

ML - Morris County Fair Housing Council
v. Boonton

Jan 28, 1980

Transcript of Deposition upon Oral Examination
of Mary E. Brooks

Pg. 108

ML000914 ~~OG~~

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

Plaintiffs,

-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
TOWNSHIP, MONTVILLE TOWNSHIP, MORRIS
TOWNSHIP, MORRIS PLAINS BOROUGH, MOUNTAIN
LAKES BOROUGH, MOUNT OLIVE TOWNSHIP,
PARSIPPANY-TROY HILLS TOWNSHIP, PASSAIC
TOWNSHIP, PEQUANNOCK TOWNSHIP, RANDOLPH
TOWNSHIP, RIVERDALE BOROUGH, ROCKAWAY
TOWNSHIP, ROXBURY TOWNSHIP and
WASHINGTON TOWNSHIP,

Defendants.

DEPOSITION UPON
OPAL EXAMINATIC

OF

MARY E. BROOKS

KNARR - RICHARDS, ASSOCIATES

CERTIFIED SHORTHAND REPORTERS

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B E F O R E :

ROBERT MIRABELLA, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, at the MORRIS TOWNSHIP MUNICIPAL BUILDING, Morris Township, New Jersey, on Monday, January 28, 1980, commencing at 10:00 a.m.

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

THE PUBLIC ADVOCATE
BY: CARL C. BISGAIER, ESQ.
Attorneys for the Plaintiffs

MESSRS. WILEY, MALEHORN & SIROTA
BY: FREDRIC J. SIROTA, ESQ.
Attorneys for Defendant Rockaway Township
and the Common Defense Committee

MESSRS. SHANLEY & FISHER
BY: GLENN PANTEL, ESQ.
Attorneys for Defendant Harding Township

MESSRS. MATTSON, MADDEN & POLITO
BY: M. LYNNE MC DEPMOTT, ESQ.
Attorneys for Defendant Passaic Township

ROBERT MIRABELLA
Certified Shorthand Reporter

1 M A R Y E. B R O O K S , first being duly sworn,
2 testified as follows:

3 DIRECT EXAMINATION BY MR. SIROTA:

4 Q Miss Brooks, my name is Fredric Sirota.
5 I'm an attorney and a member of the firm of Wiley,
6 Malehorn & Sirota. We represent the defendant,
7 Rockaway Township in this matter.

8 You recall, do you not, that I deposed
9 you earlier in 1979, late spring, I believe, 1979?
10 Do you recall that? A Yes.

11 Q And that related to this case, which
12 is generally referred to as the Fair Housing Council
13 v. a group of municipalities in Morris County. Do
14 you recall that? A Yes.

15 Q And are you generally familiar with the
16 case? A Yes.

17 Q You have rendered reports, have you not,
18 in that case? A Yes.

19 Q Just to be somewhat duplicative,
20 in our earlier deposition, I advised you that your
21 testimony was under oath and, of course, therefore,
22 you are swearing that what you are saying is accurate
23 and true.

24 Further, in the event I ask any question
25 that you don't understand, please tell me.

1 If Mr. Bisgaier raises an objection,
2 please permit him to make that objection before you
3 answer the question.

4 Your answers must be oral, out loud.
5 The reporter can't take a shake of the head or nod.

6 Do you understand all that?

7 A Yes.

8 Q Do you understand, further, that my
9 questions and your answers may be transcribed at a
10 later date and utilized at the trial of this matter?

11 A Yes.

12 Q Thank you.

13 Did you bring with you today your
14 earlier reports? A Yes.

15 Q That is, those that you filed in the
16 spring of 1979? A Yes.

17 Q My memory is that we left off with your
18 advice that -- at least, at that time, that an
19 additional report would have to be rendered, which
20 you would, presumably, utilize the theories you had
21 proposed earlier to calculate new allocations. Is
22 that essentially where we left off? Do you recall?

23 A No, I don't recall.

24 MR. BISGAIER: Off the record.

25 (There is a short discussion off the record.)

1 MR. SIROTA: Back on the record.

2 Q Do you have something additional to say?

3 A No.

4 Q Do you recall whether it was your
5 intention, at that time, to follow through in your
6 methodology and insert new numbers, which would,
7 presumably, produce a revised allocation?

8 A I believe that was true, yes.

9 Q And does your report of August 30, 1979
10 represent that effort? A Yes.

11 Q Subsequent to June of 1979, have you
12 rendered any reports to the plaintiffs in this matter,
13 other than your August 30, 1979 report, your December
14 14, 1979 reports? Are there any other reports that
15 you have rendered to the plaintiffs in this matter?

16 A No.

17 Q With respect to your August 30, 1979
18 report, is it the case that this report is simply a
19 follow through on the methodology established in your
20 earlier reports? A Yes, it is.

21 Q Are there any deviations from that
22 statement? A No.

23 MR. SIROTA: May we have the report
24 marked?

25 (The August 30, 1979 report referred to was

1 received and marked DB-1 for Identification.)

2 MR. SIROTA: In answer to my prior
3 question, Miss Brooks has given Mr. Bisgaier,
4 and Mr. Bisgaier has directed to me, a copy
5 of a letter from Miss Brooks, to Mr. Bisgaier,
6 dated September 10, 1979, a one page letter,
7 which encloses an addendum report dated
8 September, 1979, entitled "Current Housing
9 Costs in Morris County, New Jersey, Preliminary
10 report on Demographics in Morris County, New
11 Jersey," prepared for Mr. Bisgaier by Miss
12 Brooks, again, dated September, 1979.

13 I, for one, did not receive that report.
14 Perhaps others have. May I receive a copy of
15 that report? Do you have an extra copy, Mr.
16 Bisgaier?

17 MR. BISGAIER: No. You were sent one,
18 along with everybody else.

19 MR. SIROTA: Well, I didn't receive it.
20 I'm not disputing --

21 MR. BISGAIER: You were sent one.

22 MR. SIROTA: I really don't want to
23 get into a big battle on whether you sent it
24 or not, whether or not some secretary didn't
25 put it in an envelope. I didn't receive it.

1 MR. BISGAIER: Why don't you use Miss
2 Mc Dermott's copy or Mr. Pantel's copy. It's
3 really not an analytic report. It's mostly
4 just data.

5 MR. SIROTA: We have marked as DB-1
6 for Identification the August 30, 1979 report.

7 Miss Mc Dermott has directed to me her
8 copy of Miss Brooks' September, 1979 report,
9 which I would like marked as DB-2.
10 (The September 10, 1979 Report referred to
11 was received and marked DB-2 for Identification.)

12 Q May I have your copies of the December
13 reports? I would like to mark them. Mine have notes
14 on them. You can have them back.

15 MR. SIROTA: I would like to also mark
16 a memorandum or report from Miss Brooks, to
17 Mr. Bisgaier, the subject of which is "Comparison
18 of Housing Allocations with Alternative
19 Population Projections," dated December 14, 1979.
20 I guess that would be DB-3.

21 (The December 14, 1979 Reports referred to
22 was received and marked DB-3 for Identification.)

23 MR. SIROTA: And also a report of the
24 same date, from Miss Brooks, to Mr. Bisgaier,
25 the subject of which is "Programs to Increase

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Housing in Suburban Municipalities for Lower
Income Persons."

(The December 14, 1979 Report referred to was
received and marked DB-4 for Identification.)

MR. SIROTA: Thank you.

Mr. Bisgaier, there are DB-3 and 4.

I'm giving them to you and Miss Brooks.

Can we go back to the last substantive
question and answer? I believe I asked if
there were any deviations from the methodology
established in the earlier reports.

(The following was read by the reporter:

"QUESTION: Subsequent to June of 1979, have
you rendered any reports to the plaintiffs in
this matter, other than your August 30, 1979
report, your December 14, 1979 reports? Are
there any other reports that you have rendered
to the plaintiffs in this matter?

ANSWER: No.

QUESTION: With respect to your August 30, 1979
report, is it the case that this report is
simply a follow through on the methodology
established in your earlier reports?

ANSWER: Yes, it is.

QUESTION: Are there any deviations from that

1 statement?

2 ANSWER: No.")

3 Q So is it fair to say that, in the reports
4 ~~that~~ you rendered in approximately April of 1979, you
5 established a methodology, which you continued to
6 this report, but simply plugging in the numbers?

7 A That's correct.

8 Q By "this report" I'm referring to DB-1.
9 What I would like to do, Miss Brooks,
10 with your permission and cooperation, is to utilize
11 one municipality and actually follow how you made
12 the changes from the DCA Report to arrive at the
13 figures you have in your August 30, 1979 report.

14 Is that agreeable? A Okay.

15 Q All right. Since I represent Rockaway
16 Township, it would be most logical to use Rockaway
17 Township. With respect to Rockaway Township, would
18 you please explain in detail what adjustments you
19 made to the DCA Report and demonstrate, if you will,
20 the mathematics associated with that, which produced
21 the numbers you have in your August 30, 1979 report?

22 MR. SIROTA: We will go off the record
23 a second.

24 (There is a short discussion off the record.)

25 A I'll try to do it as simply as I can.

1 Q That's not necessary. It doesn't have
2 to be simply. As a matter of fact, I request you not
3 do it simply. Show us every mental machination that
4 was necessary. Do it as you did it. If you did it
5 in a complicated fashion, we are willing to listen.

6 MR. BISGAIER: Let her talk. If you
7 have more questions, you will amplify.

8 A The easiest way to understand this is: For
9 any given jurisdiction, you start with present housing
10 needs. I took the identified number in the New Jersey
11 DCA Housing Allocation Report and adjusted that by
12 taking the vacant units that they identified and
13 reflected those only for low and moderate income
14 persons, which basically reduced the number of vacant
15 units they identified in the 1970 housing need. In
16 addition, I added to that estimate an estimate of
17 financial housing needs, which represents those
18 households paying more than 25% of their income for
19 housing. I then calculated an overlap among the
20 criteria that comprised the 1970 housing need. The
21 resultant figure is the estimated 1970 housing need
22 that I used.

23 Q Now, you are referring to Page 2 of
24 your report, are you not?

25 A Uh-huh. Yes.

1 Q I'm going to ask specific questions.

2 What was the vacant unit figure, in
3 the DCA Report, for Rockaway Township?

4 A I'm not sure all this basic data is going to
5 be here.

6 MR. BISGAIER: Did you say vacant unit
7 or --

8 MR. SIROTA: Yes.

9 MR. BISGAIER: You mean vacant unit?

10 MR. SIROTA: Yes.

11 A Wherever that figure comes from, they have
12 a series of -- we talked about them before, a series
13 of reports, from which they took those figures. The
14 figure that you have in the report is an allocation --
15 not really an allocation, but an estimate need to the
16 individual municipality. If you want the basic data,
17 you would have to go back to the reports.

18 Q I want the numbers that you used. You
19 made adjustments in the numbers that the DCA came up
20 with. Is that correct? A Yes.

21 Q DCA came up with a number for Rockaway
22 Township?

23 MR. BISGAIER: A number of what?

24 MR. SIROTA: Allocation number.

25 A What do you mean by "allocation number"?

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Q Housing allocation for Rockaway Township, present need, prospective need.

A They identified a 1970 housing need for each individual municipality.

Q And you adjusted that to come up with a figure in your report. Is that correct?

A That's correct.

Q What was the housing need for 1970, for Rockaway Township, arrived at by DCA?

A 436.

Q Is that number in your report?

A It's in the New Jersey DCA Housing Allocation Report.

Q What was the number again?

A 436.

Q This is present housing needs?

A Yes.

Q Now, you, in your report, came up with a number for present housing needs, for Rockaway Township, did you not? A Yes.

Q What was that number?

A I don't think I have it with me.

Q Is it on Page 3 of your report?

A You want just the total figure?

Q Yes. A 546.

1 Q Now, there's a difference between 436
2 and 546. Is that correct?

3 A Yes, there is a difference.

4 MR. BISGAIER: I think there may be
5 some --

6 MR. SIROTA: The figures I'm referring
7 to --

8 MR. BISGAIER: Excuse me. Let me finish.
9 There may be some confusion with the number you
10 derived for Rockaway's 1970 housing need and
11 DCA's allocation of 1970 housing need for
12 Rockaway. It's a different number. I think
13 you should clarify that.

14 A Earlier you used the word "allocation" sort of
15 incorrectly, so I wasn't exactly sure what you were
16 talking about.

17 Q Well, correct me.

18 A There are two figures that DCA uses and attaches
19 present needs to it. One is what they refer to as
20 the present -- or, in fact, 1970 housing needs, and
21 the second is an allocation of those present needs to
22 individual jurisdictions. And --

23 Q And those are the A and B Columns on
24 Page 3 of your report?

A That's correct.

25 Q If I misstated the question, I'm sorry.

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A The numbers I've just given you are the 1970 present housing needs.

Q You have given me 546 as your equivalent of the DCA's 436. Is that correct?

A Yes.

MR. SIROTA: Let's go off the record.

(There is a short discussion off the record.)

Q Does the DCA Report have an allocation of present needs that is an equivalent to your Column B in your report?

A Yes.

Q And what is that number?

A For Rockaway Township?

Q Yes. A 533.

Q And does the DCA Report have an allocation of prospective needs for Rockaway Township?

A Yes, it does.

Q What is that number?

A 1,611

Q And does the DCA Report have a figure for unadjusted allocation, an equivalent of your Column E on Page 4 of your report?

A Yes, it does.

Q What is that number?

A For Rockaway Township?

Q Yes. A 1,708.

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Q Does the DCA Report, relating to Rockaway Township, have an equivalent of Column F in your report, development limit? A Would you repeat the question?

Q You have a Column F in your report, development limit. With respect to Rockaway Township, does the DCA have an equivalent number?

A Yes. It's not stated in the report.

Q What is the number?

A The report -- the number is not stated in the report.

Q You say DCA has one, but it's not stated in its report? A They identify each municipality either as an adequate development limit or a specific number for that development limit. For Rockaway Township, they indicate the development limit is adequate.

Q No specific number?

A That is true.

Q Why did they come up with specific numbers for some municipalities and not for others?

A They identified the number when the development limit was exceeded.

Q How many municipalities in Morris County that are defendants in this suit had exceeded their

1 development limit? A One.

2 Q What municipality was that?

3 A Madiscn.

4 Q Does the DCA Report give a definition
5 of adequate? A Not that I recall.

6 Q Do you have an understanding of what
7 adequate means? A It means the
8 development limit has not been exceeded.

9 Q Is it as broad as that? Can it mean,
10 for example, that there's room for two more houses,
11 two more single residences in the municipality? And
12 if that's the case, would it be adequate?

13 A It is just as identified. They don't identify
14 the development limit until that number is exceeded.

15 Q So that, presumably, my statement would
16 be correct; that is, if there was room for one more
17 house, the development limit would not have been exceeded
18 and, therefore, the determination of DCA would have
19 been "adequate"? A I believe so.

20 Q Does DCA have an equivalent of your
21 Column G, allocation based on development limit?

22 A Yes.

23 Q And what was that equivalent for
24 Rockaway Township? A 1,708.

25 Q How did they arrive at an allocation

1 based on the development limit if they didn't have
2 the development limit? A You didn't
3 understand what I said. They did have the development
4 limit, but they didn't identify it in this column.

5 Q Is it identified elsewhere?

6 A You can compute it.

7 Q Have you computed it?

8 A Yes.

9 Q What is the number for Rockaway Township
10 that comes from DCA's own figures?

11 A 44,984.

12 Q So you have made no changes in the
13 DCA developmental limit, is that correct, in your
14 report of September 30? A That's true.

15 Q And they arrived at the development
16 limit by utilizing the criteria we discussed in the
17 prior deposition? A That's true.

18 Q Does DCA have an equivalent column to
19 your Column I, redistribution of units?

20 A Yes.

21 Q And what was that figure for Rockaway
22 Township? A The one identified in
23 Column 9 of the report is 646.

24 Q You are referring to the DCA Report?

25 A Yes.

1 Q Does the DCA Report have an equivalent
2 to your Column J, adjusted housing allocation?

3 A Yes.

4 Q And what is that number?

5 A For Rockaway Township?

6 Q For Rockaway Township.

7 A 2,354.

8 Q Does the DCA have an equivalent of your
9 Column L, second redistribution of units?

10 A They went through the same process, but it's
11 not identified in the report.

12 Q What is the process they went through?

13 A A second redistribution of the units.

14 Q And are there conclusions in the DCA
15 Report as to the allocation of that redistribution?

16 A What do you mean by "conclusions"?

17 Q Any numbers? A No.
18 It is reflected in the final allocation, but they
19 don't identify the number.

20 Q The 2,354 includes a second redistribution
21 of units with respect to Rockaway Township?

22 A I believe so.

23 Q So is it the case that the equivalent
24 of your Column M, in the DCA Report, with respect to
25 Rockaway Township, is the allocation of 2,354?

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A Yes.

Q Does the DCA Report have an equivalent of your Column N, indigenous 1970 share?

A Yes.

Q And what is that number in the DCA Report, with respect to Rockaway Township?

A 436.

Q And is it the case that, with respect to the DCA Report, for Rockaway Township, that 436 is added to 2,354 to arrive at a final allocation?

A That's correct.

Q And what is that number?

A The final allocation?

Q Yes. A For Rockaway Township, it's 2,790.

Q And the equivalent in your report to that 2,790 is Column Q, entitled "Final Allocation"?

A Yes.

Q And your number is 6,102?

A Yes.

Q Utilizing actual numbers, can you explain the differential in Column A, with respect to Rockaway Township, between your figure of 546 and the DCA Report figure of 436?

A Yes. I did explain that to you in the estimates for present housing needs.

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1 I adjusted the estimated vacant units to represent a
2 proportion of the population for low and moderate income
3 persons, and I added to those figures estimated housing
4 needs based on households paying more than 25% of their
5 income for housing costs.

6 Q I would like to take you through the
7 actual numbers, if you will show me mathematically how
8 you took 436 and adjusted it to arrive at 546.

9 A I do not have those figures with me. It is not
10 very complicated. It's an addition of numbers.

11 Q Well, can you do it here?

12 A I said I don't have those figures with me.

13 MR. SIROTA: Go off the record.

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

15 (There is a short recess.)

16 MR. SIROTA: I would like to put something
17 on the record.

18 This is the second renewed deposition
19 of Miss Brooks.

20 At the last deposition, which was
21 approximately two weeks ago, Mr. Bisgaier advised
22 that his office made an error and had cancelled
23 Miss Brooks while we were all here, other than
24 Miss Brooks. Miss Brooks did not appear,
25 through no fault of her own.

1 On the second day we have commenced
2 depositions, I've been advised that Miss Brooks
3 does not have the necessary material with her
4 in order to give depositions with respect to
5 the differentials between her subconclusions
6 and those contained in the DCA report.

7 She agrees and confirms my memory, that
8 the purpose of the additional report was to
9 actually plug in the numbers and to issue a
10 report using the methodology on which I've
11 already deposed her to come up with new numbers
12 involving Rockaway Township and the other
13 municipalities.

14 She now advises she is unable to testify
15 with respect to that today. This has resulted
16 in an imposition upon the defendants and, of
17 course, more meaningful, great expense.

18 What I would like to do, Mr. Bisgaier --
19 MR. BISGAIER: Off the record.

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

21 MR. SIROTA: What I would like to do,
22 Carl, is to continue the deposition as best
23 I'm able, pick up at a later time, at which
24 time, presumably, Miss Brooks would bring all
25 her work sheets related to all these reports.

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Is that agreeable?

MR. BISGAIER: Before you do, I would like to respond to the -- whatever it is you just put on the record, for whatever purpose it was done.

Witnesses cannot be expected to know beforehand everything they are going to be asked at deposition. I suggested that Miss Brooks' deposition be done at her office. It was not.

Any number of the defendants' witnesses, if not all of them, to my recollection, including Miss Mc Dermott's witness, Mr. Lindbloom; Mr. Zimmerman, the Common Defense witness; Mr. Gershon, who is a Common Defense witness; Mr. Polow, a Common Defense witness; every witness I deposed in this case, has not had certain work sheets with them in order to be able to remember in gross detail how they computed various numbers.

I don't think it's an incredulous error on anyone's part. I don't think it's an error at all. If you want to make a Federal case out of it, go ahead. We will send you copies of work sheets, just like we

1 have asked other witnesses to do, and we will
2 reschedule the deposition, if you want.

3 MS. MC DERMOTT: I would just like to
4 note for the record that copies of Mr. Lindbloom's
5 work sheets had previously been supplied, prior
6 to his deposition.

7 MR. BISGAIER: That's not true. He is
8 sending me work sheets that I requested at the
9 deposition.

10 MS. MC DERMOTT: When they were in
11 reference to my town, all the work sheets with
12 reference to Passaic, they were supplied.

13 MR. BISGAIER: That's not true. He is
14 sending them now on how he did his computations,
15 which I still haven't gotten. All the work sheets
16 that Reading did were not submitted. I was not
17 able to ask him any questions about that, and
18 that's for your town and any other one he did.

19 Is that wrong? Did I make a mistake
20 at the deposition? Did he have them all there?

21 MS. MC DERMOTT: No. But as far as any
22 specific data he took from our town, it was
23 supplied.

24 MR. BISGAIER: Why didn't he have them?
25 Were you pulling some number on me?

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MR. SIROTA: I don't see the parallel.

The purpose of this deposition was to do exactly what I said.

MR. BISGAIER: Why don't you go ahead.

MR. SIROTA: I'm talking now, Mr. Bisgaier.

The purpose of this deposition was to do exactly what I was doing. It was known to all parties. The witness so testified.

What I would like to do is to start deposing the witness on DB-3 and DB-4 with, I hope, the recognition that I might have to come back. And I recognize I'm taking the reports out of order, but I don't think that's terribly significant.

Is that agreeable, Carl?

MR. BISGAIER: I don't care.

Q Miss Brooks, with reference to DB-3, who asked you to prepare this report?

A The Public Advocates.

Q And how would you generally describe this report? A The report takes three different population projections and compares the allocations for Morris County based on the New Jersey DCA Housing Allocation Report and as I adjusted those allocations in prior submissions.

1 Q What are the population projections
2 utilized in the DCA Report?

3 A In their Housing Allocation Report?

4 Q Did you accept that Housing Allocation
5 Report in your report of September, 1979, for
6 population projections? A Yes.

7 Q Did you adjust their population projections
8 in your September, 1979 report?

9 A No.

10 Q Then, is it fair to say that this report
11 demonstrates the adjustments to allocations that would
12 be made in the event a different population projection
13 were utilized? A No, it doesn't
14 represent adjustments in the allocations. It represents
15 the same method used in those allocations. It's just
16 based on a different population projection.

17 Q Then, does it not show the different
18 numbers that would result as a result of using different
19 population projections? A That's true.

20 Q What are the three alternate population
21 projections that you utilized? I refer you to Page
22 2 of your report. A Thank you.

23 The first one is the one used by DCA in its
24 Housing Allocation Report. It's the July, 1975
25 Series 2 Population Projections for New Jersey. It

1 was prepared by the Office of Business Economics of
2 New Jersey Department of Labor & Industry.

3 Q And that was the one actually utilized
4 by DCA -- A That's correct.

5 Q -- in their report?

6 A Yes.

7 Q And the one accepted by you in your
8 report of September, 1979? A That's the
9 one I used, yes.

10 The second one is --

11 Q What -- Go ahead.

12 A -- March, 1979 Projections prepared by the
13 New Jersey Department of Environmental Protection used
14 in the Northeast New Jersey Water Quality Management
15 Plan Draft. The third one is an April, 1979 Projection
16 prepared by the Office of Business Economics of the
17 New Jersey Department of Labor & Industry, referred
18 to as the ODEA Series, reported in New Jersey Revised
19 Total & Interim Age & Sex Population Projections.

20 Q Is the third one a draft report, the
21 ODEA Series? A Not to my knowledge.

22 Q Well, is your September, 1979 report
23 the report upon which your testimony as to allocation
24 will be based and all the other factors we have
25 discussed here?

1 MR. PANTEL: I think you are referring
2 to the August, 1979 report.

3 MR. SIROTA: Strike that.

4 Q I've been corrected. My references are
5 to the August, '79 report that we have discussed earlier,
6 the one where you make various adjustments to the
7 DCA Report and come up with conclusions, the final
8 conclusion being the final allocation to each of the
9 individual municipalities.

10 What is your final conclusion as to the
11 proper allocation, if there is such, to Rockaway
12 Township, for example? A What is the
13 allocation number that I presented in the August report
14 for Rockaway Township?

15 Q 6,102. A I'm not
16 asking you a question. I'm trying to clarify if that's
17 the question you are asking me.

18 Q My question is: What is your conclusion
19 as to a final allocation for the Township of Rockaway?

20 A You mean what is that number that I reached as
21 a final allocation?

22 Q I mean just what I said.

23 A If that's what you mean by "conclusion," the
24 number for Rockaway Township is 6,102.

25 Q What is today's date?

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A January the 28th.

Q 1980.

Today, as we sit here, do you have an opinion as to a proper final allocation for the Township of Rockaway?

MR. BISGAIER: Based on the reports?

MR. SIROTA: I'm asking for her testimony today. Presuming this was the day of trial, she would give an answer to that question. I'm asking her that question. When I get an answer to that, I'll work backwards and see what it's based upon.

A I have presented a number based on adjustments I made in the New Jersey DCA Housing Allocation Report.

Q And is that your testimony?

A That is the number that I have presented to date, yes.

Q So that, is it the case, as of today, in your opinion, the proper allocation, for the Township of Rockaway, proper final allocation, is 6,102?

A Based on adjustments that I made to the New Jersey DCA Housing Allocation Reports.

Q Well, do you have an opinion as to what the proper final allocation should be for the Township of Rockaway?
A I have not prepared

1 a separate report. I have prepared the adjustments
2 to the New Jersey DCA Report, which I thought were
3 appropriate.

4 Q You are relying upon those?

5 MR. BISGAIER: I guess I object to this.
6 I believe there's a confusion. She was not
7 asked to, because of a lack of time, make further
8 adjustments as a result of the population
9 projections and comparisions that are in the
10 September report. Is that what you are getting at?

11 MR. SIROTA: Yes.

12 Q Do you intend to use the September report,
13 which utilizes alternate population projections, to
14 come up with alternate final allocations for each of
15 the defendant municipalities?

16 A I've not been asked to do so, no.

17 MR. SIROTA: Carl, can we expect an
18 additional report or an attempted additional
19 report? I don't want to waste my time deposing
20 her on something that she's not going to
21 utilize substantatively. Is she going to come
22 up with additional numbers based upon the
23 adjustments to population projections contained
24 in these two alternate population projections?

25 MR. BISGAIER: Not as part of her direct

1 testimony. The deadline for expert reports
2 is over. She did not have time to do what
3 you are asking the questions about.

4 Q So is it the case, Miss Brooks, that you
5 have not utilized these alternate population
6 projections to modify your conclusions or DCA's
7 conclusions with respect to final housing allocations,
8 your conclusions being those contained in your August,
9 '79 report? A As I indicated, I

10 used the reports to show the difference in allocations
11 for Morris County based on the different population
12 projections. I did not carry through that method to
13 individual jurisdictions.

14 Q It would be mathematics to carry it
15 through, would it not, relatively simple mathematics?
16 It may take some time, but relatively simple mathematics?

17 A That's true.

18 Q But you have not done that?

19 A That's right.

20 Q And you have not been instructed to do
21 that? A That's correct.

22 Q And you have no present intention of
23 doing that? A That's correct.

24 Q Do the alternates, the March, 1979
25 Projection, Northeast New Jersey Water Quality

1 Management Plan, which I'll refer to as the March,
2 '79 projection from now on, and the April, 1979 ODEA
3 Series, New Jersey Revised Total & Interim Age & Sex
4 Population Projections, which I'll refer to as the
5 April, '79 Projections from now on, arrive at
6 population projections for each municipality in the
7 State of New Jersey? A No, I don't
8 believe so.

9 MR. BISGAIER: They are County projections.

10 Q Does the July, 1975 Population Projection,
11 the one used by DCA, arrive at projections for each
12 municipality? A I don't believe so.

13 Q Was it necessary, to the DCA calculations,
14 to break those calculations up to individual
15 municipalities? A No, it wasn't.

16 Q Did the July, 1975 Projection arrive at
17 various conclusions with respect to population
18 projections for Morris County?

19 A Yes.

20 Q And was it for 10 year intervals?

21 A I believe so.

22 Q And do you have those numbers with you
23 today; that is, the population projections for the
24 July, 1975 Study for the year 1980 and then at 10 year
25 intervals? A I believe so.

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Q You do? A Uh-huh.

Q What were the population projections in the July, 1975 Study for Morris County?

A I'm sorry? Could you repeat the question?

Q Did the July, 1975 Study reach conclusions as to the prospective population of Morris County, for any years? A What I have in the report

is for 1990.

Q And that was the year that DCA utilized? Is that correct? A That's correct.

Q And what was the figure for 1990? A For Morris County?

Q Yes. A 475,890.

Q DCA used estimates of population in group quarters. Could you explain that phrase?

Let me refer you to Page 2 of your report, the last sentence, and ask you whether you can explain those? A Could I just have a second to check something?

Q Would you explain the last two sentences of Page 2 of your report, which is DB-3?

A The New Jersey DCA, in its earlier Housing Allocation Report, based -- used population projections we have been referring to as the July, 1975 Series. In the May, 1978 Revised Statewide Housing Allocation

1 Report, they revised those projections by removing
2 from the population the estimated population in group
3 quarters. That refers to people who are living in
4 institutions, prisons, other such group quarters.

5 Q And it was the latter report that you
6 based your adjustments upon. Is that correct?

7 A That's correct.

8 MR. BISGAIER: Off the record for a second.

9 (There is a short discussion off the record.)

10 A I should, then, clarify something for you.
11 I'm not sure you understand the difference. The first
12 figure I gave you for Morris County, the 1990 Series
13 2 out of the July, 1975 --

14 Q Was not the final --

15 A Is the figure without those group quarters.

16 Q I understand.

17 My next question was: What is the
18 figure after the group quartered people are removed?

19 A It's identified, on Page 5 of my report, as
20 463,517 for Morris County.

21 Q Is there a difference in the methodology
22 between the March, '79 Population Projection and the
23 July, 1979 -- '75 Population Projection?

24 A I'm sorry? Could you repeat that?

25 MR. SIROTA: Would you read it back, please?

1 (The following was read by the reporter:

2 "QUESTION: Is there a difference in ^{the} methodology
3 between the March, '79 Population Projection
4 and the July, 1979 -- '75 Population Projection?")

5 A Is there a difference in the method used?

6 Q Yes, to calculate.

7 A Yes.

8 Q Would you explain that difference?

9 A The July, 1975 Series 2 Population Projections
10 were prepared by the Office of Business Economics of
11 the New Jersey Department of Labor & Industry. They
12 are -- it is one of four series that are projected
13 in the New Jersey Population Projections. The Series
14 2 is basically a projection of continued trends based
15 primarily on the period 1970 to 1974. The March,
16 1979 Projections are prepared by the Department of
17 Environmental Protection for the State of New Jersey.
18 They are based on the ODEA Series prepared by the
19 Office of Business Economics of the New Jersey Department
20 of Labor & Industry. They are an adjustment to those
21 series based on a variety of State developmental
22 policies, primarily.

23 Q The ODEA Series is the same series of
24 which the April, '79 Projection is a part?

25 A That's true.

1 Q And on your Page 5, you give, for Morris
2 County, 470,000 as the 1990 projection, is that correct,
3 under the March, '79 Study?

4 A For Morris County, yes.

5 Q And under the ODEA Series, the April,
6 1979 Study, your projection, for Morris County, would
7 be 453,900, is that correct, for 1990?

8 A For Morris County, that's correct.

9 Q Can you account for the large differential
10 in the projections for Essex County? I'm now referring
11 to your Page 5. A Among all three?

12 Q Yes. A The primary difference
13 between the '79 -- I'm sorry, the March, '79 and April,
14 '79 is based on the March, '79's use of the State
15 revitalization policy and assumed that, rather than a
16 decline of population, the population would stabilize
17 for Essex County. The July, 1975 Projection is based
18 on a continuation of current trends in 1970-'74, which
19 may have indicated a continuing growth. I'm not sure.

20 Q What were those years? I missed the years.

21 A 1970 to '74.

22 Q Weren't those the years that were
23 utilized in the July, '75 Study?

24 A That's what I just said.

25 Q Excuse me. I thought you were referring

1 to the April, '79 study.

2 A I started out with the April, '79, and I ended
3 up with the July, 1975.

4 Q How do you account for the difference
5 between the March, '79 and the April, '79?

6 A That's what I started out with. The difference
7 in those two figures is primarily the result of the
8 March, '79 making an adjustment for the State
9 revitalization policy and assuming that the Essex
10 County population would stabilize rather than decline.

11 Q I hope I'm not asking the same question.
12 How do you account, then, for the difference between
13 the July, '75 and the April, '79?

14 A You are asking the same question over and over
15 again.

16 Q Then, perhaps I don't understand it.

17 A My assumption is that the July, 1975 Series,
18 because it's based on a continuation of 1970 to 1974
19 trends, has incorporated in that a projected population
20 increase.

21 Q In other words, you are suggesting that,
22 between 1970 and '74, there is reason to believe that
23 Essex County would have a greater growth in the future
24 than the years utilized for the April, 1979 Report,
25 Projection Report? A That's not entirely

1 accurate, but something like that, yes.

2 Q Well, what years were utilized for the
3 April, 1979 Report? A The population --

4 the projection is a different method.

5 Q How is it different?

6 A The ODEA Series is a combination of population
7 projection and migration patterns, and the migration
8 patterns are primarily based on economic activity
9 within an area, and that economic activity is identified
10 primarily as a residence labor population and labor
11 force that would be expected based on the economic
12 activity within an area. That type of a projection
13 is different that what went on in the Series 2
14 Projection when it's a continuing trend.

15 Q Economic activity in what years?

16 A I don't know the answer to that.

17 Q Migration would be, I take it, the
18 same years as the economic activity that was mentioned?

19 A Yeah. They really don't, as I recall, go for
20 any specific period. They take a population -- I
21 mean they did not identify the time period. They take
22 the population and treat it really as three -- in three
23 different groups, the population below 65 and
24 population over 65 and the military, and they use
25 different methods for the population below 65 and the

1 population over 65. The population below 65 is based
2 primarily on the economic development model.

3 Q The comparison of the Region 2 -- Region
4 11 -- is it Region 2 or Region 11?

5 A Region 11.

6 Q The Region 11 conclusions for the July,
7 '75 and the April, '79 show a considerably lower
8 number for the April, '79 Report than the March, '75
9 report. Is that correct? A It's lower,
10 yes.

11 Q Can we conclude, from that, the
12 economic activity is elsewhere or that those preparing
13 the April, '79 Report found that economic activity
14 was elsewhere; that is, other than in Region 11?

15 A No, I don't believe you can conclude that.
16 It doesn't indicate that economic development is not
17 going on.

18 Q I understand that.

19 But the July, 1975 Population Projections
20 did not take into account economic activity and
21 migration, which the latter of the most recent report
22 flows with economic activity?

23 A They were taken into account. They were not
24 taken into account in the same way.

25 Q Explain the difference of how they were

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taken into account.

A Well, as I explained, the July, 1975 Series is based on an extension of 1970 to '74 trends. Those trends would take into account the pattern of population movement, including migration, that occurred in that time period. The assumption in the July, 1975 Series 2 is that that same pattern will continue.

Q And the April, '79 report does not make that assumption. Is that correct?

A That's correct.

Q To prepare the April, 1979 Report, presumably, they measured economic activity and located it during a relevant period of time?

A For a series of periods of time, yes.

Q You don't know which periods of time?

A No, I don't.

Q So, then, both reports measured economic activity, and there was an assumption that, in both reports, migration flows with economic activity. Is that correct?

A That was an assumption in the April, 1979 Series, the ODEA Series.

Q For what purpose did the 1975 Report consider economic activity?

A To the extent that economic activity affects the migration patterns, it was incorporated in the

1 assumption that the migration patterns that occurred
2 between 1970 and '74 would continue. In --

3 Q Is it the case that the 1975 Report
4 essentially arrives at migration patterns with the
5 basic assumption that they flowed with economic
6 activity, while the later report measured economic
7 activity and assumed that migration would flow with
8 economic activity? A That's basically
9 correct.

10 Q If they were for the same years, there
11 shouldn't be a difference, assuming both assumptions
12 were correct? A I said they weren't
13 for the same years.

14 Q Was the -- A And the
15 other methods are not comparable, as I already explained.

16 Q Do you know what assumptions the April,
17 1979 report made with respect to economic activity,
18 for example, in Morris County, assumptions or
19 conclusions? A Well, other than
20 the way that I've described the method to you, no.

21 Q How did they measure economic activity,
22 do you know, housing starts, --

23 A No.

24 Q -- new jobs?

25 A I could look it up quickly.

1 Migration patterns are based on projections
2 of residents, labor demand and labor force supplied,
3 which incorporated such factors as employment activity,
4 unemployment rates, labor force participation rates
5 and other factors, such as computation of residential
6 preference. That's the way the New Jersey Department
7 of Labor & Industry describes them.

8 Q Which projection do you feel is the
9 most appropriate, the best projection?

10 A I did not study the projection method for that
11 purpose.

12 Q For what purpose did you study the
13 projection methods? A To make this
14 conversion.

15 Q What's the purpose of the comparison?

16 A To show the variation in the allocations that
17 result from different population projections.

18 Q And what's the effect, as the population
19 projection goes down, on the allocations?

20 A Generally, the allocation goes down.

21 Q So that is it the case that DCA used
22 a population projection which would produce the highest
23 allocation to Morris County and to the defendant
24 municipalities? A I don't understand
25 that question.

1 Q Well, of the three compared, DCA used
2 the 1975 Report, which, for Region 11, came up with
3 the highest population projection for 1990. Is that
4 correct? A Of the three, yes.

5 Q Does that necessarily translate itself
6 to establish that, of the three, DCA used the projection
7 which would produce the highest housing allocation?

8 A I don't think that's a conclusion that can be
9 drawn. Secondly, the report was prepared in May, 1978.

10 Q And you are saying the other two reports
11 were not available? A Not available.

12 Q Assuming they were available and DCA
13 had a choice of all three, is it the earliest report
14 which would produce the highest housing allocation
15 for Morris County? A That's true.
16 I assume you mean the earliest population projection?

17 Q Yes, I do. A Yes.

18 Q And is it the case that the March, '79
19 Report and the April, 1979 Report, if utilized, would
20 produce a lower final housing allocation for each of
21 the defendant municipalities?

22 A I don't know.

23 Q What other information would you need
24 to determine whether that's the case?

25 A One would have to follow through the allocation

1 for the individual jurisdictions.

2 Q Is that because Morris County, in the
3 DCA Report, is receiving housing allocations from
4 other counties? A Is what because of
5 that?

6 Q Is that why you would have to follow
7 through? Is that why the total information for Region
8 11 is not sufficient to reach a conclusion that the
9 two later reports would produce a lower housing
10 allocation for Morris County?

11 A You switched your question. Your earlier
12 question was about individual jurisdictions?

13 Q Yes. A What I have
14 presented here is the resulting allocation for Morris
15 County.

16 Q Okay. You have not taken that through
17 to individual municipalities?

18 A That's correct.

19 MR. SIROTA: Off the record for a second.

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

21 MR. SIROTA: Back on the record.

22 Q What is it that you think we can derive
23 from studying the impact of different population
24 projections on the allocations? You must have had --
25 I'm suggesting you had an intellectual goal in mind.

1 A I think one can identify that the resulting
2 allocations alter based on the basic population
3 projections.

4 Q And with respect to Morris County,
5 utilizing the alternate population projections, do
6 the allocations reduce the number?

7 A Yes.

8 Q Is it the case that, if your August 30,
9 1979 report was adjusted to utilize the alternate
10 population projections, that your conclusion with
11 respect to the County as a whole would be less, be
12 reduced? A By "conclusions," you

13 mean the final allocation?

14 Q Yes. A I believe so.

15 Q Would it also be true that the
16 conclusions, with respect to each allocation for each
17 municipality defendant in this matter, would be reduced?

18 A As I already stated, I don't know that. I
19 didn't follow through on those calculations.

20 Q Well, just theoretically, how could
21 they not be? Wouldn't the allocations among the
22 municipalites be in the same proportion as they are
23 in your, in fact, August 30, 1979 report?

24 A Largely, that is true. Those jurisdictions that
25 have breached their development limit would have a lower

1 allocation.

2 Q So you are saying my statement is correct,
3 except to the extent of which some municipalities may
4 reach their development limit?

5 A I would think so.

6 Q And on Table 2 of your report, I'm
7 referring to DB-3, Column K, does that column evidence
8 the differences if one used the different population
9 projections? A Yes, it does.

10 Q In the order you give them, those are
11 the 1975 and then the March, 1979 and April, '79 reports?

12 A That's true.

13 Q So the most up to date and only alternate
14 final report that you give shows a reduction in housing
15 units relative to Morris County. Is that correct?

16 A I'm sorry? Could you repeat that?

17 MR. SIROTA: Read that back, please.

18 (The following was read by the reporter:

19 "QUESTION: So the most up to date and only
20 alternate final report that you give shows a
21 reduction in housing units relative to Morris
22 County. Is that correct?")

23 A The comparison of the population projections,
24 the three different population projections, do show
25 a lower allocation for the County, yes. I'm not sure

1 that answers your question.

2 Q The March, '79 Study, you testified,
3 is a draft study. Is that correct?

4 MR. BISGAIER: The Water Quality Study
5 is a draft study. The population projections
6 used by the Water Quality Study are the State
7 population projections. Do you understand?

8 Q Well, you referred, as I understand it,
9 to the March, '79 study as the source for your
10 population projections. Is that the case, or is that
11 study a secondary source? Did it borrow those
12 projections from someone else or some other entity?

13 A The Northeast New Jersey Water Quality Management
14 Plan uses the ODEA Series and makes adjustments to
15 those projections, and those adjusted projections are
16 incorporated in the Northeast New Jersey Water Quality
17 Management Plan.

18 Q So the differential between the April
19 and March, '79 population projections are the modifications
20 made by DEP. Is that correct?

21 A Yes.

22 Q I'm sorry? A Yes.

23 MR. BISGAIER: Let's go off the record
24 for a second.

25 (There is a short discussion off the record.)

1 A That probably should be clarified. The report
2 is prepared by the Department of Environmental
3 Protection.

4 Q Which report? A The
5 March, '79 Report, the Northeast New Jersey Water
6 Quality Management Plan, the projections are of --
7 were adjusted based on the State development policy,
8 which is not left entirely to the Department of
9 Environmental Protection.

10 Q So what DEP did, correct me if I'm wrong,
11 is take the ODEA Study, which is the Department of
12 Labor Study, and then adjusted it so that it was in
13 accordance with the State development policy, which
14 is produced by DCA. Is that correct?

15 A Others, other than the Department of
16 Environmental Protection, probably had input in those
17 adjustments. It was not done entirely by the
18 Department of Environmental Protection, although that
19 report is prepared by the Department of Environmental
20 Protection.

21 MR. BISGAIER: Do you want to go off
22 the record a second?

23 MR. SIROTA: Sure.

24 (There is a short discussion off the record.)

25 MR. SIROTA: Back on the record.

1 Q Miss Brooks, who developed the State
2 development policy? A To my
3 understanding, it comes out of the Governor's Office.

4 Q And is it in a written form?

5 A I don't know.

6 Q And does it reflect or project the
7 allocation of State resources?

8 A I don't know.

9 Q Is it fair to say that the State
10 development policy is the State of New Jersey's
11 determination of what should be, and that they intend
12 to bring that to reality and utilize State resources
13 to bring that to reality?

14 A I don't know. My understanding is it's a
15 reflection of stated policies in the State. To my
16 mind, that's not the same as what should go on
17 necessarily.

18 Q Well, you have testified that the
19 difference between the ODEA Study and the 208 Study
20 is the State development policy involvement. Is
21 that correct? A Yes.

22 Q So, then, is it fair to say that the
23 State development policy encourages or projects a
24 population for 1990, for Essex County, which is
25 approximately \$100,000 greater than that projected in

1 the ODEA Study? A It's basically
2 correct. I assume you mean 100,000 people instead of
3 dollars.

4 Q You are right, I definitely mean people.
5 Did you finish your answer?

6 A Yes.

7 Q Okay. Do you know the philosophy behind
8 the State development policy at all?

9 A No.

10 Q What knowledge do you have of the
11 State development policy? A The New
12 Jersey Department of Environmental Protection identified
13 some of the factors that altered the ODEA Population
14 Series that they used in the March, 1979 Northeast
15 New Jersey Water Quality Management Plan.

16 Q And these factors flowed from the State
17 development policy? A I believe so.

18 Q What were the factors?

19 A Some of them were the Hackensack Meadowlands'
20 development proposal, the State revitalization policy,
21 the Troy conservation area.

22 Q Could you spell that?

23 A T-r-o-y. I'm not sure about that.

24 Q Where is that area?

25 A Passaic County.

1 Q Is it the Passaic River?

2 A I believe so.

3 Q Is it Tourne, T-o-u-r-n-e?

4 A I'm not sure. I don't know.

5 Q I'm sorry. Continue.

6 A Those are the ones I remember. Oh, I think
7 another one that was mentioned was the Pine Barrens
8 area, the moratorium.

9 Q So these are items that were not taken
10 into consideration in the 1975 Study, upon which DCA
11 and you base your reports?

12 A The population projections did not account for
13 those, that's correct, directly.

14 Q How would you describe the process of
15 altering the ODEA Report, the April, '79 Report to
16 reflect the State development policy?

17 A Well, it is literally just that, an adjustment
18 of the population projections that result from a
19 method established based on selected development
20 policies that the State knew to be going on or expected
21 to be going on.

22 Q Were there any policies, similar policies,
23 which affected the July, 1975 Population Projection?

24 A Not that I recall.

25

MR. BISGAIER: Off the record a second.

1 (There is a short discussion off the record.)

2 (There is a short recess.)

3 Q I want to ask a series of questions now,
4 Miss Brooks, about DB-4, which is your report of
5 December 14, 1979, Programs to Increase Housing in
6 Suburban municipalities for Lower Income Persons.

7 Who is actually preparing the handbook
8 which this report is related, to which this report
9 is related? A The staff of Suburban
10 Action Institute.

11 Q And when was a determination made to
12 prepare this handbook? A The cooperative
13 agreement with the United States Department of Housing
14 & Urban Development was signed in, I believe, October,
15 1978.

16 Q Did the idea come from the Government
17 or from SAI or from some other source initially?

18 A It was initiated by the Department.

19 Q Any particular bureau or person within
20 the Department? A The Office of
21 Community Planning & Development.

22 Q And they contacted Suburban Action
23 Institute and requested they prepare such a handbook?

24 A That's correct.

25 Q And in October, 1978, there was an

1 agreement to prepare the handbook between the Government
2 or HUD and SAI? A Yes.

3 Q Does that agreement provide for a
4 description of the handbook?

5 A Only very generally.

6 Q What is a general description of the
7 handbook? A That you should recognize
8 several things: One, it's a cooperative agreement,
9 and there are other items included in that cooperative
10 agreement in addition to the preparation of the handbook.
11 The handbook was to provide examples of programs in
12 suburban areas to provide housing for lower income
13 persons.

14 Q Was it to propose programs or to
15 memorialize programs which were either in existence
16 or already proposed? A It was to
17 describe those that are in existence.

18 Q What else was in that cooperative
19 agreement that you referred to?

20 A Suburban Action Institute was also requested
21 to carry on a variety of activities, to provide
22 technical assistance to jurisdictions, to assist them
23 in developing and/or implementing programs, to provide
24 housing for lower income people.

25 Q Is SAI doing that now?

1 A Yes, we are.

2 Q With what jurisdictions?

3 A The Technical Assistance Program has two phases
4 to it. One phase is referred to as the intensive
5 technical assistance. In this phase of the project,
6 three metropolitan areas were selected jointly by
7 the Department of Housing & Urban Development and
8 Suburban Action Institute. We were asked, by Government
9 agencies, fair housing groups and citizen groups in
10 those metropolitan areas, to develop and implement
11 programs. The three metropolitan areas are **Norfolk,**
12 **Virginia; Akron, Ohio; and Boston, Massachusetts.**
13 The second part of the technical assistance program
14 is to provide much less intensive technical assistance
15 and sort of a brief technical assistance to agencies
16 or organizations, to assist them in developing programs.
17 The technical assistance would not be over a long
18 period of time as it is in these three metropolitan
19 areas, but would be the provision of expert advice,
20 assistance in the preparation of reports, provision
21 of sample materials, that kind of technical assistance.
22 And those jurisdictions have not been selected.

23 Q So you haven't provided the second
24 class of assistance to any jurisdictions in the

25 United States? A No, not within that

1 part of the contract, that's true. We have been
2 receiving proposals from jurisdictions that are
3 interested in receiving that kind of technical
4 assistance.

5 Q Have you received any proposals from
6 any jurisdictions within Morris County?

7 A I have not reviewed all the proposals. I feel
8 relatively certain that would have been brought to my
9 attention, if one had come in.

10 Q Do Akron, Boston and Norfolk all have
11 fair share plans, not the municipalities, but are
12 there in existence fair share plans encompassing those
13 three areas?

14 A I'm not sure what
15 you mean by fair share plan. In both Akron and Norfolk,
16 there have been approved areawide housing opportunity
17 plans. The Boston Metropolitan Agency, I believe, has
18 just submitted an areawide housing opportunity plan
19 for approval.

20 Q To whom? A The Department
21 of Housing & Urban Development.

22 Q Do the Akron and Norfolk plans
23 encompass housing allocations?

24 A I'm not familiar with the plans.

25 Q Does the Boston plan?

A I assume they do. That's a requirement for

1 approval.

2 Q Does the Boston plan?

3 A I believe so.

4 Q Do you know if such a plan has been
5 submitted for any jurisdiction, including any of the
6 defendant municipalities in this case?

7 A As I recall, the Tri-State Regional Planning
8 Commission put a draft plan together that was not
9 submitted. Therefore, I don't believe it was approved.
10 I should state, in addition to that, the Department
11 of Housing & Urban Development, this year, put out
12 a special notice for the Regional Housing Mobility
13 Program. That was an invitation to 22 regional
14 metropolitan areas to submit plans that would include
15 an Interjurisdictional Section 8 Assistance Housing
16 Program. Along with that counselling effort, the
17 Tri-State Regional Planning Commission was one of the
18 invited agencies. They did submit a plan, and I
19 believe that has just been approved.

20 Q Did you happen to read in the newspaper
21 Sunday, in The New York Times, an article that
22 concerned Connecticut members, I believe the Regional
23 Plan Association, would have proposed eliminating
24 certain New Jersey counties from the New York

25 Metropolitan Region?

A No, I didn't

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read that.

Q What are the two regional associations?

One is the Regional Plan Association, is it not?

A The Regional Plan Association is in New York City, yes.

Q Is there another regional plan entity?

A The Tri-State Regional Planning Commission.

Q And you have not heard anything with respect to suggestions by any of those entities or by constituent jurisdictions within those entities to remove New Jersey counties from consideration in their regional plans? A No, I have not.

MR. SIROTA: Go off the record.

(There is a short discussion off the record.)

Q With respect to DB-4, were you asked to produce this particular report by the plaintiffs or their attorneys? A The memorandum dated December 14, 1979?

Q One of the two, yes, Programs to Increase Housing in Suburban Municipalities for Lower Income Persons. A Yes.

Q And how do you feel that this report or the information contained in it is relevant to this lawsuit? A The report identifies

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1 a variety of ways that jurisdictions can take on the
2 responsibility for providing lower income housing.

3 Q Has your office had any contact with
4 the Housing Authority of the County of Morris?

5 A In the preparation of this report?

6 Q Generally. A Not to my
7 knowledge.

8 Q So I would take it that you had no
9 contact with them in the preparation of the report,
10 DB-4? A Not to my knowledge.

11 Q Well, who prepared the report?

12 A The staff of Suburban Action Institute.

13 Q Who was in charge of preparing the
14 report? A I was.

15 Q What was your involvement in the report,
16 generally? A I was responsible for
17 laying out the design of the research, for overseeing
18 the activities of any staff person that worked on the
19 report, I prepared substantial parts of the report
20 myself and reviewed all materials that went into the
21 report.

22 Q On the front page of the report, there's
23 a statement to the effect that the report or the
24 material contained in the report is a summary draft,
25 and it's been prepared for this case and is not, and

1 it's underlined, to be misconstrued as the handbook
2 itself, which will be released in the spring of 1980.

3 How has this material been altered or
4 adjusted for purposes of this litigation?

5 A The handbook itself has, excluding an introduction
6 and some other materials, basically 11 chapters in it,
7 nine of which are represented here. Each individual
8 chapter has probably a 10 to 15 page narrative which
9 goes through a general description of the type of
10 program that's being discussed, how the program
11 operates, some of the advantages and disadvantages.
12 Following that is a summary chart of the program
13 that we reviewed. Following that will be several,
14 oh, two page case studies of individual programs that
15 were selected for more in depth description. The
16 material presented here is taken from the very first
17 draft of the handbook and does not have any of the
18 case studies included in it. And this material; the
19 charts, for instance, have been edited and updated.
20 They have been reviewed by the jurisdictions whose
21 programs are represented. And any corrections were
22 made based on those comments. The narrative portion
23 contained here is really taken very much as the
24 summary from the much longer narrative that's contained
25 in the handbook.

1 Q Did the relevant jurisdictions review
2 these actual charts that we have in the report?

3 A They were sent to them for review.

4 Q And did each jurisdiction concur that
5 these charts correctly characterize their programs?

6 A The only jurisdictions that reviewed -- to
7 correct that, the only jurisdictions that reviewed
8 the draft handbook were those on whom we prepared
9 case studies, not all the individual chart programs.

10 Q So that the individual programs contained
11 on the charts are your interpretation or your staff's
12 interpretation of the program?

13 A They are taken from material given to us by
14 the jurisdictions.

15 Q And then made into a synopsis or into
16 a chart form. Is that correct?

17 A That's correct.

18 Q But that has not been confirmed with
19 the relevant jurisdictions?

20 A Not by all of them.

21 Q And the only ones that have been
22 confirmed are those to which you devoted more time,
23 both in description and, I'm sure, in your own energies.

24 Is that correct?

25 A They are those that
are described in the case studies.

1 Q How do you characterize the programs
2 that you studied in depth as opposed to those that
3 are just in the chart? Do you have a nomenclature for
4 those kind of programs?

5 A The ones that are written up in greater detail?

6 Q Yes. A We have referred
7 to them as case studies.

8 Q Are case studies contained in the report
9 of December 14, '79? A No, they are
10 not.

11 Q Getting back to my question, with respect
12 to the material contained in your report, these have
13 not been confirmed with relevant jurisdictions. Is
14 that correct?

15 MR. BISGAIER: What do you mean by

16 "confirmed"?

17 A I don't understand.

18 MR. BISGAIER: She has testified that
19 the information was derived from the information
20 those jurisdictions provided.

21 Q After you prepared this report and
22 synopsis of the charts with respect to each of these
23 programs, utilizing their information, you did not
24 direct these back to the jurisdictions to confirm if
25 they agree with your characterization of their programs?

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A Only the case studies.

Q And the case studies are not included in DB-4?

A The projects listed on the charts are also ones that the case studies were prepared on.

Q And what percentage of the ones listed on the charts are also case studies?

A I don't really know. At least half.

Q Do any of the programs exist in Morris County today, any of the programs mentioned in your report?

A No.

Q Have you had any contact with any group in Morris County with respect to implementing a program, such as the ones contained in your report, DB-4?

A No.

Q And by that, I mean even outside your cooperative agreement with HUD.

A Not that I know of.

Q With any of the plaintiffs in this action?

MR. BISGAIER: What is the question?

I'm not sure what the question is, myself.

Q Do you have any program, or are you advising any of the plaintiffs in this action with respect to a present program, such as those related in your DB-4 report, or with respect to any future

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program?

MR. BISGAIER: You mean other than what's

contained in DB-4?

MR. SIROTA: Other than the fact this is a report to the plaintiffs, that's correct.

Q Presumably, the plaintiffs have this report. Other than this report, have you or SAI advised any of the plaintiffs in this action with respect to the general subject matter of this report; that is, Programs to Increase Housing in Suburban Municipalities or Lower Income Persons?

A Let me make sure I understand. Beyond what's contained in this report or the subject matter treated in this report?

Q No. Beyond this report, have you sent anything, other than this report.

A Over and above this?

Q Correct. A No.

THE WITNESS: Is that correct?

A Not that I know of.

MR. BISGAIER: Off the record.

(There is a short discussion off the record.)

Q What is an AHOP agency?

A AHOP --

Q It's not a place where you buy pancakes.

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A AHOP refers to an areawide housing opportunity plan.

Q And an agency is the entity that puts the plan together and adopts it?

A That's true.

Q Such as the plans you testified to earlier in Akron and Norfolk and the one that's being developed in Boston? A Yes. They have been approved in some 31 regions throughout the United States.

Q Do we have an AHOP agency covering Morris County or any portion of Morris County?

A You do not have an approved areawide housing opportunity plan that covers Morris County.

Q And there is no such agency until a plan is approved? A No, Tri-State Regional Planning Commission would be the agency.

Q So there is an AHOP agency covering Morris County? A No. The AHOP agency refers to an agency that has an approved areawide housing opportunity plan.

Q Is there an AHOP agency covering Morris County? A I just said that the AHOP agency refers to an agency that has an approved areawide housing opportunity plan. Tri-State Regional

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1 could submit such a plan. It has not done so.

2 Q Since there is no plan, there is no
3 AHOP agency? A There is an agency
4 that could produce an AHOP. To my knowledge, they
5 do not have an approved one now.

6 Q You used the expression "AHOP agency"
7 in your report. What does that mean?

8 A An AHOP agency is an agency that has prepared
9 and approved an areawide housing opportunity plan.
10 Any regional planning agency can submit an areawide
11 housing opportunity plan.

12 Q And they do not become an AHOP agency
13 until their plan is approved?

14 A They become an AHOP agency when the plan is
15 approved.

16 Q So there is no AHOP agency presently
17 for Morris County. Is that correct?

18 A There's an agency that could be.

19 Q I'm going to keep asking the question.
20 Is there currently an AHOP agency --

21 A The question is not a direct answer, and I
22 can't answer it any other way.

23 Q You described an animal in your report
24 as an AHOP agency. A I'll explain
25 it to you the best I can. Tri-State Regional Planning

1 Commission is the regional planning agency with
2 jurisdiction over Morris County. Tri-State Regional
3 Planning Commission is an eligible applicant for an
4 approved areawide housing opportunity plan. They would
5 be the AHOP agency were there an AHOP for this region.
6 There is not an AHOP for this region.

7 Q So they are not an AHOP agency?

8 A They do not have an approved areawide housing
9 opportunity plan.

10 Q So they are, therefore, not an AHOP agency?

11 A I've answered that question the best I can.

12 Q What are A-95 clearinghouse agencies?

13 A A-95 clearinghouse agencies are agencies that
14 were set up by the office of Management & Budget in
15 a memorandum literally numbered A-95, which sets forth
16 the procedure whereby regional and state clearinghouses
17 have the authority and responsibility to review and
18 comment on applications for Federal funds from
19 jurisdictions within those regions.

20 Q Is there an A-95 clearinghouse agency
21 for an area including Morris County?

22 A Tri-State Regional Planning Commission is the
23 regional A-95 clearinghouse. The New Jersey State
24 Department of Community Affairs is the state A-95
25 clearinghouse.

1 MR. BISGAIER: Off the record.

2 (There is a short discussion off the record.)

3 MR. SIROTA: Let's put it on the record.

4 I will not clearly be able to finish
5 Miss Brooks today since I can't depose her
6 on the August memorandum and because I'm simply
7 not going to reach it. I have proposed
8 additional dates. I have asked Mr. Bisgaier
9 to set as early a date as possible, especially
10 in light of the error which caused the
11 cancellation of the last proposed deposition
12 of Miss Brooks when we were all present. I've
13 given him the dates of January 29, January 30,
14 February 1, February 5, February 6 and February
15 7 and ask that he set the deposition for one
16 of those dates. I would also remind him there
17 are twenty odd additional municipalities that
18 have to depose Miss Brooks.

19 MR. BISGAIER: Off the record a second.

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

21 MR. SIROTA: Back on the record.

22 I don't want to push it off that far.

23 MR. BISGAIER: That may just be the
24 way it goes, unless the judge gives me three
25 more months to depose the witnesses that are

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scheduled.

MR. SIROTA: Off the record.

(There is a short discussion off the record.)

(There is a luncheon recess.)

MR. BISGAIER: I've spoken with Mary and my office concerning future dates. Mary has informed me that she is leaving to visit her family tomorrow and will not be back until Sunday. In any event, I have a settlement conference tomorrow. I have a personal matter with my son on the 30th at his school. I have a deposition on the 31st. I would otherwise have been free on Friday, but Mary won't be here, anyway. On the 4th, we both could be available. On the 5th, we both could be available. On the 6th -- is that true?

THE WITNESS: I have to switch something around.

MR. BISGAIER: On the 5th, Mary can't be available, but I can.

How about the 6th?

THE WITNESS: That's all right.

MR. BISGAIER: The 6th, we both could be available. I have a deposition on the 7th. I have a deposition on the 8th. My calendar

1 is clear for the 11th.

2 MR. SIROTA: All right. How about
3 setting aside the 4th, the 6th and 11th because
4 there will be people who follow after me. I'm
5 hopeful I will finish the morning of the 4th,
6 myself.

7 MR. BISGAIER: Well, are you sure that
8 all those days are necessary?

9 MR. SIROTA: I believe they are. Let's
10 set them. If they are not, we can cancel them.
11 It's difficult to obtain dates. I think it's
12 best to set them.

13 So if it's okay with you, we will establish
14 it for 9:30 on the 4th.

15 MR. BISGAIER: 10:00.

16 MR. SIROTA: 10:00 on the 4th, 10:00 on
17 the 6th and 10:00 on the 11th.

18 MR. BISGAIER: Are you going to be
19 communicating to the other attorneys who you
20 say are interested?

21 MR. SIROTA: Yes.

22 MR. BISGAIER: Do you know who they are?

23 MR. SIROTA: I know who some of them are.
24 I can't give you a list of all. I got calls
25 from at least four or five people.

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MR. BISGAIER: You have four or five?

MR. SIROTA: At least.

MR. BISGAIER: I will convey; by letter, that is, my expectation that anybody who intends to take Miss Brooks' deposition will have read completely all of the depositions, the transcripts, the prior depositions. In light of my own time frame, the necessity for taking depositions of other witnesses, I will not permit Miss Brooks to answer any redundant question that has already been asked by you. I'm just saying that to convey that to the other people.

MR. SIROTA: I'm attorney for the Township of Rockaway. It was agreed that I would go first.

MR. BISGAIER: I don't think that's entirely forthright. Miss Brooks has been paid by the Common Defense for the time you are taking her deposition, and I must assume --

MR. SIROTA: I don't know that that's the case. At least a portion. You can make whatever representations you would like.

MR. BISGAIER: The other thing I would like to put on the record at this point and ask you to make a point in finding out what the

1 problem is: Miss Brooks informs me she has
2 not been entirely paid for depositions that
3 were completed in May of 1979. Apparently,
4 one-third of her bill has not been paid at this
5 time.

6 MR. SIROTA: Would you please send to
7 me essentially an accounting of what's due
8 Miss Brooks so I can look into that?

9 MR. BISGAIER: Okay.

10 Q With respect to Page 4, particularly,
11 of your report, which is DB-4, are there any programs,
12 that you know of, in Morris County, permitting a loan
13 to a low or moderate income person at lower than the
14 market rate for interest on mortgages?

15 MR. BISGAIER: Could you read that back
16 again?

17 (The following was read by the reporter:

18 "QUESTION: With respect to Page 4, particularly,
19 of your report, which is DB-4, are there any
20 programs, that you know of, in Morris County,
21 permitting a loan to a low or moderate income
22 person at lower than the market rate for
23 interest on mortgages?")

24 A There are none mentioned in the handbook, and
25 I don't know of any. But you should recognize, it

1 might save you some time, that the handbook is a
2 compilation of programs that were made available to us
3 by jurisdictions operating those programs based on
4 a survey that we conducted. It is not intended that
5 it be comprehensive.

6 Q You don't know of any such programs
7 in Morris County? A I said no.

8 Q What about in the State of New Jersey?
9 A No.

10 Q Well, do you know of any programs, as
11 generally described in your report, other than the
12 ones mentioned in your report, or is this a complete
13 document as to all programs of this nature that you
14 are familiar with? A Well, I just
15 explained to you that the document represents the
16 results of a survey that we conducted asking for
17 jurisdictions to send us information on programs
18 they were operating. That survey was sent out to
19 most planning agencies and other fair housing groups
20 and a lot of other fair housing agencies throughout
21 the State. The handbook is a compilation of the
22 results of that survey. It does not pretend to be,
23 nor was it intended to be, comprehensive. I,
24 obviously, know of other programs that are going on
25 that are not covered in the handbook.

1 Q Are you familiar with any programs
2 in Morris County permitting the accumulation of down
3 payments by means of sweat equity or mandatory savings
4 set aside from rent? A No, I'm not.

5 Q Any such programs in the State of New
6 Jersey? A No.

7 Q Are you familiar with any programs
8 in Morris County, operating in Morris County, extending
9 the time for repayment of the total debt, pursuant to
10 a second mortgage, repayable in part or in full after
11 the first is fully paid? A Not specifically

12 MR. BISGAIER: Excuse me. Are you
13 reading from something?

14 MR. SIROTA: Yes, as I said, Page 4 of
15 the report.

16 A No.

17 Q You say, "Not specifically." What do
18 you mean by "Not specifically"?

19 A You should recognize that, in preparation of
20 this handbook, we did not do a survey of programs
21 that are available in the State of New Jersey.

22 Q Right. I understand that.

23 Does this handbook represent all programs
24 of which you were apprised pursuant to your survey?

25 A No.

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Q There are other programs which were not included?
A Yes.

Q What was your criteria for including some and excluding some?

A The amount of information that was available, characteristics about the program, if they were interested, if they were programs we thought could be replicated in other areas. I guess those, primarily.

Q Did you exclude programs involving Morris County?
A I don't know.

Q New Jersey?
A I don't know.

Q Who would know?
A All the people that worked on the report.

Q Who made the determination whether to include or exclude programs?

A Different people working on different sections of the report make those decisions for that section of the report.

Q You had overall supervision of the report?
A I did.

Q Do you know if there are any programs in Morris County providing mortgage assistance together with or without other forms of counselling, credit counselling?
A No, I know that there's a New Jersey State Housing Finance Agency, and

1 I did not review all of their programs in preparation
2 for this. So I don't know the specifics.

3 Q What about any programs particular to
4 Morris County of that like?

5 A Not that I know of.

6 Q Are you familiar with any programs
7 providing financial assistance to developers of
8 multifamily buildings? A No.

9 Q None at all? A Are you
10 talking about Morris County or New Jersey or --

11 Q Well, let's limit it to Morris County.

12 A No.

13 Q New Jersey? A No.

14 Q What programs are there in Morris County
15 to help people with respect to housing low and moderate
16 income persons? A I know of none.

17 Q Have you made a study of it?

18 A No.

19 Q Have you been asked to make a study of it?

20 A No.

21 Q Is there such an available program in
22 Morris County? A There are Section 8
23 units available in Morris County.

24 Q You don't know how or if they are
25 utilized? A I know some are, yes.

1 Q I didn't hear your answer.

2 A I know some are, yes.

3 Q How are they utilized? Is that rent
4 subsidization? A Yes, it is.

5 Q With respect to the summary chart on
6 programs that provide financial assistance to lower
7 income households, can you point to any of these
8 programs in particular that operate in areas that are
9 similar to Morris County?

10 MR. BISGAIER: Do you understand what
11 he means by "similar"?

12 THE WITNESS: That would help, I guess,
13 initially, if he could identify what he means
14 by "similar."

15 Q Similar, in the sense of all the criteria
16 necessary to establish fair share housing for low
17 and moderate income people?

18 A I don't understand that.

19 Q Similar, in the sense of percentage of
20 lower and moderate income persons, average income,
21 proximity to metropolitan areas?

22 MR. BISGAIER: Are you asking if there's
23 something unique to those municipalities or
24 programs where they are functioning which would
25 make them nonfunctional in Morris County?

1 MR. SIROTA: I'm asking the converse,
2 I guess.

3 Q Are there any of these programs which,
4 in particular, have been shown, by their operation in
5 the past, to be particularly relevant to Morris County
6 as opposed to every other jurisdiction in the country?

7 A Well, I can answer that question in part,
8 I guess. As I answered it before, the programs we
9 selected to be in the handbook were selected in part
10 because we believed they were replicable, that we
11 believed they were not designed in such a way or
12 operating in such a way that made them dependent on
13 a particular set of circumstances to a particular
14 jurisdiction.

15 Q Is it your position that any of these
16 jurisdictions would effectively operate in Morris

17 County? A Of the ones I'm most
18 familiar, I'm not familiar with one that could not be,
19 if that's a fair way to answer. There are several
20 jurisdictions in here that are, in certain ways,
21 very similar to Morris County.

22 Q Which ones? A Well, like
23 Fairfax County, Virginia; Westchester County, New York;
24 Dade County, Florida. They are all circumstances
25 were those are counties in a -- or with a relationship

1 to a large metropolitan area.

2 Q Well, the City of Miami is within Dade
3 County? A It is.

4 Q What is the County seat of Fairfax
5 County? Is that Norfolk? A No, Fairfax
6 County is immediately adjacent to Washington, D. C.
7 The County seat is Arlington, I think.

8 Q Are there any of these programs that
9 you feel are particularly relevant to Morris County?

10 A Any of them could be. I mean, I don't know
11 how to answer that. I've given you three that are
12 operated by counties, which I thought was a place to
13 begin, as opposed to, let's say, a state agency.

14 Q Don't programs meet different needs?
15 Would those programs permitting sweat equity, as you
16 describe it, be appropriate in an area that has a
17 relatively young housing stock?

18 A It could be.

19 Q Is it fair to say they would be most
20 appropriate to an urban or an entity that has an
21 old housing stock? A They may appear

22 there more often. Suffolk County, for instance, in
23 Long Island, New York has a sweat equity program.

24 Q They appear most often in areas with
25 older housing stock? A Only because

1 there's no rehabilitation going on, and sweat equity
2 programs are tied to rehabilitation.

3 Q So, presumably, if a subject area had
4 little housing which was appropriate for rehabilitation,
5 a sweat equity program would not be appropriate?

6 A Not necessarily. That's what you asked me
7 before. Sometimes a sweat equity program is for
8 maintenance, maintenance going on in any unit, old
9 or new.

10 Q In your report, you seem to speak of it
11 in the sense of someone acquiring a new home, new
12 to that person. Would maintenance meet that criteria?

13 A Maintenance -- there would be maintenance
14 responsibilities for that unit, as there would be for
15 any unit.

16 Q Aren't you describing a sweat equity
17 program as essentially providing the downpayment for
18 the home when someone purchases it?

19 A Most of the sweat equity programs have that
20 intention, yes.

21 Q Wouldn't that most often operate in an
22 area where rehabilitated buildings or buildings subject
23 to rehabilitation existed?

24 A I indicated it's most often there. It's not
25 exclusively there.

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BROOKS
1 Q If you had your choice of five programs,
2 can't you, then, see that certain programs would be
3 more suitable to certain areas, other programs to
4 other areas? A I think that's

5 possible.

6 Q If you could make that gradation, which
7 type of programs do you think would be most appropriate
8 to Morris County? A Virtually any

9 program that would increase the supply of lower cost
10 housing.

11 Q What if you were limited to the number
12 of programs and you had to select three or four
13 programs? Which programs would you select for Morris
14 County?

15 MR. BISGAIER: Is that too hypothetical
16 for you? Do you know enough facts in order to
17 answer that? I guess, what I'm saying, I don't
18 understand the question, why there would be
19 a need to limit or why you have to pick or choose.
20 You are saying, in an artificial world, if
21 somebody said to Mary, you could only pick
22 three programs, which would you pick? Is that
23 the question?

24 MR. SIROTA: Well, Miss Brooks discusses
25 gradations in programs as to suitability for

1 various areas. Which would be most valuable?

2 I'm asking her whether she knows enough about

3 Morris County to make a determination or offer

4 an opinion as to which programs would be most

5 valuable, in her estimation, for Morris County.

6 A Let's take a step backwards. You are really

7 the one that discussed the gradations. I mean, as

8 I indicated, I think virtually any program that would

9 increase the availability of lower income housing would

10 be appropriate for Morris County. I can talk about,

11 based on the evidence presented here in the handbook,

12 the types of programs that, oh, have been implemented

13 in counties, and I can carry on that kind of conversation,

14 if that's what you are interested in.

15 Q No. As I understand your answers, it

16 appears to me you are saying, or perhaps it just appears

17 to me, that the greatest number of low and moderate

18 income persons will be served by various programs,

19 depending upon the particular characteristics. So

20 that, again, theoretically, if we had a municipality

21 here in Morris County where every house was one year

22 old, a sweat equity program or rehabilitation program

23 would not be among the most desirable ones? I know

24 that's not the case, but I think -- I'm attempting to

25 explain, based upon your answers, a concept where some

1 programs are more desirable than others. Presumably,
2 they do more work for low and moderate income people.
3 Is that fair to say?

4 A I think in restating your question, restating
5 the problem, you stated a hypothetical of all the
6 units being one year old. That's not the case.

7 Q Right. A Virtually
8 any program could have any impact on the County.
9 Therefore, it would be an important program.

10 Q Wouldn't it be your goal to desire the
11 most valuable programs, which have the greatest impact
12 on Morris County; that is, produce the most number of
13 units for low and moderate income persons?

14 A Not necessarily.

15 Q Can you explain that more fully?

16 MR. BISGAIER: Can you read that question
17 and answer back?

18 (The following was read by the reporter:
19 "QUESTION: Wouldn't it be your goal to desire
20 the most valuable programs, which have the
21 greatest impact on Morris County; that is,
22 produce the most number of units for low and
23 moderate income persons?

24 ANSWER: Not necessarily.")

25 A The question is a little bit confusing to me.

1 Q How so? I'll attempt to explain it.

2 A I guess I'm unclear as to whether you are talking
3 about the handbook or something else.

4 Q Well, I'm talking about programs in
5 general and, of course, the proposed handbook in the
6 report describes numerous programs.

7 Let me start over again. Is it your
8 goal or isn't it consistent with your goal to favor
9 those programs that would have the greatest impact
10 on Morris County with respect to providing housing
11 for low and moderate income persons?

12 A My goal with respect to what?

13 Q Your general goal as an advocate.
14 You described yourself as an advocate of housing for
15 low and moderate income persons, have you not?

16 A I don't know whether or not I have, but okay.

17 Q Okay. You agree with that?

18 A That I am such an advocate?

19 Q Yes. A Yes.

20 Q Is it consistent with that goal or that
21 advocacy to favor those programs which have the greatest
22 impact in providing low and moderate income housing
23 for persons in Morris County?

24 A That's a confusing question, but I guess I say,
25 again, no, not necessarily.

1 Q Well, would you amplify that? Why not
2 necessarily? A I don't quite

3 understand why sheer quantity would be the goal.

4 Q Quantity of housing is not a goal?

5 A To increase the supply of housing is a goal,
6 but I find it strange that one would select a program
7 merely on the basis that it would provide a greater
8 number of units than another.

9 Q Why is that strange?

10 A There are other considerations.

11 Q What are some other considerations?

12 A The needs of low income people.

13 Q What type of needs?

14 A What type of housing they want, where they
15 want to live, questions like that.

16 Q Has your report and the DCA report taken
17 that into consideration? A Taken what
18 into consideration?

19 Q Where people want to live and what type
20 of housing they want. A By the

21 "DCA Report," you mean the Housing Allocation Report?

22 Q Yes. A I think, to some
23 extent, yes.

24 Q How so? A We have
25 discussed this before. The rationale behind an

1 allocation of units is to approximate, as closely as
2 possible, what would happen were lower income people
3 able to compete in the housing market.

4 Q And within that context, is it the case
5 that you are unable to tell me which of these programs,
6 given the particular characteristics of Morris County,
7 would be most successful in realizing that goal?

8 A I can identify a few programs that I think would
9 be intriguing for Morris County to try --

10 Q I would appreciate that, if you would.

11 A -- based on having prepared the handbook.

12 Q If you would, I would appreciate that.

13 MR. BISGAIER: Do you intend this to be
14 an exclusive list or just examples?

15 THE WITNESS: No, just what I said, I
16 think it would be intriguing to see Morris County
17 do these.

18 MR. SIROTA: If you have any objections,
19 please do it in the form of an objection. You
20 will have a chance to ask questions at a later
21 time.

22 A It would be intriguing to see Morris County try
23 any of the programs in the handbook. I would be
24 particularly interested in some of the inclusionary
25 land use regulations that are identified in the report,

1 the land banking or land acquisition programs, the
2 cost writedown programs, interjurisdictional use of
3 the Section 8 and programs to maintain the availability
4 of the units. Those would top my list.

5 MR. SIROTA: Could you read those back,
6 please?

7 (The following was read by the reporter:

8 "ANSWER: It would be intriguing to see Morris
9 County try any of the programs in the handbook.
10 I would be particularly interested in some of
11 the inclusionary land use regulations that are
12 identified in the report, the land banking or
13 land acquisition programs, the cost writedown
14 programs, interjurisdictional use of the Section
15 8 and programs to maintain the availability of
16 the units. Those would top my list.")

17 Q Would you describe inclusionary land
18 use regulations, as you referred to them?

19 A As they are discussed in the handbook, really
20 only two different kinds of inclusionary land use
21 regulations are discussed, the first being incentive
22 provisions, primarily the availability of the bonus
23 incentive to developers for providing lower cost housing,
24 and the second alternative discussed is a mandatory
25 requirement for the inclusion of a proportion of lower

1 cost units in a development.

2 Q Are there any land use ordinances, that
3 you know of, within New Jersey that provide either
4 for the incentive or mandatory form of inclusionary
5 land use? A Discussed in the handbook

6 is the Cherry Hill, New Jersey Ordinance.

7 Q Are you familiar with Cherry Hill?

8 A Somewhat..

9 Q Where is Cherry Hill?

10 MR. BISGAIER: Do you know?

11 THE WITNESS: No, I can't think of the
12 county it's in.

13 Q Can you describe where it is in
14 relationship to what towns or --

15 A I'm a complete blank on it.

16 Q Do you know how far it is from where
17 we are today? A Nothing that would
18 be close, no.

19 Q How far it is from New York City?

20 A Yeah, it's about an hour, hour and a half.

21 Q Well, what is Cherry Hill like, generally?

22 A It's a developing community, in the sense there
23 is still a substantial amount of growth going on in
24 Cherry Hill. It has a mixture of residential types
25 and has some commercial-industrial development.

1 Q How about what type of transportation?

2 A Largely automobile, as I recall.

3 Q What is the program like in Cherry Hill?

4 A The ordinance in the handbook?

5 Q Yes. A It's a mandatory
6 requirement for 5% of lower cost units in the -- what's
7 referred to as the R-5 Zone in the Zoning Ordinance.

8 Q How large is Cherry Hill?

9 A I don't know.

10 Q How large is the R-5 Zone?

11 A I don't know.

12 Q How large is the R-5 Zone in comparison
13 to the size of Cherry Hill?

14 A I don't know.

15 Q What is the R-5 Zone? What are the
16 characteristics of the R-5 Zone?

17 A I would have to go back and look at the Ordinance.

18 Q Cherry Hill is mentioned in your report,
19 isn't that right? A It's on the chart,
20 yes.

21 Q What page, do you recall?

22 A 19.

23 Q Pardon? A 19.

24 Q Is it a requirement that the zone be
25 built with subsidization of some sort?

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A I don't understand the question.

Q You have a column called type of units and assisted or nonassisted, and under that, with respect to Cherry Hill, you say, "Publicly or privately subsidized." What does that mean?

A It means the units that would meet the 5% requirement may be either publicly or privately subsidized.

Q What does "privately subsidized" mean?

A The subsidy is coming from some other source, other than public.

Q Would private subsidization be the developer putting up 5% of his homes as low and moderate income homes?

A That would be possible.

Q Has there been any housing built pursuant to this Ordinance?

A It was reported to us that there were 31 units.

Q Which would mean between one and two units of low and moderate income housing, correct?

A 31 units of lower cost housing.

Q I see. Are there any examples, in New Jersey, of the incentive inclusionary land use ordinances?

A Not in the handbook, no.

Q Are there any that you know of?

1 A No.

2 Q And that incentive would include
3 density bonus, wouldn't it?

4 A Yes, it would.

5 Q What about in New Jersey, any land banking
6 or land maintenance programs?

7 A There's one in Bergen County.

8 Q Where in Bergen County?

9 A It is a Bergen County program.

10 Q In the County of Bergen, it's run through
11 the County Government? A Yes.

12 Q Could you describe how the program works?

13 A The County has allocated community development
14 block grant funds for the acquisition of land, and
15 to date that land has been used for the construction
16 of a program under the Affordable Homes Program in
17 New Jersey.

18 Q What is the Affordable Homes Program?

19 A That program is described as a case study in
20 the handbook.

21 Q But the case studies are not included
22 in your report? A They are included
23 in the handbook. They are not included in this.

24 Q Could you describe what the Affordable
25 Homes Program is? A Only very generally.

BOOKS - direct 90
1 I believe it's a mortgage assistance program that is
2 applicable to units within a particular piece range.
3 I'm not sure.

4 Q With reference to Page 27 in your report --

5 -- MR. BISGAIER: Do you want to look
6 something up?

7 THE WITNESS: No.

8 Q Did I interrupt your answer?

9 A No.

10 Q What's a cost writedown program?

11 A The cost writedown programs are really a variety
12 of mechanisms used to reduce the final sale or rent
13 of units by literally subsidizing the cost of the
14 development of that unit at some point in the development
15 process.

16 Q The program you mentioned, is that, in
17 fact, the program on Page 27 of your report?

18 A In Bergen County?

19 Q Yes. A Yes, it is.

20 Q And the entity, then, is the Bergen
21 County Housing Authority.

22 A Yes.

23 Q And that program is approximately three
24 years old, its origin? A It was
25 created in 1977.

1 Q And since that time, they have purchased
2 one site. Is that correct?

3 A I believe they just purchased a second site.

4 Q Where was the initial site?

5 A I have forgotten.

6 Q Do you know where the new site is?

7 A No.

8 Q Has any housing been built as a result
9 of this Bergen County program?

10 A On that one site, a duplex was completed.

11 Q How many units?

12 A A duplex is two units.

13 Q Just one structure?

14 A Yes.

15 Q So that this one site was one lot?

16 A That's correct.

17 Q On which was built a duplex or up-down
18 two family house? A That's correct.

19 Q Where did the funds come from to purchase
20 the land? A As identified, the
21 community development block grant funds.

22 Q Has the Morris County Housing Authority
23 participated in this program?

24 A I believe so.

25 Q Have they purchased --

1 A You mean in the community development block
2 grant funds program?

3 Q No, this land acquisition.

4 A Oh, no.

5 Q What has the Morris County Housing
6 Authority done with their block grants?

7 A The housing authorities don't receive block
8 grants. Block grants go to a unit of Government.
9 In the instance of Bergen County, Bergen County
10 Housing Authority administers the program.

11 Q You mean Bergen County Housing Authority
12 is not considered a unit of government or political --

13 A It's an agency.

14 Q It's an agency.

15 Okay. How large is the second site that
16 they purchased? A I don't know.

17 Q They did this voluntarily?

18 A Yes.

19 Q How about Cherry Hill, did they do that
20 voluntarily, their Ordinance that we have discussed?

21 A I don't know.

22 MR. BISGAIER: Off the record.

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

24 Q There is a paragraph on Page 15 which
25 was of interest to me, that fourth paragraph. You say,

1 "The extent to which these ordinances," meaning
2 inclusionary land use ordinances, "actually increase
3 the supply of housing beyond what is available through
4 assisted housing programs. It depends upon a combination
5 of techniques to encourage the developer to provide
6 housing at below market rates."

7 In conjunction with that, was the housing
8 built in Cherry Hill, the 31 units that we discussed,
9 publicly or privately subsidized?

10 A I don't know.

11 Q Is there a net benefit to low and moderate
12 income persons if the housing is not privately subsidized?

13 MR. BISGAIER: Can you repeat that
14 question?

15 (The following was read by the reporter:

16 "QUESTION: Is there a net benefit to low and
17 moderate income persons if the housing is not
18 privately subsidized?")

19 A I don't understand that question.

20 Q Well, as an advocate of maximizing
21 housing available for low and moderate income persons,
22 would you prefer that a developer coming in that R-5
23 zone produce the low and moderate income housing under
24 a public or private subsidy?

25 A I don't have a preference.

1 Q With respect to Page 16 of your report;
2 specifically, the third full paragraph, could you
3 explain or could you amplify why these ordinances are
4 most successful where there is pressure or continued
5 residential development and builders are active in
6 the private market? A That seems

7 pretty obvious. The ordinances do ask something of
8 the developer, and where that developer is already
9 interested in conducting his or her business in that
10 jurisdiction, there's a greater likelihood that they
11 will participate in what's required of them through
12 the ordinance.

13 Q The statement does say the obvious.
14 If no one is building them, then low and moderate housing
15 isn't being built. Is that what it's saying?

16 A Not necessarily. The incentive -- it has, in
17 some circumstances, acted as an incentive to attract
18 a developer to develop an area.

19 Q The incentive as opposed to the
20 mandatory? A Yes.

21 Q Other than the Bergen County program,
22 which would appear to have a cost writedown limit to
23 it, is there another cost writedown program in the
24 State of New Jersey? A Not that I'm

25 aware of.

1 Q You mentioned an Interjurisdictional
2 Section 8 Program. Could you describe what you mean
3 by that term? A The phrase has

4 been coined in response to programs where jurisdictions
5 or agencies with authority to operate a Section 8
6 Program, through a variety of mechanisms, agree to
7 operate those programs on interjurisdictional bases,
8 so that households eligible for the receipt of Section
9 8 assistance can select to move to a different
10 jurisdiction than where they presently live.

11 Q Is there such a program in New Jersey?

12 A I know of one that was proposed. I don't
13 believe it's in operation.

14 Q Where was that? A Camden
15 County. The second county, I don't remember.

16 Q Assume that the program did involve two
17 counties in New Jersey. Would that mean that someone
18 residing in one of those municipalities in one of those
19 counties could find housing anywhere within that
20 two county region and receiving Section 8?

21 A Yes, in some sense.

22 Q In what sense is it inaccurate or
23 incomplete? A The program is more

24 complicated than that, but that's the gist of it.

25 Q And with respect to the program in Camden

1 County and the other county, which you don't remember,
2 what was the governing entity? Was it the County
3 Government, County Housing Authority?

4 MR. BISGAIER: This is not a program
5 that went into operation.

6 Q Who proposed the program?

7 A The Delaware Valley Regional Planning Commission.

8 Q That's a private entity?

9 A I didn't think so. It's a regional planning
10 agency.

11 Q In the same sense that Tri-State is a
12 regional planning agency? A Yes.

13 Q When did they propose it?

14 A Within the last year.

15 Q And what happened?

16 A I don't know the status of it.

17 Q Who did they propose it to?

18 A It was in response to a program I mentioned
19 earlier, an invitation from the Department of Housing
20 & Urban Development for a selected 22 regional planning
21 agency to submit applications for the regional housing
22 program.

23 Q Did the relevant counties comment on
24 the proposed plan? A In a manner of
25 speaking.

1 Q What did they do, or what did they say?

2 A They indicated agreement to operate the program,
3 I believe.

4 Q How well, in your estimation, does
5 housing information referral and counselling programs
6 work in providing housing for low and moderate income
7 persons? A They are very important
8 programs and operate very well where they are conducted
9 with some seriousness, enlarging the understanding or
10 information that's made available to lower income
11 persons about the housing which they can take advantage
12 of.

13 Q Are there such programs available in
14 Morris County? A Not that I know of.

15 Q In the State of New Jersey?
16 A I'm sure there are some. I'm not familiar with
17 them.

18 Q You are not sure there are some in
19 Morris County? A No.

20 Q Are these programs conducted only by
21 public entities? A No, some of them
22 are conducted by urban leagues or fair housing
23 organizations.

24 Q Do you know whether the Morris County
25 Fair Housing Council or the Urban League in Morris

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County conduct such programs?

A No, I don't.

Q Are there programs in Morris County to combat and reduce discrimination in housing against minority group members? A I don't know.

Q What about in the State of New Jersey?

A I don't know a specific program.

MR. SIROTA: Off the record a second.

(There is a short discussion off the record.)

(There is a short recess.)

Q Miss Brooks, my questions will relate to DB-2, which is the September 10, 1979 report. Is it generally the case that your position is that housing should be available to people at two to two and a half times income? A The report you are referring to uses that standard as a way of measuring the availability of housing as compared to income population.

Q Did you not choose that standard?

A It's a fairly standard rule of thumb used in making that comparison.

Q You are the author of the report. Is that correct? A Yes.

Q And you, then, in fact, choose that standard to utilize in your report?

1 A That's true.

2 Q What is your basis of utilizing that
3 standard? A As I indicated, it's a
4 standard rule of thumb used primarily in the approval
5 of a mortgage to households in the relation between
6 the price of the home and the income of the household.

7 Q How do you know that's a standard
8 rule of thumb? A It's used widely in
9 the literature in the field and -- that, primarily.

10 Q Do you feel it's as relevant today as
11 it may have been in the past?

12 A Yes.

13 Q With respect to Page 4 of your report,
14 which of the three areas is most relevant to the
15 region that the plaintiffs are attempting to establish
16 in this case; that is, the State of New Jersey, Region
17 2 or Newark SMSA? A That's Region 11,
18 and Region 11 is the region we have been talking about.

19 Q So is it your position that housing,
20 in 1970, should have been available for people in
21 Quintile 1 at a cost of \$17,500?

22 A I'm not sure you are understanding the report.
23 Maybe I can try to clarify that for you.

24 Q Sure, I would appreciate that.

25 A What the report does is evaluate the price of

1 homes for sale in relationship to what we have talked
2 about earlier, the quintile analysis. And in doing
3 that comparison, an identification of certain figures
4 are reached in using the two to two and a half times
5 annual income, and I believe the figure you just
6 quoted is based on that evaluation.

7 Q On Page 3, for example, are those
8 average prices of sales? A Yes.

9 Q Why do you use average instead of median?
10 A Average was used because that's what information
11 was available.

12 Q Do you think average is as useful as
13 a median price? A I guess it is.
14 Yes, I think so.

15 Q How so? A For the
16 purposes of this evaluation, which was really to
17 identify the availability of homes within certain
18 income ranges, I do think either would suffice. I
19 believe the average is a fair comparison to make.

20 Q Could the median be quite different from
21 the average? A It could be.

22 Q And could that be significant?
23 A For this report, I don't think so.

24 Q Why not? A I think the
25 trends or the patterns identified in this report would

1 largely remain the same.

2 Q Do you know that for a fact? Have you
3 considered the medians? A No.

4 Q Have you reviewed the constituent sales,
5 which form the average price? A Yes.

6 Q In what form? A There
7 are literally a list of homes sold and the price at
8 which they were sold.

9 Q Does it describe the home?

10 A No.

11 Q Did you review the SRLA's?

12 A Only partially.

13 Q How do you mean?

14 A The information was collected for me, and
15 in some instances I had the SRLA's and in other
16 instances I did not.

17 Q Who collected the information for you?

18 A The Department of Public Advocates.

19 Q Who within the Department of Public
20 Advocate? A I don't know.

21 Q What information did they provide you
22 with? A A list of the S -- of

23 the homes sold and the price at which they were sold
24 during the period 7/77 to 7/78, by jurisdictions.

25 Q Did they include any SRLA's?

1 A I believe so.

2 Q You haven't produced this report, have
3 you, at any time in the past?

4 MR. BISGAIER: What report?

5 Q The information you received from the
6 Public Advocate. A No, it wasn't a
7 report, but --

8 Q The information, was it in written form?

9 A Yes.

10 Q Do you recall, at the last deposition,
11 I asked you to produce all the documents upon which
12 you -- or documents which you had utilized to complete
13 your reports? A Yes.

14 Q Would you do the same with respect to
15 the reports subsequent to June of '79; that is, the
16 reports of August, September and the two December
17 reports? A Can I go off the record?

18 Q Do you want to ask advice of your
19 attorney? A Uh-huh.

20 Q Yes. A Yes, I can
21 bring it.

22 Q So you will bring in all documents which
23 you utilized in any manner to prepare the reports of
24 August, September and the two December reports, all
25 of '79. Is that correct?

1 A No, I can't do that.

2 MR. BISGAIER: You want everything
3 that she utilized in preparing, for example,
4 DB-4?

5 MR. SIROTA: Yes.

6 MR. BISGAIER: Then, you will have to go
7 to her office and rent a truck and have the
8 deposition in her office. But to ask her --

9 THE WITNESS: That's a file cabinet.

10 Q I'm sorry? A That's a file
11 cabinet of information.

12 Q What's contained in that?

13 A All of the information that agencies and
14 organizations provided us in response to --

15 Q These are all replies?

16 A Yes.

17 Q All right. I will accept that, excepting
18 that material, presumably, as long as it's available
19 to review at some other time, we will go there to review
20 it. We will go to your office.

21 A All right.

22 Q Are we in agreement, then, excepting
23 your correspondence and other materials developed with
24 jurisdictions relating to the handbook, it is the
25 agreement that it will be made available to us if we

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desire to read the same? Is that agreeable?

A Yes.

Q Have you testified or have you given a report as to what income you feel is the maximum, for low and moderate income, in Morris County, for a family of four? A No.

Q Do you have a figure?

A No.

Q What is a low and moderate income person?

A Could you qualify the question more?

Q No, I can't. A Then, answer. I can't/it.

Q You cannot define a low and moderate income person?

MR. BISGAIER: The problem is: For what purpose, her personally, or the DCA Study?

Q For purposes of your reports.

MR. BISGAIER: DCA?

Q For purposes of your report, you are recommending, are you not, an allocation of housing for low and income persons? Is that accurate?

A The reports that I prepared were based on New Jersey DCA's report, and they had a definition contained in that report.

Q And you accepted that definition for the

1 purpose of your report? A That's the
2 definition I used in making the adjustments.

3 Q And what is that definition?

4 A Low income is defined up to \$5,568 a year.
5 Moderate income is from that point on up to \$8,567.

6 Q And that is in what year, 1970?

7 A I believe so.

8 Q Is that for a single person?

9 A A family of our.

10 Q What would that income be in terms of
11 1977, '78? A I don't know.

12 Q Do you think it appropriate that all
13 persons own homes or domiciles?

14 A I'm not sure I know what you mean by "appropriate"
15 but no, I don't think so.

16 Q Why is it not appropriate?

17 A Some people don't want to own a home.

18 Q Then, do you think it correct or
19 appropriate or fair that every person, regardless of
20 income, have the opportunity to purchase a home?

21 A Could you repeat the question?

22 (The following was read by the reporter:

23 "QUESTION: Then, do you think it correct or
24 appropriate or fair that every person, regardless
25 of income, have the opportunity to purchase a

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home?")

A If they so choose, I certainly think it's desirable.

Q In 1977 through 1978, the period which you used the figures for in your report, DB-2, if you use the Morris County Tax Board figures, what would a low income home cost? What should it cost?

A In this report, I broke down the population by income quintiles and identified in the report, as you indicated, for the first quintile, at two times annual income, the price of a home would be \$12,500. And at two and a half times, it would be \$16,000.

Q Those are 1970 figures, are they not?

A No, they are 1976.

MR. SIROTA: I'll continue this Monday.

Go off the record.

(There is a short discussion off the record.)

Q Okay. We will pick up Monday morning, and you will bring all that material?

A I will try to.

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

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MORRIS COUNTY FAIR HOUSING COUNCIL, :
et als, :

Plaintiffs, :

CERTIFICATE

-vs-

BOONTON TOWNSHIP, et als, :

Defendants. :

----- :

I, ROBERT MIRABELLA, a Certified Shorthand
Reporter and Notary Public of the State of New Jersey,
certify that the foregoing is a true and accurate
transcript of the deposition of MARY E. BROOKS, who
was first duly sworn by me, at the place and on the
date hereinbefore set forth.

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

Robert Mirabella

A Notary Public of the State of New Jersey

DATED: 2/15/80

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