

ML - Morris County Fair Housing Council  
v. Benton Twn

6/7/79

Deposition of Bernard Hackel - continued  
direct examination by Mr. Ferguson

P 130

ML 000 8985

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,

ML000898S

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 office of MESSRS. MC CARTER & ENGLISH, 550 Broad  
Street, Newark, New Jersey, on Thursday, May 24, 1979,  
commencing at 9 a.m.

**KNARR - RICHARDS, ASSOCIATES**

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THE PUBLIC ADVOCATE  
BY: PETER A. BUCHSBAUM, 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

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1 BERNARD HAECKEL, previously sworn,

2 recalled;

3 CONTINUED DIRECT EXAMINATION BY MR. FERGUSON:

4 Q Mr. Haeckel, yesterday we had spent some  
5 time on the fact that you believe that HUD regulations  
6 preempted the State of New Jersey or municipalities  
7 from covering the same grounds and legislating or  
8 regulating in that area. A Right.

9 Q I would ask you what you as a planner  
10 rely upon for holding that view. Have you received  
11 a legal opinion? Have there been any cases which are  
12 common knowledge to you as a planner? Has the Govern-  
13 ment issued any opinions? A I think  
14 it's plainly stated in the Federal statute.

15 If I can get my copy. I'm quoting from the  
16 National Mobile Home Construction and Safety Standards  
17 Act, which is Title 6, the Housing and Community  
18 Development Act of 1974.

19 Q That's 42 USC 5401.

20 A I believe that's the way it is coded, yes. I'm  
21 quoting from Section 610A.

22 Q Can I just see that before you read it?  
23 You are referring to 610A?

24 A Yes, prohibited acts.

25 Q Can you, without reading that section,

1 tell us what that section tells you as a planner?

2 A This section states that no person should make  
3 use of any means of transportation or communication  
4 which, in connection with the sale, offer for sale,  
5 lease or other transaction, transactions of mobile  
6 homes except as provided by this act.

7 I think I would prefer to read it verbatim  
8 rather than to paraphrase it.

9 Q Well, you are referring to just Section  
10 610A-1? A Right, any mobile home

11 which is manufactured on or after the effective date  
12 of any applicable Federal Mobile Home Construction  
13 Safety Standards under this title which does not comply  
14 with such standard except as provided in Subsection B.

15 Q Okay. That prohibits the use of a mobile  
16 home that does not comply with the act?

17 A That's correct.

18 Q Does the act say that the states cannot  
19 or a municipality in a state cannot legislate to a  
20 more stricter or different standard?

21 A Let me check this for a moment.

22 Q Please do. Take all the time you need.

23 A Sure. I'm quoting from Section 604D under the  
24 Federal Mobile Home Construction Safety Standards.  
25 Wherever a Federal Mobile Home Construction Safety

1 Standard established under this title is in effect,  
2 no state or political subdivision of a state shall  
3 have any authority either to establish or to continue  
4 in effect with respect to any mobile home covered by  
5 any standard regarding construction or safety applicable  
6 to the same aspect of performance of such mobile home,  
7 which is identical to the Federal Mobile Home Construc-  
8 tion Safety Standard. I'm not a lawyer, but this to  
9 me is very plain.

10 Q Okay. Is that what you rely on in  
11 saying that you believe the Federal law has preempted  
12 the states and municipalities?

13 A Yes.

14 Q Okay. Do you read that as saying a  
15 municipality in Morris County, for instance, could  
16 not require that all housing on small lots conform  
17 to the B.O.C.A. construction code?

18 A I don't think this has anything to do with  
19 land use regulations. This is simply a construction  
20 standard.

21 Q So that says that a municipality can't  
22 require a better built mobile home?

23 A That's correct, the municipality cannot require  
24 a mobile home that complies to a different standard.

25 However, it is entirely a matter of state law as to

1 whether a municipality would prohibit mobile homes  
2 and require dwelling units which are built to state  
3 construction standards.

4 Q I see. So that that statute does not  
5 preempt or have anything to say about land use  
6 regulations at all? A That's correct.

7 It's strictly a construction standard. It does not  
8 have anything to do with land use.

9 Q It is not your permission that that  
10 statute gives a land owner an absolute right to move  
11 a mobile home and build it on his lot?

12 A No, that's correct.

13 Q Even if it conformed with all the  
14 minimum square foot requirements or rooms, etc.?

15 A That's correct. The statute simply regulates  
16 the construction of mobile homes and the sale of  
17 mobile homes constructed after a certain date,  
18 regardless where and how they would be placed.

19 Q Okay. Is it common practice for mobile  
20 home parks to limit the size of families that can  
21 live in one of the units on their ground?

22 A In some areas of the country it has become  
23 common practice.

24 Q Tell us what that practice is in those  
25 areas? A To either limit the

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owners respond to local pressures on existing parks that are legal non-conforming uses.

Q I don't understand that last response. This has been one way -- A To respond to such pressures.

Q What pressure?

A The parks in the defendant townships, at least in Jefferson Township which has six parks and with the sole exception, I believe of Washington Township among the defendant townships in Morris County, are all legal non-conforming uses. There has been considerable pressure by these local governments on park owners to -- the way I would interrupt it, to make it difficult to continue running a park and park owners, if they are subjected to such pressures, can be expected -- to accommodate, as far as possible the concerns of the municipalities because generally one can expect that they would prefer to live in peace and a typical response is to limit the park to senior citizens because that tends to be a more acceptable

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A Of course it should also be a concern for keeping management and maintenance costs lower for the park owner.

Q So it's in their economic self interest to limit the size of the families?

A Yes. It might, particularly if the market is so small that a park operator can be so selective.

Q Isn't it true that a larger size family requires a larger unit?  
A In general, yes, certainly.

Q Isn't it true that the larger units in the mobile home industry came on line relatively recently as a historical matter?

A More recently than the smaller units, yes.

Q Therefore, isn't it true that those parks which were established prior to the time when the larger units came on stream and were available, were laid out to use a smaller sized unit?

A They were originally laid out for smaller sized units, yes. However, all parks that I visited have

5 A Yes.

6 Q Isn't it true to modify the size of a  
7 park or its layout to take into account larger units,  
8 it's against economic self interest for the park owner  
9 to do that?

A It may be under  
10 certain circumstances. It depends on the total  
11 return he would receive under alternative options.

12 Q And if the supply of mobile home sites  
13 in parks is restricted for any reason, it tends to  
14 distort the affect of free market system on prices  
15 and your prices may be higher and you may have other  
16 kinds of restrictions such as family sizes. All this  
17 would be a result of how the park operator conceives  
18 of his own economic self interest.

19 A Is that a statement?

20 Q Would you agree or disagree with that?  
21 It is a statement with a question mark at the end.

22 A Repeat the statement, please.

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

25 THE WITNESS: I believe that right now

5 of a park, so I believe that these tenant  
6 protection laws are much more an important  
7 factor.

8 Q What tenant protection laws are you  
9 talking about? A Eviction for Cause.

10 Q That's the one we already have marked?

11 A We marked the law yesterday that regulates the  
12 sale of mobile homes from a tenant directly to a  
13 successor. This is probably the most important  
14 measure. In different towns in the State there are  
15 rent control laws that also affect park rents, so  
16 that pad rentals cannot be raised by the park owner  
17 simply on the basis of market demand.

18 Q What's been the affect of rent control  
19 on mobile home rentals or costs in New Jersey?

20 A I would say in general the affect of rent  
21 control that pad rentals have not risen as fast as  
22 they could have risen simply as a result of pumped  
23 up demands.

24 Q Would the existence of rent control  
25 ordinances with respect to mobile home sites be a

6 There is one park that I know of that has been closed  
7 in the early '70's.

8 Q Where was that?

9 A In Lodi, but by and large from what I know, the  
10 supply of parks has not been reduced. Now, one reason  
11 for that may very well be that because of the tenant  
12 protection laws that we have, because of the law that  
13 provides for the sale directly to the next tenant,  
14 that protects tenants in parks. It is not that easy,  
15 I imagine it is not that easy to sell a park or to  
16 simply close it. I would think, however, that when  
17 land use regulations relax we reach the point that  
18 has been reached in other parts of the country that  
19 mobile home land use will be permitted, a new mobile  
20 home land use will be permitted and that there will be  
21 a much greater incentive to develop mobile home  
22 subdivisions than mobile home parks. I think because  
23 of the rent control laws, because of tenant protection  
24 laws, the incentive for renting a mobile home park  
25 today is much smaller than it used to be 20 years ago.

6 is just one factor. It's a factor that works both ways.  
7 It protects existing supply of least cost housing by  
8 simply keeping rents at acceptable levels. On the  
9 other hand, it can be connected with a cost, namely a  
10 cost in a reduced incentive to build new housing, but  
11 it's a fairly complex relationship.

12 Q In your opinion what is the net result  
13 insofar as its influence on new construction?

14 A I don't think that can be stated in such a  
15 simple manner because there are other factors that come  
16 into play.

17 Q Just tick off, if you could without  
18 going into great detail, what the other factors are.

19 A What they are in general?

20 Q In general. A High interest  
21 rates, difficulty in getting mortgage funds or  
22 construction funds for multi-family rental housing.  
23 A scarcity of suitable sites. Again, this is the most  
24 restrictive factor in supplying new rental housing  
25 that there is so little zoning and as a result available

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Q Do you have any opinions about what the zoning is for multi-family housing in general in the Morris County area?

A Well, I don't have an opinion. I haven't studied it.

Q So you are not prepared to testify in this case about that issue?

A No. I stated before that I've been asked to simply testify in connection with mobile homes.

Q Would it be accurate then to conclude about rent control that it is one factor which inhibits the construction of new types of housing units over which that rent control is, in fact, exercised?

A It is one factor which may inhibit, yes. Not necessarily. It depends also on the rent control ordinance. I cannot be so much generalized.

Q To the extent it holds down the return the landlord can get, that's a disincentive to build new housing. Would that be accurate?

A I think the one general statement one can make here that if a developer cannot expect a fair return,

6 that does not involve Government subsidies or Govern-  
7 ment programs and there you can, of course, use the --  
8 you can make the general assumption that a developer  
9 of market rate rental housing would not develop such  
10 housing if he cannot expect a fair return.

11 When we talk about least cost housing, least  
12 cost rental housing, we are solely talking about  
13 housing that requires Federal subsidies. At the  
14 present time it would be --

15 Q I'll clear it up. I thought the definition  
16 you gave me of least cost housing was quite different  
17 from what we are talking about now. Are you telling  
18 me least cost housing does, in fact, require subsidies?

19 MR. BUCHSBAUM: The position of the  
20 plaintiffs has been, as you know, that towns  
21 have an obligation to build housing at least  
22 cost consistent with health, safety standards  
23 whether or not that housing is subsidized.  
24 That's the reason for the position that there  
25 are very few Federal subsidies available

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MR. FERGUSON: I hope you will amend that to say it is the position that the towns should zone for least cost housing.

MR. BUCHSBAUM: Right.

MR. FERGUSON: And not actually build.

MR. BUCHSBAUM: That's a fair statement of our position, so I think Mr. Haeckel in responding to your question, I'm not sure he fully was thinking of the way in which the plaintiffs have been using the term least cost housing in this case because we have been using it to indicate minimum.

MR. FERGUSON: That housing which can be built in the market according to the --

MR. BUCHSBAUM: Minimum health and safety standards.

MR. FERGUSON: Standards required by minimum of health and safety.

MR. BUCHSBAUM: Health and safety is our term.

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cost housing to indicate subsidized housing.

THE WITNESS: I was talking about low and moderate housing.

Q The concept of least cost housing has not built into it -- A I was talking about low and moderate income housing.

MR. BUCHSBAUM: I think it's fair to say the concept of least cost housing does not have built into it the subsidy. The concept of affordable is built into of getting the house prices down to the lowest level so that the greatest range of people can afford them. That's why we are in particular sporting mobile homes.

MR. FERGUSON: Affordable by any particular income group?

MR. BUCHSBAUM: By the lowest income group that can be served.

MR. FERGUSON: The name of the game is to get the price as low as possible consistent

6 out that way, fine, but the concept of least  
7 cost is that price at which the market will  
8 build consistent with minimum standards.

9 MR. BUCHSBAUM: Essentially that's the  
10 position and the additional expectation of  
11 some of the housing would then be constructed  
12 with Federal subsidy money and would become  
13 available to every income group, no matter how  
14 low.

15 MR. FERGUSON: That's the concept which  
16 is the next step after least cost housing  
17 provided for in a zoning ordinance according  
18 to the Advocate's theory.

19 MR. BUCHSBAUM: I don't think we have to  
20 write our brief right now. I think essentially  
21 we want to clarify the record with respect to  
22 the use of the term least cost housing as you  
23 were using it and the contrasting sense that  
24 Mr. Haeckel appeared to be using it and I think  
25 we have clarified that adequately.

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BY MR. FERGUSON:

Q Now we are clear, Mr. Haeckel, that when we use the term least cost housing, we are talking about not necessarily any given price that can be afforded by any particular income group, but the lowest price possible under minimum standards of health, safety and maybe even welfare. A Right.

Q Whatever that word may mean.

A Right.

Q By the way, do you know of any particular set of standards which would give us the specimen standard for those minimum standards of health and safety and maybe even welfare? Are there any around?

A There are many standards around, many minimum standards. We have talked about them before. There are HUD minimum property standards.

Q HUD minimum property maintenance?

A Minimum property standards.

Q For new construction?

A Minimum property standards for new construction for multi-family housing, for one and two family housing. There are standards, minimum design standards of the New Jersey Housing Finance Agency.

Q Are they the same as the HUD standards?

A No.

6 MR. BUCHSBAUM: I don't think that's a  
7 proper question. We have an expert that testi-  
8 fied to that. We have an expert, Alan Mallach  
9 who will be testifying to that specific issue  
10 and presenting the position of the plaintiffs  
11 on that issue. Mr. Haeckel has been retained  
12 to discuss mobile homes and I don't believe he's  
13 required to go into a discussion, nor have the  
14 plaintiffs requested him to analyze the relative  
15 standards with respect to multi-family dwellings.

16 MR. FERGUSON: You weren't here yesterday,  
17 but the witness did testify that the HUD stand-  
18 ards for mobile homes were, in his opinion, the  
19 minimum standards which one should live up to  
20 and they are reasonable because they are there.  
21 I would like to get his judgment about whether  
22 the HUD standards for other kinds of housing of  
23 the same type and nature in terms of minimum  
24 standards --

25 MR. BUCHSBAUM: Well, he can answer the

1 question. As you know, we are reserving  
2 objections for trial.

3 MR. FERGUSON: Of course.

4 THE WITNESS: So what is the question?

5 Q The question is do you have an opinion  
6 about whether the HUD standards for new multi-family  
7 construction are appropriate for New Jersey or whether  
8 the higher standards of NJHFA for new multi-family  
9 construction are appropriate for New Jersey?

10 A I believe both sets of standards have been  
11 found to be appropriate by the agencies that have  
12 developed them. I pointed out during my first deposi-  
13 tion that in my experience standards can only be  
14 discussed as very relative expressions of a preference  
15 at a given point in time in a given cultural context  
16 and that's the reason why they so widely vary. I have  
17 prepared in some of these reports comparisons between  
18 different standards and they show very clearly how  
19 widely they can differ and how widely they can even  
20 differ if they are applied in exactly the same area.

21 Q Would you ever make a blanket statement  
22 that because something exceeds the HUD standards for  
23 multi-family construction or least cost housing, it is,  
24 per se, unreasonable? A No, I would not  
25 say that because there may be other considerations that

1 enter into the development of one standard and that do  
2 not play an important role in another standard. For  
3 example, the fact that the New Jersey Housing Finance  
4 Agency has somewhat larger room sizes in its design  
5 standards, it is a policy of that agency to produce  
6 housing which would be as comparable as possible to  
7 unassisted market rate housing in the State, so that  
8 it would be more marketable in case subsidies would  
9 expire. Now, this is one concern that it is important  
10 for an agency that depends on the sale of bonds because  
11 it is the concern that may entice underwriters to look  
12 for favorable at a bond with an agency.

13 Q Doesn't it represent a little bit more  
14 than that? A I think it's an important  
15 consideration. That's a consideration which you do not  
16 have, for example, if you build housing with direct  
17 Federal loans.

18 Q Why not? A If you build  
19 housing with direct Federal loans you do not have to  
20 raise private bond money. You do not have to come out  
21 with a bond issue.

22 Q Doesn't the judgment of the bond under-  
23 writing and buyers, that a set of housing units will  
24 be marketable, represented judgment of the market as  
25 to the work of the units you are building and if you

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in this case and that judgment has to be taken seriously if one wants to sell a bond.

Q How about if one wanted to sell the unit 25 years after they were constructed, isn't that judgment of the bond holders then ultimately the bond underwriters and bond holders, in effect, the judgment of American economic society as to the economic viability of what is being built?

A Well, as I stated --

MR. BUCHSBAUM: Excuse me. I think our reports from Mr. Mallach makes clear there is a difference in the judgments and we have provided information on that.

MR. FERGUSON: I don't care what Mr. Mallach says. I'm entitled to ask this witness what he says because we are talking about minimum standards for mobile homes and I'm trying to find out what minimum standards are, what the various criteria are and explore this witness' expertise.

1 MR. BUCHSBAUM: Okay. Answer if you  
2 can, but I don't see where this gets into mobile  
3 home standards in particular.

4 THE WITNESS: Repeat the question,  
5 please.

6 (The Reporter reads back the following:

7 "QUESTION: How about if one wanted to  
8 sell the unit 25 years after they were constructed,  
9 isn't that judgment of the bond holders then  
10 ultimately the bond underwriters and bond  
11 holders, in effect, the judgment of American  
12 economic society as to the economic viability  
13 of what is being built?")

14 THE WITNESS: To me this is simply the  
15 judgment of a group of a section of the segment  
16 of the society which happens to be involved in  
17 the sale and purchase of bonds. I don't think  
18 this is related in any way whatsoever to health  
19 and safety. It expresses preference of a given  
20 socioeconomic class which may be very valid for  
21 that class, but which also has to be seen as  
22 relative in connection with the total spectrum  
23 of society.

24 Q In least cost housing, whose health and  
25 safety are we concerned about?

1 A We are concerned about the health and safety  
2 of all who would use the least cost housing.

3 Q What about the health and safety of the  
4 investors who have to put their money into it?

5 A I think if --

6 Q The health I take it would not be  
7 affected unless they went into bankruptcy, but what  
8 about the safety of their investment?

9 A The standard of health and safety of occupants  
10 then. The investor has not much to worry about his  
11 or her health and safety.

12 Q Except if the market won't buy it.

13 A I don't think that's at all a fair generaliza-  
14 tion. I don't think it applies at all.

15 Q Why not? A Because I don't  
16 think one could state that least cost housing cannot  
17 be sold. As a matter of fact, there is a booming  
18 market for syndication in this country for subsidized  
19 housing, not just least cost housing. In a wider  
20 sense for subsidized housing.

21 Q Isn't that a function of the Government  
22 money that is available and the take out which he can  
23 get when you get a subsidy approved?

24 A I think it is a function of fact that there are  
25 many investors throughout the nation who have great

1 faith that projects, subsidized low and moderate  
2 income projects are viable and are worthwhile their  
3 investment. They are paying between 15 and 22 percent  
4 of the total mortgage amount or total development costs  
5 in syndication to buy a limited share of such projects.

6 Q Isn't that because you have a guaranteed  
7 Government take out? A No, there is

8 no guaranty whatsoever. If these projects are not  
9 managed properly, if they do not prove viable, then  
10 these investors would lose the investment and would,  
11 in fact, take considerable risk.

12 Q What kind of subsidy are you talking  
13 about, Section 8? A Section 8, yes,  
14 farmers home programs.

15 Q Which is an equivalent program?  
16 A Section 518 of the farmers home program is such  
17 a program.

18 Q Okay. Do you believe that the HUD  
19 standards for mobile homes are the minimum standards  
20 consistent with health and safety?

21 A I think they are very good standards, very  
22 adequately protect health and safety of mobile home  
23 occupants, yes.

24 Q The minimum standards that we are to  
25 apply in New Jersey in this litigation, the HUD

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A For construction, yes.

Q What about land use standards?

A That would be a different matter.

Q All right. I would like to ask about that matter. What standards do we apply to mobile homes for land use in Morris County in 1979?

A There does not exist a national standard for the development of mobile home parks and mobile home subdivisions. However, there is a very recently published recommended ordinance for the design and operation of mobile home subdivisions and I think this recommended ordinance has been based on very extensive research and it seems to me a very good basis.

Q Do you have a copy of it with you?

A Yes. Prior to the enactment of that ordinance there has existed an FHA minimum standard for the development of mobile home parks, so there are national guidelines that are available and could be used by any municipality that has an interest in providing least cost housing, mobile homes as a form of least

1 cost housing. This report here includes the model  
2 ordinance mentioned.

3 MR. FERGUSON: Could we mark that for  
4 identification, please.

5 (Guidelines for improving the mobile  
6 home living environment is received and marked  
7 DH-19 for Identification.)

8 Q You have another publication?

9 A Right. The second one is the FHA minimum  
10 design standards for mobile home parks, designated as  
11 Circular No. 4940.5, June 18, 1973.

12 MR. FERGUSON: Mark that.

13 (Circular No. 4940.5 dated June 18, 1973,  
14 is received and marked DH-20 for Identification.)

15 Q DH-19, this is an August, 1977 publica-  
16 tion of HUD and it's done by a private firm under  
17 contract. Is that correct? A Yes.

18 Q Where is the ordinance, suggested model  
19 ordinance? Is it appendix A? A Right.

20 Q Do you know whether this has been put  
21 into effect in any municipality in New Jersey?

22 A I seriously doubt it. This has been published  
23 very recently. As a matter of fact, it came out for  
24 sale I think in February of this year or January of  
25 this year.

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A No.

Q Without going through this in great detail, what are the five best provisions in the ordinance that you can tell us about which would facilitate the development of mobile homes as least cost housing in New Jersey?

A I think the ordinance has to be reviewed as a whole. It has provisions for design and layout, provisions for density, indirect provisions for density and for maintenance and administration. I think I've read it once and it looks to me like a very good basis for municipalities which would be interested in enacting such a ordinance. I would assume that any municipality that had such an interest would make modifications based on local needs and conditions.

Q What about density? You said it had indirect controls, but tell us in effect what they are and provide.

A Yes. May I have

a look at that, please.

Q Of course.

A There is a

1 section here, Section 32, plans and improvements that  
2 has a Subsection 32.1, required setback buffer strips  
3 and screening. This section includes standards for  
4 the distance to development boundaries, distance across  
5 streets, distance to common areas, open space depth  
6 and distances between mobile homes, other open space  
7 depth requirements and buffer areas. All this trans-  
8 lates into an indirect density regulation that,  
9 however, depends then on the topography of the site and  
10 depends on the size of mobile homes to be used.

11 Under 32.2 is a specific consideration of  
12 density and that consists of only two paragraphs,  
13 stating as follows --

14 Q Before you read them, just let me take  
15 a look. To a large extent, the density will vary  
16 according to the unit size you are talking about?

17 A Yes.

18 Q To the setback required, all the things  
19 that you just read? A Right.

20 Q Can you give me a range of density which  
21 would be appropriate for double wide units if built  
22 according to the specs of this ordinance on a flat  
23 piece of ground? A Six, seven units  
24 per acre. Seven units per acre you could easily  
25 accommodate. 5,000 square foot lots.

1           Q           You take 10 percent of the available  
2 ground for streets and --           A       No, you  
3 take 30 percent, approximately.

4           Q           For what?           A       You have seven  
5 units. You would have 35,000 square feet and does  
6 anybody have a calculator here as to how much there  
7 is of an acre?

8           Q           It's more than 70 percent.

9           A       It's a little more than 70 percent, but then  
10 the lot doesn't have to be necessarily 5,000 square  
11 feet, it could be 4,500, but I think six to seven  
12 units per acre is a very safe range.

13          Q           You don't want to go much over that?

14          A       No.

15          Q           What are the requirements for open  
16 space?           A       Before I answer that, could

17 I qualify this?

18          Q           Sure.           A       I would not want  
19 to go much over that in parks or subdivisions which  
20 are designed for double wides or for single wides  
21 with a possibility of an expansion to a double wide.  
22 I think in most cases this would be the most appropriate  
23 way of designing a park to have that option, even if  
24 there are single wides, you have the option of later  
25 expansion. If a park or subdivision was designed

1 specifically for single wides without the option of  
2 expansion, the density would be slightly higher.

3 Q You would take it always retaining the  
4 possibility of expansion? A Yes, I  
5 think that would be good planning.

6 Q Is there any family size which is  
7 inappropriate for mobile homes? Is there a size  
8 beyond which we shouldn't let families occupy mobile  
9 homes for health and safety reasons?

10 A I don't think so. Mobile homes can be bought  
11 today at sizes very comparable to single family  
12 dwellings and much larger than apartments, so I don't  
13 think there is any such limit.

14 Q Is there, in your opinion, any minimum  
15 size below which we should not go for the kind of  
16 mobile home housing we are talking about to satisfy  
17 least cost housing obligations?

18 A The minimum size is stipulated in the mobile  
19 home construction and safety standards act.

20 Q That is a construction code, not a land  
21 use regulation? A That is correct,  
22 but I think for the mobile home unit itself that is  
23 the code that applies.

24 Q That's true, but do you believe as a  
25 matter of land use regulation there ought to be a

1 minimum size which we shouldn't go below for minimum  
2 health and safety reasons?

3 A I would think in this case the standard, the  
4 Federal standard should be used as a minimum standard.

5 Q In the design of subdivisions or  
6 condominium forms of ownership or parks, you would  
7 always allow room for expansion?

8 A I would in most cases that I can think of. I  
9 can think of some exceptions. I can think of a mobile  
10 home park strictly for the elderly.

11 Q Senior citizens?

12 A Senior citizens where there would never be a  
13 necessity for expansion.

14 Q How about a bachelor park for no children?

15 A Under very special circumstances perhaps. I  
16 think this would have to be considered on a case by  
17 case basis. What I would like to say here is that as  
18 a general rule, as a general rule the possibility of  
19 expansion would be a good feature.

20 Q Okay. Now, what does the ordinance say  
21 about maintenance? A Could I have a  
22 look at it?

23 Q Yes. A This ordinance  
24 has a part D, community maintenance standards and  
25 responsibilities.

1 Q This is true for mobile home parks and  
2 subdivisions? A Yes.

3 Q And condominium forms?

4 A Yes.

5 Q It can be adopted for all?

6 A Yes.

7 Q What kinds of maintenance organizations  
8 does the ordinance call for? A Why don't  
9 we have a look at what the ordinance says. That would  
10 be part B.

11 Q Okay. We also have part C which is  
12 community service buildings? A Yes.

13 Q That doesn't include recreation facilities,  
14 does it? A It includes management  
15 offices, repair shops, storage areas, sanitary  
16 facilities, laundry facilities, indoor recreation  
17 areas and commercial uses.

18 Q I'm wrong. What is the item for repair  
19 shops? A A.

20 Q But what is a repair shop? Why do you  
21 need a repair shop in a mobile home community?

22 A Depending on the size of the community, it may  
23 be a very good idea to have a repair shop.

24 Q Repair for what?

25 A Appliance repairs.

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Q I thought that might refer to repair of the mobile homes. A Of course it can also apply to home repairs as home repairs are necessary with any type of home.

Q But do you have a carpentry shop in a regular subdivision? A This is not a carpentry shop.

Q I know, it's a repair shop.  
A That is a possibility in some very large communities. It really depends on the size and the type of an operation.

Q Does that ordinance recommend outdoor recreation facilities? A This ordinance includes in the design standards --

MR. BUCHSBAUM: Off the record.

(There is a discussion off the record.)

Q Mr. Buchsbaum made the point that under Subtitle C it is not absolutely mandatory under the ordinance. Maybe I can find what I was referring to about court games.

It says in Section 3.2.17.1 that not less than eight percent of the gross site area shall be devoted to recreational facilities. A Yes.

Q Is that a mandatory provision?  
A Nothing in this ordinance is mandatory. This

1 ordinance is a suggested ordinance.

2 Q Why is that suggested then?

3 A It is suggested to have a certain amount of  
4 space for recreational facilities. That is, under  
5 many circumstances, a very reasonable element to have  
6 in a, particularly in a condominium or park situation.

7 Q You would make the same comment about  
8 any form of structure, whether it be mobile home or  
9 stick built?

10 A It depends on the  
11 kind of organization. I would say in a condominium  
12 type of ownership, yes. In a cooperative ownership,  
13 yes. In a PUD, yes. In a fee simple subdivision, I  
14 would not necessarily include that. This ordinance  
15 applies to a wide range of ownership types and I  
16 think a specific ordinance permitting a specific type  
17 of use would selectively use certain elements and make  
18 modifications as needed.

19 Q And part B, Section 1.5, it gives  
20 specimen walking and driving distances and times from  
21 various factors such as public transportation within  
22 three quarters of a mile, from community or commercial  
23 within three quarters of a mile.

24 First, can you tell us what the definition of  
25 public transportation is? A I can give  
you my definition.

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Q What's yours? A It is a means of transportation which is available to the public.

Q Mr. Haeckel, I think that's a wonderful definition. Would you tell me what community commercial is as that word is used here?

A Again, --

MR. BUCHSBAUM: Are these defined in the ordinance anywhere?

MR. FERGUSON: Not in the section I looked at, but you are free to take a check on it.

THE WITNESS: There is no definition here for community commercial. There is no definition I think for public transportation either, so I have to give you my own. Public system, but not public transportation. Public system is water or sewerage. My own definition for community commercial is a neighborhood retail, a retail area as opposed to a regional commercial area.

Q How many stores do you need?

A It depends on the size of the neighborhood. A small neighborhood, one store might do. In a larger area you might need more or you might have a market

1 for more.

2 Q For least cost housing purposes, what is  
3 the best set of location criteria to use as to where  
4 to put mobile home subdivisions, parks or condominium  
5 groups? A If possible, close to

6 existing commercial facilities, existing public trans-  
7 portation and existing other types of community  
8 facilities.

9 Q Would it be accurate to say the same  
10 thing about regular least cost housing?

11 A Certainly.

12 Q There is no difference?

13 A I don't think there is much difference in terms  
14 of the importance of these criteria.

15 Q Is there anything about siting that  
16 differentiates mobiles home from site built homes  
17 in terms of where a rational planner would locate  
18 least cost housing developments?

19 Is there anything about a mobile home that  
20 should lead a rational planner, indeed you to locate  
21 it any place different than a regular site built or  
22 stick built type construction?

23 A I do not think that the type of construction  
24 here is a criterion for location. To answer your  
25 question in that regard, the answer would be no. I

1 think the important criteria are the markets you wish  
2 to serve and that market may cross the lines of differ-  
3 ent types of construction.

4 For example, I do not think one could generalize  
5 that mobile homes, if they would be made available in  
6 the defendant townships, would be used only by people  
7 at the lower spectrum of the population. I know some  
8 people who are living in mobile homes who could afford  
9 very expensive stick built homes. They just happen  
10 to like this, but the mere fact that mobile homes  
11 would be an alternative available only to or the only  
12 alternative available to a fairly large segment of the  
13 population, in that the income groups above this  
14 spectrum would have other choices, makes it more  
15 likely that the overall average socioeconomic charac-  
16 teristics of people making use of the mobile home  
17 alternative would be somewhat lower than, would be  
18 lower than the average of people making use of available  
19 single family options and to the extent to which this  
20 is true, to the extent to which this will be a market  
21 of somewhat more moderate means. Locational criteria  
22 become more important for a market of \$200,000 homes.  
23 The locational criteria becomes less important because  
24 people capable of affording those homes are generally  
25 assumed also to be able to afford longer, less proximity

1 to community facilities, shopping areas and so forth.

2 Q And therefore what?

3 A Therefore because of those considerations,  
4 subdivisions for mobile homes or other land uses  
5 permitting mobile homes should be planned with more  
6 concern for a certain amount of proximity to community  
7 facilities than housing for the very affluent.

8 Q Okay. What are some of the other  
9 considerations about locating housing in this design  
10 for persons at the lower spectrum of the income range?

11 A There is a general rule one can assume that the  
12 lower a family is in the income spectrum, the more  
13 important proximity to community facilities and retail  
14 and public transportation becomes.

15 Q What about employment?

16 A And employment also.

17 Q Isn't proximity to employment the most  
18 important?

19 A I think they are all  
20 important, but I agree proximity of employment is a  
21 very important factor.

22 Q If you had to rank them, would you put  
23 employment number one? A I don't  
24 think it would make sense to rank them. I think they  
25 have to be considered together because if you take one  
of these concerns out and ignore the others, you are

1 likely to come up with a bad solution.

2 Q In your opinion, what would be the  
3 proper methodology to do a study market to determine  
4 the market demand for mobile homes in Morris County?

5 A To permit a suitable supply of or to offer  
6 suitable development opportunities for mobile home  
7 communities and to see how developers are able to  
8 make use of these opportunities.

9 Q My question was how do you do a market  
10 study to determine before you build, what the market  
11 really is?

12 A By analyzing the income  
13 groups that you would want to serve and by analyzing  
14 the number of households in those income groups  
15 employed in the area or close to the area and not  
16 having other housing opportunities in the area and  
17 then one can assume that a certain section of that  
18 total potential market would be interested in this  
19 alternative.

20 Q What is the area for the defendant 27  
21 towns, the Morris County area? What area would you do  
22 that survey in?

23 MR. BUCHSBAUM: Have you made any study  
24 of that?

25 THE WITNESS: No.

Q If you were trying to do it for mobile

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several portions of those municipalities. They cover a large area and I don't think there is only one section where this would be a very viable alternative. I think the growth areas, the areas with the greatest land reserves and resources.

Q Those are the areas that would be the purpose of the study to see what the rational planner, wanting to use mobile homes, would target as a reasonable target in order to satisfy in some way the demand?

A Yes.

Q What areas would you pick to ascertain the demand?

MR. BUCHSBAUM: In other words, looking for something comparable to the eight county regions. What would be the --

MR. FERGUSON: I'm asking him to answer that question.

THE WITNESS: Could you repeat it, please.

(The Reporter reads back the last question.)

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THE WITNESS: Again, I have not studied the 27 towns, so I can really not answer the question.

Q How far afield would you go to judge the need for mobile home housing in the defendant 27?

A I included some calculations in my report which indicate that there is some very large segment of the population in the Newark SMSA which would be able to afford mobile homes in the defendant townships if, in fact, there was an adequate supply, supply offer.

Q What is the Newark SMSA?

A It includes Essex County, Morris County, Union County and Somerset County.

Q What about Bergen?

A It doesn't include -- it's not included in the SMSA.

Q What about Hudson?

A It's in the Jersey City SMSA.

Q Jersey City has a separate one?

A Yes.

Q How about Bergen, where is that?

A Bergen County has the SMSA. It used to be the New York SMSA.

Q Bergen County has a separate one?

A Yes.

1 Q In doing a realistic market study to  
2 quantify the demand for mobile homes in Morris County,  
3 do you believe it's legitimate to use the Newark SMSA  
4 without differentiating where the housing needs or  
5 people are within the Newark SMSA?

6 A Can you repeat that, please.

7 (The Reporter reads back the last  
8 question.)

9 THE WITNESS: Again, I did not do here  
10 a housing needs study which was not part of my  
11 assignment. I simply made calculations as to  
12 what the segment is of the entire population  
13 in that standard metropolitan statistical area  
14 which could afford a mobile home ownership  
15 alternative if it was offered in the townships,  
16 but which could not afford any other ownership  
17 alternative. Now, I do not assume if these  
18 townships made mobile home housing alternatives  
19 available, that entire part, that entire 30  
20 percent of the SMSA would now move there.

21 Obviously that would be absurd, but I would  
22 expect that in the path of urbanization and in  
23 the path of the location of employment in those  
24 areas, a certain segment of that population  
25 would choose this alternative. We will never

1 know unless these options are available as to  
2 how large that segment would be.

3 Q Would you advocate a test marketing of  
4 mobile home developments to satisfy this need before  
5 full scale planning is adopted allowing mobile home  
6 subdivisions, etc.? A I don't think  
7 there is no question in my mind that there would be  
8 a market and the developers are the best people to  
9 judge whether or not they have a market because they  
10 ultimately would be left with the liability if they  
11 misjudge their market.

12 MR. FERGUSON: We will break for lunch.

13 (A lunch recess is taken.)

14 Q Does this recommended ordinance contained  
15 in DH-19, would you be satisfied with the ordinance  
16 as a model for use in Morris County?

17 A This is the most recent model ordinance and  
18 national model ordinance that has been drafted and if  
19 I were to assist a municipality in Morris County to  
20 develop an ordinance for mobile home subdivisions or  
21 parks, I would certainly use this as one of the sources.  
22 I don't think such an ordinance should be copied. I  
23 don't think that's the purpose of it. I think the  
24 specific ordinance should have been developed out of  
25 specific local conditions using national criteria such

1 are the ones that are included in this recommended  
2 ordinance.

3 Q What about aesthetics, is there any provi-  
4 sion in this ordinance with respect to the appearance  
5 of the unit? A Most design or all  
6 design parts included in this ordinance provision  
7 regarding the design of the park or subdivision of  
8 course have aesthetic aspects.

9 Q For instance, one of the parameters was  
10 to avoid the monotony of layout. Is that a legitimate  
11 scope of -- A Certainly. I think a  
12 good site plan will always be one that avoids monoto-  
13 nous layout.

14 Q Is that a minimum standard of health and  
15 safety? A I think it goes beyond a  
16 narrow definition of health and safety. I think it  
17 relates to livability which is a somewhat more  
18 difficult a term that is somewhat more difficult to  
19 define. It relates to the quality of life even in an  
20 environment.

21 Q The concept of livability is not  
22 included in health and safety?

23 A Not in a narrow construction of health and  
24 safety.

25 Q In the definition of least cost housing,

1 we are using the narrow construction or including  
2 livability. A I think livability can  
3 always be included unless in very low budget develop-  
4 ments. Simply the difference between an unimaginative  
5 approach to a design task as opposed to a more  
6 imaginative one.

7 Q If a planner comes in and says Ferguson,  
8 I can save money by laying out mobile homes one beside  
9 the other end on end ten feet apart because I have the  
10 least number of linear feet of sewerage, of street,  
11 of water pipe and I get a per unit improvement cost  
12 that's less than any other layout and yet you still  
13 meet the minimum standards of the HUD regulations, <sup>would</sup> you  
14 as a planner think that that is least cost housing  
15 which you would recommend be built?

16 MR. BUCHSBAUM: Are you talking about  
17 from the standpoint of site plan now or drafting  
18 an ordinance?

19 MR. FERGUSON: Site plan.

20 MR. BUCHSBAUM: In other words, you are  
21 not asking him this question in the context  
22 would he include a given standard in the  
23 ordinance, but would he as a designer of the  
24 development present such a site plan?

25 Q Would you recommend such a site plan

1 to this court in least cost housing?

2 A When you started your question, I think you  
3 said if a planner comes and tells me that such and  
4 such a layout is the most effective. My answer to  
5 that --

6 Q The most cost effective in terms of  
7 minimizing site development costs per unit.

8 A My answer to that question would have been I  
9 would fire that kind of a planner because I think  
10 that it's a very -- that is a very narrow sighted  
11 view. I don't believe that there is any situation  
12 where the least cost necessitates a monotonous layout  
13 where monotonous layout can be justified on a least  
14 cost housing. As I said before, the imaginative  
15 design is, or unimaginative design has very little to  
16 do with the cost.

17 Q My question to you is what if it does?  
18 What if the maximum site plan comes in at a per unit  
19 cost of \$3,000 per unit site preparation cost and a  
20 little more imagination for livability purposes comes  
21 in at \$3300, do you believe this is legitimate for  
22 least cost housing to have the \$3300 layout?

23 A I have been in this type of situation many times.  
24 I worked as an architect myself and I have directed  
25 the design of least cost and even assisted multi-family

1 housing projects and it's a very common situation  
2 that an argument is made for a higher cost for  
3 modifications of a given site plan proposal that would  
4 result in greater livability, but would cost more  
5 money. My experience has always been that if good  
6 people seriously work on the problem, usually both  
7 can be accomplished. You can accomplish the budget  
8 that you are aiming at and still have the livability  
9 standards that you are aspiring to. I do not, from  
10 my own experience, think at all that this is a clear  
11 cut either or. I think this is a challenge to a  
12 designer, and if he is not capable of designing it,  
13 you should go to a different designer. If somebody  
14 comes and says go for a higher price because otherwise  
15 it's not livable, I would fire him.

16 Q If somebody came and said go for a  
17 different design because it's not least cost, what  
18 would you do? A I'm sorry, say that

19 again.

20 Q Go for a different design because I can  
21 build one, it's possible to build it cheaper.

22 A If they would argue for a less expensive design.

23 Q Less expensive design?

24 A I would certainly be always for it. I would  
25 always be for it because I think the production of the

1 cost of housing today is of paramount importance if  
2 essentially the same purpose can be served.

3 Q Let me explore this. Do you believe  
4 that there is an optimum density for garden apartments  
5 given an acre of good flat buildable ground?

6 A There are ballpark figures, yes. I've built,  
7 I think a very, very attractive garden apartment type  
8 development all in two stories with 18 units per acre  
9 on a very difficult site. If the site had been less  
10 difficult I could have easily accommodated more than  
11 20 units per acre and very imaginatively laid out.

12 Q Does it get more or less expensive if it  
13 has more or less <sup>than</sup> 20 units per acre?

14 A It depends. All other things being equal, of  
15 course your land cost would be lowered if you had more  
16 than 20 per acre.

17 Q So why shouldn't you have more than 20  
18 per acre?

19 A If you can, yes. In this  
20 case we put as many units on that site as we possibly  
21 could. We didn't leave out a single unit that we were  
22 able to place on that site under the applicable  
23 ordinances and we went to the lowest possible cost and  
24 we had an extremely difficult site that had been tried  
25 out before by at least two developers who were unable  
to deal with it and I think the result is excellent.

1 Again, I think that's where the challenge for a good  
2 designer lies. A good designer has to work within  
3 constraints. One very important constraint is the  
4 cost and only a designer who can come up with a good  
5 product within that constraint is one that I would  
6 hold in high esteem.

7 Q Aside from subjective judgments, is there  
8 a point at which a court, a judge who sometimes can't  
9 make subjective judgments, can say that the trade off  
10 point has been reached between lessening the cost and  
11 increasing livability. Does that ever occur?

12 MR. BUCHSBAUM: Do you understand that  
13 question because it seems to me he is asking  
14 for how a court might rule on a given issue.

15 THE WITNESS: I don't know how a court  
16 would rule.

17 Q All right. Can you tell me as a planner  
18 how one reaches the trade off point between  
19 decrease in cost per unit and livability, if ever? Do  
20 you ever get to that point? Let me help you out.

21 A I understand your question.

22 Q For instance, it is good planning, is it  
23 not and good layout, is it not to have recreation  
24 areas and open space? A Yes, it is.

25 Q Particularly for families of low and

1 moderate means or income that statistically have a  
2 given number of children per unit?

3 A Yes.

4 Q And the children need open recreation  
5 space in order to have a livable environment?

6 A Yes.

7 Q It is also true if you take that open  
8 space and build additional units on it, you decrease  
9 your land costs per unit by eliminating the open space  
10 playground. Is that true? A That is  
11 generally not true because we generally have to comply  
12 with sets of standards regulating a site plan that  
13 always result in certain amounts of open space.

14 Q Okay. Just follow my reasoning along.  
15 If we take the open space playground and build more  
16 units on it we decrease the land costs per unit at the  
17 cost of open space. We give up the open space. We  
18 have more units, a greater number you divide into land  
19 costs.

20 A To answer your question, the  
21 purpose of the standards that we have to live with in  
22 this case, zoning subdivision standards is to set the  
23 minimum threshold for livability. Absolute minimum  
24 threshold for livability. So I don't think that trade  
25 off point that you were talking about can really occur  
because if you, so long as you comply with minimum

1 design standards and minimum layout standards, all  
2 these concerns will be taken care of. You will have  
3 the open space, the necessary parking areas, you will  
4 have the necessary buffering and so forth, so all these  
5 things are taken care of. There is, at least, the  
6 minimum livability guaranteed under the standards.

7 Q So livability is a factor of least cost  
8 housing? A Livability is a factor that  
9 goes into the formulation of standards of minimum  
10 standards.

11 Q Minimum standards include livability?  
12 A Yes. They have to, yes, but you know what I  
13 was saying before is that for a good designer it is  
14 possible to increase livability beyond those criteria  
15 that can be very clearly spelled out in an ordinance.  
16 They are more subtle.

17 Q You can't get away from including  
18 livability in housing standards at all. Am I correct?

19 A That's right.

20 Q So in some extent you have to have them?

21 A Yes.

22 Q Because living in housing is what  
23 housing is all about? A Yes.

24 Q Is aesthetics a legitimate concern of  
25 a municipality in mobile homes?

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MR. BUCHSBAUM: Zoning?

Q Zoning for mobile homes?

A Within reasonable limits.

Q Do you have any suggested standards to use in terms of what a town can do to make sure aesthetically a mobile home development is pleasing?

A I think a site plan review would be appropriate.

Q Do you have any suggested standard for aesthetics in a standard ordinance?

A I think this recommended ordinance with its flexible setback requirements and its criteria for providing outside open space could be a very useful guide for a community.

MR. FERGUSON: Could we mark that, please.

(Diagrams of Mobile Homes is received and marked DH-21 for Identification.)

Q Is this the brochure for a Liberty model mobile home entitled Liberator?

A Yes.

Q It's from the Grove Acres Mobile Home Park in Vineland?

A That is the dealer that sent me this.

Q Is this yours? A No, I'm sorry. I have the same one, but I have it from a

1 different dealer. I mistook it for my own.

2 Q Is this the model which you used as the  
3 basis for your calculations in your report?

4 A The Liberator, 14 feet wide, 60 feet long, yes.

5 Q If I took that model 14 feet wide, 60  
6 feet long and I have an entire park consisting of that  
7 model Liberator, is that aesthetically acceptable or  
8 should I do something in the ordinance, site plan  
9 provision to protect against it?

10 A I think this is an extremely hypothetical  
11 situation because there is a whole variety of homes  
12 on the market with different layouts and different  
13 exterior siding, different sizes and it is customary  
14 that at least the owners of mobile homes, prospective  
15 occupants of mobile homes select their own unit.

16 Q Don't they have to select it from the  
17 dealer who is marketing the subdivision or park?

18 A If that is the arrangement. They may have to  
19 select from a limited number of mobile home makes, but  
20 even that would still leave a wider variety of choices.

21 Q Wide enough to eliminate any problems  
22 of monotony in terms of construction and appearance?

23 A Certainly, yes.

24 Q So you don't see any problem there?

25 A None at all. None whatsoever.

1 Q By the way, have you done any studies  
2 showing whether or not a mobile home park or subdivision  
3 has depreciated the surrounding property values?

4 A I'm not aware of any case in which it has been  
5 shown that a park or a subdivision has depreciated  
6 surrounding property values. I have been told that of  
7 one mobile home subdivision in Florida, in Sarasota.

8 Q The same one that's in your report?

9 A Right, that there has been concern of the  
10 owners of homes in that subdivision that the value  
11 of their mobile homes would be depreciated by the  
12 adjacent FHA conventional subdivision.

13 Q You were talking about the owners of  
14 mobile homes worrying about the conventional FHA?

15 A Yes.

16 Q What is the conventional FHA subdivision?

17 A A subdivision of conventionally or site built  
18 homes.

19 Q What kind? A Single family.

20 Q What kind of single family? What did  
21 they look like? A I haven't seen them.

22 I just know what I told you.

23 Q That is the extent of your knowledge?

24 A Yes.

25 Q How did you get that information, by

1 talking with -- A Talking to Mr. Adler.

2 Q Where did you talk to Mr. Adler?

3 A On two occasions. At the mobile home show in  
4 Louisville, Kentucky in January of this year and  
5 subsequently on the telephone.

6 Q Have you ever been down to Sarasota?

7 A No.

8 Q So the extent of your knowledge is  
9 solely what Mr. Adler told you?

10 A That's right.

11 Q He is the owner of the mobile home park  
12 in which the residents are worried about the FHA  
13 development? A No, this is a mobile

14 home subdivision which is owned by the occupants.

15 Q He is the developer of the subdivision?

16 A He was the developer.

17 Q He is developing other subdivisions?

18 A Yes.

19 Q So he has a fairly great vested interest  
20 in increasing the number of mobile home subdivisions  
21 he can market? A I would say he has

22 a very extensive knowledge of mobile home subdivisions.

23 Q How long did you talk to him in Louisville?

24 A He made a presentation at a seminar at that  
25 show and subsequently I talked to him for about half

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an hour.

Q After the seminar?

A Yes.

Q Standing around with a bunch of other people after his talk? A That's right.

Q You didn't have a special session with him? A No.

Q How long was your telephone conversation with him? A I don't recall. Probably about half an hour.

Q What did you ask him and what was the purpose of the conversation?

A I inquired again about various questions about the different mobile home developments in which he's working now, the type of financing that he is using. He's using a combined type of financing because some of the subdivisions are in states which real estate loans cannot be made on mobile homes. California has in the past prohibited that and I believe some other southern states prohibit that.

Q Does New Jersey?

A No.

Q Is that under the banking laws of California that such loans are prohibited?

A I don't know which part of the California code

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prohibits it.

Q Is the extent of your knowledge about banking laws in the State of California coming from Mr. Adler?

A No, I already was aware of this from my work for HUD on the report to congress. California has a law that has prohibited to take the wheels off mobile homes and to tax mobile homes of real property. Mobile homes in California can only be taxed, at least until very recently, under a motor vehicle tax.

Q So New Jersey now I take it is quite different after the recent Supreme Court decision?

A Yes. I think in that respect New Jersey is much more advanced.

Q What is this document, DH-20?

A These are the minimum design standards for mobile home parks issued by HUD.

Q What is the status of that publication? What force does it have and who looks at it for what purpose?

A The purpose of this document is to serve HUD officers in reviewing applications for the insurance of mobile home park loans under one of HUD's programs.

Q Is it still in effect?

A Yes.

1 Q What is the relationship, if any, between  
2 DH-19 and DH-20? A Yes.

3 Q What is it? A This document  
4 has been one that was reviewed as a basis for  
5 developing this document.

6 Q That is, the minimum standards were part  
7 of the input for the guidelines?

8 A That's right.

9 Q Do you have an opinion as to which  
10 contain the minimum standards which we ought to talk  
11 about in New Jersey for least cost housing, the guide-  
12 lines or the FHA minimum design standards?

13 A This document includes the minimum design  
14 standards that we should be talking about. This  
15 document is more extensive and includes a suggested  
16 ordinance. It goes beyond setting minimum standards.

17 Q That's the recommendation for improving  
18 the living environment for mobile homes?

19 A Yes.

20 Q Isn't this, the earlier document confined  
21 to mobile homes and the second guidelines designed for  
22 parks and subdivisions? A Yes.

23 Q So it has expanded the content of owner-  
24 ship? A Yes.

25 Q And made the changes in design standards

7 what you suggested before, to carve up a site in a  
8 very rigid manner simply complying with standards,  
9 but there are other ways of complying with the same  
10 set of minimum standards that are much more imaginative  
11 and result in much better living environment and this  
12 is one concern of this brochure.

13 Q With respect to fire protection, is there  
14 anything you know of, any criticism of HUD minimum  
15 standards or mobile homes in the way of fire protection  
16 in terms of the construction of the unit?

17 A Yes. There have been in the past criticisms.  
18 There have been criticisms expressed by the Center of  
19 Automotive Safety that I mentioned yesterday against  
20 the fire safety of mobile homes in the early 1970's.  
21 Criticisms that were directed at aluminum wiring which  
22 had been permitted for a certain period of time and  
23 inadequate egress possibilities from bedrooms, as well  
24 as flame spread. Those are the types of criticisms  
25 that also have gradually helped to establish our  
conventional housing standards, the standards and codes

1 that govern conventionally constructed housing have  
2 evolved over a period of time partly in response to  
3 such concerns and the development of the mobile home  
4 standard is no different from that type of evolution,  
5 so in response to these kinds of criticisms, the HUD  
6 standard has been modified in many ways. There are  
7 now requirements for smoke detectors in front of  
8 bedroom areas. There are requirements for egress  
9 windows having to meet specific requirements to insure  
10 that people can escape in case of fire and there are  
11 more stringent flame spread requirements in mobile  
12 homes.

13 Q Do you know of any criticisms about fire  
14 safety which have been made which haven't been in  
15 effect taken care of by the HUD standards?

16 A Certainly. As I pointed out also yesterday,  
17 the way the HUD standard has evolved is not much  
18 different from the way other standards have evolved. It  
19 presents a compromise between different kinds of  
20 concerns. Certain advocates of consumer safety have  
21 been arguing for even better flame spread ratings  
22 which are now included in the HUD standards. Those  
23 arguments were weighed by the advisory council and  
24 by HUD against other concerns, concerns of affordability  
25 and economics and I believe the compromise that is

1 represented in the standard now is a fair compromise  
2 between different concerns that does adequately insure  
3 health and safety and at the same time do that not at  
4 an unnecessary expense and unnecessary cost to the  
5 owners of mobile homes.

6 Q Your belief is that it is, in fact, a  
7 fair compromise mainly because of the dialected process  
8 that resulted in HUD promulgating the standard?

9 A Because of the dialected process involving  
10 different types of advocates in the process.

11 Q Quality of the result is determined by  
12 the strength of the advocacy of opponents going in?

13 A I think it reflects a fair and balanced  
14 compromise between different legitimate concerns.

15 Q You are familiar with the old adage  
16 about computers, garbage in, garbage out?

17 A Of course.

18 Q Does that have any application in this  
19 context? A None whatsoever.

20 Q Why not? A I don't see any  
21 relevancy of that.

22 Q Well, if there is garbage in the process  
23 going in, what can you have coming out?

24 A I don't know what you mean with garbage here.

25 MR. BUCHSBAUM: He's testified that

1                   there was quality going in and I think quality  
2                   coming out.

3                   THE WITNESS: Yes. I think there were  
4                   very legitimate concerns expressed on both  
5                   sides and it has been a very constructive  
6                   process.

7                   Q           Mr. Haeckel, Fawn Lake Village was one  
8                   of the mobile home parks you surveyed?

9                   A           Right.

10                  Q           Did you, in your report, state what the  
11                  requirements of Fawn Lake Village were in terms of  
12                  renting spaces?                   A           Could you clarify  
13                  that?

14                  Q           All right. Does your report mention  
15                  whether there were any requirements of Fawn Lake  
16                  Village about who would rent a space in that mobile  
17                  home development?                   A           I'm not aware of  
18                  that. I don't think that is stated in this report.

19                  Q           Okay. Are you aware of any requirements  
20                  of Fawn Lake Village as to who can rent a space?

21                  A           It's a few years since I have seen that park  
22                  in Burlington County. As I recall, it was mostly a  
23                  senior citizens park.

24                  Q           Do you know whether they had a require-  
25                  ment that they would rent only to individuals who

1 purchased their unit from the dealership in Fawn Lake  
2 Village? A I don't remember that.

3 Q When did you visit Fawn Lake Village?

4 A At the time of the Mount Laurel trial.

5 Q When was that?

6 A In 1977.

7 Q You didn't visit it again for the purposes  
8 of this litigation? A No.

9 Q Do you intend to?

10 A No.

11 Q Is the report that you did for this  
12 litigation essentially the same report you did for the  
13 Mount Laurel II? A No.

14 Q You used the same research?

15 A I built on that research that I did then, but  
16 I used additional research.

17 Q What is the purchase price of a unit  
18 which you found in Fawn Lake Village, is that in your  
19 report? A I don't think this report  
20 makes mention of Fawn Lake Village. Quite frankly,  
21 I'm a little puzzled in that. It is simply the survey  
22 of resale values.

23 Q All right. Appendix 1B.

24 A Yes, that's the only source that makes reference  
25 to this particular paragraph.

1 Q There is no place in here where you have  
2 a sale price for a new unit in Fawn Lake Village?

3 A Not in Fawn Lake Village, no. The unit is  
4 based on a survey with quite a couple of dealers that  
5 I did this year in March. It did not include Fawn  
6 Lake Village.

7 Q When you cite your resale price statistics  
8 at Fawn Lake Village, the proposition for mobile homes  
9 increase in value if sold on site?

10 A Fawn Lake Village does not clearly establish  
11 that the price will always increase if a mobile home  
12 is sold on site because there are also examples where  
13 the price is lower, even though the home is sold on  
14 site. So the conclusion here is rather twofold. One  
15 is that the traditional blue book depreciation  
16 schedules do not seem to have any relationship to  
17 these resale values; and secondly, that a condition  
18 of the home is a very important factor in its resale  
19 price aside from the fact that the home is being sold  
20 on the site.

21 Q I think you testified yesterday that the  
22 form of ownership of the land or the lease may be one  
23 of the most important factors in determining whether  
24 the occupier maintains the unit and therefore keeps up  
25 its value. A That's correct. I think

1 there is an interrelationship.

2 Q Did you say that Fawn Lake was a senior  
3 citizens -- A I'm not sure about that.

4 Q Do they have a regulation restricting  
5 occupancy of their units? A I'm not  
6 aware. I do not know their regulations.

7 Q If they had a regulation restricting  
8 occupancy to two persons, would that affect the  
9 validity of these statistics about value maintenance?

10 A I don't think so.

11 Q If you restricted it to two persons,  
12 wouldn't that not statistically encourage senior  
13 citizens or senior citizen families?

14 A Yes, it certainly would.

15 Q It would certainly eliminate families  
16 with children? A Yes.

17 Q Isn't it not true senior citizen  
18 families put less wear and tear on a mobile home  
19 unit than a children oriented family?

20 A Generally, yes.

21 Q So that insofar as the maintenance of a  
22 unit determines the resale price, Fawn Lake Village  
23 has statistically increased the resale price via the  
24 mechanism of limiting occupancy to two persons if, in  
25 fact, that they have? A Could you say

1 that again?

2 Q I'll say it again. Assuming that they  
3 do, in fact, limit it to two persons for occupancy.

4 A Right.

5 Q They have statistically encouraged the  
6 maintenance of their units by screening the population  
7 who lives there?

8 A I think this is only  
9 one factor that affects the maintenance of a unit. I  
10 do not think that this is a decisive factor. I think  
11 we have examples of single family subdivisions with  
12 families with fair amounts of children that are  
13 excellently maintained even though there are children  
14 and other subdivisions that are in poor shape even  
15 though there are not any more children or any less.  
16 So I think this is again one ingredient or factor that  
17 may play a role, but that's not a factor --

18 Q Mr. Haeckel, if by occupancy restriction  
19 we keep all children out of mobile home park, have we  
20 not increased the maintenance, haven't we statistically  
21 increased the chances of good maintenance on all those  
22 units?

23 A You have added one factor  
24 that can be expected to result in better maintenance,  
25 but that does not in and by itself control or have  
the controlling effect on the quality of maintenance  
in a park.

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Q All other things being equal, it certainly has a positive effect on the maintenance?

A Yes.

Q And a positive effect on the maintenance increases resale price? A Yes.

Q Okay. In your report, did you calculate the financial requirements imposed upon a mobile home buyer for the down payment? A Yes.

Q If we are targeting least cost mobile homes for persons of low and moderate income, how have you taken account of the fact that they will have to come up with a down payment? Is that in your statistics?

A No. I simply calculated the amount of down payment needed under different alternatives, but I didn't calculate or didn't come up with proposals as to how this down payment should be raised.

Q Did you in your report determine what income level could afford a mobile home?

A Yes.

Q Where in your report did you do that?

A May I have a look at it?

Q Yes. Give me the page.

A On Page 22, the second part of Tabel 7 on line 3. I calculated minimum required annual income for three different alternatives.

1 Q How did you arrive at the minimum  
2 required income? A I multiplied the

3 total monthly housing by 48. That means by 12 to  
4 arrive at a yearly outlay and then by four to take  
5 into account the general rule of assuming that the  
6 housing cost of moderate income families should not  
7 exceed 25 percent.

8 Q What did you multiply it by?

9 A 48.

10 Q What? A The total  
11 monthly outlay.

12 Q Why by 48? A 48 is the  
13 product of 12 months times four.

14 Q And the four is working on the rule of  
15 thumb of 25 percent of income?

16 A That's right.

17 Q So this is a minimum income of \$14,800  
18 which is required for alternative 1 of a mobile home  
19 park conventional consumer loan?

20 A Right.

21 Q How big a family is this, by the way?

22 A This could be a family of four. It's a two  
23 bedroom unit.

24 Q So this is the Liberator?

25 A Yes.

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Q Is it your testimony that all you need for a family of four to afford the Liberator is \$14,800 of income? A That's correct, if you can get a park space.

Q What about the down payment?

A The down payment varies with the alternative. Under alternative 1, which is mobile home in a park with the conventional consumer loan, the down payment is \$2,875. Again, this includes the furniture package that is part of the home.

Q Alternative 3 you need \$6428?

A No. If you look at the total down payment, you need \$7,428 including closing costs.

Q You are correct.

A On the second alternative you need the lowest down payment and this is, in fact, the main advantage of FHA insured loans. They do not result in a lower debt service, but they do have the effect of reducing the down payment requirement to a very low level.

Q Your minimum required incomes do not take account then of the requirement for down payments?

A That's correct.

Q So that's \$14,800 plus the down payment?

A Not plus the down payment -- yes, these are two separate requirements. Of course, we have here three

1 alternatives.

2 Q Fourteen eight, fifteen six or sixteen  
3 eight? A Yes, we have three that take  
4 into account the difference of abilities of raising  
5 the down payment that may exist.

6 Q Have you made any statistical amounts  
7 of the number of families earning fourteen eight,  
8 fifteen six or sixteen eight to buy the mobile home?

9 A No, it would be difficult to make such an  
10 analysis.

11 Q In judging what segment of the population  
12 by income can afford a mobile home, don't you have to  
13 make some kind of analysis along those lines?

14 A I think it would be fair to assume that of the  
15 segment of the population that has an annual income,  
16 almost anybody would be able to raise \$1,000 for a  
17 down payment.

18 Q That's for FHA?

19 A That's correct.

20 Q \$2800 for the conventional consumer loan?

21 A Almost everybody would be able to do that also.  
22 Maybe some people cannot, and I would think a fair  
23 share or fair number of those families would be able  
24 to raise \$7,500 for a down payment.

25 Q We are dealing in large numbers and we

1 are dealing in percentages and quintiles of large  
2 numbers of people in this case. You are aware of that?

3 A Yes.

4 Q You are aware of Mr. Mallach's approach  
5 and Ms. Brooks' approach to affordability by income.  
6 They make a very painstaking analysis of who can afford  
7 what.

A Yes.

8 Q Don't we have to factor into your  
9 minimum required income or don't we have to add on top  
10 the requirement for a down payment to come up with  
11 some minimum physical capability you have to have  
12 saved or be able to get?

13 MR. BUCHSBAUM: Mr. Ferguson, I don't  
14 quite understand. He's already testified in  
15 his judgment everybody in that income class  
16 would be able to raise the \$1,000. A good  
17 proportion the \$2800 and a substantial portion  
18 even the \$7,000, so I don't understand the  
19 thrust of your question.

20 Q Is that your testimony?

21 A Yes.

22 Q Can you quantify that statistically how  
23 many of that income group? A 100 percent  
24 of this group can be expected to be able to raise  
25 \$1,000 down payment.

1 Q All right. That's of the fifteen six  
2 group? A Yes.

3 Q What percentage of the fourteen eight  
4 group can raise the down payment for alternative 1,  
5 \$2,875? A In my opinion it is close  
6 to 100 percent.

7 Q What about the \$7,428 for the fifteen  
8 eight income group? A A very substan-  
9 tial part of the group.

10 Q How much is very substantial?

11 A More than half.

12 Q Greater than 50 percent?

13 A Yes.

14 Q Isn't it true that most mobile home  
15 parks are located near a dealership historically?

16 A Many mobile home parks are owned by an individual  
17 who also is a dealer.

18 Q Isn't it also true that part of the  
19 zoning environment of New Jersey is, at least so far,  
20 that we separate business from residential?

21 A Yes.

22 Q Would you therefore recommend that if  
23 mobile home zoning be encouraged, that it not have  
24 go with it a dealership for commercial sales?

25 A I think it would be legitimate to separate the

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two, yes.

Q So they don't have to go hand in hand?

A I don't think they have to.

Q Indeed, it might be from your point of view, it might be desirable to have the place where the occupier uses the unit separated from a dealership to enable him a greater choice of dealers?

A Yes.

Q That would help with the monotony and aesthetic problem? A It would be mostly concerned not with the monotony, but more concerned with the obtaining of competitive prices.

Q You would enhance the pricing mechanism if you had more to choose from?

A Yes.

Q So you would minimize your cost?

A To the consumer, yes.

Q By encouraging competition among dealers?

A Yes.

Q One way you do that is to separate the commercial dealership end of it from the user occupier?

A Yes.

Q When was the time you priced the cost for the Liberator? A I believe this was in March of this year.

1 Q Of 1979? A Yes.

2 Q The \$11,500 price, would you tell us  
3 what that included? You are referring again to Page  
4 22? A Right. Footnote D on

5 Page 22, it is a new unit, 14 by 60, two bedrooms,  
6 kitchen, dining room, model 2 with standard equipment  
7 and furniture, set up and hook up on the site with  
8 aluminum skirting, two pairs of stairs, including a  
9 30 percent profit for the dealer, 30 percent for  
10 profit on overhead.

11 Q Does that include site preparation costs?

12 A No, this includes the set up cost, not site  
13 preparation.

14 Q That is wheeling it in, putting it down,  
15 putting the tie downs in? A Yes.

16 Q And hooking up the connection from the  
17 unit to the sewerage pipe and water pipe?

18 A That's correct.

19 Q And the electrical service includes that?

20 A The hook up to electrical services.

21 Q It does not include foundation?

22 A It includes the cinder block foundation, yes.

23 Q I'm sorry, the \$11,500 includes the  
24 cinder block foundation? A That's right.

25 Q That is not specifically mentioned.

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A Well, that is included, generally included in setting up the unit.

Q What furniture do you get with that and what appliances?

A You have a refrigerator, stove, hot water heater, full kitchen furnishings, kitchen cabinets, dining room furniture, living room furniture, bedroom furniture.

Q How many people can live in that unit?

A Four people.

Q I assume this is a husband and wife?

A Yes.

Q It assumes two children?

A Yes.

Q Sharing one bedroom. For two people living in that bedroom, what kind of furniture do they live in? What is in the bedroom for the kids?

A It would have to be a bunk bed.

Q You would have to have over and under beds?

A Yes.

Q You couldn't have two beds side by side?

A No. I think the two children only of the same sex, otherwise it should be a bigger unit.

Q I was going to ask you about that. Is that generally accepted among planners that if you have different sex children they should have a separate

1 bedroom, yes, but it would be possible.

2 Q Is there enough living room area and  
3 dining and kitchen area for those four people, the  
4 hypothetical mother, father, two children below age

1 bedroom? A Yes.

2 Q Is that a minimum standard of health  
3 and safety? A It is a minimum

4 standard of occupancy.

5 MR. BUCHSBAUM: Is that for all ages or  
6 does that cut in at a particular age?

7 THE WITNESS: Generally it's not a  
8 rigid standard and usually applies to children  
9 not in infancy, but once they are older. For  
10 example, it is common practice even within the  
11 HUD minimum property standards that the master  
12 bedroom, parents bedroom should have space for  
13 a crib so that an infant should stay in the  
14 same room with their parents. There should be  
15 provision that an infant could stay in the same  
16 room.

17 Q Is that big enough for a double bed plus  
18 a crib, the parents bedroom, referring now to DH-21,  
19 a Liberator model 14 by 60, BFKD Model 2?

20 A I think you can put a crib into that room, yes,  
21 a small crib.

22 Q Not a big crib?

1 you to say that? A I think it is not  
2 only a question of the square footage that the room  
3 has, but it is a question of the furniture that you  
4 can place in the room, and a room for teenagers should  
5 have a space for a desk. For two teenagers, it should  
6 have space for two desks. There would be no way to  
7 put two desks into that room.

8 Q Is that for homework and for high school  
9 and college study? A Yes, right. I  
10 think it is a very adequate room for one teenager.

11 Q Is that unit big enough for three  
12 children? A No. I pointed out in  
13 my report that would be very significant advantage of  
14 the lower priced single wide mobile home such as this,  
15 is that it offers opportunities for expansion. There  
16 are factory made add-a-rooms available on the market  
17 which can be added at a later time to increase the  
18 living space and this is a concept for providing  
19 housing for people of moderate or lower means which I  
20 believe is going to gain importance in the future. In  
21 fact, it is a concept which is very actively being  
22 prompted in our foreign aid programs.

23 Q To where? A In all the  
24 countries in which the United States is to, which the  
25 United States is providing foreign aid programs for

1 housing. The mobile home is a housing system available  
2 in our domestic market which includes that possibility  
3 in an industrialized version. You can buy a factory  
4 made additional room or two additional rooms. You can  
5 expand the unit, but buying it, so to speak off the  
6 shelf, of course at the same time you could also in a  
7 very simple manner add a conventionally built addition  
8 to such a mobile home, so if you look at this type of  
9 unit it would be a very good unit for a young couple  
10 that just got married that doesn't have children yet.  
11 A couple that is somewhat upwardly mobile and that  
12 would be able to afford in a few years an addition to  
13 this home as the family expands.

14 Now, the fact that this type of home would not  
15 constitute a huge drain on resources, such as a home  
16 that from the very beginning already has that size  
17 makes it more feasible for people.

18 Q In other words, you don't want to have to  
19 pay for space before you need it?

20 A That's right.

21 Q And if you could add on when you need it?

22 A Yes.

23 Q The concept of cost is a cost over a  
24 period of time? A Yes, particularly

25 since interest costs, since the cost of money has

1 increased to such an extent, I think this considera-  
2 tion has become much more important.

3 Q Talking about least cost, we should, you  
4 agree, consider cost over a period of time such as the  
5 useful life of whatever you buy. However I phrase it,  
6 it's cost over time which is important and not just say  
7 initial cost?

8 A In any analysis of  
9 housing economics, one should look at both the monthly  
10 cost at initial cost, namely cost of entry, as well as  
11 cost of occupancy or cost of possession over a period  
12 of time. All these three ways of looking at the cost  
13 are important or all those three factors are important,  
14 but they are important by themselves also.

15 For example, monthly cost might not be from a  
16 stringent point of view the most important variable,  
17 but it still must be a threshold variable for many  
18 people because even though one given alternative may  
19 look better in terms of present value and in terms of  
20 cost of possession over say a 25 or 30 year period,  
21 it may not be affordable to a certain group of families  
22 and therefore another alternative with a slightly  
23 higher monthly outlay or slightly less advantageous  
24 ratio of monthly outlay of cost of possession might be  
25 more preferable.

Q Is there any formula used by planners or

1 such professionals as yourself in putting all financial  
2 costs on the same scale so you can have one dollar  
3 figure or one index, that is, entry cost, occupancy  
4 cost and -- A Cost of possession.

5 Q Are there three or two? There is entry  
6 cost and cost of possession? A Right.

7 Q And I suppose some combination of total  
8 cost over use or occupancy term figuring in profit or  
9 loss on the sale of the assessment?

10 A Yes. The present value calculations are some-  
11 times made which take into account the cost of  
12 possession over a period of time and the equity or  
13 the value that is left after the time, the residual  
14 value and translate this into a present value figure  
15 discounting a given interest rate.

16 Q Has any such present value calculation  
17 been made for mobile homes versus other kinds of  
18 housing? A I have made it myself.  
19 As part of this study, I made some present value  
20 calculations.

21 Q Can you show me what pages?

22 A Yes. Page 428 and 429 of DH-7, there are  
23 calculations for six alternatives, all mobile homes,  
24 three on an owned site and three on a rented site  
25 for present value and homeownership costs. Of course,

1 a very important variable here is whether a given  
2 alternative can be expected to appreciate or depreciate.  
3 This was done for Maryland, and Maryland, the kind of  
4 consumer protection that we have here in New Jersey  
5 has not existed, at least not as ambiguously as it  
6 exists here, so, in fact, up until recently mobile  
7 homes resold in parks with lots of depreciation. Now,  
8 that is immediately reflected in the overall analysis  
9 of costs because if the unit does lose its value, then  
10 the total present value of your future housing expense  
11 is that much higher. It means you are paying much  
12 more for the same alternative than if you don't have  
13 to expect depreciation, if you can expect an appreciated  
14 as set, or an as set that maintains its value.

15 Q To the extent that an as set appreciates  
16 is a result of inflation rather than some other  
17 economic factor. Does that make any difference?

18 A Appreciation is appreciation.

19 Q Whether it's inflation or productivity?

20 A Well, I believe that most would be very  
21 difficult for us to distinguish between different  
22 influences affecting appreciation with homeownership  
23 costs. Certainly the most significant factor  
24 affecting the tremendous influence of appreciation  
25 of single family homes is inflation. Inflation of

1 home construction and land costs, in general.

2 Q To go back to Page 22 of your report,  
3 if we are going to go into distribution of population  
4 by income to figure out how many people can afford  
5 what housing units? A Yes.

6 Q And we use your fourteen eight figure  
7 for alternative 1 or your fifteen eight figure for  
8 alternative 3, don't we have to add into it the down  
9 payment? A I don't think it would  
10 make sense to add it into here. To add to it, it has  
11 to be considered parallel to this figure.

12 Q Can we translate the ability to raise  
13 \$7,428 for a down payment into present dollars so we  
14 can add it on to whatever --

15 A I don't think you can.

16 Q Is there any single index to come out  
17 with a number? A I don't think you  
18 can.

19 Q On which I can have the ability to meet  
20 monthly costs, plus the ability to raise the down  
21 payment? A I know people, quite a few  
22 people myself whose income is close to zero and who  
23 have tremendous assets because they inherited some-  
24 thing from their parents or they sold something, so  
25 I just do not think that you can include this in any

1 valid way in an income calculation.

2 Q Mr. Mallach doesn't think the potential  
3 for inheriting wealth is a relevant factor when you  
4 are talking about large persons of low and moderate  
5 income.

6 A We are not talking about  
7 wealthy, we are talking about a down payment from  
8 \$1,000 to \$7,500 which is, by no standard, an indica-  
9 tion of wealth.

10 Q It's a new Chevy, statistically speaking,  
11 and many people of low and moderate income cannot buy  
12 a new Chevrolet or raise a down payment of \$7500. Is  
13 that correct?

14 A I certainly agree that  
15 many would not be able to do it, but I'm convinced  
16 there are quite a few, particularly people of middle  
17 moderate and middle income ranges and those are the  
18 ones we are talking about here for whom this is no  
19 problem.

20 Q When we try to figure out who can afford  
21 alternative 3, a subdivision, and we enter the column  
22 at 14.8 leaving aside the question of down payment  
23 for the moment, don't we have to see how many families  
24 who can afford 15.8 have no more than four people, two  
25 parents and two young children either the same sex or  
of different sexes at a young age who can live in the  
unit indicated on DH-21? A Yes, it

1 would have to be a family of not more than four people.

2 Q To the extent that the number of people  
3 who are earning 15.8 have demographic characteristics  
4 that don't meet those requirements.

5 A They would be excluded. They would have to  
6 pay more, yes.

7 Q Have you done any calculations to figure  
8 out how the differing demographics of the population  
9 in New Jersey, what affect that would have on your  
10 15.8 on terms of who could afford?

11 A I have not done any calculations. The share  
12 on this population is so large that I have been  
13 satisfied that there would be a very sizable market  
14 and I don't necessarily see the point in trying to  
15 hypothesize exactly how large that piece of the market  
16 would be. We are talking about 30 percent of the  
17 population of a given metropolitan area. We are  
18 talking about so many people that it really doesn't  
19 matter whether you cut this in half or whether you  
20 cut this into 40, 60 percent or anything like that.  
21 I could still have a very, very large market that  
22 would be very worthwhile trying to serve, from the  
23 point of view of a developer.

24 MR. BUCHSBAUM: Let me clarify something.

25 The median-income figures which are used as the

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basis --

THE WITNESS: Are for a family of four.

MR. BUCHSBAUM: Do mention a family of four?

THE WITNESS: That's right.

MR. BUCHSBAUM: That's the kind of family we are talking about here?

Q Tell me about the median income family of four. What are the assumptions in that?

A I'm sorry?

Q When you say median income family of four, that's from the census data?

A The median income figures that are used for determining eligibility under the Federal housing programs are median incomes for a family of four.

Q Median income for the census for 1970 and periodic updates? A Yes.

Q A median income family of four or of a family of any size? A Median income for a family of four. They are prorated for different family sizes for eligibility under the Section 8 program.

Q And they go out and measure and take raw data in the census? A Right.

Q They take family income?

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A Right.

Q Whether it's a family of two or family of ten. What does the census then do with that data?

A I'm not familiar with the exact techniques that the census is using, but the published figure is a median income figure computed for a family of four.

MR. BUCHSBAUM: This is for the updates now?

THE WITNESS: Yes, for the updates.

Q Are you sure you are not just talking about eligibility standards?

A No, the updated income figures which are used for a variety of purposes, including eligibility under the income housing.

Q What is that hypothetical family of four? Are there any assumptions in there about wage earnings, 1, 2 or 3?

A No.

Q Any assumptions about children?

A I think the term speaks for itself. It's a family of four based on still prevailing practices and customs one can assume that this generally means a family of husband and wife and two children. This is not limited to a family of a certain type of composition. It's simply saying a family of four.

Q So it's your testimony that it's

1 comparable. In order to find out, you are telling me  
2 that any family in the census that has 15.8 in effect  
3 can live in this unit, the family of the statistical  
4 census because the census, in effect, rounds out or  
5 redistributes all people into families of four?

6 A We are talking here about overall averages.  
7 We talk about minimum income required for this  
8 alternative and it's understood that there may be  
9 unusually large families that could not live in this  
10 particular housing unit that would need a larger one,  
11 but then there are also other families that could  
12 afford even a smaller mobile home, so it's an average.  
13 We are relating this average now to a median income  
14 which has been calculated again on a prorata average  
15 basis by the census bureau for this region. So we  
16 relate the two figures to each other and estimate how  
17 large the percentage of the household population in the  
18 area is which could afford this alternative which  
19 would earn enough on the average to afford this  
20 alternative, but which could not afford the lowest  
21 priced single housing alternative on the market.

22 Q Okay. The \$11,500 price, how did you  
23 arrive at that as the market price and as of what date  
24 did you figure that? A I made a survey

25 of a number of dealers and I summarized the survey on

1 Q How many did you call in Morris County?

2 A I have some notes back in the office. I  
3 contacted two or three dealers in that area. I'm not  
4 sure they were all in Morris County. One may have  
5 been in Hunterdon right next door, but in the northern  
6 Jersey area. The only ones that answered the phone of  
7 the many times were the ones listed here, Burlington,  
8 Gloucester and Salem.

9 Q I don't see any in north New Jersey.

10 A You don't have a market in north New Jersey.

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1 Page 20.

2 Q When did you make the survey?

3 A In March of this year. I had always or for the  
4 past few years had the impression that the retail mark  
5 ups of mobile homes in New Jersey are unusually high,  
6 but as one of those areas it was very hard to actually  
7 pin down because the industry is extremely protected.

8 Q Extremely what?

9 A Extremely protective of its own practice. Just  
10 like other industries are selected, the Liberty  
11 Liberator unit for this exercise, because it happens  
12 to be one of the lower priced model homes on the market  
13 that are on sale in this State and that, of course,  
14 fully meets the Federal standards and seem to repre-  
15 sent a good example for the lower range of mobile home  
16 prices.

1 Q And what did you ask?

2 A I specified the mobile home that I was interested  
3 in and this mobile home happened to be the one at the  
4 Atlantic City show just shortly before I made the  
5 phone call and it was, in fact, on sale at several of  
6 these dealers. So I asked for the retail price  
7 including set up and skirting, just as specified here  
8 in my report.

9 Q Didn't the dealer ask you whether it  
10 was going to be set up in his park --

11 A No.

12 Q -- or area? A No.

13 Q What did he tell you --

14 A I said that I wanted to have this price assuming  
15 that I would find a place to set the unit up. Usually  
16 the dealer would ask me where I wanted to use the mobile  
17 home and they didn't have any vacancy.

18 Q What did you tell them?

19 A I said I wanted to have a price regardless of  
20 whether it would be in their park, a price for a home  
21 that I would set up somewhere else.

22 Q These prices include transportation?

23 A Yes.

24 Q From where to where?

25 A From the plant in Leola, Pennsylvania to any

1 site in north and central New Jersey.

2 Q So it didn't come from the dealer, you  
3 order it from the dealer and it comes right from the  
4 plant? A The unit would come from

5 the plant, yes.

6 Q I see. How long did your phone conversa-  
7 tion with the various dealers last?

8 A Oh, ranging from about 10, 15 minutes to almost  
9 an hour.

10 Q Can you tell me what accounts for the  
11 difference between a price of number 1 and number 8?

12 A The overhead in profit factor.

13 Q Why, if I'm going to put a mobile home  
14 in Salem County would I buy at 17 if I can buy in  
15 Burlington, which isn't very far away, at ten eight?

16 A I think that would be a question that would be  
17 more appropriately or should be more appropriately  
18 directed to mobile home dealers in this State. I'm  
19 not qualified to explain or defend this range in  
20 pricing. The fact doesn't make much sense to me. I  
21 think what it reflects is the fact that there is  
22 practically no market. The situation that I was  
23 talking about is a very hypothetical situation. In  
24 fact, there would be very few of any customers coming  
25 to these dealers and asking them to buy a home and set

1 it up somewhere else. As a rule you can buy in this  
2 State only a mobile home if you know you have a space  
3 in a park and very often if you have a space in a  
4 park, there will be some arrangement, some sort of an  
5 arrangement between the park owner and the dealer if  
6 they are not, in fact, the same person, to capture that  
7 market and to sell the unit to prevent a customer from  
8 going somewhere else and buying the unit at a competi-  
9 tive price. You can go to Pennsylvania and buy a unit  
10 at a much lower price. This is a result of again  
11 extremely restricted supply of park spaces.

12 Q Why do you pick eleven five?

13 A Because I wanted to pick a figure which is still  
14 realistic even under New Jersey's conditions, even  
15 though those conditions are vastly distorted through  
16 the restrictions of supply, but at the same time a  
17 figure that is at the lowest spectrum. So you can  
18 see on this list there is one unit that was offered  
19 to me for \$11,500 in Burlington and another one even  
20 at \$10,800 in Burlington. I called two dealers in  
21 Pennsylvania and those two dealers offered the same  
22 unit at about \$10,000.

23 MR. BUCHSBAUM: You are talking about  
24 supply of sites, not supply of homes themselves?

25 THE WITNESS: Supply of sites exclusively,

1 A Fine.

2 Q Now, in Table 7, Page 22, you have \$110  
3 as a site rental cost for alternative 1.

4 A Right.

5 Q Where did you get the \$110 from?

6 A Again, this is an estimate which I based on  
7 information gathered during the same contacts. I asked  
8 these dealers what the rents in their own parks would  
9 be if there was a vacancy and that I then reviewed  
10 with another client of mine, the Mobile Home Owners  
11 Association who I prepared a presentation to the State  
12 Mobile Home Commission. This is an organization of  
13 occupants of mobile home parks.

14 Q You told us about that the first day

15 some weeks ago.

16 A Yes, and they found  
17 that this was a reasonable figure for this analysis  
18 as a rent figure for a park, for a better park. There  
19 are parks that have higher rents and also parks that  
20 have lower rents.

21 Q Is it your testimony that most of the  
22 parks in New Jersey were constructed prior to 1970?

23 A In north New Jersey, yes.

24 Q What about southern Jersey?

25 A Southern Jersey there are some parks that have  
been constructed, that are being constructed right now.

16 list of the dealers you called and submit it to H&H?

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Q Are there rent control ordinances with respect to the parks you sampled or --

A There are parks that I just -- with spaces that are just coming on the market which are offered in this range.

Q Does that include sewerage?

A Yes.

Q Does it include water?

A Yes.

Q Electricity? A No, not electricity.

Q And that's per individual unit?

A Yes.

Q You get your bill right from the electric company? A Yes.

Q What kind of sanitary facilities were at the parks you sampled? What did you get for the \$110 in terms of a central facility, do you know?

A Well, you have water and sewerage connection. Then the license fee to the municipality is included in this figure and the maintenance of the park, of the overall park.

Q Do you know what kind of treatment this sanitary sewerage got for \$110?

A No, I didn't ask that question.

1 Q Whether it was a municipal system or a  
2 private package? A I didn't ask that  
3 question to all the people I spoke to.

4 Q Now, insurance, \$14 per month.

5 A Yes.

6 Q \$14 times 12 is approximately \$170 a  
7 year. A Yes.

8 Q Okay. What value are we insuring for  
9 that \$170? A The retail value of this  
10 home.

11 Q Which is approximately what?

12 A \$11,500.

13 Q Okay. Do you know what the comparable  
14 rate for insurance would be on a site built home for  
15 the same price? A Well, it would be  
16 a higher value to be insured and the insurance payment  
17 would be correspondingly higher.

18 Q It would be? A It would  
19 be higher, of course. If you have a home that is  
20 worth \$50,000 as opposed to one of \$11,000, you have  
21 a much higher insurance policy if you insure it fully.

22 Q Where did you get the figure of \$170  
23 a year or \$14 a month? A The same  
24 inquiry that I made.

25 Q What did you ask them specifically?

1 know right now? A I don't specifically  
2 know what comparable single family rates would be.

3 Q The \$11,500 figure, did you use that  
4 figure in your testimony in the Mount Laurel II case?

5 A I used the same figure, yes, and I was surprised  
6 that this time I came up with exactly the same.

7 Q How did you get the \$11,500 figure in  
8 the Mount Laurel II case? A Then it was

9 a retail price quoted to me directly by one dealer in  
10 Burlington County. This time I was more suspicious  
11 of the high mark ups that dealers were charging and I  
12 did a more comprehensive inquiry of the range of retail  
13 prices.

14 Q So would it be fair to say that if you  
15 did a more comprehensive inquiry for Mount Laurel II,  
16 you might have come up with a lower price?

17 A That's correct, it might have been substantially  
18 lower.

19 Q Is there any problem with maintenance  
20 of roofing on mobile homes?

21 A There have been problems in the past.

22 Q Like what? A That have been  
23 dealt with under the standards.

24 Q What standards?

25 A The mobile home construction standards.

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1 Q HUD? A Yes.

2 Q How did the HUD standards deal with that  
3 problem? A Specifically what problem  
4 again?

5 Q Roofing. A Roofing. Well,  
6 let's have a look at it.

7 Under Section or Paragraph 280.305, structural  
8 design requirements of Federal mobile home construction  
9 safety standards, there are first certain standards  
10 for roof loads, meaning snow and winter loads,  
11 permissible loads or required loads and then under  
12 Section 4H of this paragraph you have general struc-  
13 tural requirements for roofs stating that roofs shall  
14 be of sufficient strength to withstand the load require-  
15 ments as defined in Paragraph 280.39B and C without  
16 exceeding the deflection specified in Paragraph 280.3  
17 and 5(D).

18 Q Hold it. Don't read it for the record  
19 because all it does is clutter it.

20 A Now, perhaps what should be pointed out here is  
21 this is a good example for showing the evolution of  
22 the standard. The standard is a great deal more  
23 specific than the ANSI 119 standard of 1973.

24 Q Okay. A From six years ago  
25 which had less specific and much fewer requirements

1 for roof construction. Problems with roof leaks and  
2 other problems that occurred with mobile homes built  
3 in the past with the roof construction have been taken  
4 into account in the revision of the standard that is  
5 reflected in this text.

6 Q So your testimony is that in your  
7 opinion the past problems with structural defects and  
8 roof leaks have been or will be eliminated if all  
9 mobile homes comply with this standard?

10 A They have been addressed and they have been  
11 extensively addressed in these revised standards, but  
12 the standard keeps revolving and would not preclude.  
13 A few years from now there may be still an additional  
14 requirement included here which may emerge from future  
15 research or future experience.

16 Q Are we in the hurricane resistance zone?

17 A On the wind zone map here printed in the  
18 standard, we are on the edge of what is called Zone 2,  
19 Wind Zone 2, which is the zone susceptible to hurricane  
20 wind.

21 Q And the units which get sold in this  
22 zone must meet the HUD standards for hurricane  
23 resistance?

24 MR. BUCHSBAUM: He is asking. Can you  
25 tell from that map?

1 THE WITNESS: In Morris County they  
2 don't. In southern Jersey they do, but Morris  
3 County is outside this stretch.

4 Q Do you know whether there is a difference  
5 in the units sold in southern Jersey, north Jersey,  
6 Morris County versus Ocean? A There has  
7 to be a difference. Mobile homes have to comply with  
8 the standard to the area in which they are shipped.  
9 When a manufacturer receives an order for a mobile  
10 home to be placed in Morris County, it would have to  
11 comply with the different wind zone standards from a  
12 mobile home to be shipped to Cape May County.

13 Q Well, they could ship the stronger unit  
14 to Morris County? A There would be  
15 nothing wrong with that. However, it would not be  
16 least cost because it wouldn't be necessary. I don't  
17 think it would make a great deal of difference, quite  
18 frankly, but strictly speaking the unit would not have  
19 to comply with the more stringent standard.

20 Q Okay. In your report did you compare  
21 the cost of a mobile home park with a garden apartment?

22 A I make some cursory review of apartment rents  
23 in Morris County.

24 Q What part of your report is that?

25 A Page --

1 Q October 1st --

2 A October through December, '78.

3 Q He looked at the SR1A's?

4 A That's right, and he pulled out a complete listing  
5 and we ordered it and we figured out the median.

6 Q For all 27 municipalities?

7 A Yes, for the 27 municipalities.

8 Q By the way, did you have any part in  
9 deciding who would be named a defendant? Did you or  
10 your firm have any part in deciding who would be  
11 named as a defendant in this case?

12 A No.

13 Q Do you know who did?

14 A No.

1 Q Page 23 and Table 10, Page 26?

2 A Yes. Page 26 there is a figure of \$334 for the  
3 lowest range of rents for two bedroom apartments that  
4 I came across in rental offerings in March.

5 Q My copy doesn't have footnote E on it.

6 Can you read that to me? A Yes. That is  
7 Hensyn Village in Mount Olive.

8 Q How did you find out what that rental

9 would be? A One of my associates made  
10 inquiries with realtors offering rental apartments.

11 Q Who was your associate?

12 A Kevin Fisher.

13 Q And how did he make the inquiry?

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A In this case?

Q Do you have a written agreement with them?

A Yes.

Q Do you have it with you?

A No.

Q Can you tell us what it says?

A It specifies the rate of reimbursement and the scope of work. It's a while since I looked at it last. I couldn't tell you exactly.

Q Could you send us a copy of that agreement through Mr. Buchsbaum?

MR. BUCHSBAUM: We should have a copy.

THE WITNESS: You can send it.

MR. BUCHSBAUM: All right.

Q Would the date of that agreement be approximately the first time you were contacted? Obviously it had to be before that.

A Certainly we would have to have been contacted earlier.

Q Is the date of the agreement reasonably close to the date you were first contacted?

A I think it is fairly close, but as I say my first contacts are early this year in this particular matter and it may have been that my partner had some preliminary contacts last fall, but we were certainly

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Q Okay. Are you aware of any HUD or FHA restrictions on per unit cost for site improvements

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not involved in defining any defendants here or identifying municipalities.

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Q Okay. Going back to Mount Olive, what is the name of that apartment development?

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A I think, and that may be misspelled, but this is the way I got it from my associate, H-e-n-s-y-n.

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Q Why did you pick that development to sample?

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A This was the one that had the lowest range of rents. From what I recall, the next one already rented over \$400 for a two bedroom unit.

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Q Do you have your notes with you about the results of your survey of the rents?

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A No, I don't have them here. This was not an extensive survey. I just wanted to have an indication, so I asked him to make inquiry as to what one bedroom units would be renting for, but this is not meant to be an exhaustive survey of rents in the county. I think it's probably a fair indication of what the lower range is.

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Q You think this is an example of what the lower range is? A I'm not saying there

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is nothing on the market that is not cheaper. There are probably some, but I think it's a fair indication

1 THE WITNESS: Not for the unit.

2 MR. BUCHSBAUM: Not for alternative 2?

3 THE WITNESS: That's correct, just for  
4 developing a park. One reason for believing  
5 that is I think if land use controls are relaxed,  
6 it would be more interesting for a developer to  
7 attempt to develop mobile home subdivisions.

8 Q So therefore the program wouldn't come  
9 into play at all? A In subdivision it  
10 would not come into play. The program has been very  
11 little used nationwide. It doesn't seem to be a great  
12 need for it.

13 Q Are you aware of any limitations on HUD,  
14 FHA or VA lending for mobile homes on individual loans,  
15 any limitations at all? A Yes, sure.

16 Q What? A There is a  
17 maximum cost of the units. Like under HUD the limit  
18 is \$16,000. I think we have all these limits right  
19 here in the brochure which has been marked.

20 Q You are referring to Quick Facts, DH-17?

21 A Right.

22 Q Which section?

23 MR. BUCHSBAUM: Are you going to be a  
24 bit?

25 MR. FERGUSON: Just let me keep on going.

1 MR. BUCHSBAUM: Okay.

2 Q Are you aware of any other restrictions  
3 other than in DH-17, Quick Facts?

4 A Other than restrictions on what?

5 Q Government lending for individual mobile  
6 homes?

7 A These are the two Govern-  
8 ment mobile home financing programs.

9 Q In other words, they are listed here for  
10 VA and FHA?

11 A Yes.

12 Q Other than what is listed here, are you  
13 aware of any restrictions? Is this the first restric-  
14 tion on the lending program as far as you know?

15 A Yes.

16 Q Do you have an opinion as to the minimum  
17 size of a mobile home park, mobile home subdivision  
18 or development so as to achieve economies of scale in  
19 terms of maximizing your least cost or minimizing cost?

20 A There are certain rules of thumb that one can  
21 find in the literature for a mobile home park, not to  
22 include much less than 100 park sites in order to  
23 insure adequate management. This is comparable to  
24 rules of thumb governing the management of multi-family  
25 housing.

For example, the Jersey financing housing  
agency uses as a rule of thumb that a multi-family

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Q If 200 give us an advantage rather than having 200, how about 500? Tell us where the break

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project should not have much less than 150 dwelling units. There is no absolute standard that can be applied because I'm sure that a mobile home subdivision with less than 100 units could still be a very viable least cost proposition. It wouldn't have to be a very large subdivision.

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Q Do you decrease cost significantly if you go much more over 150? A You could, but not necessarily. It depends on other factors also.

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Q What other factors and explain that, if you would? A On the length of the development process and connected to that, the carrying costs of the property can be an extremely important factor in the final retail cost to the user. Even if a development is very large, if it has a couple hundred sites, if it takes years of litigation to finally obtain the necessary permits, the economies of scale could be easily eliminated.

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Q How much do we decrease costs if you increase a development for 100 to 200 units assuming no litigation, it's a permitted use and all you do is file your site plan and get it approved? We are interested in least cost housing. Is there any advantage to having 200 rather than 100?

1 it would be much more feasible to have a smaller scale  
2 subdivision because it would be no longer any need for  
3 a package plant which may require minimum sizes.

4 Q Okay. Can you tell me what your opinion  
5 is about a good number of units to have as a matter of  
6 planning, both least cost considerations and other  
7 planning considerations including reasonable factors  
8 of livability and the quality of the environment,  
9 quality of life in the development. What do you  
10 recommend?

11 A I would never recommend  
12 in the abstract such a minimum size. I just don't  
13 think it can be done. I don't think it makes sense.

14 Now, for example, I'm trying to develop some  
15 rental housing under the farmer's home program and I  
16 would be perfectly happy to come up with a project  
17 size of maybe 30 units, even though under other  
18 circumstances that would be considered a very small  
19 or maybe to a smaller size. I think this is an  
20 answer that relates to quite a few of your questions.  
21 I've been working as a planner and the more or the  
22 longer I've been working as a planner, it's more I  
23 refused to go by simple numerical standards because  
24 I think more often than not, I mean standards that  
25 say you have to have at least that much or at least  
150 apartments in order to make it work or you have to

1 have at least 150 mobile homes to make a mobile home  
2 park work. I think those types of notions can very  
3 easily lead in the wrong direction. There are usually  
4 site specific and area specific and situation specific  
5 concerns that are much more important than those  
6 general rules of thumb. Again, as I say, I think it  
7 is perfectly possible even today in 1979 to come up  
8 with an apartment complex that's viable and only has  
9 30 or 40 apartments, even though there are lots of  
10 people here that will tell you that this no longer  
11 makes sense, and I think in this area as well as in  
12 other areas, for my part I would refuse to try to set  
13 absolute cut off points of this type of nature. I  
14 would want to look at a given proposal in its entirety  
15 and come up with an analysis that takes all these  
16 specific factors into account.

17 Q From a least cost point of view, is it  
18 legitimate to recommend as a planner that you have  
19 different and mixed housing uses within that area of  
20 the township in Morris County in which one plans to  
21 build least cost housings to alternative mobile homes  
22 with apartments with towns with single family detached  
23 homes? A I certainly believe that a  
24 mix of socioeconomic groups or a more integrated  
25 development is a very, very important consideration,

1 one that has been systematically passed by zoning in  
2 the past.

3 Q Why is it important?

4 A Because of, I think for many social reasons,  
5 we would avoid sorting people by the income group and  
6 perhaps locking them into a given class structure. I  
7 think by having an integrated neighborhood as opposed  
8 to segregated neighborhood, we do have a much better  
9 chance to promote social mobility and inner action  
10 among groups.

11 Q You are talking about income?

12 A By income, yes.

13 Q You think that is a desirable factor  
14 to achieve? A As an objective. That  
15 again has to be weighed against the realities of our  
16 market, against the realities of trends, particularly  
17 by the better situated parts of population to segregate  
18 themselves.

19 Q Excuse me? A To segregate  
20 themselves.

21 MR. FERGUSON: Could you read that back,  
22 please.

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

25 Q Again by income? A Yes.

1 Q Where do we come out in that weighing  
2 process? How do you as a planner feel to decide you  
3 should go about making the judgment?

4 A I think that again is one of those challenges  
5 to an imaginative designer, an imaginative planner  
6 when it comes to an actual zoning plan or a master  
7 plan to try to promote the best possible integration,  
8 socioeconomic integration in a given community.

9 Q How about an imaginative court presented  
10 with a, like Judge Muir will be with the Morris 27,  
11 is this something that a court should take into  
12 account when addressing the Mount Laurel obligations,  
13 in your opinion as a planner?

14 A In the absence of adequate local plans or local  
15 practices promoting a minimum of socioeconomic inte-  
16 gration, courts would have to step in our system of  
17 government to correct situations.

18 Q Do you believe that the accomplishment  
19 of that objective is important to ask a court to step  
20 in? A I certainly think so, yes.

21 Q Do you believe rational planning on the  
22 local level must have some consideration?

23 A Yes.

24 Q If you do a market survey and you find  
25 people want to self segregate by income totally, would

1 that change your opinion? A No.

2 Q Is it your opinion that it's the function  
3 of planning to go counter to a very firmly held market  
4 opinion by the ultimate consumers that they want to be  
5 either with similarly situated persons in income and  
6 that they don't want to be in a socioeconomic integrated  
7 community? A It appears --

8 MR. BUCHSBAUM: Excuse me. These ques-  
9 tions are so general, maybe you can answer them,  
10 but I don't know what you can say that's useful.  
11 I don't know if you are talking about a particu-  
12 lar development, a particular neighborhood or  
13 particular community or particular section of  
14 the county when you discuss these preferences.

15 MR. FERGUSON: Well, we can find out, but  
16 in general if the witness can answer it --

17 THE WITNESS: Can you repeat it, please.

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

20 A What do you mean by the ultimate consumers?

21 Q People who live in housing.

22 A You mean people of all different socioeconomic  
23 strata?

24 Q Yes. A It seems to me  
25 that it would be the task of responsible planning to

1 not evade the conflict which may exist between ultimate  
2 consumers of different economic strata, but to face  
3 these kinds of conflicts and to try to come up with  
4 approaches which might help to resolve these conflicts.

5 Q How do you resolve them?

6 A In the first place by not evading them and I  
7 think segregation is a way of evading them.

8 Q You mean allowing self segregation by  
9 income because of consumer preference?

10 A Of certain consumers. I don't think it could  
11 ever be established that all consumers would prefer  
12 segregation. Generally only consumers who can afford  
13 segregation prefer segregation, so we are only talking  
14 about a segment of the population and about a shrinking  
15 segment of our population at that.

16 Q Why is it shrinking?

17 A Because the segment that can afford the single  
18 family detached home conventionally constructed is  
19 shrinking.

20 Q Because the price is increasing?

21 A Faster than income.

22 Q What you are saying, self ordering or  
23 self clustering by income is, in effect, a luxury  
24 which is fast diminishing because the price is  
25 increasing relative to the number of people in the

1 A Right.

2 Q What about self clustering by socio-  
3 economic groups other than income, such as ethnic?

4 A That is a very wide field of concern. I think  
5 that could include involuntary self clustering of  
6 those ethnic groups that can be identified by their  
7 skin color.

8 Q By race? A By race. And  
9 up to those ethnic groups which prefer, for the purpose  
10 of maintaining their cultural identity to live and to  
11 share certain areas, so I don't think one can give a  
12 general answer to this except that involuntary self  
13 clustering certainly has been found to be a great  
14 detriment to the overall society at large.

15 Q If it's involuntary, it's not self --

16 A Well, it depends on your definition. People  
17 have been migrating to the urban ghettos, more or less  
18 on their own, so one couldn't argue that it was an  
19 involuntary concentration of such people in urban  
20 ghetto areas.

21 Q But if it's a function of a larger  
22 pattern of discrimination, it might be.

23 A Yes. I think the decisive criterion is whether  
24 in fact there are alternatives available. If there  
25 are alternatives available and people still choose to

1 stay in a segregated area, that's one thing, but if  
2 there are no alternatives available, that's something  
3 else.

4 Q The greatest way to eliminate imposed  
5 classification by income or any other way is to make  
6 alternatives available? A Yes.

7 Q At the least cost possible?  
8 A Yes.

9 Q Are there any socioeconomic goals of  
10 planning which arise above satisfying market demands?  
11 Should we affirmatively take steps to achieve certain  
12 social planning goals? A Certainly  
13 overall goals of national policy should be integrated  
14 in planning.

15 Q What are some of those?

16 A Those are, for example, goals of flood plain  
17 protection, flood plain management, protection of the  
18 environment.

19 Q Efficient location of infrastructure?

20 A Of desegregating or eliminating racial segrega-  
21 tion, of making the widest possible choices available  
22 to offer opportunities to all members of society. I  
23 think there is a whole range of national policies  
24 which should be integral parts of any good plan.

25 Q Are you aware of any publication entitled

1 the Costs of Sprawl by C.E.Q.? A No.

2 Q Are you aware of the Federal, State  
3 policies against further suburban sprawl as a  
4 mechanism for meeting some of the problems you have  
5 been talking about, such as the high cost of housing,  
6 the high cost of infrastructure and the high cost of  
7 our society in general? A Certainly.

8 Urban sprawl has continued despite such policies for  
9 a long time.

10 MR. FERGUSON: I think we talked about  
11 them. Let's stop here.

12 MR. BUCHSBAUM: Are you done? I have  
13 a few questions just to clarify some points on  
14 the record which I can do rather quickly.

15  
16 CROSS-EXAMINATION BY MR. BUCHSBAUM:

17 Q Earlier today you spoke about the  
18 desirability of locating mobile homes near community  
19 facilities. You do agree, don't you, that most mobile  
20 home tenants do own cars and that proximity to public  
21 transportation is not a limiting factor in the loca-  
22 tion of mobile homes? A That's correct.

23 Q In fact, the recommended --

24 MR. FERGUSON: He hasn't finished his  
25 answer.

1 THE WITNESS: That's correct. It is a  
2 factor, but there is by no means should there  
3 be a standard that requires walking distance as  
4 an absolute requirement to facilities of public  
5 transportation.

6 Q In fact, the ordinance that you were  
7 quoting, the model ordinance did specify a driving  
8 distance of 40 minutes to employment as being  
9 appropriate for mobile home parks?

10 A Yes.

11 MR. FERGUSON: Objection. It didn't say  
12 appropriate.

13 Q With respect to aesthetics in zoning,  
14 I take it from your comments that aesthetics could be  
15 included in zoning through a felxible setback provision  
16 and that you would not disagree with Mr. Mallach on  
17 that position to rigid aesthetic requirements such as  
18 zig zag zoning provisions?

19 MR. FERGUSON: Objection to leading the  
20 witness, number one. I don't think that is a  
21 proper question to call for a yes or no answer.  
22 If he has an opinion on zig zag, ask what the  
23 opinion is. If he agrees with Mr. Mallach's  
24 opinion on zig zag without having it in front  
25 of him, I think that is grossly unfair.

1 THE WITNESS: Perhaps I can simply refer  
2 to the testimony I gave before that legitimate  
3 aesthetic concerns in my experience can be  
4 taken care of by an imaginative designer and  
5 imaginative planner without necessitating  
6 increase, any significant increase in cost.  
7 To the extent to which aesthetic standards  
8 would be used, that necessarily would lead to  
9 increase in cost and I think such standard would  
10 be wrong.

11 MR. BUCHSBAUM: Do you regard that as  
12 an appropriate answer?

13 MR. FERGUSON: Whether I regard it as  
14 appropriate --

15 MR. BUCHSBAUM: In terms of your  
16 objection.

17 MR. FERGUSON: Or not is usually not  
18 listened to by anybody.

19 Q You also spoke about the cost over  
20 occupancy factors as one element in deciding who can  
21 afford given kinds of housing. Is that factor  
22 particularly important with respect to rental units  
23 as contrasted with homeownership units?

24 A This factor is really, usually it is considered  
25 for ownership alternatives. That's where it comes into

1 play because that's where residual value place a role  
2 in depreciation and appreciation, but not with rental  
3 units.

4 MR. BUCHSBAUM: That's all.

5  
6 REDIRECT EXAMINATION BY MR. FERGUSON:

7 Q Do you include in your definition of  
8 least cost housing off site costs caused by the  
9 construction? A Infrastructure costs?

10 Q Infrastructure costs.

11 A Yes.

12 Q What about the cost of cleaning up water  
13 pollution downstream caused by construction upstream,  
14 is that a legitimate cost to include in the definition  
15 of least cost?

16 MR. BUCHSBAUM: Do you understand that  
17 so you can give a flat answer to it?

18 THE WITNESS: I understand the question,  
19 yes. I don't think this is -- if a development  
20 would, of course, cause undue adverse environ-  
21 mental affects downstream or elsewhere on the  
22 development, this would be a factor that under  
23 our current review processes would have to be  
24 analyzed and reviewed and would play a part in  
25 approving or disapproving a development. I

1           would take it for granted that to reach an  
2           approval for a development it would have to  
3           be determined that there are no severe adverse  
4           environmental affects that could not be mitigated  
5           against.

6           Q        Would the cost of the mitigation have to  
7           be fixed into the least cost calculations?

8           A        For practical reasons the cost of any mitigation  
9           would have to take place on site, such as adequate  
10          treatment of sewerage and other such factors. Let's  
11          say if it is a case of noise pollution such as lower  
12          the emission of noise, so the extent to which the  
13          mitigation is part of the development of the site, it  
14          would by definition be included in the cost of the  
15          development, yes.

16          Q        Are there any impacts which occur off  
17          site which can't be handled or mitigated against on  
18          site?

          A        You mean in general?

19          Q        Do you know of any?

20          A        I don't think this question makes any sense in  
21          the abstract. I think this is a question that could  
22          only be asked in connection with a specific proposal,  
23          a specific development proposal and if the answer in  
24          such a specific situation would be yes, that there  
25          would be significant off site, adverse off site effects

1 that could not be mitigated against, then this would  
2 be a reason for disapproval.

3 Q Are you aware of the Federal water  
4 quality legislation PL 92-500?

5 A Yes.

6 Q Are you aware of the water quality plans  
7 that have gone in New Jersey, Morris County in general?

8 A I'm generally aware of the standard.

9 Q Are you aware of any quantification of  
10 the cost of development in the headwaters area such as  
11 Morris County and any quantification of it over 20 or  
12 30 years, what has to be done in 20 years from now by  
13 pollution caused now?

14 MR. BUCHSBAUM: I want to object and ask  
15 you to clarify with respect to the assertion  
16 of Morris County that it is in the headwaters  
17 area. I don't think the answer can reflect  
18 reality.

19 Q Insofar as it is.

20 A I haven't been asked to make environmental  
21 analysis of the 27 defendant townships or municipalities,  
22 so I feel that this goes way beyond the testimony I'm  
23 prepared to offer here.

24 Q Well, if mobile homes are best built at  
25 a density of approximately six, maybe seven per acre

1            simply be another form of making use of single  
2            family land use.

3            Q            Yesterday we were talking about the  
4            economics of it and today we are talking more about  
5            the pollution, but I understand your answer.

6            A            Right.

7            MR. FERGUSON:    Okay.    Why don't we leave  
8            it.    We will adjourn the depositions and check  
9            with our experts and if there are any areas  
10           which we still have to go into, I'll get in  
11           touch with Mr. Buchsbaum.

12           MR. BUCHSBAUM:    Or Ken Meiser.

13           MR. FERGUSON:    Or Ken Meiser, and at  
14           some point as soon as the transcripts come in,  
15           we distribute them to the defendants and if  
16           anybody wants to ask additional questions of  
17           Mr. Haeckel, we can set up a time convenient  
18           to everybody.

19           MR. BUCHSBAUM:    Yes.    We would ask that  
20           all questions that you might have in addition  
21           to the ones you asked now, plus any questions  
22           that other defendants might have will be to the  
23           extent consolidated on a single day.

24           MR. FERGUSON:    We would certainly try  
25           to do that and I suspect that would be out in

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Morris County which is convenient to most of  
the defendants.

MR. BUCHSBAUM: Okay.

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

MORRIS COUNTY FAIR HOUSING COUNCIL,  
et als,

Plaintiffs,

-vs-

BOONTON TOWNSHIP, et als,

Defendants.

CERTIFICATE

I, VICTOR SELVAGGI, JR., a Notary Public and  
Certified Shorthand Reporter of the State of New Jersey  
certify that the foregoing is a true and accurate  
transcript of the deposition of BERNARD HAECKEL who  
was previously 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: 6/7/79

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