

ML - Morris County Fair Housing Council  
v. Boonton

May 23, 1979

Transcript of Deposition of Bernard Haekkel

pg. 124

ML0008945

notes: missing page 3

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

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

DEPOSITION OF:  
BERNARD HAECKEL.

Plaintiffs,

-vs-

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

Defendants.

B E F O R E:

VICTOR SELVAGGI, JR., a Notary Public and

Certified Shorthand Reporter of the State of New

Jersey, at the offices of MESSRS. MC CARTER & ENGLISH,

550 Broad Street, Newark, New Jersey, on Wednesday,

May 23, 1979, commencing at 10 a.m.

**KNARR - RICHARDS, ASSOCIATES**

CERTIFIED SHORTHAND REPORTERS

OFFICES IN MORRISTOWN & NEWTON

10 PARK SQUARE  
MORRISTOWN, N.J. 07960  
539-7150

Box 241, R.D. 5  
NEWTON, N.J. 07860  
383-2866

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

THE PUBLIC ADVOCATE  
BY: VERICE M. MASON, ATT'Y. and  
KENNETH E. MEISER, ESQ.  
Attorneys for the Plaintiffs.

MESSRS. MC CARTER & ENGLISH  
BY: ALFRED L. FERGUSON, ESQ.  
Attorneys for the Defendant Chester Township  
and The Common Defense Committee.

VICTOR SELVAGGI, JR.  
Certified Shorthand Reporter

1 existing State Mobile Home Construction Safety  
2 Standards, rarely are applicable to used mobile homes  
3 **and are** inadequate to the task of assuring a sound  
4 **inventory** of existing mobile homes.

5 Q Do you agree with that conclusion?

6 A This was a very general conclusion covering  
7 the situation in all 50 states.

8 Q Is that conclusion accurate then as to  
9 the situation in New Jersey in general and in Morris  
10 County in particular?

11 A No, and I  
12 would say in most of the eastern states we **have**  
13 systems of housing standards or occupancy **standards**  
14 which apply to mobile homes as well as to **other**  
15 dwellings that take care of the maintenance of used  
16 mobile homes. There are other states or other parts  
17 of the country in which occupancy standards have  
18 never been enacted and that was found to be mostly  
19 a problem.

20 Q Are you referring to housing maintenance  
21 **ordinances**?

A That's correct.

21 Q As opposed to new construction ordinances?

22 A Yes.

23 Q Do you have an opinion as to whether  
24 housing maintenance ordinances are a good thing to  
25 have within the context of Madison Township and Mount

1 Laurel, imperatives to have and maintain least cost  
2 housing? A Absolutely.

3 Q Do you know of what housing maintenance  
4 codes there are in existence in Morris County among  
5 the 27 defendants? A I have not --  
6 my testimony here has been restricted to mobile homes  
7 and I have not reviewed all the housing maintenance  
8 codes in the 27 defendants.

9 Q Have you reviewed any of them?  
10 A No.

11 Q Are you familiar with the B.O.C.A.  
12 housing maintenance code? A Yes.

13 Q That is different from the B.O.C.A.  
14 construction code? A Yes.

15 Q Do you know if the B.O.C.A. housing  
16 maintenance code has been adopted in Morris County  
17 as a general proposition? A To my  
18 knowledge it has been used or is being used in  
19 general as a model, but as I stated before I have  
20 not specifically researched that in Morris County.

21 Q Do you have an opinion as to whether  
22 the B.O.C.A. housing maintenance code is a reasonable  
23 housing maintenance code to use?

24 A Yes.

25 Q What is that opinion?

1 A My opinion is that it is a reasonable basis  
2 for housing maintenance code.

3 Q Are there any undue cost generating  
4 elements that are not justified by minimum standards  
5 and safety and welfare in the B.O.C.A. housing  
6 maintenance code? A I am, right  
7 now not -- I do not remember all the details of the  
8 code. I would expect that the B.O.C.A. housing  
9 maintenance code has certain provisions which could  
10 conflict with mobile home, typical mobile home  
11 construction standards, such as minimum room sizes  
12 and minimum window areas and minimum ventilation  
13 areas. That has been generally an area in which  
14 housing maintenance codes have had slightly high  
15 standards than the standards incorporated in the  
16 Federal Mobile Home Construction and Safety Standards  
17 Act. So with the qualification that housing mainte-  
18 nance codes, when I have reviewed them, and I reviewed  
19 them very thoroughly in Montgomery County, had to be  
20 adopted to provide for the peculiar aspects of mobile  
21 homes. With that qualification I would say these  
22 maintenance standards, be they B.O.C.A. or American  
23 Public Health Service are a perfectly good basis for  
24 the local maintenance standards.

25 Q Isn't it true that the requirements of

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a maintenance code and a construction code can be quite different? A Yes.

QUESTION CONT

Q Can you explain to us, insofar as you can, what those differences generally are?

A A construction standard, as the name implies, has the purpose of regulating the production of a dwelling. That includes the design as well as the actual construction execution. So construction standards have to go into a great deal more detail because it will be concerned with all parts of a housing system, everything, be it visible or be it invisible later on hidden by wall surfaces.

A maintenance code, if it is to make sense, has to be mostly or cover a much more limited scope in terms of design and construction. For example, it wouldn't make sense for a maintenance standard to specify all the details of say the thickness of a dry wall or studding.

Q I understand that.

A But a maintenance, if you let me just finish, a maintenance standard on the other hand incorporates other aspects that are not included in the construction standard and those, of course, are the aspects of actual maintenance. So maintenance standard has those two aspects. One is a reduced area of design

1 requirements and then it has maintenance standards.

2 Q What about room size?

3 A Room size would fall in the first category,  
4 a design standard and it's generally included in  
5 maintenance codes, particularly for bedrooms.

6 Q It is included in maintenance codes?

7 A Yes, and that is one of the areas that I  
8 pointed out before where a traditional model mainte-  
9 nance code have a higher standard say for bedrooms  
10 than the mobile home construction construction safety  
11 standards.

12 If I recall correctly, the typical bedroom  
13 size in the maintenance code is 120 square feet. In  
14 the mobile home construction safety standard it  
15 depends on occupancy, but it can be smaller.

16 Q You are familiar with what the  
17 American Public Health Association Code, both  
18 building, maintenance and new construction --

19 A Yes.

20 Q Are you aware that the minimum square  
21 feet for given activities and rooms in the construc-  
22 tion code is greater than the minimum square feet  
23 given in the maintenance code?

24 A Yes.

25 Q Can you tell us why it's bigger in

1 construction codes, A.P.H.A. construction codes than  
2 it is in the A.P.H.A. maintenance code?

3 A That is partly due to the fact that we have  
4 experienced with growing affluent, growing standards  
5 over the past decade, but we still have a very sizable  
6 inventory of dwelling units that are older and that  
7 were built at a time that we were not as affluent yet  
8 and when it was perfectly acceptable to have smaller  
9 sizes, smaller room sizes.

10 Q So do you have an opinion as to whether  
11 A.P.H.A. construction codes or maintenance codes,  
12 minimum square foot requirement is the more reason-  
13 able, and if you have an opinion, tell us what it  
14 is and what you mean by the word reasonable?

15 A To me, the concept reasonable is very relative.  
16 It can only be --

17 Q Let me qualify the question by within  
18 the Madison Township least cost framework. That is  
19 the framework in which I'm asking these questions  
20 for purposes of judging a requirement under the  
21 Madison Township test. Tell us what meets it and  
22 what doesn't meet it and why.

23 A Well, with regard to the design requirements  
24 for a mobile home --

25 Q Well, first on the A.P.H.A. construction

1 or maintenance code. A For conventional  
2 construction, the requirements of these codes are  
3 perfectly reasonable to me.

4 Q Okay. Both of them, the construction  
5 and maintenance? A And for existing  
6 buildings and existing structures, the standard  
7 included in the maintenance code is reasonable for  
8 existing conventional structures.

9 Q Okay. Now, what about mobile homes?

10 A For mobile homes the standard incorporated  
11 in the National Mobile Home Construction Safety  
12 Standard, to me is perfectly reasonable.

13 Q For mobile homes, are the standards  
14 for minimum square feet for living and usable areas?

15 A Right.

16 Q In the A.P.H.A. codes, are they reason-  
17 able when and if applied to mobile homes?

18 A I'm sorry, could you repeat that?

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

21 THE WITNESS: If codes, as I pointed  
22 out before, if a maintenance code or a  
23 construction code is applied to mobile homes,  
24 a code that has requirements which go beyond  
25 the requirements, then Federal Mobile Home

1 Construction Safety Standards, then the  
2 application of these standards is not reason-  
3 able because it is tantamount to an indirect  
4 discrimination against mobile homes.

5 It has been found that design standards  
6 included in the National Mobile Home Safety  
7 Act are reasonable as applied to mobile homes.

8 Q Who found that and where?

9 A HUD found that.

10 Q Where? A In developing  
11 the standard.

12 Q Is there any document we can point to?

13 A I think the standard speaks for itself. If  
14 HUD had not found these standards included in the  
15 standard to be reasonable, they would not be included.

16 Q Is it your opinion reasonably based on  
17 the fact merely that it is there?

18 A Yes, that it is there and it has been developed,  
19 not by a single entity that might have acted  
20 capriciously, but by a wide array of experts in a  
21 number of industries and fields and I think it  
22 reflects such a consensus.

23 Q Which is? A A mobile home  
24 advisory council which includes consumers and  
25 industry. It even includes very critical consumer

1 groups, such as the Center For Auto Safety that was  
2 started by Ralph Nader and a number of representatives  
3 from different agencies.

4 Q A Center for Auto Safety?

5 A Right.

6 Q That had an input into the HUD standard  
7 for mobile homes? A It has been

8 represented, at least during the early years, and  
9 I believe it still is, but I'm not sure about that.

10 Q Is that a housing group or automobile  
11 group? A It is, as the name says,

12 a center that is started to investigate issues of  
13 automotive safety and then started looking into  
14 mobile homes during the early 1970's when they came  
15 out with a very critical book against mobile homes,  
16 which you might want to use for the defense.

17 Q You better tell me what it is.

18 A I don't recall the title. It's called Mobile  
19 Homes. A very critical book and the book was  
20 published before the standard was enacted and repre-  
21 sentatives of this group have worked on the mobile  
22 home advisory council and had a good deal of input  
23 into the development of the standard.

24 Q Do the representatives of the Center  
25 For Auto Safety now say that the HUD standard cures

1 the problems that they identified in the earlier  
2 book? A I cannot speak for them.  
3 My guess would be that the standard, as it exists  
4 today, is a democratic <sup>compromise</sup> / ~~is~~ between different  
5 concerns. If the Center for Auto Safety had itself  
6 established the standard, it would be different. If  
7 the industry established it, it would be different.  
8 This is the way standards are developed and this is  
9 the most legitimate way that we know in this society  
10 for developing anything. It is a <sup>compromise</sup> / ~~is~~ and it is  
11 relative. It doesn't reflect in any absolute sense  
12 what is good or right, but it represents the best  
13 possible concerns between different participants.

14 Q The industry was represented also?

15 A Yes, of course. It would have to.

16 Q Is your testimony that you know of your  
17 own knowledge the industry was represented or is  
18 your testimony -- A Yes.

19 Q -- that you can't conceive of the  
20 process occurring without the industry being repre-  
21 sented? A Both. I could not

22 conceive of the process of setting up a reasonable  
23 construction standard without including the industry.  
24 That to me would be totally absurd.

25 Q Do you know if the industry was

1 concerned? A Yes.

2 Q How, represented?

3 A Yes.

4 Q How? A I believe through  
5 the industry organization, the Manufactured Housing  
6 Institute.

7 Q Other than the fact that various  
8 participants in the process were there and that HUD  
9 published the code, do you have any independent  
10 data or opinion or studies telling you as an expert  
11 to testify about the Morris County case that the HUD  
12 minimum room area or living room standards are either  
13 reasonable or unreasonable?

14 A I think it varies strong additional evidence  
15 that there are probably about four million mobile  
16 homes in year round use in addition to a rough  
17 estimate of another two million mobile homes in  
18 temporary use in this country.

19 Q Now, are they all built to the minimum  
20 standards? A No.

21 Q Do they exceed the minimum standards?

22 A Most of these mobile homes, most of this  
23 inventory was built before these HUD standards went  
24 in to effect.

25 Q In terms of room size, do they exceed

1 or come under the HUD standards, existing inventory?

2 A There are no exhaustive statistics available  
3 that would show you exactly which standard all these  
4 units comply with. It would be reasonable to expect  
5 that most of these units comply with the main design  
6 standard, namely room sizes that are now included in  
7 the HUD standard because those standards have been  
8 in effect under the name of ANSI 119-1 before or  
9 under current State standards. Then one can also  
10 expect that there is always a certain number of units  
11 which are built to higher standards. So the exact  
12 breakdown, as to how many units exactly comply, how  
13 many are under and how many are over, would be  
14 impossible to get.

15 Q How many are under?

16 A As I just told you, it is impossible to know,  
17 but you can expect that there are very few that are  
18 under and any municipality would have a very easy  
19 way of controlling that there are no units in use  
20 that are under these room sizes, I mean, under the  
21 standard in terms of minimum design requirements.

22 Q What happens to the human family, a  
23 family of human beings living day in and day  
24 out in a mobile home that is exactly at the minimum  
25 standard published by HUD, if you know?

1 A From what I know, what happens to such a  
2 family is determined by many, many factors. The  
3 fact that they live in a mobile home is probably one  
4 of the least important of these. Maybe factors of  
5 employment of work, of sickness, of relations between  
6 husband and wife, children and so forth.

7 Q One of the factors is what country we  
8 are in? A Pardon me?

9 Q One of the factors is what country you  
10 might be putting the mobile home in because the  
11 population of Vienna, according to your testimony  
12 last time, was apparently better able to cope with  
13 certain kinds of living conditions that American  
14 segments of certain societies find hard to cope  
15 with, or am I wrong? A I testified  
16 last time that the standard used for public housing  
17 in Vienna traditionally are much lower than the  
18 standards used in this country, that's correct, and  
19 people were, from my experience very happy living  
20 in such apartments, but even a mobile home built to  
21 the minimum standard of the Federal Mobile Home  
22 Construction and Safety Standards would be far  
23 superior in terms of space and amenities to any  
24 public housing in Vienna, far superior.

25 I think I also testified last time in

1 connection with our work overseas that one reason why  
2 mobile homes could not even be proposed to solve  
3 housing problems in other countries is that in the  
4 context of other societies, they would not be least  
5 cost housing, they would be close to most cost or  
6 highest cost housing and people simply could not  
7 afford them, with the exception of the rich.

8 Q That was the lot and latrine in Panama,  
9 to take the bad case? A Which is one  
10 of the least cost housing solutions, as they are  
11 called there, which may be improved by building a  
12 simple basic unit, a simple shelter without even walls,  
13 so I think when we are talking about mobile homes,  
14 almost by definition we only talk about the United  
15 States and Canada to some extent, but mostly the  
16 United States, and that in the United States the  
17 mobile home, even if it is only built to compliance  
18 with the Federal Standards, if it does not exceed  
19 that standard at all can be a far better housing  
20 unit than other alternatives that are available to  
21 low and moderate income people.

22 Q I'm afraid we deviated a little bit  
23 from the first conclusion of DH-6 which you said  
24 you did not agree with. Does that conclusion have  
25 any relevance to New Jersey at all or does generally

1 New Jersey have standards applied to used mobile  
 2 homes? A Well, another qualifica-  
 3 tion that has to be added here is that this was  
 4 written before the National Standard went into  
 5 effect at a time when HUD was concerned still what  
 6 State mobile home construction safety standards did.  
 7 Of course, with June 15 of 1976, the State standards  
 8 were superceded by the Federal standards, so the  
 9 conclusions as they are written here would now have  
 10 to be applied to the Federal Mobile Home Construction  
 11 Safety Standards which also does not at all apply to  
 12 used mobile homes.

13 Q New mobile homes?

14 A Limited to the construction of mobile homes  
 15 at all.

16 Q Does that conclusion have any relevance  
 17 to this lawsuit? A I don't think so.

18 Q All right. Let's go to the next. Two  
 19 is the existing State inspection requirements and  
 20 procedures for used mobile homes are inadequate.

21 A Yes.

22 Q Do you agree or disagree with that as  
 23 it applies to the mobile home situation in New  
 24 Jersey and Morris County? A I agree to

25 some extent, yes. I think that I found in some areas,

1 again I'm talking here mostly about Montgomery County  
2 which is the county I did the most research in in  
3 this nature. That inspection agency, local inspection  
4 agencies that are or have the responsibility of doing  
5 housing inspections are often not prepared to apply  
6 the same housing inspection routines to mobile homes  
7 that they apply to any other home in the area. I  
8 don't know what the reasons for that are. One can  
9 suspect that they go back to time when mobile homes  
10 was simply considered something entirely different  
11 than a housing unit but I feel that all maintenance  
12 standards should make specific reference to mobile  
13 homes, that mobile homes are dwellings like any other  
14 dwelling and they should be included in housing  
15 inspections.

16 As I stated before, I haven't reviewed the  
17 maintenance standard in Morris County. I will do  
18 that, but I would suspect there is no specific  
19 reference to mobile homes in there.

20 Q Okay. Number three, existing State  
21 standards and procedures for disposal of used mobile  
22 homes are inadequate. Does that have any relevance  
23 to our problem? What is that referring to?

24 A This is partly irrelevant. Partly this part  
25 of the research was based on the apprehension on

1 the part of some HUD people that we would soon have  
2 mobile home cemeteries such as car cemeteries, that  
3 **there** would be places in the country where used,  
4 **unusable** mobile homes would be dumped in great numbers.  
5 Nowhere in the country to my knowledge has there ever  
6 been such a cemetery. So this really has never been  
7 a problem. It is a problem in the imagination of  
8 some people.

9 Q The high price of used aluminum would  
10 take care of that. A No, I think  
11 the units have in most cases simply been **refurbished**  
12 and used. This, in another sense this does **apply**  
13 also to the application of maintenance codes. If a  
14 maintenance code is properly applied, then it would  
15 take care of this. If a unit is unsafe for habitation,  
16 there are regular procedures in any maintenance code  
17 that would take care of that. There really is no  
18 need for specific ordinances or laws to deal with  
19 mobile homes.

20 Q Does New Jersey have any standard or  
21 **a disposal plan** for used mobile homes?

22 A No, none that I would know of and I don't think  
23 again there is any need for that. I think this is  
24 clearly part of the purview of housing maintenance  
25 codes.

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Q You have to get a certificate of occupancy for a mobile home if you buy it used and move into it?

A Is that a question?

Q Yes. You have to get a new CO every time you move into a mobile home?

A Not that I know of. I'm saying from what I found so far maintenance codes have not consistently been applied to mobile homes and my feeling is they should be applied exactly as to other homes.

MR. FERGUSON: Okay. That study, orange cover Mobile Homes on Individual Sites, Montgomery County Study is now being marked DH-7.

(Study of Mobile Homes on Individual Sites is received and marked DH-7 for Identification.)

Q This is the study you testified about last time?

A Yes.

Q What is the completion date of this study, December, '76?

A December, 1976.

Q Have you done any further studies to update any of the data, observations, conclusions or recommendations of that report since December, '76?

A Yes, I have done a very short follow up report

1 which was dated I believe in November, 1977 for the  
2 county which was submitted to as many at a public  
3 hearing.

4 Q Do you have a copy of that with you?

5 A I don't think I do. I only have one copy of  
6 that left.

7 I also prepared a digest to the final report.  
8 Did I send that to you?

9 Q I don't think so.

10 A I happen to have a copy of that here. Perhaps  
11 you could have this Xeroxed because I'm sure it is  
12 the last one.

13 Q Can we mark it and I'll give it back  
14 to you? A Yes.

15 (Digest of Final Report is received  
16 and marked DH-8 for Identification.)

17 Q Okay. This is for disaster relief?

18 A That's right.

19 Q Now, referring to the series of reports  
20 which you have given me, you testified briefly to  
21 cost-effective housing systems for disaster relief.  
22 Did you find anything during your work which would  
23 provide a much clearer system of providing housing  
24 systems for disaster relief, cheaper than the kind  
25 of mobile housing we are talking about?

1 A No.

2 Q What alternative systems did you look

3 ~~at?~~ A We looked at a, in the

4 beginning, at a whole range of alternatives as to  
5 systems that have been developed by the military.

6 Q Can you give me a representative list,  
7 if you can, of the alternatives that you looked at  
8 and found were not as inexpensive or cost more or  
9 whatever? A After the first screen

10 after looking at some 50 or 60 different types of  
11 systems, we were left with a, what we called a one  
12 box on wheels which was a single wide, ~~what~~ has  
13 been the equivalent of a single wide mobile home.  
14 I believe the other one was an expansionable unit  
15 which was a box that could be folded out, but that  
16 would be much smaller when it was stored. A knock  
17 down system. This is a term used for panelized  
18 construction systems where the floor and the ceiling  
19 and the walls come in different panels that can be  
20 ~~folded~~ folded together and then erected on a site to form  
21 a three dimensional housing system. I would have to  
22 look at the volume what the fourth one was, but in  
23 any event, the complete one box module was the most  
24 cost effective one and the recommendation of the  
25 study was to test that with certain construction

1 modifications, certain changes which would make it  
2 more suitable for extended travel.

3 MS. MASON: Has this book been  
4 previously marked?

5 MR. FERGUSON: No.

6 MS. MASON: I suggest we mark it as  
7 much as he is discussing his conclusions.

8 MR. FERGUSON: DH-9.

9 (Cost-Effective Housing Systems for  
10 Disaster Relief, Summary Report 1 is received  
11 and marked DH-9 for Identification.)

12 MR. FERGUSON: Mark this DH-10.

13 (Part 280 of Title 24, United States  
14 Code of Federal Regulations is received and  
15 marked DH-10 for Identification.)

16 Q Just to be sure, Mr. Haeckel, we talked  
17 about the same thing, I have marked DH-10, the Part  
18 280 of Title 24, CFR. That is the HUD standard that  
19 you and I have been talking about, is it not, except  
20 that mine stops as of April, 1978 and the copy you  
21 showed me has obviously some changes in it after  
22 that date and without meaning to pin you down  
23 specifically, I just want to make sure we are  
24 talking about the same standard.

25 A Yes. Again, it is just a question of updating

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because there are continual changes.

MR. FERGUSON: Can you mark these with the next two numbers.

(Standard for the Installation of Mobile Homes No.501A-1977 is received and marked DH-11 for Identification.

Standard for the Installation of Mobile Homes No.501B-199 is received and marked DH-12 for Identification.)

Q Can you tell me what DH-11 and DH-12 are?

A Yes. DH-11 is the standard for the installation of mobile homes, including mobile home park requirements, NFPA 501A-1977 or ANSI. It should be ANSI 119-3, but it's not listed here. It's generally known under the National Fire Protection Agency number.

DH-12 is the standard for mobile homes NFPA 501B-1977.

Q Now, can you tell us what utility these have?

Question should be answered in a standard or proposed standard on anybody unless it is local jurisdictions or state installation of mobile homes.

1 which is not covered by the Federal Mobile Home  
 2 Construction and Safety Standard. The Federal  
 3 standard only governs the construction, how a  
 4 mobile home is to be placed on a site, what type of  
 5 foundation it should have, what kind of protection  
 6 against windstorms it should have is specified in  
 7 this code.

8 Q That's DH-11? A Yes.

9 Q The red book, and that's the standard  
 10 for installation of mobile homes?

11 A That's correct, and it also includes recommended  
 12 standards for the placement of mobile homes in terms  
 13 of setbacks and distances and so on.

14 Q Now, is it your testimony the standards  
 15 in this red booklet are not incorporated in the HUD  
 16 standard? A Yes.

17 Q Are they incorporated in any New Jersey  
 18 standards? A I believe the New  
 19 Jersey Title 9 of Park Standards incorporates  
 20 elements of this standard. Title 9 is the State code  
 21 governing the design and maintenance of mobile home  
 22 parks, Chapter IX and it includes --

23 Q Wait a minute.

24 A -- similar requirements, but it is a different  
 25 standard. This standard can be considered a source

1 that, in part, has been used in developing this  
2 standard.

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**NOTION COPY**

MR. FERGUSON: Let's mark that.

(Chapter IX, Mobile Home Parks is received and marked DH-13 for Identification.)

Q Okay. Mr. Haeckel, we have now marked Chapter IX of the New Jersey State Sanitary Code entitled Mobile Home Parks which you so kindly gave me.

Is it your testimony that the standard in the red book, ANSI 501A are to some extent incorporated in Chapter IX? A It is my testimony that I presume that these standards were considered among other standards in drafting the Chapter IX State standards.

MR. FERGUSON: Okay. Mark that one.

(Chapter 21-Uniform Standards Code for Mobile Homes is received and marked DH-14 for Identification.)

MR. FERGUSON: And mark these.

(New Jersey Statute is received and marked DH-15 for Identification.

New Jersey Statute is received and marked DH-16 for Identification.)

Q Now, Mr. Haeckel, we have laid out

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I N D E X

WITNESS

DIRECT

BERNARD HAECKEL

By Mr. Ferguson

2

E X H I B I T S

EXHIBIT NO.

DESCRIPTION

FOR IDEN.

DH-5	Assembly Joint Resolution #3003	2
DH-6	Report on Used Mobile Homes	3
DH-7	Study of Mobile Homes on Individual Sites	21
DH-8	Digest of Final Report	22
DH-9	Cost-Effective Housing Systems for Disaster Relief, Summary Report 1	24
DH-10	Part 280 of Title 24, United States Code of Federal Regulations	24
DH-11	Standard for the Installation of Mobile Homes #501A-1977	25
DH-12	Standard for the Installation of Mobile Homes #501B-1977	25
DH-13	Chapter IX, Mobile Home Parks	27
DH-14	Chapter 21 - Uniform Standards Code for Mobile Homes	27
DH-15	New Jersey Statute	27
DH-16	New Jersey Statute	27
DH-17	Flyer on Quick Facts	60
DH-18	List of Mobile Home Parks in Morris County	122

ATTEMPTED

1 BERNARD HAECKEL, previously sworn,  
2 recalled;

3 CONTINUED DIRECT EXAMINATION BY MR. FERGUSON:

4 Q Mr. Haeckel, you have previously been  
5 sworn during your first deposition. The same  
6 instructions stand for this time around. If you have  
7 any questions or you don't understand what my ques-  
8 tion is, let us know and then follow instructions  
9 from your lawyer, Miss Mason, from the Public  
10 Advocate's office.

11 Now, after the last deposition you very kindly  
12 sent me some materials which I have brought today and  
13 I would ask if you would identify them and tell me  
14 what they are.

15 First, I guess we better mark this.

16 (Assembly Joint Resolution No.3003 is  
17 received and marked DH-5 for Identification.)

18 THE WITNESS: This is a copy of the  
19 New Jersey Assembly Joint Resolution No.3003  
20 creating a commission to study problems of  
21 restrictive zoning regulations, financing and  
22 taxation of mobile homes within the State of  
23 New Jersey.

24 Q Is that the commission before which  
25 you testified and your report to which has been

1 marked DH-3? A Yes, that's correct.

2 MR. FERGUSON: Okay. Let's have this  
3 marked as DH-6.

4 (Report on Used Mobile Homes is  
5 received and marked DH-6 for Identification.)

6 THE WITNESS: This is a copy of HUD's  
7 report on used mobile homes to congress dated  
8 August, 1975.

9 Q Once again, what was your part in this,  
10 if anything? A This report includes

11 background research that I did for the study, in  
12 particular a survey of State regulations governing  
13 used mobile homes and mobile home parks.

14 Q Were you responsible for any of the  
15 conclusions or recommendations of this report?

16 A In part. The report was edited by HUD and  
17 only the State survey and the number of tables  
18 originally supplied, were originally supplied by our  
19 firm.

20 Q Now, would you tell us what the con-  
21 clusions and recommendations are and what applica-  
22 bility they have to your testimony about mobile homes  
23 in Morris County? A The conclusions

24 as they are stated in the report are the conclusions  
25 of the Department and they are, number one, the

1 before you on the table exhibits containing either  
2 statutes or regulations or codes and what my question  
3 to you would be is to tell us in a descending order  
4 of who controls what, what the standards are and  
5 which ones, if any, are preempted by any other ones  
6 according to your understanding as an expert,  
7 realizing you are not a lawyer and legal opinions  
8 are in the province of the judge, but insofar as  
9 you have an opinion on them as an expert only.

10 A I think the best way to do this would be to  
11 do it chronologically because we are dealing here  
12 with a system that has evolved over a number of years.

13 Q Okay. A From the early  
14 1960's on the American National Standard Institute  
15 together with the National Fire Protection Association  
16 and the Mobile Home Manufacturers Association  
17 published a standard for mobile homes specifically  
18 called for by frame design, construction requirements,  
19 installation, plumbing, electric and heating.

20 Q You are talking about NFPA 501B?

21 A That's right.

22 Q And you gave me a document which is  
23 the predecessor of DH-12? A Right.

24 Q Okay. A This standard  
25 was originally voluntary and rather broad standard

1 in the early years. The Mobile Home Manufacturers  
 2 Association required compliance with the standard  
 3 ~~from~~ its members and it was a large segment of the  
 4 industry, but there were very few inspections.

5 Q Were these, referring to DH-12 regula-  
 6 tions, incorporated in any of the State regulations  
 7 or Federal? A That's correct.

8 Beginning with the late 1960's and mostly in  
 9 the early 1970's almost all states enacted state  
 10 mobile home construction standards and they used,  
 11 to my recollection with no exception, the ANSI 119-1  
 12 standard current of those years as the model for the  
 13 state standard.

14 Q So ANSI 119-1 is the same as 501B?

15 A Yes.

16 Q Were these adopted or taken over by the  
 17 Federal standards? A The Federal

18 Mobile Home Construction Safety Standards incorporated  
 19 the ANSI standards, or rather it built on the ANSI  
 20 standard when it was enacted.

21 Q Is it your testimony that the Federal  
 22 HUD standards, DH-10 in effect superceded 501B, A119-  
 23 1? A It superceded the State

24 standard based on this standard because only the State  
 25 standards were really binding. I don't believe there

1 is a point -- this simply was a voluntary model.

2 Q I understand what you are saying.

3 A It superceded the State standard that had  
4 been based on this standard and it now incorporated  
5 for the first time in the updating of the standard  
6 and in the annual reviews or periodic reviews a  
7 wider array of groups, including consumer groups.

8 Q Okay. Now, can you briefly in one  
9 sentence of 20 words or less tell us what kinds of  
10 things the Federal standards cover?

11 A This is shown in the index and table of  
12 context. They cover planning considerations, fire  
13 safety, body and frame construction requirements,  
14 testing, thermo protection, plumbing systems,  
15 heating, cooling and fuel burning systems, electrical  
16 systems, transportation.

17 Q Do they cover siting considerations?

18 A No.

19 Q Setbacks? A No.

20 Q Density? A No.

21 Q Do they cover effluent standards for  
22 sanitary effluent? A Only to the  
23 extent to which they incorporate in the units, in  
24 the construction of the units.

25 Q Is it your understanding that the

1 Federal standard, DH-10, that they preempted the  
2 states from regulating in the same area?

3 A Yes.

4 Q Is it your understanding that if a  
5 state adopted a requirement more stringent than  
6 HUD, that that more stringent requirement would be  
7 invalid? A Yes.

8 Q In your opinion has New Jersey, in  
9 fact, adopted any requirements which are more  
10 stringent than HUD? A No.

11 Q All right. Do you know of any towns  
12 in Morris County that have adopted requirements for  
13 mobile homes that are more stringent?

14 A There is no mobile home construction standard  
15 other than the HUD standard currently in use in the  
16 State of New Jersey. It would be illegal.

17 Q The fact that it's illegal doesn't  
18 mean it's not there, we all know that.

19 A Not to my knowledge. To my knowledge there  
20 is no other mobile home construction standard in use  
21 at this time in this State.

22 Q Okay. How about the red book, NFPA  
23 501A standard for the installation of mobile homes,  
24 including mobile home parks which is a successor  
25 to an earlier version of the same document known as

1                   A119-3?                   A            Yes.

2                   Q            Very briefly, what does that kind of  
3                   standard cover?                   A            This is the

4                   companion standard developed by this same group of  
5                   agencies, National Fire Protection Association,  
6                   Manufactured Housing Institute and American Standard  
7                   Institute governing the siting, the placement of  
8                   mobile homes on sites and including setbacks and  
9                   the like.

10                  Q            This is a voluntary standard?

11                  A            Yes.

12                  Q            In the red book?

13                  A            It is.

14                  Q            Has it been adopted by any jurisdiction?

15                  A            Yes, it has been adopted by several states  
16                  as a model for state park standards. For example,  
17                  Virginia uses this as a model.

18                  Q            Has New Jersey adopted it?

19                  A            Not verbatim, no.

20                  Q            What <sup>has</sup>/New Jersey, in fact, adopted?

21                  New Jersey has developed its own Chapter IX  
22                  Mobile Home Parks standard which is part of the  
23                  sanitary code.

24                  Q            DH-13?                   A            Right.

25                  Q            That regulates some of the things that

1 the red book covers? A That's right.

2 Q But not all?

3 A It is not identical.

4 Q Do you know without leafing through it  
5 what it has left out that the red book covers?

6 A Offhand I couldn't tell you. It would be easy  
7 to make a comparison.

8 Q Now, can you tell me what the two New  
9 Jersey Statutes cover and where they fit in the scheme  
10 of things, referring to DH-15, which is NJSA 46:8C-2,  
11 Chapter 8C, and DH-16, which is NJSA 52:27C-25.1.

12 A If I start with DH-16, this is the statute --  
13 it's the uniform standards code for Mobile Homes Act  
14 of 1972. This was the New Jersey statute which  
15 established a State mobile home construction standard  
16 prior to the enactment of the Federal standard. The  
17 standard which was based upon the authority of this  
18 legislation wasn't in effect until the Federal Mobile  
19 Home Construction Standard.

20 Q Has this been repealed as far as you

21 know? A As far as I know it has  
22 not been repealed. I'm not sure about that, but in  
23 any event it is superceded.

24 Q Your understanding is that it is no  
25 longer effective, that the HUD controls?

1 A It may be effective still with regard to a  
2 few odd cases, like mobile units that are not used  
3 for dwelling purposes. I'm not certain about it,  
4 but I think this can be very easily checked out if  
5 you look at the definition section here in the State  
6 code, and I'm now looking at DH-14 which is the  
7 actual standard based on that authority.

8 Q DH-14 is based on DH-16?

9 A That's correct. Mobile homes shall mean a  
10 home excluding travel trailers which is a moveable  
11 or portable unit designed and constructed to be  
12 towed on its own chassis and designed to be connected  
13 to utilities for year round occupancy.

14 Now, this means the State standard also was  
15 restricted to homes. I would interpret that meaning  
16 dwelling units, so what I was saying is the State  
17 definition of the State construction code which was  
18 in effect prior to the Federal code is also restricted  
19 to dwelling units, mobile homes used for dwelling  
20 purposes. So in other words, there are no mobile  
21 units which would be governed by this code, but  
22 would not be governed by that code and therefore, in  
23 my opinion, the code is in its entirety superceded.

24 Q That is New Jersey Regulations under  
25 52:27D 25.1 and New Jersey Code 5:21-1.1 has been

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superceded by the HUD regulation?

A That's correct.

Q Now, tell me what Mobile Home Park Chapter 8C is and does?

A DH-15 is an act which regulates the purchase of mobile homes from owners. It does not regulate any aspect of mobile home construction, but rather landlord-tenant relationships between mobile home owners and mobile home park owners.

Q You touched upon that last time when you said that such protective legislation had an effect upon the depreciation factor in mobile homes.

Am I correct? A Yes.

Q Would you look at that law and give me your opinion on it as to whether that in effect means that a tenant in a mobile home park has the right to sell his mobile home on site to a purchaser in New Jersey? A I'm sorry, could you just repeat that.

(The Reporter reads back the last question.)

THE WITNESS: Yes, this law does permit a tenant to sell his home directly to the next tenant.

Q Have there been any industry evaluation

1 or comments upon that law and whether it, in fact,  
2 works? A From my own knowledge of  
3 a number of parks in this State, this provision of  
4 the law is enforce and is actually carried out.

5 Q Okay. Are there any regulations issued  
6 by any New Jersey administrative agency under that  
7 statute? A None that I'm aware of.

8 Q Okay. Now, Chapter IX, DH-13 is the  
9 New Jersey Sanitary Code published by the Department  
10 of Health? A Yes.

11 Q That talks about really sanitary  
12 requirements of mobile home parks?

13 A Yes.

14 Q Do you know of any other regulations  
15 existing in New Jersey on a Statewide basis which  
16 govern mobile homes or mobile home parks other than  
17 what you have in front of you on the table?

18 A On a Statewide basis?

19 Q Yes. A No.

20 Q What about on a municipality by  
21 municipality basis? A Zoning regula-  
22 tions.

23 Q Okay. Have you made any study of the  
24 zoning regulations of Morris County, any of the  
25 defendant municipalities?

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1 A Mr. Mallach did the study and looked at it.

2 Q Have you been engaged by the Public  
3 Advocate's Office to do any specific studies of any  
4 of the defendant municipalities?

5 A Of their?

6 Q Of their regulations as they may affect  
7 mobile home parks or mobile home construction?

8 A Yes, to review the analysis that already had  
9 been prepared by Mr. Mallach.

10 Q Have you reviewed that analysis?

11 A Yes.

12 Q What were the results of your review?

13 A That mobile homes, except for mobile homes in  
14 existing parks, are excluded from the defendant  
15 municipalities.

16 Q Did Mr. Mallach reach that conclusion?

17 Can I have the answer read back, please.

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

20 (A lunch recess is taken.)

21 Q I think I had asked you, Mr. Haeckel,  
22 if you reviewed Mr. Mallach's work and you said you  
23 had.

A Right.

24 Q And you said you agreed with his  
25 conclusion that the 27 municipalities prohibited

1 mobile homes by their zoning.

2 A I don't think I said that.

3 Q Or something like that.

4 A At least I didn't mean to say that I agreed.  
5 I said I reviewed them and right now I'm reviewing  
6 my own notes as are included in my report which was  
7 submitted in this matter.

8 Q You are referring, of course, to  
9 Exhibit DH-1 for Identification?

10 A Yes. So what I found from his reviews was  
11 that none of the municipalities has a zoning category  
12 where new mobile home parks or subdivisions or the  
13 use of mobile home parks on individual sites is  
14 clearly permitted.

15 Q What page are you on?

16 A Page 7. 13 municipalities have no specific  
17 ordinances regarding mobile homes, six are ambiguous  
18 and eight prohibit mobile homes. Again, I have not  
19 reviewed myself these ordinances, so I have no way  
20 of saying that I found or did not find that this  
21 analysis was right. I trust they were correct.

22 Q Now, this is taken from Mr. Mallach's  
23 report? A Yes.

24 Q Can you show me which part of his  
25 report? A I don't have it here

1 with me. This was an excerpt of the various zoning  
2 ordinances.

3 Q There was one page for each municipality?

4 A That's correct, a page or page and a half for  
5 each municipality.

6 Q You went through each one and made a  
7 count and that is a result of the count on page 7?

8 A That's correct.

9 Q Now, what difference does it make that  
10 none of the municipalities have a provision in their  
11 ordinance where the use of mobile homes on individual  
12 sites is clearly permitted?

13 A In my experience mobile homes can only be used  
14 if they are clearly permitted.

15 Q Why? A Unless they use  
16 by squatters and that is not an option in Morris  
17 County, to the best of my knowledge.

18 Q Why do you say that?

19 A Because if they are not permitted, then if  
20 they are not clearly permitted, you simply don't  
21 find them anywhere which indicates that local enforce-  
22 ment agencies, the building inspectors will not  
23 allow the placement for a mobile home on a lot zoned  
24 for single family use unless there is a clear  
25 indication that a mobile home can be placed on such

1 a lot.

2 Q Is that an inference you are making  
3 from the fact that there are none there, therefore  
4 the building inspectors must deny them a permit?

5 A It's partly an inference from that I'm making,  
6 but it's also based on the conclusion drawn from  
7 other research.

8 Q What research?

9 A I found again in the Maryland case in Montgomery  
10 County that there were great ambiguities in the  
11 municipal ordinances about mobile homes. The zoning  
12 code completely ignored mobile homes. There was no  
13 mention of it. The prohibition of mobile homes which  
14 was in effect in the county was buried in another  
15 code.

16 Q Was there a prohibition in effect in  
17 Montgomery County? A There was a pro-

18 hibition in effect, yes, but it was not part of  
19 the zoning ordinance. It was part of the trailer  
20 coach park ordinance.

21 Q That was on a countywide basis?

22 A Yes.

23 Q All right. A And the  
24 housing maintenance code also did not include mobile  
25 homes in its definition of a dwelling.

1 Q This statement on page 7 and your  
2 agreement with Mr. Mallach's conclusion is based,  
3 is it not on the proposition that because you didn't  
4 find them, therefore you figure there must be some-  
5 thing preventing them? A Yes.

6 Q In the ordinance itself?

7 A Yes.

8 Q Do you have any independent research  
9 data about anything, about any community in Morris  
10 County to verify or back up what you just said other  
11 than inferring from the absence of something that  
12 something is, in fact, prohibited by law?

13 A As I said before I have not reviewed the  
14 zoning ordinances and the other ordinances of the  
15 defendant municipalities myself yet. I may very  
16 well still do that.

17 Q Have you been engaged to do it by the  
18 Public Advocate? A Not specifically,  
19 no.

20 Q Will you do it without any further  
21 specific direction from the Public Advocate?

22 A If my own time permits it I may very well do  
23 it for my own interest.

24 Q If you do it for your own interest or  
25 on behalf of the Public Advocate and you intend to

1 use it in this case, would you send me a copy of what  
2 you do? A Yes.

3 Q What would you do if you want to  
4 investigate or verify that negative inference?

5 A Well, I would for one thing review those  
6 ordinances once again by myself to confirm the  
7 analysis of what was done and I might also include  
8 some other types of inquiries. I don't know yet at  
9 this time.

10 Q What other types of inquiries would  
11 suggest themselves to you as a professional planner  
12 as verifying that negative inference?

13 A Well, possibly some interviews with local  
14 building officials. Again, if I can manage it,  
15 because I don't have a specific contract to do that.

16 MR. FERGUSON: I would ask, I think it  
17 appropriate, that if there are going to be any  
18 interviews of municipal officials of the 27  
19 municipalities, that that be cleared through  
20 counsel prior to the witness interviewing them  
21 for the purpose of the study.

22 MR. MEISER: I have no problem with  
23 that.

24 Q During the luncheon break you and I  
25 were talking, and I believe that we were discussing

1 the proposition that if the HUD standard regulates  
2 and preempts the construction of mobile homes, then  
3 there is nothing that New Jersey municipalities could  
4 do to prevent the placement of a mobile home on a  
5 foundation on a 5,000 square foot lot in a regular  
6 subdivision in a New Jersey town. Is that an accurate  
7 statement of what your position is?

8 A Repeat it, please.

9 (The Reporter reads back the last  
10 question.)

11 THE WITNESS: I did not at all say  
12 that.

13 Q That was my statement and I was asking  
14 you whether that's an accurate statement.

15 A That's an inaccurate statement.

16 Q How is it inaccurate?

17 A Land use regulations are the controlling  
18 factor for the placement of mobile homes and municipi-  
19 palities do have the possibility of regulating the  
20 of land by type of construction. At least this  
21 the practice that still prevails in most states.

22 Q What about New Jersey?

23 A And it certainly prevails in New Jersey unless  
24 there is a zoning category which specifically permits  
25 the placement of mobile homes. The fact that a mobile

1 home is constructed in full compliance with the HUD  
2 standard would not be enough for an owner of a mobile  
3 home to place that home in a subdivision on a single  
4 family lot.

5 Q Why not if the ordinance is silent  
6 about mobile homes and never mentions, what is the  
7 problem? A The enforcement of the

8 ordinance or possibly, as I found it in Montgomery  
9 County, some other provisions in the municipal code  
10 that exclude trailers or transient vehicles or  
11 anything like that.

12 Q Transient what?

13 A Transient accommodations. There are all kinds  
14 of ways in which mobile homes can be discriminated  
15 against outside a zoning ordinance.

16 Q Well, are you aware of any such  
17 discriminatory provision that discriminates against  
18 mobile homes in any of the defendant municipalities?

19 A I pointed out before that I have myself not  
20 conducted a complete review.

21 Q How can you say that the defendant  
22 municipalities prohibit them if, in fact, you can't  
23 point to anything that says so?

24 A Well, I think we pointed out before eight  
25 specifically prohibit mobile homes. That's already

1 a fair share or fair number of these municipalities.

2 Q That takes care of eight. 13 ordinances  
3 have no specific provision at all.

4 A Right, which I have found is a much more  
5 prevailing way for municipalities which like to  
6 exclude mobile homes for dealing with this problem  
7 and not putting it expressly into the zoning ordinance,  
8 but by using more indirect means of prohibiting the  
9 use of mobile homes.

10 Q My question to you is what indirect  
11 means do those 13 municipalities use to prohibit

12 mobile homes? A My answer has been  
13 that I haven't reviewed thoroughly the techniques  
14 that these municipalities are using.

15 Q How can you make the statement that  
16 they prohibit them? A Because there  
17 are none and there would be mobile homes if they were  
18 not prohibited.

19 Q It's a negative inference, it is an  
20 assumption?

21 A Yes, it is an  
22 assumption, but I think it is just based on my  
23 experience of that that it's a reasonable assumption.

24 Q You have no other evidence or data  
25 other than that assumption and inference?

A My opinion right now is if I can muster the

1 time to do some more research, then it would come  
2 out very clearly that there are methods employed by  
3 these municipalities which result in the actual  
4 exclusion of the mobile homes without expressly  
5 stating it in the zoning ordinance.

6 Q Is it your opinion that if there are  
7 no mobile homes in a township, in a municipality  
8 then, in fact, there is some active prohibition of  
9 mobile homes at work in the municipality?

10 A Yes.

11 Q Why do you have that assumption?

12 A Because there is a tremendous potential market  
13 for mobile homes. There is a growing share of our  
14 population which cannot afford conventionally built  
15 or site built single family housing, but would still  
16 aspire to single family type ownership and I've found  
17 that wherever there is a possibility of placing mobile  
18 homes in a growth area, and Morris County is certainly  
19 a growth area, there will be a good share of the new  
20 housing in such an area of mobile homes.

21 Q Why do you say that? What is your  
22 experience?

23 A Because there will  
24 be -- there are people living in such an area which  
25 cannot afford any other type of housing and which  
would make use of this alternative if it was available.

1 Q Why do you say that? What data do you  
2 rely on? A An analysis of income

3 in the area which is included in this report.

4 Q Why do you conclude mobile homes will  
5 always be bought if they are allowed and they will  
6 never be bought if they are not allowed?

7 A I have done, as part of my study for Montgomery  
8 County, a nationwide survey of local jurisdictions  
9 throughout the country to find out what the state of  
10 mobile home land use regulation was then in 1976 and  
11 the response to the survey was very good and yielded  
12 what I believe was and maybe still is the best  
13 picture of the changing pattern of land use regula-  
14 tions.

15 Q Tell me about that survey. How did you  
16 do it? A I got the mailing list from

17 the National Association of Counties in Washington of  
18 all planning agencies that are on their mailing list  
19 and sent a questionnaire or let a request for informa-  
20 tion signed by a county official out to all these  
21 agencies and this is all included in this report, the  
22 letter that was sent out, the evaluation of the results.

23 Q Okay. Where is the letter?

24 A Here's the letter, on page 330.

25 Q Okay. What kind of a response did you

1 get? A Let me quickly review this  
2 summary here. I think I gave you the exact summary  
3 of this report. If I can have that back for a  
4 moment it will save some time.

5 I got a response by more than one third of  
6 the agencies that were contacted, which was an excel-  
7 lent rate of response.

8 Q That letter is directed to land use  
9 regulations? A Yes. Now, since  
10 we sent out a letter rather than a questionnaire, we  
11 got open ended answers in most cases. We did get  
12 actual copies of ordinances, but we also, in many  
13 cases, got letters which were very revealing and  
14 which pointed, particularly in the growth areas of  
15 the south, the west and also of the northeast, in  
16 Vermont to the increasing pressures that local  
17 planning agencies were facing with existing restrictive  
18 or exclusionary zoning ordinances, with pressures that  
19 even took the form of squatting such as it happened  
20 in Montgomery County. A great number of mobile homes  
21 simply illegally placed in the county in defiance  
22 of county regulations or political pressures leading  
23 to, first to permitting mobile homes as a conditional  
24 use under certain conditions and these types of  
25 regulations tendered to be temporary because as a

1 result of that kind of approach, boards of adjustment  
2 or municipal councils were usually flooded with  
3 requests and most of the time was spent just con-  
4 sidering the requests.

5 So the pattern that was revealed from all  
6 these responses was, one, under which the traditional  
7 approach for simply keeping the valve shut, not  
8 letting mobile homes in except in existing mobile home  
9 parks as legal and non-conforming uses and to  
10 eventually designate certain parts within the juris-  
11 diction for either mobile home subdivisions or for  
12 fixed mobile home and conventional home use to find  
13 an outlet for this growing demand.

14 Q Of those one third responses, how many  
15 of the one third indicated a problem with mobile  
16 homes of the kind you just described?

17 A Most of them indicated a problem. Most of  
18 them indicated that it was a problem to find appro-  
19 priate land use regulations.

20 Q Now, in your study in Montgomery County  
21 you would have sent your letter to the county planning  
22 board. Is that correct? A Yes, to  
23 the county planning board and, of course, in some  
24 areas of the country counties perform a great deal  
25 more functions than here in New Jersey.

1 Q But my point is in New Jersey they  
2 perform very little in terms of specific land use?

3 A Yes.

4 Q In fact, in New Jersey the county  
5 boards would not have been able to answer your ques-  
6 tion?

7 A Oh, yes. As a matter  
8 of fact, I found so far, and this is maybe part of  
9 the role, that among the blind the one eyed is king,  
10 that the county planning boards in this State still  
11 are the most knowledgeable source on mobile homes  
12 that I found so far. Certainly more so than the State.

13 Q Source of what?

14 A Pardon me?

15 Q Source of what?

16 A Of information on mobile homes and what the  
17 situation within the county is with regard to mobile  
18 home land use regulations. I did get quite a few  
19 letters from New Jersey and they were quite specific.

20 For example, the Bergen County planner was  
21 immediately able to point out what the situation is  
22 in all the towns in Bergen County and what the differ-  
23 ences were.

24 Q What about the two thirds of the  
25 addressees who didn't respond at all?

A I don't know about those two thirds.

1 Q Was there not a self selection process  
2 or work in that all the people who tended to answer  
3 or respond to the letter were those that had either  
4 statistics or problems or both?

5 A I'm not sure one can make that kind of an  
6 inference. We had a very wide range of responses.  
7 We had responses from people very favorable to a  
8 change in removable of restrictions against mobile  
9 homes. We had very conservative people answer the  
10 survey pointing out how important it was to maintain  
11 rigid division between mobile homes and non-mobile  
12 homes. So I don't think it was a self selection  
13 which led to a biased picture. I think it was more  
14 fact of other factors, such as whether somebody  
15 happened to get the letter who was knowledgeable or  
16 whether there was nobody <sup>with</sup> knowledge around. I have  
17 never claimed this is a statistically valid sample,  
18 but it's the best I've seen so far and certainly a  
19 lot better than what HUD was able to do with the  
20 report to congress. This was signed by a county  
21 official rather than a Federal official.

22 Q What was your criteria for judging  
23 whether a political subdivision queried in your  
24 questionnaire permitted mobile homes on individual  
25 lots?

A Reviewing the information that

1 I received. Either usually it was both, it was an  
2 ordinance or a set of ordinances and in most cases  
3 the letter was a summary of what would be found in  
4 the ordinances. So the criterion that I used here  
5 was that there had to be a clear indication, even  
6 in the ordinance or in the letter, that there was  
7 a zoning designation that clearly permitted the use  
8 of mobile homes. The kind of provision that I  
9 presume is or the kind of ordinance that the 13  
10 municipalities that don't have any clear regulations  
11 of mobile homes in Morris County, you know, would  
12 not have shown up in that column.

13 Q Would not have shown up in the column  
14 as permitting mobile homes?

15 A That's right.

16 Q So in other words, to qualify as  
17 permitting mobile homes?

18 A It had to  
19 be expressly permitted.

19 Q On an individual lot we are talking

20 about? A Either a subdivision or  
ERASAL  
21 permitted use, yes, or a conditional use.

22 Q Once again your method of classifica-  
23 tion assumed that if it's not explicitly permitted,  
24 it is in fact prohibited?

25 A That's correct, the same assumption I've been

1 making here today.

2 Q Have you always used that assumption  
3 in all your work on mobile homes?

4 A Well, the first studies that we did for HUD  
5 did not really involve land use issues to that extent.

6 Q You are talking about the disaster  
7 study? A Yes, but I would say from  
8 the time on I did the Montgomery County study, I  
9 learned much more about the local practices in effect,  
10 more about the implicit local practices in effect in  
11 restricting mobile homes.

12 Q Give me an example of some of the  
13 implicit practices that you are referring to,  
14 minimum floor area requirements I take it?

15 A That would be one. By having a code which  
16 sets a standard which cannot be met by mobile homes,  
17 but I think we are talking here about Montgomery  
18 County, the more typical manifestation is that the  
19 county code had some very, in several parts, had  
20 provisions which clearly discriminated against mobile  
21 homes. If you wish, I can give you that example  
22 from the housing maintenance ordinance of the county.

23 In this report, and I think this was marked  
24 DH-7, under appendix 482, page 345 there is a proposed  
25 draft amendment of the Montgomery County Housing Code

1 and this is an adaptation of the previously existing  
2 housing code, now to eliminate the indirect exclusion  
3 of mobile homes that had been practiced previously.  
4 This has been adopted by the county in the meantime.  
5 Now, the version that is in the report does not  
6 include previous parts. However, on page 350 in a  
7 boxed paragraph is a definition of temporary housing.  
8 This definition originally included mobile homes and  
9 the amendment that I put in was mobile homes as  
10 defined above is defined now in the amended code  
11 shall not be regarded temporary housing. Before  
12 mobile homes were regarded in the county as temporary  
13 housing falling under special temporary housing  
14 standards. They were not regarded dwellings, and as  
15 a result of this they were not at all protected by the  
16 code.

17 Q I see. Can you give me an example of  
18 the things the defendant municipalities do which bar  
19 or prohibit mobile homes? A I assume  
20 you are talking about the 13 that have no clear --  
21 already have eight here identified which have a  
22 clear prohibition of mobile homes, so we are really  
23 only talking about 13 that do not have a clear  
24 prohibition.

25 As I pointed out before I would be happy to

1 make a similar analysis of various ordinances in  
2 effect in those counties to tell you specifically  
3 the technique that is employed and it may not be the  
4 same in the 13. They may be employing different  
5 techniques to do it, including just the enforcement  
6 process.

7 Q Well, if you do it, I want a copy of  
8 it. A I certainly would make a  
9 copy available.

10 Q Before the trial and I want it under-  
11 stood, I would like it understood if it's not done  
12 and we don't get a copy of it that <sup>the</sup> witness can't  
13 do it the last minute and testify about it at trial.  
14 It makes a difference in discovery because I'm doing  
15 mobile homes for the Common Defense Committee and so  
16 far the witness said he hasn't done any site specific  
17 or town specific examination or work or reports. If  
18 he does, obviously then there will be changes and  
19 each of the towns involved may want to come in and  
20 AS/ this witness questions. Is that agreeable?

21 TON CONT MR. MEISER: I have no problem with  
22 that.

23 Q Okay. Did you review any of Mr.  
24 Mallach's conclusions? A I reviewed  
25 his report, yes.

1 Q With respect to the issue of mobile  
2 homes, did you verify anything else that Mr. Mallach  
3 said or did? A I did not verify

4 the findings as I pointed out before.

5 Q For this purpose of your report on  
6 mobile homes, did you take anything else from Mr.  
7 Mallach's work or reports? A No.

8 Q Did you take anything from Mary Brooks'  
9 reports or work? A No.

10 Q So everything else is your own?

11 A Yes.

12 Q Did we have a definition of modular  
13 housing last time? A Yes.

14 Q What is the definition of modular  
15 housing? A This is my own definition.

16 A modular dwelling unit is a partly or wholly  
17 factory produced unit which does not have to comply  
18 with the Federal Mobile Home Construction and Safety  
19 Standards Act and which is delivered to the site as  
20 three dimensionally assembled or in three dimension-  
21 ally assembled parts.

22 Q And then assembled on site?

23 A Set up on site and if it consists of more  
24 than one modular, assembled.

25 Q Did your report have anything to say

1 about modular housing as a strategy for construction  
2 of least cost housing? A No.

3 Q Do you have any opinions on modular  
4 housing? A Yes.

5 Q Tell us what they are insofar as they  
6 involve the least cost problem.

7 A Modular housing is one degree of prefabrication  
8 on a broad spectrum of prefabrication of dwelling  
9 units that have to comply with the State standard,  
10 the State Uniform Construction Standard in New Jersey.  
11 To that extent, the differences between a modular  
12 unit and a home which is prefabricated to a lesser  
13 degree is just a difference in degree of prefabrica-  
14 tion and very, very moderately or slightly a differ-  
15 ence, it may be a difference in cost, but I do not  
16 consider modular homes substantially different from  
17 other types of housing that had to comply with the  
18 State building code standard.

19 Q What about modular multi-family housing?  
20 Of course, that would then apply -- that would  
21 have to be considered in the context of other multi-  
22 family housing against again multi-family housing,  
23 all multi-family housing or let's say all stick built  
24 multi-family housing or low rise multi-family housing  
25 is, to varying degrees, prefabricated.

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1                   Modular multi-family housing would just have  
2 a high degree of prefabrication. It happens to be  
3 very rare because it is simply a question of the  
4 economics of construction as to whether it will pay  
5 to put that unit together in a factory or to assemble  
6 more of it on the site.

7                   Q       Why can't we have modular housing  
8 which is, for all intents and purposes, the same as  
9 mobile housing except that it just is not brought  
10 to the site on a pair of wheels? Why can't you just  
11 ship a couple of beams and the sides and the panels  
12 and build it right on site?

13                  A       You mean it would comply, if I understand you  
14 correctly, would comply in all aspects with the  
15 Federal Mobile Home Construction and Safety Standards,  
16 except it wouldn't have any wheels?

17                  Q       Yes.                                   A       Because you  
18 couldn't use that anywhere in the country.

19                  Q       Well, --                               A       The definition  
20 in order to fall under the Federal standard, you have  
21 to comply with this definition which means you have  
22 to have wheels.

23                  Q       All right. Add a pair of wheels then.

24                  A       Then it's a mobile home.

25                  Q       Why can't you assemble a mobile home



1 MR. FERGUSON: Can we mark it, please.  
2 (Flyer on Quick Facts is received and  
3 marked DH-17 for Identification.)

4 Q This is put out by the Manufactured  
5 Housing Institute? A Yes.

6 Q Is that a trade group?

7 A Yes, that is the trade organization of the  
8 mobile home industry.

9 Q Have you verified the figures on here?

10 A No.

11 Q Have you accepted them as true?

12 A Yes. I think just from general experience  
13 they seem to be accurate.

14 Q All right. Can you give me a price  
15 per square foot? A Yes.

16 Q Tell me what you are using.

17 A These are 1977 data, I believe the last ones,  
18 and we have here comparisons between mobile homes  
19 and site built homes and these are nationwide averages.

20 **CONFIDENTIAL** mobile homes, the cost per square foot averages  
21 \$13.75. Now, this includes furniture, draperies,  
22 carpeting, appliances, but excludes land as well as  
23 cost of steps, skirting, anchoring and any other  
24 applicable changes which might be 15 percent of the  
25 home cost. For site built homes the cost, the

1 average cost in '77 was \$24.75.

2 Q Excluding furniture and appliances?

3 A Right.

4 Q And land? A And land. So  
5 it is a substantial difference in square foot cost.  
6 Of course, if we are talking about --

7 Q I note that cost per square foot for  
8 mobile homes is listed, but rather the square footage  
9 is qualified under site built as living space. What  
10 is that qualification? A The qualifica-  
11 tion probably means that such space as garages are  
12 excluded.

13 Q I notice that for mobile homes, the  
14 cost of steps, skirting, anchoring and any applicable  
15 set up charges are excluded.

16 A That's right.

17 Q That's 15 percent of home cost?

18 A Right.

19 Q So you have to increase that figure of  
20 ~~20~~ 75 by 15 percent? A That's right,

21 ~~but~~ then on the other hand you would also have to  
22 deduct the furniture which is not included in the  
23 site built home and minus this would just about  
24 average out.

25 Q What about the cost of the foundation?

1 A That's referred here under set up costs, part  
2 of that 15 percent.

3 Q What about the sewerage and water hook  
4 ups and site preparation? A That is  
5 not included, so that wouldn't be included in the  
6 site built.

7 Q How do you know?

8 A Because that usually is part of your land cost.

9 Q Site preparation cost?

10 A No, the water and sewerage and infrastructure.

11 Q But what about the site preparation?

12 A Well, that would be an additional cost, but  
13 as I say you have here a full furniture package  
14 included. Admittedly it is not a line by line exact  
15 comparison because it is very hard to do it.

16 Q Isn't the furniture significantly  
17 different for a mobile home, the median size which  
18 is 1100 square feet and a site built home, the  
19 median size is 1630 square feet?

20 ~~CONFIDENTIAL~~ Yes, it would be less furniture, I'm sure.

21 Q It would be smaller furniture also,  
22 would it not? A Probably.

23 Q It would be cheaper furniture?

24 A Conceivably. It could also be cheaper furni-  
25 ture in a site built home.

1 Q Furniture bought on a large scale of  
2 volume by the manufacturer, mass built?

3 A Which provides a better price.

4 Q Lower cost? A Yes.

5 Q Now, under your theory of the way the  
6 regulations are set up with HUD preempting the State's,  
7 is it not possible for a homeowner, a land owner in  
8 New Jersey to come onto his lot of 5,000 square feet,  
9 permitted under the zoning ordinance and build a  
10 foundation and put on a mobile home? Your theory of  
11 the case is the building inspector had to give him  
12 a permit because HUD regulations demand it?

13 A If the zoning permitted mobile homes, yes, but  
14 that's the big if.

15 Q Okay. Under the 13 municipalities  
16 where it's not prohibited --

17 A And if no other part of the ordinance in  
18 effect in that municipality prohibits the use of a  
19 mobile home on the site.

20 Q Then he gets it as of right. Is that

21 correct? A If there are no such  
22 prohibitions, yes.

23 Q So would you be satisfied if an  
24 ordinance, the land development regulation of a town  
25 contained no such prohibitions which excluded mobile

1 homes which qualified under the HUD code?

2 A Well, I have seen so many ways of indirect  
3 restriction against mobile homes that I would say  
4 the ordinance would have been very unambiguous with  
5 regard to including mobile homes as permitted single  
6 family structures throughout the municipality. Again,  
7 this is with the exception of some rural parts in  
8 the west and south of this country. This is the most  
9 unlikely case.

10 Q You don't know that it is unlikely in  
11 New Jersey assuming that you haven't made any on  
12 site or town specific investigation?

13 A I simply said I haven't made town **specific**  
14 investigations in these 13 towns, 13 defendant  
15 townships yet, but I also got a number of responses  
16 to my 1976 survey from New Jersey counties and those  
17 responses expressed very clearly that there simply  
18 was no mobile home use permitted anywhere in the  
19 counties except in existing trailer coach parks or  
20 mobile home parks. If one can assume these county  
21 planning directors or their assistants who wrote the  
22 letters knew what they were saying.

23 Q Do you think that's a valid assumption  
24 to make?

25 A Well, in this case I  
think it is, yes.

1 Q Why not in all cases?

2 A I'm not prepared to --

3 Q Why is this case different from any  
4 other case? A I'm just saying in

5 this particular context from the responses that I

6 got, I made the assumption that they or drew the

7 conclusion that they were very familiar with the

8 practices in the municipalities within their juris-

9 diction, and as I pointed out before it's not just

10 coincidental that you simply don't have any -- don't

11 see mobile homes, at least in north and central New

12 Jersey, except in those licensed parks.

13 Q Can you ascribe that to the effect of  
14 the land development regulations?

15 A Yes.

16 Q What effect does market factors or do  
17 market factors have on the perceived absence of  
18 mobile homes? Isn't that a factor?

19 A I think a very, very limited one.

20 Q What about the value of land, isn't it  
21 true the higher value of land, the less likely it is  
22 to be used for mobile homes?

23 A That is not necessarily true. I think it's  
24 a simplification that doesn't hold.

25 Q It is true that if the land is valuable

1 enough, no mobile homes would get built on it or  
2 mobile homes are inappropriate?

3 A I doubt that very much.

4 Q Didn't you in your Paterson study  
5 recommend to Paterson mobile homes play no part in  
6 this strategy? A No, this had more to  
7 do with an urban density in Paterson. There are  
8 limits to a density of a mobile home park, six,  
9 seven units per acre which would be inappropriate  
10 in a city situation.

11 Q I thought you testified that was a  
12 function of land value? A It is a  
13 function of land value, correct, but here we are  
14 in an entirely order of magnitude when you come to  
15 a city center situation. I would never propose to  
16 place mobile homes in Manhattan. It would be  
17 entirely ridiculous. I think aside from that, if you  
18 talk about land values in developing areas, in areas  
19 that are developing at low density, that could be  
20 developed at much higher density, conceivably, then  
21 to assume that because of the cost per lot, say it  
22 goes like anywhere between 10 and \$20,000, one  
23 should not put a home on that lot that costs not  
24 more than the lot or maybe even less than the lot.  
25 I think that's a fallacy because to the consumer the

1 one thing that will matter in the end is that the  
 2 consumer can afford a place to live and whether the  
 3 land is one fourth of that housing solution, as it  
 4 has customarily been in the past, or whether it is  
 5 one third or one half is really, I think it's  
 6 becoming a more and more academic issue. I see no  
 7 reason why, particularly for a starting family the  
 8 house shouldn't be cheaper than the land if that's  
 9 the only way that family can find its way into the  
 10 housing market.

11 Q You mentioned a starting family. You  
 12 are talking about the small family that is just  
 13 beginning to have children and expand?

14 A Yes.

15 Q Do your studies include socioeconomic  
 16 profiles for mobile homeowners? A Yes.  
 17 For Montgomery County I did work on that and also  
 18 part of the report to congress.

19 Q Which report, the used mobile home  
 20 report?

A That's right.

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21 Q What did you find?

22 A Well, historically there have been two groups  
 23 more highly represented among mobile home residents  
 24 than the population at large and those were young  
 25 families and the elderly.

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Q When you say <sup>young</sup> / families, what was the average number of children per household of young family size?

A Not more than two.

Q Can you tell us why you believe this is true?

A Because traditionally mobile homes have been smaller. I mean, traditionally most mobile homes have been single wide units and in the '60's, of course, they had much less than 1,000 square feet. Today we have single wide units which have a thousand square feet or even more and we have more than a share of double wide units, so this can be expected to somewhat change, in that in the future the profile of mobile home residents will be much more similar than to the population at large.

Q Are you familiar with Alan Mallach's and Mary Brooks' strategy for the dispersion of low income population among the Newark SMSA or among the eight county north New Jersey region?

A Just very superficially.

Q Are you familiar with the DCA guide, the DCA State Housing Allocation Report?

A Again, superficially, yes.

Q Are you familiar how the need, the housing need in those reports and strategies is generated, how it's determined, generally?

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A Generally, yes, but I wouldn't want to testify to this. My knowledge is too superficial.

Q Would you agree with the statement that the housing need by and large is generated by the existing groupings of low and moderate income population? A Yes.

Q And would it be true to say that those existing groupings of low and moderate income population are predominantly in the center corridor area from northeastern Bergen County to Trenton?

A Yes.

Q That's where most of the low and moderate income population is today? A Right.

Q Do you have an opinion as to whether mobile homes in Morris County are an appropriate strategy to provide least cost housing for those people located in that corridor area as defined by Mallach and the DCA and Ms. Brooks?

A I have the opinion that if the defendant municipalities had in their zoning provisions which could and which would allow the establishment of mobile home subdivisions or mobile home parks meeting contemporary standards, that a fair number of low and moderate income people, but also moderate income people which are not included in these studies,

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1           namely people with incomes around the median, would  
2           make use of that. I'm convinced of that.

3           Q           What is a fair number?

4           A           A good share, a substantial share of that  
5           part of the population. I don't know. I can't give  
6           you a number on it, but I would think it would be a  
7           substantial segment that would make use of that  
8           option.

9           Q           If a person of low and moderate income  
10          had a job in Bergen County, central Essex County  
11          from Newark down to Elizabeth down to Middlesex  
12          County, would you believe it reasonable to use the  
13          housing need generated by that person in determining  
14          the need for mobile homes in Morris County?

15          A           Well, it's not that far to travel from some  
16          portions of Morris County to places of employment in  
17          western sections of Bergen County or of Essex County.

18          Q           What about Hudson County?

19          A           Some people don't mind to commute a little  
20          longer. I wouldn't exclude that either, but I think  
21          most clearly people living within a less than one  
22          hour commuting radius, less than one hour driving  
23          radius from where they work --

24          Q           Isn't it true one hour is the maximum  
25          statistically people are willing to drive to go to

1 work? A It's not the absolute  
 2 maximum. People are driving or commuting longer, but  
 3 it can be certainly considered an upper limit.

4 Q Some people go to Florida and work and  
 5 come back. We are talking about a statistically  
 6 significant group. A Yes, I think so.

7 Q What is the median commute time, do you  
 8 know? A You mean in north Jersey? I  
 9 don't know.

10 Q Of people generally throughout the  
 11 metropolitan United States regions, do you know?

12 A I can only guess, but I don't have a statistic  
 13 right now.

14 Q What is your guess?

15 A 45 minutes.

16 Q Is the median time?

17 A I don't know. This is just a wild guess.

18 Q Have you, as part of your work in this  
 19 case, determined any quantification of how many

20 sale homes should be zoned for in Morris County to  
 21 satisfy any kind of fair share requirement?

22 A Can you repeat that, please.

23 (The Reporter reads back the last  
 24 question.)

25 THE WITNESS: No.

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EMLO  
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1 Q Have you witnessed Miss Brooks' fair  
 2 share work in this case? A No, I  
 3 haven't.

4 Q Have you read it at all?  
 5 A No.

6 Q Have you ever read Mr. Mallach's fair  
 7 share work in any case or in any context?

8 A I reviewed some of his work in Mount Laurel  
 9 and I haven't reviewed all his work in this case yet.

10 Q Have you reviewed Mr. Mallach's fair  
 11 share work in the eight county north New Jersey

12 region? A I said before I'm just  
 13 superficially familiar with it, but I haven't studied  
 14 it.

15 Q Have you done any fair share studies  
 16 for any area in the United States?

17 A No, I've never done fair share studies.

18 Q Do you have an opinion as to whether  
 19 the fair share study done by Mr. Mallach in any of

20 work or Ms. Brooks or the DCA, insofar as that  
 21 is a fair share study, as to whether that's reasonable  
 22 or not? A I have no opinion on

23 that.

24 Q Am I correct then that the substance  
 25 and thrust of your testimony is that mobile homes are

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JEMLO  
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1 a reasonable housing alternative at a cheaper cost  
2 and therefore should be allowed?

3 A That's right.

4 Q Am I correct that the thrust of your  
5 testimony is that mobile homes should be allowed on  
6 individual lots because the depreciation is less?

7 A Yes.

8 Q And that the configuration doesn't make  
9 so much difference so long as the owner is allowed to  
10 sell the mobile home with the lot as one unit?

11 A Yes.

12 Q Is there anything significant in the  
13 thrust of your testimony that you are going to ask  
14 Judge Muir to adopt in terms of providing mobile  
15 housing in the 27 municipalities?

16 A No, I think that will be the main thrust.

17 Q Is it your position that the only code  
18 which governs the construction of mobile housing is  
19 the HUD code? A Yes.

20 Q Is it your position that the munici-  
21 palities in New Jersey cannot, in fact, adopt any  
22 more restrictive code? A For the  
23 construction?

24 Q For the construction.

25 A Yes.

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MILWAUKEE  
TRASAT

1 Q Would you tell us what your position  
 2 is about the role of the B.O.C.A. code, if any, on  
 3 the construction of mobile housing and I believe you  
 4 mentioned earlier off the record something about  
 5 foundations. Would you tell us what that is?

6 A Right. The regulation of foundations on which  
 7 mobile homes would be placed and the set up of mobile  
 8 homes --

9 Q That would be a function of the B.O.C.A.  
 10 code? A To me that would be a  
 11 proper application of that code.

12 Q Would it be true therefore to say there  
 13 is no difference between mobile homes and site built  
 14 homes in terms of sewerage disposal, roads, access,  
 15 turn arounds for fire apparatus and all the other  
 16 kinds of considerations that are the traditional  
 17 concern of site plan and subdivision type regulations?

18 A No inherent differences.

19 Q In other words, to have mobile homes as  
 20 ~~RE MINUTE~~ cost housing, according to your theory there is  
 21 ~~TRASAI~~ no real difference between site built and mobile homes  
 22 except that it's manufactured, gets wheeled in on  
 23 wheels? A That is correct. I

24 would like to make one qualification. I think I  
 25 mentioned at the last deposition that there is a

1 tendency for standards to be more restrictive with  
2 the lower the level of Government that enacts the  
3 standard, more restrictive it tends to be and I  
4 believe the main reason why mobile homes are at issue  
5 here at all is not that they are mobile or inherently  
6 different from any other types of housing, but they  
7 are the only kind of housing available at this time  
8 in this country which is built to a Federal standard  
9 and as a result of being built to a Federal standard  
10 the cost of the consumer of the housing is lower while  
11 concerns of health and safety I believe are equally  
12 well met. I think the same would apply to the  
13 complementary standard for a subdivision.

14 Q If you would have Federal standards  
15 for a subdivision, you would find there would be  
16 lesser standards and therefore less cost to comply?

17 A If there were such a thing, and I don't think  
18 there ever will, but if there was a Federal standard,  
19 I'm sure it would be less costly than standards that  
20 we have in some developing municipalities.

21 Q This is Haeckel's theory of all  
22 bureaucratic regulations in general. It doesn't have  
23 anything to do with land regulations specifically?

24 A I complied specifically to the area we are  
25 talking about. I don't pretend to be knowledgeable

1 about all other areas. I think we have an example  
2 here in the State with the Chapter IX mobile home  
3 ~~park~~ regulations which do have provisions for road  
4 widths and setbacks of the like which are lower than  
5 typical subdivision standards. Particularly the road  
6 widths and requirement for curbs and such things. So  
7 if a municipality had a true concern, had a concern  
8 for providing some least cost housing and if it  
9 permitted because of that concern mobile home sub-  
10 divisions, but if it then applied the same high  
11 standards for road widths and curbs and things like  
12 that to a mobile home subdivision that are generally  
13 applied, then probably that would result in again  
14 excluding part of the potential market for that  
15 mobile home subdivision. What I'm driving at is that  
16 none of the standards that we have been discussing to  
17 me have any absolute validity. They are all relative  
18 within spectrums and so if we say a subdivision that  
19 is developed in full conformance with the local  
20 regulations but does not permit mobile homes, that  
21 ~~that~~ would be a way of permitting mobile homes of  
22 least cost housing and the answer to that question  
23 would be a qualified yes or no. It really would  
24 depend on the type of standard to be applied to the  
25 subdivision.

1 Q You testified the first day that there  
2 are no absolute standards for least cost housing,  
3 it's all depending on the context from Panama to New  
4 York City or north New Jersey which is a long trip  
5 and it all depends on what standards you are asking  
6 about and what people you want to put there.

7 A It depends on a majority perception of what  
8 the standard should be.

9 Q And that consensus can change from  
10 time to time? A Yes. I think  
11 it has changed.

12 Q Indeed doesn't the consensus change  
13 depending upon market demand? The market demand  
14 eventually, the regulation would eventually get  
15 around to it? A Unfortunately I  
16 don't think it's that simple. A market demand may  
17 never materialize because of restrictive control of  
18 land. If land is simply not made available for a  
19 certain use, like for mobile home subdivisions, that  
20 market demand will never become apparent.

21 Q Presumably if one is wise enough to  
22 discern it, you can discern it. It's a function of  
23 available income, is it not?

24 A I think the test would only be seen if you  
25 remove restrictions. You would only, if you remove

1 restrictions can you have a market, a free market  
2 situation. That by definition is true, so the  
3 existence of explicit or implicit restrictions on  
4 mobile home land use is a way of restricting the  
5 formation of a free market. It's an interference  
6 with our free market system. Only if that supply  
7 was made available could we really determine what  
8 the demand really is. With the restrictions, we will  
9 never know, we can only guess.

10 Q Okay. Turning to your report which is  
11 DH-1, on page 1, development from 1970 to the present,  
12 indeed the whole background section, you are using a  
13 percentage of total housing units that mobile homes  
14 constitute? A Yes.

15 Q And comparing all the states. Is that  
16 correct? A Yes.

17 Q Isn't it true that historically mobile  
18 homes, as we are talking about them, only came into  
19 being in say the late 1950's, 1960's?

20 A In the 1950's.

21 Q And that they only came on the housing  
22 market in any significant numbers in the 1960's?

23 A Yes. They started in the late 1950's coming  
24 in in significant numbers. 1956 would be a benchmark.

25 Q Haven't you already told us that how

1 many mobile homes get built is a function of develop-  
2 ment pressure and available land?

3 A Yes.

4 Q All right. Don't you therefore have  
5 to take into account, if you are going to use these  
6 State by State statistics, don't you have to take  
7 into account the time horizon of the development  
8 within each state and compare it to another state?

9 For instance, how long did it take Alaska or  
10 Nevada to build the housing stock that it has vis-a-  
11 vis how long it took New Jersey to build the housing  
12 stock that it has? A Yes, that's  
13 correct. That's why I compared New Jersey here more  
14 to its neighboring states more than Alaska or Nevada.  
15 For example, you have Pennsylvania which is a state  
16 just as old as New Jersey and in which mobile homes  
17 play a very significantly greater role.

18 Q 2.3 percent instead of .7?

19 A That's right.

20 Q But it's on a different scale from

21 Alaska and Nevada? A That's correct,  
22 but it is vastly different also in New Jersey. Take  
23 Delaware, which is another very old state, 5.1.

24 Q What about New York right next door?

25 A Right, New York. New York has almost twice as

1 high a share as New Jersey.

2 Q Aren't most of the mobile homes outside  
3 of New York City? A Certainly,  
4 but in terms of total housing supply in New York State,  
5 New York City is taking a very large share.

6 Q Wouldn't the comparison be more accurate  
7 if you excluded New York City from the New York  
8 statistics? A Yes, which we would  
9 have a much higher statistic.

10 Q For New York State?

11 A Yes.

12 Q What about New York City?

13 A New York City is an obvious case where mobile  
14 homes have no place. Even though there are some in  
15 east New York, I understand, but as I pointed out  
16 before the housing system that permits a maximum  
17 density of six, seven units per acre doesn't have a  
18 place in a densely built up area like New York City.  
19 It wouldn't have a place in Newark or Jersey City,  
20 but I think very much so in the developing munici-  
21 palities of Morris County.

22 Q What density does Mr. Mallach recommend  
23 for attached townhouses or condominiums?

24 A I don't recall exactly, but I would assume  
25 anywhere from 12 to 15.

1 Q What about garden apartments?

2 A 15, 18. It could be even more, 20.

3 Q Given the choice between that kind of  
4 housing configuration and multiple homes, which do  
5 you pick as the more appropriate solution to the  
6 least cost housing problem?

7 A It depends on the situation. I think in an  
8 area which by its planning officials has been  
9 designated for single family use, mobile homes are  
10 the appropriate answer. In an area that has been  
11 designated for multi-family houses, apartments would  
12 be the more appropriate answer.

13 Q Do you favor designating specific  
14 areas for specific uses? A In the  
15 general principal it can be applied such as proximity  
16 to urban centers. In general, we are used to  
17 considering high densities and high densities of use  
18 with proximity to urban centers and urban services,  
19 but we have in these developing municipalities vast  
20 areas that have been designated for single family  
21 use and those are the areas we are really talking  
22 about here. We are not arguing that mobile homes  
23 should be used as an alternative to multi-family  
24 housing.

25 Q In other words, all you are saying is

1 given single family use, mobile homes ought to be  
2 one alternative? A That is  
3 correct. That is exactly it.

4 Q For a 5,000 square foot lot in Morris  
5 County, isn't it true that you have to have some  
6 kind of central septic system?

7 A Yes.

8 Q Isn't it also true the current planning  
9 in the State of New Jersey and the Federal government  
10 says that we should try to concentrate central  
11 sewerage systems in areas that are already built up  
12 and use an in-fill strategy rather than a strategy  
13 of expanding the infrastructure and sewerages out to  
14 the rural areas? Isn't that what the Governor's  
15 office is saying and DCA and the Tri-State Regional  
16 Planning Commission and the Regional Plan Association?

17 A Yes.

18 Q Do you agree or disagree with that  
19 philosophy? A I think it's a good  
20 philosophy.

21 Q If all that is true, does that not  
22 mean that there is going to be very little sewerage  
23 extensions out into the rural areas?

24 A I would think there will still be sewerage  
25 extensions out to the rural areas, to single family

1 areas and that this will not mean an end to single  
2 family home construction.

3 Q I'm just talking about requiring  
4 sewerages, small lots on 5,000 square feet.

5 A I'm sure there will be areas where small lots  
6 cannot be zoned because of the lack of availability.  
7 I'm not suggesting that any municipality should be zoned  
8 or all the single family zones for an entire municipi-  
9 pality should be zoned for 5,000 square foot lots.  
10 I think it has to be analyzed on a case by case basis  
11 as to where this kind of zoning is possible.

12 Q If there is a shortage of central  
13 sewerage facilities in a particular community because  
14 of its previously rural history, even though it is  
15 developing now because of highway construction or  
16 whatever, doesn't it make more sense to provide  
17 multi-family housing at densities, at the higher  
18 densities for townhouses and gardens than it does  
19 to provide small lot zoning for mobile homes or,  
20 indeed, conventional single family homes? Don't  
21 you minimize society's cost for providing the  
22 infrastructure per unit if you have a greater number  
23 of units on available acreage?

24 A I think we are touching here an area where  
25 rational planning considerations somehow conflict

1 with a prevailing, very much prevailing value in our  
2 society and that's the value for your own home on  
3 your own lot and I think in other societies this  
4 conflict is being resolved differently. In the  
5 Soviet Union, from what I know, there barely is any  
6 single family housing because probably the mechanisms  
7 for resolving this conflict are different there, but  
8 my hunch is that for a long time to come the by far  
9 most popular housing with Americans will remain your  
10 own home on your own lot regardless of the fact that  
11 this may not be the most efficient way of providing  
12 sewerage and water and that this may not be the most  
13 efficient type of urbanization in light of our energy  
14 crisis.

15 Q Given the fact of Mount Laurel and  
16 Madison Township as cases by the Supreme Court which  
17 are binding upon all the towns, aren't the towns  
18 under a duty to, in fact, minimize the cost of  
19 infrastructure to the least cost units whenever  
20 possible? A Yes.

21 Q Do the towns have latitude to bend  
22 least cost requirements than to the demand of the  
23 peculiarly American market demand as, for instance,  
24 you state for your own house on your own lot?

25 A I believe the towns do exercise quite a bit

1 of latitude in setting up, for example their sub-  
2 division regulations with, including standards that  
3 sometimes result in substantially higher costs than  
4 what they would have to result in.

5 Q That's not my question. Is that  
6 legitimate under Madison Township and Mount Laurel?

7 A This hasn't been the focus of those cases  
8 because single family --

9 Q There will be.

10 A To me it is part of one package because the  
11 only thing that matters to the consumer is the  
12 bottom line price and if we are talking about a single  
13 family home which is still again the main stay of  
14 our housing market and I think it's going to stay the  
15 main stay, in fact, rental housing is going down as  
16 a share of the housing supply, then the cost of  
17 infrastructure, and that means not just the sewerage,  
18 but the width of the road, the curbs and all that  
19 stuff should be included in an overall conservation  
20 price.

21 MR. FERGUSON: Okay. Let's take a  
22 break.

23 (A short recess is taken.)

24 Q If it's rational to minimize infra-  
25 structure costs pursuant under the rationale of

1 Madison Township, is it legitimate to take land that's  
2 going to be seweraged and zone it for single family  
3 detached housing in small lots of 5,000 square feet  
4 and thus take away land that would otherwise be  
5 available for more dense multi-family housing?

6 A Well, I would say so long as any single family  
7 housing is provided with public sewerage and water  
8 connections.

9 Q You should allow mobile homes?

10 A You should even give preference of such areas  
11 to small lot mobile home subdivisions.

12 Q Okay. In your opinion, is it necessary  
13 to have a specific provision allowing mobile home  
14 subdivisions in order to meet whatever criteria you  
15 are applying and will be testifying about?

16 A Yes. My opinion is that it would be much  
17 better for a municipality to straight forward and  
18 openly confront this issue and provide for specific  
19 zoning designations say for mobile home subdivisions  
20 rather than to ask for a blanket prohibition on  
21 discriminating against mobile homes such as was done  
22 in Vermont. Parts of this report include a Vermont  
23 law in one of the appendices which prohibits munici-  
24 palities from discriminating against mobile homes  
25 anywhere in the state. So that on any subdivision

1 anywhere you could place a mobile home. My feeling  
2 is it is a wise land use approach to have areas, to  
3 have a more differentiated -- do this in a more  
4 differentiated area for mobile homes, single mobile  
5 home communities and in areas where mixed uses are  
6 permitted and other areas where mobile homes are not  
7 permitted.

8 Q Is Vermont a special case? Isn't that  
9 an area of large resort type housing demand with  
10 eventually very little employment?

11 A Well, I don't think that generalization holds  
12 as much as maybe it did. Vermont is one of the few  
13 states in the northeast that had a net immigration  
14 and is really receiving population in large numbers  
15 and a good portion of those people moving into the  
16 state have been using mobile homes.

17 Q In your report you used some examples  
18 of appreciation upon resale. My question is did you  
19 adjust your figures at all for inflation to see if  
20 there has been any appreciation over and above the  
21 standard inflation rate?

22 A No, I haven't done that in that study.

23 Q Don't you think if you did it, it  
24 would be a truer reflection of whether there is, in  
25 fact, depreciation or appreciation in any particular

1 unit? A I think this certainly  
2 could be done. However, the purpose of this analysis  
3 was to compare, to compare actual market conditions  
4 to the conditions presumed to exist in the blue book  
5 and the blue book depreciation has always been based  
6 on original resale price regardless of inflation.  
7 They have taken the original resale price, even if  
8 it was 10, 15 years ago and depreciated it by a  
9 constant percent.

10 Q That was off site sale?

11 A In the old blue book this was not regarded.  
12 In the newer guides, particularly the NADA guide,  
13 the fact whether a home is sold on the site or off  
14 the site is a factor that is considered in the price,  
15 but not nearly to the extent to which the actual  
16 market conditions here in the State indicate.

17 Q Can you compare the appreciation of  
18 mobile home sales on site to the appreciation of  
19 on site built housing? A No. I  
20 think the extent to which the study has been done  
21 speaks for itself. I only analyzed the two parts  
22 of the State here.

23 Q My question then is why didn't you  
24 compare it to the appreciation of conventionally  
25 built housing? A Because the

1 purpose of this analysis was not to come up with  
2 conclusions as to how the depreciation or appreciation  
3 of mobile homes would compare to conventional homes,  
4 but how accurate or inaccurate the depreciation  
5 schedules are. I think to do an analysis comparing  
6 appreciation of mobile homes to appreciation of  
7 single family homes, we just don't have a data basis.  
8 I mean, in this State there simply are no mobile homes  
9 that can be sold on owned land. We only have the  
10 case of mobile homes sold in park sites because the  
11 tenant has the right to do so.

12 Q How about data basis from other states?

13 A There hasn't been any symptomatic research  
14 done so far. I would love to do it. I would think  
15 it would be very worthwhile, but my hunch would be  
16 that it is still the number of mobile home subdivisions  
17 throughout the nation is relatively small, that is,  
18 compared to conventional subdivisions, so that it  
19 would not be easy to structure a sample to really  
20 ~~COTTON PET~~ it generalizations.

21 Q If we had no data basis to investigate  
22 or base conclusions, why do we recommend mobile home  
23 subdivisions as a strategy for least cost housing?

24 A We have here a very strong indication that  
25 the traditional notions of depreciation are meaningless,

1 I think that is very clearly shown by the data, so  
2 that number one, we can discard the traditional  
3 prejudice of automatic mobile home depreciation.

4 Now, as I pointed out in the study for  
5 Montgomery County, if a mobile home was placed  
6 permanently on a permanent foundation in an owned  
7 site in a neighborhood that is well maintained, there  
8 would be no reason to expect that the changes in  
9 value of that home would be any different from site  
10 built or other types of housing units. One case that  
11 I mentioned in this report is the Florida mobile home  
12 subdivision that has existed for 25 years in Sarasota.

13 Q Mr. Adler's? A That's  
14 right. Where there has been very substantial  
15 appreciation and where apparently the appreciation  
16 of mobile homes has exceeded the appreciation of  
17 the conventionally built FHA subdivision next door.  
18 This is, of course, only spotty evidence simply based  
19 on the fact that there are so few such cases around.

20 Q We discussed at the last session the  
21 normal rule of 25 percent of your income for  
22 housing cost and that as your income goes up you can  
23 afford to spend more for housing cost.

24 Would it be accurate to say at the lower end  
25 of the income spectrum 25 percent would be the

1 maximum? A Well, that is an  
2 assumption that has been firmly integrated in  
3 national legislation at this time. The housing  
4 assistance program under the United States Housing  
5 Act provides for a 25 percent limit for all lower  
6 or very low income families with two exceptions, and  
7 those are low very large families, meaning families  
8 with eight or more minors or very low large families  
9 which means families with incomes below 50 percent  
10 of median and six minors.

11 Q That's a subsidy program?

12 A Right. Those are presumed to be able to pay  
13 only 15 percent of their income in rent. All others  
14 are presumed to be able to afford 25 percent. This  
15 is being changed right now. I think the Government,  
16 for the upper reaches is going to change the program  
17 to a 35 percent threshold.

18 Q Have you figured what the cost of a  
19 mobile home would be in 1979 dollars including the  
20 payment requirement on a 5,000 square foot lot?

21 Yes, that is included in this report.

22 Q Okay. What is that?

23 A On Tabel 7, page 21.

24 Q Okay. You have required minimum incomes?

25 A Right.

ERASA  
COTTON CO

1 Q How does a low income family get the  
2 \$6,428 required as the down payment?

3 A On the subdivision?

4 Q On the subdivision.

5 A Well, I don't think there is any general  
6 rule where this amount of money should come from.  
7 This could be savings, it could be an inheritance,  
8 a small inheritance, a parent who has sold a house.  
9 It could be anything like that. It could be going  
10 to Atlantic City and being fortunate there.

11 Q What is the monthly amount required to  
12 carry the mobile home for which you have to raise  
13 \$6,428? Is that \$329? A Yes.

14 Q How does this compare to rental housing  
15 in Morris County? A Well, the lowest  
16 range of rental offerings that I've seen for two  
17 bedroom apartments was around \$350 and then quickly  
18 going up to \$400 and more.

19 Q How many square feet?  
20 ERASA That was not indicated in the offering, but  
21 COTTON CO a two bedroom unit, I would assume it will be  
22 somewhere around 800 square feet.

23 Q And how many square feet in this mobile  
24 home on Table 7, the hypothetical mobile home?

25 A It would be about the same.

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1 Q In terms of making housing available  
2 which is affordable, how much to the monthly income  
3 would you have to add in order to be able to raise  
4 the down payment?

5 A I'm sorry, I  
6 don't get that.

7 Q In other words, if a family has to have  
8 other financial resources aside from its income in  
9 order to be able to raise that down payment to buy  
10 the mobile home on a subdivision lot, what I'm getting  
11 at, doesn't it make more sense to build reasonable  
12 housing that is available for \$350 a month than to  
13 zone for mobile homes on 5,000 square foot lots or  
14 indeed any kind of construction on small lots with  
15 the requirement for \$6,000 down payment?

16 A Well, I don't hink so. I think anybody who  
17 has \$6,500 in savings who like single family type  
18 housing, it would make much more sense from an  
19 investment point of view to do this because they would  
20 be building up an asset with their monthly payment,  
21 in the apartment they wouldn't. The \$350 is  
22 extremely limited, the supply.

23 Q Indeed, the purpose of your report is  
24 not to compare it as a substitute for rental housing?

25 A That's right.

Q It's a cheaper alternative to site

1 built construction on small lots?

2 A Yes, but naturally it would also be an  
3 alternative to reasonable housing.

4 Q To the extent the prices are comparable  
5 and you can get up the down payment?

6 A Right.

7 Q Okay. On the question of financing  
8 which you went into extensively in your report, can  
9 you tell us what the present state of FHA and VA  
10 financing is on mobile homes?

11 A In the State of New Jersey there is practically  
12 no FHA lending at all. I've contacted the FHA offices  
13 and they are not aware of any lending activities any-  
14 where in the State of New Jersey simply because there  
15 is so little going on. There is practically no  
16 buying of new mobile homes and this seems to be the  
17 main reason. I understand there has been a little  
18 higher activity of VA, but it's also negligible.

19 Q You are talking about FHA-Va mobile  
20 home financing? A That's right.

21 Q Is there any reason why the FHA and VA  
22 would not finance a mobile home? Is it allowed by  
23 their regulations? A Sure.

24 Q On what terms?

25 A To permit the financing of mobile homes?

1 Q How long is the mortgage and is it a  
 2 usual FHA and VA program? A No, it's  
 3 a separate program. I spelled out the terms at the  
 4 head of the column on page 21.

5 Q Table 7? A Table 7, yes.  
 6 I have current terms for single family bought units  
 7 of an FHA loan is five percent down on the first  
 8 \$3,000 and 10 percent on the balance and there is a  
 9 12 percent interest on 15 years. I believe the  
 10 maximum, the current maximum price of the mobile  
 11 home is \$16,000 for a single dwelling.

12 Q Are the VA financing terms the same?

13 A They are comparable, yes.

14 Q Is it a separate program?

15 A Yes.

16 Q Is it available? If there is more  
 17 mobile home construction, is the financing available  
 18 through FHA and VA? A Yes. The  
 19 financing is available, yes.

20 Q What is the status of the private market

21 banks? A Financing is available  
 22 also.

23 Q On what terms?

24 A On the usual chattel mortgage terms.

25 Q The conventional consumer loan alternative

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BRAS  
 COTTON

1 1? A Yes, eight percent add-on.

2 Q What is the status of the private  
3 financing market, are banks and mortgage companies  
4 lending? A Yes, they are.

5 Q Are they lending on any other other  
6 than the alternative 1, conventional consumer 1 basis?

7 A No, that's the only alternative that is now.

8 Q Have you made any investigation in those  
9 states where mobile homes are indeed located on 5,000  
10 square foot lots, would a bank lend a conventional  
11 mortgage? A Yes.

12 Q 25 years, 25 percent down?

13 A Right. I spoke to a savings and loan in  
14 Florida who is making loans on that basis and I  
15 reviewed literature in California. In California  
16 the Crocker Bank started lending, making mobile home  
17 loans on a real estate basis. So it is a fairly  
18 recent development. It's a development which three  
19 years ago I tried to encourage in this report,  
20 ~~pointed out to the people in Montgomery County how~~  
21 ~~they~~ might give incentives to the banks in the county  
22 to start such a program and as it happened in the  
23 states that have the largest mobile home development,  
24 it's beginning to happen.

25 Q Is anybody in New Jersey lending?

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~~SUBJECT~~  
~~CUTTON CL~~

1 A Not to my knowledge. I very seriously doubt  
2 that under the present conditions any real estate  
3 type mortgages are being made for mobile homes in  
4 New Jersey.

5 Q Do you think if mobile home subdivisions  
6 were allowed and in fact were being proposed, would  
7 you expect the banks to start lending for them?

8 A Yes, I would expect that after a period of time  
9 banks would become familiar with this practice and  
10 would start making real estate loans.

11 Q We talked earlier about the higher land  
12 cost as a function of the desirability of mobile homes.  
13 Would it be true to say that the higher the land cost,  
14 the less desirable would be the cheaper mobile home  
15 unit in terms of the strategy of an investor to  
16 maximize return?

17 A I think when we  
18 touched this area, we distinguished between densely  
19 settled urban areas like Paterson, which we talked  
20 about last time and urbanizing areas of lower densities.

21 I think that distinction has to be made. In urbanizing  
22 areas of lower density, meaning an area that is  
23 being developed to a large extent for single family  
24 homes, I do not think that land cost is necessarily  
25 a factor against using mobile homes. As I said before,  
I can see that it would make perfect economic sense to

1 place a mobile home, a single wide unit on a lot that  
2 is worth more than the mobile home.

3 Q It may be true if the lot cost is  
4 worth \$8,000, but it might not be true if the lot  
5 cost is worth \$20,000. A I wouldn't  
6 exclude that either, but I think there is still a  
7 wide range between eight and 20. To me it would  
8 make perfect sense to do it with a \$15,000 lot.  
9 Have a \$15,000 lot and a \$12,00 mobile home, I see  
10 nothing wrong with it.

11 Q I'm not saying there is anything wrong  
12 with it, but couldn't it be said that an investor  
13 who is going to buy a \$15,000 lot would rather build  
14 a \$40,000 house on top of it, a \$60,000 unit because  
15 he will be able to, the builder will be able to  
16 realize more profit? A Well, our  
17 firm is doing some real estate investment ourselves  
18 and I'm seriously looking into that direction. I  
19 think a very important consideration here is how  
20 quickly you sell them off. If you can sell those  
21 lots off at a much faster pace because you have a  
22 much large market, that would offset possibly a  
23 good part of the lack of profit from selling a more  
24 expensive house.

25 Q That's the function of the time horizon

1 that you make your sales in?

2 A That's right, because the carrying cost for  
3 the property is an important item in your calculation.

4 Q Time is money.

5 A Right, and you know I spoke to Mr. Adler at  
6 length several times and he has specialized on mobile  
7 home subdivisions partly for that reason. One part,  
8 as I understand it of his motivation is, he is simply  
9 interested in providing a product for people who  
10 can't afford the conventional item. He seems to be  
11 making very good money with his mobile home subdivisions.

12 Q What about the function of the status  
13 of New Jersey as the most densely populated state in  
14 the union, particularly north New Jersey with the  
15 great population densities we have, doesn't that  
16 indicate that land is being used for the more standard  
17 types of construction, multi-family gardens, town-  
18 houses and single family stick, as opposed to mobile  
19 more as a function of population density because of  
20 the economics of it, rather than to demand cheap

21 mobile housing? A I really don't  
22 see that. I think again if we look at municipalities  
23 in urbanizing areas such as the 27 municipalities in  
24 Morris County, we see that with few exceptions every-  
25 thing is zoned for single family at low densities and

1 as long as that pattern prevails, so long as these  
2 municipalities do not, in fact, zone significant  
3 portions for higher density, multi-family uses, the  
4 mobile home would offer within the existing zoning  
5 framework the only alternative to a very large  
6 segment of the population to afford anything in  
7 those townships.

8 Q On page 4 of your report you state that  
9 the statistics show that mobile homes are barely used  
10 in New Jersey. The reason is lack of an adequate  
11 supply of land on which mobile homes are permitted.

12 Are you using here the same assumption you  
13 used before, that the lack of mobile homes is an  
14 inference, or do you infer here the same thing that  
15 you inferred before that from the lack of mobile  
16 homes, there must be regulations prohibiting them?

17 A It's partly from the lack of mobile homes  
18 statewide and partly from responses to my survey,  
19 partly from the review of zoning ordinances in this

20 State.

21 ERASA Q What zoning ordinances did you review to  
22 make that statement? A Well, we have

23 been working in the state for quite some time and  
24 municipalities that we have been working in we  
25 usually have to study the zoning ordinance.

1 Q Tell me what ordinances you looked at  
2 to justify that statement?

3 A Specifically?

4 Q Yes, specifically.

5 A I'm saying they had only one source to base  
6 the opinion on. I've been working in a great many  
7 municipalities in this State. I couldn't mention them  
8 all to you, but the municipalities in Bergen County  
9 and Essex County.

10 Q Tell me one.

11 A Teaneck, New Jersey, Hackensack, Little Ferry.

12 Q Okay. Teaneck, Hackensack and Little  
13 Ferry. Do you know those ordinances?

14 A Yes.

15 Q Do Teaneck, Hackensack and Little Ferry  
16 prohibit mobile homes? A Yes.

17 Q All of them? A I don't  
18 think anyone, certainly not Teaneck. I don't think  
19 Hackensack and I don't think Little Ferry has any

20 park, an existing park. There definitely is no new  
21 mobile home permitted in any one of these towns.

22 Q My question is do their ordinances  
23 prohibit mobile homes? A The ordinances

24 Q I'll ask you another question. Do you  
25 know whether the ordinance prohibits mobile homes?

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1 A I know the towns prohibit them. These are  
2 towns I'm familiar with and from talking to their  
3 building inspectors, there is absolutely no way to  
4 place a mobile home in those towns.

5 Q How do you know that?

6 A From dealing with the building inspectors.  
7 Teaneck is a town I've been dealing with in the last  
8 seven years building senior citizens housing and  
9 dealing with the building inspector.

10 Q What is his name?

11 A Milton Robbins. That's the town engineer,  
12 and the building inspector's name is Gary Montri.

13 Q When did you talk to them about mobile  
14 homes and what did they say?

15 A I don't specifically recall when I talked  
16 about this with them, but as I said I have been  
17 dealing with these people over a period of time and  
18 have gotten or drawn the conclusion from those  
19 contacts as well as from my general knowledge of  
20 those towns that there is absolutely no way to place  
21 a mobile home in any one of these towns. This is a  
22 conclusion.

23 Q I'm asking for specifics, Mr. Haeckel,  
24 to justify that conclusion. A You see,  
25 sometimes in this business you arrive at an opinion

1 or conclusion without specifically remembering all  
2 the details that led you to that conclusion.

3 Q Are you going to get on the stand and  
4 testify in court that in your opinion Teaneck does  
5 not allow mobile homes because you have had some  
6 conversation with the building inspector and that's  
7 your impression of Teaneck? A No, I  
8 would not testify in that manner.

9 Q All right. Are you going to get on  
10 the stand and testify to this statement on page 4 in  
11 your report? A Yes.

12 Q What is the basis for that statement  
13 in your report, that's what I'm asking you?

14 A As I pointed out before it's a combination of  
15 factors. Number one, the general inference from the  
16 lack of mobile homes in this State.

17 Q What is number two?

18 A Number two was familiarity with certain municipi-  
19 palities in this State. Number three is the assembly  
20 resolution which was introduced into evidence before  
21 which points out that the State legislature has  
22 perceived that there are land use restrictions  
23 against mobile homes in the State to the extent that  
24 a special commission would be necessary to investigate  
25 them.

1 Q The existence of the commission is a  
2 good reason to infer the existence of the fact that  
3 all towns without mobile homes prohibit them?

4 A I think that is one indication that shows you  
5 that in this State that there is an awareness on the  
6 part of the State government or the State legislature  
7 that there are land use restrictions against mobile  
8 homes.

9 Number four, response to my survey in 1976.  
10 They were all very clear and said no mobile homes are  
11 permitted except in existing mobile home parks which  
12 are non-conforming, legal non-conforming uses.

13 Q Anything else?

14 A Let me think about it. Number five, Mount  
15 Laurel. The Mount Laurel litigation clearly. In  
16 Mount Laurel, mobile homes were not permitted.

17 Q Why? Tell me why.

18 A Why they were not permitted?

19 Q Yes. A I think the  
20 township tried to develop a case that modular homes  
21 should be provided instead of mobile homes.

22 Q I'm not asking about the trial testimony  
23 that they presented. Was there something in the  
24 ordinance in Mount Laurel that prohibited mobile  
25 homes? A There was no specific

1 prohibition about mobile homes. Very similar to the  
2 case, I think of the 13 municipalities in Morris.

3 Q Why do you say Mount Laurel prohibited  
4 them? A Because under the trial,

5 finally after a couple of diversions, the defendants  
6 admitted that mobile homes, in fact, were prohibited.

7 Q They admitted that?

8 MR. MEISER: Are we off the record?

9 MR. FERGUSION: No, I want to know  
10 what this witness knows about Mount Laurel  
11 and why he has an opinion that the town  
12 prohibited mobile homes.

13 THE WITNESS: It was at the trial  
14 established that mobile homes were, in fact,  
15 prohibited.

16 Q Who told you that or were you there?  
17 What did you hear? What did you see that allows you  
18 now to make that statement or did somebody after the  
19 fact tell you? I want to know the basis of why you

20 say that. A I believe it came out  
21 in the testimony at the trial.

22 Q Okay. A I cannot be  
23 exact at this time and make the reference to when  
24 this came out.

25 Q Okay. Were you there when that

1 testimony came out? A Yes. As I  
2 recall, this point was established. I cannot at  
3 ~~this~~ time tell you exactly by whom and in which  
4 manner.

5 Q Okay. That's number five. Anything  
6 else? A I'm thinking. I think  
7 that's it.

8 Q Okay. On page 4 you also say "A key  
9 factor for contributing to the decline of mobile home  
10 use in New Jersey is the system of restrictive land  
11 use controls applied by urbanizing municipalities."

12 What is the basis for that statement, or are  
13 we once again in the same set of reasons to which you  
14 just gave us, one through five?

15 A Right, and it's the same set of reasons.

16 Q Okay. Table 2. Now, mobile home  
17 shipments as a proportion of total housing units  
18 starts for 9.3 percent in 1960. It went up 33 percent  
19 in 1970. A Yes.

20 Q Then they went back down from 1971 to  
21 1978. There was 16.1 percent.

22 A Right.

23 Q What is the reason for that decline,  
24 can you tell us? A Yes. There  
25 are many reasons. There are several reasons for

1 that decline. In 1972 and 1973 the industry reached  
2 its peak of production. After that, the 1974-'75  
3 recession set in and the mobile home industry was hit  
4 two ways by that recession. Number one, the way any  
5 other industry was hit by a sudden decline in purchasing  
6 power and a loss of customers for the new product.  
7 Beyond that mobile home production was really reduced  
8 because of the large number of repossessions. Since  
9 mobile homes had been mostly financed with chattel  
10 mortgages, there have been many people who never  
11 built up any equity in their homes. Chattel financing  
12 is extremely disadvantageous and when people were  
13 unable to make the payments because they lost their  
14 jobs, very often they simply walked away and homes  
15 had to be repossessed and came on the market as  
16 repossessed used homes and this drained away much  
17 of the demand, the remaining demand for buying mobile  
18 homes. So as a result quite a few manufacturers went  
19 out of business and many plants were closed and the  
20 production was severely reduced.

21 Now, this coincided with land use as becoming  
22 a major constraint in further expansion of the  
23 industry. The industry had originally been able to  
24 expand partly because there were many municipalities  
25 who were late in establishing zoning regulations.

1 If you take the 27 municipalities in Morris County,  
2 there is one, Jefferson Township that has a fair  
3 number of mobile home parks. All these parks have  
4 existed or were established before Jefferson Township  
5 enacted its zoning ordinance, and other towns that  
6 were early in establishing their zoning ordinance  
7 did not get any mobile home parks, so with zoning  
8 becoming more and more used by municipalities in  
9 the path of urbanization, the system of restrictions  
10 that we are trying to get a handle on here became  
11 more widespread and by the mid 1970's there were many  
12 areas in the country where it has simply become very  
13 difficult to place a mobile home. So this was another  
14 factor that severely resulted in a severe reduction  
15 of overall production.

16 Q Any other factors? Depreciation and  
17 the consequences of that, plus increasing restrictions  
18 on land use? A Yes.

19 Q Anything else?  
20 I think those are the two main factors, land  
21 use and the result of the recession.

22 Q What data can you point to to support  
23 reason number two, increasing restrictions on land  
24 use? How can you make that statement?

25 A Again, --

1 Q Nationwide. A Nationwide  
2 review of the literature.

3 Q What literature?

4 A There are magazines, there are newsletters  
5 that are regularly sent out which I read and subscribe  
6 to which provide a fairly good picture of what is  
7 going on throughout the country. The Manufactured  
8 Housing Dealer, formerly called the Mobile Home  
9 Dealer Magazine, the Manufactured Housing Newsletter.  
10 Those are two sources that I'm subscribing to that  
11 I think provide a fairly good picture of what is  
12 developing across the country.

13 Q Do you have back copies of those magazines  
14 in your office? A Yes.

15 Q How far back do they go?

16 A To 1973 or '74.

17 Q If I wanted to come and look at those  
18 back copies, could I do so?

19 A Certainly, yes.

20 Q What other sources did you consult in  
21 coming to that conclusion?

22 A Well, a range of literature. I think I have  
23 given you a reading list of some of the literature.  
24 There are two publications by Frederick Baer on  
25 mobile home regulations.

1 Q That's 1971, is it not?

2 A Right.

3 Q We are talking about the decline from  
4 '73 to '78? A Yes, but I think we

5 are talking specifically about the increasing role  
6 of land use regulations. This is something that set  
7 in earlier and I said it's not something that  
8 suddenly appeared. It appeared over a period of time  
9 and this is a somewhat old analysis, but I still  
10 think one of the best.

11 Q As a matter of an historical fact, a  
12 publication that appeared in 1971 can't say too much  
13 of the land use regulation of '73 to '78?

14 A It can to the extent to which trends are  
15 pointed out which persisted and which became even  
16 more important after it.

17 Q Mr. Baer has to tell us that it still  
18 holds true, does he not? If we are going to rely  
19 on his publication in 1971, we have to have him say  
20 it held true or didn't? A That is

21 correct. However, if you are, as I understood your  
22 question, and you correct me if I'm wrong, we were  
23 discussing what evidence there was to suggest that  
24 land use controls became an ever more important  
25 threshold.

1 Q I'm trying to get to the reason for the  
2 decline between '73 and '78 of mobile homes as  
3 percentage of housing starts and you told me that it  
4 was twofold, one, the recession and fall out from  
5 that; and secondly, the increasing use of restrictive  
6 land use controls. A Right.

7 Q I asked you what in the literature  
8 supported reason number two and you gave me Mr. Baer's  
9 publication in January, 1971.

10 A Right, that's correct.

11 Q Okay. Aside from that, what else?

12 A Since I'm saying that the recession was some-  
13 thing that set in in '73 and '74 and maybe nobody was  
14 able to predict it beforehand, but the other threshold  
15 that mobile home production was facing then had been  
16 in the making for quite some time. So that's why I  
17 pointed out these publications. There haven't been  
18 that many publications after 1974-'75, many book  
19 report publications, except the periodicals that I  
20 mentioned.

21 Q Anything else in that list?

22 A I think most of those types of analysis in this  
23 list are from the early '70's. I just received a  
24 San Diego County report which I haven't studied yet  
25 myself, but that may very well be a good source about

1 this. I also have a report from Humboldt County in  
2 northern California and an environmental impact  
3 report I think from 1976 which points to the land  
4 use restrictions against mobile homes and I have a  
5 number of sources that are not identified here among  
6 the responses to that survey that I did of more local  
7 studies.

8 Q Once again, if I came over to read  
9 those, you would make them available?

10 A Sure.

11 Q Okay. Turning to Table 2, if you add  
12 the numbers in 1960 through 1976 of mobile homes  
13 shipped, one gets approximately four million --

14 A Right.

15 Q -- eight hundred eighty-seven thousand  
16 four hundred units. Now, taking this Quick Facts,  
17 DH-17, can you tell me how many mobile homes were  
18 occuppied in 1976? A About three  
19 million from what I remember.

20 Q Can you find that?

21 A I think I have it in our own report. We  
22 don't even need the Quick Facts.

23 Q Okay. A On page 1, annual  
24 housing survey of 1976 showed that the nationwide  
25 supply of mobile homes used as year round housing

1 increased from two million to 3.6 million units  
2 during the first six years of the decade.

3 Q Well, how about three million six  
4 hundred twenty-seven thousand?

5 A Okay.

6 Q All right. Subtracting three million  
7 six hundred twenty-seven thousand from four million  
8 eight hundred eighty-seven thousand four hundred, I  
9 get one million two hundred sixty thousand mobile  
10 homes that were shipped in a 16 year period, 1960 to  
11 1976 that were not occupied as of 1976.

12 A As year round housing, yes.

13 Q My question to you is what happened to  
14 the one million two hundred sixty thousand mobile  
15 homes which weren't occupied? I take it some were  
16 in dealers inventory? A Nobody leaves

17 the room until they are found. The answer to that  
18 of course is a little bit speculative because for a  
19 number of reasons. Number one, the annual housing

20 survey is a very good survey, but it's a sample  
21 survey based on a relatively small sample that faces  
22 particular problems when it comes to mobile homes  
23 because mobile homes are very often not easily  
24 spotted as year round housing. In this State, the  
25 division, one division of the Department of Labor and

1 Industry, I forget the exact name of it, population  
2 statistics, has been trying to come up with estimates,  
3 population estimates including population living in  
4 mobile homes and they have faced significant problems  
5 in identifying where are mobile homes which are used  
6 in year round use. So it's much more difficult in a  
7 nationwide survey to get a representative sample and  
8 complete sample of mobile homes as compared to single  
9 family dwellings. So what I'm suggesting is, my  
10 hunch would be that the mobile homes are undercounted  
11 in the annual housing survey. They also have been  
12 undercounted in the annual census.

13 Q One million two hundred sixty thousand  
14 of them? A I'm not saying one  
15 million. I'm not saying how many. I'm saying there  
16 is evidence suggesting that they have been under-  
17 counted. This is one factor.

18 Q What are the other factors?

19 A At so many times we don't have simple clear  
20 cut reasons and life would be much easier. This is  
21 one factor. Another one is that there is a good  
22 number of mobile homes not used as year round housing,  
23 but as seasonal housing. Mobile homes have been  
24 used in resorts for just weekends or vacation use.  
25 In fact, you have one park right here in one of your

1 defendant townships called Sand Bar Mobile Home Park  
2 on Lake Hopatcong which is such a park of mobile  
3 homes in vacation use. So they have been used in  
4 parks for this purpose. They also have been used in  
5 large numbers in the backwoods for this type of use.

6 Now, again, one reason that I found doing the  
7 background work on the report to congress for mobile  
8 homes to be used this way has been that traditionally  
9 mobile home park owners have been able to force people  
10 to move their homes out of a park when they moved out  
11 themselves, unless they are willing to sell these  
12 homes at a substantial reduced price. So people have  
13 often chosen to move mobile homes out of their parks  
14 and then haul them into the countryside to be used as  
15 a hunting cabin and if you go up state New York, the  
16 Catskills and other areas, I've very often seen mobile  
17 homes being used for that kind of purpose.

18 A third use is for squatters and that may  
19 sound strange that we have a squatter problem to  
20 begin with in this country, but I think we have a  
21 bigger one than often we think we do. Montgomery  
22 County is a good example. This is one of the most  
23 affluent counties in the nation, but nevertheless  
24 has a significant squatter problem, have no choice  
25 of housing because the used mobile homes have been

1 thrown out of the parks and hauled them on some  
2 uncles lot somewhere in the rural part of the county  
3 and set them up there. Those again are units that  
4 would not be, could not conceivably have been covered  
5 by the annual housing survey, but that are, neverthe-  
6 less, used as year round housing.

7 Q Anything else?

8 A I think those are the three main factors and  
9 then, of course, there is a certain degree of  
10 attrition.

11 Q Like obsolescence or depreciation?

12 A No, not depreciation, just fire destruction.

13 Q What else? A I think  
14 those would be the sensible causes.

15 Q What about the durability of mobile  
16 homes compared to stick built homes, what is the  
17 useful life of a mobile home?

18 A The useful life of a mobile home built to the  
19 national standard is a function of two main variables.

20 One is the way in which the unit is connected with  
21 the site on which it can be used, namely whether it  
22 is placed permanently on a foundation and can stay  
23 there permanently; and secondly, the degree of  
24 maintenance that is afforded to the mobile homes.  
25 Those two variables are interrelated because one can

1 assume that a mobile home whose ownership is connected  
2 with the ownership of land would be maintained better.  
3 They would be a better incentive for the owner to  
4 keep that mobile home in good shape than if it was on  
5 a rented site where there would be less security of  
6 maintaining the asset. So those I have found to be  
7 the two main variables for durability. There are,  
8 from the review of literature that I've had, or from  
9 the literature that I know that I've reviewed through  
10 the years, there is no study that establishes how  
11 mobile homes, how the durability of mobile homes  
12 compares to the durability of other types of homes  
13 simply on a construction type of basis.

14 One study has been done a few years ago for  
15 the Manufactured Housing Institute. I think that was  
16 entirely biased and I have never --

17 Q In whose favor?

18 A In favor of the industry, but it was based on  
19 very shaky evidence and I've never used it as a  
20 source. Another study has been done or is still  
21 being done for HUD, I think partly by Bowing Industries,  
22 but I think they have -- it is an informal study.  
23 I've spoken to the project manager of it at HUD and  
24 he said it probably would never be published, so my  
25 hunch is that the data simply wasn't complete enough

1 or good enough.

2 In short, my conclusion has always been to  
3 look at the durability from a point of view of the  
4 minute differences in construction as meaningless.  
5 The two factors again that really determine durability  
6 are maintenance and very closely related to that is  
7 land use.

8 Q In other words, it makes a difference  
9 as to whether the owner of the unit owns the land?

10 A Owns the land or at least has a very stable  
11 lease on the land like you have in New Jersey.

12 Q Such as under the statute we discussed  
13 earlier? A Yes, but to me an out-

14 right ownership of the land on the subdivision or  
15 say condominium basis would be more beneficial.

16 Q What maintenance has to go into a  
17 mobile home? A Regular home mainte-

18 nance that has to go into any home. It has systems  
19 that are very comparable, electrical, heating, hot

20 water and so forth that do need occasional repairs

21 and occasional repairs are needed on the roof, on  
22 the siding, but nothing that say qualitatively set it

23 apart from other types of housing.

24 Q Do they have to be painted periodically?

25 A It depends on the siding, but they should not.

1 They come with aluminum siding and if this is not  
2 damaged by vandalism, it should last a very long time.

3 Q How long is a very long time?

4 A I would say for siding, if it lasts you for  
5 20 years it would be a very good time.

6 Q What does the old blue book say about  
7 the useful life of a mobile home?

8 A Well, you can make inferences from the blue  
9 book.

10 Q If I wanted to infer, what would I  
11 come up with?

12 A Not much more than  
13 15 years.

13 Q Do you agree with that?

14 A No, not at all. I think those books were  
15 full of baloney.

16 Q Do you agree or disagree with the  
17 proposition that one explanation for some of the  
18 units which disappeared from the specifics which we  
19 talked about earlier would be lack of durability, i.e.,

20 units that just wore out were put in service sometime  
21 between 1960 and 1976 and they wore out?

22 A Not because of the manner of construction,  
23 but because they had to be moved. That could very  
24 well have been a factor, yes.

25 Q If they have to be moved, I take it

1 there is more wear and tear on them?

2 A Yes. We have studied that and I've seen a  
3 good deal of first hand evidence in our disaster  
4 studies. HUD bought mobile homes off dealers lots  
5 in 1972 to be used as temporary housing in Wilkes  
6 Barre and Elmyra for disaster victims and these homes  
7 were hauled over longer distances than they would  
8 have normally been hauled. They were hauled a little  
9 less gently. They were set up and then they were  
10 hauled again and put in a storage area and these homes  
11 looked horrible. There were tremendous repairs with  
12 many of them because they were simply not built for  
13 that kind of movement. I've seen the homes in  
14 Montgomery County that were placed in the rural area.  
15 Some of these also had been on two or three sites  
16 before and you could see it.

17 Q The more you move them, the more banged  
18 up they get? A Obviously, yes.

19 Q Insofar as you can't move a stick  
20 built on site house, there is a difference in  
21 durability caused at least by the factor of moving  
22 them? A I would say right. If you  
23 compare stick built houses to a mobile home, the  
24 stick built house would fair even worse because if  
25 you move that over those kinds of distances --

1 Q If you throw mandatory moving into the  
2 equasion, stick built comes out second best?

3 A Probably, yes.

4 Q I'm sure. Are you aware that there is  
5 a mobile home park in Chester Borough?

6 A Yes.

7 Q Did you include that in your survey?

8 A I visited that park, yes. I think it's called  
9 Windy Acres.

10 Q Well, on page 7 of your report you  
11 state that there are six older mobile home parks in  
12 two of the defendant municipalities and you identified  
13 Jefferson and Washington.

14 A Yes, but there is also one in -- which page  
15 is that?

16 Q 7. A There is also one  
17 park in Rockaway Township which is one of the defend-  
18 ant townships that I did not count here because I  
19 based this on the list where that park had a Dover  
20 address, so the mailing address was Dover, however  
21 the park is located in Rockaway Township.

22 Q Did you visit only the parks in the  
23 defendant townships? A No, I visited  
24 some other parks also.

25 .Q Which ones?

1 A Let me see. I have a list here and I'll be  
2 happy to show it.

3 Q Okay. A Which updates  
4 my information.

5 MR. FERGUSON: Mark that.

6 (List of Mobile Home Parks in Morris  
7 County is received and marked DH-18 for  
8 Identification.)

9 THE WITNESS: This list --

10 Q DH-18. A Is a list of  
11 parks in Morris County and I have visited all these  
12 parks with the exception of the one in Butler. I  
13 think with the sole exception of the one in Butler.

14 Q What did you find at the one in Chester  
15 Borough, Windy Acres, 36 spaces?

16 A Yes.

17 Q Were there any vacancies when you  
18 visited it? A I didn't watch out  
19 for that. I didn't notice any.

20 Q What did you watch for?

21 A Just for the layout of the park and its  
22 maintenance.

23 Q What were your conclusions about  
24 Chester Borough's park? A That it  
25 was a little old fashion, but a nice park.

1 Q What was old fashion about it?

2 A Small lot sizes.

3 Q Density too great?

4 A Greater than I would recommend it now, yes.

5 I don't know what the overall density was, but I'm  
6 talking about spacing of the homes. There may have  
7 been an area of the park that was vacant which would  
8 result in an overall somewhat lower density, but I  
9 would prefer to have lot sizes of approximately 5,000  
10 square feet and these were substantially smaller.

11 Q Earlier we were talking about the need  
12 to imperatives of State, regional and Federal planners  
13 to minimize infrastructure costs and get the most  
14 for your infrastructure dollar.

15 In that connection, do you have an opinion as  
16 to whether it's appropriate to zone in a developing  
17 municipality where there is no infrastructure for  
18 multi-family housing or housing on very small lots  
19 when the infrastructure is not yet present, and if  
20 so, how to make your zoning and planning for the  
21 infrastructure mesh and how do you avoid zoning for  
22 something where the infrastructure will never occur?  
23 Can you comment upon that?

24 A I can comment on this. I think it's always  
25 difficult to comment in very general terms. I think

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a good zoning plan would take into consideration the best available information on the probability of the provision of such services in the future and as well as need as a spectrum of need.

Q What if the reasonable prediction is that the probability is always zero given the current state of availability of Federal, State money, regional planning for transportation, Morris County Master Plan for trunk sewerage lines, that kind of thing?

A Well, I think then on a case by case basis alternatives can be explored. There are alternatives for on site sewerage disposal that can be used.

Q Those alternatives of course are also available for conventional subdivisions and multi-families as mobile homes?

A Yes.

Q Is there any difference between package development plants as conventional plants?

A No.

Q People are people.

I don't see any.

MR. FERGUSON: Okay. That's it.

\* \* \*

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 als, :

Plaintiffs, :

v. : CERTIFICATE

BOONTON TOWNSHIP, et als, :

Defendants. - - -

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

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

*Victor Selvaggi, Jr.*

A Notary Public of the State of New Jersey

Dated: 5/31/79

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