Silverblatt. The
22 name of the firm is now Abeles, Schwartz, Haekel
23 and Silverblatt.

24 Q That is recent?

25 A Right, since we moved, we had to get a new

1 shingle anyway.

2 Q Congratulations.

3 When was that new name adopted?

4 In March, 1979.

5 Q Now, would you give us what you
6 have done for that firm?

7 A Yes, I have participated in the whole
8 range of projects that that firm is engaged in.
9 And this range covers the development of non-
10 profit housing, mostly in the State of New Jersey
11 and mostly passed under the aegis of the New
12 Jersey Housing Finance Agency; policy studies for
13 the federal government, for municipal governments;
14 zoning matters; conventional development of multi-
15 family housing; and international housing policy
16 studies.

17 Q And do you have a list by any
18 chance of the projects you have worked on since
19 you have been with that firm?

20 I don't have a list here, but I could
21 certainly bring a resume to the next deposition.

22 Q I would certainly appreciate that.

23 A Okay.

24 Q Now, you say resume. That has all
25 the information on it that you have told us about?

1 A Perhaps not in all the detail that we have
2 talked about today, but the outline is on it.

3 Q And would it have a list of the
4 projects you have worked on at the Abeles, Schwartz
5 firm?

6 A Yes, at least all the major
7 projects. I wouldn't say it's a complete list
8 because we do many small jobs that don't merit to
be put on a resume.

9 Q By the way, just going back to your
10 practice in Germany-- A Austria.

11 Q --Austria, excuse me, you said that
12 you worked on prefabricated multi-family housing?

13 A Right.

14 Q And you mentioned that housing
15 systems had taken a different turn in Europe
16 because of the various controls or economic and
17 legal systems? A Yes, I mention-
18 ed a number of reasons and there are many more.
19 One of them is also the shortage of land. There
20 would be a whole range of reasons.

21 Q How does the shortage of land affect
22 the development of housing systems in Europe?

23 A That there has been a much greater empha-
24 sis on higher density multi-family housing.

25 Q Is the prefabrication of housing

1 units more advanced in Europe than it is in the
2 U.S.? A I don't think one could say
3 that. Certain systems have been developed for
4 building prefabricated concrete structures,
5 apartment structures. And these systems are very
6 widely used in Europe. A system which we employ-
7 ed in Vienna was licensed from France called the
8 Camus system.

9 Q How do you spell that?

10 A C-a-m-u-s.

11 There are other systems. The Soviet Union
12 has developed many of these concrete prefabrica-
13 tion systems. So in terms of prefabrication of
14 concrete apartment buildings, there has been a
15 large activity in Europe.

16 In this country, there was an attempt
17 around 1970 with Operation Breakthrough sponsored
18 by H.U.D. to have a similar breakthrough of that
19 type of housing technology, but it wasn't very
20 successful. Again I think for many reasons.

21 One of them, simply that as far as I can
22 see it the prevailing trend in the American
23 housing market is still for the low density, the
24 low density single-family housing type.

25 (A discussion is held off the

1 record.)

2 Q I seem to recall the World's Fair
3 in Montreal, they had a concrete prefab.
4 Habitat.

5 Q Habitat; which system was that?

6 A That was a system specifically developed
7 by the architect, Moshe Safdi, for that project.
8 It was none of the internationally introduced
9 systems. Also it was very limited, to a very
10 limited extent, a prefab system.

11 Q How developed is the prefab indus-
12 try in Europe as compared to the United States?

13 A I'm sorry?

14 Q How developed is the prefabrication
15 of modular housing or housing units in Europe as
16 compared to the United States? How far along is
17 the industry as compared to what we have?

18 A I really couldn't answer this for now, for
19 1979, because I haven't kept up with the develop-
20 ment in Europe sufficiently.

21 Q When is the last time your knowledge
22 is current? A About ten years ago.

23 Q As of that date, what was the
24 status of it? A That in the

25 area of concrete prefabrication, Europe was

1 further ahead and in the area of lightweight pre-
2 fabrication, lightweight construction prefabrica-
3 tion, the United States was much farther ahead.

4 Q Is that mainly a function of
5 transportation? A Partly a func-

6 tion of transportation, partly a function of the
7 prevailing materials that are available. This
8 country is very rich in lumber. Of course, most
9 of our construction is dominated by lumber, which
10 is an expensive material in Europe and not used
11 nearly as much.

12 Partly by the prevailing taste for single-
13 family housing and the still prevailing at least
14 until recently possibility of people to afford
15 this kind of family housing; and partly by the
16 enormous market that you have in this country for
17 light construction, single-family type or frame
18 construction type housing.

19 The prefabrication system that has develop-
20 ed in this country has developed very differently
21 from the way it was expected, say, by people who
22 wanted to promote larger prefabrication in the
23 late 1960's. When President Nixon first took
24 office, he brought into H.U.D. a Secretary of
25 H.U.D., George Romney, who had--who initiated

1 Operation Breakthrough as a major program to
2 promote industrialized housing.

3 And he brought in a number of people from
4 N.A.S.A., the space industry. The idea was the
5 type of technology that had been developed in the
6 space program should also be used to push housing
7 into the Space Age, so to speak.

8 Q If we can go to the moon, we can
9 build houses? A Right. And
10 it didn't happen at all this way, as I'm sure you
11 know.

12 Q I may and I may not.

13 But what did happen? I do not know.

14 A What did happen is that prefabrication
15 for the housing industry has followed or has
16 happened in much more subtle ways. The best idea
17 of American prefabrication you get if you go to
18 home improvement centers such as Channel Indus-
19 tries here in New Jersey and see what you can buy.
20 You can buy practically a whole house in a super-
21 market type of operation and cart the pieces out
22 on a shopping cart. You can buy windows, doors,
23 ventilation systems, floor systems.

24 Of course, the lumber dimensions are all
25 modular. They are already cut to ceiling height.

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So prefabrication has followed the market and remained by and large more flexible. But ~~often~~ there is also a whole range. Of course, prefabrication ranges from that kind of prefabrication you find in Channel Industries to fully-produced housing units, which come finished with furniture. So there is a very broad range and very flexible range.

Q What kind of units are you talking about fully-produced with furniture?

A Modular units and mobile homes.

Q I guess this is as good a time as any to ask you your definition of modular units, mobile homes. A Yes.

Q In other words, we ought to clear up what the definitions are so we all know what the other person is talking about.

A Certainly. I don't have a definition for a mobile home. There is a definition in the statute, in the federal statute, that I would assume you are familiar with. It is included in the Mobile Home Construction and Safety Standards Act of 1974.

It says a mobile home is a unit shipped in one or several sections. I'm not quoting

1 verbatim.

2 Q Do you have a copy of your report?

3 A Yes.

4 MR. MEISER: I have one copy here.

5 THE WITNESS: I'm not sure about
6 the definition in the report.

7 MR. FERGUSON: Could we mark this
8 for identification.

9 (Report on Mobile Homes marked DH-1
10 for identification.)

11 Q Now, would you tell us what you are
12 reading from? A I'm reading
13 from the coded federal regulations, Title 24,
14 Housing, Urban Development, Part 280, Mobile Home
15 Construction and Safety Standards. And this is
16 Subpart A, Paragraph 280.2(16).

17 MR. MEISER: Excuse me. For the
18 record, it is 280.2.

19 THE WITNESS: 280.2, yes.

20 Q Okay. Section 280.2(16). And what

21 is that? A It says in quotation
22 marks, "'Mobile Home' means a structure trans-
23 portable in one or more sections which is eight
24 body feet or more in width and is 32 body feet
25 or more in length and which is built in a

1 permanent chassis and is designed to be used as a
2 dwelling with or without permanent foundation
3 when connected to the required utilities and
4 includes the plumbing, heating, air conditioning
5 and electrical systems contained therein."

6 Q Would you tell us what the words
7 permanent chassis mean?

8 A A permanent chassis is a chassis consist-
9 ing of two steel I-beams and cross steel outrig-
10 gers and attached to the two steel I-beams is
11 running gear with the required number of axles.

12 Q What do you mean by running gear?

13 A Axles for wheels and a hitch in front of
14 the chassis.

15 Q Does this definition mean that the
16 wheels always have to be attached?

17 A No, it doesn't mean they have to be always
18 attached. It is just produced and shipped that
19 way.

20 Q Can you put a mobile home on the
21 flatbed of a trailer truck?

22 A You could, but it wouldn't--You certainly
23 could. It wouldn't make much economic sense to
24 do it.

25 Q It is cheaper to pull it than it

1 is to carry it? A Yes.

2 Q Is it necessarily true within your
3 definition that they include the plumbing, heat-
4 ing and air conditioning and electrical systems
5 necessary for operation of the unit?

6 A Yes, air conditioning, of course, is not a
7 must. Just if air conditioning is included, then
8 it has to comply with this definition.

9 Q Okay. Now, I show you Section 521-
10 1.1 of the New Jersey Administrative Code and
11 show you a definition of mobile home and ask you
12 whether in your opinion that is the same defini-
13 tion as the H.U.D. standards used.

14 A That is not identical with this definition.
15 It is similar, but not identical.

16 Q Would you tell us from your point
17 of view as an expert on mobile homes what the
18 difference, if any, is?

19 A This--The New Jersey definition theoretic-
20 ally could include a unit that is smaller than
21 size criteria that are included in the
22 federal definition. The federal says it has to
23 be eight feet or more in width and 32 feet or
24 more in length.

25 So theoretically a trailer that was

1 smaller than that would still be a mobile home
2 under this definition. That is fairly academic
3 because even the federal definition is a very
4 small size.

5 And it says it is a movable or portable
6 unit designed and constructed to be towed on its
7 own chassis comprised of frame and wheels and
8 designed to be connected to utilities for year-
9 round occupancy. This definition does not say it
10 has to be complete or it has to include the
11 plumbing, heating, air conditioning and electri-
12 cal systems contained therein.

13 So under this definition, theoretically
14 the unit could not have all the necessary utili-
15 ties. For example, theoretically it could be
16 without a heating system.

17 Now, the federal definition is part of the
18 Mobile Home Construction and Safety Standards Act
19 of 1974, which has pre-empted all previously
20 existing state construction standards for mobile
21 homes. So for all practical purposes, this
22 definition is the definition which now governs
23 the construction of mobile homes throughout the
24 country, including New Jersey.

25 Q Why do you say that the federal

1 standards have pre-empted the state standards?

2 A Because that is what is stated in the
3 statute.

4 Q Okay. Do you have a citation to
5 that statute?

6 A I don't have the numerical citation. It's
7 the Mobile Home Construction Safety Standards
8 Act. The authority should be given in the regula-
9 tions. Section 7D, Department of Housing and
10 Urban Development Act, 42, United States Code
11 3535(D) Title 6, Housing and Community Develop-
12 ment Act of 1974 (42) United States Code 5401.

13 Q Okay. Is there any practical
14 difference between the two definitions? Are they
15 incompatible in any way?

16 A I don't think they're incompatible. The
17 federal definition is more precise.

18 Q Okay. Now, is there any other
19 definition which we ought to establish before we
20 discuss discussing your expertise in the mobile or
21 modular home field? What about modular houses?

22 A Right, I suppose you want a definition of
23 modular homes. The only definition of a modular
24 home that I can think of that can be used at the
25 present time is one that says a modular home or

1 modular dwelling unit is a dwelling unit that is
2 fully constructed in a factory and transported to
3 a site that does not have to comply with the
4 Federal Mobile Home Construction Safety Standard.

5 Q So it is a definition first by
6 defining mobile homes and then saying everything
7 else that is constructed off-site that is not a
8 mobile home is a modular home?

9 A Yes, that's right. The line is extremely
10 thin.

11 Q If we just had a definitional
12 equation where A equals all units and B equals
13 mobile home units, mobile homes, and C equals
14 modular homes, what else do we need in the equa-
15 tion to get A equals B plus C plus what else?

16 A Depends on what A is. If A represents all
17 three-dimensional preconstructed dwelling units,
18 then B and C would be all you need, would be all
19 else you need, because there are only mobile
20 homes and modular homes. These are the only two
21 generic types of three-dimensional prefabricated
22 homes.

23 Q Prefabricated or preconstructed
24 units? A Right.

25 Q How do I know when a unit is

1 preconstructed versus constructed on-site? I
2 take it if I go into Channel Lumber and I take
3 enough things out in a shopping cart, I am get-
4 ting a large percentage of what I built precon-
5 structed. What definitional--

6 A That does not qualify as a preconstructed--

7 Q --rubric--

8 A --home. Again, you have to go by the code.

9 Any other definition is confusing. Any indus-
10 trialized or preconstructed dwelling unit that
11 does not have to comply with the Federal Mobile
12 Home Construction and Safety Standards Act in
13 the State of New Jersey has to comply with the
14 State Uniform Construction Standard, in other
15 words, with the State building code.

16 And the State building code now has
17 particular provisions for industrialized housing,
18 meaning housing that is factory-built. And it
19 may be factory-built in a three-dimensional
20 fashion, coming as a full modular, or it may be
21 factory-built in two dimensional components,
22 usually referred to as panels.

23 Anything that is pre-assembled to a lesser
24 degree, namely housing that consists of components
25 rather than full panels, wall and ceiling panels,

1 is commonly considered conventional housing. In
2 other words, the fact that a conventionally-
3 built house has prefabricated windows and doors
4 and other systems does not make it an industrial-
5 ized unit in the common definition at this time.

6 Q Is that the definition that you
7 have used and is common in your profession?

8 A I'm not sure it's common in my profession.
9 I think there is tremendous confusion all over
10 the field about what is industrialized housing
11 and what is not and what is a mobile home and
12 what is not. That's why I'm suggesting these
13 very clear-cut definitions.

14 Q Okay. Just so I am clear, and I
15 agree with your goal of avoiding confusion, of
16 which I also agree there has been a lot,
17 industrialized or preconstructed housing--

18 A Yes.

19 Q --is that housing which is complet-
20 ed off-site and just moved to the site?

21 A Which at least in large segments is com-
22 pleted off-site. The main criterion that must be
23 applied here is whether a wall panel is closed or
24 whether it's open.

25 Q All right. Would you explain that?

1 A If a wall panel is closed, of course, you
2 are talking here about frame construction, stan-
3 ~~standard~~ construction, two-by-four's and two-by-six's.
4 ~~panels~~ for even conventionally-built housing
5 these days are very often pre-assembled. Trusses
6 are usually factory-built and pre-assembled in
7 full conventional housing.

8 But if a panel is pre-assembled, which
9 means the vertical two-by-four's are put in place,
10 the plates are nailed on, if it is only closed on
11 one side, say, if a layer of sheathing is put on
12 the panel and the other side is open, then an
13 inspection of the structure can be made right on
14 the site because the building inspector doesn't
15 really worry too much about whether this panel
16 was pre-assembled somewhere else or on the site
17 as long as he can inspect that structure on the
18 site. In that case, it's considered a convention-
19 al unit.

20 The moment you enclose the other panel,
21 you have a closed panel, you have a pre-assembled--
22 you make that definitional leap. The one impor-
23 tant criterion here is inspection. From that
24 time on, the inspector can no longer inspect on
25 the site whether everything is properly placed

1 in the wall. He has to make the inspection in
2 the factory.

3 **DAYTON COI** So it is not so much a question of a
4 technological quantum leap. It's a question of a
5 different type of inspection procedure.

6 Q So the key is really inspection?

7 A That's correct.

8 Q And not any particular definition
9 of construction?

10 A For wherever the line is between conven-
11 tional and industrial, yes.

12 (A discussion is held off the
13 record.)

14 Q So it is not the construction
15 itself? It is whether an inspector can inspect
16 it which is important in determining really
17 whether one calls it modular or prefab as opposed
18 to conventional construction?

19 A If I may qualify that a little bit, for
20 drawing the line between industrialized precon-
21 structed housing and what's referred to as
22 conventional housing, this question seems to be
23 the most important criterion.

24 Q Is there any official definition
25 which would draw that line for us by H.U.D. or--

1 A Not H.U.D. in this case, but the State
2 Uniform Construction Standard because the State
3 Uniform Construction Standard tells you when a
4 unit or a type of construction is to be consider-
5 ed industrialized construction and when it is to
6 be considered conventional construction.

7 Q Can you find that for us in the
8 B.O.C.A. basic building code?

9 A I certainly can. Maybe we can look at it
10 over lunch and take less of your time.

11 Q Okay. Good idea. Now, I think we
12 have gotten up to the point where you had--

13 A This is the B.O.C.A. Code. Do you also
14 have the State Code?

15 MS. WILKINSON: Not with me.

16 Q Not with us.

17 A So I may find it in here.

18 MS. WILKINSON: They are very
19 close.

20 THE WITNESS: Yes.

21 Q H.U.D. or the federal authorities
22 have no definitional approach for industrialized
23 versus conventional?

24 A The only area where the federal has now
25 gotten involved in construction codes is mobile

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1 homes. And it was still ten years ago considered
2 impossible that this would ever happen, but
3 beyond that, there are no federal definitions
4 that I'm aware of that define conventional versus
5 industrialized construction.

6 Q Are you in a position to tell us
7 your opinion why the federal government got
8 involved? Are you familiar with the conventional
9 history? Have you looked into that?

10 A Yes.

11 Q Can you answer the question why did
12 the federal government get involved in promulgat-
13 ing a code for mobile homes?

14 A Yes, it was a step in the evolution of
15 standards governing the construction of mobile
16 homes. I think very briefly you have to go to
17 the beginnings of those standards. Starting with
18 the first large-scale construction of travel
19 trailers or house trailers as they were referred
20 to in the 1930's, the National Fire Protection
21 Association began to develop some recommended
22 standards for the construction of trailers and
23 for the construction of trailer coach parks as
24 they were called. These standards were gradually
25 amplified and amended over the years until 1962

1 I believe at a time when, for the first time, a
2 line was drawn between travel trailers and mobile
3 homes. Until then, the standard governed both
4 travel trailers meant for vacation use and mobile
5 homes at that time were already used in large
6 numbers for year-round living.

7 Then also in the 1960's, a larger group
8 of agencies got involved and interested in work-
9 ing on this standard. And that is the beginning
10 of the standards sponsored by the American
11 Standards Institute which I refer to as A.N.S.I.,
12 A.-N.-S.-I. 1-19-1. That was jointly sponsored
13 by the industry then represented by the Mobile
14 Home Manufacturers Association and the Trailer
15 Coach Institute on the West Coast, by the
16 National Fire Protection Association and by a
17 number of other groups.

18 This standard became more detailed and
19 more inclusive through the years until the late
20 1960's when mobile homes were being produced in
21 large numbers. I think the production
22 reached about 400,000 units a year in 1970, up
23 four times from what it had been in 1960.

24 So that more public attention was being
25 paid to who was--to the standards governing the

1 construction of these units. And a number of
2 states began to enact legislation authorizing the
3 adoption of mobile home construction standards.

4 So the A.N.S.I. 1-19-1 standard that until
5 then had been a standard simply prescribed by the
6 Manufacturers' Association for its members with
7 a fairly lenient enforcement or monitoring system
8 was then adopted by state after state as a state
9 code, usually with only minor modifications or no
10 modifications at all. So by about 1971, 1972,
11 most states had adopted that standard as their
12 state code.

13 But there was more and more confusion
14 about reciprocity in a home that was constructed
15 in one state complying with the A.N.S.I. standard
16 in that state, whether it would also be accept-
17 able in a neighboring state. So that mostly for
18 market reasons, for market reasons and also for
19 growing public awareness, the need was perceived
20 for unifying the system.

21 It was close enough already. It was only
22 a very confusing mess of very minor deviations
23 and details.

24 So the Manufacturers Association itself
25 became a lobbyist for enactment of a federal code

1 or a federal standard. And it was supported by
2 other groups, consumer groups. Ralph Nader was
3 looking into mobile homes in the early 1970's.
4 And they pushed also for a federal standard.

5 So that was behind the 1974 Mobile Home
6 Construction and Safety Standards Act, which then
7 pre-empted all the state codes and essentially
8 adopted the A.N.S.I. standard--Well, I shall take
9 that back--and ordered H.U.D. to develop a mobile
10 home construction standard.

11 Now, H.U.D. subsequently worked with the
12 states in developing this standard and again they
13 used the state standards which in themselves were
14 reincarnations of the A.N.S.I. standard to draft
15 the new federal standard. So it has been a pro-
16 cess, in reality a gradual process, of improve-
17 ment and of developing a more detailed and more
18 stringent--partly more stringent standard over
19 the years which was originally mostly voluntary,
20 then mandatory in the states and now mandatory
21 throughout the nation under the aegis of H.U.D.

22 Q Okay. Now, I had taken you up
23 through the time you started with Abeles, Schwartz,
24 that firm. Now, you said you had participated in
25 non-profit housing under N.J.H.F.A.?

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A Yes.

Q Describe your work for us in projects in that area.

A I have worked with a number of community-based organizations to build low and moderate income housing in various localities in New Jersey. For example, I began working with a group in Plainfield, New Jersey, called the United Plainfield Housing Corporation which was comprised of representatives of the Model Cities Program and other civic organizations, N.A.A.C.P. --

Q Was any housing built as a result of that corporation?

A Yes, right.

Q How many units?

A On two sites, approximately 55 units in each site in Plainfield.

Q Is that a limited dividend corporation?
A No, nonprofit.

Q Nonprofit?

ME
Yes.

Then in Jersey City, I began working in 1971 with a group called Puertoricanios Asociados for Community Organization, in short, PACO, and finally founded a coalition with a Lutheran

1 church and built approximately 250 apartments
2 for low and moderate income families in downtown
3 Jersey City, a project called Vio Borenken.

4 Q Was United Plainfield subsidized?

5 A They were all subsidized. These first
6 projects were subsidized under the Federal
7 Section 236 Trust Subsidy Program. And later
8 projects were then being subsidized under Section
9 8, Housing Assistance Payments Program.

10 Q Okay. What were some of the other
11 nonprofit projects you worked on?

12 A The next one was Paterson, New Jersey with
13 a group called I.N.C.C.A. for Housing,
14 I.-N.-C.-C.-A., which is a coalition of some
15 churches in Paterson. We built a project of 88
16 units on Carrol Street, C-a-r-r-o-l, in Paterson.
17 It was completed about a year ago. And we have
18 a second project in construction in Paterson with
19 the same sponsor called Triangle Village.

20 Q That is subsidized also?

21 **ME** It was subsidized under Section 8 Housing
22 Agency Financing. In addition to that, we are
23 involved with Riase Association, which is the
24 housing arm of the Catholic Diocese of Paterson
25 to build senior citizen housing in Paterson.

1 This is a project known as Governor Paterson
2 Tower.

3 Q Okay. Now, what was your involve-
4 ment with these projects? What did you do?

5 A I worked with the sponsor from the begin-
6 ning in almost all these cases, except the Riase,
7 which was a little different, from the beginning
8 in first hiring a team of qualified professionals,
9 hire an attorney, hiring an architect on a risk
10 basis, getting incorporated--

11 Q On a risk basis?

12 A On a risk basis originally because these
13 groups had no funds and work with them was only
14 possible on a risk basis. Getting incorporated
15 as a nonprofit sponsor, then finding a site which
16 usually is 95 percent of all the work, getting
17 zoning for that site and finding a site at a cost
18 or conditions which would be compatible with these
19 programs, getting the suitable zoning for that
20 ~~site~~ getting a tax abatement, and then finally
21 ~~filling~~ with the New Jersey Housing Finance Agency
22 and with H.U.D. for financing and receiving all
23 the necessary approvals.

24 So on the average, this has been a process
25 taking anywhere from five to seven years from the

1 time I had my first meeting with the sponsor to
2 the time we had ground breaking. I have another
3 one in Teaneck, New Jersey with another church
4 group which is under construction.

5 Q What is the name of that group?

6 A That's called the Teaneck Senior Citizens
7 Housing Corporation, again a coalition of churches
8 and temples. And finally now a group in Cedar
9 Grove, New Jersey, Essex County, with a group
10 called the Cedar Grove Senior Citizens Housing
11 Association.

12 Q Now, you yourself do not hold an
13 architect's license?

14 A In this country, no.

15 Q And you do not hold a planning
16 license?

17 A The only state on the
18 East Coast that requires a planning license as
19 far as I know is New Jersey. My partner, Peter
20 Abeles, holds a New Jersey planner's license
21 which is sufficient for our firm.

22 Q So has your firm been engaged in
23 planning in New Jersey and have you been doing
24 the work for your firm--

24 A Yes.

25 Q --in the planning area?

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A Yes.

Q And Mr. Abeles has been the licensed planner who has represented the firm as far as the license requirement goes?

A That's correct, yes.

Q Would it be correct to say that you, in fact, do the planning work for the projects you are interested in? A Yes.

Q Or some of them?

A Yes, of course, we are a partnership and we very often review--We review the work that we do in joint meetings. So we are all familiar with the projects that the other partners are working on.

Q Okay. Have you done any other studies for the New Jersey Housing Finance Agency other than those you have told us about?

A I haven't done any studies for the Finance Agency.

Q Withdraw that. These are projects. Projects, again I am going to give you the complete list with the resume. Right now, I think this is probably complete.

Q Okay. Now, the next category you had was policy studies for federal and municipal

1 experience with using mobile homes for this
2 particular use in the large scale needed after
3 Tropical Storm Agnes hadn't been all that good
4 because mobile homes had not been designed for
5 very rough and long hauling. So the purpose of
6 this study was to come up with a number of alter-
7 native solutions for a temporary housing system.

8 Q For disaster relief?

9 A For disaster relief.

10 So we came up with a number of alternatives.
11 Four of them were subsequently built in--as proto-
12 types and tested by Boeing Aerospace.

13 The one that was most promising from the
14 viewpoint of our study was a mobile home--a some-
15 what modified mobile home, a mobile home that was
16 somewhat smaller than the units on the market.
17 And that was constructed specifically for repeated
18 over-the-road hauling.

19 Q Now, of these seven volumes, how

20 many pages in the seven volumes all total?

21 The volumes are not all the same thickness,
22 but I would say it's probably about 2,000 pages.

23 Q Is there one volume that has your

24 assignment or the definition of the task, the
25 methodology used, the assumptions used and the

1 Q Prepared by Abeles, Schwartz and
2 Associates, seven volumes, 1974 to 1975. Were
3 you the principal author of that report?

4 A I was project director of that report, yes.

5 Q Now, what kind of a project was
6 that?

7 A This was an investigation
8 of, number one, the Federal Disaster Relief
9 Program as it existed at the time, but with
10 particular emphasis on the provision of temporary
11 housing. The study was initiated after Tropical
12 Storm Agnes, after which a large number of mobile
13 homes had been bought as temporary housing for
14 disaster victims in Pennsylvania and upstate New
15 York.

16 In addition, this study covered a--covered
17 research on the state of the art of industrialized
18 housing, covering all the aspects from component
19 construction over panelized construction to
20 modular and mobile construction; so the fields
21 have been briefly touched earlier today; with the
22 purpose of identifying any technology available
23 at the time that could be used for disaster relief
24 operations.

25 Again, the main thrust was that mobile
homes had been used in large numbers and that the

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results? Is there one?

A Yes, there is a first volume that is a summary.

Q If I wanted to understand what that was all about, I would get that volume and not necessarily the other six?

A Right.

Q Do you have any extra copies of that set? A Yes.

Q Would you be so kind as to bring an extra copy of Volume 1 next time?

A Yes, yes.

Q Now, the next one under Item 30 here is Report on Mobile Homes.

A On Used Mobile Homes.

Q Unused Mobile Homes (sic), the something department? I'm sorry. Report on Used Mobile Homes. A On Used Mobile Homes.

Q That is left out?

A Right, no, this is supposed to be the department. Now, this is--This refers to H.U.D.'s report to Congress. This should be a separate number. I think this has been mistyped. It's a-- It should be a separate number. It should be 30

1 or 30A. Make it 30A.

2 This report was authored by H.U.D., but I
3 prepared a background report to it. It was on a
4 very short notice, an assignment on very short
5 notice.

6 H.U.D. had been required as part of Title
7 6 of the Housing and Community Development Act
8 of 1974 to prepare within one year a report to
9 Congress on used mobile homes in order to tell
10 Congress whether any additional action was need-
11 ed to govern--for federal intervention in the
12 use of mobile homes throughout the nation. And
13 in about April or May of 1975, the officials at
14 H.U.D. realized that they didn't have the time
15 to do the necessary background for this report
16 to Congress. And I received the assignment to
17 prepare the background report.

18 Now, portions of that background report
19 were used. Then portions were used for putting
20 together the final report to Congress. Other
21 portions were taken from a study prepared by
22 Arthur Bernhard from M.I.T.

23 Q Which study was that?

24 A This should be noted here under Massachu-
25 setts Institute of Technology. Here, Item No. 10.

1 Q That is M.I.T. Urban Systems
2 Laboratory Structure Operation, Performance and
3 Development Trends of Mobile Home Industry by
4 Arthur Bernhard, U.S. Department of Housing and
5 Urban Development, 1977?

6 A Yes.

7 Q Tell me again what happened.

8 A The report to Congress on used mobile
9 homes prepared by H.U.D. was based on a number of
10 sources.

11 Q Right.

12 A And one of them was the background report
13 that I prepared.

14 Q Right.

15 A Another one was this study.

16 Q But Mr. Bernhard's study was 1977?

17 A When it was finally released. It is an
18 enormous study. It fills about two rooms at
19 H.U.D.

20 Q I cannot ask you to bring it. It
21 is a pity. Is there a summary of that study?

22 A I think he is still working on that.

23 Q Have you read the study?

24 A Just portions.

25 Q If I wanted to read the portions

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that you had read, how would I go about it?

A I'm not even sure you could because I had special permission to enter one of these two rooms and for about three hours just read whatever I could get my hands on. But it couldn't be reproduced and there was no table of contents, so--

Q Well, is your familiarity with this report, Number 10 here, by Professor Bernhard--

A I'm not claiming to be familiar with the entire study, but there were certain parts of it that I was interested in. Those were the highway regulations governing hauling of mobile homes in 50 states. So those were the areas that I took notes of.

Q Any other areas that you took notes of?

A Taxing.

Q Taxing?

A Yes, different taxing in different states. Of course, all this was done in the early 1970's and it's far out of--It was far out of date at the time this study was finally released.

Q What about financing? Did Mr. Bernhard get into financing?

A Also, yes, he went into financing, costs.

1 Q What about insurance costs? Did
2 he go on to that? A I'm sure he
3 did also, but as I say--

4 Q Can you recall looking at his work
5 on insurance costs? A I did. I did
6 look at that, but not in depth. Again, the work,
7 much of what I saw, was already outdated when I
8 looked at it in 1975 because the field has been
9 constantly changing.

10 Q Would it be fair to state that you
11 incorporated what you felt relevant and up to
12 date in your background report for the H.U.D.
13 report on used mobile homes?

14 A I think it would be fairer to say that
15 H.U.D. incorporated the portions that they felt
16 were relevant in their report to Congress.

17 Q But in your background report,
18 which I take it is a separate document--

19 A It was a separate document that was never
20 published.

21 Q Do you have a copy of it?

22 A I have like a half a copy of it. It was--

23 Q Half a copy?

24 A I don't think it's even a complete, edited
25 copy.

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Q Okay.

A I have one copy that I got from the report to Congress. It was a very, very small number of copies.

Q You have one copy of the report?

A Of the actual report to Congress, yes.

Q And one-half copy of your background report?

A Well, I am saying a half copy. I am saying it is not a complete copy.

Q Well, could you bring next Wednesday what you have of your background report and also the report on used mobile homes to Congress?

A Yes.

Q Do you consider the report itself to be up to date or out of date or what?

A The report to Congress?

Q Yes. A I never considered that a very good piece of research because it had to be done in an extremely short amount of time. It included a survey of all 50 states as to their regulations concerning the mobile home parks and the use of mobile homes, land use regulations for mobile homes and disposal of dilapidated mobile homes. Now, I had about one

1 month time for this survey. By the time we had
2 O.M.B. clearance of the questionnaire, there was
3 ten days left.

4 And even though we followed up with phone
5 calls, it takes more time than that just to reach
6 a responsible person within a state government
7 who knows anything about the subject. So the
8 return on this survey left a lot to be desired.

9 The main conclusion I was able to draw
10 from this study was that very few states really
11 knew what was going on with regards to mobile
12 homes, knew anything.

13 Q Okay. Have you done any other
14 policy studies for the federal government on or
15 relating to mobile homes? Now, I have got Number
16 30, Number 30A. Anything else?

17 A Well, I directed a study on developing a
18 handbook for finding group sites for mobile homes
19 to be used in disaster relief operations. In
20 disaster relief--large-scale disaster relief
21 operations such as the one I talked about.

22 Tropical Storm Agnes, there was a need
23 for creating in a very short period of time a
24 park, sort of a very simple park, for placing these
25 units because only very rarely can they be placed

1 on slabs, private property. So H.U.D. saw a need
2 for criteria for finding such parks and for
3 developing them. That was done in 1977. So
4 this is a study relating to mobile homes, but
5 not so much a policy study.

6 Q Did that have anything to do with
7 sites for permanent home parks?

8 A No, it did to the extent with which we
9 had to analyze standards or guidelines that were
10 in use nationwide at the time for the develop-
11 ment of parks as far as densities went and lot
12 sizes.

13 Q Is there a discussion of density
14 and lot sizes in that--

15 A Yes.

16 Q --manual that you prepared?

17 A Yes.

18 Q Is that on here?

19 A No, that's not on there.

20 Q What is the name of it?

21 A Site Selection Criteria for--I believe,
22 for Group Sites.

23 Q What is the date, the year of
24 publication? A I believe 1976.

25 Q Do you have a copy of that?

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A Yes.

Q Could you bring that with you, please?

A Yes, it's only one volume.

Q Can you recall, did you have any conclusions about density or lot size which were expressed in that manual?

A Yes, I don't remember in detail all the conclusions, but the density ranged anywhere from four to seven or eight units per acre depending on the size of the units that would work.

Q What do you mean by would work? Work for what purpose?

A For leaving the necessary setbacks from lot lines, necessary distances between units.

Q Necessary for what?

A For safety, distances from mobile home to mobile home. There are standards that have been certain guidelines and standards that have been developed over the years.

Q For density and lot size?

A Not so much for density; more for setback. See, a pure density standard doesn't really make much sense for a mobile home because it depends very much on the size of the unit, the length and

1 width. And for a small--For a smaller single-
2 wide unit, obviously there can be a greater
3 density than for large, double-wide units.

4 Q Okay. If you bring a copy of that,
5 I would appreciate it. A Yes.

6 Q Now, have you done any other
7 studies for the federal government about or relat-
8 ing to mobile homes? A No.

9 Q Have you done any other policy
10 studies for the federal government relating to
11 any subject? A Right now I am doing
12 a study for the National Flood Insurance
13 Administration on the implementation of Section
14 1362 of the National Flood Insurance Act of 1968.
15 Under this section, the Secretary of H.U.D. is
16 authorized to purchase properties which have been
17 subject to severe flood damage and turn them over
18 to municipalities for changed use, land use.
19 This section has never been used, never been
20 implemented.

21 Q That would cover a lot of New
22 Jersey; wouldn't it?

23 A We thought so. Actually, it is a program
24 that only applies to a very small number of
25 properties because a property has to have

1 suffered damage exceeding 50 percent of its market
2 value. We did one case study in Lodi, which is
3 a notorious case in Bergen County. And even
4 there, there were only few categories that would
5 qualify.

6 Q Okay. Any other studies for the
7 federal government? A Yes, I did a
8 housing study for the Republic of Panama last
9 year that was under contract with the State
10 Department.

11 Q Did that include any recommendations
12 as to mobile homes? A No.

13 Q Are mobile homes viable in Panama?
14 A I doubt it.

15 Q Why not?
16 A It's a poor country. They can't afford
17 such good housing.

18 Q What kind of housing can they
19 afford? What is cheaper?

20 A Well, anything down to just a lot with a
21 latrine. That's true.

22 (A discussion is held off the
23 record.)

24 Q You had nothing to say about mobile
25 homes as a strategy for solving the housing

1 crisis in Panama? A No.

2 Q What kind of housing in Panama is
3 cheaper which might be decent, say, fit, habitable
4 housing in the United States?

5 A Well, as your question implies, the
6 definition of decent, safe, sanitary is very
7 relevant--relative. And it's different in
8 Panama from houses here. It's very different
9 from Morris County to what it is in The Bronx.

10 Q It is?

11 A At least as a common understanding, I'll
12 say yes.

13 Q What about your understanding as an
14 expert on mobile homes or indeed housing?

15 (A discussion is held off the
16 record.)

17 (The luncheon recess is taken.)

18 (The last three questions and
19 answers are read.)

20 Q Is there a working definition of
21 decent, safe, sanitary housing that we are work-
22 ing with in this lawsuit?

23 You are familiar with the Mount Laurel
24 case? A Yes.

25 Q You are familiar with the Madison

1 set minimum floor areas for living areas and
2 sleeping areas, that set minimum criteria for
3 adequate light and ventilation, that set minimum
4 criteria for minimum ceiling heights and such
5 items.

6 Q Now, are those standards different
7 in Panama than they are in the United States?

8 A Yes.

9 Q Why the difference?

10 A Because it's a different culture.

11 Q What things determine what the
12 minimum standards should be?

13 A Customs, economics, economics to a large
14 extent, building materials that are available,
15 climate to an extent are overriding factors.

16 Q Are they different within different
17 areas of the United States?

18 A There are differences within different
19 areas of the United States, but I don't think
20 they are nearly as pronounced as differences
21 between standards within the United States and
22 outside the United States.

23 Q Is there a difference between the
24 areas you used, Morris County and The Bronx?

25 A Yes, for example, in terms of density.

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Q Give us an example.

A Density for living in Morris County, residential areas are predominantly single-family areas. They are zoned for single-family use.

Say a relatively small lot size in Morris County would be one acre or 30,000 square feet, relatively small. This in The Bronx would be an enormous lot size.

Q Are you saying a minimum of 30,000 square feet is minimum for health and safety in Morris County?

A No, I wouldn't say that at all, but these are standards that are incorporated in many current zoning ordinances.

Q What I would like to get at is whether minimum standards, those standards below which we should not go, differ from one area to the other.

A To the extent to which they are subjective perceptions of local people as to what a minimum standard should be, yes, they do differ.

Q Does the concept of least cost housing take into consideration what the perceptions of the local population are as one factor determining what the minimum standards should be?

A I don't think that question should be

1 answered in any--in an objective way. The only
2 part that can be argued in an objective fashion
3 is the economics of least cost housing.

4 Whether a given type of least cost housing--
5 Whether a given type of least cost housing is
6 acceptable or not to a given community may be a
7 very subjective question. And it may have more
8 to do with established aesthetic and life style
9 patterns.

10 Q What standards should a Court use
11 to determine what the minimum standards should
12 be, minimum standards applicable to any given
13 area should be?

14 A I would say we are very fortunate to have
15 now--We begin to have a federal set of minimum
16 standards for health, safety--health and safety
17 in the form of the Mobile Home Construction and
18 Safety Standards and that those standards would
19 very adequately--could very adequately describe
20 what a national or nationwide recognized minimum
21 standard is.

22 If I may add here, I have personally made
23 one observation with regard to standards and codes.
24 And that is generally the lower the level of a
25 governmental unit is that sets the standard, the

1 more restrictive the standard becomes. This
2 precisely has been the reason why in the field
3 of industrialized housing, mobile homes, the
4 states have first taken the initiative away from
5 municipalities and set a standard and then the
6 federal government has taken the initiative and
7 developed the standard that superseded state
8 standards.

9 Q Do you know what H.U.D.'s standard
10 for minimum floor area is for mobile homes?

11 A There is no one standard for minimum
12 floor area for a mobile home. There are square
13 foot requirements. For example, there are square
14 foot requirements for bedrooms.

15 Q Right. Do you know what they are?

16 A I believe in the Mobile Home Standard the
17 minimum size of a bedroom is 50 square feet.
18 I'd like to check that because I haven't looked
19 at it for sometime.

20 Q 280.110. A Okay.

21 There is a living room with a gross living area
22 of not less than--not less than 150 square feet
23 of floor area and then rooms designed for sleep-
24 ing purposes shall have a minimum gross square
25 foot area as follows: All bedrooms shall have

1 at least 50 square feet of floor area. Bedrooms
2 designed for two or more people shall have 70
3 square feet floor area, plus 50 square feet for
4 each person in excess of two.

5 Now, 50-foot floor area for a bedroom is
6 a somewhat smaller size than what is, for example,
7 permitted as a minimum size in many housing
8 occupancy codes. So here we already have a
9 discrepancy, that the federal standard is some-
10 what smaller than recognized occupancy standards
11 like housing codes, model housing codes. I
12 believe the model housing code of B.O.C.A. has
13 a minimum bedroom requirement, square foot require-
14 ment, which is larger than this.

15 Q How much larger?

16 A I'm not sure exactly, but it's probably
17 around 70 square feet.

18 Q So if I had a bedroom for two
19 people, that would be 70 square feet?

20 A Right.

21 Q Correct. But a living room I'd
22 have to have 100 square feet?

23 A Yes.

24 Q Are there any other requirements
25 that I can get from that H.U.D. set of standards

1 to know what the total square footage of the
2 unit is going to be for a one-bedroom unit or a
3 two-bedroom unit? A Well, square
4 foot requirements are only given for bedrooms and
5 the living room. There are other spaces which
6 are needed where the square footage results from
7 the design. So this standard does not give you
8 an overall square foot figure for, say, a mobile
9 home with one or two bedrooms, but this would
10 depend on the design for the mobile home, taking
11 all the spaces into account that the mobile home
12 would include.

13 Q The required square footage for a
14 two-bedroom/living room unit would be 70 plus 70
15 plus 150 for a total of---

16 A Then there would be a kitchen. There
17 would be a hallway. There would be a bathroom.
18 There would be closets. There would be utility
19 space. So these are all spaces which are not
20 specified here.

21 Q Okay. That assumes two persons
22 per bedroom? A Right.

23 Q Do you have any opinion as to
24 whether that is an adequate number of square feet
25 in which to live for--

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A Yes.

Q --safety and health?

A Yes, I think that's a perfectly adequate square footage to live in.

Q Is that for mobile homes or is that for-- A For people.

Q --for other kinds of housing also?

A People, human beings.

Q It would not make any difference what kind of a construction?

A Right, as a matter of fact, there are human beings living in much smaller spaces than that all over the world.

Q In the United States?

A And even probably here in some cases, yes.

Q Where in the United States would they be living in areas smaller than that?

A I would say in some rural areas where housing is not regulated, but there is overcrowding. I'm not saying that it would always be healthful, but I'm saying that this is the criterion to be used, whether or not housing is healthful or not.

Q Are you familiar with the American Public Health Association's standards for minimum

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governments? A Yes.

Q Now, I know from material I have seen that you did a study on mobile homes for H.U.D.

A I did several studies for H.U.D.

Q Okay. Including those, would you tell us what policy studies you have done for the federal government?

A Yes, right now I'm doing a--

(A discussion is held off the record.)

MR. MEISER: Let's mark that DH-2.

(Letter dated March 18, 1979, marked DH-2 for identification.)

Q Now, you were telling us you were going to list for us the policy studies that you had done or participated in for the federal government. And you pointed out that on the list of source materials requested by Mr. Bisgaier and furnished to him by you which has now been marked DH-2 for identification, Number 30 is one of those studies. A Yes.

Q It is entitled "Cost Effective Housing Systems for Disaster Relief"?

A Yes.

1 square foot for dwelling units?

2 A I have read the American Public Health
3 Association studies about size several years ago,
4 dwelling unit size and density.

5 Q Do you agree or disagree with the
6 A.P.H.A. standards?

7 A I don't disagree with them. As I said
8 before, to me standards are very relative.
9 Standards more than anything else reflect to a
10 large extent, to a very large extent, the subjective
11 state of practice and--yes, of practice.
12 So there was a time in the early 1960's and the
13 1950's where attempts were made to develop stand-
14 ards in a more absolute sense for densities,
15 standards that would be applicable to anybody
16 throughout the world. And those kind of attempts
17 have always faltered.

18 Q Why? A Because, as I
19 said, I don't--At least in my experience, a
20 standard for--a design standard can never do that.
21 You pointed out before that a tepee could be a
22 very good living unit. Whether that was in jest
23 or not, I don't know.

24 But the fact is that human beings have
25 lived in tepees for long periods of time.

1 Tepees did not come out of fashion because some-
2 body decided on the basis of study that they were
3 unsafe for human habitation. They disappeared
4 because of cultural standards.

5 Q To use the tepee as an example,
6 the tepee had a fairly large amount of back yard?

7 A It could.

8 Q So the tepee had to be looked at in
9 terms of-- A Yes.

10 Q --use of the environment in which
11 it sat? A Right, right, that
12 is true.

13 Q And a mobile home in a trailer
14 park with a high density would have a different
15 environment, not such a big back yard?

16 A Well, it would be, first of all--It would
17 depend very much on the mobile home park that it
18 would be placed in. It would also depend on the
19 mobile home. In any event, it would be a very
20 significantly larger dwelling unit than any tepee.

21 Q Let me ask you a question in a
22 slightly different area. Do you have an opinion
23 as to whether a mobile home with a minimum size
24 of living rooms and bedrooms is appropriate for
25 low and moderate income families as those terms

1 have been defined in Madison Township, Mount
2 Laurel and as you have written about them in
3 your report to the Public Advocate, DH-1?

4 A No, no, the answer is clearly no. There
5 should not be different standards for low and
6 moderate income families because a standard--It
7 is at least my opinion that a standard is a sub-
8 jective matter. A standard is only legitimate
9 to the extent to which it seriously attempts to
10 protect health and safety of occupants.

11 And nobody could make an argument that one
12 group of people in the same society has different--
13 would need a different size living room for
14 protection of their health and safety than another
15 group. So if 160 square feet is legitimate or
16 is adequate as a minimum size for a living room,
17 then that should be true for anybody regardless
18 of income. Of course, this would not preclude
19 that somebody with a higher income would build a
20 living room three, four, five times as large.

21 Q I am puzzled. I would have thought
22 from your explanation that your answer to my
23 question would have been yes, you did have an
24 opinion. I am confused.

25 A I'm sorry. I must have misunderstood

1 your question then. Can you repeat it?

2 (The last question is read.)

3 A If I may amend my answer, the answer is
4 yes, I have an opinion, and the opinion is no,
5 that the standard should not be different.

6 Q A mobile home with those minimum
7 floor area specifications, is that type of
8 structure appropriate for permanent dwellings
9 for persons of low and moderate income?

10 A Yes.

11 Q Do you have an opinion as to
12 whether it is desirable to have units built to
13 the minimum standard or whether it is appropriate
14 to have different sizes?

15 A It becomes a question of tradeoffs. As
16 long as one can afford more than a minimum, then
17 the minimum very often should not be regarded as
18 a must. But the purpose of a minimum is just
19 that, it's to establish a limit beyond which no
20 further savings should be permitted.

21 Q It is like the minimum dosage of
22 vitamins?

23 A Well, I don't think
24 it's exactly the same. I don't think if I have
25 an income of 150 percent of median, I have to
eat three times more Vitamin C every day than a

1 low income person, even though I certainly in
2 that case want to afford the larger living room.

3 Q Is that level below which you go
4 where you get sick? Withdraw that question.

5 A I'm not sure to what extent that's true
6 with vitamins.

7 Q I will withdraw the question.

8 If you go below the minimums, what happens?
9 Why shouldn't we go below the minimums?

10 A Because we, as a society, have a belief
11 that going below the minimums would be dangerous
12 to health and safety.

13 Q How? In what way? What things
14 would happen that would be dangerous?

15 A We assume that once we go below minimums,
16 the environment, the environment of a dwelling
17 unit, would no longer be conducive to safe living
18 arrangements of a family of a given size.

19 Q What adverse things would happen
20 if a living room were 120 square feet and the
21 bedroom were 40?

22 A In my own judgment, not much, not much.

23 Q Let me keep going down until--

24 A The family may break down even if the area
25 is 450 square feet large, so it's very hard to

1 establish a cause-and-effect relationship here.

2 Q Is there any empirical evidence on
3 which the H.U.D.'s minimums are based?

4 A They are based as far as I understand it,
5 they are mostly based on design considerations.

6 Q What do you mean by design consi-
7 derations? A Let me try to explain

8 that. To set such a standard of 150 square feet
9 may sound very arbitrary because why 150? Why
10 not 120 or 125?

11 So the only really legitimate rationale
12 behind this is that a living room or any other
13 room should have a floor area that's sufficient
14 to accommodate the furniture that is expected to
15 be used by the people. Again, this is a cultural
16 arrangement.

17 Right now, we happen to have certain
18 commonly accepted, not codified norms of the type
19 of furnishings that people use. Say they are
20 using two easy chairs and a television and a
21 dining table with four chairs and maybe a side
22 table or a coffee table. So there are certain
23 pieces of furniture. And in order to arrange
24 these with the minimum distances required to
25 still be able to move around, you arrive at a

1 minimum square footage.

2 One reason why, as I say, standards to me
3 are always relative is that these type of arrange-
4 ments have nothing ironclad or eternal to them.
5 Furniture arrangements and needs now differ from
6 what they were in our grandparents' time. And
7 I'm sure they will be different 20, 30, 40 years
8 hence.

9 But this is the best that we can do at the
10 present time to try to make sure that housing
11 that is being built can be reasonably well used,
12 or people will find out they cannot carry on the
13 customary activities in their living room.

14 Q Are you familiar with the N.J.F.H.A.
15 minimum size for its multi-family housing?

16 A Yes, yes, I think they are a very good
17 case in point--point in case.

18 Q To illustrate what?

19 A Because they regulate the same area that
20 the H.U.D. minimum design standard for multi-
21 family housing regulates. It so happens that the
22 New Jersey Housing Finance Agency does not have
23 an independent housing program. Their program
24 is something that is called a piggyback program
25 that always requires a H.U.D. subsidy.

1 So presumably under the same concern for
2 safety, health, occupancy, H.U.D. has developed
3 a set of standards and the New Jersey Housing
4 Finance Agency has developed a set of standards
5 and they're different. The Housing Finance
6 Agency standard--

7 Q Tell us what each of those are.

8 A I don't have a photographic memory and I
9 cannot quote you all the square footage require-
10 ments. I will be happy to bring them to the next
11 depositions so we can go over them.

12 Q Okay.

13 A The fact is
14 the Housing Finance Agency standards are larger
15 as far as room sizes go. Now, again these are
16 standards used in the same state, not just in
17 the same nation, for exactly the same kinds of
18 people. And I think it illustrates the point
19 that I was trying to make, that standards can
20 only be intelligently discussed if it is under-
21 stood that they are only relative. They are
22 subjective to a large extent.

23 Q Are you prepared to say that the
24 H.F.A. minimum standards are wrong?

25 A No, when I'm saying that standards are
relative and subjective, I am not saying they're

1 wrong. Anything that is subjective may be very
2 legitimate, but it is not the absolute truth.
3 It should not be treated as the absolute truth.

4 Q In the matter of minimum square
5 feet-- A Yes, yes.

6 Q --that ought to be used and occu-
7 pied by human beings, what, to the best of your
8 expertise is, in fact, the truth?

9 A If that was so simple, I would probably
10 not be in this business. You would not be in
11 this business. There is a wide area, a wide
12 grey area.

13 Perhaps to further elaborate on the
14 difference between the state and the federal
15 standard, other considerations come in play here.
16 We assume that the main reason for square foot
17 standards is the protection of health and safety
18 of occupants. However, this may not be the only
19 concern. In fact, it may not be the most impor-
20 tant concern.

21 My understanding of the reason why the
22 N.J.H.F.A. standards are higher than the H.U.D.
23 standards is that the N.J.F.H.A. is in the busi-
24 ness of selling bonds and that one criterion that
25 has gone into their program is the need for

1 designing housing which would be reasonably
2 similar to not-government assisted housing
3 buildings in the state; in case there was a need
4 for selling, that this would not be a product
5 that would be different than what's customary in
6 the state.

7 So this is a criterion that has nothing
8 to do directly with the health and safety of the
9 occupants, but it has something to do with the
10 protection of bond buyers and the protection of
11 the Finance Agency. And it's as legitimate.

12 So maybe this can illustrate the whole
13 range of considerations that do go into a stan-
14 dard, that do have to be taken into account to
15 avoid the mistake of looking at a standard as a
16 gospel, some absolute truth that has to be
17 followed--I mean that has to be considered in
18 absolute terms.

19 Q Are the H.F.A. standards reasonable?

20 A I believe they're reasonable under the
21 considerations and for the purposes that they are
22 supposed to serve. They may become--There may be
23 a need for revision of these standards in the
24 near future because as a result of the larger
25 standards, housing built by the Housing Finance

1 Agency is more expensive than low and moderate
2 income housing built directly with federal
3 assistance without the Housing Finance Agency.

4 Q Do you know how the H.U.D. subsidi-
5 dized housing, using its minimum standard, has
6 faired in the marketplace in terms of its ability
7 to maintain its value over time and its desir-
8 ability over a period of time?

9 A That is a very broad question.

10 Q Yes.

11 A And I cannot really answer this in this
12 short period of time.

13 Q Let me turn it around. Do you know
14 of any evidence that H.U.D. minimum size units
15 either do or do not serve the function for which
16 they are intended; that is, provide a reasonable,
17 safe, sanitary dwelling unit that is serviceable
18 over the expected life of the building?

19 A Yes, I certainly believe that the stan-
20 dards do assure just that. They assure that units
21 designed in conformance with these standards will
22 be safe and sanitary provided they are maintained
23 right, provided no other destructive factors
24 come into play.

25 Q Does the size of the unit or the

1 size of the rooms have anything to do with the
2 maintenance either by management or the preserva-
3 tion of the unit by the occupants?

4 A No.

5 Q Is there evidence to support that
6 one way or the other?

7 A I'll say yes because I have worked in
8 Vienna for years, a city with one of the oldest
9 public housing programs in the world as far as I
10 know where public housing has been built since
11 1918. And public housing there has been built
12 at far lower standards than H.U.D. standards for
13 the same type of homo sapien that lives here.

14 In fact, there the standard did not even
15 require a bathroom in each unit. It was just a
16 sink originally. I mean there was not a bathtub
17 as it were. There was a toilet and a sink.

18 And much of this housing has been maintain-
19 ed now for 80--for 60 years in excellent condition
20 despite the fact that the design standards were
21 substantially lower. So in my experience,
22 standards have very, very little to do once we
23 reach this question of relatively subtle changes
24 with the maintenance and occupancy. There are
25 other factors that are far more important.

1 Q What are they?

2 A Well, the socioeconomic role of the
3 inhabitants, for example. The example I just
4 gave you in Vienna, this housing was built for
5 workers after the demise of the monarchy. And
6 it was considered a victory of the working class
7 to have such housing. There was tremendous pride
8 for living in there. And this pride translated
9 into the growth of very stable communities.

10 If, on the other hand, the use of public
11 housing, even if it is built to far superior
12 design standards, is given to people who under-
13 stand themselves as sort of helpless wards of the
14 state that don't really have any hope, then even
15 the best bathroom I think and the nicest community
16 facilities will not make the difference. And
17 the housing will go down the drain.

18 There's an interesting example you may be
19 familiar with. The Pruitt Igoe Project in St.
20 Louis, which was a project that won design awards
21 when it was built in the early '50's I believe or
22 late '60's, that had been torn down because it
23 was totally unmanageable.

24 Q It was dynamited?

25 A Yes, it was dynamited even though as I say

1 the design was perfect.

2 Q Were there minimum-sized dwelling
3 units used in that one?

4 A It was--I'm not that familiar with the
5 project, but I assume it was built to the H.U.D.
6 minimum design requirements because it was a
7 public housing project.

8 Q Okay. Going back to the federal
9 studies that you had done for the government,
10 studies for the federal government, I think we
11 got down to the policy manual for Panama?

12 A Right.

13 Q Had you done any other studies for
14 the federal government?

15 A Yes, I've--A small one right now on a
16 mobile home park in the Standing Rock Sioux
17 Reservation in North Dakota, that I am doing
18 with one of my partners.

19 Q Who is in charge of that?

20 A Richard Silverblatt.

21 Q And what is it called, the Standing--

22 A The Standing Rock Sioux Indian Reservation.

23 Q What is the scope of that study?

24 A A feasibility study for creating a mobile
25 home park for employees of the tribe.

1 Q Is it completed?

2 A No, it's not completed.

3 Q Do you have any conclusions yet?

4 A Our tentative conclusion was that it wasn't
5 feasible.

6 Q Was not? A Right.

7 Q Why not? A Because
8 of peculiarities of the local situation.

9 Q Which are?

10 A That there is a housing authority, tribal
11 housing authority, which builds housing, complete
12 housing, which employees can use without charge.
13 And there is not much of an incentive to still
14 pay for a mobile home and the rent of a park site
15 if there are other less expensive alternatives.

16 Q So then, in other words, there is
17 no demand? A In our view, there is
18 no demand, but we differ on this with the tribe,
19 so we are trying to reach an agreement on that.

20 Q How important is the factor of
21 demand in this kind of study, whether it be mobile
22 home or housing in general?

23 A Demand, of course, is a key factor.

24 Q Have you ever done any fair share
25 studies? A No.

1 Q Do you know what the concept of
2 fair share is? A Yes.

3 Q Do you have an opinion as to what
4 factors ought to go into any fair share analysis?

5 A As the concept implies, in fair share,
6 that the fair share of low and moderate income
7 or even middle income population of a given area
8 or state should have an opportunity to be fairly
9 distributed rather than concentrated in certain
10 areas.

11 Q Is demand an important element of
12 that, of addressing that problem? Is finding
13 out what the populations you are concerned with
14 want to do? A I would think demand
15 is certainly a key factor, yes.

16 Q Are there any studies about demand
17 of various population groups for mobile home
18 housing as opposed to other kinds of housing?

19 A Have there been made any such studies?

20 Q Yes. A I'm certain
21 such studies may have been made. I'm not--I'm
22 not familiar with any study that has that particu-
23 lar focus. I would also like to say here that
24 it is sometimes difficult to talk about demand
25 if the valves for meeting that demand are so

1 closed, so much closed that people who would like
2 to make the choice are not at all aware of a
3 possibility of making a certain choice.

4 With regards to mobile homes, if land use
5 restrictions are as tight as they are in Morris
6 County, somebody who will be looking for living
7 quarters in this county, somebody with a lower
8 than median income, say, is relatively unlikely--
9 I would say rather unlikely to even consider a
10 mobile home because he or she would not even be
11 aware that this could be an alternative. So it
12 is very difficult to talk about demand, housing
13 demand in an abstract fashion if a certain
14 alternative is precluded and screened out of the
15 public awareness.

16 It would be very hard to determine what
17 the demand could be. I think the only measure of
18 that would be availability and the affordability.

19 Q What is the biggest factor in mak-
20 ing up the demand side of the equation? What is
21 the biggest factor that people look at?

22 A Income.

23 Q Income, in other words, what they
24 can afford? A Yes.

25 Q Okay. Aside from the Standing

1 Rock Sioux Indian Reservation study, any other
2 studies for the federal government?

3 A None that I can think of right now.

4 Q All right. Now, you have other
5 studies you have done for municipal governments?

6 A Yes.

7 Q One in Maryland?

8 A Right.

9 Q Tell us about that.

10 A That was a study for the Montgomery County
11 Department of Economic and Community Development,

12 Q Is that listed on here?

13 A Yes, I think so. It should be under
14 Montgomery County. Right, it's Item No. 14.

15 Q Do you have an extra copy of that?

16 A Yes.

17 Q Could you bring that next time?

18 A Yes.

19 Q Thank you, Montgomery County.

20 (A discussion is held off the
21 record.)

22 Q Now, just so the record is clear
23 as to Montgomery County, Maryland, Department of
24 Community and Economic Development, Study of
25 Mobile Homes on Individual Sites?

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A Right.

Q Now, can you tell me briefly what that study revealed in terms of its applicability to what our problem is in Morris County?

A The study revealed that there was a tremendous hidden demand for mobile homes in this very wealthy county; that, in fact, a coalition emerged between low income groups who had illegally occupied mobile homes on individual scattered lots in the rural parts of the county and developers and builders who had an interest in this issue because they saw an opportunity of developing land for this purpose. And because of that coalition, it came to the study. And because of that coalition and the study, it has come to legislative changes within the county. The County Council has passed several pieces of legislation changing several parts of the county code.

Q To do what? To accomplish what purpose?

A To change the housing code, for example, to permit expressly--to expressly include mobile homes as dwellings, they had not been defined as such before, and to permit them with the necessary standard changes, the

1 ones that we alluded to before, square foot size
2 changes.

3 And they grandfathered the illegal mobile
4 homes in the rural county. They started a
5 rehabilitation fund for providing these units
6 with adequate sewer and water. And I believe
7 in the meantime, they passed a zoning amendment
8 to permit mobile homes in certain zones on
9 individual lots in addition to other uses permit-
10 ted in those homes.

11 Q Okay. What other studies have you
12 done for municipalities?

13 A I have prepared a housing assistance plan
14 for Paterson, New Jersey, in 1975. It was the
15 first housing assistance plan.

16 Q What was the focus of that study?

17 A The provision of adequate sites for the
18 new construction of low and moderate income
19 family housing and rehabilitation.

20 Q Was mobile housing or homes a com-
21 ponent of that plan?

22 A No, no.

23 Q Did you consider it?

24 A The Community Development director of
25 Paterson happened to live in a mobile home park

1 in Wayne, one of the few attorneys in the East
2 Coast to live in a mobile home. So he, in fact,
3 felt that mobile homes should be used to help
4 solve the housing problem in Paterson. I tried
5 to convince him that in the case of an inner
6 city situation, this wouldn't be the answer.

7 Q Very briefly, why not?

8 A Just because of the expense of land.
9 This was Urban Renewal land. And it would have
10 been--It just would have been prohibitive. So,
11 anyway, this was not part of the housing assist-
12 ance plan.

13 Q Is it accurate to say that the more
14 expensive land is, the less mobile homes can be
15 least cost or fulfill the function that least
16 cost housing is supposed to fulfill?

17 A I'll say the more expensive the cost of
18 land, the higher the intensity of the use and the
19 higher normally the density of the use. Once you
20 go beyond a certain density, you have to go be-
21 yond single-family-type considerations, be they
22 mobile or not mobile, from detached single-
23 family configurations. It could still be possible
24 to have an attached townhouse kind of single-
25 family development in an inner city area. I

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think it can work very well. But then, of course, you can no longer use mobile home-type housing.

Q I do not quite see how that necessarily follows. I mean what mechanism is at work there?

A Because an attached row house has an entirely different layout. It has windows in the front and back. A mobile home is not designed that way. A mobile home has windows all around. You cannot--You know, you cannot close it off.

I mean theoretically, a modular unit can be developed that could be used in an inner city row house situation. In fact, such units have been offered in the market. But they, to the extent which they have been offered in the market, have normally been of the modular variety. They have been built to standards other than the federal standard.

Q Would they be two story?

A They could be one or two story. They could even be three stories.

Q Okay. What other studies have you done for municipalities?

A We have done a variety of municipal studies. I have participated in several of them,

1 so I can bring you that as part of the resume.

2 Q Okay, if you would.

3 A Yes.

4 Q Any other studies for municipalities
5 involving mobile homes?

6 A No.

7 Q Any other studies for municipalities
8 involving low or moderate income housing assist-
9 ance plans? A Yes, we have done
10 such a study for Passaic, which hasn't been
11 completed.

12 Q Are mobile homes going to play a
13 part in that? A No.

14 Q Why not, very briefly?

15 A Same reason, it is as in Paterson.

16 Q Cost of land?

17 A Yes, it's just not appropriate for an
18 inner city situation. We have done several
19 studies in New York City, in Washington Heights.
20 I did a study myself in 1972--

21 Q What was the purpose of that?

22 A --for relocation of small businesses in
23 connection with the construction of moderate
24 income housing in Washington Heights, New York
25 City. Again, let me put together the list of

1 projects because I don't remember them all.

2 Q Okay. I would appreciate that.

3 Now, for private clients, have you ever repre-
4 sented a limited dividend corporation?

5 A We have--

6 (A discussion is held off the
7 record.)

8 Q Are you the author of any publica-
9 tions other than those you have told us about
10 already? A No.

11 Q Books, articles?

12 A No.

13 Q Newspapers?

14 A No.

15 Q Have you testified in court pro-
16 ceedings? A Yes.

17 Q Would you tell us which ones?

18 A Mount Laurel, Davis vs. Mount Laurel
19 Township.

20 Q Now, that was a proceeding involv-
21 ing an application for a mobile home park?

22 A Yes.

23 Q Who did you testify for?

24 A On behalf of Davis Enterprises.

25 Q And what kind of proceeding was it?

1 MR. MEISER: Just if I may clarify,
2 that was consolidated with the Southern
3 Burlington County N.A.A.C.P. case. He
4 was intervned in that case and that was
5 the context.

6 Q You testified before Judge Wood?

7 A Yes.

8 Q That would be Mount Laurel 2?

9 A That's right, Mount Laurel 2.

10 Q You did not testify in the first
11 Mount Laurel case? A No.

12 Q By whom were you retained in that
13 case? A By Davis Enterprises.

14 Q And they were a prospective devel-
15 oper of a mobile home park?

16 A Right.

17 Q What attorney retained you?

18 A Brandt & Haughey from Haddonfield. I
19 think the name of the firm is Brandt, Penberthy
20 & Haughey.

21 Q There does exist a transcript of
22 your testimony? A Yes.

23 Q Do you have it yourself?

24 A I have one copy.

25 Q Does Mr. Bisgaier have another?

1 A We have the copies which the Court Reporter
2 gave us, you know, the transcript.

3 Q Okay. You were counsel for the
4 plaintiffs in that case?

5 A That's correct.

6 MR. FERGUSON: All right. Has
7 that been filed with the Appellate
8 Division?

9 MR. MEISER: Not yet.

10 MR. FERGUSON: How do we go about
11 getting a copy of Mr. Haekel's testimony
12 in that case?

13 MR. MEISER: I will check with
14 Carl and see what he can do.

15 MR. FERGUSON: Will you make it
16 available for copying at our expense?

17 MR. MEISER: Oh, sure.

18 MR. FERGUSON: Okay.

19 (A discussion is held off the
20 record.)

21 Q Did you give testimony as to a
22 site in that case? A No.

23 Q Was your testimony limited in
24 general to mobile homes? A Yes.

25 Q You did not testify about the

1 appropriateness of Mr. Davis's site or Davis
2 Enterprises' site? A No.

3 Q Have there been any further proceed-
4 ings with respect to the Davis Enterprises'
5 application? A As far as I know,
6 they have not been able to file for site plan
7 approval yet because the Township has appealed
8 the decision of the Court.

9 Q Okay. You have not been involved
10 in any further proceedings?

11 A No.

12 Q All right. Now, have you testified
13 in any other proceedings in New Jersey?

14 A Yes, I testified in behalf of Ezra Sloof,
15 S-l-o-o-f, in Westminster.

16 Q Try West Windsor.

17 A West Windsor Township, Mercer County,
18 again in connection with an application for a
19 variance to develop a mobile home park.

20 Q Just to shorten it, I show you a
21 copy of your testimony on July 14, 1977.

22 A Yes.

23 Q Is that the only testimony you
24 gave in that proceeding?

25 A I've never seen this transcript, but

1 that's the only testimony. I only was there one
2 night.

3 Q One night? A Yes.

4 Q Was this appealed to a Court? Do
5 you know? A As far as I know, he
6 hasn't. There is no litigation. But I'm not--
7 I may not be up to date.

8 Q Okay. Going back to Davis vs.
9 Mount Laurel, did you render any written reports
10 in that litigation? A No report,
11 just a few tables.

12 Q Generally describe them if you
13 will. A Very similar to the tables
14 that I have in the Morris County report, the
15 affordability table. It's very similar material,
16 only that this is updated.

17 Q Okay. What about the West Windsor
18 proceeding? A I used the same
19 tables. Also, I already had the tables in the
20 appendix on resale values in two mobile home
21 parks.

22 Q In the West Windsor case?

23 A In both.

24 Q In both, okay. Any other proceed-
25 ings you testified in in New Jersey besides

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Mount Laurel and West Windsor?

A Well, in matters not concerning mobile homes?

Q Yes. A I have testified in two applications of the Howard Savings Bank.

Q Applications for what?

A For a variance, one in Livingston, the other one I forget the name of the township. I think in Essex County. Both were in connection with the construction of a bank facility.

The first one was for using a trailer as a temporary facility. And the second one in Livingston was for obtaining variances for roof structures.

Q Okay. Those did not involve residential housing? A No.

And I have testified on behalf of my clients in nonprofit housing groups to obtain variances for the housing projects that I have been helping to develop.

Q Okay. You told us about those earlier? A Yes.

Q Were those before--

A Before Boards of Adjustment and Planning

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Boards.

Q Boards of Adjustment, not before
Courts? A Not before Courts.

Q All right. Have you testified in
any tax abatement proceeding?

A Yes.

Q Which town or city?

A Paterson, I believe in Paterson, in
Teaneck.

Q Okay. Any other proceedings you
have testified in in New Jersey?

A The hearings of the State Commission,
State Mobile Homes Commission, March of this year,
on behalf of--

Q Is that a report that you have?

A Yes.

Q Did you submit that to the New
Jersey Legislature? A Yes.

Q Is that an extra copy?

A Yes.

MR. FERGUSON: Can we mark it?

(Mobile Homes in New Jersey-The
Need for a New Look at Land Use Controls,
is marked DH-3 for identification.)

Q By the way, in West Windsor, you

1 were retained by Mr. Sloof?

2 A Right.

3 Q Was he a prospective developer of
4 a mobile home park? A Yes.

5 Q Now, you say you testified in
6 March, 1979, to the New Jersey Mobile Home
7 Commission? A Yes.

8 Q What is that by?

9 A I'm sorry?

10 Q The New Jersey Mobile Home
11 Commission, what is that commission?

12 A This is a commission which was established
13 I believe in 1978 to investigate mobile home
14 land use, mostly mobile home land use restrictions
15 by municipalities throughout the state, and the
16 possibility of using mobile homes to a large
17 extent.

18 Q Do you have a citation of the
19 authority for that commission?

20 A I don't have it here.

21 Q If you could just provide that to
22 me, I would appreciate it.

23 A Sure.

24 Q Your report given to that commis-
25 sion has been marked DH-3. In leafing through

1 it, it looks very familiar.

2 A Yes.

3 Q Was it used as a guide for prepara-
4 tion of your report on mobile homes in this case?

5 A I did the two simultaneously. And large
6 portions, of course, are identical only because
7 I added some materials relevant only to Morris
8 County and I left out some of the materials
9 regarding other counties in the state in the
10 Morris County report.

11 Q What relevance is the Vermont
12 Equal Treatment of Housing law?

13 A To the State?

14 Q Yes. A Well, it is
15 a State law that was enacted in Vermont which
16 prohibited municipalities throughout the State
17 of Vermont from excluding mobile homes from
18 single-family zones with certain--with a very
19 limited number of exceptions.

20 Q Okay. Any other proceedings you
21 have testified in? A Yes.

22 Q Either legislative or judicial or
23 administrative? A Yes, yes, I
24 have testified in litigation in Montgomery County
25 in the fall of 1978, a case called Cider Barrel

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Mobile Home--No, I'm sorry, Eader, E a d e r,
vs. Cider Barrel Mobile Home Park.

Q C-i-d-e-r?

A Right.

Q What was that case about?

A That was a landlord-tenant matter. The State of Maryland has a consumer protection law that looks similar to the law in effect here in New Jersey that permits tenants in a mobile home park to sell their unit to the next occupant directly. And it would prevent the park owner from interfering as long as it is a bona fide buyer.

The Maryland statute, however, also permits the mobile home park owner to set the standards for such a resale. And the owner of the Cider Barrel Mobile Home Park had established as a standard that every mobile home to be resold within the park had to be the latest model year, which, in effect, prevented just about every owner of a mobile house in this park from ever reselling it.

This was challenged by Mr. Eader with the Attorney General as plaintiff intervenor. And the Cider Barrel Park owner lost the case.

1 Q Who did you testify for?

2 A For the Attorney General.

3 Q Who were you retained by?

4 A By the Attorney General.

5 Q Of Maryland?

6 A Right.

7 Q The ability to sell a home with
8 the right to use the land with which it is
9 situated is a very vital part of your report on
10 mobile homes; is it not? A Yes.

11 Q Indeed, that is the only reason,
12 is it not, that you say that the depreciation
13 traditionally associated with mobile home owner-
14 ship is not now necessarily true?

15 A That's correct. I virtually see no
16 difference between a mobile home and any other
17 type of home. Any other type of home, if it is
18 sold off the site, is sharply depreciated.

19 There are examples of this again in Mary-
20 land, of a program for relocating an expensive
21 subdivision in Baltimore County from a flood
22 hazard area, homes that cost a few years ago
23 \$60,000 to build. And the County has auctioned
24 off these homes.

25 They were not damaged. They were only

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1 slightly damaged. And they were only able to
2 get very small amounts of money for them because
3 they had to be hauled.

4 Q Any other proceedings?

5 A That's it.

6 Q In any state around the country?

7 A Right.

8 Q Foreign countries?

9 A As part of the work in Panama, I had to
10 make some presentations, but I don't think that
11 matters here.

12 (A recess is taken.)

13 Q Mr. Haekel, a couple of other
14 definitions maybe we ought to cover. What is
15 the definition of a mobile home? And just to
16 put it in perspective, I would like also defini-
17 tions of a mobile home planned development, of a
18 mobile home subdivision and also mobile home
19 condominiums. You have used those terms at one
20 point or another in your report. And if you can
21 clarify what you are talking about and if you
22 have reference to any definition promulgated by
23 some agency, let us know what it is.

24 A Mobile home park, first, I would like to
25 use the definition of Chapter 9, Mobile Home

1 Parks, of the New Jersey State Sanitary Code.

2 Q Do you have a copy of it there?

3 A Yes, I have one copy.

4 Q Why don't we just mark that.

5 A Sure.

6 MR. FERGUSON: DH whatever it is.

7 (Chapter 9, Mobile Home Parks,
8 marked DH-4 for identification.)

9 Q Okay. Referring to DH-4--

10 A "Mobile home park, a parcel of land which
11 has been so designated and improved that it
12 contains two or more mobile home lots available
13 to the general public for the placement thereon
14 of mobile homes for occupancy."

15 Q Is there a section you are reading
16 from? A This is Section 2,

17 Definitions.

18 Q Is that code still in effect as
19 far as you know? A Yes.

20 Q Is it assumed by that definition
21 that the sites are not to be sold, that is, the
22 sites are to remain in common ownership or owner-
23 ship by a person other than he who owns the
24 mobile home? A I believe it is
25 assumed because it is a parcel of land having two

1 or more units on it. If it was a parcel of land,
2 meaning a parcel and one ownership with one unit
3 on it, then it would be individual ownership.

4 Q So it is any piece of property
5 where the owner, in effect, rents the site for
6 the use of the mobile home?

7 A According to this definition, this would
8 also include where the owner donates the use of
9 land, which sometimes happens.

10 Q In your report, you mentioned a
11 farm--

A That's right.

12 Q --family that let a child build a
13 mobile home on the farm?

14 A That could be a possibility or a farmer
15 who uses mobile homes for migrant farm workers
16 and puts two or three units on the farm. And
17 that would also then be governed by this code.

18 Q Do they have mobile home parks of
19 that configuration in south Jersey?

20 A With migrant workers?

21 Q Yes. A That is pos-
22 sible. I'm not familiar with examples.

23 Q Okay. What about a mobile home
24 subdivision? What is that?

25 A Before directly answering the question,

1 I would like to go one step back and say based
2 on this definition, a park could be somewhat more
3 stringently defined as a parcel of land meeting
4 these requirements that has rental spaces under
5 which mobile home lots are rented. In my own
6 definition, a park would always have a rental
7 arrangement.

8 Q Okay.

9 A In my own definition, I would not use the
10 farm with migrant workers as a park.

11 Q For the purposes of this lawsuit,
12 we are not concerned with the donated land or
13 migrant farm workers.

14 A Yes, yes.

15 Q We are concerned with rental spaces
16 in a park. A Yes. Now, the mobile

17 home subdivision would be a subdivision speci-
18 fically designed for the placement of mobile
19 homes. And, of course, in the case of a mobile
20 home subdivision, the ownership of the land and
21 the ownership of the mobile home would be identi-
22 cal. It would be similar to a single-family
23 subdivision in that regard.

24 Q In effect, that is just a mobile
25 home configuration for single-family detached

1 default, then they would have to default on the
2 entire cooperative.

3 But in the case of older parks, there are
4 quite a few of them here in the state, in fact,
5 some right here in Morris County, where the own-
6 er of the park has no longer a real incentive
7 staying in business because the tenant protec-
8 tion laws have made it very difficult for him to
9 make the kind of profit that he thinks he needs,
10 where very often there is a tendency for an own-
11 er to almost walk away like people walk away
12 from tenaments.

13 I think the cooperative conversion would
14 make a lot of sense. It could make a lot of
15 sense from a public policy viewpoint because it
16 could be used as a means for upgrading such parks.

17 Q Is there any impediment at the
18 current time to conversion to a cooperative form
19 of ownership? A None that I'm
20 aware of. I think it is just a concept that has
21 to get established.

22 Q Okay. Any impediments at the
23 present time to the condominium form of ownership?

24 A Yes, land use impediments. When I say
25 there are--I'm not aware of impediments to the

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cooperative form. I'm saying this because I'm thinking of existing parks, existing parks that are established nonconforming uses very often.

Q Okay. A As soon as you talk about condominium or subdivision, you immediately are confronted with the fact that the development of new mobile home land uses, be they parks, condominiums, subdivisions or whatever, is restricted almost throughout the state with the exception of some portions of south Jersey.

Q I am sorry. I--

A You asked are there any impediments--

Q Yeah. A --to condominium use. And I said yes, just the fact that you cannot develop a piece of land for mobile home use. That's the first impediment.

Q Leaving that one aside?

A Leaving that one aside, I don't think there is. I'm not a lawyer, but I don't believe there would be an impediment.

Q At least you have not identified any-- A Right.

Q --for the purposes of this litigation? A Right.

1 Q So if a municipality did not ban
2 mobile homes, there would be no impediment to
3 the common ownership device and condominium
4 ownership? A I don't think there
5 would be.

6 Q What about the planned development
7 for mobile homes?

8 A Planned development as I understand it is
9 somewhere in between the fee simple subdivision
10 and the condominium to the extent to which a
11 homeowners' association would be responsible for
12 the maintenance of common facilities of the
13 infrastructure, streets and so on. During my
14 research, I found some examples of planned unit
15 developments for mobile homes in the South. And
16 in talking to the developers, I learned that the
17 only reason for going planned unit as opposed to
18 fee simple was that it was a requirement of the
19 zoning permits that they have been looking for.
20 The communities in question had a concern about
21 the maintenance of streets, roads and preferred
22 the planned unit developments to the subdivisions.
23 Q Do I understand that you made con-
24 tact with various planned unit mobile home
25 developments in the South?

1 A No, I have spoken to developers of such
2 mobile home developments.

3 Q In the South?

4 A Yes.

5 Q How did you make that contact?
6 How did you speak to them?

7 A I went to the annual mobile home show in
8 Louisville, Kentucky, which takes place over
9 January. And I met one developer there who, to
10 my knowledge, has been one of the first to
11 develop mobile home subdivisions in the country.

12 Q Where was he from?

13 A He's from Florida.

14 Q What is the name of his development?

15 A His developments are--I mentioned them in
16 the report here--near Sarasota. Okay. This is
17 on Page 16 in the report. The oldest one is
18 called Trailer Estates. And the same developer
19 is now developing mobile home subdivisions in
20 Nevada and in California.

21 Q Is that Sidney Adler?

22 A Sidney Adler, yes.

23 Q Is he a lawyer or is he an owner?

24 A He is a lawyer and the owner.

25 Q And the owner. Did any client pay

1 your expenses to go to the annual mobile home
2 show? A No.

3 Q Do you have any retainers or are
4 you employed by any organization in the mobile
5 home industry? A No.

6 Q Whom did you represent when you
7 testified to the New Jersey Mobile Home Commis-
8 sion? A The Mobile Home Owners
9 Association.

10 Q What organization is that?

11 A That is the tenant organization, the
12 organization of people living in mobile homes in
13 the State of New Jersey.

14 Q Do you know whether that organiza-
15 tion is financed directly or indirectly, wholly
16 or in part by any industry trade association or
17 group? A To the best of my
18 knowledge, it's entirely unlikely that they
19 would be financed by the industry because they
20 have developed very much in opposition to the
21 industry.

22 Q Where is the office of the Mobile
23 Home Owners Association of New Jersey?

24 A I was in contact with a gentleman named
25 William Palmer who lives in a mobile home park

1 in Mercer County. I have his address in my
2 office. He is the legislative liaison person of
3 the association. And I have met the president
4 of the association and their officers. But other
5 than the address of Mr. Palmer, I'm not aware of
6 the office address.

7 Q Were you paid by that association
8 for presenting your testimony to the New Jersey
9 Legislature? A Yes.

10 Q Have you ever been employed by any
11 other mobile home group, trade association,
12 manufacturer or any organization having any
13 interest in mobile homes?

14 A No, I've tried to, but I never got a job
15 from them.

16 Q All right. Now, are there any
17 other kinds of ownership which are feasible for
18 mobile home ownership other than mobile home
19 parks, subdivisions, condominiums or planned
20 development? A I think these are as
21 many generic types as I would feel should be
22 considered.

23 Q Now, in your report, you mention
24 at various places the densities of mobile home
25 developments in parks or whatever. First, does

1 the density of any mobile home development
2 depend upon the kind of ownership? Would it make
3 any difference whether it was a park, subdivision,
4 condominium or planned development?

5 A It would make--It would make some differ-
6 ence perhaps with regard to setback requirements.

7 Q Explain if you would.

8 A Even though--I should say it could make
9 some difference. I don't think it would have to.

10 In a park, the lot on which a mobile home
11 can be used normally is laid out as a distinct
12 plot of land which can be used only by the occu-
13 pant of the mobile home in that lot. And to that
14 extent, the internal subdivision of a park would
15 resemble the subdivision of a piece of land for
16 the purpose of establishing a mobile home sub-
17 division or condominium.

18 Q So the park would be the same as a
19 subdivision? A I think strictly

20 speaking from a design point of view, I don't
21 see a difference. In practice, there often is a
22 difference because in a park, these lot lines are
23 not rigidly fixed.

24 In fact, they can be changed. And very
25 often they are periodically changed as mobile

1 homes get larger, as small, older units are
2 replaced by larger units. Park owners frequently
3 change the pattern, the layout of their parks and
4 reduce them. They can do this, of course, much
5 more easily than if it was a subdivision.

6 On the other hand, one can also see in
7 older parks there may be more improvisation in
8 placing mobile homes and keeping setbacks between
9 mobile home lots. In a subdivision arrangement,
10 setbacks would have to be rigidly complied with
11 because it would be legally defined meets and
12 bounds.

13 Q Okay. What about condominium or
14 planned development? There you have the use of
15 common facilities? A Right.

16 Q Does the use of common facilities
17 affect density at all as a practical matter?

18 A Depending on the extent of common facili-
19 ties. If there is a lavish amount of common
20 facilities, the overall density would be lower.

21 Q What has been your experience
22 about what densities are appropriate for the kind
23 of mobile home use which you see as a vehicle
24 for satisfying an obligation for least cost
25 housing in Morris County in 1979?

1 A Six or seven units per acre.

2 Q And does that break down to a
3 number of square feet per unit or is that not
4 an appropriate way of measuring?

5 A Yeah, it would be approximately 5,000
6 square foot lots.

7 Q Is this what you would recommend?

8 A Yes, for least cost I would recommend that.

9 Q What about development at a lower
10 density, say, 8,000 square foot lots?

11 A It would be more expensive.

12 Q How much?

13 A Of course, it depends on the particular
14 development proposal, but all things being equal,
15 you would have 50 percent more cost for the
16 original--for raw land. You would probably have
17 a higher cost for road and infrastructure
18 because I would assume you would have a wider
19 lot. And you would have a higher cost for over-
20 head and profit. So--

21 Q Cost per unit? It would be higher
22 per unit, but under the gross it would be the
23 same? A I'm sorry. Can you--

24 Q I will withdraw it.

25 A Maybe I got your question wrong.

1 Q Why would it result in a higher
2 cost for overhead and profit?

3 A The question before that?

4 Q Ignore it. I withdraw it.

5 A Okay.

6 Q Why would it result in a higher
7 cost for overhead and profit?

8 A Because overhead and profit is commonly
9 a function of out-of-pocket expenses. So for
10 example, as a rule of thumb, if it costs \$7,000
11 to develop a buildable lot for an uncommon usage
12 as a mobile home subdivision, uncommon use mean-
13 ing a use that requires quite a battle to get
14 approved, then based on experience of the
15 developers I've spoken to of mobile home sub-
16 divisions, the entire cost for overhead and pro-
17 fit would be about 100 percent on top of that.
18 So it would be 14'.

19 Now, if you--If the cost of the initial
20 land goes up from 7,000 to 18, you are ending up
21 \$16,000 to the user.

22 Q What mobile home parks have given
23 you that experience in New Jersey or elsewhere?

24 A There are no subdivision developers in New
25 Jersey, but Mr. Adler from his own experience

1 felt very strongly that even in states where land
2 use is not nearly as restrictive as it is here,
3 he has found that he could not bring such a
4 development to fruition with less than about 100
5 percent markup. And I can--We have done a little
6 bit of development in our company and I can see
7 it.

8 Q What do you mean by you have done
9 development in your company?

10 A We have built some multi-family housing
11 up in Maine. And we have done some analysis for
12 subdivisions for moderately-priced subdivisions
13 in New Jersey, which we plan to do in our own
14 behalf.

15 Q Have you built anything in New
16 Jersey? A On our own account?

17 Q Yes. A No.

18 Q What project in Maine?

19 A This is in Portland, Maine, a multi-family
20 project called Forest Glen.

21 Q What kind of housing is it?

22 A Two-bedroom apartments.

23 Q What kind of ownership?

24 A It's owned by Forest Land Associates.

25 Q I mean condominium?

1 A No, rental.

2 Q Rental.

3 I take it the principals of your firm have
4 an interest in it? A Yes.

5 Q And you are also professional
6 consultants to them?

7 A We were the developers of it.

8 Q Okay. How many units?

9 A It's about 60.

10 Q Subsidized?

11 A No.

12 Q Okay. Now, you say that you think
13 the 100 percent estimate of markup is approximate-
14 ly right? A Without having done
15 any recent analysis for a mobile home subdivision,
16 I can see that it is right. You take an enormous
17 period of time to get the necessary approvals.
18 Just from having participated somewhat with Mr.
19 Davis's application, Mount Laurel, Mr. Sloof.

20 Q If there was a greater amount of
21 ~~land~~ available-- A The markup

22 would definitely go down. That's right.

23 Q In fact, if there ~~was~~ a much greater
24 supply of land available, premium on density
25 would be much lower; wouldn't it? Because your

1 land cost would be lower?

2 A Yes and no. I think it is more complex
3 than this. I think land is a simply unrenewable
4 resource. And as transportation costs are going
5 up and as infrastructure costs are going up,
6 higher densities will become more and more
7 reasonable in the future, even if there was more
8 land available.

9 For example, if there was a larger piece
10 of land available at a very low price, I would
11 then prefer to develop it with--well, with larger,
12 common areas, but still keep lot sizes small.

13 Q Isn't it true that the more units
14 you can put on an acre of land, the more valuable
15 that acre of land becomes on the marketplace?
16 And, therefore, isn't it true that all other
17 things are very seldom, if ever, equal when talk-
18 ing about density and land cost?

19 A That's right.

20 Q Just to make sure you got it, is
21 that accurate or not accurate? Do you agree or
22 disagree with that statement?

23 A Can you repeat the statement?

24 (The question on Page 118, Line 13
25 is read.)

1 A I think it's generally true, what you say,
2 that the more units permitted, the higher the
3 cost of land.

4 Q So that when you calculate the
5 savings to be gained by increasing the number of
6 units on a piece of land, it doesn't hold true
7 just by simple division because by allowing a
8 greater number of units on a piece of land, the
9 value of the land goes up so you are dividing a
10 greater number into a greater number?

11 A To a point that is right, but only to a
12 point. It still makes a big difference whether
13 you end up with a small lot that costs twelve-
14 and-a-half thousand dollars, for example, a 5,000-
15 square-foot lot that costs twelve-and-a-half
16 thousand dollars, or a lot that is, say, 12 times
17 larger or 20 times larger and costs only eight
18 or ten times as much.

19 Q Okay. What about 5,000? Using
20 your example, a 5,000-square-foot lot for twenty-
21 five-five, what do you think an 8,000-square-foot
22 lot would cost?

23 A Very hard to just generalize, but using
24 the same factors, it would probably cost--it
25 would cost about \$15,000.

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Q So it is not a straight one-to-one relationship?

A No, it increases - I would say as a rule, and that just confirms what you said before, the price increases much more slowly than the acreage or the square footage. I think that would be fair to state as a general rule, even though I'm sure there are exceptions.

But that is still not saying that it's not very important and worthwhile to keep to a minimum price because even though you cannot proportionately decrease the price with the size of the plot, any decrease in price becomes very important when you try to reach people with moderate means.

Q Because in order to determine who can afford what, we use a factor of four in terms of monthly carrying costs?

A I'm sorry. A factor of four?

Q Well, a family of low or moderate income can spend one-quarter of its income on housing?

A That is a very, very rough rule that I have often taken issue with.

Q Good. In what way? How should one do it?

A Because of the lower

1 income, obviously there's a smaller portion of
2 income that you could spend for housing.

3 Q Right.

4 A It would seem to me that once you reach,
5 say, people below 50 percent of median, 25 percent
6 may be hard. Once--If you had--If you try to
7 reach people between 50 and 80 percent of the
8 median, 25 may be relatively low. Maybe you
9 could come close to 30. And by the time you
10 provide housing for people around the median,
11 they could afford--most of the time, they do, in
12 fact, pay more than 25 percent of their income
13 for housing. So again, that percentage is very
14 much a function of income, of the proportion of
15 the income that can be spent for housing.

16 I ran into the 25 percent rule in the over-
17 seas assignment. And there it was more absurd
18 because you were dealing with people who had
19 practically nothing. And it was much more realis-
20 tic to examine actual expenditure patterns as to
21 how much people spend for housing, clothing, food
22 and for the lottery to get some idea as to what
23 they could reasonably spend for housing.

24 Q What did you find?

25 A We found just that, that it varied with

1 income, that the one variable that we played with
2 was the lottery.

3 Q And what did you find about that?

4 A Well, we found that to the extent to which
5 people didn't have to pay anything for housing
6 because either they were squatting or they were
7 sitting--they were sitting--they were living in
8 old tenement housing for which they paid no rent,
9 they paid a fair amount of money on gambling.
10 That varied then with whatever little they paid
11 for housing from maybe five or eight percent of
12 their income up to 25 or 30, depending on their
13 income level.

14 Q Have there been any studies on the
15 effect of the New Jersey State Lottery on the
16 amount of money paid by various state housing
17 groups for housing? A I would love
18 to do it.

19 Q I take it you know of none?

20 A No.

21 Q Or off-track betting in New York
22 City? Where was this study done?

23 A In Panama.

24 Q That was part of your study for the
25 Panamanian government?

1 A Right, right.

2 Q What densities do you yourself
3 recommend for the various kinds of ownerships

4 ~~which~~ we discussed? A As I stated
5 before, approximately six or seven.

6 Q All right. Is that variable accord-
7 ing to different sites?

8 A Oh, yes, it would have to.

9 Q What is the parameter, reasonable
10 ranges, either side?

11 A I don't think I could give you a range.
12 Assuming there is a site which can be used to
13 almost 100 percent for subdivision where there is
14 no stream going through, no cliffs--

15 Q No unbuildable area?

16 A No unbuildable areas, I would say six or
17 seven units.

18 Q All right.

19 A If there is a site with substantial un-
20 buildable areas, the density would be lower.

21 Q I have heard densities recommended
22 by other witnesses in this case, particularly Mr.
23 Mallach. Are you familiar with his general
24 approach? A Yes.

25 Q He has recommended densities much

1 higher for townhouses and garden apartments?

2 A Yes.

3 Q Why can't we have the same densi-
4 ties for mobile homes that we have for townhouses
5 and gardens? A Because they are

6 detached units.

7 Q Is there any mobile home configura-
8 tion which would not be detached units?

9 A No.

10 Q So is it correct then to state that
11 because of the configuration of being single-
12 family detached units, you are really limited to
13 a maximum density of six or seven assuming it is
14 all buildable land?

15 A With one proviso, that this is a density
16 which would permit either a double-wide mobile
17 home, that is, a mobile home consisting of two
18 sections, or of single mobile homes which could
19 in time be expanded to the width of a double-wide
20 unit.

21 Q Well, this density then assumes the
22 capability-- A That's right.

23 Q --for double-wide?

24 A Yes, I would never recommend a lot that
25 would only fit a single-wide because it would

1 preclude that possibility of expanding the unit
2 to a larger size.

3 Q Why is it important to have that
4 possibility not precluded?

5 A Well--

6 Q Increased family size?

7 A Well, increased family size or increased
8 needs. I think it's just better planning to keep
9 that flexibility.

10 Q Now, can you--

11 A Possibly with the exception of certain
12 senior citizen users where an increased size
13 would never become an issue.

14 Q That is because they are not expand-
15 ing their families or generally not increasing
16 their needs? A Yes.

17 Q In fact, most senior citizen needs
18 decrease in terms of housing space?

19 A In terms of area, space, yes.

20 Q What kind of facilities, services,
21 infrastructure does mobile home housing require
22 in terms of sewer, water, streets, roads, site
23 preparation? And when you tell me about it,
24 contrast it, if you would, to the same services
25 which would be required by what might be referred

1 to as the standard single-family detached develop-
2 ment? A Essentially, the same
3 services.

4 Q Is there any difference? Is there
5 anything that makes it cheaper or less expensive
6 in terms of pipes or roads or whatever?

7 A If mobile homes are placed in a mobile
8 home park and if mobile home parks are developed
9 in conformance with the State standards for
10 mobile home parks in Chapter 9, then the construc-
11 tion of the park would have to comply with infra-
12 structure standards which are less stringent
13 than infrastructure standards applied by many
14 municipalities. That applies, for example, for
15 road width, requirements for curbs.

16 Q I am just noticing two-way traffic,
17 no parking is 24 feet. Two-way traffic to site
18 parking is 36 feet. A Yes.

19 Q Is that different, do you know,
20 then-- A I haven't reviewed
21 in detail all the ordinances of the defendant
22 municipalities here, but I wouldn't be surprised
23 if I found subdivision ordinances with substan-
24 tially higher standards.

25 Q Is it your opinion that this

1 Chapter 9 pre-empt any municipal regulation?

2 A No, that's strictly a municipal standard.

3 MR. MEISER: By the way, that is a
4 legal question. That a Court would have
5 to finally decide.

6 MR. FERGUSON: No, but the witness
7 as an expert is entitled to have a belief
8 or an opinion about all kinds of legal
9 issues. Indeed, he can sit on the stand
10 and testify by reading from Mount Laurel
11 and Madison Township as many of your
12 experts have.

13 Q Is it your understanding of this
14 Chapter 9 that these are minimum requirements,
15 that is, a municipal option to make them--

16 A These are the requirements governing mobile
17 home parks. We have been talking about parks
18 with rental spaces and subdivisions and other
19 forms of ownership. And it was an issue in the
20 Mount Laurel litigation that the defendant town-
21 ship criticized the standards in Chapter 9 as
22 being below their own standards and not being
23 sufficient, even though these are the standards
24 that a park has to comply with in order to be
25 licensed under the State law.

1 Again, I think we have an example here of
2 the relative nature of standards and of the
3 general rule that I mentioned earlier today, the
4 higher the level of standard-setting agency, the
5 less stringent the standards tend to be. I can
6 see that a very wealthy township in Morris County
7 or elsewhere could afford setting very lavish
8 road width and curbing requirements, but I couldn't
9 see how relative such standards then should be
10 for the protection of health and safety.

11 Q What about sewers? Is there any
12 difference in terms of anything that would make
13 it cheaper, say, for a mobile home park to have
14 sanitary sewer facilities than an ordinary sub-
15 division? A Yes.

16 Q What?

17 A In a park, sewer lines don't have to run
18 underneath the street. Since it is common owner-
19 ship, the sewer can criss-cross the property.
20 That very often can lead to a real savings in
21 park development. This is one of the factors,
22 maybe the most important one, to be considered
23 for calculating the difference between developing
24 a mobile home subdivision as opposed to a mobile
25 home park.

1 Q So subdivisions, condominiums, and
2 cooperatives have to run them under the street?

3 **HAEKEL** I wouldn't say in the cooperative. I
4 would assume the cooperative would be very simi-
5 lar to the rental arrangement; only that it is
6 rather than having one owner, to have a corpo-
7 rate ownership. But the design would be the same
8 as the park.

9 Q Okay. A Whereas the
10 subdivision would be more similar to the single-
11 family subdivision, but with sewer and water
12 running in the street.

13 Q And condominium?

14 A Also.

15 Q Do you know what the magnitude of
16 saving might be? Mr. Haekel, can you give us
17 some idea of the order of magnitude of savings
18 which that particular factor might allow?

19 A I haven't calculated this. I think this
20 would have to be done on a case-by-case basis.

21 Q The blueprint of the development
22 would be the determinative factor; would it not,
23 how you lay out the site, the sites for individual
24 mobile homes? A Yes.

25 Q How close they are together makes

1 a difference? A Please repeat
2 the question.

3 Q Withdraw it.

4 The blueprint of the layout of the develop-
5 ment-- A Yes.

6 Q --will allow you to calculate what
7 kind of savings you might have because you
8 wouldn't have to run under the streets?

9 A Yes.

10 Q But you could run them from one
11 unit to the other? A Yes, I think
12 this can only be calculated on a project basis.

13 Q It has not played any part in the
14 cost figuring you have done in your report?

15 A No.

16 (A discussion is held off the record.)

17 Q Anything else about sewer that
18 would make it cheaper for a mobile home park as
19 opposed to, say, condominium or single-family
20 standard typical development?

21 A Again, any possible differences between
22 Chapter 9 and the standards that might be applic-
23 able in a given municipality.

24 Q Would water distribution be the
25 same thing as the sewer? If you can run the

1 pipes not under streets, but across lots, you
2 might be able to save some money?

3 **HAS** Yes.

4 **BP** Q Any other site preparation cost
5 differences between mobile home development and
6 typical single-family development?

7 A I think we have spoken about the road
8 standards.

9 Q Right.

10 A About sewer standards, about water distri-
11 bution standards. I believe that covers the
12 main areas.

13 Q Can you have less road in a mobile
14 home park or a single-family mobile home sub-
15 division than you can in the standard state
16 construction subdivision?

17 A To the extent to which you have narrower
18 lot sizes, you could have less--a lower percent-
19 age of road surfaces.

20 Q Well, if you have small houses on
21 5,000-foot lots, it would be no difference--

22 A There would be no difference, correct.

23 Q No difference whether it is single-
24 family-- A That is correct.

25 Q --or mobile home?

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A Right.

Q Have you investigated the defendant municipalities in terms of what each town may or may not have available for appropriate land for mobile home development?

A I have no analyzed the land use of the municipalities, no.

Q Are you prepared to make any recommendations as to which towns should or should not encourage multi-family development? Strike that. Mobile home development?

A Not specifically any towns. My testimony covers the more general question of mobile home use and affordability in the Morris County area.

Q Okay. A Regardless of the township or municipality.

Q So you are not being site-specific at all? A No.

Q Your testimony is just again generally that mobile home development is one method of satisfying the least cost obligation?

A Yes.

Q In general and not with reference to any town or any particular site?

A Yes.

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Q Are you prepared to say whether as a matter of general principle every town should have a mobile home development or would that have to await analysis of each town and sites? Is that your recommendation?

A I would--my recommendation would probably go even further, not just saying one mobile home development; that every township should have, to the extent to which there is still developable land, a substantial portion zoned for the option of mobile home subdivisions or other types of mobile home communities. I am speaking about single-family uses. So that the developable land now zoned for single-family use, that substantial portions of that land should be permitted to be used for mobile home-type developments.

Q Is that the sum and substance of the recommendation that comes from your report?

A Yes.

Q Why don't we break there and then we will go on a week from Tuesday.

MR. MEISER: Wednesday.

MR. FERGUSON: I am sorry. Wednesday, May 2nd.

(The witness is excused.)

* * *

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

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

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MORRIS COUNTY FAIR HOUSING :
COUNCIL, et al,

Plaintiff,

vs.

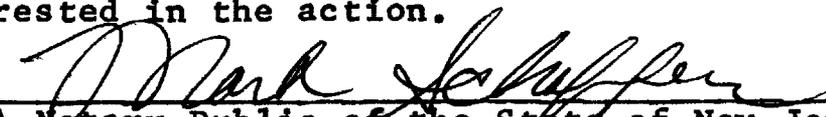
CERTIFICATE

BOONTON TOWNSHIP, et al,

Defendants.

I, MARK SCHAFFER, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify the foregoing to be a true and accurate transcript of the deposition of BERNHARD HAEKEL 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 the action in which this deposition was taken, and further that I am not a relative or an employee of any attorney or counsel employed in this case, nor am I financially interested in the action.


A Notary Public of the State of New Jersey

Dated: 4/20/79

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