

ML- Morris County Fair Housing Council
v. Beerten Twp

3/2/80

Deposition upon oral examination of
Mary E. Brooks

P-154

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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, February 4, 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.

and

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and the Common Defense Committee

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MESSRS. SHANLEY & FISHER

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Attorneys for Defendant Harding Township

MESSRS. JAMES, WYCKOFF, VECCHIO & THOMAS

BY: JOSEPH J. VECCHIO, ESQ.

Attorneys for Defendant Roxbury Township

ROBERT MIRABELLA

Certified Shorthand Reporter

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I N D E X

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EXHIBIT
CONTENTS

E. BROOKS

By Mr. Sirota	3		68
By Mr. Bisgaier		67	
By Mr. Vecchio		71	

E X H I B I T S

<u>Number</u>	<u>Description</u>	<u>Page</u>
DB-5	Present Housing Needs (1970) Adjusted (8 pages)	5
DB-6	Chart I (27 pages)	6
DB-7	Table 11, Page 32	7
DB-8	Group of Handwritten Documents	7
DB-9	Group of Rental Information Documents (27 pages)	10
DB-10	Group of Rental Housing Survey Forms	10
DB-11	Draft Report/Prospective Housing Needs Report	15
DB-12	Draft Northeast New Jersey Water Quality Management Plan	17
DB-13	New Jersey Revised Total & Interim Age & Sex Population Projections, July 1, 1980-2000	18

<u>1</u>	<u>Number</u>	<u>Description</u>	<u>Page</u>
2	DB-14	Analysis of Low & Moderate Income Housing Needs in New Jersey	22
3			
4	DB-15	Handwritten Work Sheets	32
5			
6			
7			
8			
9			
10			
11			
12			
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21 MLOC

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

3 FURTHER DIRECT EXAMINATION BY MR. SIROTA:

4 Q Miss Brooks, as we left off last week,
5 you were to bring with you some documents that had
6 been directed to your attention by the Public Advocate
7 and/or any documents upon which you based your reports
8 rendered to the defendants in this matter subsequent
9 to July of 1979. Do you have such documents with you?

10 A Yes, I do.

11 Q Would you offer them to me, please?

12 A These are the reports that I used as a basis
13 for preparing the August and September and December
14 reports?

15 Q Yes. A You want me
16 to explain to you what they are?

17 Q Yes. Why don't you.

18 MR. SIROTA: And I ask the reporter,
19 as she goes through each one, to mark them.
20 Some may be duplications. For example,
21 I see the DCA Report, which has already been
22 marked. But let's mark them starting with
23 DB-5.

24 A For the August 30th Report that I prepared,
25 any document that I used I submitted to you earlier,

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and this report is just a carrying out of the revised allocations, and there are no new documents that were used in the preparation of that report.

Q Well, you said you had some work papers, did you not, which established the calculations?

A I have those. I do have those.

Q May I see those?

Thank you.

Now, when I first asked you about papers that you utilized for doing your August report, you said there were none. And then I asked about the work papers; and then you said you had those. Was my question too narrow to encompass those work papers?

A You asked me to bring the work papers, and I did.

Q Are there any other documents you used to prepare the August report or upon which it was based?

A Not in addition to those I have submitted to you already.

Q Correct. Nothing in addition to what you submitted previously?

A That's correct.

Q All right. What documents did you use to prepare the August report?

A I gave you a complete list of those in a letter form at a prior deposition.

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1 Q Of course, we didn't have the August
2 report before us at the prior deposition. Is that
3 correct?

4 A That's correct. But what
5 I'm saying, I used no additional reports in the
6 preparation of that August report in addition to those
7 I submitted to you earlier in that list that was
8 contained in a letter.

9 Q Did you use all the reports indicated
10 in that list or the August report?

11 A I'm not sure.

12 Q Do you have that letter with you?

13 A No, I don't.

14 Q You have given me two bundles of
15 documents clipped together by paper clips. The first
16 is entitled "Present Housing Needs (1970) Adjusted,"
17 on the top sheet. Within that bundle is the
18 "Unadjusted Housing Allocation (Adjusted)." And the
19 "Adjusted Housing Allocation (Adjusted)." The
20 "Resulting Housing Allocation." That's eight pages.

21 May we mark that, please?

22 (The Present Housing Needs (1970) Adjusted
23 referred to was received and marked DB-5
24 for Identification.)

25 MR. SIROTA: The second bundle held
together by a paper clip is referred to on the

1 top page as "Chart I," and it's of 27 pages.

2 May we mark that document? Would you
3 count the pages, too?

4 THE REPORTER: 27 pages.

5 (The Chart I referred to was received and
6 marked DB-6 for Identification.)

7 Q Now, under the description I've already
8 given you today and had given you last week, are there
9 any other documents you wish to produce?

10 A For the August 30th report, no.

11 Q Or the September --

12 A September?

13 Q The September or two December reports.

14 A For the September one, I used a census report,
15 which I duplicated a page from, which is all that I
16 had available. It's all that I used.

17 Q What is the title of the census report?

18 A The source is indicated on the bottom of the
19 page.

20 Q The bottom of the page says, "Current
21 Population Reports, Consumer Income Series P-60, 109,
22 Table" -- is that Table 11?

23 A Yes, it is.

24 Q "January, 1978." It indicates that it's
25 Page 32 of that document, but it's one page that I have.

1 MR. SIROTA: Would you mark that, please?

2 It's entitled "Table 11, 20 Largest Standard
3 Metropolitan Statistical Areas-Households by
4 Total Money Income in 1976, by Inside Central
5 Cities & Outside Central Cities."

6 (The Table 11 referred to was received and
7 marked DB-7 for Identification.)

8 A In addition to that, I used this stack of
9 information on housing costs by municipality.

10 Q You have given me about a one, one and
11 a half inch stack of handwritten documents, enclosed
12 by an elastic band, the top one of which is entitled
13 "Average Residential Property Value Analysis." The
14 elastic band includes various stapled documents. There
15 are 39 bundles, apparently each clipped -- stapled,
16 rather, and each bundle relating to a different
17 municipality.

18 MR. SIROTA: May we mark these, please,
19 as a group?

20 (The Group of Handwritten Documents referred
21 to were received and marked DB-8 for Identification)

22 Q Who prepared DB-8 for Identification?

23 A The Public Advocates.

24 Q Who in the Public Advocate's Office or
25 who for the Public Advocate prepared them?

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A I don't know.

Q How would you describe them?

A They are a list of the sales costs for residences by jurisdiction between the period 7/77 and 7/78. They list, also, I believe, the assessed value and, in some instances, the ratio.

Q Do you know where they are taken from?

A From the SRLA's.

Q How do you know they are taken from the SRLA's? A I believe it says so.

Can I see them, please? Can I see them, please?

Q Do you want to see all of them? This was the top one.

A (Witness indicating.)

It doesn't indicate that on all of them.

Q You are pointing to one of the bundles, which relates to Chatham Borough, which is entitled "Residential Housing Sales in Morris County, County Tax Board SRLA Forms." Is that correct?

A Yes.

Q It's your understanding that all these documents encompassing DB-8 for Identification are taken from the SRLA's?

A Yes.

Q And you don't know who prepared them?

1 A On the staff of the Public Advocates, no.

2 Q Who sent them to you?

3 A Probably Linda Hurd.

4 MR. SIROTA: Mr. Bisgaier, do you know
5 who prepared these, DB-8 for Identification?

6 MR. BISGAIER: It's probably a field
7 representative from the office or Miss Hurd.

8 MR. SIROTA: You don't know?

9 MR. BISGAIER: Do I, personally, know
10 which?

11 MR. SIROTA: Yes.

12 MR. BISGAIER: No.

13 Q Have you checked the accuracy of these
14 reports? A No, I have not.

15 Q By "Reports," I mean DB-8 for Identification.

16 A I understand.

17 Q And these are the reports you utilized
18 for your September report?

19 A I'm not through. In addition to that, there's
20 this.

21 Q Excuse me?

22 A I did use those for that report, yes.

23 Q And this was your source of average
24 sale during the relevant year?

25 A Yes.

1 Q And it's your exclusive source for that
2 information? A Yes.

3 Q You have some other documents?

4 A For rental information, I used this stack of
5 material. In addition to that, there is sort of a
6 code sheet that summarizes the units.

7 Q All right. You handed me two bundles
8 of documents. The first is of 27 pages, the top page
9 of which refers to Boonton Township.

10

May we mark that?

11

(The Group of Rental Information (27 pages)
12 referred to was received and marked DB-9 for
13 Identification.)

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Q You have also given me a bundle of
documents enclosed by an elastic band, all of which
are entitled "Rental Housing Survey format," and they
relate to various apartment complexes.

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19

MR. SIROTA: May we mark this bundle
DB-10, please?

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(The Group of Rental Housing Survey Formats
referred to were received and marked DB-10
for Identification.)

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MR. SIROTA: Mr. Bisgaier, with respect
to DB-8, will you inform me as to who prepared
DB-8?

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MR. BISGAIER: Okay.

MR. SITORA: Do I understand that you will send me that information?

MR. BISGAIER: Uh-huh.

MR. SIROTA: Is that a yes?

MR. BISGAIER: Yes.

MR. SIROTA: Thank you.

Q Miss Brooks, with respect to DB-9 and DB-10, would you describe these documents?

A DB-10 is a listing of apartment complexes in various jurisdictions throughout Morris County and provides information on the location of that complex, the size of the units and the rent of those units for the period 7/79. I believe DB-9 is really only a listing of the complexes by jurisdiction.

Q Are all the apartment complexes listed in DB-9 represented by a completed rental housing survey format form in DB-10?

A No.

Q Who conducted the rental housing survey?

The Public Advocates.

Q Who specifically in the Public Advocate's Office?

A I don't know.

Q Who directed DB-9 and 10 to you?

A Again, I believe Linda Hurd.

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MR. SIROTA: Mr. Bisgaier, will you give me the name of the person or persons who conducted the studies which resulted in DB-9 and 10?

MR. BISGAIER: Uh-huh.

MR. SIROTA: You got the uh-huh?

MR. BISGAIER: That's a yes.

Q Does DB-9 contain the name of every apartment complex in Morris County?

A I believe so.

Q What is the basis for your belief?

A In that that's the way it was represented to me by the Public Advocates.

Q Who represented that to you?

A By the Public Advocates.

Q Do you have a cover letter to encompass that representation?

A I don't know.

Q Now, on DB-9, there are various marks.

Some seem to be checked off, others are crossed out, and others are circled. Can you tell me what those various designations mean; for example, on Boonton

Township? A The apartment complexes that are circled are the ones that are in -- identified in DB-10, and I don't know what the other markings mean.

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1 Q So that only the ones circled on DB-9
2 are included in DB-10. Is that correct?

3 A That's what I said.

4 Q Do you know what percentage of the units
5 in DB-9, units to the developments, are included in
6 DB-10? A No.

7 Q How did they divide apartment complexes
8 by municipality in this report, do you know, DB-9?

9 A I'm not sure I know what that means.

10 Q Was it by mailing address, or was it
11 by actual location in a given municipality?

12 A I'm not sure.

13 Q Is it fair to say you don't know anything
14 about this report, other than the fact that you used
15 the information from it to complete your September
16 report? A I guess so.

17 Q What other documents did you utilize
18 to prepare the September report?

19 A None other.

20 HEC Q What about the December reports?

21 HEC You asked me only about one of the December
22 reports, if you will recall, which is the one on
23 Alternate Population Projections.

24 Q I believe I asked you about both, but
25 we agreed certain documents were voluminous, and it was

1 not necessary for you to bring those today. Is that
2 correct? A Yes.

3 Q Other than those voluminous documents,
4 do you have anything today relating to either of those
5 two reports, the December reports?

6 A We discussed earlier, on the one report that's
7 a summary of the handbook, that it was impossible to
8 bring those materials. So for the other report, --

9 Q Did you use any -- go ahead.

10 A For the other report, the sources that I used
11 are listed on the bottom of Page 5 of that report,
12 in the three footnotes.

13 Q Did you bring these three documents
14 with you? A Yes, I did.

15 Q May I see them, please?

16 A The first footnote, what I have is the --
17 one of the what I think we referred to before as
18 working papers, working reports, of the New Jersey

19 This is the one on the Prospective Housing
20 Report, and in that report is a page identifying
21 the New Jersey population projections indicated in
22 that first footnote. The other two are the reports
23 there, that I handed you.

24 Q Now, with respect to the July, 1975
25 Series II, New Jersey Population Projection, 1980-2020,

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New Jersey Department of Labor & Industry, you are referring me, are you not, to Table 2 of the document entitled "Draft Report, for Review Only, Prospective Housing Needs Report"? A Yes.

(Mr. Vecchio enters the room.)

MR. SIROTA: Let's mark that document.

(The Draft Report, Prospective Housing Needs Report referred to was received and marked DB-11 for Identification.)

Q With respect to DB-11, is this the report that the Department of Community Affairs used?

A That report was prepared by the Department of Community Affairs.

Q And they utilized this in their report?

A That's my understanding.

Q Was this ever promulgated in other than draft form? A Not to my knowledge.

Q The top page has the following printed on it: "This technical report reflects staff work that may be of interest to other specialists. The report should not be quoted or reproduced without the approval of the Director of the Division of State & Regional Planning."

Who was the Director in July of 1975?

A I don't know.

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1 Q Why was that statement published on
2 the report? Do you know?

3 A I don't know.

4 Q Are such statements often placed on
5 draft reports? A I would think so.

6 Q Pardon? A I would
7 think so.

8 Q Why? A Because it's a
9 draft report.

10 Q What does that mean?

11 A It means it's not the final report.

12 Q And this report, to your knowledge, was
13 never promulgated in final form?

14 A No, not that I know of.

15 MR. BISGAIER: For clarification purposes,
16 I don't know if she is answering the question
17 you are asking. This is one of the four
18 technical reports that the 1976 Draft Housing
19 Allocation Report was based on.

20 THE WITNESS: There was no intention
21 of developing them into final reports.

22 MR. BISGAIER: Right. Then the 1978
23 Housing Allocation Report was based on that
24 and was published. So that report, DB-11,
25 was not ever, per se, made final and published,

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other than being a basis for the ultimate
Housing Allocation Report, which was published.

MR. SIROTA: I understand that.

MR. BISGAIER: Okay.

Q Correct me if I'm wrong, you did testify
that this was eventually utilized in the DCA Reports
that we have talked about there adnauseam?

A Yes.

Q And is it your understanding, as a
professional in this area, that the publication of
the DCA Report makes DB-11 a final report or the
figures from it final figures?

A The report printed by DCA is a final report.
This is like a working paper that was used in
preparation of that report.

Q The second document you have given me
in response to my question is a document entitled
"Draft Northeast New Jersey Water Quality Management
Department of Environmental Protection, State
New Jersey, March, 1979.

Plan
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MR. SIROTA: Mark that document, please.

(The Draft Northeast New Jersey Water Quality
Management Plan referred to was received and
marked DB-12 for Identification.)

Q And the third document you have given me

1 is entitled "New Jersey Revised Total & Interim
2 Age & Sex Population Projections, July 1, 1980 through
3 2000, Published by the New Jersey Department of Labor
4 & Industry, Division of Planning & Research, Office
5 of Demographic & Economic Analysis, Dated April of
6 1979.

7 MR. SIROTA: Mark that document, please.

8 (The New Jersey Revised Total & Interim Age
9 & Sex Population Projections, July 1, 1980-2000
10 referred to were received and marked DB-13
11 for Identification.)

12 Q With respect to your August 30 report,
13 DB-1 for Identification, do you recall testifying
14 last time that this report is your completion of the
15 mathematical calculations required to make the
16 adjustments in the DCA Report --

17 A Yes.

18 Q -- that you have argued?

19 Yes.

20 Q With respect to Rockaway Township;
21 specifically, Column A in your report, you show 546
22 present housing need units. Is that correct?

23 A Yes.

24 Q And the DCA Report had 436. Is that
25 correct? A I would have to check.

1 Q Would you? I might add that I'm reading
 2 back the numbers that you gave me last time, but please
 3 check them. A Yes.

4 Q Would you explain to me identically,
 5 if you will, how you got from 436 to 546, utilizing
 6 I presume, DB-5 and DB-6?

7 A May I ask him a question?

8 Q Sure.

9 MR. BISGAIER: Why don't we go off the
 10 record for a second.

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

12 MR. SIROTA: Miss Brooks has advised me
 13 off the record that, rather than my asking
 14 questions, she will provide a narrative
 15 explaining the differentials between the
 16 various numeric conclusions arrived at by
 17 DCA and similar conclusions which she has made;
 18 that is, her adjustments. She will use as a
 19 guide her August 30, 1979 report, DB-1 for
 20 Identification, specifically utilizing the
 21 charts commencing on Page 3 and continuing
 22 through Page 7.

23 Q Is that a fair explanation of what you
 24 are about to do? A I believe so.

25 The first calculation that you see is present

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1 housing needs by jurisdiction, which is Column A on
2 Page 3 of the August report. On my work sheets, I
3 have an entire chart identifying how the figure was
4 calculated for each jurisdiction in Region 11. The --

5 Q And, specifically, which work sheets?

6 A The work sheets I have referred to earlier.

7 Q All of them encompass that?

8 A That's true.

9 Q That is DB-5 and 6?

10 A Yes.

11 The present need results from the addition
12 of three figures, representing dilapidated housing,
13 overcrowded housing and households that pay more than
14 25% of their income for housing costs.

15 Q Excuse me.

16 MR. SIROTA: May I have the answer read
17 back, the last statement?

18 (The following was read by the reporter:

19 "ANSWER: Yes.

20 The present need results from the
21 addition of three figures, representing
22 dilapidated housing, overcrowded housing and
23 households that pay more than 25% of their
24 income for housing costs.")

25 MR. SIROTA: Thank you.

1 A Those three are added, and an overlap figure is
2 used to reduce the -- some of those three figures by
3 those units that have more than one of those
4 characteristics. Added to that subtotal is a vacancy
5 factor, of which I took a proportion, representing
6 the proportion of the low and moderate income,
7 population income, in Morris County. The total
8 present housing need is represented in Column A.

9 Q What was the number of dilapidated
10 housing units you added? A For?

11 Q For Rockaway Township.

12 A 156.

13 Q How did you arrive at that number?

14 A It's the same figure that the New Jersey
15 DCA used in their report.

16 Q So that is not in addition to the 436
17 of DCA. A No.

18 Q Is that correct?

19 Does DCA add in for overcrowded housing?

20 A Yes, they did.

21 Q Do you add in the same number?

22 A Yes.

23 Q What number is that?

24 A 237.

25 MR. VECCHIO: I didn't hear that.

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THE WITNESS: 237.

MR. VECCHIO: Thank you.

Q Does DCA add for households expending more than 25% of their income?

A No, it does not.

Q How much did you add?

A 187.

Q How did you arrive at 187?

A It's taken from a report entitled "Analysis of Low & Moderate Income Housing Need in New Jersey," prepared by the Department of Community Affairs for the State of New Jersey.

Q That's dated May 7, 1975?

A Yes, it is.

MR. SIROTA: May we mark that document, please?

(The Analysis of Low & Moderate Income Housing Need in New Jersey referred to was received and marked DB-14 for Identification.)

Q Would you show me where in DB-14 the figure of 187 is given relating to Rockaway Township?

A (Witness indicating.)

Q It's on Page 26, is it not, that you referred to?

A Yes.

Q Why didn't DCA use this in their Housing

1 Allocation Reports? A They indicated,
2 as I recall, that the information was not available.

3 Q Didn't they issue a Housing Allocation
4 Report in 1978? A Yes.

5 Q And DB-14 is dated May 7, 1975. Is
6 that correct? A Yes.

7 Q Can you explain to me how it was not
8 in existence or not available as of 1978?

9 A No, I cannot.

10 MR. BISGAIER: Why don't you take a
11 moment to read that to refresh your recollection.

12 Q Do you want to take a moment to review
13 the DCA Housing Allocation Report?

14 A Yes, I guess so.

15 MR. BISGAIER: Off the record.

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

17 A I don't -- it's in a report I don't have here.
18 I don't remember.

19 Q What is in a report?

20 A As I recall, a discussion on why that was not
21 included.

22 Q Which report is it in?

23 A One of the working papers, background working
24 papers.

25 Q Which background working paper?

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A I would assume the one on present need.

Q How does DCA arrive at 187 in DB-14 for identification?

A I would have to check the report.

They take the information from the census of housing, which indicates households paying more than 25% of their gross income for rent.

Q Is that broken down by municipality or --

A Yes.

Q And what was the percentage for Rockaway Township?

A What do you mean, "what was the percentage"?

Q Of households paying more than 25% of their income for rent or for housing.

A They don't indicate the percentage. They indicate that number that I showed you.

Q That's a raw figure, then, 186?

A It's 187. Yes.

Q 187, excuse me.

And that's as of 1969?

Yes.

Q Does DCA use an overlap figure?

A Yes.

Q What is their overlap figure?

A 4.3. You should understand that their overlap

1 figure refers to only overlap between overcrowding
2 and dilapidated.

3 Q Because they don't use the third factor?

4 A Right.

5 Q So, then, presumably, you have an
6 overlap figure which is different or higher?

7 A Correct.

8 Q What is your overlap figure?

9 A 9.4.

10 Q How did they arrive at 4.3?

11 A I don't recall.

12 Q How did you arrive at 9.4?

13 A It's discussed in the first report I gave you
14 in April, '79, Footnote 4.

15 Q Did they use the Newark SMSA as one
16 of the selected SMSA's to draw the sample for the
17 study you referred to on Page 14 of your April, 1979
18 Report? A I don't know.

19 Q So -- A You are
20 referring to the New Jersey DCA?

21 Q Well, is the 9.4 -- where does that
22 figure come from? A I calculated it
23 myself.

24 Q Based upon what?

25 A What's indicated in this footnote from the

1 Metropolitan Housing Characteristics information and
2 the census.

3 Q And that, in itself, does not draw upon
4 every SMSA, does it? A No.

5 Q Selected SMSA's?

6 A That's correct.

7 Q Which ones in particular?

8 A In that report, the Newark SMSA was included,
9 the Jersey City SMSA, the Paterson, Clifton, Passaic
10 SMSA.

11 Q And which SMSA is Morris County included
12 in? A The Newark.

13 Q What other SMSA's are included in the
14 report? A What report?

15 Q Upon which you based your 9.4% figure.

16 A The ones I just indicated.

17 Q There were no others?

18 A Yes, I'm sorry, all over the United States.

19 Q Would the number have differed if you
20 just used the Newark SMSA?

21 A I just used the Newark SMSA.

22 Q So the 9.4 is based only on the Newark
23 SMSA? A That's correct.

24 Q How would the number differ if you used
25 the Paterson, Clifton and Passaic SMSA?

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A I indicated here, in the report, comparable figures for those SMSA's.

Q So the Paterson, Clifton, Passaic would be 6.8%, and Jersey City would be 10.5?

A That's correct.

Q So, presumably, if we add 156; 237; 187 and multiplied by 90.6, we will arrive at 546.906?

A You would arrive at what?

Q 546. A No.

Q Explain to me how that was done, then.

A You add the three figures you indicated. If you multiply it by the 9.4%, you are subtracting that figure. You are accounting for overlap. So you are subtracting --

Q Isn't that the same as multiplying by .906? A Okay. You then have to

add into that the vacancy factor to reach the 546.

Q Okay. What was the vacancy factor for Rockaway Township? A 21.

Q Does DCA have a vacancy figure?

A Yes.

Q The same number? A No.

Q What was their number?

A 82, I believe.

Q How did you arrive at 21?

1 A I took into account vacancy figures only for
2 that proportion of the population that was low and
3 moderate income.

4 Q Are the four columns added before one
5 multiplies it by 9.4%? A Three columns.

6 Q I see. Would you explain the allocation
7 of present needs in much the same manner as you
8 explained the column A? A To identify
9 the allocation of present need by jurisdiction, I made
10 that allocation on -- in precisely the same way the
11 New Jersey DCA did and identified the factor of that
12 present housing need within each jurisdiction
13 representative of the entire present housing need
14 identified for Region 11 and applied that same factor
15 to the present housing need that I have calculated
16 to reach the adjusted allocation of 1970 housing need.
17 That figure is what is in Column B.

18 Q Did you make a present housing need?

19 A I'm sorry?

20 Q Excuse me. You described just before
21 you calculated present housing need for Rockaway
22 Township. Did you calculate a present housing need
23 for Region 11? A For each jurisdiction
24 in Region 11?

25 Q Yes. A Yes, what?

1 Q That's the question. Did you calculate
2 a present housing need in a manner similar to that
3 which you did with Rockaway Township for each
4 jurisdiction in Region 11? A Yes.

5 Q Do you have a document showing that
6 information? A Yes.

7 Q May I see it, please?

8 A You already have it.

9 Q That's 6, DB-6? A Yes.

10 Q And what was the number, not for each
11 municipality, but for the total present housing needs
12 of Region 11? A 325,913.

13 Q Now, utilizing the actual numbers, show
14 me mathematically how you arrived at an allocation of
15 present needs to Rockaway Township of 1,173?

16 A I took the 436 identified in Column 1 in New
17 Jersey DCA's Allocation Report. I divided that by
18 the total estimate of 1970 housing need for Region 11
19 identified by New Jersey DCA, which is 148,750, to
20 reach a percentage.

21 Q What was the percentage?

22 A For Rockaway Township?

23 Q Yes. A .36. I applied
24 that percentage to -- against the total present
25 housing need for Region 11.

1 Q You multiplied 325,913 by .36?

2 A I'm sorry. Would you repeat that?

3 Q You multiplied 325,913 by .36?

4 A Yes.

5 Q And the result was 1,173?

6 A Correct.

7 Q Now, Column C is just simply subtraction,
8 is it not? A It is.

9 Q With respect to Column D, allocation
10 of prospective needs, again, showing your utilization
11 of the actual numbers, explain how you arrived at a
12 conclusion, for Rockaway Township, of 2,854 as
13 opposed to DCA's allocation of 1,611?

14 A I went through precisely the same method I just
15 described to you for the allocation of the 1970 need
16 for the allocation prospective need.

17 Q Show me how you did it using numbers,
18 please. A I took the 1,611 allocation

19 of prospective need identified in Column 4 of the New
20 Jersey DCA Allocation Report, divided that by the total
21 prospective need estimated for Region 11.

22 Q That's 148,750? Oh, no. I'm sorry.
23 Prospective? A Which is 131,011,

24 I believe, and, again, identified percentage.

25 Q What was the percentage?

1 A For Rockaway Township, it was 1.23.

2 Q 1.23? A Correct. And

3 I applied that against the allocation of prospective
4 need as I adjusted it, which is 232,022.

5 Q Two hundred and thirty-two thousand --

6 A And twenty-two.

7 Q Times .0123? A Correct.

8 Q And the resultant was 2854?

9 A Yes.

10 Q How did you arrive at 232,022 as the
11 prospective need for Region 11?

12 A We discussed that in the earlier report. I
13 took New Jersey DCA's projected household growth
14 between 1970 and 1990, added to that New Jersey DCA's
15 projected replacement demand and vacancy demand,
16 multiplied that times the proportion of low and
17 moderate income households for the State in 1970.

18 Q Again, for Rockaway Township, show the
19 specific numbers you utilized:

20 A I did not do that by jurisdiction. It wasn't
21 necessary.

22 Q And show me the numbers you utilized
23 for Region 11. A It's contained in
24 the April, '79 report I submitted to you -- to the
25 Public Advocates.

1 Q You have shown me Page 9 of your April,
2 1979 report, which does show the differential. Could
3 you tell me what part of this report evidences the
4 mathematics required to get from DCA's 149,005 to
5 your adjusted DCA of 325,913 as --

6 MR. SIROTA: Strike that.

7 A I'm sorry.

8 Q Could you show me --

9 A I'm sorry. It's not on that page.

10 Q Would you show me the mathematics
11 necessary to get from DCA's prospective housing needs
12 of 131,014 to your adjusted prospective housing needs
13 of 232,022? A It's a work sheet I didn't
14 show to you. The first column is what comes under
15 New Jersey DCA's --

16 Q Why don't we mark it. You handed me
17 a one page document on yellow paper, which is filled
18 with numbers.

19 MR. SIROTA: May we mark that, please?

20 (The Handwritten Work Sheet referred to was
21 received and marked DB-15 for Identification.)

22 Q Could you describe to me what DB-15 is,
23 please? A It's the data used to

24 calculate the prospective housing need as I adjusted it
25 in the -- for the -- indicated in the April report I

1 submitted.

2 Q Excuse me. No. This relates to counties,
3 other than Region 11. Is that correct?

4 A Well, I -- the figures show all of -- each
5 county in New Jersey.

6 Q But you utilized only the figures in
7 Region 11? A I did.

8 Q And is it the case that the four factors
9 utilized were 1970-1990 household demand -- well, what
10 were the factors utilized?

11 A I just read them off to you. There are only
12 three. The 1970-1990 household demand as identified
13 by New Jersey DCA, the estimates also made by New
14 Jersey DCA for replacement demands, and vacancy demand.

15 Q Did DCA use a factor for household
16 demand for growth in their report?

17 A Yes, they did.

18 Q Did you both use the same figure; that
19 is, you and DCA? A Yes.

20 Q Or did you adjust their figure?

21 A I used their 1970-1990 household demand figure.

22 Q And is there such a figure encompassed
23 in their conclusion of 131,000, approximately?

24 A I'm sorry? Repeat that.

25 Q Their allocation of prospective needs to

1 Region 11 was 131,011. Is that correct?

2 A Yes.

3 Q Included within that, is there a
4 consideration of household demand growth, 1970-1990?

5 A That's what that figure is.

6 Q And what is the figure?

7 A 131,011.

8 Q Then you added two factors which DCA
9 did not utilize? A That's correct.

10 Q What was your factor for replacement?

11 A For what?

12 Q For Region 11.

13 A For what jurisdiction?

14 Q Region 11. A I would have
15 to add them up.

16 Q Well, you added them up, did you not,
17 to come to the 232,022? A Not really.

18 I mean I did it by county, and then I added up my
19 final figures for all the counties in Region 11.

20 Q Why don't you give me all the figures
21 for each county, for replacement.

22 A Bergen County, 38,000; Essex County, 41,740;
23 Hudson County, 28,760; Middlesex County, 22,989;
24 Morris County, 15,128; Passaic County, 20,244;
25 Somerset County, 7,792; Union County, 23,359.

1 Q Do you know why DCA did not use the
2 replacement element in their allocation of prospective
3 needs? A Again, I recall, it was
4 because the data wasn't available, but I need to check
5 that to be clear on it.

6 Q When does that data become available.
7 Isn't that 1970 Census data? A Yes.

8 Q So, that, presumably, it was available
9 soon after 1970 or in 1970. Is that correct?

10 A At least the source of the information, yes.

11 Q With respect to all these items that you
12 say you have to refresh your memory --

13 MR. SIROTA: Carl, could you advise me
14 by letter as to the specific portion of the
15 DCA Reports, either one, which give an
16 explanation of why they have not included these
17 items which Miss Brooks does include?

18 Q In other words, if you would research
19 that point and advise Mr. Bisgaier, I think he can
20 advise me. The alternative is we can meet for depositions.

21 MR. BISGAIER: Well, she can look. I'm
22 not going to do any work for you.

23 MR. SIROTA: I didn't say that.

24 MR. BISGAIER: Miss Brooks can refresh
25 her recollection and tell me what the answer is,

1 and I'll convey it to you.

2 MR. SIROTA: I didn't anticipate that
3 you would do it. I would anticipate the
4 witness would do it and convey it through you,
5 since it would not be proper for me to contact
6 the witness directly.

7 MR. BISGAIER: Okay.

8 MR. SIROTA: Is that agreeable?

9 MR. BISGAIER: Yes, I'll convey to you
10 whatever she conveys to me.

11 Q Miss Brooks, are you willing to do that?

12 A Yes. You should understand that the information
13 may or may not be there.

14 Q If it's not there, I consider that a
15 positive communication. Just tell me whether it's
16 there or not there, and if it is there, where it is.

17 A I'll try to do so.

18 Q With respect to your vacancy figure,
19 that was also a figure that DCA did not use?

20 A That's correct.

21 Q And what was your number for Region 11?

22 A I got to do the same thing I did with replacement.

23 Q Go ahead. A Bergen County,
24 1,181; Essex County, 1,610; Hudson County, 1,146;
25 Middlesex County, 2,042; Morris County, 1,320;

1 Passaic County, 1,258; Somerset County, 581; Union
2 County, 1,067.

3 Q And it was the total of household
4 growth replacement and vacancy that equal the 232,022?

5 A No, the -- that is then multiplied by the
6 proportion of low and moderate income households in
7 the State in 1970.

8 Q You used the same figures the DCA used?

9 A No, I did not.

10 MR. BISGAIER: Excuse me a second off
11 the record.

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

13 MR. BISGAIER: On the record.

14 These questions, I believe, were asked
15 before, as to why DCA did or did not use these
16 things, by you in previous depositions. If
17 Miss Brooks is not prepared now, it's because
18 she did not prepare herself on those reports
19 that were prior to August. So one thing that
20 might be helpful is if you would review those
21 prior depositions to see if these questions
22 have already been answered.

23 MR. SIROTA: They are not in there.

24 I do recall, and the questions were not answered,
25 at least not clearly.

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MR. BISGAIER: Okay.

MR. SIROTA: I took a look at those prior to this. If they are in there, if you can point that out to me, that's fine. I didn't see them.

Q What was the factor used by DCA for the percentage of low and moderate?

A They varied by county.

Q Did you vary it by county or have one for the region? A I used the statewide figure.

Q What was the one for each of the counties in Region 11, according to DCA?

A Bergen County, 28.4%; Essex County, 46.8%; Hudson County, 51.7%; Middlesex County, 31.2%; Morris County, 25.7%; Passaic County, 42.6%; Somerset County, 26.9%; Union County, 33.6%.

Q What was the statewide factor that you used? A 39.4%.

Q And the 39.4% represents your formulation or at least the formulation you utilized of the percentage of the population of households that have low and moderate income? A Yes.

Q And that comes from the 1970 Census? A Yes.

PENGAD CO., BAYONNE, N.J. 07002 - FORM 2045

1 Q And what are the income levels which
2 that's derived from? A The same
3 as used by New Jersey DCA.

4 Q Would you repeat that? I know you have
5 advised me of that? A Households
6 with annual incomes below \$8,567.

7 Q That's in 1969? A Yes.

8 Q So you presume, then, that that figure,
9 that percentage figure, remained constant to the
10 date of your report? A Yes.

11 Q With respect to Column E in your report,
12 Page 4, how did you arrive at the unadjusted allocation?

13 A The unadjusted allocation is the addition of
14 the allocation of prospective need and the difference
15 figure listed in Column C.

16 Q C.

17 And you utilized the same figure,
18 development limit, as DCA? A Yes.

19 Q How did you arrive at G, allocation based
20 on development limit? Your figure was, I believe, --
21 well, I know your figure was 3,481, while DCA's was
22 1,708. A The allocation based on

23 development limit is the unadjusted allocation
24 identified in Column E. Taking into account the
25 development limit, if the unadjusted allocation is

1 within that development limit in Column G, it's virtually
2 repeated. If not, then the development limit is
3 placed in Column G.

4 Q So G is less than E only if the
5 development limit is not adequate?

6 A That's correct.

7 Q Any of the defendant municipalities have
8 development limits which DCA found not to be adequate?

9 A Madison.

10 Q And if there was a development limit
11 which was not adequate, that resulted in units not
12 allocated under Column H? A Yes.

13 Q Now, with respect to Column I,
14 redistribution of units, would you explain how you
15 arrived at your figure of 1,932? DCA's figure was
16 646. A The redistribution is based on
17 -- I used exactly the same method that New Jersey DCA
18 did in its redistribution. It is based on the units
19 not allocated because of the development limit.

20 Q Did you utilize the actual numbers?
21 In other words, are you saying that you used the
22 countywide not allocated figure of 3,214?

23 A Let me finish my answer.

24 Q Sure. A The
25 redistribution is based on a reallocation of those

1 units that were not allocated based on the development
2 limit for jurisdictions within Region 11, and I used
3 the same method that New Jersey DCA did in its
4 redistribution.

5 Q Now, utilizing the actual figures, would
6 you demonstrate how you allocated the units and
7 particularly arrived at an allocation for Rockaway
8 Township? A The redistribution is
9 based on the following calculation: Taking the number
10 of -- taking the allocation based on the development
11 limit, divided by the allocations --

12 Q Show me the actual numbers, please.
13 A I'm sorry. For Rockaway Township, that would
14 be three hundred -- I'm sorry, 3,481, divided by
15 the sum of the allocations based on the development
16 limit, minus the allocations in those jurisdictions
17 that reached their development limit.

18 Q Show me the numbers, please.

19 A Which is 179,102.

20 Q You said it was the sum of two figures
21 that equaled 179,000? A It's the
22 sum of the allocations based on a development limit
23 for all jurisdictions in Region 11.

24 Q What is that number?

25 A Minus those jurisdictions that reached their

1 development limit. And I have that number.

2 Q What about the two numbers? You say you
3 have that number. You have the sum number, the

4 denominator, I guess. But there are two figures that
5 equal a resultant in that sum. Can you tell me what

6 those numbers are? A I would have
7 to go through each work sheet and pull them out.

8 MR. SIROTA: Could you read back the
9 last two answers slowly?

10 (The following was read by the reporter:

11 "QUESTION: Now, utilizing the actual figures,
12 would you demonstrate how you allocated the
13 units and particularly arrived at an allocation
14 for Rockaway Township?

15 ANSWER: The redistribution is based on the
16 following calculation: Taking the number of --
17 taking the allocation based on the development
18 limit, divided by the allocations --

19 QUESTION: Show me the actual numbers, please.

20 ANSWER: I'm sorry. For Rockaway Township,
21 that would be three hundred -- I'm sorry,
22 3,481, divided by the sum of the allocations
23 based on the development limit, minus the
24 allocations in those jurisdictions that reached
25 their development limit.

1 QUESTION: Show me the numbers, please.

2 ANSWER: Which is 179,102.

3 QUESTION: You said it was the sum of two
4 figures that equaled 179,000?

5 ANSWER: It's the sum of the allocations based
6 on a development limit for all jurisdictions
7 in Region 11.

8 QUESTION: What is that number?

9 ANSWER: Minus those jurisdictions that reached
10 their development limit. And I have that
11 number.")

12 Q From rereading the question, I now
13 understand what I have to ask you. I understand what
14 I don't understand.

15 For Rockaway Township, you divided 3,441
16 by 179 -- there were some other numbers. What was it?

17 A 179,102.

18 Q 179,102.

19 And you arrived at the 179,102 by
20 taking the allocation -- was it the units not allocated
21 in Region 11 because of municipalities arriving at
22 their development limit, or was the entire allocation
23 for Region 11 less? A It's neither.

24 It's the allocation based on the development limit.

25 Q That's the equivalent to the G Column?

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

1 A Yes.

2 Q But for all the municipalities within

3 ~~Region 11?~~ A Minus those that reached
4 ~~the~~ development limit.

5 Q So the 179,102 is the equivalent to the
6 H Column? A No.

7 Q Well, explain to me again what the
8 179,102 represents. A It represents
9 the sum of Column G for every jurisdiction in Region
10 11, minus the sum of the allocations in Column G,
11 for those jurisdictions in Region 11 that reached
12 their development limit.

13 Q You don't arrive at the units not
14 allocation through that subtraction?

15 A No, because -- no.

16 Q Well, in narrative form, how would you
17 explain that 179,102? What does it represent?

18 A What I just went through.

19 Q You explained to me what you subtract
20 ~~to get~~ to it, but what does the resultant figure
21 ~~represent?~~

22 A It's a calculation, and
23 it is exactly that calculation. It's not a meaningful
24 figure in and of itself. It's part of a calculation
25 I'm setting up for.

Q Why don't you go through the whole thing.

1 Maybe that's why I'm having difficulty.

2 A I don't think so.

3 MS. MC DERMOTT: Can I ask one question?

4 MR. SIROTA: Sure.

5 MS. MC DERMOTT: When you said it was
6 the sum of the allocations based on development
7 limit, as in Column G, does that include other
8 municipalities in Region 11 that are not listed
9 on this sheet?

10 THE WITNESS: Correct.

11 MS. MC DERMOTT: Okay.

12 THE WITNESS: Because all that is on
13 that sheet is Morris County.

14 MS. MC DERMOTT: Okay. That's all I
15 wanted to know.

16 A What we are talking about is the redistribution
17 of units that were not allocated?

18 Q Yes. A DCA does that
19 by setting up a formula, and it's explained in the
20 New Jersey DCA Report. If you want me to point that
21 out to you, that might help.

22 Q That's fine. A It's
23 explained on Page 19 in a very simple way. What they
24 take, if you look on Page 19, they take the four
25 municipalities, they sum the allocation based on the

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

1 development limit, and you can literally read, in
2 Footnote 23, what they are doing. However,
3 ~~Municipality~~ Municipality C reached its development limit. They
4 subtract that 260 from the 600 and reach 340. We are
5 identifying a redistribution for, let's say,
6 Municipality A. So they take the 90, divide it by
7 340, they multiply it by the sum of the units that
8 were not allocated, which is 40, and they reach 10 for
9 Municipality A.

10 Now, I went through exactly that same
11 calculation. The region total was Region 11. Each
12 of the municipalities were municipalities in Morris
13 County.

14 Q So the purpose of this is to arrive at
15 -- to take the units not yet allocated and divide
16 them proportionately? A In proportion
17 to the way the units were allocated originally is how
18 New Jersey DCA defines it.

19 Q Is that what you did?

20 A That's exactly what I did.

21 MR. SIROTA: Off the record.

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

23 Q Could you show how you arrived at
24 1,932, specifically? A All right.
25 For Rockaway Township?

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Q For Rockaway Township.

A I'm sorry. It means taking the three hundred --
I'm sorry, 3,481, which is the allocation based on
the development limit, divide that by 179,102,
multiplying that times 99,422.

MR. VECCHIO: What was that?

THE WITNESS: 99,422.

Q Where did the 99,422 come from?

A That's the total of the units not allocated
for Region 11.

Q So you are establishing Rockaway
Township's proportion and then multiplying that by
the number of units not allocated?

A That's correct.

Q And the conclusion, presumably, from
that is 1,932? A Correct.

Q In J, there's a simple addition?

A Yes.

Q Now, for Column I, DCA and you are so
far apart, I assume, because you have increased the
figures represented in A, B and D and E, but have not
adjusted F? A Correct.

Q So there's nothing in particular about
this calculation which creates a differential, but
it's the underlying calculations?

1 A That's true.

2 Q Now, K is repeating the process,
3 essentially, that other municipalities have reached
4 their development limit? A K and L are
5 both a repeat of the same process. New Jersey DCA
6 did exactly the same thing, although it's not indicated
7 anywhere in their report, except on the footnote.

8 Q They completed a continual redistribution
9 of units -- A Yes.

10 Q -- until all the units have been
11 allocated? A That's true.

12 Q All right. How did you arrive at
13 143 for Rockaway Township? Show me the actual numbers
14 again. I understand the process.

15 A It's the same process. You are taking this,
16 times 5,413, dividing it by 249,227, multiplying it
17 by 6,600.

18 Q That's 143? A Yes.

19 Q M is, again, a total?

20 Yes.

21 Q How did you arrive at 546 for Column N,
22 as in Nancy? DCA had 436.

23 A Column N is the lesser of either Column A or
24 Column B.

25 Q Why did you use that figure?

1 A It's exactly the same process that New Jersey
2 DCA used.

3 Q Why did they use that?

4 A It is -- it refers to -- I'm sorry, what they
5 refer to as the indigenous 1970 share of housing needs.

6 Q But hasn't that figure already been
7 included? A No, because in Column C,

8 you have the difference between Column A and Column B.

9 Q And then, subsequently, you only used
10 the difference in adding figures?

11 A That's correct.

12 Q O is, again, addition?

13 A For Rockaway Township, the indigenous share is
14 546.

15 Q And Column O is adding --

16 A I'm sorry.

17 Q -- N and M? A Yes.

18 Q Does DCA have an equivalent of Column P?

19 A No.

20 Q What had you done with Column P in those
21 municipalities where it was relevant?

22 A I subtracted it.

23 Q Where did you obtain that information?

24 A It's indicated in the report. You can find it,
25 actually, very quickly in Appendix E of the New Jersey

1 DCA Allocation Report.

2 Q That's the May of '78 Report?

3 A Yes.

4 Q When is that information valid? What
5 date is that information in Appendix E?

6 A It comes from a 1970 report of -- I'm sorry,
7 1978 report of New Jersey DCA.

8 Q The 1978 report of DCA you just mentioned,
9 is that the report you have in your hand, the May,
10 '78 report? A No, Appendix E is

11 taken from a 1978 report prepared by New Jersey DCA.

12 Q Is that the original source of that
13 information? A I believe so.

14 Q And what was the effective date of that
15 information contained in the earlier 1978 report?

16 A I'm not sure.

17 Q Do you have that report with you?

18 A I'm not sure.

19 MR. SIROTA: Strike the question.

20 Q You are saying you don't have it with
21 you?

A No.

22 Q It says, "Assisted Units since 1969."

23 Does that mean since 1969, up to the
24 date which that information we just discussed is valid?

25 A Yes.

1 Q And what assisted units are included,

2 all assisted units? A It's

3 indicated in the footnote on Page 12, Section 8,

4 Housing Assistance, Section 236, Public Housing

5 Units produced since 1969.

6 Q So, then, are you taking the position

7 that assisted units represent a municipality's meeting

8 some of its allocation goals?

9 A Could you repeat the question?

10 Q You are subtracting assisted units from

11 the resulting allocation, are you not?

12 A Yes.

13 Q Is that because you believe that assisted

14 units represent a municipality meeting its housing

15 allocation goals, to that degree?

16 A Yes.

17 Q Is that the only item that you subtract

18 from resulting allocations? A Yes.

19 Q So is it your opinion that the only way

20 a municipality can meet -- or any of the municipalities

21 that are defendants in this matter have, in fact, met

22 their housing allocation goals is by having assisted

23 units in the municipality?

24 A Subtracting that figure does not imply that, no.

25 Q You feel there are other ways

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municipalities have met their housing allocation goals,
municipalities which are defendants in this action?

A I don't know.

Q Have you made a study of that?

A No.

Q Why do you subtract assisted units?

A The information was available. I thought it was a fair thing to do.

Q And Q, final allocation, is simply subtracting the assisted units from the final allocation?

A Yes.

Q What kind of things do you think a municipality may have done in the past so as to deserve a reduction of its housing allocation?

A If it provided units that were available to low and moderate income households.

Q Those are units as described in your September, 1979 report? Do you have a copy of your September, 1979 report with you?

A Yes.

Okay. Now, repeat the question, please?

MR. SIROTA: Can you read it back, please?

(The following was read by the reporter:

"QUESTION: Those are units as described in your September, 1979 report? Do you have a copy of

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

1 your September, 1979 report with you?")

2 A No, I don't understand the question.

3 Q I have asked you, I believe, what a
4 municipality could have done to meet the housing
5 allocation goals that you have suggested. Your one
6 answer is subsidized housing. I asked you anything
7 else that can be done, and you said to provide or
8 have provided in the municipality housing suitable for
9 low and moderate income households?

10 A Yes.

11 Q And my question: The one that is before
12 you, housing suitable for low and moderate income
13 households, you are referring to housing which is
14 the subject of your September, 1979 report?

15 A The question isn't accurate enough for me to
16 answer that. The report, the September report, does
17 compare housing costs and income, but there's no
18 description of units in the report.

19 Q Well, you have a description of housing,
20 two to two and a half times income. Is that correct?

21 A Yes.

22 Q And you have a description of quintiles
23 of income? A Yes.

24 Q Can you provide us with a price for
25 a house which you would consider suitable for a moderate

1 income person in July of 1978?

2 A I don't have that information, no.

3 Q What's your definition of a moderate
4 income household as of July, 1978?

5 A I haven't made those calculations.

6 Q How do you define a low income household?

7 A In the reports I've submitted to date, I've
8 incorporated the definition used by New Jersey DCA.

9 Q Do you believe that to be correct?

10 A I believe it's suitable for the preparation as
11 to housing allocation.

12 Q What's the DCA figure for moderate

13 income households? A I just gave that
14 to you.

15 Q Yes, I know. A Less
16 than \$8,567.

17 Q That's the 1969 figure?

18 A I believe so.

19 Q Can you bring that current, to 1978?

20 A No.

21 Q So that, if Rockaway Township, the
22 municipality I represent, came to you and said we
23 are interested in meeting our housing allocation,
24 what is the price of a house that meets that -- the
25 goals that you are setting forth, can you provide them

1 with an answer? A Not today, no.

2 Q Well, does sales price have anything to
3 do with a house either meeting or not meeting the
4 allocation assigned to a relevant municipality?

5 A Yes.

6 Q Could you explain the relationship?

7 A As it's explained in the September report,
8 a standard was used -- is used in that report of
9 two or two and a half times income for housing costs.

10 Q The allocations are for low and moderate
11 income persons. Is that right?

12 A The housing allocations?

13 Q Yes. A Yes.

14 Q If Rockaway Township says to you we don't
15 have your background and experience, tell us how much
16 does that house have to cost for it to meet our
17 allocation, what would your answer be, in July of 1978?

18 A I don't have those figures.

19 Q So you are saying that you can't tell
20 the defendants what a house has to sell for in order
21 to meet the allocation? A That's true.

22 Q How is the defendant municipality to
23 meet the goal if the goal is defined in terms of sales
24 price of a house and that isn't being specific?

25 A It can be made specific.

1 Q But you are not giving testimony for
2 that purpose? A No.

3 Q So you set up the housing allocations,
4 but your portion of the testimony does not relate to
5 how one meets those allocations?

6 A That's correct.

7 MR. BISGAIER: Miss Brooks' testimony
8 is going to be based upon the reports that she
9 has already submitted. Asking her to characterize
10 them is one thing. Asking what they mean, you
11 can read them. She has an extensive report
12 which details how she believes housing
13 opportunity can be made available for low and
14 moderate income households.

15 MR. SIROTA: I'm not sure what all that
16 means. My question is: If we have to meet
17 a goal, this witness -- I'm not going to argue
18 with you, Carl. The witness has answered the
19 question. That's fine.

20 Q Do you want to amend your answer in any

21 A No.

22 Q The quintile brakes for the Newark SMSA,
23 they were published, those figures, in 1976?

24 A They were published on the date of that one page
25 sheet I showed you.

1 MR. SIROTA: I don't have the page.

2 Mr. Bisgaier, you have the documents, I believe,
3 that were marked for identification.

4 MR. BISGAIER: No. No.

5 A January, 1978.

6 Q And they were based on 1976 information?

7 A Yes.

8 Q Where does the information come from?

9 A The census.

10 Q The 1970 Census or --

11 A No.

12 Q -- the '75 -- A No,

13 they do periodic updates or various other reports.

14 Q Well, what was the census report which
15 is the basis for these figures?

16 A I gave that to you. The Current Population
17 Reports, Consumer Income, Series P-60,109.

18 Q Were those projections based on the
19 '70 Census or based on actual information received

20 in 1975? A I believe neither, but

21 I'm not sure.

22 Q Can you explain what it is?

23 A I think they are actually updated information,
24 but I'm not sure of the date.

25 Q By "updated," you mean that they actually

1 receive the raw information as to income?

2 A I believe so.

3 Q Anywhere in the December reports, have
4 you broken down sales prices for homes themselves into
5 quintiles or quarters or anything of that nature?

6 A If I understand your question, that is what
7 is presented on Page 6 and 7.

8 Q So Pages 6 and 7 represent -- well,
9 describe to me what Pages 6 and 7 represent because it
10 sounds like they mean something different than I
11 thought they meant.

12 A It is a presentation of housing cost information
13 identified in the report by quintile break, also
14 identified in the report. So that it shows the
15 proportion of homes sold during that one year period
16 by quintile break, which is by income break, at either
17 two times that income or two and a half times that
18 income.

19 Q The sales price of a house you have
20 utilized, in every case, is the sales price?

21 A No, it is the actual price.

22 Q So that, for example, for Boonton, those
23 in quintile 2 could have afforded 3.6% of the total
24 number of houses sold during that year?

25 A That's correct, at two times income.

1 Q Did you make any effort to adjust the
2 1975 income figures to reflect the '77-'78 sale prices
3 for the houses? A I did not.

4 Q So you compared the '76 income to the
5 '77-'78 sale prices? A That's correct.

6 Q Why did you do that?

7 A That was the information that was available.

8 Q Now, when we discussed previously the
9 raw information sent to you by the Public Advocate
10 relating to apartments, you advised that that was
11 information that resulted from a survey done by the
12 Public Advocate. Which data did you receive from the
13 New Jersey Division on Civil Rights and the Morris
14 County Planning Board?

15 A That is the same data.

16 Q Well, who prepared that data?

17 A The Public Advocates.

18 Q Well, what information do you have as to
19 how they prepared that information?

20 A They -- as it indicates right here in the
21 reports, they prepared that information -- they
22 prepared the data I received from information received
23 from the New Jersey Division on Civil Rights and the
24 Morris County Planning Board.

25 Q What information from the New Jersey

1 Division on Civil Rights?

2 A The information given me is the information I
3 have shown you already.

4 Q Do you know what information they
5 utilized from the New Jersey Division on Civil Rights?

6 A No.

7 Q Do you know what information they
8 utilized from the Morris County Planning Board?

9 A No.

10 MR. SIROTA: May I have, once again, the
11 items marked for identification which were
12 supplied to you by the Public Advocate relating
13 to rental?

14 MR. BISGAIER: Off the record a second.

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

16 (There is a short recess.)

17 Q All right. A I have
18 something I would like to clarify.

19 Q Go right ahead.

20
21 **LOGK** During the break, it occurred to me that I
22 you are probably confusing some of the answers
23 I've given you, in that we were talking about some
24 different reports. The New Jersey DCA identified
25 income limits for low and moderate income persons,
and we have discussed that in prior depositions, and

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

1 I did indicate in the prior depositions and in these
2 reports that, while I have incorporated those limits
3 in my adjusting their allocations, I do, at the same
4 time, think those are low, as are the estimates for
5 the income limits for low and moderate income. Now,
6 that is stated in my report, an evaluation of the
7 New Jersey DCA Report.

8 In addition to that, we have been talking also
9 about the September report that I've issued, which,
10 for analysis purposes, identifies a common standard
11 of two to two and a half times income for housing
12 costs. That's really sort of a separate set of figures,
13 and they are used in this report for evaluating the
14 relationship between income and housing costs.

15 As we have talked about it before and as I
16 indicated today, although I'm not sure you understood
17 that, it is easy to identify the -- a standard for the
18 income limits for low and moderate income. And what

19 I talked about before is utilizing the limits
20 incorporated by HUD in the Section 8 Program, and
21 that's public information, which you can get as easy
22 as I can. It is generally 50% for very low and 80%
23 for lower persons, of the SMSA median annual income.

24 I said that backwards. Do you want me to redo
25 that?

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Q 80% for moderate?

A They use different terms, very low or low.

Q What is your opinion? Is it 80% for moderate?

A Were I to redo the report, I would use those figures as suitable, as a definition for low and moderate income households.

Now, I don't have those figures with me today.

Q You don't have the figures?

A No.

Q And that's 80% of the average SMSA?

A The median annual income.

Q Median? A Yes.

Q And what is the latest SMSA median income figure, for what year? A That's what I don't have with me.

Q Do you know what year it is?

A Well, HUD uses that figure for its Section 8 Housing Assistance Program, and it is printed each year.

**SALES
CONTENT**

could obtain a copy for what they are using this

Q So is it your testimony that, if one took the 1978 figure and multiplied it by 80%, --

A I missed the first part of your sentence.

Q If one took the 1978 Section 8 figure for median income in the Newark SMSA and multiplied it

1 Section 8 figure is? A I don't.

2 There's really one other point. I don't want
3 to misrepresent what that other December report is.
4 The report, as I submitted it, is a summary of the
5 types of programs that jurisdictions or municipalities
6 can undertake to provide lower cost housing, and my
7 testimony will include information taken from that
8 report.

9 Q Why are there not enough homes available
10 for low and moderate income persons in Morris County?

11 A Because homes are not being provided at a cost
12 that low and moderate income households can afford.

13 Q Why is that the case?

14 A There are numerous reasons. I can list some
15 that I believe are very likely to be the case.

16 Q Well, do you know what the reasons are?

17 A I've not studied that, no.

18 Q So you cannot testify as to why homes
19 for low and moderate income persons are not being

20 in sufficient quantity in Morris County?

21 MR. BISGAIER: Is your question as a

22 result of a specific study that she has done or --

23 MR. SIROTA: My question is quite clear,

24 I think. It's not intended to be limited.

25 A I will not be testifying to that.

1 by 80%, one would arrive at the maximum for moderate
2 income households? A You are confusing
3 it a little. The Section 8 income limits are 80% of
4 the SMSA median income.

5 Q Why didn't you utilize those figures in
6 your September report? A Because I
7 felt the quintile analysis was a useful way to show
8 the distribution of housing costs.

9 Q Well, is someone in the third quintile
10 a low or moderate income person?

11 A It's generally the first and second quintiles.

12 Q So that, if we assumed, and I'm not
13 asking you to stick by this assumption, that the
14 Section 8 figure for moderate income was \$10,000,
15 then the home would have to cost either \$20,00 or
16 \$30,000? A I'm sorry. I missed the
17 question.

18 MR. BISGAIER: 20 or 25.

19 MR. SIROTA: Thank you.

20 Q If we assumed that the Section 8 figure
21 for 1978 for moderate income was 10,000, then the
22 home for that moderate income person would have to be
23 \$20,000 or \$25,000. Is that correct?

24 A That's correct.

25 Q Do you recall approximately what the

1 Q Well, is it your belief that there are
2 certain impediments to the construction of low and
3 moderate income housing in Morris County?

4 A Yes.

5 Q What are those impediments?

6 A I believe that zoning ordinances, in a variety
7 of ways, apply requirements to the construction of
8 housing that increases the cost of that housing.

9 Q Do you believe that to be the major
10 impediment to the construction of low and moderate
11 income housing? A Yes.

12 Q What other impediments are there?

13 A To the construction of low and moderate --

14 Q Low and moderate income housing in
15 Morris County. A A lack of planning
16 for and encouraging the construction of lower cost
17 housing, the failure to utilize all available resources
18 for lower cost housing.

19 Q By "available resources," you mean various
20 federal programs, Federal and State programs, the ones
21 you discussed in your December report?

22 A That's correct.

23 Q But you feel that zoning is the largest
24 impediment? A You asked me if that

25 was the major one. I believe it is.

1 Q Do you feel it's the largest impediment?

2 A I don't know what "largest" means there.

3 Q Well, greater weight than any of the
4 others?

5 A Where the zoning is
6 preventing the construction of lower cost housing, yes.

7 Q And do you believe that the zoning
8 in the defendant municipalities provides such an
9 impediment? A Yes.

10 Q So, then, is it fair to say that, with
11 respect to the defendant municipalities, you believe
12 zoning to be the largest single impediment to the
13 construction of low and moderate income housing?

14 A In a sense, yes.

15 Q Are there any zoning ordinances in
16 Morris County which you believe do not provide an
17 impediment to the construction of low and moderate
18 income housing? A I don't know.

19 Q Have you reviewed any of the zoning
20 ordinances in Morris County?

21 A No.

22 MR. SIROTA: Carl, what I would like
23 to ask, we have arranged this in the past,
24 rather than me taking all the documents that
25 we have marked for identification, that you keep
them in your possession, or Miss Brooks can keep

1 them in her possession, so long as they are
2 available to any of the defendants to make copies,
3 of course, at their own expense, on short notice.

4 Is that agreeable?

5 MR. BISGAIER: Yeah.

6 MR. SIROTA: I have no additional
7 questions.

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CROSS EXAMINATION BY MR. BISGAIER:

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Q There are a couple of things that I
would just like to clarify for the record. One is:
The methodology that you utilized for Rockaway Township
was the same for every township in doing your adjusted
fair share allocations on the DCA Plan. Is that correct?

A That's correct.

Q The 50%, 80% of the median that you
referred to as the Section 8 criteria, are there other
criteria for other Federal programs that are in need
of Governmental assistance in order to obtain housing
opportunities? A Virtually every

Federal and most State housing assistance programs have
income limits attached to them.

Q And you believe that those guidelines
essentially reflect households in need of Governmental
assistance, whether it be through planning, zoning or

Brooks - cross; redirect

subsidies, in order to receive decent housing?

A Yes.

MR. BISGAIER: Off the record for a second.

(There is a short discussion off the record.)

REDIRECT EXAMINATION BY MR. SIROTA:

Q I had forgotten that I wanted to ask you about DB-9 and 10.

As I last understood your testimony, this document called "Rental Housing Survey Format," which is DB-10, was prepared by the Public Advocate from information received from the Division of Civil Rights and the Morris County Planning Board. Is that accurate?

A Yes.

Q But it was the Office of the Public Advocacy which, in fact, prepared this document, which is DB-10, from some other source information?

A Yes.

Q In what years was the information valid that is, DB-10 gives rent ranges for what years?

A It was as a result of a survey in July, 1979

Q That's whose survey in July of 1979?

A The Public Advocates.

Q And they took that information from information provided by the Division on Civil Right

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

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1 and the Morris County Planning Board. Is that right?

2 A That's correct.

3 Q In what years were the Morris County
4 Planning Board and Division on Civil Rights rental

5 figures valid? A The rental figures
6 indicated in the report you are looking at is based
7 on the survey from the Public Advocates, done for
8 July, 1979.

9 Q Did the Public Advocate do it in July
10 of 1979, or did they communicate to you information
11 which was valid in July of 1979?

12 A I don't know.

13 MR. BISGAIER: Do you want to know?

14 MR. SIROTA: Yes.

15 MR. BISGAIER: Basically, at Miss Brooks'
16 direction, we received, from the Civil Rights
17 Division, which has an annual reporting
18 requirement for all of large multi family
19 structures in New Jersey, their listing of all
20 multi family units that had reported. That was
21 then matched against whatever available
22 information was obtainable from the Morris County
23 Planning Board as to multi family structures
24 in the County, and that was double checked
25 against phone call surveys of the specific units

1 as to what their rentals were. If you have
2 ever seen a Civil Rights Division report, it
3 contains information as to bedrooms, contains
4 information as to racial characteristics of
5 occupants and information as to minorities,
6 which are provided by the multi family unit
7 owner, as well as how they advertise what
8 their vacancy rate is and things like that;
9 basically, an attempt by the State to monitor
10 the Civil Rights Law.

11 MR. SIROTA: How did you obtain that
12 information?

13 MR. BISGAIER: That's public information.
14 Those are public records. It is a State
15 requirement that these reports be submitted and
16 filed on an annual basis.

17 MR. SIROTA: Which regulation? The
18 Statute doesn't provide that.

19 MR. BISGAIER: It's a regulation by the
20 Division of Civil Rights under the Statutes.
21 The Statute is subject to some substantial
22 litigation, which has upheld the Division's
23 right to obtain the information.

24 MR. SIROTA: And the figures were good
25 for what year?

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MR. BISGAIER: They were good for early
1979.

THE WITNESS: '79.

MR. BISGAIER: That's the time of
reporting.

MR. SIROTA: All right. I have no
further questions. Thank you.

MR. BISGAIER: Off the record.

(There is a short discussion off the record.)

(Mr. Sirota leaves the deposition.)

(There is a luncheon recess.)

CROSS EXAMINATION BY MR. VECCHIO:

Q Miss Brooks, my name is Joe Vecchio.

I'm going to ask you some questions. As I've
indicated to Carl, a lot of my questions may be stupid,
and that's essentially because of the fact that they
are a product of my lack of understanding of many of
your reports and, to an extent, may be a lack of
understanding of the parameters of this whole case.

If there are any questions that I ask
you that you don't understand, please tell me, and
I'll attempt, at least, to rephrase them so you do
understand them.

One of the basic things that I would like

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1 to get an understanding of is: What is, in your
2 opinion, a housing region?

3 **CONTENT**

4 The -- I guess the definition of a housing
5 region can change depending on the purpose for which
6 one wants to define the region. I think, for the
7 purposes of this -- the matter before us, the definition
8 of a housing region is one that should be appropriate
9 for a housing allocation plan, and that's discussed,
10 to some extent, in the reports. I have talked about
11 it generally as representing an area where there are --
12 there would be a balance between areas of housing need
13 and concentrations of housing conditions that need
14 improvements and those areas that could assume greater
15 responsibility for providing housing for those
16 households.

17 Q Okay. So the elements that you have
18 referred to, and, essentially, I'm going to be
19 paraphrasing this, are an area where there should be
20 a balance of need, corrections of needed improvements
21 of housing in that area, and areas where greater
22 responsibility should be imposed. Is that correct?

23 A I think that's the major factor in delineating
24 a region for a housing allocation plan.

25 Q Okay. Now, are the housing regions
co-terminus with political boundaries?

1 A The -- I think it's probably in the first report
2 I submitted. I think that factor is important.

3 Q And can you tell me why the factor of
4 political boundaries is important in the establishment
5 of a housing region? A Really, for

6 a couple of reasons. One, it makes the data used in
7 the preparation of, let's say, a housing plan or reports
8 much more accessible or usable. It also assists in
9 defining responsibilities for implementing a housing
10 plan.

11 Q Do you know when Roxbury Township was
12 formed? A No.

13 Q Do you know when the boundaries of
14 Roxbury Township were established?

15 A No.

16 Q Do you know whether the boundaries of
17 Roxbury Township were ever changed?

18 A No.

19 Q Do you know whether Mount Arlington
20 was a part of Roxbury Township?

21 A No.

22 Q Do you know when the boundary line
23 between Hopatcong Borough and Jefferson Township was
24 changed, thereby changing the County line between

25 Sussex and Morris County? A No.

1 **CONTENT**
2 **Problems**

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Q cross
standpoint, what considerations were taken to establish

Okay. Could you tell me, from a planning
the boundary lines of Roxbury Township?

A Could you repeat the question?

Q Sure. What planning considerations were
taken into account at the time that the boundaries
of Roxbury Township were established?

A I don't know.

Q Were there any, to your knowledge?

A I don't know. I do not know.

Q Do you know of any political boundaries
that were established in the State of New Jersey, I'm
talking about municipal and county boundary lines,
wherein planning considerations were a factor in the
creation of that political boundary?

A No.

Q What planning considerations dictate
inclusion of all of Roxbury Township within Region

A New Jersey DCA, in its Housing Allocation
defines the limits of Region 11 and incorporat
of Morris County in that region. In that report
do identify that. And particularly one of the
-- what we have called the working reports,
extent, discusses the delineation of the re

Q Yes. But I'm not terribly c

1 you know, what the DCA did. What I'm essentially
2 concerned about is that you are using Region 11 as a
3 region. Is that correct? A Yes.

4 Q What I would like to know from you, then,
5 based upon your opinion, is: Why do you conclude that
6 all of Roxbury Township has to be located within Region
7 11?

8 MR. BISGAIER: I think she already had
9 testified at previous depositions that she
10 believed that Region 11 was reasonable for the
11 purposes that DCA was using it, in effect, and
12 she thought it should be a larger region than
13 that. We are going over matters that have
14 already been testified to.

15 MR. VECCHIO: I hate to belabor it,
16 Carl, you know, she may have provided it before,
17 but I don't know whether it was the same question
18 that I'm asking. You know, essentially, what
19 I would like to know is: In her opinion, if
20 she has one, what are her planning considerations
21 that include all of Roxbury Township in Region
22 11 as opposed to 50% of it, 90% of it?

23 Q Can you answer that?

24 MR. BISGAIER: She can answer that. I
25 was just saying it seemed to follow, from her

1 acceptance of Morris County in its entirety being
2 part of a region, that all of Roxbury, which is 100%
3 located within Morris County, would also reasonably
4 be contained in it.

5 Q Can you answer it?

6 THE WITNESS: I go ahead and answer it?

7 MR. BISGAIER: Yes.

8 A Well, it's essentially that. I think, in
9 delineating the region, it's appropriate to have
10 Morris County in Region 11, and Roxbury Township,
11 as Carl just indicated, does lie completely within
12 Morris County. In addition to that or maybe
13 elaborate a bit, I think the evidence would have to be
14 overwhelming to justify the division of a political
15 jurisdiction in the delineation of a planning region.

16 Q All right. Could I ask you this question:
17 In the event that Roxbury Township seceded from Morris
18 County and became part of Sussex County, would it be
19 in this region, or would it not be, from a planning
20 standpoint and based upon your opinion? The boundary
21 between the counties changed once.

22 MR. BISGAIER: I'm not sure what the
23 thrust of that question was. If it was not
24 within Morris County and not within the county
25 of Region 11, DCA would not have included it

Brooks - cross

within Region 11. Miss Brooks has testified she believes the more appropriate region would be much larger than Region 11. So, to some extent, your question is rhetorical.

MR. VECCHIO: Well, if she can answer it, I would like to have her answer it, if she can. Because, you know, Carl, I don't mean to be belaboring the point, but these are items that I have difficulty with, and I'm just trying to get, you know, an understanding of them.

Q And as I say, from your standpoint and from Mr. Bisgaier's standpoint, some of my questions may be stupid, but they are basic things that I don't understand, and that's why I've asked them.

A If you recall the question, if you can answer it for me, I would appreciate it.

Q You know, I'm having a little bit of trouble with the question because, I guess, I don't quite understand what you are asking. But --

A The question that I asked at the time was fairly simple. No, I understand the words you used. A To the extent

Q Yes. A for the purposes of the Housing Allocation

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

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1 retained the use of Region 11, which incorporated all
2 of Morris County and not counties beyond that. If
3 Roxbury Township were not in Morris County, it would
4 not be included.

5 Q I see. A That is not
6 the same as saying that one could define another region
7 for the purposes of the Housing Allocation Plan that
8 might be larger or different than Region 11.

9 Q Is it possible that a region could be
10 defined that would be somewhat smaller than Region 11,
11 that would include Roxbury Township and other areas?

12 A What do you mean by "possible"?

13 Q "Possible," I guess, means that can
14 possibly happen. Is it possible to do so?

15 A It is possible to do that.

16 Q Did you consider --

17 MR. BISGAIER: Before you ask another
18 question, I think you should clarify whether
19 Miss Brooks is saying she thinks something
20 possible is the same thing as Miss Brooks saying
21 it is acceptable from her perspective as a
22 planner.

23 MR. VECCHIO: I'm getting to that. I
24 wouldn't leave it off there. You know me better
25 than that.

1 Q Now, did you consider, in the preparation
2 of your reports, any other regions, aside from Region
3 11?

4 A I -- in evaluating the New Jersey
5 DCA's Housing Allocation Report, I did look at several
6 other possible regions.

7 Q And what were those regions that you
8 did, in fact, look at? A I'm not
9 sure I'm going to remember this.

10 Q Well, to the best of your recollection.

11 A DCA itself, in its working paper, goes through
12 and evaluates a variety of alternative regions. So,
13 obviously, in looking at that report, I went through
14 the same kind of evaluation.

15 Q And what were the other possible regions
16 that you explored in performing this evaluation?

17 A The ones I recall that were either discussed in
18 that report or that I looked at was using the entire
19 State as a region, using Tri-State Regional Planning
20 Commission's portion of New Jersey, using standard
21 metropolitan statistical areas or SMSA's, some different
22 areas that had been considered by different departments
23 in the State; for instance, the Department of
24 Environmental Protection delineated a different region
25 for its 208 Plan, individual counties as regions, the
New York-Northeast New Jersey standard consolidated area,

Brooks - cross

which is another statistical geographic delineation.

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Q Now, aside from the individual counties as regions, did any of these other regions that you considered cover less area than Region 11, as delineated by the DCA? A Yes.

Q And which ones were they that encompassed less area than Region 11? A The SMA's would -- the -- I'm sorry, as I recall, some of the regions discussed by New Jersey DCA, as defined by other departments in the State, were either slightly different or smaller --

Q And you -- A -- than Region 11.

Q Okay. You rejected all of those in favor of the DCA Region 11. Is that correct?

A For the purposes of adjusting the Housing Allocation Plan, yes.

Q Was there any particular reason why you accepted Region 11 as opposed to any of the other regions that you had looked at in your preliminary investigations? A Yes.

Q And what were those reasons?

A For the purposes of adjusting the New Jersey DCA Housing Allocation Plan, it was, obviously, expedient to use the same region, and that was one

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

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Brooks - cross

1 factor. A region which I would have considered more
2 appropriate for housing allocation purposes would have
3 been a larger region that would have extended into
4 New York State. And because this was a matter of
5 concern to New Jersey, there was some rationale for
6 dealing with counties in the State of New Jersey.

7 Q Why did you reject the smaller regions?

8 A I saw no region that I looked at that was
9 smaller than Region 11 that I thought appropriately
10 treated the issue that I identified initially in terms
11 of balance between areas, where there was a larger
12 proportion of the population of low and moderate income
13 against those areas where housing for that population
14 was not available.

15 Q What report of yours most accurately

16 reflects your opinion as to the fair share allocation
17 of Roxbury Township? A As presented

18 by the New Jersey DCA, --
19 OTTON CONTE

20 Q No, your opinion. All I'm asking you

21 is: In your opinion, what is the fair share allocati
22 that is supposed to be assumed by Roxbury Township?
23 Could you show me? A I don't qu

24 know how to answer this question.

25 Q Well, --

A The materi
that I prepared for this case has been based on New

PENGAD CO., BAYONNE, N.J. 07002 FORM 2048

Brooks - cross

1 [redacted] Jersey DCA's Housing Allocation Plan, and I did not,
2 independently of that, develop a fair share plan.

3 Q Did you come up with what Roxbury Township's
4 allocation should be, in your opinion, --

5 A As --

6 Q -- regardless of whether you based it
7 on DCA or yours or anything else?

8 A The figures that I have submitted and the
9 reports I have prepared are based on adjustments to
10 the New Jersey DCA Housing Allocation Plan.

11 Q Very simply, Miss Brooks, what's the
12 number for Roxbury Township? Is it the 4,225 that you
13 have in your report as the adjusted allocation based
14 on your figures? A I think that's an

15 appropriate fair share allocation, yes.

16 Q And that is your opinion as to Roxbury
17 Township, is that correct, 4,225?

18 A I don't know if you are quoting the figure
19 correctly. But as I adjusted the New Jersey Housing
20 Allocation Plan, I think that is a fair allocation.

21 Q Now, with reference to that figure,
22 you submitted another report in December, December
23 of 1979. Is that correct? A

24 Q And can you adjust that figure base
25 upon the comments in your December 14, 1979 report

PERGAD CO., BAYONNE, N.J. 07002 FORM 1046

1 A What do you mean by "can"? Is it possible?

2 Q Do you have a copy of the December 14th
3 report?

A Yes.

4 Q Could you get it out, please?

5 A (Witness complies.)

6 Q This is DB-3. Now, you had different
7 population figures in this report. Is that right?

8 A Yes.

9 Q Okay. Now, using those different
10 population figures, would that result in a different
11 allocation to Roxbury Township than the 4,225?

12 A Yes, it would.

13 Q Could you do that for me and tell me
14 how that would -- what that result would be for
15 Roxbury Township?

16 A No. The reason this
17 report is an abbreviation, in order to do that
18 calculation, it requires going through all the
19 calculations that I went through this morning again,
20 and that is a process which I didn't have time to
21 etc.

22 Q You didn't do it.

23 Well, could you tell me approximately
24 how much a reduction there would be for Roxbury Township?
25 Is there some way you can do that based on these
population figures?

A You could do

Brooks - cross

straight comparison. Given these total figures --
I'm sorry, given the figures presented in the New
Jersey DCA Report, Roxbury was a proportion of that,

and Roxbury could be a proportion of these new figures.

Q In your opinion, which population
projection do you feel is most reliable for your
purposes in addressing the need in this case? And

DB-3 has attached to it a couple of population
projections. Which is the one that should be used?

A I did not do a detailed evaluation of the
alternative population projections in that two of them
are -- well, in that the OD -- what we have referred
to as the ODEA Series is a more current projection
developed by the State, I would certainly look at that
one first as the most useful projection.

Q And what --

me.

Q What is the -- I'm sorry.

A I'm sorry. I guess I'm assuming that you know
some things, and you may not, necessarily.

Q Don't assume I know anything because

I don't.

A

The 208, which we have
referred to in these depositions, projections are
based on the same series as what I just now referred
to as the ODEA Series.

PENGAD CO., BAYONNE, N.J. 07002 FORM 2048

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1 Q What is the population projection by the
2 one that you said, the ODEA one?

3 A For?

4 Q That's No. 4 in that report?

5 A No. For what? Could you restate your question?

6 Q You said the ODEA one was the most
7 recent one, and I assume that's a reliable one. Is
8 that correct? A Yes. What I just
9 said, is in addition to that, this column here indicated
10 as 208 is based on the same population projection.
11 There are some different assumptions in these two
12 estimates.

13 Q In your expert opinion, which one, which
14 population projection, should I use to determine what
15 the need is for Roxbury Township? Referring to DB-3,
16 you have a Series 2 with a little 1 after it, you have
17 a 208, and you have an ODEA 03. They all have different
18 total numbers at the bottom. Which one should I use,
19 in your opinion? A Can I go off the

20 record?
21 Q Yes. Oh, you want to ask Carl something.

22 A Yeah.

23 Q Sure.

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

25 Q Do you understand the question, Miss Brooks?

Brooks - cross

A Yeah. The only reason I'm hesitating is I'm not sure how much your -- you want it related to, I guess, the reports I prepared or what?

Q Yes. Well, --

A The testimony has been, up to this point, the -- I guess you should understand that the three population projections are different, different projections based on different assumptions.

Q All I'm asking you --

A One could -- I mean, it's important to understand I guess, how the assumptions relate to the population projections. If I were going to prepare a fair share or, let's say, a housing allocation plan for Region 1 I would probably select what you see as the column for 208.

Q The 208 one, that is a population projection of 4,860,600 for Region 11. Is that correct?

A Correct.

Q And that is the one that is in the so to speak? It's not the high one, and it's not low one?

A That's true.

Q What did you use?

A -- or retained the projections used by New Jersey which is in the first column, the Series 2.

Q So, now, the population project

PENGAD CO., BAYONNE, N.J. 07002 FORM 2045

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1 be down somewhat, right? A That's correct.

2 Q And the resultant need would be down

3 somewhat. Is that right? A What do you

4 mean by "need"?

5 Q Need for housing in the area. The
6 population is less. I assume you need less houses?

7 A As projected.

8 Q Then, as projected by you in your original
9 report, that came up with 4,225?

10 A That is correct.

11 Q That is correct.

12 Why didn't you use the ODEA one that's

13 even lower? Why do you choose the middle one instead
14 of the lowest one? A The 208 -- and we

15 have gone over this already. The 208 population
16 projections incorporate some assumptions about future
17 development in the region that, for the most part --

18 MR. VECCHIO: Could we go off the record

19 for a second?

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

21 (Mr. Eisdorfer leaves the deposition.)

22 Q Why didn't they -- why didn't you use
23 the ODEA one instead of the 208 one?

24 A I think there are two reasons. One, at the
25 time I prepared the adjustments to New Jersey DCA, these

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

Brooks - cross

figures were not available to me. And the adjustments made to New Jersey DCA were -- in making those adjustments, I attempted to retain a lot -- as many of the basic assumptions of the Housing Allocation Report as I could, so it would not be a confusing adjustment.

Q

I don't -- I'm sorry. I didn't understand the answer.

A

There are basically two reasons. The first is that the ODEA population figures were not available to me at the time I adjusted the New Jersey DCA Housing Allocation Report. The second one, the population projection, because they do incorporate different kinds of assumptions, the -- and at the time, the New Jersey DCA population projections were acceptable projections. It seemed unnecessary and a complicating factor to adjust the

Q

And those figures, the ODEA figures, are available to you now, however, correct?

A

That's true.

Q

Okay. So, then, are you limited to reason as to why you would not recommend their the present time as opposed to the 208 population projection?

A

You are now confused

Q

The ODEA is the lower one?

1 A That's correct.

2 Q Why would you not recommend the use of
3 the ODEA population projection now instead of the
4 208 based upon the assumptions that you -- instead of

5 the 208? A The 208 and the ODEA are
6 the same population projections.

7 Q They are? A Let me finish.

8 But in the 208 --

9 Q Go ahead.

10 A -- figures, there have been some adjustments
11 made to the basic population projections. And as I
12 just answered for you, those adjustments take into
13 account some assumptions about developing patterns in
14 the State.

15 Q Have you ever been in Roxbury Township?

16 A Yes.

17 Q When? A I don't remember

18 Q Why did you go there?

19 A I drove around the County to look at various
20 parts of the County and to observe development patterns.

21 Q What did you look at in Roxbury? Do
22 you remember? A Nothing in particular.

23 The driving around was merely driving around.

24 Q Did you stop anywhere in Roxbury?

25 A Not that I recall.

Brooks - cross

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

Q Who were with you?

A Mr. Bisgaier and Mr. Malech, Alan Malech.

Q Do you know how much time was spent in

Roxbury?
A No.

Q Do you know what roads you drove over?

A No.
Q Do you know what highways traverse

Roxbury Township?
A No.

Q Do you know if there are any State parks

in Roxbury?
A No.

Q Do you know whether there are any major

bodies of water in Roxbury Township?

A No.

Q Are you familiar with the various areas

of Roxbury Township, such as Port Morris, Ledgewood,

Landing, Short Hills, Succasunna, Kenvil, Berkshire

Valley and part of Flanders?
A

Q Getting back to what I had asked you

are housing regions and political boundaries neces-

co-terminus?
A Not necessarily

Q In what instances would they not be

co-terminus?
A If someone we

define a housing region where the boundaries dif-

fer from jurisdictional boundaries.

Q Have you ever done so?

1 A No.

2 Q Do you know anyone who has?

3 **ASABLE** For a housing plan?

4 **TON CONTENT** Q Yes. A Not that I

5 can recall.

6 MS. MC DERMOTT: Before we go on, can
7 you just clarify? Was that question with respect
8 to municipal boundaries or county boundaries?

9 MR. VECCHIO: Just boundaries in general.

10 MS. MC DERMOTT: Just boundaries.

11 Q Is there any particular planning
12 infirmity to a definition of a housing region that
13 does not take into consideration political boundaries?

14 A I believe the two that I indicated before when
15 you asked a very similar question.

16 Q You mean availability of data and the
17 other one? A Being able to identify
18 responsibility for implementing a plan.

19 Q I see. How would that be pertinent,
20 responsibility for implementation of the plan, if a
21 could you expound on that just a little bit? I have
22 some difficulty with that.

23 A Planners like to think that the plans they
24 develop are going to be implemented. And without being
25 able to identify either agencies or units of government

1 that will take on responsibility for that plan, there
2 is very often very little hope that the plans will be
3 implemented.

4 Q Assume -- and, you know, from your
5 standpoint, I know that you don't believe it. But
6 assume that only 50% of Roxbury Township were in Region
7 11. What's the difficulty with reference to the
8 implementation of the plan? A If

9 -- obviously, it could still be implemented by Roxbury
10 Township. I guess I have never heard of a jurisdiction
11 that was willing to undertake the implementation of the
12 housing plan for a portion of its jurisdiction.

13 Q Well, assume that the Court in this
14 particular instance -- assume that Region 11 bisected
15 15 municipalities and 8 counties and the Court made
16 a determination that those particular areas have to
17 provide X number of low and moderate income units.
18 What is the problem with reference to the implementation?

19 A As I indicated, it could still be implemented.

20 Q It could be. So that's not a defect to
21 the definition of a region, then. Is that correct?

22 A As I indicated, I'm going to stick by what I
23 said, I still think that is a weakness in the definition
24 of a region. I don't think that's ideal nor desirable.

25 Q Do you know where the New Jersey

1 Meadowlands are? A Generally.

2 Q Now, do you have any idea as to how many
3 jobs will be created in the New Jersey Meadowlands
4 between today's date and 1990?

5 A No.

6 Q Did you do any studies with reference
7 to that? A No.

8 Q Do you know whether there will be any
9 jobs created in that area as opposed to five or 10?

10 A As I recall, in material I've read, it will be
11 substantial.

12 Q And are the Meadowlands essentially
13 located in Region 11? A Yes.

14 Q And has the development been taken into
15 consideration by you with reference to the proposed
16 population growth of Morris County?

17 A I'm sorry. Repeat the question, please.

18 MR. VECCHIO: Off the record.
19 (There is a short discussion off the record.)

20 Q Has that development been taken into
21 consideration by you with reference to the population
22 growth of Morris County? A In the reports

23 that I've prepared to date, no. As I've indicated,
24 in a discussion I had in depositions earlier, in
25 comparing the three population projections, the 208 Plan

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

1 does take that into account.

2 Q Do you know what the proposed projected
3 population will be of the Meadowlands by 1990?

4 A No. I have read that, but I don't recall.

5 Q Do you know what percentage of housing
6 provided for in the Meadowlands will be, if you will,
7 least cost housing? And, then, the second question
8 will be low and moderate income housing. If you can
9 remember them both, you can answer them both at the
10 same time.

11 A I don't know.

12 Q You don't know? A No.

13 Q Is it not a pertinent area of inquiry in
14 developing a housing allocation plan?

15 A A housing allocation plan sets forth the, for
16 lack of a better word, responsibility of jurisdictions
17 to meet the housing need that has been identified.
18 The extent of which lower cost housing may be provided
19 within a proposed development would be relevant to
20 meeting the goals of that plan, but not necessarily in
21 the preparation of that plan.

22 Q Well, assuming -- see, this is, again,
23 where I get confused. But assuming that the Meadowlands
24 was going to provide 20,000 least cost units between
25 today's date and 1990, would that affect your determinatio

1 in any respect with reference to the allocation to
2 municipalities in Morris County and particularly
3 Roxbury?

4 MR. BISGAIER: Did you say least cost?

5 MR. VECCHIO: Least cost, yes.

6 A No.

7 Q It would not.

8 Okay. Then, let's make the number 100,000.

9 Would that affect your opinion as to the amount of
10 housing that Roxbury Township should provide of the
11 least cost or low and moderate income nature?

12 A No.

13 Q And if it were 200,000, your answer would
14 still remain no? A That's correct.

15 Q And it wouldn't matter how much was
16 provided for in the Meadowlands. Is that correct?

17 A That's correct.

18 Q And yet Roxbury Township, in your opinion,
19 is in the same Region 11 as the Meadowlands. Is that

20 A That is correct.

21 Q Now, could you tell me if a municipality
22 such as Hackensack provides for its fair share of
23 least cost housing? A I missed the
24 question, I guess.

25 Q Hackensack is in Region 11, is it not?

Brooks - cross

A Yes.

Q Does that municipality provide for its fair share of least cost housing? Do you know?

A I don't know.

Q Some other municipalities in the region, what about a municipality such as Garwood in Union County, Westfield in Union County, Bogota and Fort Lee, do they provide for their fair share of least cost housing or low and moderate income housing?

MR. BISGAIER: I want a clarification of that. Do you mean by that have they met the DCA allocation number?

MR. VECCHIO: No, I want to know, in Miss Brooks' opinion, as to whether they do or they don't. And if she relates that to the DCA Report, fine. If she has any independent knowledge on it, fine.

A I don't know.

Q You don't know.

Do you know if any municipalities, towns, etc. in Region 11 provide for more than their fair share of least cost housing?

A I would assume.

Q Which ones? A I would be unable to identify them for you, and I haven't

PENGAD CO., BAYONNE, N.J. 07002 FORM 2045

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1 at the appropriate information.

2 Q If you have it with you, please feel
3 free.

4 A No, I don't. I would
5 assume that a jurisdiction such as Newark, for instance,
6 has provided --

7 Q More than its fair share?

8 A That's possible.

9 Q You say "That's possible." You asked
10 me what I meant by "possible" before. May I ask you
11 what you meant by "Possible"?

12 A It's possible because I don't have the data here.
13 It seems to me very possible, probable.

14 Q Now, if there are municipalities that
15 provide, if you will, more than their "fair share of
16 least cost housing" within the region, does that, in
17 your opinion, affect the amount that should be provided
18 for by other municipalities in the region?

19 A That's a difficult question to answer. The
20 fair share allocations are the result of identifying
21 the need that exists for lower cost housing.

22 M LOGI
23 allocations to jurisdictions will continue as long
24 as that need remains.

25 Q Generally, and without even being
precise, approximately how many did you say were needed
in Morris County by 1990? And I'm not holding you to

Brooks - cross

the number.

A

I would have to look.

Q

All right. Assume that it was 20,000

low and moderate income units for the purpose of the question, so we don't have to go through all that stuff. But assume that you concluded that you needed

20,000 units in Morris County by the year 1990 and supposing Roxbury Township came along and said what

we are going to do is we are going to provide 15,000 units in Roxbury Township of least cost and low and moderate income housing, would that affect the amount

to be -- that you would consider would have to be provided by the other municipalities?

A

This is the fairest answer I can give you.

Q

That's all I can ask for.

A

It is obviously possible to -- or I don't know if it's possible. It is conceivable, hypothetically that all of the housing need for low and moderate income households could be met in one jurisdiction, let's say. The reason for a housing allocation plan is based in part on the fact that that is not the

desirable way to meet the needs of lower income people. So to answer your question the way I think it ought

to be answered is that kind of solution may indeed meet or provide housing for lower income persons would not do so in the most desirable way.

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



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Q Now, again, then, if, by way of example, taking a hypothetical again, there are a couple of towns in the County that provide more than their fair share of least cost housing, why can't I get credit for a little bit of that, using "I" in terms of Roxbury Township?

A I really don't know how to answer it, other than the way I answered it. I mean, obviously, one could develop a plan where that were the case. The whole basis for the housing allocation plan is so that does not occur, that jurisdictions cooperate in providing housing, and they do so on some rational basis. The housing allocation plan is an attempt to define that basis. So while one could develop a plan or decide the jurisdictions got credit for what other jurisdictions did, it is not achieving the objectives of the housing allocation plan.

Q Mount Arlington is not part of this lawsuit, is it?

A No.

Q Okay. Did you do a partial analysis of some of the municipalities that are not part of this litigation?

A What do you mean by "partial analysis"?

Q Did you determine whether they provide their fair share or they provide more than their fair share; as to Mount Arlington, as a specific example?

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

FORM 2045
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Brooks - cross

You can look at whatever, your reports or whatever, and tell me. A No, they are incorporated in the housing allocation plan, just as the other jurisdictions.

Q How much does Mount Arlington have to provide? A Based on New Jersey DCA's Plan?

Q Based upon your opinion. A As I adjusted the plan?

Q Yes.

Q In your opinion, should they be defendants in this lawsuit then? A Not necessary.

Q Are they providing their fair share of least cost and low and moderate income housing, based upon your opinion? A I don't know.

Q Then, what does the final allocation Column Q on Page 7 of your report dated August 30 indicate when it has the number --

A I'm not sure.

Q -- 499? A Yes. After Mount Arlington, you have there that says, "499"? A Yes. don't know how to explain it, other than to you what the housing allocation plan does not to be understanding what the housing a

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1 does. This is a figure that represents an allocation
2 of units for low and moderate income persons to the
3 year 1990 --

4 Q Right. A -- by
5 jurisdiction.

6 Q Right. A It is not
7 an indication of whether or not that jurisdiction will
8 or will not meet that allocation, has or has not met
9 that allocation, or has any intention or not of meeting
10 that allocation.

11 Q So, then, going down to Roxbury Township,
12 you have a number of 4,225, right?

13 A Okay.

14 Q And the same comments apply to the 4,225
15 as apply to the 499? A That's correct.

16 MR. BISGAIER: I think you may be --
17 just for clarification purposes, she has already
18 testified previously that, as to whether a
19 municipality is providing or meeting its fair
20 share, one would look to see whether there is
21 subsidized housing or other units in the
22 municipality since 1970, which has been provided
23 for low and moderate income persons. Is that
24 what you are asking her?

25 MR. VECCHIO: Pretty much.

Brooks - cross

MR. BISGAIER: Because the allocation

plan goes through the year 1990.

Q Do you know whether there are any bus lines that go through Roxbury?

A No. A No.

Q Train?

Q Did you ever do any studies with reference to journey to work and the establishment of regions based upon travel time?

A What do you mean have I done any work?

Q Yes. Just that, if you can answer it.

A If you can't answer it, I'll ask you another question.

A I've looked at information about that. I'm familiar with --

Q What is the normal journey to work, if there is such a thing, or what do you feel, in your opinion, is the average time distance that some should travel from job to their house, if you will?

A I don't think there is such a standard.

Q There isn't any? A

Q So it could be from one minute to 1 hours? A Obviously, it is in t

sense that people select -- some individuals sel to travel two or three hours each way to work their home. Others find that totally unaccepta

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

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1 Q But in your opinion, there is no norm?

2 A What do you mean by "norm"?

3 Q Any average or, if you will, ideal,
4 from a planning standpoint, time period of travel
5 from one's home to one's job?

6 MR. BISGAIER: Are you asking for a
7 statistical norm, or are you asking for a
8 planning norm?

9 MR. VECCHIO: Planning opinion on it.

10 A For statistical purposes, a planner can identify
11 statistically an average for a region or some other
12 statistical midpoint and --

13 Q Do you -- I'm sorry.

14 A And could use that figure in delineating a
15 journey to work figure. I have not done one for this
16 region and, in fact, have not seen one.

17 Q Have you ever used such a theory?

18 A No.

19 Q Is there some reason why such a theory
20 is inappropriate from a planning standpoint?

21 A What do you mean "planning standpoint"?

22 For the purpose --

23 Q To delineate a region.

24 A For a housing plan?

25 Q Yes. A There are complicating

1 factors that result from using that as a basis for
2 delineating a region in that it limits what is, in
3 fact, the case in that we can document -- let's say
4 we do choose an average or a midpoint commuting time
5 or distance. We know, in fact, that that is not the
6 case. In addition to that, that factor changes easily
7 by the extension of rail lines or the completion of a
8 highway or the expansion of a highway, the extension of
9 bus lines. It can alter commuting patterns dramatically
10 for the region.

11 Q But would it be appropriate to use that
12 method to define a region at a particular moment in
13 time and then redefine the region based upon the
14 improved modes of transportation that you speak of?

15 A For the purposes of preparing a housing plan?

16 Q Yes, ma'am. A I need the
17 beginning part of your question again.

18 MR. VECCHIO: Could you read it back,
19 please?

20 (The following was read by the reporter:

21 "QUESTION: But would it be appropriate to use
22 that method to define a region at a particular
23 moment in time and then redefine the region
24 based upon the improved modes of transportation
25 that you speak of?")

1 A I do not think that's appropriate, delineating
2 a region for a housing plan.

3 Q Would you take into consideration, in
4 delineating a region for a housing plan, how far somebody
5 had to travel to work? A I think it is
6 a consideration, yes.

7 Q Would you take into consideration for
8 low and moderate income families, the cost involved in
9 their transportation? A For delineating
10 a region for a housing plan?

11 Q Yes, ma'am. A No.

12 Q Are land costs different in different
13 towns within Region 11? A I assume so.

14 Q Have you, at any time, discussed this
15 litigation with Mr. Malech? A Yes.

16 Q When is the last time you discussed it
17 with him, approximately? A I believe
18 sometime in January.

19 Q Did you discuss with Mr. Malech the
20 content of his report dated December 10, 1979?

21 A No.

22 Q Can I show you a copy of that report?
23 I'm referring to Mr. Malech's report
24 dated December 10, 1979.

25 MR. VECCHIO: All I want to do is ask her

Brooks - direct

if she agrees to that.

MR. BISGAIER: She is not going to be

able to answer that question without reading

a substantial part of this report.

MR. VECCHIO: I'll let her read it.

Q Miss Brooks, I refer you to this

paragraph in the report of Mr. Malech dated December

10, 1979, wherein he states, "In addition, a likely

by-product is that selected municipalities; i.e., those

in which market demand for more extensive housing is

relatively weak, will see moderately priced housing

constructed in the least cost zones. This is

inconsistent with the 'fair share' concept.

Municipality A, a high demand area for expensive

housing, will see expensive town houses built in its

least cost zones by Municipality B, more of a workin

class community, which will obtain something closer

to least cost housing."

Do you agree with that? And as Mr.

Bisgaier said, if you have to read the report, it'

only a few pages, you can.

MR. BISGAIER: While she is looking

that, I would just, you know, like to ref

on some of her answers where you were

specifically asking her about roads and !

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

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1 and the like. Miss Brooks does have available
2 to her the Morris County Planning Board map
3 of bus routes and major transportation facilities,
4 as well as maps of roads and the like. If you
5 want her to look at those and then report to
6 you which roads go through or near Roxbury and
7 which public transportation facilities do, she
8 can. I did not ask her, for purposes of these
9 depositions to bone up on every stop on the
10 bus route or, you know, to refresh her
11 recollection with regard to that. It's
12 information that probably has not been looked
13 at for eight or nine months. Again, it seemed
14 to me a relatively superfactual matter. Anybody
15 can look at a map.

16 MR. VECCHIO: I don't want her to look
17 over all that stuff. I wanted to know what
18 she knew about Roxbury.

19 MR. BISGAIER: I think, off the top of
20 her head, for all of the 27 municipalities,
21 it is not at her fingertips.

22 MR. VECCHIO: I'll ask her as to all
23 27 of them, then.

24 MR. BISGAIER: I'll make that
25 representation for all 27 to avoid, hopefully,

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redundant questions.

Off the record.

(There is a short discussion off the record.)

Q Are you ready?

A I've only taken a quick look at this. As I understand it, I agree with it, yes.

Q You agree with the statement.

Okay. What municipalities in Morris County are high demand areas for expensive housing?

A I don't know.

Q Is Roxbury Township a high demand area for expensive housing?

A I don't know.

Q Do you know if Roxbury Township has a high demand area for moderate and least cost housing?

A I don't know.

Q Do you agree with Mr. Malech's inference that an unfair result could obtain in the implementation of a fair share plan based on the demand areas; i.e., least cost or high cost housing in specific areas?

MR. BISGAIER: What unfair result?

MR. VECCHIO: That the least cost town is going to get all least cost housing.

MR. BISGAIER: You are saying it's Mr. Malech's view they will get more than their fair share?

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

1 MR. VECCHIO: Yes.

2 A I'm sorry. I don't understand your question.

3 ~~TOP~~ ~~CONFIDENTIAL~~ Okay. Let's do it a different way.

4 Assuming that you have -- take Essex Fells. That's
5 out of Morris County, but it's in the region. Are
6 you familiar with that municipality?

7 A Minimally.

8 Q Would you agree that it is a very
9 expensive municipality, land costs and housing costs
10 there are very expensive? A All right.

11 Q I didn't hear you.

12 A All right.

13 Q Okay. Would you say, that, if you zoned
14 15 acres or 20 acres, in Essex Fells, for small units,
15 say, single family houses on 5,000 square foot lots,
16 they are going to cost a lot more than if you put them
17 in Roxbury Township?

18 MR. BISGAIER: Without any other controls,
19 just merely zoning it that way?

20 MR. VECCHIO: Yes.

21 I don't know.

22 Q You don't know.

23 What community are you aware of that has
24 the highest land costs of any community that you know
25 of and housing costs? A I don't know

Brooks - cross

1 how to answer that question. I don't know what
2 jurisdiction has the highest costs.

3 Q How about in your opinion?

4 A There would probably be some out in California.

5 Q Where in California? Is there one
6 particular town? A I don't know.

7 For instance, in Monterey, the costs are exorbitant.

8 Q Supposing they zoned, in Monterey, for
9 a 5,000 square foot lot with a 900 square foot house
10 on that lot. What would that house, approximately,
11 sell for? Do you have any opinion?

12 A I don't know.

13 Q Would it be in the category of least
14 cost or moderate cost housing?

15 A Probably not.

16 Q Now, what's the poorest town that you
17 know, where the land costs are the least and the
18 housing costs are about the least, that you know of?

19 A I don't know. Somewhere in the Mid-west,
20 probably, southwest, maybe.

21 Q Do you have a name of any town there?

22 A No, not particularly. I mean --

23 Q All right. Well, if they zoned for
24 5,000 square foot lots and they put up a 900 square
25 foot house, would that meet or more nearly meet lea

PENGAD CO., BAYONNE, N.J. 07002 - FORM 2045

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cost and moderate cost housing?

A Probably.

Q Don't the same kinds of disparities exist within Region 11, maybe not to that degree, but don't those disparities exist as to land cost?

A Probably.

Q Did you take those factors into consideration in determining who would, in fact, end up with the least cost and the moderate cost housing?

A In the development of the housing allocation plan?

Q Yes.

MR. BISGAIER: Take which factors into consideration?

MR. VECCHIO: The land costs and housing costs in the particular municipalities.

MR. BISGAIER: If the housing allocation methodology took that into consideration?

MR. VECCHIO: No. I asked her if she took it into consideration.

A I used the same methodology, in that respect, that New Jersey DCA used. This kind of question was discussed in the very first deposition we had. The preparation of the housing allocation plan, the method that is employed in allocating the units after the need has been identified does take into account certain

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

1 factors, and I would have to go back to the report to
2 identify them for you very clearly.

3 Q But in your opinion, regardless of what
4 the report says, in your opinion, should a factor of
5 that nature be taken into consideration in developing
6 an allocation plan? I don't care what the DCA Report
7 says. A It commonly is taken into
8 account, and it was in the New Jersey DCA Report,
9 and, yes, I do think it's appropriate.

10 Q Is there any way that you can quantify
11 what the demand for expensive housing is in Roxbury
12 Township as it compares to, say, Boonton, Riverdale
13 or Essex Fells? A It could be done.
14 I have not done it.

15 Q You didn't think that it was pertinent
16 at all? A No.

17 Q Are you aware of any intensive soil
18 removal operations that are or have taken place in
19 Roxbury Township? A No.

20 Q Do you know what kind of industry is
21 located in Roxbury Township? A No.

22 Q Do you know of any communities in
23 Morris County that have a powder plant located within
24 them, as does Roxbury? A No.

25 Q Do you know how many communities, aside

1 from Roxbury Township, have an extensive junkyard
2 located within it? A No.

3 Q Do you know how many communities in
4 Morris County, aside from Roxbury Township, have an
5 open air concrete plant located within its borders?

6 A No.

7 Q Going to your April report, the second
8 report in April, the long one, which runs from Pages
9 1 through 55, on Pages 19 through 25, you have a
10 graphic description of a quintile analysis for
11 municipalities in Morris County. Is that correct?

12 A Yes.

13 Q Okay. Now, in your opinion, what is
14 the ideal community on the quintile breakdown?

15 A The quintile breakdown doesn't -- is not an
16 analysis that lends itself to defining ideal.

17 Q In your opinion, then, as a planner,
18 could you tell me what would be the best makeup of
19 a community from the quintile analysis? Should it be
20 the population? Should it be in each income
21 category? Is that your opinion?

22 A You asked me the same question. You just turned
23 the words around. That's not what the quintile analysis
24 does.

25 Q No, I know that's not what it does.

1 A The purpose of the quintile analysis is to
2 enable one to compare relative proportions of the
3 population within jurisdictions. It is not to set
4 up anything as an ideal. It is to set up a comparison.

5 Q But from your standpoint, what I'm asking
6 you, in your opinion, if you had the best of what you
7 could possibly get, in your opinion, how would you like
8 to see the municipalities in the County structured,
9 using the quintile analysis? Should it be 20% in each
10 category? Should it be 5% in one category and 90% in
11 another category or what?

12 A As I already answered you, I would not use the
13 quintile analysis for identifying an ideal community.
14 I don't think that's its function.

15 Q So is what you are telling me, then,
16 that certain communities could have, in your opinion,
17 from a planning standpoint and considering the concepts
18 of the Mount Laurel decision, that it would be
19 perfectly appropriate planning for a community to have,
20 say, 20% in the Quintile 4 and 5 and the remaining
21 sample of percent in Quintiles 1, 2 and 3? That's
22 appropriate planning? A No, I don't

23 think so.

24 Q What's inappropriate about it if the
25 quintile analysis is essentially irrelevant to the problem

Brooks - cross

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A I didn't say it was irrelevant. The -- if one were to go to plan for population, one should plan for the housing needs that exist. The quintile analysis is a way of identifying relative proportions of population. They strike me as two different phenomenon.

Q In the event that Roxbury Township provided, next year, 4,225 low and moderate income units, what is your projection as to what would happen to the quintile analysis as to Roxbury Township, as compared to what it looks like in your report at the present time?

A I really don't know. That's hard to answer without knowing what other activities would be going on in Roxbury.

Q In the event that all of the municipalities in the County provided the number of units that you propose in your final adjusted allocation next year, would that change the configurations on these quintile analyses?

MR. BISGAIER: I think she already answered that question.

MR. VECCHIO: If she did, I didn't get it.

MR. BISGAIER: Wouldn't what is true for Roxbury be true for all of the other municipalities in the County?

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

1 MR. VECCHIO: I don't know.

2 MR. BISGAIER: Isn't it obvious? It
3 would depend on what the activity would be,
4 as to what impact it would have on the quintile.
5 You are asking a rhetorical question based on
6 a mathematical analysis.

7 MR. VECCHIO: It isn't obvious to me.

8 As I said, some of my questions are dumb because
9 I don't understand it.

10 A The quintile configuration would probably change.
11 As I said, it's very difficult to identify how that
12 change would occur not knowing what else is going to
13 go on in any single jurisdiction, plus you must surely
14 recognize that the quintiles are based on a comparison
15 to a larger region. So what goes on in individual
16 jurisdictions affects what is true for that larger
17 region against which it is compared.

18 Q Now, in your report of September, 1979,
19 5 of that report, you conclude that dwelling
20 houses to serve the second quintile should be at a price
21 of \$25,250, maximum price. Is that correct?

22 A Using the figure two and a half times income, yes.

23 Q Two and a half times income.

24 Which figure do you prefer, two times
25 or two and a half times? Which one do you think is right?

1 I mean, it's a substantial difference.

2 A I don't think "right" is the correct word to
3 use. I use the two to show the difference, and the
4 figures are based on -- I mean the rules of thumb are
5 based on mostly what criterion is used. Possibility
6 of obtaining a mortgage, at this point, two and a
7 half times income may be in more common usage.

8 Q I am sure you have been asked this
9 question before, but if you can, can you tell me whether
10 you send bills out for an apartment unit for less than
11 \$12,800, \$16,000, \$22,600 and \$28,250?

12 A Your question is imprecise without location.
13 If you can make it more precise, I don't know the
14 answer.

15 Q You do not know the answer?

16 A No.

17 Q Have you ever done any studies with
18 reference to construction costs?

19 A No.

20 You do not know whether one can construct
21 a family dwelling house of 900 square feet on
22 a 5,000 square foot lot in Roxbury Township, for \$28,250?

23 A That's correct.

24 Q And is it your opinion that it might be
25 possible to construct such a dwelling house in Roxbury.

1 Township? A I don't know.

2 (There is a short recess.)

3 Q The number of units that you propose for
4 Roxbury Township is 4,225 by 1990, correct, Miss Brooks?

5 A Yes.

6 Q Now, how much of an increase in
7 population would that be to Roxbury Township if the
8 4,225 units were provided by 1990?

9 A That can be estimated multiplying that by some
10 household size.

11 Q And isn't the household size that you
12 used in your report of December 14, 1979, at Page 10,
13 2.83 persons per household?

14 A I believe so.

15 Q And would that result in a population
16 increase to Roxbury Township, by the year 1990, of
17 11,956 persons?

18 MR. BISGAIER: Assuming no one in
19 Roxbury moves into those units who presently
20 lives there?

21 MR. VECCHIO: Yes.

22 A I haven't checked that calculation. Assuming
23 that calculation is correct, that's the population
24 that would be housed in those units. That's not
25 necessarily the increase in population in Roxbury.

Brooks - cross

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Q What is the present population of Roxbury Township?

A Do you want me to look it up?

Q Do you know? Is it approximately 17,000?

A I don't know.

Q Then, you better look it up.

A Ma'am, do you recall the question?

A That seems approximate.

Q About 17,000?

A Yes.

Q Okay. How many units would have to be built, on an annual basis, between now and 1990, to get up to 4,225 units?

A A little over 400.

Q All right. And what has been the average number of units constructed in Roxbury Township including multi family and single family units, per year, over the last 10 years?

MR. BISGAIER: This is another example.

This is information that we mailed out a year and a half ago or year ago, on what the increases have been annually in terms of the building permit data. She can't be expected to remember that.

Q Now, could you refer to your report of September, 1979, at Page 2?

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

1 A All right.

2 Q And what period of time does that cover?

3 A July, 1977 to July, 1978.

4 Q Does that cover 13 months, or does it
5 cover 12 months? A I believe 12.

6 Q 12 months.

7 Okay. And in that year, there were
8 144 building permits issued in Roxbury Township?

9 A There were 144 new homes sold.

10 Q Can you relate that to the number of
11 building permits? A Not on the data

12 I have here today.

13 Q In the event that it was approximately
14 140 units a year, then you anticipate that, just for
15 low and moderate ~~income~~ housing, the amount of
16 construction in Roxbury Township, to achieve that
17 goal, would have to triple over the next 10 years,
18 triple or better. Is that correct?

19 A That's correct.

20 Q Page 3 of that same report, your report
21 of September, 1979, -- A Excuse me.

22 I need the question repeated, the one I just answered.

23 (The following was read by the reporter:

24 "QUESTION: In the event that it was approximately
25 140 units a year, then you anticipate that, just

Brooks - cross

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for low and moderate and least cost housing,
the amount of construction in Roxbury Township
to achieve that goal, would have to triple over
the next 10 years, triple or better. Is that
correct?"

A Assuming it's all met with new construction, yes.

Q Now, dealing with, on Page 3 of that
September report again, you have in there the average
price of new sales, in Roxbury Township, at \$62,372.
Is that correct?

A Yes.

Q Now, what was the average price of the
sale of old homes in Roxbury Township?

A I don't have that information.

Q Was it pertinent?
MR. BISGAIER: Before you answer that,
it is available in the information that's been
made available today. It could be computed,
if one chose to compute it.

A The column indicating all sales incorporates
new sales and resales of homes.

Q Yes. But it doesn't include the sales
of old houses and not new houses, does it?

A Yes, it does. The second column --

Q It says, "\$53,900." But to arrive at
\$53,900, you included the sales price of all new

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

1 did you not? A New and used.

2 Q But you did not make a separate
3 computation with reference to the sales price of
4 existing dwelling houses, did you?

5 A No, I did not.

6 Q Would that not be pertinent in attempting
7 to determine the availability of housing stock and
8 the type available in Roxbury Township?

9 A Yes.

10 Q Dealing with Page 2 of that report,
11 approximately 25% of all the homes sold in Roxbury
12 Township were new dwelling houses. Is that correct?
13 You get that by dividing 144 over 568?

14 A It seems approximate.

15 Q So 75%, then, obviously, had to be
16 resales. Is that right? A That's correct.

17 Q Except for Parsippany-Troy Hills, did
18 not Roxbury Township provide more housing to the
19 County than any other municipality in the region?

20 MR. BISGAIER: These are just single
21 family homes, if that's what you are basing it
22 on?

23 MR. VECCHIO: Yes.

24 MR. BISGAIER: Right. Just for that
25 one particular time?

1 MR. VECCHIO: Yes.

2 MR. BISGAIER: Why ask the question since
3 it speaks for itself?

4 MR. VECCHIO: I would like to just have
5 her answer it. That's all. I may not get a
6 chance to ask her all fancy questions at the
7 trial.

8 A As represented on this table, yes.

9 Q The average price of the homes in
10 Par-Troy were \$62,600. Is that correct?

11 A Yes.

12 Q And in Roxbury, they were \$53,900 or
13 a difference of some \$8,000. Is that right?

14 A Yes.

15 Q And the new houses in Parsippany were
16 \$13,000 more than the new homes in Roxbury?

17 A Yes.

18 Q Dealing again with Pages 2 and 3 of
19 that report, were there some municipalities who had
20 new home sales at a lesser price than Roxbury Township?

21 MR. BISGAIER: Off the record.

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

23 A Yes.

24 Q And those municipalities were Dover,
25 correct, Jefferson, Lincoln Park, Mine Hill, Mount

1 Arlington, Mount Olive, Netcong and Riverdale. Is
2 that right?

3 MR. VECCHIO: Off the record.

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

5 A I guess so.

6 Q Dover, Jefferson, Lincoln Park, Mine
7 Hill, Mount Arlington, Mount Olive, Netcong and
8 Riverdale, right?

9 MR. BISGAIER: I don't mind her answering
10 that. I just state for the record that the
11 document speaks for itself and is the best
12 evidence of what it reflects.

13 A It seems correct.

14 Q How much new housing in Roxbury Township
15 sold for less than \$62,372?

16 A I would have to go back to the raw data.

17 Q You don't know?

18 A No.

19 MR. BISGAIER: But it's in the raw data,
20 which is available, if you want to look at it.
21 It's already been marked.

22 Q Will you look at it and tell me? I
23 don't know where it is.

24 A Do you realize it means going through 568 items
25 to identify those that fall below that figure?

1 Q How else am I going to find it?

2 MR. BISGAIER: How about if we Xerox the
3 raw data and it will be available to everybody
4 to look at it.

5 MR. VECCHIO: You are going to Xerox it
6 for me?

7 MR. BISGAIER: It's going to be made
8 available to whoever wants it.

9 Q Here's my point: All that I'm asking you,
10 this bit that it's in the raw data, I would like to
11 know if you know. That's all I'm asking you. You
12 tell me it's in some place. Did you compute it at
13 some previous time? A No, I have not.

14 Q And you are telling me that I can, if
15 I want to find out, compute it from raw data that is
16 going to be submitted through some other attorney.
17 Is that correct? A That's correct.

18 Q Fine.

19 MR. BISGAIER: Off the record.

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

21 Q How much of the new housing did Roxbury
22 Township provide, in proportion to the entire County,
23 in that 12 month period between 7/77 and 7/78?

24 A Of the single family homes that are represented
25 in this table, it's whatever proportion 144 is of 1,429.

1 Q Did it provide over 10% of the new housing,
2 Roxbury Township, in the entire County?

3 MLOCC
4 DASARDI
5 Q New single family homes, yes.

6 Q Did any municipality provide more housing
7 than Roxbury?

8 MR. BISGAIER: Par-Troy.

9 A Of the new homes?

10 Q Yes. A Yes, Washington.

11 Q However, the cost of the homes in
12 Washington Township were substantially more. Is that
13 correct? A Yes, somewhat more.

14 Q How much more?

15 A I don't know what you mean by "substantially."
16 The average was \$70,600 for Washington.

17 Q And for Roxbury, \$53,900?

18 A Correct.

19 MR. BISGAIER: Off the record.

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

21 Q What accounts for the difference in
22 prices between Roxbury Township and Washington Township?

23 A I don't know.

24 Q Could it be land cost?

25 A It could be.

Q Could it be demand for expensive housing?

A Could be.

1 Q In determining the allocation, then,
2 and I believe you concurred with this previously, in
3 establishing fair share, the probability of construction
4 of least cost units should be considered. Is that
5 correct?

6 MR. BISGAIER: Can you read that one back?

7 (The following was read by the reporter:

8 "QUESTION: In determining the allocation, then,
9 and I believe you concurred with this previously,
10 in establishing fair share, the probability of
11 construction of least cost units should be
12 considered. Is that correct?")

13 MR. BISGAIER: That's in the allocation
14 as opposed to any implementation?

15 MR. VECCHIO: Yes.

16 A I don't quite know how to answer this because
17 you seem to have changed -- you made reference to our
18 earlier discussion and yet you sort of changed it.
19 As you stated it now, I do not agree with it, your
20 statement.

21 Q You don't agree with it.

22 So that, then, in determining the fair
23 share allocation, one should not consider the disparity
24 amongst communities as related to the cost of the units
25 in the communities. Is that correct?

1 A See, now, you have changed it again. You
2 change your statement each time you repeat it. So
3 I disagreed with the earlier one, and I disagree with
4 this one.

5 Q You agree with this one.

6 Explain to me what the difference was,
7 so I know what you agreed to.

8 A The first time you used the term probability of
9 providing lower cost housing or something like that.
10 This time you referred to the disparity in housing costs
11 or something equivalent to that. As I've indicated in
12 my report and prior depositions, that latter criterion
13 is one that is frequently incorporated in the method
14 of allocating the units among the jurisdictions,
15 and I do believe that's appropriate.

16 Q And did you do that with reference to
17 Roxbury Township and compare it to other communities
18 within the region based upon the cost factors that

19 we have been discussing? A In the very
20 deposition, we went through and discussed the
21 criteria we used in allocations for fair share, the
22 New Jersey Allocation Report, and I did not alter
23 those.

24 Q What particular factors did you take
25 into consideration in the reports that you have submitted

1 as to Roxbury Township, as to the costs of units in
2 Roxbury Township, compared to other municipalities in
3 the region? A In the allocation
4 adjustment to the New Jersey DCA Housing Allocation
5 Report, I did not alter the allocation method that they
6 used.

7 Q My question is--

8 A We went through this in prior depositions.

9 Q Yes. But that's not my question. I want
10 to know what you did, and your answer to the question
11 is that what you did was that you did not alter that
12 which the DCA did. Is that correct?

13 A That's what I said.

14 Q But you did no independent study as to
15 the land costs in Roxbury Township and potential costs
16 of dwelling houses constructed in Roxbury Township as
17 compared to any other municipalities in the region.
18 Is that correct? A Nothing, other than

19 what's stated in the reports that you have seen.

20 Q On Page 4 of your report of September
21 of 1979, you used the quintiles that were established
22 for the Newark SMSA as of 1976. Is that right?

23 A That 's correct.

24 Q Is that for the calendar year 1976?

25 A I don't know.

1 Q So you don't know what period of time
2 that covers, whether it was the first half of the year
3 or second half of the year or whether it covers part
4 of '75 or part of '77? A No, I don't,
5 I mean, it's '76, as reported by the Census. That
6 generally refers to the calendar year of 1976.

7 Q So that, in your opinion, it would be
8 the calendar year. Is that correct?

9 A I believe so.

10 Q And I believe Ric alluded to this. On
11 Page 5, you used the same figures to establish the
12 price of an affordable home. Is that correct?

13 A That is correct.

14 Q And why did you use the '76 figures for
15 the income quintiles? A As I told
16 him this morning, that was the most current income
17 data I have available to me.

18 Q Do you have an opinion as to whether
19 salaries have increased from 1976 to today's date,

20 if you will? A That's a very vague
21 question. Salaries of whom?

22 Q People in the first and second and
23 third income quintiles, for the Newark SMSA.

24 MR. BISGAIER: Go off the record for a
25 second.

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

2 A Yes.

3 Q It would? A No, yes means

4 I have an opinion.

5 Q All right. Could you tell me what

6 your opinion is? A On the whole,

7 salaries have increased.

8 Q Now, going, again, to Page 4 of your

9 September report, isn't it a fact that the 1970 first

10 income quintile was greater than from 1976?

11 A For the Newark SMSA?

12 Q Yes. A That's correct.

13 Q In 1976, were we coming out of recession

14 at that particular time, which affected the Newark

15 SMSA? A I don't know.

16 Q Now, Newark SMSA, is that co-terminus

17 with Region 11, the DCA Region 11?

18 A No, it is not.

19 Q Well, then, how could we determine what

20 the income categories were, in 1976, in a quintile

21 analysis, for Region 11? A As I indicate

22 in the report, that data is not available. And as I

23 thought it was a reasonable substitute, I used the

24 Newark SMSA.

25 Q You may have gone into this before, but

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is the Newark SMSA smaller than Region 11, or is it bigger? A It's smaller.

Q It's smaller? A Yes.

Q What areas does the Newark SMSA not include that are included in Region 11? For example, is all of Morris County in the Newark SMSA?

A Yes, it is.

Q What areas are left out? Can you tell me? A Passaic County is not included,

Bergen County is not included, Somerset County is not included, Middlesex County is not included and Hudson County is not included.

Q Did you do any analysis to determine what the quintiles were for Passaic, Bergen, Middlesex and Hudson? A For 1976?

Q Yes, for 1976. A No, I did not.

MR. BISGAIER: Off the record for a second.

(There is a short discussion off the record.)

Q Would the numbers have been higher for the first, second and third quintiles, in your opinion, if you had included Passaic, Bergen, Middlesex, Hudson and Somerset? A I may not understand your question. Would the numbers be higher for each

1 of the quintiles?

2 Q The first three I asked you about,

3 Quintile 1, 2 and 3. A I don't know.

4 I show you, in the report, on Page 4, comparison of
5 quintile breaks for 1970. You can look at those, if
6 you choose.

7 Q On Page 4? A Yes.

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

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

11 Q Now, dealing with Page 4 of the same
12 report again, don't the 1970 income quintile breaks
13 show a significant difference between Region 11 and
14 the Newark SMSA? For example, as to Quintile 1, there
15 is approximately a 5% difference, isn't there?

16 A Yes.

17 Q And on Quintile 2, there's about a 1%
18 difference, right? A Yes.

19 Q You didn't make any adjustment for that,
20 did you? A No.

21 Q In your next calculation, then, in
22 determining the affordable homes, you multiplied, if
23 you will, the failure to take that into account by
24 two and two and a half, did you not?

25 A That difference is not taken into account, that

1 calculation.

2 Q All right. And on page 5, the failure
3 to take into account 5% difference, then, changes that
4 5% difference into a 12 1/2% difference, right?

5 A Okay.

6 Q That's right? A Yes.

7 Q Do you know, since July of 1976, what
8 has been the average monthly increase in the price of
9 single family dwellings in Morris County and/or
10 Roxbury Township? A No, I do not.

11 Q Would you know what it was between
12 7/77 to 7/78, as indicated on Page 6 of your report,
13 what the increase would have been on a monthly basis?

14 A No.

15 Q How did you determine the sales price
16 of homes in the various municipalities and in the
17 County? In other words, you came up with a number that
18 the average sales price of a new home in Roxbury was
19 \$ dollars. Where did you get that information?

20 MLOC I went through this this morning. It was taken
21 from the raw data that I showed you this morning. The
22 average is literally what an average is. It's the sum
23 of the sales prices divided by the number of homes that
24 were sold.

25 Q I probably didn't ask the question correctly,

1 but what I would like to know is, you know: What did
2 you physically look at to determine your average?

3 A The material I showed you this morning.

4 Q Oh, those sheets.

5 Where did you get the material on that?

6 MR. VECCHIO: Was that the stuff from
7 your office, Carl?

8 MR. BISGAIER: Yes, the SRLA's.

9 MR. VECCHIO: SRLA's.

10 Okay. Well, why didn't you use 1976
11 house sales if you used the 1976 quintiles?

12 A I used the most current information that I had
13 available.

14 Q Yes. But the '76 house sales would have
15 been available, more available, and available for a
16 longer period of time than the '77-'78 house sales,
17 wouldn't they? They are even older?

18 A That's true.

19 Q Well, why didn't you use them so we would
20 use the income and the prices of the houses in the
21 same year?

22 A I didn't think it was that
23 significant, and I used the most current data I had
24 available.

25 Q For example, why didn't you use 1970
quintiles and 1979 houses or prices of houses?

1 A I didn't think that was a significant difference.

2 Q Can you quantify the difference on the
3 house sales between '76 and '77 and '78?

4 A No.

5 Q If you can characterize it as not being
6 significant, can you tell me approximately what it was?

7 A No.

8 Q Would you say it's 20%, 15%?

9 MR. BISGAIER: She said she doesn't know,
10 Joe.

11 Q Now, on Page 9 of your report, the same
12 report, that September report, there are no apartment
13 rentals in Roxbury Township?

14 A In the information that was used in preparing
15 this report --

16 Q No. A -- there was
17 no information available for Roxbury.

18 Q Look at your report of April of 1979,
19 at Page 34.

20 **CONFIDENTIAL** Does that indicate that there are 91
21 buildings in Roxbury Township with three or more units
22 in them? A Yes. I didn't indicate in

23 this -- maybe you didn't understand my answer. In

24 the September report, the units were not there. I

25 said the information was not available for the preparator

1 of the report.

2 Q I understand that. I understand that.

3 Now, in one section, the information wasn't
4 there on the rentals, apparently. That's on Page 9
5 of the September report. And, then, in the April
6 report, it indicates that there are some 91 units.

7 Is that correct? A Yes.

8 Q How does that affect anything that you
9 did here as to coming up with an allocation of 4,225?

10 A It doesn't.

11 Q In other words, if Roxbury had -- well,

12 let me ask you this: In your opinion, does Roxbury
13 Township, to your knowledge, have 91 multiple family

14 units? A According to this information,
15 it does.

16 Q And if I told you that Roxbury Township,
17 and, it doesn't, to my knowledge, but if I told you
18 that Roxbury Township had 2,000 multiple family units,
19 would that affect your opinion?

20 A My opinion as to what?

21 Q As to what the final allocation should
22 be in Roxbury Township. A No.

23 Q It would not.

24 If I told you that every one of the
25 units rented for \$100 each, would that affect your

1 allocation to Roxbury Township?

2 A That's a strange question. If the data that
3 was used in preparing the allocation shifts, those
4 allocations are going to shift.

5 Q Okay. So it would have an affect?

6 MR. BISGAIER: She already answered if
7 it affected the data that was used in the
8 allocation.

9 MR. VECCHIO: She has to tell me if it
10 affects the data because I don't know.

11 MR. BISGAIER: Ask her.

12 Q Would that factor affect the manner in
13 which you derived the result of 4,225 units for Roxbury?

14 A I believe so.

15 Q Okay. Now, do you know how much the
16 91 units in Roxbury Township rent for?

17 MR. BISGAIER: There may be a confusion
18 between a permit for a multi family structure
19 and the fact that it's a rental structure.
20 Multi family, defined by the building materials
21 data, is just two or more units.

22 MR. VECCHIO: Right. Can she answer it?

23 MR. BISGAIER: She can answer it.

24 Town house development would be
25 considered multi development, and in the building

1 permit data it would be sales.

2 A I'm sorry. You have to ask the question again.

3 Q We have established that, in your April
4 report, there are some 91 multi family units in Roxbury
5 Township, based on your reports. I'm asking you
6 whether you know how much those units rent for.

7 A No, I don't.

8 Q In the event that those units rented
9 for \$150 a month and they were two bedroom units,
10 would that affect your results in allocation in Roxbury
11 Township? A If that were the case and

12 to the extent that that affects the data used in the
13 Housing Allocation Plan, it was already taken into
14 account.

15 Q In other words, you are telling me that
16 the Housing Allocation Plan and your allocation took
17 into account the 91 units that exist in Roxbury Township.

18 Is that right? A Not directly. I
19 mean, you are asking -- you are asking questions that

20 the answers are very complicated. If those -- the
21 data used in the New Jersey Housing Allocation Report
22 is primarily 1970 data. Depending upon when these
23 units were constructed and what they rent for may
24 or may not affect that information after 1970. There --

25 Q Did you -- I'm sorry.

1 A There are, as I indicated when you asked me
2 similar questions earlier, factors that New Jersey
3 DCA used in allocating the units that did not directly
4 incorporate the cost of housing, but does indirectly.

5 Q Can you tell me if the DCA Report, in
6 preparation of its allocation for Roxbury Township,
7 specifically took into consideration the 91 units that
8 you referred to in your report of April, at Page 34?

9 A No.

10 Q All right.

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

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

13 Q Okay. Did you specifically, in determining
14 the allocation of 4,225 for Roxbury Township, consider
15 the 91 units that you referred to on Page 34 of your
16 April report? A No.

17 Q As to those 91 units, did you obtain
18 any information with reference to the rentals that are
19 charged for those units? A Not other than
20 what is indicated in the reports.

21 Q But there's no rental indicated in your
22 reports as to those units, is there? Wasn't that on
23 Page 9 of the September report?

24 A That is correct.

25 Q Did you make any determination as to the

1 size of any of these 91 units, number of bedrooms,
2 etc.? A No.

3 Q Or the location of them?

4 A No.

5 Q Now, can you say with certainty that,
6 in preparing your allocation and arriving at your figure
7 of 4,225 units for Roxbury Township, that those 91 units
8 were, in fact, considered?

9 A One, the question is vague, but I can neither
10 say with certainty that they were or were not considered.

11 Q Now, --

12 MR. BISGAIER: Based on the reports in
13 front of her, we have already submitted building
14 permit data. If that reflected that those units
15 had been built either prior to 1970 or prior to
16 a certain period in 1970, she would be able to
17 answer that question. That information is not
18 in front of her right now. She has not had
19 an opportunity to review all of her reports
20 prior to this deposition.

21 Q The affordable rents for a person in
22 Quintile 1 is approximately \$133. Is that right?

23 A That's correct.

24 Q And Quintile 2 is \$235?

25 A That's correct.

1 Q Can you tell me -- and you have probably
2 been asked this one before, too. Can you tell me
3 where, in New Jersey, without a subsidy, one can get
4 a reasonably clean and decent apartment for \$133 a
5 month? A No.

6 Q Do you know of any place in the United
7 States where such a unit would be available, you know,
8 as an example that I might look at or investigate into?
9 A No, not off the top of my head, no.

10 Q On Page 35 of the longer April report,
11 if you would refer to that, between 1970 -- or, tell
12 me, what does that mean as to Roxbury Township?
13 Residential permits issued between 1970 and 1977 were
14 1,064 units or 1,064 permits?

15 A Yes.

16 Q And that would cover an eight year period,
17 1970 through 1978? A Through 1977.

18 Q Through 1977, I mean, right?

19 A Yes.

20 Q That would be approximately 133 units per
21 year for that period of time. Is that right?

22 A Yes.

23 Q And if Roxbury continued to build at
24 that rate of 133 units per year, would it take
25 approximately over 30 years to provide 4,225 units?

1 A Yes.

2 Q Now, what the are municipal costs that
3 would be generated by the construction of 4,225 units,
4 in Roxbury Township, between today's date and 1990,
5 with reference to fire, police protection, water and
6 sewerage?

7 A I have not studied that.
8 I don't know.

9 Q Schools, recreation, roads, welfare,
10 do you have any opinion on that?

11 A No.

12 Q Do you require different kinds of fire
13 apparatus for structures that are, say, over 35 feet
14 in height? Do you know?

15 A That's possible.

16 Q Do you know what types of apparatus
17 would be required?

18 A No.

19 Q What's the maximum size of a building
20 that you would like to see located in an area where
21 there is pressurized water system?

22 MR. BISGAIER: This is so far afield
23 from what she has submitted an expert report on.

24 MR. VECCHIO: If she knows. If she
25 doesn't know, she can say I don't know. I just
want to know what she considered or if she
considered those factors.

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1 MR. BISGAIER: Why don't you ask her
2 if she considered those factors? If she didn't,
3 we would probably move a lot faster.

4 A What's the question?

5 Q The question was the same one that I
6 asked -- you know, what's the maximum size building
7 you would allow in an area where there is no pressurized
8 water system? Do you have any opinion on that?

9 A I don't know.

10 Q Would there be costs borne by a community
11 such as Roxbury Township in the event that 4,225 least
12 cost and low and moderate units were constructed there
13 between 1970 and -- or between today's date and 1990?

14 A I would assume so.

15 Q Okay. Now, in your opinion, is Roxbury
16 Township a developing community?

17 MR. BISGAIER: You are asking her to
18 draw a legal conclusion. All she is going to
19 do is present facts, and the Court will draw
20 his conclusion.

21 MR. VECCHIO: From a planning standpoint,
22 do you object if she answers it?

23 MR. BISGAIER: You have to define what
24 you mean by a "planning standpoint".

25 MR. VECCHIO: Maybe she can do it, if she's

1 the planner.

2 Q In your opinion, as a planner, is Roxbury
3 Township a developing community based upon the rates
4 of growth over the past years and its present rate of
5 growth?

6 MR. BISGAIER: I'm not sure she understands
7 what you are asking her to conclude by saying it
8 is or is not developing?

9 MR. VECCHIO: I thought, in the report,
10 she referred to the Mount Laurel decision and
11 referred to developing communities and all this
12 kind of stuff. I'm not trying to be fancy.

13 MR. BISGAIER: I know you are not.
14 Whether a municipality is developing or not is
15 for Judge Muir and any appellate court to review,
16 whether certain factual information is true or
17 not. And if you have a concept in your mind
18 as to what you mean by "developing," maybe she
19 could respond to it.

20 Q For the purposes of the next question,
21 can we assume that Roxbury Township is, in fact, a
22 developing community under the terms of the Mount Laurel
23 decision? Assume that, but I'm not conceding that.
24 All right? A All right.

25 Q Now, a developing community, then, such as

1 Roxbury Township would have to pay for these additional
2 costs incurred as a result of the location of 4,225
3 units. Is that correct? A "I'm sorry.
4 ~~ASADI~~ you repeat that?

5 Q I guess, if the 4,225 units were located
6 in Roxbury Township, then Roxbury Township would have
7 -- being a developing community, would have to assume
8 the burdens, cost burdens, of a location of those units
9 within its boundaries. Is that right?

10 A What do you mean by "cost burdens"?

11 Q What you indicated to me were the burdens
12 that -- the items that would have to be paid for by
13 the municipality for the location of those units within
14 the municipality, items such as welfare, roads,
15 recreation, schools, etc.? A Yes.

16 Q Now, from a planning standpoint, divorcing
17 ourselves from the legal precedent that may exist in
18 the State of New Jersey at the present time, why should
19 a developing community have to pay for those costs
20 and the land owners and residents of communities that
21 are developed, that get no housing allocation, do not
22 have to pay for? That troubles me.

23 MR. BISGAIER: But what is it relevant to?
24 It troubles me, also. What about that?

25 MR. VECCHIO: Maybe, if she gives me an

1 honest opinion on it or if she agrees with --
2 I didn't mean that in that fashion. If she
3 agrees with my opinion on that matter, it's
4 a matter that I intend to raise before the Court.

5 MR. BISGAIER: That all municipalities,
6 whether or not they are developing, should
7 participate in the housing allocation?

8 MR. VECCHIO: Yes.

9 MR. BISGAIER: We agree with you on that.
10 How about that. You don't have to ask her.
11 We will join you in trying to get that precedent
12 to the Supreme Court of the United States,
13 to get that reversed.

14 Q Do you agree with that?

15 A As represented in this conversation?

16 Q Yes. A Yes.

17 Q Is it further your opinion that the
18 cost burdens imposed upon a developing community should
19 be borne equally by communities that have already been
20 developed or, for that matter, are not yet developing?

21 MR. BISGAIER: Are you asking her if she
22 is in favor of totally restructuring the
23 economic basis in the State of New Jersey?

24 MR. VECCHIO: No, I'm asking her --
25 I've been asking her a specific question. But

1 if it leads to restructure of the economic
2 base in the State of New Jersey, then that's
3 maybe what ought to be done.

4 MR. BISGAIER: Why don't we have laws
5 in the State as to how certain facilities are
6 financed?

7 MR. VECCHIO: Yes.

8 MR. BISGAIER: Where does this take us?

9 MR. VECCHIO: It takes us into what I
10 consider to be a Constitutional issue that I
11 intend to address to the Court, and I want to
12 determine whether your witness has any opinion
13 with reference to the matter, from a planning
14 standpoint.

15 MR. BISGAIER: All right. I would just
16 like to say that what you are asking her is
17 for political philosophy on how the economy
18 should be structured.

19 MR. VECCHIO: No. No. Okay. You can
20 say that.

21 MR. BISGAIER: Aren't you basically
22 asking: Should Roxbury pay a portion of the
23 expenses that Newark has to pay for housing,
24 educating, sewerage, watering, all the units
25 in Newark? Is that part of the question? We

1 should totally redistribute how the wealth in
2 New Jersey is shared?

3 MR. VECCHIO: The question is just as
4 I stated, Carl, and it's not quite as expansive
5 as you make it.

6 MR. BISGAIER: I think it is, though.
7 I think it is. I don't know how one could
8 happen without the other.

9 Go ahead.

10 A I guess I don't understand what you mean by
11 "equally".

12 Q You don't understand what I mean by
13 "equally"? A You used that in your
14 question.

15 Q Okay. Should the cost burdens be shared
16 with communities that are not developing and communities
17 that are already fully developed, regardless of the
18 method of sharing, whether equally or otherwise?

19 MR. BISGAIER: I think that's too
20 hypothetical for her to answer.

21 I still don't understand the question.

22 Q Mary, let's assume the following situation:
23 Assume that Roxbury Township -- I'm sorry for calling
24 you by your first name. I apologize, Miss Brooks.

25 MR. BISGAIER: No, it's a welcome relief

1 with all the legal jargon that goes on around
2 here.

3 Q My point is essentially this: Assume
4 that 4,225 units were put in Rockaway and assume that
5 the cost burden to the municipality is two thousand --
6 that would be too high. Assume that there was a
7 \$300 a unit deficit to this municipality. That would,
8 then, cost it some hundred and twenty some odd thousand
9 dollars a year. All right. Now, why should a
10 community that's already developed not contribute some
11 of that cost to Roxbury Township? From a planning
12 standpoint, what's the rationale for that? Just because
13 somebody lives in a developing community, they share --
14 they pay the burden for it? What about the guy that
15 lives in the adjoining community that's not developing?
16 A I don't quite see the relevance here. I, in
17 all frankness, can't give you my answer to that question
18 in the time allocated here. That strikes me as a very
19 large issue. But in your hypothetical, you set up,
20 I guess, an assumption that I thought there were no
21 responsibilities to be borne by the developed
22 jurisdictions, and I never said that, and indicated
23 previously that I was not in agreement with that. I
24 do think there are considerations that should be made
25 in asking for responses from jurisdictions that have not

1 heretofore provided housing for lower income persons
2 as compared to those jurisdictions that may have well
3 provided such housing. I think the costs that are borne
4 by a municipality vary, in some respects, to the actions
5 that they have taken in the past.

6 Q I understand the first part. I didn't
7 understand the last thing, by virtue of some actions
8 they have taken in the past. What do you mean by that?
9 I don't understand that.

10 A The fact that it may indeed maybe more expensive
11 to construct housing due to the fact that past patterns
12 have developed.

13 MR. BISGAIER: Off the record.

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

15 (The deposition was adjourned to Wednesday,
16 February 6, 1978, at 10:00 a.m.)

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

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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 or an
employee of any attorney or counsel employed in this
case, nor am I financially interested in the action.

Robert Mirabella

A Notary Public of the State of New Jersey

DATED: 3/2/80

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