

ML - Monro County Fair Housing Council

March 13, 1980

v. Boonton

Transcript of Deposition of Leonard J. Duhl

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ML000924 ~~06~~ 67

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

MORRIS COUNTY FAIR HOUSING :
COUNCIL, et al, :

Plaintiffs, :

vs. :

BOONTON TOWNSHIP, et al, :

Defendants
-----:

DEPOSITION OF

LEONARD J. DUHL

Thursday, March 13, 1980
Newark, New Jersey

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

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<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>
Leonard J. Duhl			
By: Mr. Eisdorfer	2		102
By: Mr. Ferguson		89	

E X H I B I T S

<u>IDENT. NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>
PLD-1	Letter dated December 13, 1979 to Carl Bisgaier from Mc Carter & English	4

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(Before Lorraine Van Tassel, a Notary Public and Shorthand Reporter of the State of New Jersey, taken at the offices of Mc Carter & English, Esqs., 550 Broad Street, Newark, New Jersey, on Thursday, March 13, 1980, commencing at 1:00 p.m.)

L E O N A R D J. D U H L, sworn.

MR. EISDORFER: Let the record show that this is a deposition in the case of Morris County Fair Housing Council versus Boonton Township, Docket No. L 6001-78.

DIRECT EXAMINATION BY MR. EISDORFER:

Q Doctor Duhl, would you state your full name and address please?

A It's Leonard J. Duhl. My home address is 639 Cragmont (C-r-a-g-m-o-n-t), Berkeley, California.

Q Have you ever given a deposition before?

A Yes.

~~COPY~~ Q Let me explain some of the ground rules. Do you understand that you're testifying under oath?

A Yes, I do.

Q And do you understand that the testimony you give today may be used at the trial in this case?

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1 A Yes.

2 Q Now, if you don't understand any question,
3 would you please say you don't understand and I'll try
4 and clarify it? Is that clear?

5 A Yes.

6 Q Okay. And at some point, I may ask you
7 for specific numbers or figures. If you don't recall
8 the specific number or figure, please say so and give
9 me the best estimate you can.

10 Is that clear?

11 A Fair enough.

12 Q Now, this isn't intended to be a test
13 of your memory. If at any time you want to refer to
14 any documents, please say so and indicate what document
15 you're referring to and feel free to do so, is that
16 clear?

17 A Yes.

18 Q You have to respond out loud so that
19 the court reporter can take it down.

20 A Fair enough.

21 Q Would you tell me what your profession
22 or occupation is?

23 A It's long and complicated. I'm a professor
24 of city planning, a professor of public health, I am a
25 physician, an M.D., and I'm a psychiatrist and I teach

1 at the University of California in Berkeley and have done
2 so since 1968.

3 Q And in what department do you teach now?

4 A All the ones I have so mentioned.

5 Q And in general, what are your
6 responsibilities in that position?

7 A Well, I teach courses in planning and social
8 change, I teach courses on health, public health and
9 mental health and psychiatry. I supervise graduate
10 students among other things.

11 MR. EISDORFER: Okay. I would like
12 this document marked for identification.

13 (Whereupon, a letter dated December 13,
14 1979 to Carl Bisgaier from Mc Carter & English
15 is received and marked PLD-1 for identification.)

16 BY MR. EISDORFER: (Continued)

17 Q Let me show you the document that has
18 been marked PLD-1 and ask you if you are familiar with
19 it?

20 A Yes, I am.

21 Q Can you tell us what that is?

22 A This is a letter from Mr. Ferguson
23 trying to pull together some of the things that he and
24 I talked about that were related to my testimony.

25 Q Have you read this letter?

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1 A Yes, I have.

2 Q Does it accurately reflect your views?

3 A It reflects the views as we discussed it at
4 the time, yes.

5 Q Are there any respects in which it does
6 not accurately reflect your views?

7 A No, it's accurate. It's just that it's not --
8 it's a very short version of what I would be talking
9 about, yes.

10 Q We'll try and expand it today.
11 Would you describe how you became involved in
12 this case?

13 A Well, my background is in, as I told you, both
14 in city planning and in public health and in mental
15 health. And when the question came up about the
16 development of housing in the community, I was originally
17 asked to look at the mental health aspects and the
18 health aspects of the housing and the planning for the
19 communities.

20 Q Approximately when was that?

21 A Oh, I think that was late November. In
22 November.

23 Q Now, did you participate in writing
24 this letter?

25 A I never wrote the -- I didn't write the letter

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particularly. This comes out of the summary of our discussions.

Q Now, prior to the writing of this letter, had you received any information about this case from Mr. Ferguson or from any other defendants?

A I got a few of the pieces of material based on the case.

Q And what items were they?

A I don't have them with me, but they included some of the various testimony of various people.

Q Can you just describe to me generally what types of documents they were?

A They were primarily the testimony of the various people who were involved in the case and who are the plaintiffs. Do you want me to read this to you?

Q If you could please.

A The enclosures I got in the original letter in November, November 13th, was a letter to Carl Bisgaiier re: the Mood testimony, October 19th, a similar letter for Mood testimony on November 12th, both 1979, the home builders' --

REBENT

MR. FERGUSON: Why don't I give you a copy of that and you don't have to read it?

MR. EISDORFER: That's fine.

THE WITNESS: Fair enough.

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Q Now, in addition to these documents, basically summaries of the testimony of various individuals, did you receive any information about Morris County?

A At that time, no.

Q Did you have any other information pertaining to the case aside from these documents?

A At the time that I received them, I had nothing except a general comment about the case that Mr. Ferguson gave me on the telephone asking me to come in and visit.

Q Now, based on that information, did you feel you had enough information to form the professional opinions summarized in PLD-1?

A Well, based upon the conversation that we had, based on reading the material and based upon some reading that I was able to do in California and checking with a variety of people, I got a fair idea of what was going on in the case.

Q Can you briefly describe the additional reading and conversations you had?

A Well, I have to go back in time to really point out that for a long time, I've been deeply involved in poverty programs, I have been deeply involved with, in fact, the development of the neighborhood legal services and, in fact, helped originate that program back when I

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1 was in Washington. We have trained a fair number of
2 students who are both lawyers and city planners. And
3 what I was able to do was to talk to some of them and
4 to some of the people at the university to get a rundown
5 on what was going on in New Jersey in terms of the
6 Court decisions and on the basis of that came up with
7 the conclusion that this would be something of great
8 interest to me.

9 I think the thing that interested me most was
10 that the State Supreme Court has indicated that there
11 should be an increase in housing available to the poor
12 in a fair share distribution around the state and since
13 this was in line with an awful lot of things that I was
14 concerned with and pushing for many, many years, I was
15 interested in the attorneys for the defendant townships,
16 was interested in enlarging the notions of planning for
17 the housing beyond the concept of just building houses
18 alone into a larger definition including issues having
19 to do with health, mental health, and other community
20 issues. It was on the basis of that that I got involved
21 in it.

22 Q Now, subsequent to December 13th, the
23 date of PLD-1, did you receive any other documents
24 pertaining to the case?

25 MR. FERGUSON: Just one point,

1 Mr. Eisdorfer. Between the letter of November
2 13 and our letter of December 13, Doctor Duhl
3 came east and conferred with us in the office
4 and indeed he went with us to see Doctor Esser
5 whose deposition you took. And much information
6 was discussed and documents reviewed at those
7 meetings. And I didn't want you to miss those
8 meetings. If you were asking about what --
9 this witness's background in the case.

10 Q Okay. Thank you. Can you summarize
11 to me the kinds of information that were provided to
12 you at that meeting?

13 A Well, what we were doing was looking at the
14 literature that has developed having to do with
15 community, with housing construction, with planning,
16 with its relationship to broader issues having to do
17 with health and with mental health. And what we really
18 spent most of our time talking about was that most of
19 the legal cases and most of the decisions and most of
20 the planning seemed to be primarily focused on the
21 construction of houses, on economic considerations,
22 and on the need to make housing available for the poor
23 and very little interest was evidenced in the fact of
24 whether you are concerned with the poor or the non-poor,
25 that tremendous numbers of sport services, infant

1 structure and other things that would normally make up
2 a community were being considered. And if one is
3 concerned with health as I am and as Doctor Esser is,
4 you get preoccupied with questions of what makes health.
5 And we discussed the fact that a lot of the information
6 and research on health had not been brought into this
7 decision making and we also discussed the fact that the
8 Canadian government has been interested in the
9 environment and problems of the environment and how
10 that environment is affected by all kinds of construction,
11 housing and otherwise, and what the impact of that
12 construction would be on the lives of people both in a
13 short term and in a long term.

14 Out of this came a series of notions which said
15 that least cost, which as I understand the courts, is
16 prime consideration in the building of housing, is
17 primarily based on pure economic considerations, what
18 is the least cost to the people who will be ultimately
19 living or buying into the houses rather than concerning
20 themselves with the notion that cost is something that
21 is not only measured in economic terms on building, but
22 economic terms in terms of social services, health
23 services, all the services that are required to make
24 up a community and that, in fact, if one built a
25 community with no services and just built houses alone,

1 that one would get into a situation where you would be
2 transferring the costs from housing to social services
3 and other community services and transferring also the
4 costs overtime from the present to the future when the
5 results of the actions will play itself out. Those are
6 the kinds of things we were talking about.

7 And we talked about the fact that I would try
8 to put together some ideas about what some of those
9 issues are that are being missed.

10 Q Now, at that time, in connection with
11 those meetings, did you review any additional documents
12 or written materials in connection with the case?

13 A None that I remember.

14 Q Now, since those meetings and since this
15 letter --

16 MR. FERGUSON: Let me interrupt. We
17 did discuss various documents and I told both
18 Doctor Esser and Doctor Duhl about various
19 issues in the case and reports of various
20 experts. There was not time because of the
21 discovery limit to have both those witnesses
22 review everything in detail and to some
23 extent, Doctor Duhl is in the same position
24 as Doctor Esser in that they did rely to some
25 extent on material I had given them.

1 A That's correct.

2 Q Okay, thank you. Now, since that time,
3 have you received any additional information about the
4 case?

5 A I think there were a few other things that
6 were mailed to me which we can give you a copy of if
7 you want. It was the letter report reporting on our
8 conversation, similar conversation report of Doctor
9 Esser and so forth.

10 Q Now, in addition to these documents,
11 have you reviewed any of the materials in connection
12 with this case?

13 A No materials were provided from the case.

14 Q Have you yourself gathered any material
15 pertaining to the case?

16 A Well, I started to take a look at the
17 literature both in the housing field and outside trying
18 to pull together some data for the arguments that I
19 just outlined to you. In addition to that, I talked
20 to a variety of people including the chairman at USC,
21 Professor Baer, who was given funds from public health
22 service to update and revise the APHA Report on housing
23 quality.

24 Q Do you know the name of that report?

25 A There is no report. There are a series of

papers and all I have at the moment are verbal reports from Professor Baer, but I do not have the reports themselves. He had promised to send them, but had not done so.

Further, I reviewed the APHA books on the APHA standards and found out, for example, that the standards that were talked about in the Decision which had to do with 160 square foot for the first person and 100 square foot as the minimum requirement which were originally designed for barracks was rounded out by a second document as early as 19 I think '49 or '50 which said that one could not plan housing based primarily on space but would also have to include the neighborhood development and a lot of community issues having to do with resources, facilities, and the like.

Q Can you give me the name of that report?

A Just the American -- it's a three volume series produced by the American Public Health Association which includes the one that was referred to in the case and there were two other volumes that go with it. You can get that from the American Public Health Association.

MR. FERGUSON: I believe they're Planning the Home for the Occupancy, one Planning the Neighborhood, and I don't know what the third one is.

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DUISIN
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Q Okay. If you assume I'm infinitely ignorant, you're operating on a safe foundation in this

Have you gathered or received any further information about circumstances in New Jersey?

A No, not specifically, only generally in terms of talking to the people at the Housing Law Center and friends in Berkeley who were indicating that the direction taken in Jersey was being followed by people all over the country, both in terms of the people who are the plaintiffs and on the community as well because they're trying to see what the outcome will be here. I talked to some of the people there about what the issues would be.

Q Now, have you requested any additional information from Mr. Ferguson or the defendants?

A No.

Q Is there more information about the case or about the circumstances in Bergen County or elsewhere in New Jersey that you intend to gather?

A I suppose I would gather some based upon the kinds of material that I'm somehow interested in. And I think it may be worth, at this moment, really trying to spell out for you what I think some of the broader issues are. I started to hint at it and then based on

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1 this, I can tell you what we're going to do after.

2 Q Okay, do that.

3 **HEMI** can assume that I can take you at your word
4 that you're ignorant about the field. So I'd like to
5 really go back into time and really talk about some
6 of the history of housing and renewal in new towns.

7 Back in the early 1900s, Jacob Reese (phonetic)
8 who was the great housing reformer and for whom a lot
9 of public housing is named in New York came forth with
10 the idea that if you can build new houses for the poor,
11 that clean houses will make clean people. And the
12 assumption was that all you had to do was give people
13 the brand new houses and that that in itself would
14 change their lives.

15 During the many years since, and especially
16 beginning in the thirties where a public housing program
17 developed, the same concept was present. Increasingly,
18 it became clear that new houses by themselves did not
19 accomplish that and all one has to do is look at the
20 public housing in New York and the famous Pruitt-Igoe
21 Housing Project in St. Louis, (P-r-u-i-t-t -- I-g-o-e)
22 which was a magnificently designed housing project
23 which indeed received numerous architectural awards
24 for its design capabilities, but which turned out to
25 be a factory of mental illness and illness which led

1 into 1969, I think, I'm not sure of the dates, but in
2 the mid sixties to HUD causing it to be actually
3 destroying.

4 ~~HEMMA~~ It was done so because it was quite clear that
5 to design a beautiful housing project by itself wouldn't
6 guarantee that the people would be healthy or you would
7 even deal with the kinds of problems that they had.

8 Now, with that as a background, it's very
9 interesting to note that a variety of professions have
10 developed, including the city planning profession with
11 people focusing on housing per se, and what they've
12 done over the years has been to stay in a fairly narrow
13 definition of what the problem of housing is. And the
14 do question was how/you deal with design, what's the best
15 physical layout of the community. They began to include
16 issues over the years about transportation and some
17 basic economics. The economics being primarily what
18 the tradeoffs were between the previous slum housing,
19 the newly constructed housing, and later with issues
20 having to do with urban renewal.

21 In the early 1960s when urban renewal started
22 going full blast around the country, it got a reputation
23 that was really quite strong about -- it was called
24 nigger removal by the people, feeling that its main
25 concern was to get rid of people so that you could increase

1 the tax base. And at that particular time, all over
2 the country there began to emerge a tremendous amount
3 of new economic analysis so that most of planning began
4 to get an economic base. They were talking about
5 community wide tradeoffs on terms of economics. Would
6 the tax base go up if you put up new housing, would
7 you be better off if you put people in housing?
8 But the West End was an interesting thing because I
9 was Chief of Planning at the National Institute of
10 Mental Health of the United States Public Health Service
11 and we were interested in the problem of stress and
12 crisis in peoples' lives and how people were able to
13 cope and deal with the problem of stress. And so we
14 devised a study of the population of the West End and
15 in that study, we were interested in what happens when
16 a slum community gets destroyed and dispersed.

17 Out of that has come a series of books which
18 you might want to refer to. There's an article in my
19 book called The Urban Condition, several of those.

20 There's books by Marc Fried (phonetic) who is now at
21 Boston College and by Herbert Ganz (phonetic) called
22 The Urban Villages.

23 The reason I refer to this study is that it
24 became very crystal clear that what was a physical slum
25 meaning the West End of Boston was not necessarily a

1 social slum. And that to me was a very, very important
2 finding. Because we found that the people were part of
3 ~~extended~~ families, of networks of support, that the
4 ~~stores~~, the informal gathering places, were very critical
5 for the strength of that community. That, in fact,
6 that community was in an amazingly socially and physically
7 health community even though they were living in a
8 physical slum.

9 Why this interests me in terms of this case is
10 that as the people were dispersed from the West End and
11 as the networks of support in the community were broken
12 up, the utilization by the people of social services
13 all over went up by leaps and bounds. And what we, in
14 fact, did was to transfer to social costs what we were
15 making up in tax base. So they put up the Charles River
16 Apartments, increased the tax base but, in fact, by
17 transferring the social costs from one part of the tax
18 rolls to another, these people ended up using hospital
19 services, the police, social welfare agencies, and a
20 ~~whole host~~ of other things. So that basically we
21 ~~transferred~~ costs and we began to raise a serious
22 ~~question~~ as to whether, in fact, the clear answer of
23 slums really were there to assist people or whether
24 the real goal of them was to get rid of them and to
25 send them elsewhere.

1 Now, let me suggest at this moment, I'll go
2 back to a history in a second, but let me suggest that
3 in design of new communities which are single purpose
4 that are focusing primarily on the housing itself and
5 not on the community quality may, in fact, result in
6 clean houses but a community which has a series of
7 problems. And I'll get back to that in a little while.

8 On the basis of that set of studies on the
9 West End which became the most important urban renewal
10 study, the then HHFA which was the precursory to HUD
11 changed the requirements for urban renewal and talked
12 about community organization and community development
13 and really said that you can't disperse people without
14 assisting them in a wide variety of ways.

15 If what holds true on one end which is moving
16 people out of central city is critical, also the
17 receiving end is equally important so to move people
18 out to the suburbs or to the exurbs as in Morris County
19 is going to raise some of the same issues unless what
20 I'm concerned about, that least cost now begin to
21 include within it social human services and other
22 community costs across the board.

23 Following that came the period which in short
24 I'll summarize by saying was the poverty period in the
25

1 community action program. And during this program, most
2 of us felt that the most important activity of the
3 community action program, the so called CAP program,
4 was to increase the confidence of members of the
5 community first by hiring lawyers, but ultimately by
6 later teaching themselves to have the coping skills to
7 deal with the complexity of urban life. And that the
8 whole notion of community action was that active
9 participation in itself is important in order to cope
10 with the world but also important for their health.

11 At the same time that this was happening, a
12 whole series of studies began to emerge which began to
13 show that active participation in anything that has
14 something to do with one's life literally increased
15 the health and decreased the illness rates of people.
16 When people participated in riots as in Newark, when
17 people went South in Civil Rights programs, it became
18 clear that their health improved. If one considers
19 just a housing program in which you make houses
20 available to people, what you find is that unless
21 they participate in the development of their communities,
22 people have a really difficult time. And they, in fact,
23 have problems of ill health.

24 Following the poverty program as you probably
25 know came the model cities program and the notion of

1 the model cities program for the first time was to say,
2 ~~and~~ this was HUD policy, that one cannot construct
3 ~~housing~~ or cannot build on urban renewal land unless
4 ~~one dealt~~ with poverty issues and as you may remember
5 or do know, it demanded a series of checkoffs and
6 this was the first development in the poverty field
7 of comprehensive planning, the idea that you couldn't
8 plan for physical planning separated from health
9 planning, from welfare planning and what have you.
10 And this was very, very important. Because for the
11 first time, people couldn't get away with things.
12 Example, again in Newark, there was a series -- the
13 need, I forgot their name, but it was the medical
14 school in New Jersey, asked for 157 or 159 acres of
15 land in central city Newark, right where the riots took
16 place. Some of us, with the help of the state and
17 Paulilla Sacker (phonetic), cut down that usage because
18 we said that the community needed housing and needed
19 participation and needed a whole host of things. And
20 we forced the builders, and the we includes people who
21 you happen to be representing at the moment, forced
22 the builders not to just build a medical school or
23 build housing but to do a comprehensive plan of the
24 neighborhood and we ended up fighting not only the
25 governor but Mr. Lyndon Johnson and everybody else to

1 cut the medical school down to size.

2 Now, the reason that case was really of
3 critical importance was that we laid out the notion
4 that ~~that~~ kind of community planning had to be fairly
5 comprehensive and HUD for the first time had to
6 cooperate with HEW and with a lot of other agencies
7 who they never talked to previously.

8 Now, it seems to me with that kind of history,
9 the idea of coming up with a series of cases just to
10 increase the housing stock without demanding at the
11 same time for comprehensive planning all the way across
12 the board seemed to me a backward stop. This is why
13 I got interested in the case.

14 A whole host of things happened since then.
15 There have been studies of Seymour Saracin (phonetic)
16 on community development in New Haven. He has several
17 out books that have come/about network theory and community
18 development and community participation. And he's a
19 psychologist. And where he's at and where all the
20 other people who have studied networks are at is that
21 people who are denetworked, meaning that they don't
22 belong to networks, tend to get ill faster than people
23 who are networked. And as an aside, I'd say single
24 parents with one child who have no connections have a
25 harder time and more illness than people who are part

of a larger extended family network.

Now, while this is going on, as you may remember, too, there was a notion that the population that we were talking about in the West End of Boston which was Italian Sicilian which had extended families was really quite different from black families. The now Senator Patrick Moinahan, Daniel Patrick Moinahan (phonetic) came accross with the notion that black families being what they were had to be changed. Well, since that time, a whole series of studies have been done about central city black families and it comes out that though their family structure is not quite the same as Italian Sicilian, they do have networks of support in tremendous ways and that those networks of support really allow them to survive even with low income. They learn how to, we may not approve of it, but they learn how to hustle, they learn how to work the system, they help each other out in a variety of ways.

Now, I raise that because a series of studies have shown that if you try to move people from one location to another without helping them maintain or have a strong network, that two things happen. One is you put on them an increased cost to buy networks, to substitute for the networks that they had, so that

1 you have people from Appalachia who worked in IBM
2 who commuted home on a regular basis every two to
3 ~~three weeks~~ in order to maintain the family ties which
4 ~~for poor~~ people adds an expense to their lives which
5 some of us who are well to do and can move into the
6 suburbs can absorb in our economics.

7 So what is happening again in the Morris County
8 situation again being an exurban county, you're asking
9 to move poor people to an exurban community disconnected
10 from where they came from which would then throw to
11 them a tremendous increase in costs to make networks.
12 And secondly, if you can't do that, if they can't make
13 the networks, you then increase their social costs in
14 illness and so forth. So what you're really doing is
15 not helping the poor but just giving them housing alone
16 but in fact you're victimizing them once again.

17 Now, we have a very beautiful example in
18 California, it's called Marin City. Marin City was
19 built by a man who subsequently became a congressman
20 ~~from New York~~, James Shoyer (phonetic), who was a very
21 ~~dedicated~~ and liberal guy who said that in Marin County
22 ~~which is~~ a magnificent suburb, a lovely bedroom
23 community with hot tubs and baths, an upper middle class
24 community, that in the middle of this, he bought up
25 some land and built low cost housing where blacks moved

1 into and called it Marin City. The supposition at
2 that time was that since it was a wealthy county,
3 ~~that the~~ county would after they built this housing
4 absorb the social cost that was required, other
5 supposition would be that clean houses would make
6 clean people and that moving out to this clean county,
7 the population would improve. What in fact was
8 created was ghetto of such grave proportions that even
9 the people who are living there, who are trapped there
10 and can't get out of there, consider it a horrible
11 slum and worse than San Francisco and eastern cities.

12 When Marin County suddenly found themselves
13 stuck with the social costs, they started to scream.
14 They did provide it because they're a rich county.
15 However, I don't need to remind you that California
16 is leading a way on Proposition Nine and now Varis Two
17 (phonetic) and that the tendency of communities to
18 be willing to pay for social costs are going down
19 precipitously so that we have the danger in Morris
20 County of building a ghetto without the surrounding
21 rich community having any ability to pay for the
22 social services that may be required, then that becomes
23 a frightening prospect as well.

24 The other kinds of things that have come up
25 are material that you might be interested in is

1 Man and His Urban Environment, a sociological approach
2 by Michelson from the University of Toronto who again
3 talks in there about the narrowness of the approach
4 of all kinds of people in looking at urban issues.

5 And one of the things he refers to in the book is an
6 outline of looking at community that was devised by
7 Doxionus (phonetic) who is a Greek architect who is
8 in Athens, who has since died. I came to know Doxionus
9 because he had annual symposiums on his boat every
10 summer, on his boat where people like Margaret Mead,
11 planners like Bob Wood who is an undersecretary of HUD,
12 Charles Har who is quoted in a lot of testimony,
13 doctors, physicians, Barbara Ward, Bucky Fuller, you
14 name them, I can give you a list of them, but came
15 together to talk about the man's environment.

16 The concept Doxionus has arrived ^{at} /was a concept
17 of equisition and he has an outline which basically
18 states that you can't separate man from society or
19 from the shells that are created by men to live in
20 and work in or from the network or from the natural
21 resources. And when you put all those pieces together,
22 you really begin to realize how complex the design
23 of a community is.

24 So that for man, you're talking about
25 biological needs of all kinds, sensations and perceptions,

1 emotional needs, human relations, moral issues. For
2 society, you're talking about population composition,
3 social relations of families, friends, coping skills,
4 you're talking about cultural problems and I footnote
5 here that we really don't know yet what particular
6 cultures are being attracted to Morris County and I'll
7 get to that in a minute because they all have very
8 different patterns of living.

9 They talk under society about economic
10 development and here I would footnote that as meaningful
11 jobs and again I would footnote what kind of jobs
12 would be available in Morris County for lower class
13 poor. Although I think there's an increase in jobs
14 as people have indicated in their testimony, I'm not
15 sure we're talking about the kind of jobs that/^{the}very
16 poor who were talked about in the cases, who they are.

17 He also talks about industrial development
18 under Society, talking about education, health and
19 welfare, legal problems, administrative problems.

20 Under Shells he lists housing and I would
21 add and it's pollution because housing can be pollutant
22 and if housing construction is of the kind that causes
23 illness which there's a lot of at the present time,
24 that's a problem. Community services, commercial and
25 recreational services, equipment stuff, transportation

1 facilities. Networking. Public utility stuff,
2 transportation, communication, physical layouts and
3 social networks of family, friends and culture.

4 I want to get back to that last one in a
5 moment and then talk about natural resources, water
6 and pollution, air circulation, mineral resources,
7 land forms, agriculture, recreation, fishing. When
8 you start looking at things that way, you come up
9 with a new definition of community and I guess this
10 is where I'm really driving at. I'm saying in part
11 that a community is a place where the majority of
12 functions required for living takes place, where they
13 get food, clothing, shelter, jobs, meaningful
14 relationships and sports, health services, recreation
15 and education. I personally would add multiple agency,
16 meeting human developmental needs as reflected by
17 various cultures and have a sense of belonging and
18 involvement. Given that, I come to the conclusion
19 very quickly that single purpose communities are very
20 costly and as I said, pay proportionately higher
21 prices because they can't pay for the networking to
22 people that we have.

23 There's a very famous book out in the sixties
24 called The Poor Pay More by Kaplowitz (phonetic) in
25 which he points out that somehow in order to obtain

1 a lifestyle of a suburban community, there are increased
2 costs and thus with the increased costs, the poor have
3 to pay more in order to get those things that are
4 necessary. And I mentioned more about that before.

5 Now, I want to get back to the networking
6 because there have been some other interesting studies
7 on networking. They're English studies of new towns
8 in which populations were moved from central cities
9 to these suburban new towns. And I've been to visit
10 several of them. Harlowe, there's one called
11 Milton Keys and there are several others. There are
12 also towns in Sweden.

13 The biggest problem in most of the towns
14 were that people wanted to maintain their connections
15 and ties back home and there you had costs. It was
16 something that the town attitudes which were middle
17 class effectively were communicated and accepted by
18 the poor that moved out, but without the same kind of
19 monetary and coping skills necessary in order to
20 achieve it. I hope I'm clear on that. I'm saying
21 that when you move out to a community, you would
22 accept a new value system, however, if you don't have
23 the skills or monies it would take to make it work,
24 you're put under tremendous stress. What the poor
25 found themselves having especially in one or two of

1 the towns was that they give up their lower class
2 illness in central city but they ended up with middle
3 class illnesses, but in a higher number than middle
4 class citizens living in that community as well. That's
5 not in some, but that's some of the things that I've
6 been concerned with historically which go way beyond
7 this individual case but yet impinge upon this case
8 in such a way that it makes^{me}/feel extremely strongly
9 that unless we really concern ourselves with social
10 organization, more than we concern ourselves with
11 physical construction, they'll fail.

12 Now, I have to put something in which I told
13 Mr. Ferguson I deeply believe and you probably can
14 guess from my remarks. I have no objection and, in
15 fact, I strongly believe in integrating populations
16 all over and I have spent my life trying to do this
17 and I've spent my life really spending time trying to
18 get the poor adequate housing and adequate jobs and
19 adequate legal services and health and what have you.
20 But I'm really very concerned when, as I indicated
21 before that fragmented planning ends up victimizing
22 the poor as much as the horrible qualities of the slums
23 that they come from. From therein, you can ask some
24 questions. There's an awful lot more I can tell you
25 about my position.

1 Q Okay. That's a nice little essay.

2 Now, let me see if I understand what you're
3 saying. Is it your position that it's substantially
4 impossible to provide housing for poor people in
5 Morris County?

6 A No, I did not say it was impossible.

7 Q Okay. Well, why don't you clarify
8 my paraphrase. I've gotten it wrong.

9 A I'm saying if as the court decisions seem to
10 indicate that least cost is primarily least cost of
11 construction of housing so that you can make housing
12 available chiefly to people, then I think it would be
13 impossible to provide housing for the poor. If least
14 cost, however, includes social costs overtime and
15 the maintenance of the community and the integration
16 of the population into the community through concerted
17 planning efforts both before they leave the city and
18 when they're there and you provide resources for them
19 above and beyond the housing, I think there's a good
20 possibility that there may be success.

21 Q Now, again I'm going to paraphrase
22 and tell me if I'm getting it wrong.

23 Am I correct in saying that you would say to
24 a court that has a choice of essentially endorsing the
25 status quo or not endorsing the status quo but

1 adopting what you understand to be plaintiff's theory
2 that it should endorse the status quo?

3 A I refuse to make a choice between those two
4 because I think there's a third alternative.

5 Q I'm not sure there is in this case,
6 but go ahead and tell me what you think it is.

7 A I think quite clearly the status quo can't
8 be maintained. Not only because the court says it can't
9 be maintained, but the process of population mobility
10 and change around in cities and urban and suburban areas
11 and such that sooner or later populations will move out
12 there. That's one thing. The population is going to
13 change and they will have to provide services.

14 The plaintiff's argument I cannot accept
15 because as I indicated before, purely the provision of
16 housing will not do that. I have a feeling that what
17 may be really critical is to ask the community to
18 provide for a plan at least cost because redefining
19 least cost as I've indicated all the way across the
20 board, a plan for integrating new populations, low
21 cost housing, but to provide services which maintain
22 the community. And I would ask the community to come
23 back with a series of recommendations and regulations
24 that would permit that thing to occur in that way.

25 Q And that would be your ideal outcome?

1 A Ideal?

2 Q Yes.

3 I'd say it's better than either the plaintiff's
4 argument or the status quo.

5 Q You've used the term poor and people
6 use the term poor in different ways. Would you tell
7 me what you mean by the term poor?

8 A If I have to believe the court who say that
9 they want to stick to 160 square feet and a hundred
10 square feet for every subsequent person that the only
11 people that are living in those kinds of housing at
12 the moment are single people fresh in the job market
13 and very young and people with low incomes. At the
14 moment, for families of four, \$12,000 is considered
15 about the poverty level. And when I'm talking about
16 the poor, I'm accepting that as the figure at the
17 moment.

18 Q To what extent does the analysis
19 you've described apply to -- let me break it up into
20 three categories. Let's start to what extent does it
21 apply to the rich and let's pick a cutoff point of,
22 only breaking it into three categories, of
23 people with incomes of over \$25,000 per family?

24 A That's called middle class.

25 Q Okay.

1 A And lower middle class nowadays. How does
2 that apply?

3 Q Yes.

4 A First thing is that people with \$25,000 and
5 other income since they do happen to believe in the
6 American way of life don't move into houses. For four
7 people would be 460 square feet.

8 Q Your definition is tied wholly to
9 those figures?

10 A The definition of poverty?

11 Q You've given me a lengthy analysis
12 and it's taken you three quarters of an hour to do it
13 and I'm trying to ascertain to whom that analysis
14 applies. Does it apply to the entire population, does
15 it apply to only segments of the population and I'm
16 starting out by dividing it out by economic status.

17 A I'm making an assumption that the reason your
18 office is --

19 Q Don't make any assumptions. I want
20 your analysis.

21 A That's my analysis. I'm saying that the only
22 reason you or I in the past and the present still in
23 other context fight for new kinds of housing and other
24 services is because you're saying that people who are

25

1 in central city, who have low incomes and who cannot
2 find housing in central cities, you're saying that you
3 want and perhaps rightly that you want all the counties
4 to take fair share of that population. And in this
5 county, in this state, the people are both black and
6 Puerto Rican and most of them probably have an income
7 under \$12,000 and many of them, given the current
8 situation, have difficulty in the job market and many
9 of them at the moment, if they're under the age of 23
10 or 25, are unemployed.

11 At the moment, my definition of the poor is
12 that those people who are at the moment unemployed,
13 have very low income, many of them who are living on
14 welfare or just beyond. And I would really like them
15 to have housing. I am not convinced that for them,
16 an exurban community is a wise one. That's where
17 I'm at.

18 Q Let me see again if I understand what
19 you're saying.

20 You're saying that there are certain kinds of
21 things other than housing that must be employed to
22 create successful housing for certain categories of
23 the population?"

24 A For all categories of the population.

25 Q Okay. You've described it in terms of

1 the poor. Is that also true for people of a higher
2 socio-economic status?

3 ~~Almost~~ Almost everything we know about the main
4 ~~difference~~ difference between the poor and the rich is that the
5 well-to-do have the resources to buy the connections,
6 to buy the services that I've been talking about, and
7 that the percent of their income that they spend to
8 do it is proportionately less than the poor and that
9 the poor have to spend the greater percentage of their
10 income in order to get those services. But both poor
11 and rich have certain expectations in demand.

12 Q So that the problems are intrinsically
13 the same but the rich can pay for the solutions, is
14 that accurate?

15 A Let's say that the rich have, for a variety
16 of reasons, practiced what you might call a nuclear
17 family resistance and nuclear families have been able
18 to exist in suburbia and exurbia. And when you're
19 poor, the poor can't afford to live in nuclear families.
20 ~~They must~~ They must maintain their networks because, in fact,
21 ~~the only~~ the only way they can get what they need in life is
22 ~~to have~~ to have mutual support systems when you don't have
23 incomes. I'm saying that the mutual support systems
24 may be more important to them than the housing.

25 Q Okay. Now, you indicated some studies

1 by Mr. Saracin (phonetic). Can you give me the name
2 of those studies?

3 I don't have the name of all of them, but
4 they are by Seymour Saracin, they've been published by
5 Josie Bass (phonetic), the psychology and education
6 departments in Yale.

7 Q Can you give me some dates of those
8 studies?

9 A They are three or four books and they've been
10 out in the last four or five years.

11 Q Now, you indicated that you were
12 relying on some studies of black families in central
13 cities. Can you identify those studies for me?

14 A There are a whole set of studies on black
15 families that have been coming out. Genovesie (phonetic)
16 and several others. There have been some fascinating
17 interchanges on them recently. I don't have the names,
18 but I can provide them for you.

19 Q I'd appreciate if you can do that.

20 I think the main purpose of those studies were
21 originally because, as I indicated, Moinahan and others
22 really said that the black families were really
23 disintegrated and there was nothing there and there
24 was really social disorganization. I'm saying that
25 some communities and the poor have a social organization.

1 The social organization may not be the kind that we
2 accept in our white middle class society, but
3 nevertheless, it's there. And to deny them that kind
4 of structure without helping them develop in a new
5 one is the way to victimize them.

6 Q You made reference to Marin City.
7 Were your comments on Marin City based on any research
8 and empirical studies?

9 A Marin City is a city that is singularly in
10 the news in San Francisco newspapers and has been as
11 long as I've lived there since '68. When I was in HUD,
12 HUD was really very concerned because Jim Shoyer
13 (phonetic) was a congressman at this time and HUD was
14 being beat on the head for assisting in the development
15 of a suburban ghetto community. I have not been able
16 to dig up any studies, though I hear that there may
17 been some graduate student studies, I can't find them.
18 The only thing I can find is the San Francisco Chronicle,
19 if you go into the files, you will find endless tales
20 of Marin City. If you go to the San Francisco Foundation
21 which gives out most of the grants, you'll find that the
22 pressures for grants to deal with the problems of
23 Marin City are high.

24 Q That's the source of your information?

25 A My source is the fact that a lot of my students

1 have wandered in and out so they have never studied it.
2 I'm also on an advisory council in Marin County on
3 something else and this issue comes up over and over
4 again in terms of alternative housing developments.
5 They're really talking about how you develop housing
6 for the poor in a better way than Marin City.

7 I might add here that HUD found during the
8 sixties when I was there that the best housing projects
9 that were developed were in communities where first
10 the housing was tiny, that people were able to maintain
11 the ties to their home base and where they didn't
12 create housing projects that were the size of institutions.
13 So Marin City is an institution in a way. It's to me
14 like a big mental hospital. And what I'm afraid of in
15 Morris County is when you start building low cost
16 housing from the rest of the county, it may have a ghetto
17 wall, even though it's invisible.

18 Q Okay. Is that at all recorded in any
19 reports, your description of conclusions drawn by HUD?

20 A Well, there is no report that I can remember
21 on Marin City, but I would --

22 Q No, you made reference to some --

23 A I was saying at the time I was in HUD, that
24 came up over and over again. I haven't got my records
25 from HUD and I don't remember where it was. I would

if

1 guess that/somebody asked HUD for the records on

2 Marin City, you could probably get them.

Q

3 No, you made reference to some
4 **general conclusions** HUD had drawn about the best kinds
5 of low cost housing projects.

6 A I really don't know the reports. But I can
7 remember that when we were talking about public, I can
8 tell you where it first came up. It came up when we
9 were talking about senior citizen housing and there
10 were people developing senior citizen housing at two
11 and three thousand people and we were afraid they were
12 institutional and found the only ones that were
13 successful were those of 300 people. There was
14 somebody there by the name of Abner Silverman who was
15 the head of housing who was really quite concerned that
16 we had been building public housing in places like
17 Chicago and Dallas and Pruitt-Igoe of 12 and 15,000
18 units. I mean people, population, and they were
19 finding it very difficult. I don't have the reports.

Q

20 You made reference to studies that
21 had been done on English new towns. Can you tell me
22 **what studies** you were relying on there?

23 A There were a variety of ones. Some of them
24 are Peter Maritz (phonetic), some were done by Peter
25 Wilmont (phonetic) and I may be able to find them here.

1 One is called The Evolution of the Community by
2 Peter Wilmont, another is called Family and Class in a
3 London Suburb, Peter Wilmont and Michael Young.

4 Q What was the name of the second one
5 again?

6 A Family and Class in a London Suburb. Then
7 there was a study by Peter Maritz. It doesn't have
8 that. The one that's in the book is Family and Social
9 Change in an African City which also is actually
10 relevant and his report on urban renewal in the United
11 States which was in my book, The Urban Condition. But
12 this book Michael has a summary of a lot of those
13 studies. Not all of them, but some of them.

14 Q Okay. Now, I wanted to go through
15 some portions of Mr. Ferguson's letter, PLD-1, in a
16 large measure because I don't understand the vocabulary
17 and I want to ask you some questions just to clarify
18 my understanding of the vocabulary and how it all fits
19 together.

20 (Whereupon, a short recess was taken.)

21 (Whereupon, the deposition resumes
22 after the recess.)

23 BY MR. EISDORFER: (Continued)

24 Q If you look at page one, the second
25 paragraph, third whole paragraph, you make reference

1 to the fair share methodology of married books.

2 Could you describe to me what you understand
3 that to be?

4 A I don't have all the details at the moment,
5 but it's my strong feeling that she's trying to
6 develop evidence to show that the fair share of the
7 housing could be equally distributed in all the
8 counties all over the state and that in Morris County,
9 particularly, there are jobs available and resources
10 available to meet the population and the needs of the
11 people.

12 Q Okay. Also in that paragraph, the
13 very last phrase in the paragraph, it pertains to
14 viable housing.

15 Can you explain what that refers to?

16 A Which one is that?

17 Q The very last phrase in paragraph
18 three.

19 A Viable housing.

20 MR. FERGUSON: For your information,
21 that was probably my phrase and that was
22 supposed to be a shorthand for the things
23 that Dr. Duhl has been talking about, the
24 cultural network necessary to support it.
25 That was in my mind when I wrote it and

1 whatever he wants to say about it is different.

2 A I would agree with that. I wouldn't use
3 necessarily the word viable housing myself but if I
4 could translate it into my language, I would say that
5 to me housing is not just a specific shell in which
6 somebody can move in, that housing is something that
7 you have to live with and you have to live with over
8 a time and that it provides for needs. And I'm
9 saying that for something to be viable, it has to be
10 all the resources around it that are connected to the
11 housing in order for it to make it work.

12 MR. FERGUSON: I should ask you with
13 respect to Mary Brooks, we were referring to
14 the eight count region and the creation of
15 housing need in the East and satisfying that
16 need in the West in accordance with her
17 reports which were based on the DCA allocation
18 study.

19 Q Dr. Duhl, is that what you understood
20 it to be?

21 A Yes.

22 Q On that same page, moving back to
23 the second paragraph, the paragraph begins Dr. Duhl
24 will testify as to minimum standards of health, safety
25 and well being, appropriate police cost of housing.

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Are there minimum standards?

A Okay. The official minimum standards were the ones that you've quoted which were the APHA standards. Sadly, the history of those standards were that they were devised in a hotel by C. E. A. Winslow, Professor of Public Health at Yale, that there has been -- those were originally designed primarily because as I said, for barracks apartments and they were originally designed to prevent infectious diseases. Subsequently, the APHA changed and talked about neighborhood contacts and community participation. Nobody has sat down since and has been able to come up with a single set of standards including Professor Baer from USC and that's why there is no report out at the moment. Because what you have is a series of tradeoffs that are social, physical and what have you.

I can give you a list of some of the things that people talk about that should go into these standards, but nobody has come up with the specifics of that.

Q Is there a set that was endorsed?

A There are no sets that any one person has devised and I would guess that's why the Court used the only one that was viable to them which is completely out of date and inadequate. So what I've

1 been trying to do is give you a list of the kinds of
2 things that might go into such a set of criteria and
3 if I get Professor Baer's material, there might be
4 some more spelling out of what they came up with. I
5 do know from him that no final definitive thing has
6 been developed. But there are a series of issues that
7 came up.

8 Examples, one is one which you talk about in
9 your case. Adequate housing meeting the socio-cultural
10 expectations at low cost. They also say that can't be
11 done without available long term work to be reached
12 at low cost and having meaningful jobs available. They
13 talk of --

14 Q Come again. Who is they here?

15 A I'm saying that when Baer was given to do the
16 APHA followup, he came up with some kinds of standards.
17 The one I'm going to list are ones, some of it he
18 mentioned over the phone. I have not seen the reports.
19 I took those, took stuff from the various readings that
20 I did and I'm now trying to give you my list. I said
21 the first was adequate housing, meeting their socio-
22 cultural expectations at least cost, I said the
23 availability --

24 Q Let me just hold you there for a
25 moment.

1 How does one measure achievement of that
2 standard?

3 A Well, one of the problems that we have about
4 housing is that people use housing in entirely different
5 ways. If you look at extended families, you'll find
6 that people live in a variety of different apartments
7 but they use the space between apartments as community
8 living rooms. We find that certain groups use the
9 kitchen as a more important place than the living room.
10 We find that in certain community cultural groups the
11 street is used. And the cultures are really quite
12 different and you can't expect a single package of
13 physically designed houses to meet all cultural needs.
14 So I'm suggesting that we really pay attention to the
15 cultural differences of populations that may move into
16 a community and find out what are the various mixes
17 required for the various kinds of groups that are moving
18 in.

19 Q That has been done?

20 A It's only done for a specific instance.
21 Example, Columbia, Maryland. That was designed by
22 Jim Rouse, I was on the planning committee there. And
23 what they started with is with a kind of community, do
24 you want to have in an area between Baltimore and
25 Washington and how can we attract at least 10 to 12% of

1 minorities into that population? It became quite clear
2 since it was suburban or exurban and at that time, that
3 the only population that could move there was middle
4 class blacks and that the kinds of jobs that were there
5 and could be attracted there which are kinds of jobs
6 that had been mentioned which might be near Morris
7 County were jobs available to middle class minorities
8 and not to poor minorities. But they did achieve a
9 12% rate of blacks in Columbia and the design of the
10 community, we designed the community first as to what
11 kind of community it was going to be. Then we designed
12 the notion of neighborhood. Then we talked about what
13 resources needed to be developed. We talked about
14 community facilities and the community planning and we
15 provided a variety of housing styles for the various
16 people that might move in. That's the only really
17 comprehensive one that I've seen done, though I'm sure
18 there must be some others.

19 Q Let me put the question a different
20 way.

21 If I were to go into a community and try and
22 evaluate the housing based on this standard, how would
23 I go about doing it? Would it be possible for me to
24 do it?

25 A If you know what the population is, the answer

1 is you probably could do it. One is by really
2 beginning to know something about that population,
3 how they live, and begin to find out from them what
4 their expectations are, what their desires are. And
5 out of that, you can design the community. What Rouse
6 did is that --

7 Q I'm not asking to design a community.
8 I'm asking to evaluate something that's already existing.

9 A You might find out very quickly as we did in
10 Pruitt-Igoe that they were destroying the building
11 because the building wasn't designed for them. You
12 might look into the public housing projects in New York
13 and find out that high rise apartments are being
14 destroyed and there are incidents taking place in it
15 and that the rape rates, the murder rates, the call
16 of police and a whole host of other things are ways
17 of measuring indirectly what the symptoms are of
18 housing that don't meet peoples' needs.

19 You could also find communities where people
20 actually participated in the design. And some of the
21 rehabilitation programs in New York where people
22 redesigned the housing that they live in, the tenements.
23 You find that those houses are amazingly well taken
24 care of because they designed it and pulled it together
25 in ways that met their needs.

1 I have a student who just took a study in
2 which he took pictures of how Cuban and other Latin
3 American families in New York City redesigned their
4 apartments to meet their local needs. And It's a
5 beautiful description of how they Latinized their
6 apartments and the apartments are completely different
7 from what one could call modern clean housing.

8 Q Well, would it be fair to say and tell
9 me if I'm wrong because I may well be that what you're
10 telling me is that if someone gave you or a suitable
11 expert in the field a layout of the housing development
12 and an inventory of services available within a ten-mile
13 radius, they would or would not be able to evaluate
14 that housing in terms of this standard?

15 A I don't think you could unless you knew exactly
16 who the people were and who the population might be
17 and which people would come first. It is a supposition
18 in the Morris County thing that if you provide small
19 housing, that those people would move in first.

20 The history of English housing and the history
21 of Columbia is that the substantial middle class move
22 in first and that room has to be provided for them and
23 only later in nonlabeled inexpensive housing the others
24 will begin to move in.

25 Q You were going to give me more standards?

1 A Okay. The next is the availability of long
2 term work, to be reached at these costs. It includes
3 transportation and other costs.

4 Q Okay. Again -- have you finished
5 describing that standard?

6 A No, I would say also that these jobs were
7 meaningful, which is very important. Meaningful meaning
8 in this instance that this doesn't mean janitorial
9 sweeping.

10 Q How would one go about evaluating
11 whether the standard is being met?

12 A Well, the critical issue here is what kinds
13 of jobs are currently available in Morris County. Who
14 has moved into the area? What kind of companies are
15 likely to be attracted?

16 In looking at their employment patterns, see
17 whether those employment patterns will, in fact, be
18 jobs that are available to the kind of population you
19 want to attract to the community. I suspect, and I
20 really haven't got all the data on this because I don't
21 know who has, that the population we're talking about
22 who I called poor, that there aren't any jobs for them,
23 or a minimal number of them.

24 Q What information do you rely on in
25 reaching that conclusion?

1 A Based on the kinds of companies that do move
2 out of exurban areas first all over the country.

3 Q Based on any specific information
4 about Morris County?

5 A No.

6 Q Now, in terms of that standard, what
7 relevance does that standard have to housing for
8 people who are going to fill jobs like custodial jobs?

9 A Oh, I think it would be -- if they have
10 custodial jobs, fine. If there is housing, that's
11 okay, too. I'm not objecting. I'm coming up with
12 criteria not that you meet one by one but in a total
13 mix in which various things are weighed.

14 If you say will housing be available and will
15 just some jobs be available, yes. You maybe answered
16 both of those to the affirmative and say yes. But, in
17 fact, when there's so many other issues available that
18 are important for anybody moving in something, into a
19 community, and if those others aren't met as a total
20 package, I would still say meeting those two aren't
21 enough.

22 Q Okay. Let's keep going.

23 A Then I said one which I referred to before,
24 the availability of money to maintain or learn the
25 new lifestyles required.

1 Q Give me that one again.

2 A The availability of money to maintain or learn
3 the new lifestyles required.

4 Q And how would you evaluate that standard?

5 A As I indicated earlier, that you need
6 proportionately more money as a poor person to maintain
7 the life standard in that community than if you're
8 rich. And custodial jobs usually don't pay enough
9 to meet those kind of requirements.

10 I'm actually predicting you're not going to
11 get lower class minorities. You'll probably get
12 middle class if at all and housing that is created
13 for minimal space will not be filled by the minorities
14 that you're trying to attract.

15 Q Now, can you put a dollar figure on
16 this for me?

17 A A dollar figure? No.

18 Q Can you give me a ballpark figure?

19 MR. FERGUSON: In terms of what?

20 MR. EISDORFER: In terms of money
21 available to maintain or learn light skills.

22 A No, I can't give you that because I can only
23 just tell you that --

24 Q Well, are we talking about ten cents,
25 ten million dollars or can you narrow it down for me?

1 A I'm saying that if somebody has a \$25,000 a
2 year or more income, they can afford to buy cars which
3 permit you to be mobile and to go to the resources
4 that you need. You have to have money to pay for
5 telephone calls back home.

6 One of the things that took place in London
7 is that they tried an experiment of making these new
8 town telephones local calls in London because so many
9 of the people there were trying to call home and it
10 was costing them so much money for telephone bills
11 and they couldn't afford to live out in the community.
12 Those are petty costs, but they add up after a while.

13 Q Okay. Well, can you give me a
14 ballpark figure?

15 A I can't give you a ballpark figure at all.
16 I haven't done enough on economics in families.

17 Q Is there empirical research in which
18 you base your conclusion that this is an appropriate
19 standard?

20 A As I tried to illustrate before, that when
21 we said people are denetworked and there are many
22 studies of denetwork, they tend to break down. We
23 also have studies in Michelson, there are some reports
24 of what happens to people when they try to keep up
25 with the life standards. There are no dollar costs

1 attached to it, but there are empirical studies reported
2 in Michelson's book.

3 The next one is schools and other facilities
4 required if children are involved. And I might say
5 that the Court has specifically said that the developer
6 didn't have to worry about school sites because that
7 would increase these costs, if I read it right. And
8 to me, that's kind of horrendous when a community
9 starts to build up in size, this then says those
10 resources won't be available. I might say that almost
11 all suburban communities and exurban communities have
12 very few fine resources available for adolescents and
13 unless those resources are available, you pay the
14 price in automobile related problems.

15 Q Can you tell me what you mean by
16 other facilities?

17 A Other facilities include recreation facilities,
18 places to go, places to hang out, for teenagers, where
19 do you take your car to be worked on and where you can
20 work on it, where you can have your dances, where
21 you can go for cokes, sodas and a whole host of other
22 things. These are part of the things that I keep
23 calling community.

24 Q Now, again can you tell me how one
25 would go about evaluating whether the standard is being

1 met?

2 A Yes. If it's a single purpose community
3 that is only providing housing like many of the post-war
4 housing projects all over the country, a lot of the
5 suburb and developments just provided for houses and
6 they became bedroom communities. And studies of those,
7 Levittown Study by Herb Gann and others indicated that
8 the kids in this community required these kinds of
9 resources or else they got in trouble.

10 Q Well, are you saying, you know, can
11 you give me figures in terms of classrooms for a
12 number of households or number of MacDonaldis per
13 household or is it all sort of, you know, ad hoc?

14 A No. In fact, I would refer you back to
15 Columbia where before they designed the community,
16 they spent five years in a major Ford Foundation Grant
17 designing the educational system for this new community.
18 That was considered part of the developer's costs.

19 You might check with Jim Rouse and Rouse
20 Incorporated in Baltimore.

21 Q Well, I'm --

22 A But that's typical, you see. I'm not --

23 Q I'm just unable, and it's not, I'm
24 not criticizing you, but I'm unable from what you're
25 telling me to tell how I or a court would recognize

1 whether this standard is being met.

2 A Well, I'd say that at some point, even as the
3 simplest of questions, are there any plans for the
4 development of schools and other resources available
5 in the plan?

6 MR. FERGUSON: Perhaps I can be of
7 some assistance.

8 Part of the reason for offering
9 Dr. Duhl's testimony is to point out that
10 some of the most crucial kinds of considera-
11 tions are very difficult to be quantified at
12 this time in the development of the state
13 of the orative comprehensive planning. That's
14 the whole point, number one.

15 Number two, do you intend to ask
16 Dr. Duhl are there kinds of things that can
17 be done in terms of designing least cost
18 housing which will minimize the social costs
19 that he's talking about? For instance,
20 when it comes to schools, it has been apparent
21 that there is declining enrollment in many
22 urban and suburban districts and excess
23 school facilities. Does it not then make
24 sense to target those communities who have
25 excess school facilities for the kinds of

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housing which require school facilities?
Because some of it already exists whereas
if we allocate to vacant land, you'd have
to build them brand new. And the whole
point of using an economic marginal type
of analysis of social cost is to minimize
the expenditure of dollars in the siting
and construction of housing on a systematic
comprehensive basis and not just focus on
construction costs.

Another kind of thing is least cost
siting and there's been some development
of that in records of zoning cases going up
to the Supreme Court in terms of environmental
costs and least cost siting. But from Dr.
Duhl's perspective, least cost siting should
also include locating housing for minority
or low income groups closest to the existing
facilities which might be able to provide
the networking necessary to make that housing
viable over time.

For instance, to take the town I
know most about, Chester, does it make sense
to provide housing which could be utilized
by lower income groups close to the center

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1 of town near the borough where there are
 2 some shopping and commercial facilities,
 3 or should you allow it to be built on
 4 Mr. Caputo's land which is four miles away
 5 in the middle of cornfields and trees with
 6 no possibility of social networking except
 7 at the cost of an automobile and a drive
 8 into town?

9 Q Okay. For the record, Dr. Duhl, do
 10 you endorse the statements of --

11 A Well said and magnificently put.

12 MR. FERGUSON: The kinds of specific
 13 questions we would intend to ask Dr. Duhl
 14 would be keyed to those very kinds of concepts.

15 Q Okay. It is recorded as Dr. Duhl's
 16 testimony.

17 MR. FERGUSON: Well, no. I just wanted
 18 to help you in your questioning.

19 MR. EISDORFER: Well, what you're
 20 telling me is I'm asking the right questions.

21 **HEMI** Good.

22 THE WITNESS: Fair enough.

23 Q Keep going.

24 A One of the highest priorities in almost all
 25 the inquiries is the importance of security and safety

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1 for people, especially children, the old and women.
2 And I might say that safety in most communities now
3 being planned, they're designing it in terms of police
4 forces, guard dogs and fences, lighting, while in the
5 old study of Jane Jacobs and The Death and Life of
6 American Cities, she points out that a community that
7 is alive most of the day, 24 hours a day, where there
8 are people working and living performing multiple
9 functions, people watch over people at all times and
10 that you gain safety by the community being present
11 rather than it be a cold housing project or a physical
12 development.

13 In Pruitt-Igoe which I indicated, the housing
14 was beautiful but there were many dark and unsafe spots
15 because many times during the day and night, no one was
16 available. Again, this is an argument for an encourage-
17 ment of a broad based community rather than just a
18 housing development.

19 Q And again how would one evaluate
20 achievement of a standard?

21 A My way of evaluating is to say are you doing
22 ~~012-3-19-61~~ symptomatic response to safety which is policemen
23 at every corner and television which is now going
24 into many housing or whether the community itself takes
25 care of its own safety.

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Q I'm not sure what the latter idea means.
Can you explain that to me?

A I think what I indicated a moment ago was when people watch out for each other on the streets, you're safe. Simply, one of the things in the West End in Boston and when I walk through communities, I noticed that people are watching everybody. And there are people, eyes and ears all over the place. When I go into suburban communities, there is nobody there. There are times when nobody is available. There are times at night when it is not only dark but nobody watching because everybody goes to sleep at the same time.

Q How would one go about planning that into housing?

A You don't plan just the housing. You plan the housing as part of a mix. Again, back to Mr. Ferguson's comments about places that already have an infrastructure, where there is already available commercial sites, where there are stores, where there are other resources, where in fact the town is alive 24 hours a day to build housing into that provides more safety than to build housing isolated from that.

Q Okay.

A The next one interestingly enough has multiple

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1 definitions depending upon who you are, but it's a
2 combination of privacy and not being bothered. And
3 ~~for the~~ middle class who are nuclear families, that
4 means in a special home all your own. For the lower
5 class, it means to permit us to live the kind of life
6 we like to live without being bothered by other kinds
7 of people. And this means to permit your kind of
8 culture to flourish.

9 Q Okay. And can that be measured?

10 A It can only be observed and this is why I
11 think Mr. Ferguson commented my other comment concerns.
12 Which is that these are more like noncountable,
13 nonquantifiable, but much more anthropological type
14 studies. I've had studies like Herb Ganz' study of
15 Levittown and the West End are just examples of the
16 gathering of impressions about how communities live
17 and behave without sitting down and counting particular
18 factors. When you count things, you count what you
19 are capable of counting. If your planning depends
20 upon that, you leave out the noncountable which may
21 turn out to be the more important, I guess one of the
22 ~~things in~~ my remarks is that the noncountable may
23 turn out to be more important than the countable.

24 In general, I think that the things that are
25 beyond housing and not defined in terms of cost of

1 housing production may be more important than the
2 specific costs for the houses.

3 Q Well, a little while ago you commented
4 that you thought the preferred way of dealing with
5 this problem was to have each community come up with
6 a comprehensive plan of which housing would be a part.

7 A That's correct.

8 Q How would a community adhere to your
9 model and assuming you were the person to receive
10 those plans, how would you go about assessing whether
11 a community had dealt with this stagger in its
12 comprehensive plan?

13 A First I would say that a community has to
14 come forth with some very broad performance specifica-
15 tions covering a lot of these areas in the plan.
16 There are many ways to meet these broad performance
17 specifications and if the builder was building, I
18 would expect the builder to come up with alternative
19 solutions to those broad performance specs. I do
20 not believe that they should be standards and I'm
21 going to emphasize the difference between standards
22 and specs.

23 The federal government years ago wrote so
24 many standards for housing, hospitals, nursing homes,
25 etc., that they were all built identically all over

1 the country. When you write specifications, you're
2 really saying the building should permit certain
3 activities to take place and that depending upon the
4 population in a local group, how would you meet those
5 specifications in your own unique way? And I think
6 only a community can do it that way. And the developer
7 would have to demonstrate they met those specifications
8 so that the community maintains the quality of
9 community that some of us think are really very important
10 and essential.

11 Q And what performance specifications
12 would be --

13 A These are the ones I'm listing. I'm saying

14 --

15 Q Maybe I didn't ask my question with
16 clarity.

17 Looking at the last standard we talked about,
18 privacy and not being bothered, if you were the person
19 who was going to be reviewing the comprehensive plan
20 produced by a community, how would you determine whether
21 they had dealt with that standard?

22 A I would like to know whether, for example,
23 anybody in the planning had ever cared to talk to any
24 of the potential plots, whether they knew anything
25 about the living styles and living habits of the

1 population, whether in the design of this, the examples
2 they used came out of communities where this population
3 came from.

4 I might say that I frequently go to meetings
5 where planners come forth with plans and they may be
6 talking about some east coast city, but actually the
7 design that they're giving you are designs that come
8 out of California and California recreation areas
9 rather than designs that meet the particular needs of
10 the population say in New Jersey and the east. And
11 those are different.

12 MR. FERGUSON: When did you last do
13 that?

14 THE WITNESS: This morning. It becomes
15 very obvious that when the planners present
16 materials to you and that the material is
17 drawn out of population groups that have
18 absolutely nothing to do with the population
19 they claim they're going to serve, they
20 haven't met the standards in any way whatsoever.

21 So again let me paraphrase, what you
22 would look for is a planning process and no specific --

23 A No, I would ask the community to give us the
24 process, to describe the specifications in the process.
25 I'd ask a specific builder to give the standards that

1 he is going to meet himself. And he'd have to spell it
2 out line by line to meet the broader criteria.

3 **COTTON** ^{me} would you like/to go on with some of the others?

4 Q Yes, please.

5 MR. FERGUSON: Why don't we take a
6 three minute break?

7 (Whereupon, a short recess was taken.)

8 (Whereupon, the deposition concludes
9 after the recess.)

10 BY MR. EISDORFER: (Continued)

11 Q You were on the sixth of your list.

12 A Okay. The next is the ability to maintain
13 contacts with family, friends and in parenthesis I
14 would say old long time friends that become easily
15 and closely available so that the real key issue becomes
16 access. And I think I described most of that before.

17 The next item is shopping in a variety of
18 "family" stores nearby. And what tends to happen is
19 that, as you know, the poor tend to shop in chain
20 stores and don't know how to use discount houses.
21 They don't also make use of if they have ethnic type
22 foods and things like this, it gets expensive. I
23 yesterday saw a student of mine from Nigeria and he
24 was asking for fiscal aid and he was asking for himself
25 for a hundred dollars a week food. And I said hey,

1 that's a lot. He said my problem is I get sick on
2 American food and I have to go all the way to
3 ~~San Francisco~~ to get this food and by the time it's
4 ~~gone~~, it's an expense.

5 Q Well, let me ask you again how one
6 would evaluate a treatment of a standard.

7 A The only thing I would say is if in the
8 distribution of commercial enterprises within the
9 community area, the availability of stores that meet
10 the particular cultural needs of particular population
11 groups that you're working with.

12 Q Well, how does one recognize those
13 particular needs? In whose needs does an A & P fit?

14 A Well, I tell you if you're Jewish, a good
15 delicatessen nearby you can smell. If you're Italian
16 Sicilian, certain else. If I go into a black community
17 and you see the way they eat, they shop with certain
18 kinds of cuts of meat which I can't find in a Stanley
19 Safeway Store (phonetic) which you'll find in central
20 city stores. Those are typical examples.

21 Q Let me ask you a question particularly
22 relating to the standard. /Remember I started the
23 standards by saying these are part of the tradeoffs
24 that people utilize in making choices of where they
25 want to live.

1 Q I understand that but now are these
2 standards that ought to be planned in advance?
3 ~~standards~~ planned for, that's correct. But these are
4 ~~standards~~ that make up what I would call a community.

5 Q Do I accurately characterize your
6 views in saying that if the people are there, these
7 things won't happen automatically?

8 A You've really hit what I find the main objection
9 to most of this planning that you're talking about in
10 your defendant in your case and that is there is an
11 assumption if you build the houses, all else will
12 follow. I'm saying that's very specific because I'm
13 saying that any planning that is single purpose planning
14 essentially makes the assumption that automatically,
15 all sorts of other things will happen that will fulfill
16 the needs of the population. I am saying that they
17 may happen, but over such a long time that a price
18 will be paid by the population and by the community
19 at large for the lack of them. And I'm also saying
20 that if you happen to be middle class or upper class,
21 you may be able to buy your way out of this which you
22 can't do if you're poor.

23 Q Let me give you a hypothetical and
24 Mr. Ferguson will find the hypothetical example because
25 I gave it to Dr. Esser also.

1 Let us suppose, let us consider the north
2 ward in Newark which I know because I live there which
3 until relatively recently was an affluent Italian area,
4 full of Doctor Rusmano (phonetic) and Rullino (phonetic)
5 and it has now a significant Hispanic population and
6 with that Hispanic population has come a large number
7 of Spanish grocery stores.

8 Is that a bizarre -- first of all, am I
9 misobserving that when I say that that's the case?
10 Is that an implausible sequence of events?

11 A That's what happens in changing communities,
12 they do move in. But you've got to remember that
13 there's a difference between a new town situation and
14 a central city location because the relative cost to
15 open a store in a central city is much less than out
16 into exurbia. Everyone in Columbia, Maryland which
17 is a middle class community, in order to get a
18 delicatessen in there, and even to get a delicatessen
19 in Cherry Hill Shopping Center, Jim Rouse had to
20 subsidize the delicatessen for at least two or three
21 years to get the thing started.

22 Now, if he had to do that for those kind of
23 communities, expect poor communities to get their
24 bodegas (phonetic) into the communities you're going
25 to have to find subsidies. Some of the small loans

1 of the government are not enough to allow that to
2 happen.

3 Q Is the critical difference then
4 you're saying the distance?

5 A No, cost, relative cost.

6 Q Well, tell me why the cost is
7 different.

8 A Because if you look at -- I don't know north
9 neara (phonetic), but in changing -- let me just give
10 you the ones I know. In changing communities, the
11 stores rent at relatively low rates. In suburban
12 exurban communities, they rent with a percentage of
13 a gross and given the current money market, the
14 percentage is going to be very high, and that those
15 small dealers that move into the changing neighborhoods
16 can't move into those shopping centers and those kind
17 of developments. They don't have the base to do it.
18 But they can move into a little corner, open a little
19 grocery store, they can still do it for a few thousand
20 dollars to get started which they can't do in a new
21 neighborhood, new town.

22 Q So what you're saying is the difference
23 is primarily financial?

24 A It's financial, yes, in terms of what it
25 costs to keep one of those rented. And a lot of those

1 people live in their stores and that's why it's
2 economically viable and my guess is that in Morris
3 County and these things, nobody is going to be very
4 happy to have them living in their stores.

5 Q Okay, let's go on to your ninth item.

6 A The next one is one that I sort of implied
7 earlier which was places to hang out and do things
8 or nonformal recreation.

9 Q Can you describe to me what you have
10 in mind there?

11 A Well, the number of places that people can go
12 given their definition of recreation in central city
13 is much more than anything that suburbia or exurbia
14 has been able to provide. If we take Al Ferguson's
15 son, he said well, we can hang out at some friend's
16 house or in the summertime, there are some places to
17 hang out. Where in central city, there are many, many
18 things more. They go from soda fountains to stores
19 to ping pong places, roller skating, plus just hanging
20 out on the street.

21 Suburbia, interesting enough, the only hang-
22 out for adolescents tends to be the shopping center
23 and people really don't like that.

24 MR. FERGUSON: As an example of the
25 specific application to this case, we would

1 offer that kind of testimony when Mr. Mallic
2 (phonetic) specifies minimum standards for
3 new construction in the suburbs as not --
4 as being consistent with minimum standards
5 of health and safety. We think these minimum
6 standards must be significantly increased
7 to take account of the kind of things
8 Dr. Duhl is talking about.

9 THE WITNESS: I'm even saying that
10 his definition of health is too narrow.

11 Q Again, how would I evaluate whether
12 those are being provided?

13 A If the community is already there?

14 Q Well, let's talk about a new community
15 first or new housing in a community.

16 A I would love to hear a developer tell me
17 what's going to happen to the various age groups living
18 there and what resources are available already or which
19 ones he will help build. What I keep hearing nowadays
20 and I heard again this morning, they said they would
21 reserve empty space for that development. They said
22 empty space for a school, empty space for something
23 else but right now they were mainly interested in
24 building a set of stores and a set of houses period.
25 To me, that is not acceptable.

1 MR. FERGUSON: Dr. Duhl is referring
2 to the use of common open space in planned
3 development body of a proposed project in
4 New Jersey, a meeting which he attended this
5 morning.

6 A (Continuing)

7 The next item is one which I referred to
8 in my general remarks, participatory possibilities
9 or ability to commands, have a command over things
10 that affect their lives. And that is central in terms
11 of whether we continue the theory that services and
12 housing are provided for people or done to people,
13 or whether people have some participatory behavior in
14 planning for it and getting involved in the processes.
15 I know it's difficult in a new town to do that, but
16 it has been done in Columbia and elsewhere. And once
17 the first buildings go up, the people there have to
18 participate. That to me has to be part of the process
19 plan of the developer, not just the process plan of
20 the community. I think it's a shared responsibility.
21 Otherwise, you get a bedroom community in which you
22 have people expecting other people to do things for
23 them.

24 For somebody who has spent a lifetime improving
25 welfare services for people, I've now come to the point

1 that it's a really very important aspect to help
2 people to help themselves. That's why I mean participa-
3 tion.

4 Q Okay. Now, before you go on, is it
5 your view that that standard is supported by empirical
6 research?

7 A Oh, yes. I think I told you earlier that
8 almost all the health studies have shown that participa-
9 tion decreases the illness rate and we do know that
10 participation even in designing schools by students
11 and universities, people participating in community
12 developments, research all over the world actually,
13 that shows that works. There is research. I can't
14 give you the specifics on that.

15 Q All right, go ahead.

16 A The last item is the assistance on a variety
17 of issues like the maintenance of contacts with friends,
18 organizations and family.

19 I referred earlier to the problem of networking.

20 One of the most beautiful studies was done, it was
21 reported recently on issue of Populi which is a journal
22 of the United Nations population fund which talks of
23 moving a population of Indonesians from a very crowded
24 island where they had a hard time subsisting to some
25 place where they had space available, that they not

1 only moved the population in mass, but provided all
2 kinds of assistance in maintaining the community and
3 in dealing with the stress of moving.

4 The American Friends Service Committee has
5 studies that show that people from Appalachia who are
6 assisted in the moving process both in, if I remember
7 right, Cincinnati and in Chicago do better in Chicago
8 than those people who are not assisted in the process.

9 Q Can you give me the citations so I
10 can find that literature?

11 A I can't give it, but I can see if I can find
12 it. You might ask the Friends Services Committee.

13 Q I'm trying to ascertain what it is
14 you're relying on.

15 A Let me tell you, I have to tell you what I
16 said to you off the record before. I'm relying on
17 being in this for over 30 years and getting out of
18 medical school in 1938 and being involved in these
19 kind of things from that day to this and in a sense
20 I would rather not be sitting around quoting other
21 experts. I'm quoting myself and I'm really relying
22 on my observations and including my nonmeasurable
23 observations.

24 Q Are you telling me you don't rely on
25 any of these studies?

1 A I'm relying on these studies, but I'm also
2 saying I'm relying on myself.

3 I want to know what studies you're
4 relying on.

5 A In a sense it's like going to a doctor. You
6 pay for his experience in dealing with patients for
7 years. I think you're also asking me to depend on
8 my 30 years in experience and I'm one of the very few
9 people who has been in all these areas and looking at
10 all of your witnesses on both sides. There are very
11 few of us. Probably Esser is the only other one other
12 than myself that has had diverse experience. Mine is
13 probably more diverse than his. I've worked for
14 facilities and for housing, I've been in planning.
15 So when you ask me this, you're not asking me to rely
16 on specific evidence which I can give you. All those
17 criteria really hold equally for the poor and well-to-do
18 but as I said before, since we're talking about not
19 only economic but social costs, these costs are relative
20 and, therefore, the costs are of less poignant to the
21 well-to-do who can travel, pay the transportation costs
22 and communication costs more easily.

23 I will go on one more step because I think
24 this is your problem right now, with the current infla-
25 tion, the cost to the poor is going to be astronomical

1 if those nonphysical housing requirements are not met.
2 The cost of the housing at the moment is getting so
3 high that even the small houses are going to be very
4 expensive and that unless you provide networks, you're
5 social costs are high. If I was poor, I'll tell you
6 very frankly, I would not move to an exurban community
7 and I would much prefer to stay in the miserable slum
8 that people have defined as miserable because at least
9 I have my friends and what have you who will help me
10 through hard times and the hard times of inflation are
11 pretty rough. I think your strategy has to take that
12 into consideration.

13 Q Let me return to our own issue here.

14 You originally characterized these for me
15 as minimum standards. Do these standards only apply
16 to new towns?

17 A No.

18 Q Do they apply to new housing generally?

19 A They applied to new housing, but they also
20 apply if you ask me to evaluate an old town. I think
21 segregated towns with single interests are abysmal.
22 They don't meet these criterion.

23 Q Is it your view that in general,
24 existing communities automatically meet those standards?

25 A No. I think you're raising a very important

1 point. Automatically an old city does not necessarily
2 meet these standards. But I have an unobtrusive
3 measure. I don't know if you know what unobtrusive
4 measures are. They are if you go into a hospital, you
5 smell it to see if it's a healthy hospital. There is
6 one unobtrusive measure that tells me what kind of
7 communities people like. The builders of most new
8 towns find that the planners do not live in their new
9 towns. They live in those socially organized parts
10 of old towns which have a life to it.

11 I don't know this part of Newark that we went
12 to to have lunch when I was here last time, but it
13 had a life and vitality to it, because it was Portuguese
14 and Italian and Spanish.

15 MR. FERGUSON: Ironbound.

16 A (Continued)

17 Interesting enough, planners are attracted
18 to those kind of things because **there's** life. New
19 towns are very difficult. And the only people that I
20 know who struggled to deal with this are Columbia, and
21 I don't even put them up as an example because that
22 was an expensive proposition that was done. So I'm
23 really coming up with some different conclusions. I'm
24 saying that since these costs are so high and since
25 the strategy at the moment is to maximize houses for

1 the poor, I would like to look at total costs and
2 build upon all the resources that are available that
3 we possibly can. It may be in central city. It may
4 even be next to it. I would be emphasizing rehabilita-
5 tion, homesteading, sweat equity and a whole host of
6 other programs, scattered housing rather than try to
7 encourage a policy of new towns.

8 So if you ask me what you said before, if you
9 don't win the case, do I maintain the status quo.
10 The answer is it's not status quo. I'm really on your
11 side. I would like housing for the poor. And I
12 would state that categorically. But I would like it
13 in such a way that they don't get punished. And the
14 only way I can see that is to build on the sources
15 that are available.

16 I won't go the full ghetto technique. But I
17 think that maybe a more viable technique than moving
18 into new areas.

19 Q Let me get back to my question. Am
20 I correct in saying that --

21 A Much as I'd like to distribute the population
22 all over the state and there's a piece of me that
23 would like that, I really don't think it's a viable
24 strategy for the next ten, fifteen years at least
25 because of what's going on, inflation and otherwise.

1 Q Let me return to my questions.

2 Let's go back. Give me two questions ago
3 before we got off.

4 (Whereupon, the previous two questions
5 and answers were read by the court reporter.)

6 BY MR. EISDORFER: (Continued)

7 Q Am I correct in paraphrasing it to
8 say that these standards apply to all housing?

9 A That's correct. All communities. See, I
10 can't separate housing from community.

11 Q Now, is it your view that negative
12 consequences flow from providing housing that does
13 not meet these standards?

14 A I certainly believe that.

15 Q Can you summarize briefly what kinds
16 of negative consequences one would anticipate.

17 A Well, as I indicated the various studies,
18 moving populations show that when you disconnect
19 people, you put them under stress. The disconnections
20 and the stress and the disconnections lead to an
21 increase in social costs in a wide variety of things
22 related to welfare costs, educational costs, police
23 costs and so forth and so on. Those are tremendous
24 number of costs that any community will have to bear.

25 I'm saying that I would rather be preventative,

1 I happen to be a public health physician, and I really
2 believe in preventing the problem than just coming in
3 and being bandaging and each time there's a problem,
4 come in and trying to solve it.

5 Q I'm trying to understand what the
6 negative consequences are.

7 A Illness, social pathology, social disorganiza-
8 tion.

9 Q Social pathology means what?

10 A May end up with delinquency, murder, crime
11 rate. I indicated to you that a design in Pruitt-Igoe,
12 there's some other studies in Pruitt-Igoe, have shown
13 that the social courses in illness terms, in educational
14 terms which I would include now development of kids,
15 lost opportunities and so forth. So what I'm trying
16 to say to you primarily is that your costs cannot be
17 measured just in terms of housing costs.

18 Q Okay. So you've listed things like
19 high crime rates, failure in the educational system.

20 Are there other things?

21 A Medical illnesses. The studies of stress have
22 shown that people with high stress studies Holmes and
23 Ray and a recent book of Kenneth Ridere (phonetic) just
24 came out, summarized all the stress studies and point
25 out that people under stress end up with a variety of

1 illnesses which I have to include under social costs.

2 Q And these are the kinds of consequences
3 ~~that are~~ associated with housing that doesn't mean the
4 standards?

5 A Understanding that earlier on we talked about
6 APHA standards. When they were originally designed,
7 they were to deal with infectious diseases. At the
8 moment, there are other kinds of problems and I'm
9 saying that to worry just about space allocation and
10 physical space and physical housing does not deal
11 with the kinds of illnesses that the public health
12 profession considers critical.

13 Q So if, for example, I were to go into
14 a community in Morris County, let's say a community
15 of new houses, for example, in Morris County, and I
16 saw these kinds of indications, would I be -- would in
17 your view I be fairly drawing an inference that these
18 standards aren't being met?

19 A That's correct. And I'm saying that would be
20 ~~equally true~~ for rich and poor. I'm just saying that
21 ~~the poor don't~~ have the ability to cope with it the
22 way the rich do. But these things are now present in
23 middle class communities of all kinds that were designed
24 as suburban housing places without planning them as
25 total communities.

1 Q Okay. Now, let me refer you to
2 page three of PLD-1. I ask you to look at the third
3 paragraph and the second sentence which says that there
4 is a direct relationship between mental health and
5 well being and the silt environment.

6 A That's true.

7 Q Can you describe what that relationship
8 is to me?

9 A I have an article in this particular book,
10 it's a conference report called Health Promotion Through
11 Designed Environment and it is a paper called The
12 Promotion and Maintenance of Health, Myth and Reality,
13 and this was done for the Canadian Department of
14 Health and it covers not only illness, but issues of
15 health and issues of human development. And I consider
16 human development a part of health and mental health.
17 I think mental health is not just concerned with mental
18 illness per se but with health development of children
19 and adults, proper aging and under presentation of
20 children. In this I raise the issues of all the
21 environmental design questions which might possibly
22 impinge upon the population.

23 I'll just refer you to the article because
24 it's a very long one. But one of the questions that
25 I raised for the Canadians which they were interested

1 in and, in fact, are prepared to embark on is that
2 in every construction, people would be asked before
3 they constructed to come up, not with what the
4 Americans are doing, environmental impact statements,
5 but health impact statements. What is the impact
6 of this construction on the health, including the
7 mental health of populations, and really trying to
8 spell out what all those things are. And the Canadians
9 who are in a very different place than Americans at
10 the moment on what health is, because they're putting
11 a large amount of their health dollar into redesigning
12 the physical environment, are finding that it's more
13 important to redesign the physical environment to
14 encourage health and mental health.

15 In mental health, it has questions about
16 child health. For example, it becomes crystal clear
17 that high rise apartments in which parents cannot have
18 contacts with their kids on the street, kids have real
19 difficulty in social relationships. We find that in
20 some housing developments designed like in Pruitt-Igoe
21 where there was an elevator on every other floor, that
22 this impinged on the health of aged people where they
23 became severely depressed and isolated. We found in
24 housing projects which disconnected people from other
25 people, that the socialization in those things led to

1 serious kinds of depressions. So that there's a range
2 of concerns in mental health that both Dr. Esser and
3 I can probably answer if you get specific. But the
4 paper outlines a lot of the critical problems and refers
5 to a lot of the issues that I've been talking to up
6 till now.

7 Q Now, I ask you to look again at page
8 three of Mr. Ferguson's letter, at the last sentence
9 of your first full paragraph, the parenthetical sentence
10 which says who pays is not the relevant consideration
11 as "least cost" is a cost to society concept.

12 A What do you want to know about that?

13 Q Now, would it be correct to say that
14 from your point of view, it makes no difference who
15 pays the cost?

16 A I'm saying that the first thing/you have to
17 talk about the total costs, all the total costs, not
18 just the housing costs but every cost. I'm saying
19 that the cost, if the builder does not provide services
20 or say schools or anything else, that costs will end
21 up in the community at large. It will not just go to
22 the rich in the county but it will also be paid ultimately
23 by the poor who move there. So I'm saying in order to
24 look at the costs, you have to look at the total cost
25 to the total community or the total society and not

1 just the specific question of whether, as I saw in
2 some of the court cases, whether the builder pays
3 for it. I think ultimately we all pay for it and the
4 poor pay for it even though the housing may be cheaper
5 to them, they ultimately pay for it in the long run.

6 So you can't say that the rich community like
7 Morris County may pick up all the tabs. They may have
8 to. They may not want to, but ultimately the poor
9 themselves will pay the costs.

10 Q I'm not sure you answered my question.

11 A I'm giving you my understanding of that
12 sentence.

13 Q Is it your view that it makes no
14 difference who ultimately bears the costs?

15 A Oh, no. I would like the poor not to pay
16 the cost. I would like the total community to share
17 the cost. And that includes everybody, including
18 the builder.

19 Q Let us suppose hypothetically one
20 constructed a model that looked like this, that the
21 builder in effect set up a fund to pay for those
22 costs that could be quantized. And in turn passed
23 those costs on to his purchasers or tenants.

24 From your point of view, would that be an
25 acceptable way of doing it?

1 A See, now I think you've got a really very
2 interesting economic question. I keep coming back
3 to Jim Rouse because he's probably the only person
4 I knew who designed this wisely. He did a developmental
5 model for all of Columbia over 25 years. He ended up
6 postponing his profits until the later years, I think
7 it's the tenth or fifteenth year on. He, therefore,
8 was able to pay for/the costs where all these services
9 start up, still keep the houses cheap and then when he
10 sold land 20 years later and 15 years later, the
11 inflation which he predicted would be about five percent
12 a year would give him the profit that would pay for
13 the initial expenditure of social services. That to
14 me was a very wise transfer of costs. He got a profit.
15 He did not transfer it on to the buyers of houses and
16 I don't believe you should transfer it on to the buyers
17 of the poor. But I think you should devise something
18 that would put your profits to later years.

19 Most developers build and the only reason
20 they're interested in anything social at all is
21 because they're being forced to and they're trying
22 to come out with a straight profit. I really don't
23 believe they can get away with saying I'm going to
24 make a profit out of this and then transfer the costs
25 to the rest of the community and to the poor themselves.

1 They have to pay part of this as part of the
2 developmental costs.

3 MR. EISDORFER: Can I have my question
4 again?

5 (Whereupon, the previous question was
6 read by the court reporter.)

7 A I would answer you no because I indicated that
8 I would not want to pass it on to the buyers of the
9 houses or the consumers. I would like to transfer it
10 on overtime to his long distance profits. See, I don't
11 like the idea of developers getting in there and getting
12 out in a hell of a hurry as soon as they get a profit.
13 I really think they have something called responsibility.
14 And I think there should be a criteria of a community
15 that says if a builder builds, they have to assume
16 some of the responsibility over times for that
17 community. You better not transfer it to the community
18 because that's a copout, too.

19 Q Is it your view, your professional
20 view, that's the only way development ought to be
21 permitted?

22 A With responsibility by the builder?

23 Q Yes.

24 A Yes, sir.

25 Q I mean with the builder absorbing the

1 costs?

2 A No, I didn't say absorb it. I said assuming
3 responsibility over time he would make his profit
4 postponed in 10 to 15 years. He would still make a
5 hell of a profit. Rouse made a hell of a profit in
6 Columbia, but he didn't for 10 to 15 years. I'm
7 willing to have him make a profit. Most builders
8 come in and out in a hurry. They went in, pulled a
9 profit out and left behind a town that was just a
10 bunch of buildings and then they left the community,
11 the county and state to bail them out. Now, I can't
12 write the criteria, but boy I would love the criteria
13 which says anybody who lives in my town has to stay
14 there and live with it.

15 Q Let me go back now to some background
16 things on your qualifications.

17 Do I understand that you have a medical degree?

18 A That's correct.

19 Q And have done a residency in
20 psychiatry?

21 A That's correct.

22 Q Do you have any formal training in
23 architecture?

24 A I've been a professor of city planning and
25 I've taught in the school of architecture since 1968.

1 I have no training in architecture and I was in HUD,
2 Department of Housing and Urban Development, for
3 plus years.

4 Q Do you have any training in economics?

5 A No.

6 Q And in city or regional planning?

7 A I might say that I've taken most of the
8 courses in city planning, but I never got a degree in
9 all the 15 years I've been --

10 MR. FERGUSON: You're asking a
11 Professor in the city planning school,
12 whether he has any training in that discipline.

13 MR. EISDORFER: That's right.

14 A That's interesting. I must say I'm unusual.
15 I like to take classes that my friends teach.

16 MR. EISDORFER: I have no further
17 questions.

18 CROSS EXAMINATION BY MR. FERGUSON:

19 Q Dr. Duhl, you mentioned Pruitt-Igoe.

20 Did you have any responsibilities while you were at
21 HUD with respect to that project? If so, briefly tell
22 us what they were.

23 A Just very briefly, we were having so many
24 troubles in public housing projects, the secretary
25 asked me to go visit public housing projects around

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1 the country and verbally report back in the secretary's
 2 meeting about what we found. Among all those I went
 3 to, I went to Pruitt-Igoe and was quite terrified by
 4 the problems we found there. I was also interested
 5 in the fact that the health people were pretty narrow.
 6 They were only interested in treating the cases that
 7 came out of this assembly line. The housing people
 8 really weren't interested in the fact that they were
 9 producing illnesses. And finally they started a task
 10 force which I was subsequently not involved with which
 11 led to the destruction of the Pruitt-Igoe project
 12 based on some of my recommendations.

13 Q When you say secretary --

14 A Secretary to Housing and Urban Development,
 15 Mr. Robert Weaver.

16 Q You said that there were examples of
 17 suburban communities which are not, in fact, communities.
 18 Do you have any specific examples you can give us from
 19 your experience of the literature?

20 A Well, I'm trying to get nearby ones. In
 21 Washington, D. C., right after the war they built areas
 22 in northeast Washington into Maryland which were just
 23 endless housing productions. And didn't have secondary
 24 resources.

25 The Levittown studies which I talked about

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1 which did put in some schools in a few little facilities
2 were essentially veteran communities. Years ago,
3 William White did a book on suburbia when he was
4 editor of Fortune. He did a study on what he called
5 ticky tac suburbia. A community like Dale City,
6 San Francisco, just endless rows of housing which
7 were built without any resources.

8 Q All right. With respect to the
9 fair share methodology of Mary Brooks, can you in
10 general categorize or summarize your position as
11 you've explained it today visavis that methodology
12 in terms of, and I'm referring to the eight count
13 region, creation of housing need, from parts of that
14 region and the satisfaction of that need in other
15 parts of the region?

16 A Briefly, I would say that the model that
17 she used is based one purely on an economic analysis,
18 on a population projection of certain kinds of
19 demography that she really does not deal with a lot
20 of other underlying issues that I talked about.
21 Unfortunately, her projection was fairly typical of
22 studies that are being done around the country.

23 In terms of projections, potential growth
24 in the area, potential housing developments, potential
25 employment and really saying on the basis of this, the

1 distribution should be in such and such a way. I'm
2 suggesting in almost all my testimony that that kind
3 of analysis does not deal in any way with the soft
4 tissues and my main criticism is that she measures
5 what she thinks she should measure, leaves out the
6 most significant stuff.

7 Q In your opinion, in a case of this
8 kind where a court is considering planning and zoning
9 in 26 municipalities, is that methodology which she
10 uses adequate and sufficient for the purposes of the
11 issues before the Court?

12 A As I outlined in my various concerns, I would
13 say that their methodology is not adequate and that
14 much more intensive studies on the unique characteristics
15 of the populations and unique characteristics of the
16 towns would be required.

17 Q In terms of providing the required
18 social services at the least cost to society and also
19 at the least social cost to the intended residents,
20 would you comment upon the siting decision, that is
21 should the siting be biased towards where the network
22 services can be found in place or easily created, or
23 should the siting be biased towards vacant land where
24 the network services substantially do not exist?

25 A Obviously, the former because if I accept the

1 notion of these costs which I do, but if I define
2 these costs as broadly as I do as compared to just
3 the construction costs, I would have to say that I'd
4 like to piggyback and make use of what available
5 resources exist and the best way to piggyback is to
6 find those resources which are already laid out and
7 especially those which are not being utilized.

8 I suppose this is one of the arguments why
9 early in the development the rehabilitation program
10 in HUD, I really fought for rehabilitation of housing
11 in central city and urban homesteading and for sweat
12 equity and for the extension of some of the gilded
13 ghetto rather than to move the poor into new towns.
14 Some of us were involved in the early concepts of
15 Bedford Stuyvesant and rehabilitating it and building
16 upon structure that was there. The attitude was not
17 only building on that structure but building into it.
18 I would say that though it was not magnificently
19 successful, it was more successful because it had a
20 concrete base.

21 Q You mention sweat equity. What is
22 that?

23 A When individuals by their own labor put out
24 or pay for the cost of housing for construction.
25 Their equity and labor in lieu of actual dollar.

1 Q They make improvements themselves?

2 A So that, for example, if you buy a house and
3 you needed a down payment of \$5,000, instead of putting
4 \$5,000 down, you do \$5,000 worth of work. That's what
5 sweat equity is.

6 Q You mentioned a meeting about a
7 project which was designed by California planners in
8 an inappropriate region other than that region. What
9 region were you referring to?

10 A They gave us the town of Bedminster in which
11 they were discussing the development of a particular
12 site by a Johns Mansville.

13 Q And you accompanied me to that meeting
14 and that was this morning?

15 A That's correct.

16 Q You talked about inflation a little
17 bit. Would you comment about the cost of reconstructing
18 or constructing anew the social network required and
19 inter-relationship of energy costs and inflation?
20 How does that work?

21 A A big issue. Let me just start first by
22 talking about costs.

23 If you're brought up in the central city
24 and you're living in central city as my stepdaughter
25 to be was, you go out on the street and make contacts

1 and you move up the hill into a suburb and like
2 dwelling. You have to start learning new techniques
3 using telephones and stuff like that. That can be
4 magnified all the way across the board in terms of a
5 whole set of techniques that need to be learned and
6 then becomes costly.

7 When you start talking about energy, at the
8 present moment there are a variety of plans around
9 the country to talk about how one meets the high
10 cost of energy. The one thing that's been going on
11 is how do you subsidize the poor so that they can
12 heat houses and how do you get them lower cost oil
13 and gas. The intriguing thing as you look at this
14 is that the issue can be divided into two parts.
15 One part is that the poor require more money to buy
16 gasoline and heat their car proportionately in their
17 income than the middle class do. So, therefore, the
18 inflation costs and energy hit them harder.

19 Secondly, the poor, in order to obtain jobs
20 and to go to jobs, have to travel longer distances
21 and, therefore, proportionately the costs for them
22 are even higher. But then the second way of looking
23 at it which to me is more interesting is that a
24 society which is designed to really have no people
25 work which is the society we have now is a society

1 that needs a tremendous amount of energy. If, on
2 the other hand, we had a society in which human energy
3 were utilized in which you maximized the human
4 participation in work, you probably would need less
5 oil, less electricity and so forth.

6 Well, at the present moment, the first kind
7 of solution which is to subsidize the poor I consider
8 a symptomatic response to the issue. The second which
9 is to find meaningful jobs in which they can work and
10 human energy is required becomes a critically important
11 solution. It has side effects. If you are working on
12 a meaningful job and you are doing it, you are
13 healthier and as I said, participation increases one's
14 health. Those are really very interesting issues if
15 you start talking about something like Morris County.
16 Because I raise on one hand the fact that their energy
17 costs will be proportionately higher when they live
18 out in the suburbs, a car, gas and a lot of other
19 things. Even for heating their house in terms of
20 their proportion level of their income.

21 The second thing is the kinds of jobs if they
22 are available that they will net will be non-participating
23 jobs and jobs that are meaningless.

24 In central parts of the city, the most
25 unemployable are blacks and minority youths. But all

1 youths are beginning to find themselves superfluous.
2 Unless we can start finding in our communities jobs
3 rather than symptomatic cures for their problems, we
4 won't deal with their problems. I'm saying that to
5 continue worrying about subsidizing and continue just
6 saying here's some new houses for you but then you
7 have to deal with everything yourself is a bandaid
8 type of solution. For a state or community to really
9 deal with the problem adequately, you've got to say
10 hey, you've got to design a community with jobs
11 available to the people you are attracting there and
12 if you can do that, you really hit the key issue.

13 You also can deal with the inflation problem
14 because if all the networks are there and the people
15 are really working and working together, their social
16 costs will be absorbed by their friendships and that
17 works rather than having to be paid for at an inflationary
18 dollar.

19 Q You focus on jobs extensively. If
20 one is deciding how many units should be planned or
21 zoned for in a county such as Morris, should one look
22 at the, not only or merely the number of jobs available
23 or expected, but what kind of employment those jobs
24 would provide?

25 A I'd say number one, kind and the ability not

1 to be locked in a job and move into higher accessible
2 jobs. So that if, for example, the only jobs available
3 are low paying custodial blue collar of the lowest
4 kind and if people can't see a potential of moving up
5 and out except through a second or third generation,
6 I would say that's nonacceptable to me. If, on the
7 other hand, the people who have industry there or
8 whatever is going on can see an operation of people
9 moving through the job market, I would say that's
10 an acceptable kind of plan. I know this is a little
11 idealistic, but I think that's the general direction
12 we're going to have to go if we solve the problems of
13 the eighties.

14 To simply deal with cases we have, what we're
15 going to be doing is coming up with solutions and
16 these solutions will be out of date when they are
17 found that they were finding solutions that are ten
18 years old. We have to really start using our imagina-
19 tion in communities and in the courts to anticipate
20 the problems and plan for the problems of the eighties
21 and nineties rather than use the plans of the seventies
22 and sixties.

23 I believe this court case is a problem that
24 has grown out of the fifties and sixties and not the
25 eighties.

1 Q Focusing on the employment problem,
2 did you find the analysis of the employment that was
3 found necessary in reports of Miss Brooks^A, I only have
4 hints which suggest that the kind of employment that's
5 going to be there is the kind of employment that is
6 typically in suburban areas. Look at the peninsula
7 of San Jose, California, Columbia, you find that those
8 industries that go out there are what they call clean
9 industries and they require certain kinds of education
10 level. In the peninsula now, there are literally
11 thousands of jobs open for years, but the poor have
12 no jobs in that area. So the peninsula is currently
13 expanding like mad with a whole set of jobs in the
14 computer business and those are the suburban type
15 community jobs, but there are no jobs for poor except
16 custodial.

17 Q Do you think such analysis of jobs
18 in a community is a condition precedent to inadequate
19 and responsible fair share planning when you talk about
20 allocating housing or planning for housing for low
21 income people?

22 A The answer is definitely.

23 Q Did you see it in Miss Brooks or
24 Mr. Mallec?

25 A No, in none of them.

1 Q Focusing on what you just said a
2 minute ago, did you at my request read the Mount Laurel
3 case and the Madison Township case?

4 A I went through them all.

5 Q Do you have any thoughts on whether
6 the doctrines in those cases are out of date to use
7 your phrase which you just used a few minutes ago?

8 A Knowing a little about judges, judges respond
9 to what information is provided to them. And the
10 Decisions that the judges made were based upon what
11 was the best information that they got and given that
12 which is still 1950, 1960 stuff, they made the best
13 decision they could make on it. I think what I'm
14 trying to encourage you to do in this case is to
15 provide a different kind of data so that the judges
16 can look at the data of the eighties which I think
17 some of my information is part of and really begin to
18 speculate on what the key issues are.

19 There are people, for example, doing
20 epidemiological studies and health which have not been
21 brought into housing cases but which would be really
22 important. The study I mentioned about networking and
23 health which a man by the name of Simon and woman by
24 the name of Berkman did really begins to point this
25 out. The study in Allameda County (phonetic) in what

1 makes a health population in terms of data. Those
2 don't get into court decisions. The kind of material
3 Esser has collected in his data bank about the
4 inter-relationship of what I would call human ecological
5 factors, total ecology of the community, stuff I have
6 outlined in my book which is now old but still very
7 relevant to the urban condition are issues that must
8 be taken into consideration. There's population data
9 that is now being brought together by the United Nations
10 which are scary as can be in terms of what's going to
11 happen in the populations of the world and the
12 United States in the next few years.

13 I guess all those things are new kinds of
14 data which courts have to use to anticipate problems.
15 And I guess I believe that if the courts are going to
16 assume leadership as they have in some of these cases
17 that you referred to, they should assume leadership
18 that's way in advance of where the society is, as
19 best as they can.

20 So that I would say that the courts should
21 demand a different kind of data so that they can make
22 the decisions.

23 Q Your concern is with the data base
24 available to which you make the decisions and not
25 necessarily with the reasoning or the goal orientation?

1 A That's right. I think you have to have a
2 broad distribution of data and I also think you have
3 to ~~come up~~ with models which are complex system models
4 rather than straight lines causing effect models.
5 Most of the models say if you get good housing, then
6 you will have this and, therefore, the following will
7 follow. I'm saying the real way of the life in the
8 city and the life of the people are much more complex.
9 And even though I recognize we don't have all the hard
10 data necessary, we have enough soft data to understand
11 those issues. That those soft data should now be
12 considered as important evidence.

13 For example, as I mentioned Herb Gann's studies
14 in the West End of Levittown are as relevant as the
15 survey data as economists collect. I think that should
16 be evidential in the court.

17 I'd like to see this case begin to sort of
18 break ground and I'd even like to see the plaintiffs
19 raise it themselves.

20 MR. FERGUSON: Thank you.

21 MR. EISDORFER: I've got some
22 questions.

23 REDIRECT EXAMINATION BY MR. EISDORFER:

24 Q First of all, were you at the meeting
25 on Bedminster Township just for the ride?

1 A Just for the ride.

2 Q And your knowledge of that is limited
3 to what you observed at that meeting?

4 A That's correct.

5 Q Where is Pruitt-Igoe located?

6 A St. Louis. It's no longer located there.
7 It's gone.

8 Q Was that a suburban area of St. Louis?

9 A That was actually central city near the
10 University of Washington.

11 Q I'm not sure I understood your answer
12 to Mr. Ferguson's last series of questions.

13 Is it your view that because the Supreme Court
14 in Mount Laurel and Madison Township looked at the
15 wrong kind of data, their conclusions were wrong?

16 A No, I think they came out with a correct
17 decision based upon the data that was provided and I'm
18 saying that the mistake is that they now have to,
19 since the problems are much more complex, they have
20 to now provide new data and, therefore, I would trust
21 the judges to come up with better decisions. But they
22 didn't have the data because as you point out, you
23 can't expect judges to know the issues of planning
24 and community health unless they are provided the data
25 in these cases.

1 Q Do you think think those now represent
2 bad decisions?

3 A If you say do they represent out of date
4 decisions, yes. I'd say they're good decisions if
5 they had been made 20 years ago.

6 Q You would say if a court reached that
7 decision today based on all the evidence that you
8 would have them present, that would be a wrong decision?

9 A I didn't say wrong. I'd be uncomfortable
10 because I don't really believe it represents a solution
11 to 1980's problems. So I would be really uncomfortable.
12 I think they are magnificent solutions to old problems.

13 Q Are you talking about a subjective
14 uncomfotability or do you think professionally those
15 are --

16 A My answer is both, professional and subjective.

17 Q You indicated that certain types of
18 analysis of labor opportunities ought to be done as
19 a precondition to fair share planning?

20 A Yes.

21 Q Is there -- do you believe that the
22 concept of fair share planning is professionally
23 appropriate?

24 MR. FERGUSON: Objection to the form
25 of the question on two grounds.

1 One, would you give a description
2 of fair share planning. And two, would you
3 tell us what professionally appropriate is?
4 A Redefine the question for me.

5 Q That's a good objection. What concept
6 of fair share planning did you have in mind when you
7 answered Mr. Ferguson's question?

8 MR. FERGUSON: I should state that
9 my question I believe was fair share planning
10 for groups of low and moderate income.

11 Q Okay. Tell me what you understood
12 when you answered that question.

13 A I'm saying, I'll probably repeat myself, that
14 fair share cannot be a planning that involves just a
15 fair share for construction of buildings, middle
16 housing people. I think fair share has to include a
17 redefinition of the problem to be houses within
18 communities, within services, within networks and
19 that kind of cost be redefined both as least cost
20 construction and least cost all the way across the
21 board in terms of total social costs.

22 Q Okay. So when you say fair share
23 planning, you're not talking about any of the kinds
24 of planning that represented in the documents you've
25 read?

1 A That's correct. I am redefining the problem.

2 Q Okay. That's what I want to understand.

3 You made reference to a study by Simon and
4 Berkman that I didn't catch.

5 A They did a study on the relationship of
6 networking to tendencies of illness and health, and
7 I think it was published in the Journal of Epidemiology
8 but Leonard Simon's is at the University of California,
9 School of Public Health and Berkman is at Yale School
10 of Public Health in New Haven.

11 Q Did you know what the title was?

12 A I don't know the exact title.

13 Q Can you give me a date?

14 A It's about two years old.

15 Q You indicated that in response to one
16 of Mr. Ferguson's questions, that the kind of analysis
17 you've given us today is one that ought to be taken
18 into account in the siting of housing, is that correct?

19 A That's correct.

20 Q Is it also true that that kind of
21 analysis ought to be taken into account in the siting
22 of jobs?

23 A I think so, but I can't separate housing and
24 jobs, health education or anything else.

25 MR. EISDORFER: I have no further

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questions.

(Whereupon, the deposition concluded
for the day.)

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C E R T I F I C A T E

I, Lorraine Van Tassel
a Notary Public and Shorthand Reporter of the
State of New Jersey, do hereby certify that
prior to the commencement of the examination
Leonard J. Duhl
was duly sworn by me to testify the truth, the
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing
is a true and accurate transcript of the testimony
as taken stenographically by and before me at the
time, place and on the date hereinbefore set forth,
to the best of my ability.

I DO FURTHER CERTIFY that I am neither
a relative nor employee nor attorney nor counsel
of any of the parties to this action, and that I
am neither a relative nor employee of such attorney
or counsel, and that I am not financially interested
in the action.

Lorraine Van Tassel
Notary Public of the State of New Jersey