

ML - Morris County Fair Housing Council  
v. Beenton Twp

5/13/79

Deposition upon oral examination of Mary E. Brooks

P 84

ML0008875

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

ML000887S

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

DEPOSITION UPON  
ORAL EXAMINATION  
OF  
MARY E. BROOKS

Plaintiffs,

-vs-

BOONTON TOWNSHIP, CHATHAM TOWN-  
SHIP, CHESTER TOWNSHIP, DEN-  
VILLE TOWNSHIP, EAST HANOVER  
TOWNSHIP, FLORHAM PARK BOROUGH, :  
HANOVER TOWNSHIP, HARDING TOWN-  
SHIP, JEFFERSON TOWNSHIP, :  
KINNELON BOROUGH, LINCOLN PARK  
BOROUGH, MADISON BOROUGH, :  
MENDHAM BOROUGH, MENDHAM TOWN-  
SHIP, MONTVILLE TOWNSHIP, MORRIS :  
TOWNSHIP, MORRIS PLAINS BOROUGH,  
MOUNTAIN LAKES BOROUGH, MOUNT :  
OLIVE TOWNSHIP, PARSIPPANY-  
TROY HILLS TOWNSHIP, PASSAIC :  
TOWNSHIP, PEQUANNOCK TOWNSHIP,  
RANDOLPH TOWNSHIP, RIVERDALE :  
BOROUGH, ROCKAWAY TOWNSHIP,  
ROXBURY TOWNSHIP and WASHINGTON :  
TOWNSHIP, :

Defendants.

**KNARR - RICHARDS, ASSOCIATES**

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I N D E X

<u>Witness</u>	<u>Direct</u>
MARY E. BROOKS By Mr. Sirota	3

E X H I B I T S

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DB-1 Miss Brooks' Report, entitled "A Discussion of Fair Share Planning," dated March, 1979.	26
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1 M A R Y E . B R O O K S , 310 West 106th Street,  
2 New York, New York , sworn.

3 DIRECT EXAMINATION BY MR. SIROTA:

4 Q Miss Brooks, my name is Ric Sirota,  
5 Fred Sirota. I'm a partner in the firm of Wiley,  
6 Malehorn & Sirota. I represent one of the defendants  
7 in this matter, Township of Rockaway.

8 Are you generally familiar with this matter?

9 A The case, yes.

10 Q And what do you understand it to be?

11 A It is a case brought against several townships  
12 in Morris County as to the validity of their zoning  
13 ordinances with respect to the ability to produce  
14 low and moderate income housing, primarily through  
15 the zoning ordinance.

16 Q Have you ever been deposed before?

17 A In this case?

18 Q In any case. A Yes.

19 Q So you understand generally what an  
20 oral deposition is? A Yes.

21 Q You understand that you are under oath?

22 A Yes.

23 Q And that the questions I ask you, you  
24 must respond to them orally; a.u., in order that the  
25 reporter might take down your testimony?

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A Yes.

Q And you understand that the testimony that this gentleman is taking down may be transcribed and may be utilized at the time of trial?

A Yes.

Q All right. At any time you don't understand a question, please ask me to explain it. If, because of my cold, you simply don't understand me, ask me to repeat it. And if Mr. Bisgaier should place an objection on the record, please don't answer until he completes his objection.

MR. BISGAIER: That's where we have agreed to the waiver of objections until the time of trial for all these depositions in order to facilitate the questioning and answering.

MR. SIROTA: Off the record.

(There is a short discussion off the record.)

MR. SIROTA: Back on the record.

Q Where do you reside? A In New York City.

Q In Manhattan? A Yes.

Q How long have you resided there, in Manhattan? A Six years.

1 Q And prior to that? A In  
2 Chicago, Illinois.

3 Q In the Loop area? A No.

4 Q In the City of Chicago? A Yes.

5 Q And for how long did you live there?

6 A Four years.

7 Q And prior to that? A Columbus,  
8 Ohio.

9 Q Did you live in Columbus?

10 A Yes.

11 Q And that was while you were getting  
12 your Master's? A Yes.

13 Q How long were you there?

14 A Two years. I'm sorry. Less than that.

15 Q And prior to that? A It  
16 was somewhere around two years.

17 Q And prior to living in Columbus, Ohio?

18 A St. Louis, Missouri.

19 Q And did you live in the City of St.  
20 Louis? A Yes.

21 Q For how long a period of time?

22 A I don't really remember. I think it was less  
23 than a year.

24 Q And prior to that? A Still-  
25 water, Oklahoma.

1 Q Was that while you were in college?

2 A Yes. I also grew up in Stillwater.

3 Q Did you live in Stillwater from the time  
4 of your birth until -- A Yes.

5 Q -- you went to college and through  
6 college? A Yes.

7 Q Have you ever lived in a suburban area?

8 A No.

9 Q What does exurban mean to you?

10 A Beyond suburban area.

11 Q Would exurban encompass rural areas?

12 A I think it could, yes.

13 MR. SIROTA: Off the record.

14 (There is a short discussion off the  
15 record.)

16 MR. SIROTA: Back on the record.

17 Q All right. Have you ever lived in  
18 an exurban area? A Around a metro-  
19 politan area?

20 Q Yes. A No.

21 Q By whom are you presently employed?

22 A Suburban Action Institute in New York City  
23 and the Center for Community Change in Washington,  
24 D.C.

25 Q Would you describe S.A.I.?

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A Suburban Action Institute is a non-profit organization involved in research and planning on housing issues for low and moderate income persons.

Q Is it fair to say they are an advocate entity? A Yes, they are.

Q And what is their goal?

A To expand housing opportunities for low and moderate income and minority persons.

Q How many employees do they have?

You are smiling. If I can assume that means you don't know an exact number, I would accept an approximate number. A Less than a dozen, full and part time.

Q And what is your position with S.A.I.?

A I'm director of research and planning.

Q Is the expertise you are lending the plaintiffs in this matter and your appearances as an expert at trial within the ambit of your responsibilities with S.A.I.? A Yes, it is.

Q How did you become involved in this matter, meaning this piece of litigation?

A I was asked by the Department of Public Advocates to be an expert.

Q By whom? A Mr. Bisgaier.



1 Q When was this? A I  
2 have no idea.

3 MR. BISGAIER: Go off the record for a  
4 second.

5 (There is a short discussion off the  
6 record.)

7 MR. SIROTA: Put this on.

8 A My best guess is the end of last year.

9 MR. BISGAIER: I think it was --

10 A Yeah, the end of last year or early in '79.

11 MR. BISGAIER: Shortly after Judge  
12 Muir established that expedited schedule  
13 for expert reports.

14 Q Approximately what percentage of your  
15 time is devoted towards your employment with S.A.I.?

16 A 50%.

17 Q You were emphatic. Is that a formal  
18 arrangement, 50% of your time? A Yes.

19 Q Where is the Center for -- is it  
20 Community Change? A Yes, it is. It's  
21 in Washington, D.C.

22 Q Where is it located, specifically?

23 A 1000 Wisconsin Avenue Northwest.

24 Q And is that funded by any specific  
25 entity or foundation? A It is

1 funded by a number of foundations and contracts.

2 Q Such as? A I -- I  
3 don't know.

4 Q You don't know the names of any of  
5 the foundations that fund the Center for Community  
6 Change? A No.

7 Q Do you know the names of any parties  
8 the Center for Community Change contracted with,  
9 which contracts presumably form the basis for support?  
10 A Not that I could be sure of.

11 Q Do you know -- A I  
12 should explain to you that my involvement with the  
13 Center for Community Change is with a special project  
14 set up through the Center for Community Change.

15 Q What is that project?

16 A It is the National Citizens' Monitoring  
17 Project on Community Development Block Grants.

18 Q And what does that project do?

19 A It works with community groups and subcontracts  
20 with community groups to enable them to monitor and  
21 evaluate community development block grants.

22 Q What do you mean by "monitor"?

23 A Review and evaluate, critique.

24 Q Do these entities comment upon block  
25 grant applications? A Yes, they do.

1 Q Do you or does the center work with any  
2 such groups in New Jersey? A Yes, we do.

3 Q Which groups? A There is a  
4 group in Newark, the exact name I don't know, and a  
5 group in Bergen County.

6 Q And are these groups composed of low  
7 and moderate income persons? A In  
8 some instances, or they are involved in coalitions  
9 where low and moderate income persons are involved in  
10 those coalitions or organizations that represent or  
11 advocate on behalf of low and moderate income persons.

12 Q My question was related specifically to  
13 the Newark and Bergen County group people. You under-  
14 stood that? A Yes. I answered it that  
15 way.

16 Q Is the center a non-profit corporation?  
17 A Yes, it is.

18 Q And does the center have a specific  
19 goal, a reason to be? A Yes. I'm  
20 not a good spokesman for the Center for Community  
21 Change. It works with citizens groups basically to  
22 enable them to influence the direction of development  
23 in -- have a greater influence on the cities in which  
24 they live.

25 Q You use the word "cities." Is that a

Brooks- direct

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Q Approximately. A I

really have absolutely no idea. The project for which I worked has seven employees.

Q Other than your project, what involvement does the center have in New Jersey? A I

don't know.

Q Has the center had any involvement in

Brooks - direct

specifically chosen word, or do you mean municipal entity? A Municipal entity.

Q Other than the groups in Newark and Bergen County relating to commenting on or having a voice in HUD block grants, does the center work with any other groups in New Jersey? A The

Center for Community Change works with a number of organizations on its own and through other projects. The project with which I am involved is not working with any other groups in New Jersey officially at this point.

Q Unofficially? A We provide

technical assistance to groups, should they call and request that, and there may have been an occasion where we would have worked with a New Jersey group.

Q Which groups? A I

would not know if that had happened. It would have been a field staff that would have provided that technical assistance and responded to it.

1 Q Which organizations? A There  
2 are a number of them, and I could not possibly recall  
3 them all.

4 Q Which ones can you recall?

5 A The State Department of -- oh, gosh. This  
6 isn't the right title. The State Commission on Human  
7 Rights. It has another title.

8 MR. BISGAIER: Division of Civil  
9 Rights.

10 A Division of Civil Rights is probably more  
11 accurate and that may not be precisely true. The  
12 Bergen County Coalition. There is a group -- there  
13 are several legal services located in New Jersey that  
14 participate in the coalition.

15 Q Which parts of New Jersey?

16 A One that I recall is from Essex County, I  
17 think. I don't remember the others. A representa-  
18 tive of the Department of Public Advocate's often  
19 comes.

20 Q Who is that, any particular representa-  
21 tive? A It varies.

22 Q Is it an attorney? A Not  
23 always.

24 Q Sometimes? A Yes.

25 Q Which attorneys? A Peter

Brooks - direct

16

1 court case, but I was not involved in the sense of  
2 providing any research or planning assistance.

3 Q Was S.A.I. a party in that action?

Brooks - direct

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1 Buchsbaum has been the most actively involved.

2 Q Which non-attorneys? A Joe

3 Louis. There are other organizations. I don't  
4 recall.

5 Q Any Morris County organizations?

6 A I believe there's a Morris County Fair Housing  
7 Group that --

8 MR. BISGAIER: I think the Fair

9 Housing Council.

10 A Fair Housing Council.

11 Q And who attends the meetings for the

12 Fair Housing Council? A I don't  
13 remember.

14 Q How often are the meetings conducted?

15 A They are not regular. Possibly every second  
16 or third month.

17 Q What litigation was S.A.I. involved

18 in in New Jersey? A Oh, we have been  
19 involved in the Madison case, Bedminster case and  
20 this one in Bergen County.

21 Q How long have you been with S.A.I.?

22 A Six years.

23 Q Were you involved in the Madison

24 ~~case, personally?~~ A Not really. I

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Q Are you familiar with the writings of Mr. Davidoff? A Somewhat.

Q How would you categorize your position with respect to his writings? Are you in agreement with him? Do you disagree completely?

MR. BISGAIER: Any specific writing in mind?

A It would be impossible for me to categorize that generally. I probably agree with some and disagree with some others.

Q To the best of your ability, how would you define or describe his position with respect to low and moderate income housing and least cost housing and the relevance of zoning ordinances with respect to that type of housing? A Well, I don't think I should categorize Mr. Davidoff's position with respect to any of those. His -- to the extent that I can categorize it, it is consistent, I suppose, with the position of Suburban Action Insititute.

Q Which is? A And to the extent that jurisdictions have a responsibility to participate in the provision of meeting regional housing needs for low and moderate income persons. The extent to which zoning ordinances prohibit or

1           make that difficult, they should be revised.

2                   Q           Are there any articles or books by  
3           Mr. Davidoff that you can point to with respect to  
4           which you either agree or disagree?

5                               MR. BISGAIER: In their totality?

6                               MR. SIROTA: Yes.

7           A           I do not, at this point, want to do that with-  
8           out reviewing a particular document.

9                   Q           What was S.A.I.'s position in the  
10          Bedminster case?                   A           Again, we brought

11          the case on behalf of certain plaintiffs.

12                   Q           And what was your involvement in that  
13          case?                   A           I was not involved in that case.

14                   Q           Was Mr. Davidoff involved in that  
15          case?                   A           I believe he was an expert

16          witness, and I'm not certain of that. I did sit in  
17          on some meetings with respect to Bedminster, among  
18          attorneys.

19                   Q           Were you involved in the Bergen County  
20          case?                   A           No.

21                   Q           By "Bergen County," you mean the  
22          one involving Mahwah, et al?                   A           Yes.

23                   Q           And that's the one that concluded, at  
24          least at the trial level, in the last couple of  
25          months?                   A           I believe so.



1 Q Your position, again, was director of  
2 research for S.A.I.? A Research and  
3 planning.

4 Q And planning.

5 What specifically do you do? A I  
6 supervise the research activities of the staff for  
7 Suburban Action Institute and many of the research  
8 and planning activities of the organization.

9 Q Do you have a research and planning  
10 staff that reports to you? A The staff  
11 is small enough that there are individuals on the  
12 staff that will be working on an aspect of a project  
13 or research activity, and with respect to their  
14 involvement with that project, I supervise them, yes.

15 Q Were there any members of the staff  
16 or, as a matter of fact, anyone else that worked on  
17 this matter with you? A There were  
18 two individuals that assisted in some compilation of  
19 data.

20 Q Who were they?

21 MR. SIROTA: Off the record.

22 (There is a short discussion off the  
23 record.)

24 A These were persons whose last names I'm afraid  
25 I don't know. First names were Michele and Lew.

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Q Are they full time employees of S.A.I.?

A No, they are student interns.

Q Where do they go to school?

A I believe Hunter College.

Q Does a student intern mean it's a part time job during the school year? A Yes, and sometimes it extends into the summer.

Q They are paid a stipend to do this?

A Yes, they are.

Q What did Michele do? A Primarily take a column of figures and do some percentages for me.

Q Which column of figures?

A The identification of 1960 and 1970 housing stock and the proportion of that housing stock in various structure types.

Q And this became a part of your second report, the April report? A Yes.

Q It's an appendix? A I believe so.

Q Would you like to review your April report?

Let me rephrase that.

Q Would you review it? A I believe it's the table on Page 53.

1 Q What else did Michele do?

2 A She worked on the table identifying the propor-  
3 tion of non-white population relative to the total  
4 population.

5 Q What did she do specifically with respect  
6 to that table? A Again, she calcu-  
7 lated percentages.

8 Q And what page is that table?

9 A 42 and 43.

10 Q By the way, will you supply me the last  
11 names -- the full names of the two persons that worked  
12 for you? A Yes. I will.

13 Q What else did Michele do?

14 A That was it.

15 Q Do you know what year she's in at  
16 Hunter College? A No, I don't.

17 Q Do you know how old she is?

18 A No.

19 Q What was the other person's name?

20 A Lew.

21 Q Lew? A (Witness nods head  
22 in the affirmative.)

23 Q L-o-u? A L-e-w, I  
24 believe.

25 Q Is he a he or she? A He.

1 Q What did he do? A Worked  
2 on the same tables.

3 Q Anything else? A No.

4 Q Did anyone else at S. A.I. or elsewhere  
5 work on these reports with you? A In  
6 the preparation of the reports?

7 Q Consider the question very broad, in  
8 any way. A In the preparation of the reports,  
9 no. There were some students working at Public  
10 Advocate's that assisted me in collecting some of  
11 the basic data from the census.

12 Q Who are they? A I do not  
13 know their names.

14 Q Were they undergraduate students?

15 A I don't know.

16 Q Did you work with them directly?

17 A I gave them instructions through a staff person  
18 at the Public Advocate's.

19 Q Who was the staff person at the Public  
20 Advocate's? A Carl Bisgaier.

21 Q And what did those students do  
22 specifically? A They collected a  
23 variety of -- the base data figures from the census  
24 and some other documents.

25 Q What were the other documents?

1 A Either New Jersey reports or reports prepared  
2 by public agencies in New Jersey.

3 Q So that I understand, they were students  
4 who worked for the Public Advocate, who prepared or  
5 gathered basic numbers from public records?

6 A Yes. They prepared nothing. They merely  
7 collected the basic data, copied it and made it  
8 available to me.

9 Q How was it directed to your attention,  
10 the information they gathered? A I  
11 don't understand that.

12 Q Well, did they send you a letter saying  
13 enclosed is the following information which you  
14 requested? A In most instances, either  
15 Mr. Bisgaier or Linda Heard mailed the material to  
16 me.

17 Q Okay. Will you produce, please, at our  
18 next deposition, that material? A I  
19 believe it's already been made available.

20 Q Not to my knowledge, in the form that  
21 was directed to you that specifically.

22 A Precisely the form it was made available.

23 Q The very documents that were directed  
24 to you? A Yes.

25 Q Which, I assume, are raw data gathered

1 and excised from various public documents?

2 A Yes.

3 Q So they wouldn't be the documents  
4 themselves, but, rather, the information gathered  
5 from those documents? A That is

6 correct, although frequently it was merely a duplicate  
7 copy of a page from a report or a census book.

8 Q Okay. Will you produce those letters  
9 or whatever they may be? A They were  
10 not letters.

11 Q Transmittals? A And  
12 they have already been produced, made available.

13 Q All right. If they have been made  
14 available, in the next room are the documents which  
15 have been made available. Would you go through those  
16 and advise us as to which were directed to your  
17 attention or which were gathered by the students and  
18 then directed to you? A I can do  
19 that. Yes, I can do that.

20 Q Thank you. We will take a break now  
21 to enable you to do that.

22 MR. BISGAIER: Well, is that necessary?

23 THE WITNESS: Am I wrong on this?

24 MR. SIROTA: All I'm asking for -- I  
25 can make her go through every one of those

1           damn documents, but what I think would be  
2           more sensible, if she could produce the records  
3           that were directed to her, then I'll know  
4           what was directed to her.

5                   MR. BISGAIER: They were mailed to  
6           counsel with the initial expert report that  
7           was sent. It was Xeroxed and sent to all  
8           counsel.

9           Q           Have you seen a copy of the initial  
10          expert's report that was directed to the attorneys  
11          for the defendants?           A           The one that I  
12          prepared?

13                   MR. SIROTA: Mr. Bisgaier, which  
14          report are you referring to? Are you  
15          referring to the initial report in response to  
16          Judge Muir's --

17                   MR. BISGAIER: Mary's initial expert  
18          report was mailed. With it was sent a Xerox  
19          copy of numerous census information. I'll  
20          get you a copy at the next time we meet.

21                   MR. SIROTA: Are you referring, Mr.  
22          Bisgaier, to the documentation that was  
23          attached to the March 17, 1979 report of  
24          Miss Brooks?

25                   MR. BISGAIER: Yes.

Brooks - direct

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1 A No, I did not.

2 Q Did you rely upon that information for  
3 your April, 1979 report, entitled "Preliminary Report

Brooks - direct

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1 Brooks - direct

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1 Q Miss Brooks, I show you a copy of the  
2 March, 1979 report, your report, as I received it.  
3 It's in two parts, two stapled parts. The first is  
4 on the Suburban Action Institute letterhead. It's  
5 a report. And the second part, the first page of  
6 which has a "I," with the word "Population," which  
7 was also directed, together with the first part,  
8 and I ask you whether that second part, the one  
9 where the first page says "Population," encompasses  
10 all information directed by the Public Advocate,  
11 gathered by their students or whomever to you?

12 A I believe it is not.

13 MR. SIROTA: Mark these for identifica-  
14 tion, please, and this is two items, the first  
15 item being Miss Brooks March, 1979 report,  
16 entitled "the Discussion of Fair Share Planning,"  
17 prepared for Carl C. Bisgaier, and D-2, I  
18 guess, would be a document which had been  
19 clipped to that, but which is stapled separately  
20 the first page of which, on the top, has  
21 "I," with the word "Population," which consists  
22 of 37 pages.



1 specific items missing probably reflect the  
2 bulk that Mary saw as missing in the report are  
3 actual copies of census pages.

4 MR. SIROTA: Do we have an outstanding  
5 question?

6 (The following was read by the reporter:

7 "QUESTION: Did you rely upon that  
8 information for your April, 1979 report,  
9 entitled 'Preliminary Report on Adjustments  
10 to New Jersey Department of Community Affairs,  
11 a Revised Statewide Housing Allocation Report  
12 for New Jersey'?"

13 A I'm not certain if I relied on that specific  
14 information, but it is possible.

15 Q I show you the document which I just  
16 referred to and ask you whether that's the entire  
17 report. A Yes, it is.

18 MR. SIROTA: Would you mark that DB-3,  
19 please?

20 (The report referred to was received  
21 and marked DB-3 for Identification.)

22 Q Miss Brooks, did you rely upon DB-2  
23 for your report which is identified as DB-3?

24 A Which report is that, DB-3?

25 Q DB-3 is the -- your Adjustments to the

1 D.C.H. Report. Would you like to look at it?

2 A You just asked me that question, and I said I  
3 don't recall specifically, but I said I believe it is  
4 possible.

5 Q I asked you the question about DB-1,  
6 which is entitled "Discussion of Fair Share Planning."

7 A I don't want to argue. I believe you asked  
8 me about both. But my answer about DB-3 is that I  
9 may have relied on some of that material, but I'm  
10 not sure.

11 Q Well, how could you become sure? Could  
12 you review your records to determine whether you  
13 relied upon the material, which is identified as  
14 DB-2, in compiling your reports, which are identified  
15 as DB-1 and DB-3? A I don't have

16 records that would indicate that. I relied on a  
17 variety of information, not all of which was connected  
18 by -- collected by the students at the Department of  
19 Public Advocate's.

20 Q I show you a 55 page report, entitled  
21 "Preliminary Report on Demographic Characteristics  
22 of Morris County," and I ask you whether this is a  
23 complete copy of your report, which is, as titled  
24 and dated, April, 1979. A Yes, I

25 believe so.

1 MR. SIROTA: Could we mark that for  
2 identification, please.

3 (The report referred to was received  
4 and marked DB-4 for Identification.)

5 Q Did you use the information contained  
6 in DB-2 for DB-4? A Yes, I did.

7 Q In what way? Is it fair to say that  
8 DB-4 is substantially based upon the information  
9 contained in DB-2? A It is in part, yes.

10 Q Now, did the Public Advocate send you  
11 information, documents, over and above those contained  
12 in DB-2? A Yes.

13 Q And what were those documents, informa-  
14 tion? A I'm not sure I can remember all  
15 of them. They sent me the Morris County Master  
16 Plan Land Use Element, a report on the water quality  
17 management plan for New Jersey -- a portion of New  
18 Jersey.

19 Q Excuse me? What was the last one?

20 A The water quality management plan.

21 Q Who promulgated that?

22 A It's a state agency.

23 Q You have to speak up so the reporter  
24 can get every word. We don't want to lose one golden  
25 morsel. A I'm sorry.

1 Q Will you bring with you tomorrow all  
2 the documents and information which were directed to  
3 your attention, upon which you, at least in part,  
4 based your reports? A The reports I  
5 just mentioned to you were -- I wanted for my own  
6 general information. I did not use information from  
7 those reports in the preparation of my own reports.

8 Q Let me broaden my question, then. Will  
9 you bring the documents which were directed to your  
10 attention by the Public Advocate, including, but not  
11 limited to, those documents which you understand  
12 were prepared by the students working part time for  
13 the Public Advocate? A Let me make  
14 sure I understand. The reports that the Department  
15 of Public Advocate's made available to me, in  
16 addition to the material prepared by the students?

17 Q Yes. A Yes.

18 MR. BISGAIER: Off the record for a  
19 second.

20 (There is a short discussion off the  
21 record.)

22 MR. SIROTA: Back on the record.

23 Q With respect to reports which have  
24 already been produced, I will accept, in lieu of  
25 your actually bringing them here, advise as to the

1 title of the report -- A Yes.

2 Q -- or documents? A Yes,

3 I can do that.

4 MR. SIROTA: Off the record.

5 (There is a short discussion off the  
6 record.)

7 (There is a luncheon recess.)

8 Q Are you being paid directly by the  
9 Public Advocate for this work?

10 Let me rephrase that.

11 Are you being paid to serve as an expert  
12 witness? A Yes, I am.

13 Q Are you being paid directly, or is  
14 S.A.I. being paid? A Suburban Action  
15 is being paid.

16 Q So the relationship is between the  
17 Department of Public Advocate and the Suburban  
18 Action Institute? A They have asked  
19 me to be an expert, and any work that I do for -- as  
20 a consultant or otherwise is attributed to Suburban  
21 Action Institute.

22 Q You said previously, did you not, that  
23 this work you are serving as an expert is included  
24 within the ambit of your employee responsibilities  
25 with S.A.I.? A Yes, I did.

1 Q What was your first employment after  
2 college? A Do you mean college or graduate

3 school?

4 Q Undergraduate school, undergraduate  
5 college, Oklahoma State, your first employment after  
6 Oklahoma State. A I worked for the

7 St. Louis City Department of Social Services or some-  
8 thing like that.

9 Q Was that your first full employment?

10 A No.

11 Q Where did you work prior to that?

12 A I had a variety of part time jobs throughout  
13 college.

14 Q Was that your first full time employ-  
15 ment? A No, I had worked during the

16 summers while I was in college.

17 Q What did you do during those summers?

18 A I worked with youth groups. I worked in a  
19 hospital. I worked as an assistant to a justice of  
20 the peace. That's all I can remember.

21 Q Your first job out of college was with  
22 the St. Louis City Department of Social Services?

23 A That's not the exact title, but it's something  
24 along those lines.

25 Q Was that agency, in past years, what

1 might be called a welfare department?

2 A Yes, it was.

3 Q And what was their responsibility, the  
4 department's? A I really couldn't

5 represent that in any way that would be suitable. I  
6 worked for them as a case worker.

7 Q You were a social case worker?

8 A Yes, I was.

9 Q And you were assigned a case load of  
10 welfare recipients? A Yes, I was.

11 Q How long did you work there?

12 A For the duration that I lived in St. Louis.

13 Q What years did you live in St. Louis?

14 You are not going to say for the years that you  
15 worked for the St. Louis Department?

16 A You asked me that question earlier, and I'm  
17 not sure how long I lived in St. Louis. I believe  
18 under a year.

19 Q Under a year? A I think so.  
20 I'm really unsure of that.

21 Q And were your responsibilities making  
22 periodic visits to clients' homes, overseeing the  
23 allocation of funds, et cetera? A Actually,  
24 I worked with a very special case load in the Pruitt-  
25 Igoe Housing Projects in St. Louis.

1 Q Were you hired to work with that  
2 specific project, or were you assigned, after you were  
3 hired, to that particular case load? A I  
4 was assigned.

5 Q And could you describe your responsi-  
6 bilities with respect to the Pruitt-Igoe Project?

7 A It was a special project set up by the depart-  
8 ment in the projects with a very small number of  
9 case workers that worked with a very select group of  
10 welfare clients. We had a very limited case load  
11 of something like 20 families. We worked with the  
12 entire family, not just the person receiving welfare,  
13 and worked with them in providing them all kinds of  
14 social services beyond what the Department of Welfare  
15 could do.

16 Q Did your position in St. Louis interface  
17 with housing in any way? A I don't  
18 quite understand the word "interface."

19 Q Did it relate, in any way, to housing?

20 A Only in the sense of insuring that clients  
21 had adequate housing or found adequate housing.

22 Q This will be a general question, but  
23 is there any reason I should be familiar with the  
24 Pruitt-Igoe Project? Is there anything extraordinary  
25 about that housing project as opposed to others in



1 St. Louis? A It is a public housing  
2 project that received a number of awards for design  
3 quality, and there was a lot of trouble with the  
4 projects at some point.

5 Q What was the trouble? A They  
6 were basically designed in such a way that the living  
7 conditions deteriorated.

8 Q When was the project built?

9 A I don't know.

10 Q Approximately how old was it when you  
11 were working with case loads in the projects?

12 A I don't know that, either.

13 Q Was it in state of disintegration at  
14 the time you were working there? A It  
15 was in a state of poor maintenance.

16 Q And what later happened to the project?

17 A At least a good section of it was destroyed.

18 Q It was literally knocked down, wasn't  
19 it? I mean, they came with machinery and pushed  
20 the buildings over? A That's correct.  
21 Actually, they blew it up.

22 Q Blew it up.

23 Did you make any observations as to why the  
24 project failed? A No, I did not.

25 Q Did you have any opinion, at the time

1 you worked there, as to the viability of the project?

2 A What do you mean by "viability"?

3 Q Success, failure, any aspect.

4 A What do you mean by "any aspect"?

5 Q Did you have any opinions at all, with  
6 respect to the project, in or about 1966?

7 A Yes.

8 Q You did. What were they?

9 A I felt the living conditions were not suitable.

10 Q Why? A The project was  
11 not maintained well.

12 Q Is the case that you felt that the  
13 failure of maintenance was the only reason for the  
14 inhabitability? A I think it was the  
15 major reason, yes.

16 Q What were the other reasons?

17 A I think they were lack of availability of  
18 services to meet the needs of the residents there.

19 Q What kind of services?

20 A Job training, day care would be an example.

21 Q And that impacted on the physical  
22 disintegration of the building? A I  
23 didn't say the buildings had physically deteriorated,  
24 and I'm not sure whether or not it impacted on it.  
25 I said I thought it contributed to the unsuitability

1 of the livings conditions.

2 Q Other than the day to day concerns with  
3 respect to your clients when you were a case worker,  
4 did you take any other action or participate in any  
5 events relating to the project as a whole?

6 A You mean outside of my responsibilities as a  
7 case worker?

8 Q Yes, we will start with that.

9 A No, I did nothing else in relationship to the  
10 project.

11 Q Within your responsibilities as a case  
12 worker, did you take any actions to attempt to improve  
13 the housing of your clients or to negate some of the  
14 things which you advised were affecting negatively  
15 the project? A Nothing particularly  
16 spectacular. We had meetings as a staff about things  
17 that could be done.

18 Q Well, what was done, be it spectacular  
19 or unspectacular? A As I just said,  
20 we had some meetings among the staff members.

21 Q Among the staff of the case workers  
22 assigned to the project? A Right. Yes.

23 Q And what was discussed in those  
24 meetings? A How the project could be  
25 better maintained, what could be done.

1 Q And what was done as a result of those  
2 meetings? A Nothing that I know of.

3 Q Did you ever speak to the management  
4 of the project? A Me, personally?

5 Q Yes. A No.

6 Q Have you reached any conclusions, now  
7 or previously, as to what changes in the project would  
8 have facilitated a better operating project or more  
9 humane situation? A No.

10 MR. BISGAIER: Off the record.

11 (There is a short discussion off the  
12 record.)

13 MR. SIROTA: Let's go on the record.

14 Q What was your next position after  
15 working in St. Louis? A I went to  
16 graduate school.

17 Q In what? A City and  
18 regional planning.

19 Q Had your experience in St. Louis had  
20 an impact on the type of graduate school that you  
21 selected? A No.

22 Q What was your undergraduate degree in?  
23 A Sociology.

24 Q Did you work while you were at Ohio  
25 State? A As a part of the program,

1 during the summer, there are internships with planning  
2 agencies as a part of the program.

3 Q Where were you an intern?

4 A The Detroit Transportation and Land Use Study  
5 in Detroit, Michigan and with the American Society  
6 of Planning Officials in Chicago, Illinois.

7 Q What did you do in Detroit?

8 A I worked on a -- what's called a P-E-R-K  
9 chart, did some work on water and sewer mapping,  
10 did some bibliographical work. That's all I can  
11 remember.

12 Q The entity you worked for, was that  
13 a Governmental body? A I think so.

14 Q Part of the City of Detroit, the State  
15 of Michigan? A I think it was a regional  
16 body, but I'm not sure.

17 Q And what did you do in Chicago?

18 A That summer?

19 Q While you were in school, yes, as an  
20 intern. A I worked on various  
21 research reports.

22 Q What research reports? A I  
23 don't remember.

24 Q How long were you there?

25 A The summer.

1 Q And was Detroit the previous summer?

2 A Yes.

3 Q When did you graduate from Ohio State?

4 A May or June of 1969.

5 Q And did you commence employment right  
6 after graduation? A I'm sorry. I

7 didn't understand.

8 Q Did you commence employment right after  
9 graduation? A Yes, I did.

10 Q With whom? A I'm sorry.  
11 I went out to California for two weeks.

12 Q Did you enjoy yourself?

13 A Yes.

14 Q Where did you commence employment?

15 A American Society of Planning Officials in  
16 Chicago, Illinois.

17 Q And what was your position initially?

18 A I was on the research staff.

19 Q And how long did you maintain that  
20 position; that is, a member of the research staff,  
21 with the American Society? A That  
22 precise position or --

23 Q Yes. A -- working with  
24 the research staff?

25 Q That position. A I don't

1 remember. At some point, there was a change in  
2 title, maybe a year after that.

3 Q Was there a change in position, substan-  
4 tive position, or just title? A More  
5 responsibility.

6 Q Okay. With respect to your initial  
7 employment, what were your responsibilities?

8 A I worked on the research staff and participated  
9 in the development of research documents and assisted  
10 in some contracts, consulting contracts.

11 Q Which research? What research did  
12 you work on and what consulting contracts?

13 A I worked on a number of research projects,  
14 all of which I cannot remember.

15 Q None of which you can remember?

16 A I said, "All of which I cannot remember."

17 Q I see. A I worked on one  
18 report that had to do with a specific part of  
19 recreational activities in urban areas. I worked on,  
20 I think, I'm not sure if it was during this period,  
21 a bibliographical reference on social service  
22 resources available to planning agencies. I worked  
23 on a consulting contract with the U. S. Department of  
24 Housing and Urban Development on the comprehensive  
25 planning assistance "701 Program." During that period

1 that's what I recall.

2 Q Do any of those studies relate to low  
3 or moderate income housing? A The

4 one that would relate the most would be the evaluation  
5 of the 701 Program.

6 Q What is the 701 Program?

7 A 701 Program is a HUD funded grants to regional  
8 agencies to carry on comprehensive planning  
9 activities. As a part of that, they are required  
10 to develop a housing element. Part of the requirements  
11 of that housing element is to tend to the needs of  
12 low and moderate income persons and to insure the  
13 correction of past patterns of discrimination.

14 Q And what did you do specifically with  
15 respect to the 701 Program? A I did  
16 nothing with respect to the 701 Program itself. I  
17 worked on an evaluation of the 701 Program.

18 Q By "evaluation," do you mean that someone  
19 was looking to you or your group to make a determi-  
20 nation as to whether or not the program was functioning?

21 A The U. S. Department of Housing and Urban  
22 Development called on the American Society of Planning  
23 Officials to prepare a series of handbooks for regional  
24 planning agencies to use in responding to the require-  
25 ments of the comprehensive plan assistance program.



1 Q And were such booklets produced?

2 A Yes, they were.

3 Q What were the names of the booklets?

4 A I don't remember.

5 Q Did you reach any conclusions with  
6 respect to exclusionary zoning and/or housing for low  
7 and moderate income persons at that time?

8 A Conclusions with respect to what?

9 Q I assume that you were concerned about  
10 these subjects at the time; that is, approximately  
11 1970? Were you concerned about exclusionary zoning  
12 in 1970? A Yes.

13 Q Were you concerned about housing for  
14 low and moderate income people in 1970?

15 A Yes.

16 Q Did you reach any conclusions at that  
17 time as to how to best facilitate the elimination of  
18 what you saw as exclusionary zoning or the availability  
19 of housing for low and moderate income people?

20 A With respect to these studies on the 701 Program?

21 Q With respect to the studies and with  
22 respect to any other work or studies that you were  
23 doing at that time, with respect to your own readings,  
24 with respect to reading an issue of Time Magazine,  
25 with respect to anything.

1 MR. BISGAIER: If you remember. It  
2 is nine years ago, almost 10 years ago.

3 Q Certainly, all my questions relate to  
4 your knowledge. If you don't have knowledge, tell  
5 me you don't have knowledge. A I certainly  
6 can't distinguish between what I thought at that point  
7 in any way that would be meaningful to you.

8 Q Did the booklets offer advice as to  
9 exclusionary zoning or provision for low and moderate  
10 income housing? A I don't remember.  
11 The handbooks dealt with informing regional planning  
12 agencies and applicants and/or recipients of 701  
13 funds, as to their requirements under the law, and  
14 there were requirements within the 701 Program that  
15 dealt to housing discrimination and attention to low  
16 and moderate income housing.

17 Q What were the requirements?

18 A At that point?

19 Q Yes. A I don't remember.

20 Q Is the 701 Program still in existence?

21 A Yes, it is.

22 Q What are the requirements now?

23 A I can't give them to you specifically at this  
24 point. The 701 Program is directed primarily to  
25 regional agencies, encouraging them to prepare housing

1 elements and land use elements and emphasis, I  
2 believe it's fair to say, that the housing element  
3 is to direct attention on the part of the regional  
4 agency to the housing needs of low and moderate income  
5 people in the region and to give attention to how  
6 programs could work to remove the effects of  
7 discrimination in housing.

8 Q Do they give advice as to how that  
9 might be fostered? A I'm not sure. I  
10 believe there are some examples as to the kinds of  
11 programs agencies could undertake.

12 Q Do you remember the examples?

13 A No, I do not.

14 Q The examples refer to the current  
15 701 Program. Is that correct? A Yes.

16 Q But you don't remember what they were?

17 A That's true.

18 Q What was your next position after the  
19 threshold level at the American Society?

20 A I'm not sure of the exact title. It's on my  
21 resume, if you have it there. It would be on the  
22 front page.

23 Q Senior research associate?

24 A Yes.

25 Q And what did a senior research associate

1 do? A It varied.

2 Q What did you do? A I  
3 worked on a variety of research reports and consulting  
4 contracts.

5 Q What research reports?

6 A Again, there were a number of them. The ones  
7 that I think are most relevant to the situation at  
8 hand would be a report on exclusionary zoning, a  
9 report on the planner's response to low and moderate  
10 income housing. I think that's -- those are the  
11 most relevant ones. There are a number of other  
12 reports that I worked on.

13 Q Was the first the subject of one of  
14 your publications, "Exclusionary Zoning," published  
15 in February of 1970? A Yes. I  
16 just mentioned that one.

17 Q That was the first of the two reports  
18 that you worked on. Is that correct? You mentioned  
19 two reports that you worked on -- A Yes.

20 Q -- during this period?

21 The first of those, you said, related to  
22 exclusionary zoning. Did that report -- was that  
23 actually published, and is it the report mentioned  
24 in your resume? A Yes, it is. Yes,  
25 it was, and yes, it is.

1 Q It still is.

2 Could you describe the conclusions you  
3 reached in the publication known as "Exclusionary  
4 Zoning"? A I did that report a  
5 number of years ago, and I don't really remember the  
6 conclusions that were drawn, if any, in the report.

7 Q Was it descriptive in nature?

8 A As I recall, the report contains a general  
9 description of why exclusionary zoning is a problem.  
10 It discusses a variety of court cases that were  
11 pertinent at that time and a number -- I don't  
12 remember what else was in that report.

13 Q Did it make statements with respect  
14 to why exclusionary zoning was a problem?

15 A I believe so.

16 Q What were those statements?

17 A I do not remember all of the statements. I  
18 would guess that it dealt with the problem of the  
19 relationship between central cities and the suburban  
20 areas in dealing with housing problems, the fact  
21 that lower income and minority persons are generally  
22 concentrated in certain areas, that there are a  
23 variety of zoning regulations that add to the cost of  
24 producing housing.

25 Q Did you look with any particularity at

1 any given jurisdiction, any particular jurisdiction?

2 A No.

3 Q Is it fair to say that it was a general  
4 exposition on exclusionary zoning, without any  
5 particular description of the alleged effect on  
6 exclusionary zoning in a given area?

7 A Yes.

8 Q Was it in book form or pamphlet form?

9 A It's a report form.

10 Q Where might one obtain a copy? Probably  
11 not from the Book of the Month Club.

12 A I'm not sure. One could write to the  
13 American Society of Planning Officials and obtain a  
14 copy.

15 Q Do you have a copy? A I  
16 believe so.

17 Q Could you bring it tomorrow?

18 A Yes.

19 Q Thank you.

20 Do you want to make notes of these, or do  
21 you want me to make them? A I'll make  
22 notes.

23 MR. BISGAIER: Are they at your office?

24 THE WITNESS: Yes.

25 MR. BISGAIER: There's no need for Mary

1 to have to go to her office before coming here  
2 tomorrow, since she's, obviously, at this  
3 rate, going to be coming back for a third day  
4 of depositions.

5 Q I don't want to trouble you. If it's  
6 not convenient to bring them tomorrow, if you can  
7 bring it at some subsequent deposition.

8 A Thank you.

9 Q Now, you mentioned a second report that  
10 you worked on while you were a senior research  
11 associate. What was that report? A The  
12 title, I believe, was "Low and Moderate Income Housing:  
13 The Planner's Response."

14 Q When was that published?

15 A Since you have my resume, you can tell me easier  
16 than I can remember.

17 Q I'm afraid -- yes.

18 And what was the planner's response?

19 A The report discusses generally the problem of  
20 the lack of low and moderate income housing and then  
21 identifies a variety of programs or activities that  
22 agencies undertook to respond to the problems of  
23 meeting the needs of low and moderate income house-  
24 holds with respect to housing, and the planner's  
25 response was identified in terms of giving those kinds

Brooks - direct

54

1

Q Certainly.

Brooks - direct

53

Brooks - direct

52

1

of examples.

2

Q Was it a critique of Governmental

3

attempts to provide, for low and moderate income

4

housing?

A

As I recall, there was

5

no particular critique involved.

6

Q Would you describe the methods discussed

7

in the book for providing for low and moderate income

8

housing?

A

Okay. I don't remember

9

all of them.

10

MR. BISGAIER: If I can make a suggestion,

11

if you are going to ask her to produce this

12

document, the document will speak for itself.

13

All you are doing is testing her recollection

14

of a document she wrote five years ago or

15

seven years ago.

16

MR. SIROTA: Okay. I would like to hear

17

it.

18

A Examples were, for instance, the Urban

19

Development Corporation in New York, the "Anti-Snob"

20

Zoning Legislation in Massachusetts. There were

21

some examples of mandatory provisions for the inclu-

22

sion of low and moderate income housing in developments.

23

Q What jurisdiction was the latter?



1 Q And does this particular publication  
2 discuss that? A It's certainly not in any  
3 length. There may be one statement in there, and I  
4 don't recall whether or not that's true.

5 Q Would you bring that, if you have it?

6 A Yes.

7 MR. BISGAIER: What is that called?

8 MR. SIROTA: It's entitled "Mandatory  
9 Dedication of Land or Fees in Lieu of Land  
10 for Parks and Schools."

11 Q Did you leave the American Society of  
12 Planning Officials in 1973? A I  
13 believe so.

14 Q And what was your next employment?

15 A With the Suburban Action Institute.

16 Q What was your involvement with the  
17 publication you have listed, "Part 5 of the Regional  
18 Housing Allocation Plan, In Zoning: A Guide for  
19 Policy Makers on Inclusionary Land Use Programs"?

20 A That is a chapter in a book published by  
21 the Potomac Institute in Washington, D.C. As a  
22 consultant, I prepared that chapter for them.

23 Q What is the Potomac Institute?

24 A I'm not really sure. I think it's a public  
25 interest organization in Washington, D.C.

1 Q Who is Herbert Franklin?

2 A I really don't know how to answer that question.

3 Q Is he a teacher? A No.

4 He's a lawyer.

5 Q Is he a lawyer in Washington?

6 A Yes.

7 Q With a private practice?

8 A I believe so.

9 Q Does he handle housing cases?

10 A I don't know.

11 Q What do you know about his practice?

12 A Nothing.

13 Q Do you have that particular publication  
14 available? A I'm not sure.

15 Q Would you look? And if you do, would  
16 you bring it? A All right.

17 Q What was your participation in the  
18 volumes I have here, "A Study of Exclusion"?

19 A I was director of the project.

20 Q And it's a HUD publication, funded by  
21 HUD? A Not directly. It was a contract

22 to Suburban Action Institute through the State of  
23 Pennsylvania, Department of Community Affairs. They

24 -- I believe they used some 701 funds.

25 Q How did that come about, the contract

1  
2  
3  
4  
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25

A It took until whatever the date is on those reports.

Q From when until the date on these reports?

A I believe it began in January of 1973.

Q The report, Volume 1, at least, is dated December, 1973, as is Volume 2.

A We may have done some screening with the Department of Community Affairs' personnel after the date of those reports.

Q And with respect to these reports, what was the charge?

A As I recall, we were to provide an overview of what the exclusionary zoning -- excuse me, the characteristics of the exclusionary zoning, the influence of exclusionary zoning and identification of some ways in which to identify exclusionary zoning and to do some case studies on, as I recall, jurisdictions in Pennsylvania.

Q Any reason why you don't include the report among your selected publications? I recognize it says "Selected Publications" in your resume.

A There's no particular reason.

Q How did you feel about the report after it came out? I mean, did you feel it was one of your

1 best publications or not as good as others?

2 A I felt the reports were perfectly fine. It's  
3 difficult for me to say whether or not it's one of  
4 my best. I have not ranked my publications.

5 Q I don't think it's necessary that you  
6 do so.

7 Do you want to take a break? A Can  
8 I take two minutes to get a cup of coffee?

9 Q If you are uncomfortable, or anything,  
10 you can take a break. A I'm not  
11 uncomfortable. I would just like a cup of coffee.

12 (There is a short recess.)

13 Q Do you presently teach at Columbia?

14 A No.

15 Q When did you teach at Columbia?

16 A I believe it was a year and a half ago.

17 Q For one semester? A Let's  
18 see. As I recall, there were two semesters.

19 Q And did you teach a class?

20 A In one instance, I taught a class on housing  
21 in suburban areas. In the second instance, I jointly  
22 ran a -- what they call a studio.

23 Q What is a studio? A Where  
24 you work with the students, getting involved in  
25 particular projects.

1 Q What was the subject each time?

2 A One was on the relationship between environ-  
3 mental protection and housing. The other, I believe,  
4 was on exclusionary zoning.

5 Q You also lectured at Oklahoma University?

6 A Yes.

7 Q When was that? A When?

8 Q Yes. A Within the last  
9 two years.

10 Q And was that also a non-course, in  
11 the evening lecture? A No, it was  
12 a regular course, and I went in for a class and  
13 lectured to the students and did some other lectures  
14 for them in the evening.

15 Q Was it under a special program that  
16 the university has for inviting guest lecturers?

17 A I believe so.

18 Q What was the subject of your lectures?

19 A Exclusionary zoning.

20 Q At Ohio State University, you lectured  
21 there? A Yes.

22 Q Once or more times? A Once,  
23 I believe.

24 Q And the subject of that lecture?

25 A Some information about Suburban Action Institute

6 Q Any written memoranda of any of your  
7 lectures? A I don't think so.

8 Q Would you check? And if you do, would  
9 you bring it in? A Okay.

10 Q Thank you.  
11 Again, you have to speak up.

12 A I was trying to think if I had anything.

13 Q Sure. It's not natural to answer orally  
14 all the time, but it's necessary here.

15 Have you ever given any lectures or speeches  
16 in New Jersey? A Yes.

17 Q Where? A I'm sure  
18 I'm not going to remember all of them. I have talked  
19 to a number of conferences. At least two that I  
20 can remember were by the New Jersey Coalition on  
21 Land Use and Housing. That may not be the exact title.  
22 I lectured for a conference run by Rutgers on land  
23 use.

24 Q Rutgers where, which campus?

25 A If you give the alternatives, I'll remember.

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Q The -- I'm sorry. Did you want to  
consult with your attorney? A I  
want to know what the alternative to an automobile  
was.

Q I'm not sure.

Did you give any of these speeches or  
lectures concerning zoning or provision for low and  
moderate income housing in New Jersey?

A In New Jersey specifically?

Q Yes. A I don't believe  
so.

Q How about the speeches or lectures in  
New Jersey, the ones, for example, at Rutgers?

A I think they were more of a general nature  
about the issue of low and moderate income housing.

Q You testified, did you not, that your  
Bachelor's Degree is in sociology? A Yes,  
I did.

Q Did you take any planning or city

6 Ohio State? A I don't remember.

7 Q Approximately. A I

8 don't even have a wild guess.

9 Q How much time did it take you to get it?

10 A I started mid year and completed the second  
11 year. So it would be two years and a semester. I'm  
12 sorry. That's not true. I started mid year and went  
13 two years.

14 Q Have you taken any other courses,  
15 other than your undergraduate and the courses which  
16 enabled you to obtain your Master's at Ohio State?

17 A Related to planning?

18 Q Any other courses? A Yes.

19 Q What courses have you taken?

20 A I've taken a number of courses in French  
21 cooking.

22 Q Other than courses in French cooking,  
23 Italian cooking or -- A I took a  
24 course in linguistics -- I'm sorry, philosophy and  
25 linguistics. I took a course in jazz dancing.



1 Q Any other courses that are generally  
2 seen as academic? Perhaps your discussion of French  
3 cooking was academic. A I don't  
4 believe so.

5 Q You took no other zoning and planning  
6 courses? A Not that I remember.

7 Q Seminars? A Not that I  
8 remember.

9 Q Did you attend any seminars in which you  
10 were not a participant? A Yes.

11 Q Many? A I'm not quite sure  
12 what you mean by "seminars." I've gone to a variety  
13 of conferences.

14 Q Professional conferences?

15 A Yes.

16 Q Are you licensed by any Governmental  
17 entity? A No.

18 Q You are not a planner? You are not a  
19 licensed planner? A I'm not a licensed  
20 planner.

21 Q Have you worked on or completed a  
22 master plan? A No.

23 Q Any elements of a master plan?

24 A No.

25 Q Any planning document later considered

6 a member of the American Planning Association, which  
7 is the -- I'm sorry, it's the new organization that  
8 is the combination of the American Institute of  
9 Planners and the American Society of Planning Officials.  
10 I was, prior, a member of the American Institute of  
11 Planners and the American Society of Planning Officials.  
12 I'm now a member of the American Planning Association  
13 and the National Association of Housing Redevelopment  
14 Officials.

15 Q Have you ever been a redevelopment  
16 official? A No.

17 Q Have you ever worked on redevelopment  
18 projects? A No.

19 Q Have you ever worked on any development  
20 projects? A No.

21 Q Have you ever, directly or indirectly,  
22 been involved in any development or redevelopment  
23 projects? A No.

24 Q Have you ever invested in land, housing  
25 or any development or redevelopment projects?

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A No.

Q What do you consider your area of expertise?  
A Fair share housing planning, low and moderate income housing.

Q Do you consider yourself a zoning expert?  
A In what respect?

Q In any respect. A I have analyzed a number of zoning ordinances with respect to exclusionary zoning.

Q Which zoning ordinances have you reviewed with respect to exclusionary zoning?

A As I mentioned earlier, with respect to the study we did for the Department of Community Affairs for the State of Pennsylvania, we -- I analyzed zoning ordinances of six jurisdictions there. I supervised the analysis of the 269 jurisdictions in Connecticut as --

Q Who made that analysis?  
A I'm sorry?

Q Who made that analysis?  
A I did most of it. There were other staff members that worked on the analyses.

Q That was S.A.I.? A Yes, I'm sorry, Suburban Action Institute.

Q And who hired S.A.I. to do that?

1 A The State Commission on Human Rights and  
2 Opportunities.

3 Q And was there a publication as a result  
4 of that? A Yes, there was.

5 Q What was the name of the publication?

6 A I don't remember.

7 Q Do you have a copy? A Yes,  
8 I do.

9 Q Would you bring it with you?

10 A Yes.

11 MR. BISGAIER: This is a report on  
12 Connecticut municipalities?

13 THE WITNESS: Yes.

14 MR. SIROTA: Off the record.

15 (There is a short discussion off the  
16 record.)

17 Q Do you consider yourself an expert in  
18 any other aspects of housing, such as cost of  
19 construction? A No.

20 Q Method of construction?

21 A No.

22 Q Would you describe the ambit of concern  
23 of someone who is an expert, boundaries of concern,  
24 someone who is an expert in exclusionary zoning?

25 A What I think that concern should be or --

1           Q           What it is.           A           I'm not sure  
2 what the question is.

3           Q           What's the intellectual geography of  
4 someone who is an expert in exclusionary zoning?  
5 What are the components of expertise in exclusionary  
6 zoning?           A           I can't guarantee this

7 is going to be everything I think that ought to be  
8 in here. Some understanding of the need to produce or  
9 provide low and moderate income housing, an ability  
10 to identify low and moderate income housing within  
11 a jurisdiction or other geographic area, an under-  
12 standing of the influence of a zoning ordinance on  
13 the provision on low and moderate income housing.  
14 Those would be the major areas.

15           Q           What would be the influence of the  
16 zoning ordinance upon a provision of low and  
17 moderate income housing?           A           What could  
18 the influence be?

19           Q           Yes.           A           Well, a variety of  
20 things. It could prohibit the construction of certain  
21 types of dwelling units that might be most likely  
22 to provide opportunities for low and moderate income  
23 households. It could provide a variety of regulations  
24 that would increase the cost of housing, making it  
25 difficult to construct lower cost housing. It could

1 a municipality, of an identical home built on a  
Brooks - direct

1 restrict the availability of land that would be  
2 available for the production of housing altogether,  
3 and low and moderate income housing in particular.

4 MR. BISGAIER: Off the record.

5 (There is a short discussion off the  
6 record.)

7 THE WITNESS: May I finish my answer?

8 MR. BISGAIER: Yes.

9 A And it can complicate the administrative  
10 mechanisms sufficiently so that a substantial amount  
11 of time or discouragement to the production and low  
12 and moderate housing results.

13 (There is a short recess.)

14 Q Is it fair to say that your expertise  
15 and experience is in the intellectual consideration  
16 of the provision of housing for low and moderate  
17 income persons as opposed to going out and pricing  
18 the land, pricing cost of construction materials,  
19 et cetera?

20 A I have not gone out and  
21 priced land or construction material in particular.  
22 The expertise would be better characterized perhaps  
23 by evaluation and research in the area, if that's  
24 what you mean by "intellectual".

25 Q Can you advise me, for example, as to  
the difference in cost in Randolph Township, to pick

1 price that you would argue is attributable to various  
2 components of, I guess, what you might allege as  
3 restrictive zoning? A Only with respect  
4 to analyses that have gone on and my evaluation of  
5 those analyses.

6 Q What do you mean by "analyses that have  
7 gone on"? A Analyses that have been  
8 prepared by agencies or other entities.

9 Q So your expertise with respect to that  
10 would be secondary? It would be from your absorption  
11 of studies done by others? A To a large  
12 extent, yes.

13 Q Have you conducted such studies?

14 A With respect to how much of --

15 Q With respect to the impact of various  
16 elements of alleged exclusionary zoning on the  
17 eventual sale price of a home. A Studies  
18 on that firsthand?

19 Q Correct. A No.

20 Q So that any testimony you would give  
21 would be based upon studies done by others?

22 A By evaluation of those studies.

23 Q Do you have any particular studies  
24 in mind that are illuminating with respect to this  
25 area? A Not at this point, no.

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A No.

Q Will you study their zoning ordinances?

A No.

Q Will you study the environmental

aspects of the municipalities? A No.

Q Sewers, water? A No.

Q Slopes, soil conditions?

A No.

Q Nothing, other than the demographics.

Is that true? A That's correct.

Q And the demographics relate to race of the populace, income levels and what other levels?

A They can be easily identified in three categories, population, income and housing.

Q And how is population divided?

What particular concerns within the ambit of population did you address yourself to? A Current population levels, characteristics of that population level and population growth.

Q And the same question with respect

to housing? A Housing would be -- a current level of housing in terms of numbers, characteristics of that housing stock, growth in housing, housing costs and the provision of assisted housing.

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6 it involves a variety of calculations, mathematics  
7 calculations?

8 Q Yes. A Yes, that's a  
9 portion of it.

10 Q Are your conclusions based upon mathe-  
11 matical calculations? A Based on  
12 an analysis of the data, which includes some  
13 mathematical calculations.

14 Q What authorities in your area of  
15 expertise do you respect, either through personal  
16 knowledge or through your readings?

17 A I didn't understand that question.

18 Q I'm not sure -- I will attempt to  
19 rephrase it.

20 What teachers or other authorities, writers,  
21 in your area of expertise do you respect?

22 MR. BISGAIER: What do you mean by  
23 "respect"?

24 A Altogether? You mean as everything they have  
25 ever done?

altogether?

6 Q You, personally, and the area; not  
7 necessarily who have contributed to you personally,  
8 though that's part of it. Well, let's limit it  
9 initially to people you feel contributed to you.

10 A I'm sure the answer would be the same. So we  
11 can combine them, if you don't mind.

12 Q Not at all. A Paul Davidoff.

13 Q Any particular work by Mr. Davidoff that  
14 you feel contributed to your beliefs in this area?

15 A No. Alexander Polikoff.

16 Q Is he a teacher? A He's  
17 a lawyer. Richard Bellman. Lawrence Sager. I'm  
18 sorry to do this. You mean with respect to my area  
19 of expertise?

20 Q Yes, that's correct. A Those  
21 come immediately to mind.

22 Q The fellow who you identified as an  
23 attorney, the name escapes me for a moment.

24 A Mr. Polikoff?

25 Q Yes. Where does he practice?

1 A He does not really -- well, he doesn't really  
2 practice law.

3 Q With whom or with what entity is he

4 associated? A He's in Chicago, Illinois,  
5 with an organization called Business and Professional  
6 People in the Public Interests.

7 Q And are there any particular writings  
8 by that gentleman that have influenced you?

9 A No.

10 Q Just him, personally? You know him?

11 A Yes.

12 Q What about Mr. Bellman, are there any  
13 particular -- A What about him?

14 Q -- writings by Mr. Bellman that have  
15 interested you? A No.

16 Q Just his personality and personal  
17 philosophy and conversation? A Yes.

18 Q And Mr. Sager? A The same is  
19 generally true.

20 Q Are there any particular writings,  
21 books, pamphlets that have particularly influenced  
22 you? A That's really just very difficult

23 to answer. I've read an enormous amount, and it's  
24 difficult to identify anything that stands out.

25 Q So there is nothing in particular that

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list? A May I look at it, please?

Q Fair enough.

MR. BISGAIER: Off the record.

(There is a short discussion off the record.)

A I believe it's complete. There might be some very small miscellaneous things that are not on here.

MR. SIROTA: Off the record.

(There is a short discussion off the record.)

MR. SIROTA: Back on the record.

Q Are they listed in chronological order on your resume? A Yes.

MR. BISGAIER: Off the record.

(There is a short discussion off the record.)

Q Starting in chronological order, could you explain what you did in each consultancy, who you were employed with and who paid for the consultancy?

And with your permission, if I have questions, I'll interrupt you. A Certainly.

1           The first one was with the U. S. Department of  
2           Housing and Urban Development while I was with the  
3           American Society of Planning Officials. It was a  
4           contract with the American Society of Planning Officials,  
5           and we already talked about this project, where we  
6           evaluated the Comprehensive Planning Assistance 701  
7           Program of HUD.

8           The second one was with the Pennsylvania State  
9           Department of Community Affairs. That was a contract  
10          with Suburban Action Institute. I was in charge of  
11          that project. I've also explained the nature of that  
12          consulting contract.

13           Q           Is that the one that resulted in two  
14          volumes, "A Study of Exclusion"?           A           Yes,  
15          that's correct.

16          The City of Hartford contracted with, again,  
17          Suburban Action Institute to prepare an evaluation of  
18          several suburban jurisdictions' participation in the  
19          Community Development Block Grant Program and their  
20          provision of low and moderate income housing. They  
21          were particularly concerned about what is referred to  
22          as the expected to reside component of the Housing  
23          Assistance Plan, which is a part of the application for  
24          housing in Community Development Block Grant funds.

25           Q           What is the expected to reside element?

1 A It is a portion of the need identified by an  
2 applicant for Community Development Block Grant  
3 funds for low and moderate income housing of those  
4 households that are expected to reside in a jurisdiction  
5 because of either current employment or projected  
6 employment within that jurisdiction. The United  
7 States Department of Housing and Urban Development  
8 felt that was an important component, for a jurisdiction  
9 to identify in its total identification of housing  
10 needs for low and moderate income persons.

11 The Potomac Institute asked me, as an individual,  
12 to be a consultant to them in the preparation of the  
13 book that we have referred to as "In Zoning" and the  
14 preparation of that Chapter 5 that we identified  
15 earlier.

16 The American Bar Association set up a special  
17 commission to study housing and land use and asked  
18 me, as an individual, to be a consultant to them in  
19 the preparation of a portion of their final report  
20 that dealt with housing planning.

21 The Urban League of Oklahoma City basically  
22 contracted with Suburban Action Institute to obtain  
23 me as a consultant to them in evaluation of Community  
24 Development Block Grant applications by jurisdictions  
25 within the metropolitan area and to conduct training

1 for organizations interested in the expenditure of  
2 those funds.

3 Q How did you evaluate the block grant  
4 applications in Oklahoma City? A I  
5 evaluated them with respect to the regulations set  
6 forth by the Department of Housing and Urban Develop-  
7 ment and the extent to which they conformed to those  
8 regulations.

9 Q Would you describe, generally, those  
10 regulations? A Those regulations are  
11 extensive and contain a number of items which  
12 deal with eligibility of programs and activities for  
13 funding, the components that are required by an  
14 applicant as part of their application, including  
15 an identification of the programs and activities they  
16 would undertake. The requirements have changed over  
17 time. So I don't really know whether to identify  
18 them as I evaluated them or as the regulations  
19 exist now. But, generally, the regulations also  
20 include an identification of how an applicant is to  
21 prepare what is referred to as a housing assistance  
22 plan, which includes an identification of housing  
23 needs and the goals that the jurisdiction sets forth  
24 for meeting those needs. It also includes a  
25 variety of assurances whereby the jurisdiction agrees

1 to conform to a series of Federal laws, including  
2 civil rights laws.

3 The next item is the United States Department  
4 of Housing and Urban Development, which asked me to  
5 come on staff part time as a consultant with the  
6 Division of Community Planning and Development, to  
7 assist them in various housing policy issues.

8 The Connecticut State Commission on Human  
9 Rights and Opportunities, as we have already  
10 discussed, contracted with Suburban Action Institute  
11 to evaluate patterns of zoning and the provision of  
12 low and moderate income housing in the state and to  
13 make some recommendations to them.

14 The Center for Community Change asked me to be  
15 a consultant to them on the development of a project  
16 to encourage and work with citizen organizations, to  
17 become involved in the programming and expenditure of  
18 Community Development Block Grant funds locally.

19 MR. SIROTA: Off the record.

20 (There is a short discussion off the  
21 record.)

22 (The deposition was adjourned to  
23 Thursday, May 10, 1979, at 9:15 a.m.)  
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - MORRIS COUNTY  
DOCKET NO. L-6001-78

MORRIS COUNTY FAIR HOUSING  
COUNCIL, ET AL,

Plaintiffs,

-vs-

BOONTON TOWNSHIP, ET AL,

Defendants.

CERTIFICATE

I, ROBERT MIRABELLA, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the deposition of MARY E. BROOKS, 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 or 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.

*Robert Mirabella*  
A Notary Public of the State of New Jersey

Dated: 5/13/79



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