

ML - Morris County Fair Housing Council

3/18/80

v. Beanton Twp

Deposition upon oral examination of Mary E Brooks

p 139

ML000925 ~~06~~

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

: ML000925G
:
:
: DEPOSITION UPON
: ORAL EXAMINATION
: OF
: MARY E. BROOKS

Plaintiffs,

-vs-

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

Defendants.

B E F O R E:

ROBERT MIRABELLA, a Notary Public and Certified
Shorthand Reporter of the State of New Jersey, at the MORRIS
TOWNSHIP MUNICIPAL BUILDING, Morris Township, New Jersey,
on Wednesday, February 6, 1980, commencing at 10:00 a.m.

KNARR - RICHARDS, ASSOCIATES

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I N D E X

WITNESS

CROSS

MARY E. BROOKS

BY MR. VECCHIO
BY MS. MC DERMOTT

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

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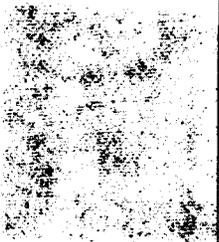
THE PUBLIC ADVOCATE
BY: STEPHEN M. EISDORFER, ESQ.
Attorneys for the Plaintiffs.

HEB

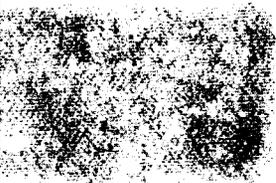
MESSRS. SHANLEY & FISHER
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Attorneys for Defendant Passaic Township.

MESSRS. JAMES, WYCKOFF, VECCHIO & THOMAS
BY: JOSEPH J. VECCHIO, ESQ.
Attorneys for Defendant Roxbury Township.



ROBERT MIRABELLA
Certified Shorthand Reporter.



1 MR. EISDORFER: Let me note for the
2 record that Mr. Bisgaier, who has been appearing
3 for plaintiffs in this matter in these
4 depositions of Miss Brooks, is down with the
5 flu today, and I am appearing on somewhat
6 short notice on his behalf.

7 Let me further note that, at various
8 times, counsel for defendants have represented,
9 in addition to Mr. Vecchio, there will be
10 only three other attorneys planning to depose
11 Miss Brooks, and we are planning her schedule
12 on that basis at the present time.

13 MR. VECCHIO: In answer to that, the
14 only thing that I can say is that I have
15 been advised by one of the other attorneys
16 that there was an estimate that there would be
17 three or so attorneys. I'm not attempting to
18 fence with counsel, but I don't know what the
19 intentions of the other attorneys are who
20 represent the various municipalities, and I'm
21 not at liberty to speak for them on the
22 record.

23 Off the record.

24 (There is a short discussion of the
25 record.)

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

FURTHER CROSS-EXAMINATION BY MR. VECCHIO:

HEB
Q

Miss Brooks, in the DCA Report, I believe, and correct me if I'm wrong, that the criteria used by the DCA in order to develop a housing allocation were vacant developable land, employment growth, municipal fiscal capability and personal income. Is that generally correct?

A Yes.

Q All right. Now, did you go over these items previously with other counsel that deposed you?

A Yes.

Q Okay. I'll try to make it short.

In just short terms, could you indicate to me what municipal fiscal capability means? I don't understand that.

A It's defined fairly well in the New Jersey D C A Report. It refers, basically, to non-residential ratables,---

Q Okay.

A ---the growth of those ratables within a particular period of time.

(Mr. Pantel enters the room.)

Q Okay. And the employment growth would

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1 just be the degree to which employment grew within a
2 municipality, is that generally so, or is proposed
3 to grow?

4 **Q** No, it is the actual growth in employment
5 within a period of time, as covered by the Unemploy-
6 ment Compensation Law.

7 **Q** Okay. And personal income, would that
8 be on a family basis, or would that be on a per
9 capita basis, or how is it---

10 **A** New Jersey DCA refers to it as household
11 income.

12 **Q** Household.

13 **Q** And vacant developal land, just on a
14 general basis, that's land that has slopes of less
15 than 12% and excludes wetland, qualified farmland
16 and public lands, generally?

17 **A** That's correct, and wetlands.

18 **Q** All right. Now, divorced from what the
19 DCA did, is it your opinion that those four factors
20 are the best factors for the development of a
21 housing allocation plan?

22 **A** You might note that, in the very first
23 report I submitted under this case, there is a rather
24 lengthy description of the development of housing
25 allocation plans. And in that report, I outlined

1 the general criteria for the development of--for the
2 selection of criteria for an allocation method,---

3 Q Okay.

4 ~~HEH~~---and indicate that those criteria generally
5 refer to the suitability of an area for additional
6 housing, the need that exists for housing for lower
7 income people and some kind of distributive objective.
8 As I recall, those are the three that are mentioned
9 in my own report.

10 Q But---

11 A Those criteria--there are several criteria that
12 could indicate those three factors or try to strike
13 a balance among those three factors. The four that are
14 selected by New Jersey DCA are very common ones in
15 housing allocation plans.

16 Q See, my question to you is: If you were
17 doing a housing allocation plan, you would, in your
18 professional capacity, I assume, decide on certain
19 criteria to use, which you would think would be the
20 best criteria. Is that not so?

21 A That's correct.

22 Q Now, what I'm asking you is: With
23 reference to Region 11 and the defendant municipalities,
24 would you have used the identical criteria as
25 used by the DCA, or would you have, instead, used

1 other criteria, or, alternatively, did you not
2 investigate that, or just pick up what the DCA did?

3 A I didn't quite finish my answer. There are,
4 ~~In addition~~ to what I just indicated, some other
5 criteria that literally dictate what criteria is
6 available for the housing allocation. For instance,
7 one would be the availability of data. There's not
8 much point in coming up with the ideal criterion
9 if you have no data to represent that criterion.
10 In addition to that, there are some criteria used
11 in various housing allocation plans that are not
12 appropriate to the other regions because those
13 characteristics are not important characteristics
14 in that region. So those kinds of factors also
15 influence the selection of criteria. I evaluated
16 these four in, I believe, the second report that I
17 submitted and indicated where I thought there were
18 weaknesses in the four criteria. But I do believe they
19 are acceptable ones for the New Jersey DCA, and
20 ~~I~~ not, at this point, know of additional criteria
21 ~~I~~ I would employ.

22 Q All right. Now, in certain instances,
23 you did not agree with some of the items in the
24 DCA Report, right?

25 A That's correct.

1 Q Now, I believe that we discussed pre-
2 viously or inferentially vacant developal land.
3 Is it your opinion, the planner, that if a municipality
4 ~~is~~ ^{is} totally developed, and assume further that the
5 municipality is developed with 90% of light industrial
6 ratables and 10% is developed for single family
7 dwelling houses, that such a municipality being totally
8 developed has no obligations to provide a fair share
9 of low and moderate or least cost housing? I'm
10 asking for your opinion, not that of the DCA or any
11 judicial decisions of the State of New Jersey.

12 A Housing allocation plans generally treat that
13 very particular question differently. A lot of -- or
14 let me say several housing allocation plans deal
15 only with new construction and, therefore, will make
16 an exclusion for those jurisdictions that are developed,
17 and this is basically the philosophy the New Jersey
18 DCA followed. My feeling, as a planner, is that
19 developed jurisdictions do have a responsibility to
20 provide housing for lower income persons. It is
21 possible that those jurisdictions that are developed
22 have already done so and, therefore, may be relieved
23 of some immediate obligation. There are ways in
24 which existing housing stock can be used for making
25 units available to lower income households. And where

1 that possibility exists, I think it is reasonable to
2 assume that those jurisdictions can take on that
3 kind of responsibility.

4 ~~ANSWER~~ Q Okay. Now, in the event that your opinion
5 in this regard could be sustained with reference to
6 developed communities, would, then, the amount of
7 housing required to be provided by developing
8 communities for low and moderate or least cost
9 housing be less?

10 A It could be less. The likelihood of it being
11 very much less does not seem great to me.

12 Q Did you make any study in that regard,---

13 A No, I did not.

14 Q ---for example, in Region 11 or in Morris
15 County, as to what communities are, in fact, fully
16 developed?

17 A No.

18 Q Okay. Could you please go to Page 35 of
19 your April, 1979 report? That's the---

20 A There are two of them.

21 Q The longer report of the two.

22 MR. VECCHIO: Off the record for a
23 second.

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

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A Can you give me a page number?

Q Yes, Page 35.

Now, in the first column, denominated change in covered jobs, you indicated that there were an additional 878 jobs in Roxbury Township between 1972 and 1977. Is that correct?

A Yes.

Q What is the average number of workers in a residential unit? You indicated that a residential unit has approximately 2.83 persons per unit. How many workers are there in a residential unit?

A I don't know.

Q So that you have no estimate whatsoever as to the average number of workers in a residential unit?

A No.

Q It can't be over 2.83, can it?

A I would be surprised if it were.

Q So it's somewhat less than 2.83, right?

Yes.

Q But you don't know how much less?

A No.

Q Okay. Now, in Roxbury, we had residential permits issued of 1,064, is that correct, between

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1970 and 1977?

A Yes.

Q That is approximately 176 more units than jobs, isn't it?

A Yes.

Q So that, if you carried it over to your third column on Page 35, which is indicated as number of jobs in excess of housing, then Roxbury Township's figure would be a minus 176, would it not?

A I didn't think it was appropriate to put minus numbers in that column.

Q I understand that you probably didn't. But could you have put another column in there indicating number of houses in excess of jobs, and then that would have indicated that Roxbury Township, over that period of time, had 176 excess homes? Is that correct?

A As I indicated, I don't think that's an appropriate comparison.

Q Why not?

A The---

Q It's a very poor question to ask an expert, why, but I would like to know.

A In my opinion, what is interesting in this

1 table is those jurisdictions that are encouraging or
2 subject to an increase in employment opportunities
3 and have not matched that kind of development pattern
4 with an increase in residential units.

5 Q All right.

6 A It is not, in my opinion, true, that those
7 figures match one another. There are indeed the
8 possibility of, let's say, lower income persons wanting
9 to live in a jurisdiction that may not work in that
10 jurisdiction. So the notion of excess units does not
11 seem appropriate to me.

12 Q Would you or could you conclude that,
13 between 1972 and 1977, Roxbury Township was a housing
14 donor in Morris County as compared to all of the
15 other defendant communities?

16 A I would not reach that conclusion, no.

17 Q And can you tell me why you wouldn't
18 reach that conclusion when the number of jobs was
19 an increase of 878 and residential permits issued
20 were over 1,000?

21 It's very much for just the reason that I
22 indicated. There are, in my opinion, reasons other
23 than or in addition to the existence of available
24 employment, that cause a need for residential units.

25 Q There was a decrease in the number of

1 covered jobs in Dover by 1,325 and in Hanover by
2 1,328. Is that correct?

3 A Yes.

4 Q Again, dealing with Page 35, did you make
5 any determination as to where those particular
6 individuals resided prior to the decrease in covered
7 jobs?

8 A No, I did not.

9 Q In other words, is what you are telling
10 me, then, that the change in covered jobs really
11 doesn't relate to residential permits issued, either
12 way; in other words, to make a determination that a
13 particular municipality is a housing donor or, if you
14 will, for lack of a better term on my part, a job
15 donor?

16 A No, that's not what I said. I said the existence
17 of or the increase in employment opportunities was,
18 in my opinion, a factor to consider in evaluating
19 the availability of residential units in a juris-
20 diction.

21 Q And by the same token, you are also saying
22 that the increase in building residential permits
23 issued does not lead you to the conclusion that a
24 municipality is providing housing of whatever type
25 you provide for jobs that exist in the area. Is that

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correct?

A That's correct.

Q Okay. Now, Roxbury Township had an increase of 878 covered jobs, between 1972 and 1977, out of a total increase for the County of 26,372. Is that correct?

A Yes.

Q That would be an increase of--dividing 878 by 26,372, would give you .0332928, I believe?

A That seems approximate.

Q Okay. And as far as housing is concerned,---

A Excuse me just a second.

Q Sure.

A I don't know what you mean by "increase."
I assume you mean that the 878 is .03 plus percent of the twenty-six plus thousand.

Q And by the same token, as far as Roxbury Township is concerned, 1,064 residential permits were issued out of a total of 18,616 permits. Is that correct?

A Yes.

Q And if we do the division on that, we come up with a figure of five plus percent, almost six percent of the housing. Is that correct?

A That seems close.

1 Q And the County average, as between
2 residential permits and change in covered jobs, you
3 could get that by dividing 18,616 by 26,372. Is
4 that correct?

5 A Could you repeat that?

6 Q I'll try. The County average---

7 A Yes. I'm sorry. I missed the first part of your
8 sentence.

9 Q Okay. You would get that by dividing
10 18,626 by 26,372, right?

11 A Okay.

12 Q And that would give you approximately
13 70%?

14 A Okay.

15 Q Then, if you take Roxbury, you would get,
16 comparatively, a figure, in Roxbury, by dividing
17 1,064 by 878, right?

18 A Okay.

19 Q And that would give you approximately
20 one hundred and twenty-one percent plus. Is that
21 right?

22 A Okay.

23 Q And from that, you would draw no con-
24 clusions as to whether Roxbury Township was a housing
25 donor to the region and the defendant municipalities?

1 A No, I would not.

2 Q Okay. Although Roxbury Township provided
3 some 40% more housing than the County did on an
4 average. Is that correct?

5 MR. EISDORFER: I'm not sure what the
6 question is asking, the accuracy of your figure
7 or the accuracy of your conclusion.

8 MR. VECCHIO: Do you want to read the
9 question back?

10 (The following was read by the reporter:
11 "QUESTION: Okay. Although Roxbury
12 Township provided some 40% more housing than
13 the County did on an average. Is that
14 correct?")

15 A According to your figures.

16 Q Okay. Well, in the prior answers, didn't
17 we come up with a figure of 70% plus, and then, for
18 Roxbury, a figure of 120%?

19 A I understand your figures. I don't agree with
20 the conclusion. I stick with my statement.

21 Q Okay. In other words, the math you
22 didn't check at all?

23 A Yes.

24 MR. VECCHIO: Off the record.

25 (There is a short discussion off the

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record.)

Q Now, dealing with Page 38, again, of your April Report, for Roxbury Township, you indicate, in the first column,--do you have it?

A Uh-huh.

Q ---a 1970 median housing value of 19,900 to 28,900. And then, in the second column, you have average residential sales price for 1977-'78. Is that right?

A Yes.

Q Okay. Now, did you make a determination as to what the median housing value was for 1977-'78?

A No, I did not.

Q Could you describe briefly what the difference is between a median and an average?

A Median is the midpoint, whereby 50% of the items fall above and below, and average is the arithmetic equal value if all of the items are treated equally, thereby adding them and summing them by the number of items that you have.

Q Conversely, did you determine what the average residential sales price was for 1970?

A I did not.

Q What conclusion do you draw from this chart as to Roxbury, then? You have a median

1 housing value, in 1970, of 19,900 to 28,900, and you
2 have an average residential sales price of 53,900.

3 What conclusion do you draw from that?

4 A It's fairly clear in the text. I basically draw
5 no conclusion, other than the fact that the price of
6 housing is increasing. I indicate, in the text, the
7 median and average are not comparable figures, and
8 for a variety of reasons, the two were not made com-
9 parable.

10 Q But is this chart supposed to represent
11 the fact that the values of homes in Roxbury Township
12 have increased dramatically?

13 A Yes.

14 Q But we can't tell, through an examination
R2 15 of these figures, how much?

16 A Not precisely.

17 Q Because there could be substantial
18 differences between what is an average and what is a
19 median. Is that right?

20 A There could be differences. There would be
21 differences.

22 Q Page 53.

23 We covered part of this before. These
24 are the elusive 91 units in Roxbury. I don't remember
25 whether I asked you where you got the 91 figure

1 under the first column on Page 53 of the April, '79
2 report.

3 A From the Census.

4 Q And that was a 1970 Census, right?

5 A That's correct.

6 Q Do you know whether any structures, in
7 Roxbury Township, since the 1970 Census, were either
8 built or converted to residential units, with three
9 or more units in them?

10 A As this chart indicates, I surveyed the
11 building permit data for the period 1970 to '77,
12 and that information indicated there were no structures
13 with three or more units.

14 Q How did you survey the building permit
15 data?

16 A The---

17 Q I mean, what did you look at? Did you go
18 up to the Town and look at something or---

19 A The Department of Labor and Industry issues
20 both monthly and annual summaries of the building
21 permit---residential building permit data.

22 Q Do you agree with the development limit
23 concept of four units per acre, as espoused by the
24 DCA, in developing the housing allocation plan?

25 A I indicated, in the--I believe it's the April

1 report, and I'm not sure which report it is, in
2 evaluating the New Jersey DCA Plan, that, while I
3 retained that development limit, I did think it had
4 weaknesses.

5 Q On the high side or the low side?

6 A Neither, actually. The fact that it was a
7 standard figure and not really indicative of the
8 changes in--or differences in residential density that
9 may occur within the County.

10 Q I'm sorry. I don't understand that.

11 A I'm not sure it's a complete sentence.

12 MR. VECCHIO: Would you read back the
13 answer, please?

14 The following was read by the reporter:

15 "ANSWER: Neither, actually. The fact that
16 it was a standard figure and not really
17 indicative of the changes in--or
18 differences in residential density that
19 may occur within the County.")

20 Q Let me ask you this question: Do you all
21 of the communities that are not parties to this
22 litigation in Morris County have a density of four
23 units per acre? Do you know?

24 A I don't know.

25 Q On Page 2 of the April report again, this

1 is the short report of April, I may have the wrong
2 date, you disagreed with the income limits as
3 established by the DCA. Is that correct?

4 A That's correct.

5 Q And you increased those income limits
6 to some \$13,000. Is that correct? Was that the
7 figure you used?

8 A I'm not sure what you mean "increase". It's
9 actually on Page 4 of the report. In my adjustment
10 to the New Jersey DCA Housing Allocation Report, I
11 made no adjustment in the income. In this report of
12 April, I indicated an approximate effect on the
13 allocation by adjusting for what I believe is a more
14 appropriate income number.

15 Q And that income limit was \$13,089, that
16 you suggest?

17 A I suggested two. The income limit for the
18 Section 8 Housing Assistance Program as a limit,
19 and that, in my opinion, it was conceivable that the
20 10 to 60% of the population might be an appropriate
21 limit, and that limit to be the \$13,089 that you
22 referred to.

23 Q But you didn't base any of your compu-
24 tations on the \$13,089 limit, or did you?

25 A No, I did not. I did show it in an appendix to

1 this report, what the approximate amount of that
2 adjustment would be. But I did not make that adjust-
3 ment in coming up with my allocation figures.

4 Q That played no part in coming up with the
5 allocation of 4,225 for Roxbury?

6 A It did not.

7 Q Did you go over the questions with
8 Mr. Sirota on what a qualified farm is and how that
9 was determined?

10 A Not that I recall.

11 Q How did the DCA, then, make a determination
12 as to what qualified farmland was, and what public
13 lands were?

14 A I don't recall.

15 Q If I may, it is probable that they did so
16 through the tax records, in determining whether, in
17 fact, certain properties had farmland assessments?

18 A I really don't remember.

19 Q Do you know how the DCA made any
20 determination as to the amount of public lands?

21 A I don't recall that, either.

22 Q Did you make any determination as to the
23 amount of qualified farmland in Roxbury Township or
24 the amount of public lands, or did you, alternatively,
25 accept the figures in the DCA Report?

1 A I accepted the figures in the DCA Report.

2 Q You didn't check them?

3 A I did not.

4 Q Have you subsequently checked them?

5 A I did not.

6 Q So that there could be a comparison as
7 to what there was then and what there is now in
8 Roxbury Township?

9 A No.

10 Q In the event that more land has been
11 acquired in Roxbury Township by the State of New
12 Jersey, would that alter your allocation?

13 A It would alter that criteria used by New Jersey
14 DCA in its Allocation Plan, yes.

15 Q The simple question is: If additional
16 lands were acquired by the State of New Jersey,
17 would your allocation to Roxbury Township be less
18 than 4,225?

19 A I would assume so.

20 Q If you have a density of four units per
21 acre, approximately how many people would that be on
22 an acre?

23 A We can multiply that times the average household.

24 Q 2.83 times four would be 11.32, if my math
25 is right.

1 A Okay.

2 Q Now, did you, in considering 11.83 persons
3 per acre, consider the availability of public
4 sewerage systems, or is that not within your area of
5 expertise?

6 A I did not consider that.

7 Q Would that, generally, be a consideration
8 that a municipality should pay some heed to, in
9 your opinion, as a planner?

10 A For what purpose?

11 Q In order to determine the number of
12 units that could be located on any particular
13 parcel of land.

14 A In my opinion, as a planner, that is a consider-
15 ation, location of units, and it is not a consider-
16 ation in the determination of an allocation.

17 Q So that the amount of the allocation--
18 I'm sorry, or the determination of the amount of
19 allocation as to a political subdivision may be
20 constrained by the physical characteristics of the
21 land and the infrastructure that exists?

22 A I'm sorry. You need to repeat that.

23 MR. VECCHIO: Would you read the question,
24 please?

25 The following was read by the reporter:

1 "QUESTION: So that the amount of the
2 allocation--I'm sorry, or the determination
3 of the amount of allocation as to a political
4 subdivision may be constrained by the
5 physical characteristics of the land and
6 the infrastructure that exists?")

7 MR. EISDORFER: Do you understand the
8 question?

9 THE WITNESS: I believe so.

10 A As we have already discussed, I'm not sure what
11 you mean by physical constraints of the land. In the
12 identification of available land, the physical
13 constraints of land were taken into account.

14 The second part of your question, I would not
15 include that factor in the development of an allocation
16 plan.

17 Q So, for example, in the event that a
18 municipality did not have public sewerage and water
19 systems, that would not affect any determination you
20 made with reference to an allocation plan over a
21 protracted period of years?

22 A I don't believe so.

23 Q All right. And would that be for the reason
24 that you would anticipate that the particular
25 political subdivision would, in fact, provide that

1 infrastructure, over that period of time, to accommodate
2 those units?

3 A Permanently, yes,

4 Q Is that an assumption on your part,
5 or is that based upon any particular study that you
6 did with reference to Roxbury Township and its
7 ability to provide that infrastructure?

8 A It was not based on a study. I don't know that
9 I would call it an assumption, but it is a factor
10 of whatever I think is appropriate.

11 Q Are you still attending any school that
12 deals with your profession as a planner?

13 A I am not any longer in any course of study.
14 I do take and, in fact, am now taking whatever short
15 term courses.

16 Q What is the short term course you are
17 taking now?

18 A It's a course offered by the Cultural Affairs
19 of New York City, and it is a course in self-help
20 housing.

21 Q Self-help housing?

22 A That's correct.

23 Q And that's a new concept to me. What
24 is self-help housing?

25 A It refers, generally, to the availability of

1 housing due to the tenants and/or owners taking
2 responsibility for either the management, ownership,
3 rehabilitation or other items to make that housing
4 suitable for occupancy.

5 Q Does it work?

6 A Yes.

7 Q Has it worked anywhere in New Jersey?

8 A I don't know.

9 Q Do you know if it's been tried anywhere
10 in New Jersey?

11 A No.

12 Q The next question is: Where did it work?

13 A It's used extensively in New York City.

14 Q New York City. Could you tell me what
15 areas of New York?

16 A Well, I could give you a better answer if I
17 completed the course. The ones that we discussed
18 at this point in the course are in Williamsburg, which
19 is---

20 Q Virginia?

21 A I'm sorry. No, Williamsburg, New York, which
22 is a section of Brooklyn. It's largely residential,
23 industrial, low rise residential developments.

24 Q Is it your opinion that something like
25 that would work in New Jersey, also?

1 A I do, yes. Yes, it is my opinion.

2 Q What areas, for example, in New Jersey
3 could something like that work in? In other words,--
4 let me phrase it in a different fashion. Would
5 something like that work in a municipality such as
6 Roxbury, or don't you know?

7 A From what I know, it seems that it would work
8 wherever the municipality is willing for it to work,
9 and there are indeed individuals that are interested
10 in trying it. Without the households that are
11 interested in self-help, it would not occur.

12 Q Would the concept of self-help--does
13 that encompass Governmental Aid in aiding the self-
14 helping?

15 A At times, that is true. My understanding,
16 at this point, is a good deal of a labor and sort
17 of volunteer management responsibilities are under-
18 taken by the tenants or homeowners. And in at least
19 a good number of the instances, there are also some
20 of funding assistance available.

21 Q Would this be a mode of providing some
22 of the needs for, say, low and moderate and least
23 cost housing?

24 A I believe it is. That's why I'm taking the
25 course.

1 Q Would this be applicable to urban
2 centers, as well as rural and semi-rural areas?

3 A I believe so.

4 MR. VECCHIO: Off the record.

5 (There is a short discussion off the
6 record.)

7 Q Page 8 of the 54 page report.

8 On Page 8 of your April report, on the
9 long report, the Morris County change in population
10 between 1960 and 1970 was 46.6%, right?

11 A That's correct.

12 Q Then, if you go to Page 11, between
13 1970 and 1976, the increase was only 3.1%. Is that
14 right, for Morris County?

15 A Yes.

16 Q Wouldn't the more recent figures more
17 accurately reflect the potential growth over the
18 next 10 years; say, the 1970-'76, rather than the
19 1960 to 1970?

20 A I'm not sure what you mean by reflect potential
21 for. Is that what you said?

22 Q Yes, the growth, and what the growth
23 would be in the County over the next 10 years.

24 A It reflects trends in the past. It is, obviously,
25 possible to project those trends and make assumptions

1 about them.

2 Q Did you?

3 A No.

4 (Ms. McDermott enters the room.)

5 MR. VECCHIO: Off the record.

6 (There is a short discussion off the
7 record.)

8 Q I was looking at Page 47, but I'm going
9 to ask you a question about something other than
10 that now.

11 The other day we discussed briefly the
12 quintile analysis, right?

13 A Yes.

14 Q And the impression that you left me with
15 was that the quintile analysis essentially is un-
16 related to a housing allocation. Is that correct?

17 A In this instance, yes.

18 Q Okay. Could I ask you a real dumb question?
19 Now, why did you go into the quintile analysis, then?
20 What relevance does it have to the housing allocation
21 if it's not related to the housing allocation? I don't
22 understand that.

23 A The quintile analysis is incorporated in the
24 report that discusses the demographic characteristics
25 of Morris County, and I think the quintile analysis is

1 a useful way and relatively simple way to illustrate
2 the comparison among jurisdictions and to a larger
3 region.

4 Q To what end if it's not used in the
5 housing allocation plan? I don't understand that.

6 A This entire report on the demographics is a
7 report discussing the various characteristics of
8 the municipalities---

9 Q All right.

10 A ---within Morris County.

11 Q All right. Well, for example, and I don't
12 know where your quintile analysis is on Roxbury
13 Township, but what does that quintile analysis on
14 Roxbury Township say to me or to you about Roxbury
15 Township? In other words, what am I supposed to
16 draw from looking at the quintile analysis of Rox-
17 bury Township?

18 A The quintile analysis illustrates the relative,
19 let's say, wealth of individual municipalities, one to
20 another, and against a larger region.

21 Q Okay. So it indicates the relative
22 wealth of, say, Roxbury against the other municipalities
23 that you done the quintile analysis on. But once I
24 conclude that there is this relative wealth, what
25 do I conclude from that as relates to a housing

1 allocation?

2 A As I indicated already, it does not directly
3 feed into the housing allocation plan.

4 Q Can you do a housing allocation plan from
5 a quintile analysis as opposed to the other items
6 that are used?

7 A I would guess one could.

8 Q And could it be used in conjunction with
9 the other items?

10 A I don't understand that question.

11 Q In other words, the DCA used essentially
12 four criteria that we previously discussed. Is that
13 correct?

14 A Yes.

15 Q Okay. Could you use the quintile analysis
16 along with those other criteria?

17 A One could.

18 Q Then, the next question is: Why should
19 one or should not one use it, in your opinion?

20 A I don't think there are shoulds one way or the
21 other. One of the four criteria used by New Jersey
22 DCA does relate to household income, and it would be
23 possible to, I would guess, substitute some form
24 of a quintile analysis or the results of a quintile
25 analysis for that data presented by the household

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1 income. I'm not recommending that nor am I saying
2 it's not a good idea.

3 Q But what I'm asking you is whether, in
4 your opinion, it is or it is not a good idea, or,
5 alternatively, whether you have no opinion on it.

6 A I have no opinion, no.

7 Q Dealing with Page 47 of the long report,
8 the 1960 and 1970 Quintile Analysis for Morris County
9 has Roxbury on it, right?

10 Now, the thing that I question about that
11 is: You included Mount Olive in the Roxbury Town-
12 ship figures. Is that right?

13 A That's correct.

14 Q And why did you do that?

15 A Because in 1960, the Census data was not avail-
16 able--I'm sorry, in 1960, the two Census data were
17 combined. The data was not available to separate them.

18 Q Do you know which way it would fall if
19 Mount Arlington were not included in Roxbury?

20 A Well, judging by the 1970 Quintile, it would
21 appear that the proportions represented in the
22 lower quintile would probably be higher in 1960.

23 Q That's a judgmental call, right?

24 A It is, yes.

25 MR. EISDORFER: The question asked for

1 speculation and you got it.

2 MR. VECCHIO: Off the record.

3 (There is a short discussion off the
4 record.)

5 Q Now, again, in the April report, the long
6 report, on Page 16, you have a listing there of the
7 wealthiest municipalities in Morris County by quintiles
8 in 1970. Is that right?

9 A Yes.

10 Q Roxbury Township is not even on the
11 list, is it?

12 A No.

13 Q Do you know where Roxbury Township falls
14 as far as wealth in the County is concerned?

15 A According to the quintile?

16 Q You have 20 on this list, right, on
17 Pages 16 and 17?

18 A No, I do not.

19 Q But it would be, of the municipalities in
20 the County, based upon the quintile analysis, Rox-
21 bury Township would be somewhere below 20, right?

22 A Because there are 20 indicated here?

23 Q Yes.

24 A I guess that's true, yes.

25 Q Going, again, to Page 47, in fact, on

1 Page 47 of the April report, again, Roxbury Township
2 has 46.7%, as of 1970, in the upper two quintiles,---
3 that's of the population, correct?

4 A Yes.

5 Q ---25.3 and 21.4. And it would have, in
6 the lower three quintiles, 50%--or more than 50%,
7 I presume, correct?

8 A That's correct.

9 Q Did you, in a cursory fashion or in any
10 fashion, make a determination as to the quintiles
11 with reference to municipalities in the region that
12 are not parties defendant to this law suit? For
13 example, how would Roxbury compare to towns in
14 the region that are not parties defendant to this
15 suit?

16 A As you can see from the charts and the graphics,
17 I did the quintile analysis for every municipality
18 in Morris County.

19 Q Yes, I know that. But I meant other
20 than those. In other words, the ones we are talking
21 about, Region 11, which includes all of the--did
22 you include any analysis on that, as to how Roxbury
23 Township compares to the municipalities in Passaic
24 County or Union or Hudson or---

25 A No. I'm not sure you understand, then, what the

1 quintile analysis is because it is based on a comparison
2 to a larger region. Do you understand that?

3 Q You better explain it to me because I--
4 let me--may I please tell you what my understanding of
5 it was? And then maybe it would be easier for you
6 to explain it to me, if I explain my poor understanding
7 of it. That certain portions of the population fall
8 within certain income categories, and they have been
9 broken out into five income categories, right? You
10 have quintile number 1, number 2, number 3, number 4
11 and number 5?

12 A Don't ask me for rights. Give me your explanation.

13 Q That was unfair of me.

14 So you have these five quintiles, and
15 so many people in the first, so many in the second,
16 so many in the third, so many in the fourth, so
17 many in the fifth, right? There are certain percentages.
18 Then, what you do is to compare that number to the
19 various towns in this lawsuit and Roxbury. That's all
20 that I know about the quintile analysis. Please take
21 it from there for me, please.

22 A That's not very accurate.

R3 23 MR. VECCHIO: Off the record.

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

1 A The quintile analysis is basically a method
2 which one can compare categories of, let's say,
3 annual income, and, obviously, it can be done with
4 any kind of information among various jurisdictions.
5 At the same time, there is a base for that comparison.
6 I think, if I go through very quickly,---

7 Q Okay. What's the base?

8 A ---the procedure, you will understand it. What
9 happens, in this quintile analysis, and it can be
10 done in other ways, for the years 1960 and 1970,
11 the incomes for families for the State of New Jersey
12 were divided into quintiles; that is, they were
13 divided into fifths.

14 Q Incomes for the state?

15 A Families living in the State of New Jersey.
16 So that 20% of the population in New Jersey fell
17 within each of those quintiles. At that point, one
18 can determine the income breaks for each quintile.
19 So that, if you count up, for instance, to the
20 bottom 20% of the population, you can find out what
21 the maximum income limit is for that break. As it
22 turns out, in, let's say, 1970, for New Jersey, it's
23 6,627. You do that for each break. Taking those
24 quintile income breaks, one can take the population
25 in any given municipality or any county or any region.

1 any geographic area, take the population and deter-
2 mine the proportion of that population that falls
3 within that income break.

4 Q I think I have the concept. Thank you.

5 A Okay.

6 Q Did you use the State of New Jersey, or
7 did you use--just from my recollection from yesterday,
8 did you use the Newark SMSA?

9 A No, I used the State of New Jersey for 1960
10 and 1970. And in the report, I compared that to the
11 County, to Region 11 and to the individual municipa-
12 lities.

13 Q On Page 18 of the long report, you
14 indicated that, in Roxbury Township, the combined
15 increase in Quintiles 4 and 5, which are the higher
16 quintiles, increased 5.9%. Is that correct?

17 A That's correct.

18 Q And how did you determine that when--and
19 that was between the 1960 and 1970 Census, right?

20 A Yes.

21 Q When, in the chart, on Page 47, you
22 included Mount Arlington and Roxbury, in the 1960
23 Census?

24 A I used, actually, the figures that are
25 represented in that chart, and I don't think I mis-

1 represented what I was doing in 1960 because the
2 data was not available in any other form. It is--
3 it does represent the combined quintiles.

4 Q For Mount Arlington and Roxbury?

5 A That's correct.

6 Q If Mount Arlington were still a part of
7 Roxbury Township, would it be your position that
8 Mount Arlington should be a defendant in this
9 litigation? And I represent to you that Mount
10 Arlington was, in fact, a part of Roxbury Township.

11 MR. EISDORFER: I'm going to object to
12 that question. That calls for a legal con-
13 clusion. You are asking her whether, if she
14 was a lawyer in the case, she would use a
15 different strategy.

16 Q I don't know whether he's directing you
17 not to answer it.

18 A Let me say I don't have an opinion.

19 Q Okay. On Page 29 of the long April
20 report again, you indicate that two-thirds of the
21 municipalities, in 1970, had more than 75% of their
22 housing stock in owner occupied units. Is that
23 correct?

24 A Yes.

25 Q Okay. Now, is there anything that is

1 inherently bad, from your standpoint as a planner,
2 about owner occupied units?

3 A No.

4 Q Now, would it be acceptable--if we had
5 the best of or what I would consider to be the best
6 of all things, from the standpoint of planning, so
7 that everybody could own a single family house on a
8 one acre lot, would that be acceptable, from a planning
9 standpoint?

10 A No.

11 Q It would not be. Why would that not be?

12 A I am not, as a planner, convinced that everyone
13 wants to own a home on a one acre lot.

14 Q Okay. So that you would advocate a
15 mix of various types of housing?

16 A That's correct.

17 Q Is the bottom line concern then, really
18 a concern as to individuals that cannot afford
19 particular housing that is adequate and safe?

20 A That question is too vague for me. The bottom
21 line concern of what?

22 Q In other words, could the problem of
23 providing least cost and low and moderate income
24 households with adequate and safe housing be
25 accomplished in a different fashion rather than through

1 zoning and planning considerations?

2 A That question, I guess, really requires several
3 different answers. You and I may not mean the same
4 thing by--let me rephrase that because I may not
5 quote you correctly--the problem of providing housing
6 for low and moderate income persons. That's one
7 problem I have in answering the question.

8 Q Okay.

9 A The second problem is it's a bit too open
10 ended for me to give you a very precise answer.

11 Q Let me ask you in a different fashion.
12 Could not low and moderate income households be pro-
13 vided with housing through the Federal Government,
14 State Government or whatever political subdivision,
15 providing them with the dollars to purchase those
16 particular types of units, instead of reducing the
17 characteristics of the units themselves?

18 A I don't want to repeat your phrase, "reducing
19 the characteristics of the units," because I don't
20 quite understand what that means. But it is so
21 unlikely that the Federal Government or State Govern-
22 ment would be able to undertake the kind of effort
23 that you are talking about to meet the housing
24 needs that exist, that I could not possibly suggest
25 that that's an alternative.

1 Q Do you have any---

2 A In addition to that, the Federal Government
3 does indeed not have a program whereby it provides
4 funds for--directly to the household--not directly to
5 the household, but a housing assistance program,
6 rather than a construction subsidy program.

7 Q Do you have any opinion as to what a
8 program of that nature would, in fact, cost, of
9 the type that I had suggested?

10 A No, I do not.

11 Q Do you know whether any studies have been
12 done in that regard?

13 A Actually, I believe there have been, although
14 I'm not going to be able to recall them.

15 Q You don't remember what studies there
16 were?

17 A There have been studies on what was originally
18 called the Housing Allowance Program, whereby funds
19 were given to, I believe, households. I don't know
20 whether--some of those studies were evaluations
21 directly of that program. I don't know whether
22 they drew larger conclusions or not.

23 Q Well, would you advocate, in your opinion,
24 from the standpoint of a planner, that the funds be
25 provided to low and moderate income households in

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1 order to purchase these particular, you know, units,
2 whether they be single family or otherwise?

3 A I've indicated, I believe, to you in prior
4 questions that I think every available method for
5 providing housing for low and moderate income people
6 should be pursued.

7 Q From the standpoint of a planner, in the
8 event the funds were provided, as opposed to changes in
9 zoning, would not that tend to preserve more zoning--
10 more of the items that zoning is directed towards;
11 for example, open spaces, adequate light and air,
12 visual environment, including esthetics?

13 A It seems obvious that it's my opinion that
14 those qualities can be preserved with making adjust-
15 ments in current zoning patterns.

16 Q So that you would that, then, the character-
17 istics of zoning and the statutory criteria for
18 same would be as adequately preserved by adapting to
19 the suggestions that you made, as opposed to providing
20 the funds to purchase items that are available pur-
21 suant to existing zoning?

22 A I have not made any suggestions. But as I
23 understand that question, yes.

24 Q Now, if economic considerations were
25 removed from this matter in their entirety, could

1 you tell me what density you, as a planner, would
2 zone for, taking into consideration the amount of
3 population and the number of units?

4 A No.

5 Q Could you make any recommendations
6 specifically with reference to Roxbury Township?

7 A No.

8 Q Have you ever made such a study?

9 A Could you characterize such for me, please?

10 Q That would be, with reference to removing
11 economic considerations, how would you zone in
12 Roxbury Township, at what density, and what population
13 do you project for Roxbury Township?

14 MR. EISDORFER: When you say "economic
15 considerations," what are you talking about?

16 MR. VECCHIO: I'm referring to--and that's
17 a fair comment on my question. I'm referring to
18 the economic considerations of the low and
19 moderate income households.

20 MR. EISDORFER: The fact that people can't
21 afford housing?

22 Q I'm saying, divorced from that, and
23 assuming we had the best of all worlds, and I'm
24 rephrasing the question now, divorced from that, and
25 assuming we had the best of all worlds and the dollars

1 were provided to these particular households to
2 purchase housing, what density would you zone for
3 in Roxbury Township? By that, I mean number of units
4 per acre. And at what population would you project
5 for Roxbury Township?

6 A I don't know.

7 Q Have you considered, absent those
8 economic considerations, the number of units per
9 structure that you would ideally like to see as a
10 planner?

11 A No.

12 Q Did you make any determination or have
13 you done any studies as to the percentage that should
14 be owner occupied and what percentage should be
15 rentals?

16 A No.

17 Q You did some work, on Page 31, this is
18 of the long report of April, with reference to
19 mobile homes by county. Are there any subsidized
20 mobile homes in New Jersey, that you are aware of?

21 A I don't know.

22 Q Do you know of them anywhere, that there
23 would be subsidized mobile homes?

24 A I believe there.

25 Q What kind of program would that be on the

1 subsidized mobile homes?

2 A Mobile homes are now eligible for the Housing
3 Assistance Program of the Federal Government, and
4 I know of some other, I believe, Federal Funds that
5 have been used to--I'm not sure I'm going to get this
6 accurate enough. I believe, I don't know, they were
7 used--I've seen them used in mobile home parks in
8 other ways, and I'm not exactly sure what for.

9 Q For my own information, do you know what
10 housing assistance program that would be?

11 A That is the name of it. It is the Section 8
12 Housing Program that was created under the Housing
13 and Community Development Act of 1974.

14 Q Thank you.

15 On Page 40 of the long April report again,
16 under your page denominated "notes," you indicate,
17 in Paragraph 4, "the method of income quintile analysis
18 was developed by Suburban Action Institute to allow
19 for a comparison of income distribution over time
20 and among jurisdictions to facilitate an understanding
21 of the relative ability of different income classes
22 to afford housing," right? The report says that,
23 right?

24 A Yes, it does.

25 Q Okay. Now, the quintile analysis was

1 developed by the Suburban Action Institute, right?

2 A That's right.

3 Q Is my recollection correct, that you are
4 employed by the Suburban Action Institute?

5 A That's correct.

6 Q Did you work on the development of the
7 quintile analysis?

8 A I did not.

9 Q Do you know who, in particular, developed
10 the quintile analysis?

11 A A Mr. Paul Davidoff.

12 Q Was he one of your instructors ~~at one~~
13 time?

14 A No.

15 Q You worked with him?

16 A I now work with him.

17 Q You now work with him.

18 Do you know when it was developed, the
19 quintile analysis?

20 A No.

21 Q Approximately?

22 A 1970.

23 Q Now, is the quintile analysis based upon
24 family income?

25 A In this instance, yes. It need not necessarily

1 be.

2 Q And do you know the definition of family
3 was used in the development of the quintile analysis?

4 A It's whatever is--and I'm not going to be able
5 to recall the language at all. It's whatever is used
6 in the Census as family income. Census has a handbook
7 that defines those fairly carefully.

8 Q Does a family include--since you don't
9 recall the definition precisely, would that include
10 two people that are working--I'm sorry, two people
11 that are not married, that they are living together
12 and both working? Would that be considered a family?

13 A It's--I believe it could be, if it was reported
14 that way.

15 Q And if it weren't reported that way, how
16 would it be considered?

17 A They may be considered as unrelated individuals.

18 Q So the mode of reporting could, then,
19 affect the result in the quintile analysis, I assume?

20 A Yeah. As I indicated, I'm not sure of that,
21 if it's a definition problem or the mode of reporting.

22 Q All right. In the quintile analysis, what
23 was the definition of income that was used, or in
24 your words, if you recall what it was?

25 A Again, it's the same definition used by the

1 Census.

2 Q And you don't know what that is, or do
3 you? I'm sorry.

4 A Not precisely, no.

5 Q In determining the income, were tax
6 considerations taken into account in the quintile
7 analysis?

8 A No.

9 Q Was the income as used in the quintile
10 analysis dependent upon earned income?

11 A I would have to check the definition in the
12 Census.

13 Q So you don't know.

14 All right. Could you possibly--could you
15 check that?

16 A Yeah. It's very easy to do. In fact, I came
17 very close to bringing the book with me today, and I
18 didn't.

19 Q I wish you had.

20 Were, for example, welfare payments
21 included?

22 A I believe so.

23 MR. EISDORFER: Let me just note, for the
24 record, this is a public document, and it's
25 available in any public library, and it's easily

1 accessible to every party.

2 THE WITNESS: It's called the Census User's
3 Guide. There are many definitions in that
4 book.

5 MR. VECCHIO: In answer to Steve's
6 comment on the question, I didn't know that
7 the Census definitions were used in the income
8 quintile analysis. I'm just discovering that
9 right now, and that's why I'm asking the
10 questions.

11 Q Were unemployment compensation dependents
12 included? Do you know?

13 A I'm not sure.

14 Q Social Security?

15 A I believe so.

16 Q Tax free bonds?

17 A I don't know.

18 Q Was it taken from the Census information,
19 to make this determination, or was it taken from
20 tax information? Do you know?

21 A I already indicated to you it was taken from
22 the Census information, the quintile analysis.

23 Q Is it your opinion that everyone in
24 Quintile Number 1 should be able to purchase a home
25 or rented unit in Morris County without a subsidy?

1 A No.

2 Q And the answer would be no for Quintile
3 Number 2, Number 3, Number 4 and Number 5, obviously,
4 I assume?

5 A Then, you have to repeat the question.

6 Q Okay. The question was: Are you saying
7 that everyone in Quintile Number 1--I'm sorry.
8 That wasn't the question. Is it your opinion that
9 everyone in Quintile Number 1 should be able to
10 purchase a home or rented unit in Morris County
11 without a subsidy? And your answer to that, I
12 believe, is no?

13 A I guess I need some clarification of what you
14 mean by "everyone in Quintile Number 1".

15 Q In other words, all the people in that
16 income category, that they should be able to buy a
17 unit in Morris County without any form of subsidy?

18 A Well, obviously, I think there is a point at
19 which it should not be necessary to use a subsidy.

20 Q I see. But in the lower quintiles; say,
21 Quintiles Number 1 and 2, a subsidy would be necessary?

22 A That's likely.

23 MR. VECCHIO: Off the record.

24 (There is a short discussion of the
25 record.)

1 (There is a short recess.)

2 Q What was your fair share allocation for
3 Riverdale?

4 A 545.

5 Q 545.

6 Do you know what they settled for?

7 A I do not.

8 Q Were you consulted with reference to that
9 settlement?

10 A No.

11 Q Your projection for Roxbury Township is
12 4,225 units for a period of 10 years, 1980 through
13 1990. Is that right?

14 A It, actually, covers the period 1970 to 1990,
15 but we are indeed at 1980.

16 Q Explain that one to me. I don't under-
17 stand that one. You say it covers the period of
18 1970 to 1990?

19 A That's the period of the projection, and that's
20 the period basically covered by the New Jersey DCA
21 Housing Allocation Report.

22 Q All right. And does that, then, mean that,
23 if Roxbury Township has provided, between 1970 and
24 1980, some least cost housing, the amount that it
25 should provide between 1980 and 1990 will be somewhat

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less than 4,225?

A I believe so.

Q Did you do a study as to existing housing stock in Roxbury?

A No,---

Q Okay.

A ---not other than identifying the subsidized units as indicated in the report.

Q For example, and this is one of the problems that I have, in the event that Roxbury Township had a multitude of dwelling units that sold in the least cost range between 1970 to 1980, would they be accorded certain credit as against the 4,225?

A I would believe it could be, yes.

MR. VECCHIO: Off the record.

(There is a short discussion off the record.)

Q You are generally familiar, and I use that term so I don't get involved in an objection, with the provisions of the Land Use Act of the State of New Jersey?

A Minimally.

Q Okay. And under that Act, aren't the municipalities required to revise the land use

1 element and their master plan after every so many
2 years, whether it's five years or--I believe it is
3 five years?

4 A I don't know.

5 MR. VECCHIO: Off the record.

6 (There is a short discussion of the
7 record.)

8 Q But if a municipality has to revise
9 its land use element on a periodic basis, would it
10 not be provident to revise it in stages, as dictated;
11 say, a five or six year stage, rather than to a
12 10, 15 or 20 year stage?

13 A I don't understand the question.

14 Q Okay. What I'm saying is: Is it provident
15 for a municipality, unless it can difinitively look
16 into the future, to make long range; say, 20 year,
17 projections, as opposed to revising those projections
18 on a five or a six year basis, depending upon what
19 happens within the community?

20 MR. EISDORFER: Are you asking that as
21 a general matter or in connection with something
22 specific?

23 MR. VECCHIO: From the standpoint of a
24 planner.

25 A As I understand your question, it seems that

1 both are useful.

2 Q Okay. Now, for example, the DCA Housing
3 Allocation Study, you have revised the DCA study.

4 As I understand it now, between 1970 and 1990, there
5 should be 4,225 least cost units in Roxbury Township,
6 correct?

7 A Yes.

8 Q Some may have been provided prior to
9 this time, and the balance should be provided between
10 1980 and 1990, right?

11 A Yes.

12 Q Okay. Now, that projection would, then, be
13 based upon certain criteria that were used by the
14 DCA Report and criteria used by yourself as of the
15 time that the DCA made its report and as of the time
16 that you made your report. Is that correct?

17 A I'm not sure I understand.

18 Q In other words, let me try to make it
19 simple, when the DCA made its report, it made a
20 determination as to how much vacant developable land
21 there was. Is that correct?

22 A Correct.

23 Q And when you made your report, in some
24 fashion, I believe, that you indicated you relied upon
25 the DCA report as to vacant developable land, right?

1 A Yes.

2 Q Now, between 1980 and 1990, the amount
3 of vacant developable land can change. Is that not
4 correct?

5 A It could, yes,

6 Q So what I'm asking you, then, is: Can
7 the other criteria that were used change?

8 A The other criteria are more fixed in time. They
9 could be updated.

10 Q For example, the employment growth, could
11 that change?

12 A It could be updated. Is that what you mean by
13 "change"?

14 Q Yes. How do you mean that?

15 A Well, it's not going to change for that period
16 of time.

17 Q Well, okay, I understand what you mean.
18 It could be updated, and if either could have grown or
19 it could have diminished. As in one of your reports,
20 it diminished in Hanover and Dover. Is that right?

21 A I don't remember if that's true, but it could
22 increase or diminish, yes.

23 Q Okay. And, likewise, municipal fiscal
24 capabilities, I assume, could change?

25 A That's correct.

1 Q And personal income, unfortunately, may
2 change for all of us rapidly, could also change?

3 A That is correct.

4 Q Since you make a projection between 1980
5 to 1990, does not that projection have to be reevaluated
6 at particular periods of time in order to verify the
7 projection based upon change circumstances in planning,
8 for any community?

9 A I think you are confusing two issues.

10 Q All right. Go ahead.

11 A I do think that I have no difficulty with ad-
12 justing and/or updating an allocation plan ~~periodi-~~
13 cally.

14 Q Why is that?

15 A I have no objection to, I said,

16 Q Oh, I see.

17 A And using different projections. The four
18 criteria that you just mentioned, which may or may
19 not change within that period, are criteria used for
20 allocating the projected units. They do not, in and
21 of themselves, alter the projection. Do you under-
22 stand that?

23 Q No, I don't. Because the way I was
24 looking at it was that, for example, if the State of
25 New Jersey came in tomorrow and said okay, we are

1 going to condemn and take for State use the northern
2 half of Roxbury Township, that that would change our
3 allocation, and that's the point I was trying to get at.

4 A That could possibly change your allocation.
5 What I'm trying to state is: The population projections
6 are something done independent of the four criteria
7 that you mentioned, which are used in determining the
8 allocation of units.

9 Q Okay. All right. Let me try to get this
10 point, which, I, again, have a little bit of
11 difficulty with. In assuming that Roxbury Township
12 didn't provide any of those units between 1980 and
13 1980, right, and your allocation is 4,225, is it your
14 opinion that what should occur in that regard should
15 be that 4,225 units or thereabouts should be built
16 over that 10 year period, between 1980 and 1990?
17 That's part of what I don't understand. Or is there
18 some--I'm not trying to put words in your mouth in
19 that regard.

20 A I guess I don't understand why you don't under-
21 stand that.

22 Q Okay.

23 A The 4,225 units is the allocation identified
24 for Roxbury to the year 1990.

25 Q Okay. But what I'm trying to--the point

1 that I don't understand is that, supposing Roxbury
2 Township put in 4,225 units tomorrow, okay, which---

3 A Would be nice.

4 Q No comment.

5 Okay. Supposing that they put them in
6 tomorrow and then, the next year, the jobs went away,
7 some people reverted lands to farmlands and the
8 State of New Jersey took 25% of Roxbury Township,
9 would that, then, not result in an anomaly of sorts?

10 A I don't really know how to answer that. The
11 housing allocation is based on the, let's say, best
12 or most approximate estimate that can be made of the
13 need for housing.

14 Q Should---

15 A It is obvious that factors change over time.

16 Q Then, maybe the way I am looking at it
17 is a little bit differently. Should the projections
18 be made from a planning standpoint, again, on less than
19 a 20 year basis in order to permit an adequate re-
20 evaluation of the allocation plan on a periodic time
21 span of shorter duration than 20 years or 10 years?

22 A I think I already indicated that I think it's
23 appropriate to evaluate periodically the appropriate-
24 ness or adequacy of a housing allocation plan. I still
25 think it's perfectly suitable to make a 20 year pro-

1 jection so the jurisdictions have that understanding.

2 Q I'm not against saying that or disputing
3 that, but what I'm trying to relate it to is--I'm
4 making statements and not asking questions. But
5 you have a statistical background, do you not?

6 A To some extent.

7 Q Is it so that, when you project statistical
8 information such as this out over more prolonged periods
9 of time, that the statistical result has a greater
10 chance of being in error based upon the time frame?
11 In other words, supposing you did an allocation for
12 Roxbury Township and, instead of using 20 years,
13 you used 100 years. Would it be your opinion, as a
14 planner and a person who has expertise in the areas
15 of statisticians, that the 20 year one would have a
16 greater chance of accuracy than the 100 year one?

17 A That's generally true.

18 Q In looking at something of this nature,
19 the provision for this adequate housing for low and
20 moderate income families and also for least cost
21 housing, from the standpoint of the municipality,
22 that would be implementing the introduction of changes
23 in its zoning and planning for the municipality,
24 should not that municipality attempt to use projections
25 that are more predictable projections? And by that, I

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1 mean to equate that to shorter term projections rather
2 than long term projections.

3 A As I indicated to you, I believe both are
4 appropriate. I don't have any problem with doing the
5 shorter term ones, and I believe the long range ones
6 are--have an important function.

7 Q But the shorter term ones would be
8 generally more accurate?

9 A In terms of projections, that's generally the
10 case, yes.

11 Q Now, could I ask you this: Did you, as
12 to Roxbury Township, to any shorter term projections
13 than the one that carries out to 1990?

14 A No.

15 Q All right. If the land use element of the
16 master plan will be up for review again within less
17 than a 10 year span, and what I'm asking you is: What
18 should we do with reference to least cost housing in
19 Roxbury Township for this year; in other words, 1980-
20 1981?

21 A I can't really answer that question.

22 Q In your opinion as planner, do you feel
23 that it would be appropriate for a municipality to
24 evaluate the problem of the least cost housing, also
25 with other zoning and planning problems, on a conti

1 basis, as opposed to relying upon one long term
2 projection and going along with that?
3 A As I've already indicated, I don't think that
4 they are opposing notions; that they can be done in
5 conjunction with each other.
6 Q But the long range projections would be
7 modified by what occurred short term. Is that correct?
8 A Depending on what you mean by "what occurred."
9 Q I'm not trying to say that occurred to
10 prevent the housing or permit it. But, you know,
11 if something occurred; say that the jobs increased
12 by 15000 covered jobs next year, the results, then,
13 would be that, under the DCA methodology, more housing
14 would be required, right?
15 A That would be likely, if they altered their
16 plan, yes.
17 Q But by the same token, if the jobs
18 decreased next year by the same number, by 15000, then
19 the amount of housing would decrease or the need for
20 the amount of housing, and the housing allocation
21 would decrease, also?
22 A No. As I indicated to you, the employment is
23 used in the method of allocation, not in the identifi-
24 cation of need.
25 Q Vacant land would have that effect, right?

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A Vacant land is used in the same way as employment. That's whay I tried to explain to you earlier that the four criteria---

MR. VECCHIO: If it's okay with you to go off the record for a minute?

MR. EISDORFER: Sure.

(There is a short discussion off the record.)

Q Let's take the specific example of Roxbury Township. In the event that Roxbury Township accepted your long term projection of 4,225 units by the year 1990,---

A Okay.

Q ---and then, in 1981, the four criteria used by the DCA and adopted by you, vacant developable land, employment growth, municipal fiscal capabilities and personal income, if those items changed, there would be a change as to total allocation to Roxbury Township, would there not?

If the plan were updated, yes.

Q And updated the plan.

Did you ever work for a municipality in the development of a master plan?

A No.

Q Have you advised any municipality as to the

1 implementation of a master plan for development of
2 a master plan or zoning ordinance--or land use
3 ordinance, in the modern parlance?

4 A Not directly. That's--I don't know if that's
5 a correct answer. I worked for the American Society
6 of Planning Officials, and we did undertake technical
7 assistance to jurisdictions. They would send in
8 inquiries about planning and zoning matters, and
9 we would research and advise them on those issues.
10 But I never worked directly for a municipality in
11 that capacity.

12 Q From a planning standpoint, would you
13 advise a municipality to implement, through zoning,
14 ordinances based upon 20 year projections without the
15 cautionary advice to review those projections on
16 at least an annual basis?

17 A I think it's advisable for a jurisdiction to
18 review on a more short term basis. I'm not sure I
19 would say annually. I do still think the 20 year
20 projections are useful.

21 Q I'm not disputing that. The problem that
22 I have is that, assuming, but I'm not clearly conceding,
23 that your projections for Roxbury Township are
24 totally correct, what I'm getting at is that, from a
25 planning standpoint, it would not seem provident to

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me for a municipality to immediately zone for 4,225 units based upon a projection carried out to the year 1990.

MR. EISDORFER: Is this a question?

THE WITNESS: Not so far.

Q Do you agree with that, or do you not?

MR. EISDORFER: It seems to me this question has been asked and answered several times already.

You may answer, however.

A I don't know.

Q You don't know.

MR. VECCHIO: Okay. Off the record.

(There is a short discussion off the record.)

(There is a luncheon recess.)

CROSS-EXAMINATION BY MS. MC DERMOTT:

Q Okay. You know my name already, Lynne Mott. If there's any questions that you don't understand, just ask me, and I'll try to rephrase them.

My first questions are in reference to the March, 1979 report, and the questions will follow in order of the pages in the report, so we

1 won't be skipping around. It should go faster that
2 way.

3 Okay. Page 1 of the March, '79 report,
4 Paragraph 5, okay, the second sentence in that para-
5 graph reads that, "these goals are identified so as
6 to correct imbalances in the patterns of low and
7 moderate income housing in the region."

8 Can you explain to me what you meant
9 by "patterns" in that particular sentence?

10 A That refers to the availability of housing.

11 Q Okay. Does that mean where they are
12 located or just the patterns of not providing sufficient
13 amounts of housing?

14 A Both.

15 Q Both. Okay.

16 Okay. Is it important, in your opinion,
17 to change the patterns with respect to the location
18 of the housing or low and moderate income persons or
19 to provide the housing itself?

20 A I wouldn't answer that by saying that one is
21 more important or the other. I think they need to
22 be done in conjunction with one another.

23 Q So even if the housing was provided,
24 there would still be problems if it was centralized
25 in certain locations?

1 A Yes. In the Census, that's undesirable and
2 probably unlikely.

3 Q Okay. In your opinion, is a region's
4 housing need met by a total figure of housing for
5 low and moderate income persons, even if one community
6 wasn't providing its fair share, but if another
7 community was providing more than its fair share?

8 A Again, that depends on how you define need.
9 The numerical need may indeed be met, but that does
10 not mean the region has satisfactorily met the need of
11 low and moderate income households.

12 Q So even if your total number of houses
13 for Region 11 were provided in that region, if each
14 individual town did not provide its fair share, then
15 the plan would not be properly implemented?

16 A That's correct.

17 Q Okay. Does the fact that ^a community in a
18 region is providing more than its fair share of low
19 and moderate income housing reduce the regional

20 ~~SECRET~~
21 A That would depend on how need is defined. It
22 generally would, yes.

23 Q Okay. Have you done a study to determine
24 what needs of the region are presently being met
25 by the communities within? This would be Region 11.

1 A No.

2 Q Okay. On Page 1, Paragraph 5, you say,
3 in the last sentence, "the goal is to be achieved with-
4 in a specific time frame."

5 Okay. Now, this goal that you are referring
6 to, is this goal satisfied by amending the zoning
7 ordinance of a town to provide the opportunity for
8 low and moderate income housing, or does the municipality
9 have to actually build the housing?

10 A In my opinion, to achieve the goal, the housing
11 has to be provided.

12 Q By "provided," you mean it has to be built?

13 A Correct.

14 Q Okay. If a community cannot achieve its
15 goal, as you defined it there, with actual housing
16 being built; for example, a sewer ban which is imposed
17 by the Department of Environmental Protection, should
18 this factor be considered in drafting a fair share
19 plan?

20 A No.

21 Q Okay. So even if the housing cannot be
22 built in a particular town, perhaps even within
23 your time frame of up to 1990, that housing should not
24 be allocated or, say, redistributed to other communities
25 in order to insure that it would be built?

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1 A It would depend, in my opinion, on the reason
2 for which it cannot be built.

3 Q Okay. But I'm just--for the purposes of
4 this question, this isn't making the allocation. If
5 it is known that one particular community cannot,
6 within the 10 year time frame, provide any housing,
7 low, moderate, anything, and I use the example because
8 of sewer ban, whether that's a valid reason I'll
9 leave out of the question, that, if the community is
10 not going to be able to put any housing up until
11 1990, what happens to the houses or units that were
12 allocated to that town during that period?

13 A Then, I have to go back, I guess, to what I
14 said earlier. It depends on the reason for why it can-
15 not provide the units.

16 Q If it was a justifiable reason that the
17 units could not be provided, under your fair share
18 plan, should those units be redistributed to the
19 communities that could provide that housing?

20 COTT I really can't answer that without you telling
21 me what you feel is a justifiable reason.

22 Q I don't have one yet. I want to know if
23 you would have to do another redistribution.

24 A I mean, that is already done, in some sense,
25 in the way the development limit is used. For instance,

Brooks - cross

1 it would---

2 Q Right.

3 A ---be those units which are reallocated, and
4 I did adopt that in my adjustment of the New Jersey
5 Housing Allocation Plan as an appropriate concept.

6 Q Have you taken into consideration whether
7 any of the communities in your plan presently cannot
8 provide housing because of a sewer ban that has been
9 imposed by the Department of Environmental Protection?

10 A No.

11 Q Okay. If you are aware of such a ban,
12 would that affect---that prohibited construction of
13 any housing, would that affect your allocation---

14 A No.

15 Q ---plan?

16 A No.

17 Q Okay. Okay. On Page 1, in Paragraphs 6
18 and 7, you discuss how conformance with the plan is
19 measured. Could you tell me, how do you measure
20 conformance with the fair share plan if a sewer ban
21 is in effect in a municipality? By "sewer ban", I mean
22 a ban that prohibits construction of new houses
23 because the sewers cannot be connected.

24 A Answering your question with specific refere
25 to the sewer ban, it would depend, in my opinion,

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1 some extent, on the nature and cause of the sewer ban.
2 Putting that aside, I do think there are alternative
3 mechanisms for a jurisdiction to meet its allocation,
4 and the limitation of, let's say, new construction is
5 not a necessary one; that used housing stock could
6 also be made available to low income households.

7 Q I'll give you the specific example of
8 Passaic for the moment. You have allocated a certain
9 number of houses or units to Passaic, and even if
10 we rezoned our community to provide the opportunity
11 for these houses to be built, as a result of the
12 sewer ban, it is highly unlikely that they would be
13 constructed, at least in the near future, unless some-
14 body came up with a large sum of money. Would we
15 be conforming, would Passaic Township be conforming,
16 with the fair share plan you propose?

17 MR. EISDORFER: Are you asking the witness
18 to assume that all your factual representations
19 are true?

20 MS. MCDERMOTT: Yes.

21 Q Assuming that we rezoned in accordance
22 with what the Public Advocate would like, but the
23 sewer ban is in effect and it's highly unlikely any
24 construction can be, you know, commenced at all, how
25 would you measure, you know, the conformance of

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Passaic with your fair share plan?

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A In the same manner I indicated earlier, the provision of units.

Q By "units," do you mean older units, not new construction?

A Units available for low and moderate households.

Q So, in your opinion, Passaic would still have an obligation to provide units, be they old or new,---

A That's correct.

Q ---to come up with its fair share?

A That's correct.

Q Okay. On Page 2, Paragraph 3 of the same report, you mention "outreach and information programs in the last sentence of that paragraph, "consideration must be given to outreach and information programs to insure that all low and moderate income households are aware of the housing choices available to them."

Is it your opinion that municipality must also provide outreach and information programs in order to comply with your fair share plan?

A If the administration of that region's outreach and information programs are necessary for a municipality to meet its goal, then, yes, I do think that municipalities must undertake those efforts.

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1 Q And who makes the determination as to
2 whether they are necessary? I missed maybe part
3 of your answer.

4 A That can be a planning question, or the
5 municipality may decide whoever it is that's taking
6 on responsibility for providing the units.

7 Q And could you explain what types of
8 programs are these outreach and information programs?

9 A Yes. There are a number of them, and they are
10 in fairly common usage. They range from everything
11 beginning with, let's say, affirmative marketing
12 programs to actual counseling programs, whereby staffs
13 of service agencies or some other political agency
14 or private agency works with households that are
15 interested in obtaining housing and making the move
16 into that housing.

17 Q And who pays the expenses of these
18 programs?

19 A It depends on the nature of the program.
20 Affirmative marketing programs, of course, are, in
21 instances, required, by law, of sponsors or
22 developers of housing projects.

23 Q Under what law?

24 A I'm not sure it's going to be very precise.
25 Under Civil Rights laws or an executive order, and I

1 would have to refresh my memory to get the exact one.

2 Q When you refer to "executive order,"
3 is that on the Federal or on the State level?

4 A Federal. Many of the counseling programs
5 are funded through community development block grants.
6 Urban League, for instance, has a fairly effective
7 counseling training program. HUD, the Department of
8 Housing and Urban Development, will also certify
9 counseling agencies and, under certain circumstances,
10 provide funds for those services.

11 Q Okay. On Page 2, Paragraph 7, towards
12 the end of the paragraph, the next to last sentence,
13 reads: "As the plan is updated, new goals will be
14 identified."

15 Okay. In reference to this updating of
16 plans, if a municipality wishes to update its fair
17 share allocation under a plan, would it need to
18 compute the fair share for all the communities in
19 the region?

20 **ERY** As the New Jersey DCA Housing Allocation Plan
21 **COT** is presently constructed, that would be necessary,
22 **YES**

23 Q Okay. Do you know any other way that
24 you could update a municipality's fair share; say,
25 for example, in five years or in 1990, at the end of

1 has the obligation to revise or update its housing
2 element every five or six years. We will take that
3 figure since no one is perfectly sure as to the time.

4 Assuming that the Department of Community Affairs
5 does not update its fair share plan within the next
6 five or six years, what does a community or what would
7 you propose a community do when this five year period
8 is up and they have to revise their housing element?

9 A It seems to be it would be very reasonable for
10 them to go to New Jersey DCA and indicate the need
11 for an updated version and perhaps provide some infor-
12 mation as to why. I would be very surprised if
13 DCA or an agency were not willing to do so.

14 Q Do you know how long it took to compare,
15 from its origin to its completion, the present DCA
16 Housing Allocation Report?

17 A No, I do not.

18 Q All right. One Page 2, in Paragraph 8,
19 in your last sentence on that page, regarding updating,
20 this, occurs for a variety of reasons: better data
21 may be available. the allocation formula may be
22 improved upon." And I'll leave the sentence off
23 there.

24 In specific reference to the phrase,
25 "the allocation formula may be improved upon," how

1 could the allocation formula used in this case be
2 improved upon, in your opinion?

3 A The--I prepared a critique on the New Jersey
4 DCA Report, and that is an entire report in and of
5 itself.

6 Q So you have no other opinions, in addition
7 to what was put in your report, about how the
8 allocation formula could be improved upon?

9 A Not that I can think of.

10 Q Okay. You would not have another model,
11 for example, that you would recommend for making
12 allocations?

13 A There certainly are other models. I have not
14 reviewed them in reference to New Jersey DCA's
15 plan sufficiently at this point to recommend them.

16 Q Could you give me a list, from what you
17 do remember, of these other models, for allocation
18 formulas, if they have general names, if they are
19 known by some kind of name?

20 UUUUU
21 ER There are in existence quite a number of fair
22 or housing allocation plans. There is no
23 way I could list all of them for you at this point.
24 For instance, the Areawide Housing Opportunity Plans
25 that I indicated earlier would be such an example,
and those are now in existence in, I believe, 11 or 12

1 regions throughout the United States, plus, in the
2 research I've done in the past, there are quite a
3 few of fair share and housing allocation plans in
4 existence.

5 Q And do these other plans use different
6 criteria or different groups of criteria than the
7 New Jersey DCA Allocation Plan?

8 A They do in some instances. As I indicated in
9 the report that you have been looking at now, I
10 attempted to summarize what the most common criteria
11 were.

12 Q So while none of these plans are exactly
13 the same, they may use different variables in making
14 their allocation?

15 A That's true.

16 MR. PANTEL: Could we go off the record for
17 a second?

18 (There is a short discussion off the
19 record.)

20 Q On Page 3 of the same report, Paragraph 3,
21 reference to Paragraph 3, you are talking about
22 generally of the implementation of a fair share
23 plan. My question---

24 A I'm sorry? Which paragraph?

25 Q This is Paragraph 3.

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A On Page 3?

Q On Page 3, "to the extent that the goal"--
that paragraph, and "insuring that a jurisdiction
reaches its goal."

My question is: Who do you suggest
monitors the implementation of a fair share plan,
in general?

A The agency that originated the plan.

Q Okay. And who would you recommend would
monitor the fair share plan in this case?

A The New Jersey DCA.

Q Okay. Do you know whether the Department
of Community Affairs has the power to enforce this
plan?

A No, I do not.

Q Okay. Do you know what kind of powers
they have regarding the monitoring of this plan?

A Not specifically, no.

Q Okay. In your opinion, does the State or
does a regional agency make the future plans for low
and moderate income housing in a municipality?

A What do you mean by "make plans for"?

MR. EISDORFER: Excuse me. Are you asking--
is that a descriptive question or prescriptive
question?

1 Q Okay, Should they, the State or regional
2 agency, be the one who is planning, who makes plans
3 for provision of low and moderate income housing in
4 a municipality?

5 A I'm still not quite sure what you mean by
6 "makes the plans for".

7 Q Well, communities do certain amount of
8 planning for land use. Should the State or regional
9 agency make these land use plans for provision of
10 low and moderate income housing in a given municipality?

11 A I guess I wouldn't apply a should to it. I
12 think it's possible. I don't think it's necessarily
13 the necessary way to implement the allocation plan.
14 I think it's perfectly appropriate for individual
15 jurisdictions to develop their own plans in conformance
16 with that housing allocation plan.

17 Q Okay. But according to you, the municipality
18 itself has a limited role in actually making the fair
19 share plan itself.

20 **MSU** That's correct.

21 **BR** Q Okay, In reference to Page 3, Paragraph 6,
22 which begins "the number of these units," could you
23 explain to me, how do you determine how much land in
24 a municipality is mapped, which you have underlined
25 in that paragraph, for least cost housing?

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A I can't give you a very specific answer to that question. It refers generally to the area zoned within which least cost housing could be constructed.

Q And how would you determine, by looking at a zoning map, whether least cost housing could be provided in any one of those particular zones?

A I don't quite know how to answer that in that my testimony is certainly not related to that. And while it can be determined, I have no to this point nor do I intend to identify how that determination would be made.

Q Okay. In reference to Paragraph 7 on Page 3, the last sentence, you state, "this estimate has not taken into account other factors which contribute to the actual feasibility of producing those units, such as: the availability of water and sewer facilities, the provision of streets and road access, the adequacy of public school systems and other services and facilities."

What role does the availability of water and sewer facilities play in the actual feasibility of producing low and moderate income units, in your opinion?

A To answer the question both simply and not so simply, the availability of water and sewer facilities

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1 affects the--generally, the cost of land. And where
2 it is not available, the provision of such facilities
3 would add to the overall cost. What this list is
4 attempting to provide in this paragraph is an
5 indication that there are factors that were considered
6 to determine the development of housing over and
7 above the mere mapping of certain zones.

8 Q Do these factors which you list in the
9 last sentence of Paragraph 7, do these play any role
10 in developing a fair share plan?

11 A Such factors have been used in fair share plans
12 for housing allocation plans, as I indicated in this
13 report, in identifying the criteria for allocation.

14 Q Can you refer to any specific model or
15 example of a fair share plan that uses these factors?

16 A Interestingly enough, I believe I know of two
17 housing allocation plans that incorporated such
18 considerations in their earliest fair share plans,
19 and they have, since then, been revised not to include
20 such factors. So the earlier drafts--not drafts. The
21 earlier reports would have that.

22 Q What plans are you referring to?

23 A And this may not be completely accurate, but as
24 I recall, the Metropolitan Council in St. Paul-
25 Minneapolis, Minnesota, in its original plan, I believe,

1 identified priority areas based on a variety of
2 factors, some of which were similar to these. I recall
3 they have since revised that and don't utilize the
4 same method.

5 Q Would you happen to know why they deleted
6 such factors from their analysis?

7 A No, I don't.

8 Q And what was the plan?

9 A The other one comes out of Dayton, Ohio. It's
10 the Miami Valley, Ohio Planning Commission.

11 Q And they also deleted these factors?

12 A I'm not sure. I know the factors have changed
13 over time.

14 Q Okay. Have you taken into account these
15 factors in developing a fair share plan in this case?

16 A No.

17 Q Okay. Okay. On Page 4, Paragraph 5 of the
18 March report, the first sentence, "the zoning
19 ordinance must account for a factor of units beyond
20 fair share goal."

21 My question is: What factor of units
22 must Passaic Township account for beyond your deter-
23 mination of its fair share?

24 A I have not computed that figure.

25 Q Okay. So as it stands, you only have an

1 allocation for the fair share of Passaic Township
2 under the fair share plan?

3 A That's true.

4 Q Okay. Are you intending to or in the
5 process of computing this additional factor of units
6 as referred to in Paragraph 5 of Page 4?

7 A No.

8 Q Okay. Do you know to determine that figure?
9 I mean, how would you determine that figure?

10 A I would have devise a method.

11 Q Okay. You do not have a method ~~at this~~
12 time?

13 A Not at this point.

14 Q On Page 4, Paragraph 8, okay, under the
15 topic of "what is adequate performance?" in the second
16 sentence in that paragraph, you state, "an alternative
17 test or measure".

18 Were you referring to any specific alter-
19 native test or measure in that particular sentence?

20 **HEI** Nothing in particular, no.

21 **Q** Okay. Do you know of any other alternative
22 tests, other than a fair share plan?

23 A I mean, generally, in Madison, an alternative
24 measure of reasonableness--I forget the exact phrase.

25 Q You are referring to the Oakwood-at-
Madison case, decided by the New Jersey Supreme Court?

1 A Yes.

2 Q Page 5, Paragraph 3, it's in reference to--
3 okay. You are stating that, "a fair share plan
4 balances factors of need suitability and redistribution."

5 Okay. First of all, are you familiar with
6 any fair share plan that uses at its region a--
7 what Mr. Bisgaier calls a commuter shed, a region
8 based on the distance between the municipality and
9 where people work, say, approximately a half hour
10 distance from the municipality, in any direction?
11 Are you aware of any plan that uses that type of a
12 region in making the allocation?

13 A You mean an adopted, operating fair share plan?

14 Q Right.

15 A No.

16 Q Are you aware of any proposed plans using
17 such rationale?

18 A Mr. Bisgaier has mentioned one to me in
19 this particular case, I think.

20 Q Okay.

21 I'm not familiar with it.

22 Q All right. Are you aware of any books
23 or articles, in your field, fair share planning,
24 that use a commuter shed type region as an example
25 of a region in making a fair share plan?

1 A I think it's very possible that articles or
2 publications may have referred to the possibility or
3 discussed that possibility. I'm not familiar--I mean,
4 I can't recall anything in particular.

5 Q Can a fair share plan, based upon this
6 "commuter shed region," incorporate considerations of
7 need, suitability and redistribution?

8 A Assuming we mean the same thing by "commuter
9 shed," I would say that the incorporation of those
10 three factors is not guaranteed at all.

11 Q First of all, could you explain to me what
12 your understanding of a commuter shed is?

13 A Taking a--it generally refers to identifying
14 a center location and identifying the commuting range
15 to that location from individuals' residence or
16 employment. It's not always used that way.

17 Q Why doesn't such a region, based on a
18 commuter shed, incorporate the considerations of
19 need, suitability and redistribution?

20 Very simply, because it only incorporates a
21 commuting pattern. It would not necessarily identify
22 areas of housing need. It does not, on its face,
23 evaluate various areas for potential provision of low
24 and moderate income housing, and it would not necessarily
25 guarantee any redistribution of housing opportunities.

1 Q Okay. Page 6, Paragraph 2, "absent the
2 time frame established in a fair share plan, some
3 measure must account for the capacity and timeliness
4 of the municipality's response in providing for least
5 cost units."

6 Can you tell me what you mean when you
7 state, "the capacity and timeliness of a municipality's
8 response for least cost units"? Specifically, what
9 response are you referring to?

10 A The response is the extent to which the municipality
11 has complied with the goals set forth in the fair
12 share plan.

13 Q Okay. If zoning or rezoning of a municipality
14 is the municipality's response to a fair share plan,
15 in what time frame must it respond in order to be
16 timely, to be a timely response?

17 A Again, I'm not sure I can give you as specific
18 an answer as you want. Obviously, there is an end
19 goal in mind, and a municipality would need to take the
20 steps necessary to meet that goal. It seems obvious
21 that a municipality cannot wait until the day before
22 the end of the plan period to rezone. Unfortunately,
23 it may amount to matters of reasonableness or proper
24 planning.

25 Q Okay. On Page 6, Paragraph 7, the first sentence,

1 "consistent with the first test, the number of least
2 cost units provided should bear a likely relation-
3 ship to the residential growth occurring within the
4 municipality."

5 If a community has no residential growth,
6 what number of least cost units would need to be
7 provided by that municipality?

8 A A municipality would still, in my opinion,
9 have an obligation to meet its fair share goal. This
10 sentence refers to the obligation of a jurisdiction
11 to incorporate provisions for least cost housing
12 along with its development of residential units
13 altogether. It's--I should state also, that, given
14 the way in which a fair share for housing allocation
15 plan is developed, the likelihood of your hypothetical
16 seems to me to be minimal.

17 Q Okay. In reference to that same sentence
18 on Page 6, Paragraph 7, when you refer to the "total
19 residential growth in a municipality," what time frame
20 are you speaking of in reference to that, since its
21 inception, the municipality's inception, or from the
22 beginning of the plan, or what?

23 A Generally, It's an ongoing frame of reference,
24 I guess for the same time frame as the implementation
25 of the housing allocation plan. That's actually a

1 fairly simple answer to a bit more complex notion,
2 perhaps. It seems to me that it's conceivable that
3 a jurisdiction having promoted considerable amounts
4 of growth in the past may have a greater obligation
5 to provide cost housing during the implementation
6 stage of a housing allocation plan in order to meet
7 that goal.

8 Q That's if it's previously encouraged
9 residential growth?

10 A Yes.

11 Q Then, it would have more of an obligation?

12 A That seems to be conceivable, yes.

13 Q Would the converse be true that, if a
14 municipality has not encouraged residential growth,
15 its obligation would be reduced?

16 A No. I had a feeling you didn't understand what
17 I said, It's relative in the sense that a jurisdiction
18 has an obligation to meet the goal. It--if it has had
19 substantial residential growth to the beginning point
20 of the housing allocation plan, then, in order for it
21 to meet the goal of the housing allocation plan, the
22 provision of those units may appear to be more than
23 its ongoing residential development of other types
24 of housing. So, in addition, the converse may be true,
25 as well.

1 Q I see.

2 A Is that clear?

3 Q I think so. It will be clear when I read
4 it back.

5 Is it possible that a community in a region
6 could not be experiencing any growth, residential
7 growth, from the fact that it's completely developed,
8 all its land has been used up?

9 A Is that possible?

10 Q Yes.

11 A Yes.

12 Q And if that were the case, where it's
13 no longer experiencing residential growth, would it
14 need to provide a fair share of low and moderate
15 income houses under your plan?

16 A I think you already asked me that question and,
17 yes, I do still think it has an obligation to produce
18 housing.

19 Q Even if it's completely developed?

20 A Yes. There are several things in the housing
21 regulation plan, such as the development limit. In
22 addition to that, there's a rare community where
23 there's no housing activity going on of one sort
24 or another.

25 Q By "housing activity," do you mean new

1 building or just a change of ownership in existing
2 housing?

3 A It could be a change in existing housing. It
4 could be demolition of structures.

5 Q Do employment opportunities play a role
6 in a person's choice of housing, in your opinion?

7 A I would assume for some people.

8 Q Do employment opportunities play a role
9 in a low and moderate income person's choice of
10 housing?

11 A In some instances, I would assume so.

12 Q What would be the other instances? What
13 wouldn't employment play some role in the choice of
14 housing, employment opportunities?

15 A Individuals choose the location of housing for
16 a variety of reasons.

17 Q Such as?

18 A One could want to live in a particular
19 community, wanting to live closer to family members,
20 wanting to have their children go to a particular
21 school system, liking the nature or character of a
22 community.

23 Q So a person could choose particular
24 housing without reference to employment?

25 A That's possible.

1 Q If a community has no employment
2 opportunities for low income persons, in your
3 opinion, would that community be likely to be chosen
4 as a place for housing, for low income persons?

5 A I think it's possible, yes.

6 Q Okay. For any of the possible reasons
7 you gave me for choice in housing, other than employ-
8 ment?

9 A Yeah, those, in addition to the fact that a
10 person may want to live in that community because
11 they would be closer to their employment, even though
12 that employment may not be, in fact, in that community.

13 Q I guess my definition of employment
14 opportunities also included location to work. I
15 should have referred to that.

16 On Page 9, Paragraph 1, you state that,
17 "a fair share plan operates over a region which
18 includes a major metropolitan center."

19 My question is: What is, in your opinion,
20 the major metropolitan center of Region 11?

21 Basically, the Newark area. I answered that
22 question in reference to the New Jersey DCA Housing
23 Allocation Plan.

24 Q Okay. Well, your opinion of Region 11,
25 which is the DCA's region, in that region, Newark would

1 be the major metropolitan center?

2 A Yes. I have also indicated, in either prior
3 testimony or reports, that Region 11 is basically a
4 part of the New York-New Jersey metropolitan area.

5 Q Right. And in your opinion, there's only
6 one major metropolitan center in Region 11?

7 A That's correct.

8 Q Okay. Could the region which encompasses
9 Passaic Township, but also includes Newark as its
10 major metropolitan area, be a valid region, even
11 though it is smaller than Region 11?

12 A Could you repeat that?

13 Q Okay. Could a region or Passaic Township,
14 which uses Newark as its major metropolitan center,
15 but is smaller than Region 11, be a valid region for
16 Passaic Township?

17 A I don't think that is the case. It is possible
18 that that could be the case.

19 Q Okay. On Page 9, again, Paragraph 1,
20 you refer to, I believe it's the third sentence, "it
21 is limited to a time frame often of one to five years."

22 A I'm sorry. I need to clarify what I last said.
23 By "possible," I mean possible given the circumstances
24 were not as they are now; that factors have changed
25 in order for a different region to be appropriate.

1 Q What factors?

2 A Such as the availability of resources in other
3 parts of the region or the housing needs that exist,
4 those factors that go into defining a region.

5 Q Okay. On Page 9, Paragraph 1, in sentence
6 3, you state, "it is limited to a time frame often
7 of one to five years."

8 Why was a longer time frame used in this
9 particular plan, fair share plan?

10 A I am not exactly sure the time frame in this
11 particular instance refers to the population pro-
12 jection used. New Jersey DCA may have been under a
13 directive to do so, or it may have been their own
14 decision to incorporate that time frame.

15 Q Okay. And that's the 20 year time frame,
16 from 1970 to 1990. Is that correct?

17 A Correct.

18 Q Do you think it would be appropriate to
19 use a shorter time frame than was used by the DCA?

20 A I think it would have been acceptable. I don't
21 know if I would use the words more appropriate.

22 Q If you had a choice of making plans from
23 Day 1 to Day 4 in Region 11, starting from 1980,
24 what would be the time frame that you would use in
25 planning?

1 A I would have to look at some factors that I
2 haven't really evaluated. I would probably use
3 a five to 10 year planning period. Primarily because
4 I think it tends to be politically more acceptable.

5 Q Do any planning considerations come into
6 play in choosing that five to 10 year period, such
7 as, for example, the desire to reevaluate the needs
8 of the community in the region on a more frequent
9 basis?

10 A Yes, I do think that's possible. You should
11 understand that, having a 20 year or 10 year time
12 frame does not prohibit the periodic evaluation of
13 either the progress or validity of that plan. It's
14 merely a difference of having a long range plan as
15 opposed to a short range plan.

16 Q Okay. Assuming we have this long range
17 plan in existence, which is set by a state or
18 regional agency, do you think a municipality should
19 plan its community in, say, five to ten year inter-
20 vals in implementing a plan, the full 20 year plan?

21 A Well, yeah. In fact, we have 10 years remaining
22 of this 20 year projected plan. So the long range-
23 short range may not mean so much here. Most--I
24 shouldn't say most. It is common for planning
25 jurisdictions to engage in both short range and long

1 range planning. In my opinion, that combination is
2 very desirable.

3 Q By short range planning, say we had a
4 20 year plan and the community decided to implement
5 it every five years to write up a new master plan or
6 goal towards that 20 year objective, in doing such
7 planning, in that first five year stage, do you have
8 to incorporate everything for that 20 year goal,
9 or can you break it up gradually to reach that ob-
10 jective, but over a 20 year time frame?

11 A Obviously, it seems to me that it could be
12 staged over the long range planning period as long
13 as there was clear evidence that that staging would,
14 in fact, result in meeting the long range goals. In
15 addition to that, however, in the situation of a
16 housing allocation plan, there are immediate needs
17 that exist, to which have been added projected needs.

18 Now, the projected needs, obviously, are pro-
19 jected over the time period, but there exists, in
20 fact, today, some needs that need to be met. So
21 while staging may be possible, it may not be an
22 equal staging over the time period of that plan.

23 Q This may sound somewhat redundant, I
24 hope it isn't, but can a municipality develop a fair
25 share plan or must a state or regional agency develop

1 such a plan?

2 A A municipality can develop a fair share plan.
3 It is not desirable, in my opinion. I think the fair
4 share plans should be developed on a regional or
5 statewide basis. A municipality could, in fact,
6 develop its fair share plan based on the region. It
7 need not develop a plan just for its own jurisdiction.
8 There is nothing that keeps any individual jurisdiction
9 in New Jersey from developing the same plan that
10 New Jersey DCA did on its own.

11 Q Page 9, the last paragraph, you state,
12 "other considerations may be important, such as the
13 balance between employment opportunities or available
14 zoned areas for commercial-industrial areas and housing
15 units," et cetera, to the end of the sentence, which
16 ends on Page 10.

17 Okay. Can you tell me whether the balance
18 between employment opportunities or available zoned
19 areas for commercial-industrial uses and housing
20 opportunities came into play at all in your fair share
21 plan?

22 A In the New Jersey DCA one, yes, it did.

23 Q Okay. How?

24 A It was not incorporated--as I mentioned before,
25 employment growth is one of the factors used in the

1 allocation of the housing need. And according to
2 Page 10 of the New Jersey Housing Allocation Report,
3 they do indicate that it was a factor used in delin-
4 eation of the regions. I did not review that background
5 working paper. As I recall, they discussed that at
6 great length in that working paper.

7 Q That's housing opportunities?

8 A No, they refer to it as socio-economic inter-
9 dependence.

10 MR. EISDORFER: Off the record for just a
11 minute.

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

14 (There is a short recess.)

15 Q Then, how does the DCA Plan strike a
16 balance between high density and development and
17 resultant demand on public services and facilities
18 and developing growth areas? It's on Page 9.

19 A You are reading off the page?

20 Q Yes. It's Page 9, again, on the bottom,
21 those three considerations I mentioned before that
22 come into--that may be important in determining
23 regions, the specific one.

24 A Again, I'm really not sure without going back
25 and reviewing those working papers. In reviewing the

Brooks - cross

working papers, I guess I would look, again, at the socio-economic interdependence that they identify and their discussion of the sharing of housing needs. It seems to me, as I recall, that there was consideration of those factors.

Q Would that third consideration, the provision of a variety of housing types, was that fact also considered in the working papers of the DCA?

A Not that I recall.

Q Okay.

A You mean in the delineation of the region?

Q Right.

A Not that I recall.

Q Okay. When you are referring here to "maintaining stability within a jurisdiction and throughout the region," what kind of stability were you talking about?

A The ability of a jurisdiction to house households throughout the--what is referred to as the lifestyle cycles. So that, when families' children leave and they need a lower cost form of housing because they are on a fixed income, they are not forced to move out of the jurisdiction, or that places of employment cannot find employees at some of the lower salaries because there's not housing for those households. Those

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1 the kinds of things I would refer to as stability.

2 Q Okay. Do you know where, in Region 11,
3 there presently exists a concentration of low and
4 moderate housing?

5 A Only generally.

6 Q What general areas?

7 A Such as Newark, Elizabeth, Jersey City. Those
8 come to mind.

9 Q And is it your opinion, if your fair share
10 plan, your amendments and DCA's fair share plan were
11 implemented in Morris County, this would reduce the
12 concentration of low and moderate income housing in
13 these areas?

14 A In fact, it may or may not. It would, if
15 implemented, provide expanded opportunities for low
16 and moderate income households in other areas of
17 the region. Does that answer your question?

18 Q Yes. Why would it not necessarily reduce
19 the concentration of low and moderate income housing
20 in each areas as Newark, Elizabeth and Jersey City?

21 A I may not have answered the question fairly.
22 Availability of those units in those jurisdictions
23 may, in fact, remain. Households may move out of
24 those units to other locations. In addition to that,
25 we are also talking about population growth. So we

1 are talking about additional low and moderate income
2 households that may select to move to other jurisdictions.

3 Q So although new housing may be provided
4 in Morris County for low and moderate income persons,
5 you could still have a concentration of low and moderate
6 income housing in Newark, Elizabeth and Jersey City.
7 Is that correct?

8 A That's possible.

9 Q On Page 11, at the bottom of the page,
10 in (3), "no area will receive more units than it can
11 support within standards for protecting the health,
12 safety and general welfare of the public."

13 What are your standards for protecting
14 the health, safety and the general welfare of the
15 public?

16 A I've not put forth any standards at all relative
17 to that either in my reports or testimony nor really do
18 I intend to. That refers generally to standards of
19 health, safety and the protection of the general wel-

20
21 Page 12, in Paragraph, I believe, 4, you
22 list examples of what you call, "suitability criteria."
23 Are the various suitability criteria which you list
24 in Paragraph 4 of Page 12 included in the proposed
25 fair share plan for Morris County?

1 A As we have talked about before in the allocation,
2 the vacant land is one factor. To varying degrees or
3 ~~extend~~, fiscal resources are also incorporated in
4 those criteria.

5 Q Does the DCA Fair Share Plan which you have
6 adjusted include as a factor available water and
7 sewer facilities and other community services and
8 facilities?

9 A The--to my knowledge or as I recall, the only
10 way that factor is incorporated is in the adjustments
11 they make with reference to the State Development
12 Guide Plan. So it would be an indirect consideration.

13 Q Did they consider the factor of access-
14 ibility to transportation facilities?

15 A Not that I recall.

16 Q Does the DCA Plan consider the impact on
17 the school system?

18 A Not that I recall.

19 Q Okay. And it does consider per capita fiscal
20 resources?

21 A Yes. And I should indicate to you that, in
22 listing those, I know of virtually no housing
23 allocation plan that incorporates all of those. They
24 select criteria to indicate the suitability.

25 Q You also list, on Page 12, a distribution

1 criteria and, specifically, in the last sentence of
2 Paragraph 5, on Page 12, the amount of subsidized
3 housing, the average value of homes or the average
4 annual income currently residing in the jurisdiction.
5 Are any of these criteria used in the DCA Allocation
6 Plan?

7 A The fourth criteria they use for the allocation
8 is personal income.

9 Q They do not consider the amount of sub-
10 sidized housing?

11 A No.

12 Q Is that correct? Or the average value of
13 homes. Is that correct?

14 A That's correct.

15 Q Okay. On the bottom of Page 12 and on
16 the top of Page 13, you also list additional factors;
17 specifically, eight different factors, in allocation
18 plans. Which of these criteria, if any, are used in
19 the DCA Allocation Plan?

20 A For the purposes of allocating the units?

21 Q Yes.

R7 22 A the fifth one.

23 Q Which is per capita fiscal capacity of
24 subjurisdiction through evaluation or wealth. Is that
25 correct?

1 A Yes, and the seventh one.

2 Q Is that with respect to all characteristics
3 or just the land size?

4 A Land size.

5 Q So the other criteria are not included
6 in the DCA Plan. Is that correct?

7 A That's correct.

8 Q Okay.

9 A And, again, this list refers--I mean, that is
10 characteristics of housing allocation plans altogether.

11 Q Can you tell me what criteria is used for
12 allocation in the areawide housing opportunity plans?

13 A They vary.

14 Q There is not a consistent standard?

15 A Not that I'm aware of.

16 Q Are any of the areawide housing opportu-
17 nity plans which you are familiar with identical
18 with the DCA Allocation Plan; that is, using the same
19 criteria?

20 A Not that I know of.

21 Q I'm referring to Page 19, Paragraph 2.
22 You discuss factors that are considered by the DCA
23 Plan; particularly, employment growth, non-residential
24 ratable growth and personal income. Can you tell me
25 whether it is possible to update the employment growth

1 figure in the DCA Plan from 1976 to 1980?

2 A Using the same data base?

3 Q Right. For Passaic, for example, or for
4 any of the communities, could you update that figure
5 from 1976, which you say it was updated to? Could
6 it again be updated now from '76 to '80?

7 A I believe you could. I mean, I believe the data
8 is available. There are changes in what you included
9 in covered employment, which is the source of the
10 data, which, under certain circumstances, changes
11 that data base from year to year. Those changes have
12 been made several times in the past. And if I haven't
13 reviewed that recently to know what kind of changes
14 have been made recently. Were such changes made, it
15 might make it difficult to have comparable data.

16 Q Do you know whether there were changes
17 in covered employment data between 1969 and 1975?

18 A I didn't review that recently. As I recall,
19 there may have been one in '72.

20 Q Okay. If you included this updated data,
21 assuming that the data is available, if you included
22 this updated employment growth data into the DCA
23 Plan, how would it affect the plan?

24 A It depends on what the data showed.

25 Q Okay Is it possible to update it in that

1 respect, if the data were available?

2 A Would it be possible to change the allocation
3 plan?

4 Q Right.

5 A Yes.

6 Q Okay, Is it possible to update the non-
7 residential ratable growth figures in the DCA Plan
8 from 1975 to 1980?

9 A If that data is available, and I assume it is,
10 yes.

11 Q Do you know how that would affect the
12 plan?

13 A No, I don't.

14 Q Okay. Would it be possible to update the
15 personal income figures from 1970 to 1980?

16 A If the data is available.

17 Q Do you know whether the data would be
18 available on that item?

19 A I don't know if it would be available at a
20 municipal level.

21 Q It would be available on a State level?

22 A I'm certain it would be available on a State
23 level, and it's possible it would be available on the
24 municipal level.

25 Q Okay. Do you know whether you could update

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the vacant developable land figures in the DCA Report?

A Again, it could be done, if the data were available. I'm not familiar with what data would be available.

Q Can you tell me why the figures--well, first of all, why was the unemployment--I mean, the employment growth figure not updated in your adjustments from 1976 to 1980?

A In the adjustments I made?

Q Yes.

A I did not have the data available.

Q What about with reference to the non-residential ratable growth from 1975 to 1980?

A That same answer is true for all four of those factors.

Q All four?

A Yes.

Q Okay. Do you have any problems with the DCA's use of different figures for different years for the different characteristics? For example, for the employment growth, they use the 1976 figures. For the non-residential ratable growth, they use the 1975 figures. For the personal income, they use 1970 figures. Do you have any problems with using different years in making an allocation, figures for

Books - cross
different years?

A No.

Q Why not?

A The figures are consistent within the category, so that all jurisdictions are treated similarly. There is not, in the allocation plan, any particular relationship on these four that is drawn in the allocation.

Q On Page 20, and also in other pages, you refer, and I'm not exactly sure where--okay, it's under evaluation, No. 5, under the evaluation on Page 20. You state that, "the method used to adjust the allocation for development capacity employs restrictive estimates of vacant developable land."

Why do you call the estimates of vacant developable land restrictive, and on what basis do you make that opinion?

A As is identified in this report and as New Jersey DCA states in its own allocation report incorporation of agricultural land should not indicate that that land is not potential land growth. I felt that potential made it restrictive.

Q But that's the only reason why y it restrictive?

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1 A As I recall, yes.

2 Q Okay, with reference to the April, '79
3 report,--

4 A There are two April, '79 reports.

5 Q Okay. Mine are stapled together.

6 Initially, going to the primary report
7 on adjustments to New Jersey Department of Community
8 Affairs, they revised statewide housing allocation
9 report for New Jersey; specifically, with reference
10 to Page 2, Paragraph 5 begins, "even a perfect
11 allocation system or method".

12 Do you have any opinion as to what is a
13 perfect allocation system?

14 A No.

15 Q Okay. With reference to Page 6 of that
16 report---

17 A Could you stop for just a second?

18 Q Sure.

19 A Okay.

20 Q On Page 6, it discusses the overlap
21 figure among dilapidated, overcrowded and financial
22 housing needs. This is in determining present housing
23 needs. Can you explain why you used the overlap
24 figure from data for the Newark SMSA, as opposed to
25 data for the entire Region 11?

1 A The data was not available for the entire
2 region.

3 Q Was there data available for the Paterson-
4 Clifton-Passaic SMSA, with reference to the overlap
5 figure?

6 A Yes.

7 Q And was the data available for the Jersey
8 City SMSA?

9 A Yes.

10 Q And are these two SMSA's also included
11 in Region 11?

12 A Yes.

13 Q Could you have used them in conjunction
14 with the Newark SMSA to compute the overlap figure?

15 A I could have. It would have been pretty imprecise.
16 It probably would have amounted to something like
17 averaging the three overlap figures, which, statistically,
18 isn't very acceptable.

19 Q What other areas are there in Region 11,
20 in addition to the Newark SMSA, the Jersey City SMSA
21 and the Paterson-Clifton-Passaic SMSA? Are there
22 other areas, outside those regions, that encompass
23 Region 11?

24 A I believe so.

25 Q Do you know if any of that additional area

1 includes other SMSA's?

2 A I don't believe so.

3 Q Why do you consider the Series 2 Population
4 Projections to be conservative? This is in reference
5 to Page 7 of your report.

6 A The Series 2 assumes a continuation of trends
7 based on a 1970 to 1974 time period.

8 Q Do you have that same problem with the
9 ODEA or the Section--I mean, the 208 Plan projections?

10 A Those projections are not based on the same
11 time period.

12 Q Do either of those projections have an
13 assumption that there will be a continuation of a
14 present level of State growth?

15 A Not that I recall.

16 Q Okay. Can you tell me why you used the--
17 this is in reference to Page 8, with the proportion of
18 low and moderate income houses for the entire State,
19 the 39.4% figure. Can you tell me why you did not
20 use the proportion for the households in the region,
21 as opposed to the State?

22 A I used the State figure because it was a state-
23 wide plan.

24 Q Is that your--that's the reason?

25 A Yes.

1 Q Okay. On Page 8, you also discuss vacancy
2 and replacement demand and the need for additional
3 units to respond to those demands. Can you tell
4 me or show me, in the adjustments that you made in your
5 calculations, where this, the replacement demand of
6 vacancy demand, came into play?

7 A In estimating the prospective housing need,
8 those two items were added to the projected growth.

9 Q Okay. And what were the figures that were
10 added for the prospective need in Region 11? I'm
11 not sure I understand it, unless I have the figures.

12 A Actually, I was asked that question before. I
13 don't have the total for those figures for Region 11
14 because they were added for each county, and then
15 the totals were added for the counties in Region 11.

16 Q Are those the totals you gave to
17 Mr. Sirote?

18 A That's correct.

19 Q Okay. Do you know if there is an updated
20 version of the New Jersey Directory of Subsidized
21 Rental Housing?

22 A As I recall, I was informed that they were
23 updating it. At the time, there was not an updated
24 version available.

25 Q So the most recent one you know of is

1 1978?

2 A That's correct.

3 **CC** Q Could you have initially deducted from
4 the regional need the units listed in the Directory of
5 Subsidized Rental Housing or the entire region in
6 computing present need?

7 A No.

8 Q Why not?

9 A The need is--well, an estimate of the need--
10 the--I'm sorry to do this. The reason I deducted those
11 units at the end of the method is that the ~~data~~ used
12 in estimating the need were primarily 1970 ~~data~~.
13 So that the need estimated for the plan is ~~based~~
14 on the existence of need in 1970, and it would have
15 been inappropriate to subtract from that things that
16 had gone on since 1970 at the beginning of the method.
17 Do you understand that?

18 Q But if it's determining need and we are
19 using the plan today, you are making adjustments,
20 we have more recent figures in the plan or other
21 factors, couldn't you just take into account each
22 municipality's addition of subsidized housing, which
23 reduces the present need?

24 A If I were going to estimate need for 1999 or
25 1980, I would perhaps do that, although that's not

1 the way this is done. I would make an estimate of
2 housing need for 1980, and, presumably, that would
3 incorporate or it would take into account the units
4 that have been provided to meet the need up to that
5 point. But to estimate need for 1970 and then to
6 subtract things that have gone on since then and
7 claim that that's an estimate of 1970 need would not
8 be either accurate or appropriate.

9 Q Would it be accurate to deduct any
10 subsidized housing that has been built in these
11 municipalities in Region 11 since 1970 and, with a,
12 say, 1979 or 1980 need, present need?

13 A As I indicated, if one were to identify 1980
14 housing need, they would go about it using 1980
15 data, just as one went about it using 1970 data.

16 Q So there's no way of updating present
17 need to date? Do we have the data available to make
18 a 1980 need?

19 A Not that I know of.

20 Q Okay. On Page 2, this will be of the
21 Preliminary Report, on Demographic Characteristics,
22 I only have a few more questions with reference to
23 that report, and I have some general questions---

24 A I'm sorry. To which report?

25 Q This is the April report on the demographics.

1 Okay. Page 2, Item No. 10, you state,
2 "only 18 municipalities in Morris County experienced
3 ~~greater~~ employment growth during 1972 to 1977 than
4 residential growth between 1970 and 1977."

5 Is Passaic Township one of those
6 communities?

7 A Yes.

8 Q It is.

9 What are you specifically referring to?

10 A Page 35.

11 Q Can you tell me, with reference to Page 35,
12 why this chart does not include data from, say,
13 1969 or '70, whenever the Census data was computed,
14 to 1972, to the change in covered jobs?

15 A I wish I reviewed this. As I recall, and what
16 we talked about before, I believe there was a change
17 in 1972 in what was included in the covered jobs.
18 So that, for data comparability, I used 1972 to 1977.

19 Q Would it have been possible to break
20 out certain data within that 1970 to 1972 period
21 to compare it with the 1972 to 1977 period for covered
22 jobs?

23 A It would have been possible. It would have been
24 inaccurate.

25 Q Why?

1 A And, again, without reviewing this, I'm not
2 going to recollect it very correctly. It is likely
3 that the change in 1972 either included more types of
4 jobs or excluded certain types of jobs, and I'm not
5 sure that the data that I had available broke them
6 down that precisely.

7 Q So from 1970 to 1977, there could be a
8 difference in the actual number of jobs that, I assume,
9 were created in Passaic, other than the 225 listed
10 here?

11 A If I understand you correctly, you are saying
12 that, if the change in covered jobs between 1970
13 and '72 were added to what is indicated here between
14 1972 and 1977, would that figure change?

15 Q Yes.

16 A Yes, probably.

17 Q Before I go on, maybe you can explain.
18 When you have change in covered jobs, that means
19 225 new positions?

20 A As I understand it, yes.

21 Q It's not just change in jobs from one
22 particular employment in Passaic to another, it's
23 actually 225 new positions?

24 A I believe so.

25 Q While we are on this chart, do you know

1 whether, of these 225 new positions between 1972 and
2 1977, these new employees obtained housing, other
3 than new housing, within Passaic?

4 A No.

5 Q Do you have any record that would reflect
6 the number of new residents moving into Passaic
7 during 1970 to 1977, other than new housing or
8 residential permits?

9 MR. EISDORFER: I'm not sure I under-
10 stand the question.

11 Q Okay. Here you have listed residential
12 permits for 1970 to 1977, and the number you give
13 on Page 35 for Passaic Township is 174. Do you know
14 the total number of people who moved into Passaic
15 Township during that 1970 to '77 period?

16 A I don't believe so.

17 Q Okay. Do you know if there's any assisted
18 housing in Passaic Township, assisted or subsidized
19 housing in Passaic Township?

20 Not according to the New Jersey DCA Report.

21 Q And when are those figures valid, what
22 years?

23 A 1978.

24 Q Okay. So as of 1978, there was no
25 subsidized or assisted housing in Passaic?

1 A According to this report, yes.

2 Q All right. On Page 7 of the report, this
3 is, again, the April, 1979 Demographics Report,
4 Paragraph 2, you say that, in Sentence 2, "Morris
5 County, however, contains 26.3% of the total land
6 area in Region 11."

7 By "total land area," is that vacant
8 developable land or strictly land?

9 A I believe it's total land area.

10 Q Total land area.

11 Okay. Have you calculated population
12 growth in Passaic Township from 1970 to 1980?

13 A No.

14 Q Is it possible to calculate that growth?
15 Is there data available?

16 A Not that I know of.

17 Q Have you calculated the non-white
18 population growth in Passaic Twonship for 1970 to
19 1980?

20 A No.

21 Q The same question with respect to Morris
22 County?

23 A No.

24 Q Okay. Is the data available for either
25 Passaic Township or Morris County, for the period

1 1970 to 1980?

2 A Not that I know of. I guess I should indicate
3 ~~that~~ on the population growth, one can obtain
4 building permit data and make assumptions to that.
5 I suppose it wouldn't be very accurate or might not
6 be very accurate.

7 Q Okay. Page 39 of the same report,
8 Paragraph 2 discusses income data for the Newark
9 SMSA. My question is: Why did you not include
10 other income data for other SMSA's in Region 11?

11 A I don't believe I had it available.

12 Q Pardon me.

13 A I don't believe it was available.

14 Q Okay. Let me refer you to Page 47 of
15 your report. This breaks down the income in Passaic
16 Township into quintiles for 1960 to 1970. Based on
17 this quintile analysis, what opinions do you have
18 regarding Passaic Township?

19 A The quintile analysis indicates that, relative to
20 the State, Passaic Township has a greater proportion
21 of its population in the higher income quintiles
22 in 1970 than it did in 1960.

23 Q Do you know how Passaic Township compares
24 in a quintile analysis with relation to the remainder
25 of the communities in Region 11?

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A On Page 16, Region 11--quintiles for Region 11 are presented, the middle of the page.

Q This is for 1970?

A Yes.

Q Do you have figures for Region 11 for 1976?

A No.

Q Do you know whether Passaic Township had an increase or a decrease in employment from 1970 to the present date?

A Only as indicated in the data presented here.

Q That would be, then for the period 1972 to 1977,---

A Correct.

Q ---regarding covered jobs?

A Correct.

Q On Page 30, could you please explain the chart with reference to Passaic Township? This may be my own ignorance, but I would like to have it explained.

A Passaic Township had 2,100 total occupied housing units in 1970. Of those occupied units, 87% are owner occupied. Of those housing units, 96% are contained in one to two unit structures.

Q 96% of the 87% are one to two unit

structures?

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A No, 96% of the 2,100.

Q Are one to two unit structures?

A Yes.

Q Okay. And the number of structures in Passaic Township of three or more units is reflected on the chart on Page 34?

A As of 1977.

Q Do your figures--I hope I haven't missed something, reflect the number of structures in Passaic Township that have three or more units as of 1970?

A On Page 53.

Q Do you know what Passaic's present number of structures consists of three or more units?

A Not more up to date than 1977.

Q Okay. Do you know how many mobile homes presently are in Passaic Township?

A Nothing more current than indicated in this report.

Q Okay. The chart on Page 35, we already spoke about it, the 1970 to 1977 residential permits figure that does not take into account any new employees in Passaic Township who moved into existing homes?

A No.

1 Q All right. Okay. On Page 38 of the report,
2 can you tell me what is meant by the "1970 median
3 housing value"?

4 A Could you give me the page number again, please?

5 Q Page 38.

6 How was that value determined?

7 A Median housing values are reported in the Census,
8 1970 Census. It's reported by the Census Track, and
9 many jurisdictions have more than one Census track,
10 which is why the range is indicated here.

11 Q Is that the assessed value of the home
12 or the actual sales value?

13 A I would have to check this to be sure. I
14 believe it's the same value.

15 Q And who makes---

16 A I'm sorry. I believe it's the value placed on
17 the unit by the owner of the home.

18 Q And that would be as of 1969, when the
19 Census data was gathered, or '70?

20 A '69.

21 Q '69.

22 The range, as you said, is because of
23 different Census tracks within the municipality?

24 A That's correct.

25 Q I have some more general questions, not

1 with reference to the report.

2 Have you, at this time or some time prior
3 to this deposition, reviewed any reports submitted
4 in this case by Carl Lindbloom?

5 A No.

6 Q Okay. Have you reviewed any reports sub-
7 mitted in this case by an Alan Dresner?

8 A No.

9 Q Have you reviewed any reports submitted in
10 this case with reference to Passaic Township?

11 A Not that I know of.

12 Q Okay.

13 A Could I ask him a question?

14 Q Sure.

15 (The witness confers with Mr. Eisdorfer.)

16 A The only report that I have looked at is one
17 prepared by Zimmerman.

18 Q Zimmerman. Okay.

19 Do you have any comments about his report?

20 A I did submit comments, yes.

21 Q Would you give me a general explanation
22 of what your comments were with reference to his
23 report?

24 A It was a critique of the report that I submitted
25 to the Public Advocates.

1 Q And what criticism did you have with
2 reference to his report?

3 A As I recall, they were rather lengthy, and
4 I don't recall them.

5 Q Do you know when you submitted these
6 criticisms to the Public Advocate in this critique?

7 A A few months ago.

8 Q And do you have a copy of that critique
9 with you today?

10 A No.

11 MS. MC DERMOTT: Would you be going to
12 supply us with a copy of the critique?

13 MR. EISDORFER: Let me check. I don't
14 think there's a problem with that.

15 Q Okay. Have you ever been to Passaic
16 Township?

17 A I believe so.

18 Q Do you know where it's located in the
19 County?

20 A Generally.

21 Q Where, north, south, east, west?

22 A South.

23 Q And do you know what municipalities
24 border Passaic Township?

25 A Not off the top of my head.

1 Q When did you ever visit Passaic Township?

2 A The same time as in reference to earlier
3 questions, when I drove around with Mr. Bisgaier.

4 Q And do you know how long you spent in
5 Passaic Township?

6 A No.

7 Q Do you remember anything that you observed
8 while you were in Passaic Township?

9 A Not particularly.

10 Q Do you remember any roads you were on in
11 Passaic Township?

12 A No.

13 Q Okay. Do you have any recollection of
14 any unusual sites or pieces of land in Passaic Town-
15 ship?

16 A No.

17 MS. MC DERMOTT: Off the record.

18 (There is a short discussion off the
19 record.)

20 Q For the purposes of this allocation,
21 you have agreed to accept the vacant developable land
22 figures in the DCA Allocation Report. Is that correct?

23 A Yes.

24 Q Even though you have reservation regarding
25 the agricultural land?

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A That's correct.

Q Do you know how much vacant developable land there is in Passaic Township?

A Not other than identified by New Jersey DCA.

Q Have you done any reports to determine vacant developable land---

A No.

Q ---in Passaic Township?

A No.

Q Did any of the working papers which you have referred to, or working documents, that were used in the preparation of the 1976 DCA Report and then incorporated in the 1978 plan, do any of those reports refer to or incorporate data referable to vacant developable land?

A I don't recall if it was included in any of them. It would be the one discussing prospective housing need. No, I'm sorry, that's not true. I believe there's a working paper that discusses the allocations.

It would be included in that one.

Q Okay. In the 1978 DCA Allocation Report, Appendix D, there are some--perhaps you would like to look at that page. I think it's the second page of the Appendix. Before they actually get into the data, they list the sources of information.

1 A Uh-huh, yes.

2 Q With reference to vacant land, the report
3 [REDACTED] a survey by New Jersey Department of Community
4 [REDACTED], Division of State and Regional Planning,
5 1975-1976. Have you reviewed that document?

6 A No.

7 Q Okay. Have you, at any time during the
8 course of this litigation or in preparation for this
9 litigation, discussed this survey with a member of
10 the New Jersey Department of Community Affairs?

11 A I don't recall. In very early depositions, I
12 believe I went over all of the conversations I had
13 with members of New Jersey DCA, and it would be
14 identified there.

15 Q Okay. Have you reviewed any background data
16 leading to the development of that vacant develop-
17 able figure that is in the DCA Report?

18 A No.

19 Q Okay. Have you checked the accuracy of the
20 figure in the DCA Report for vacant developable land?

21 A No.

22 Q Okay. Do you know when that figure for
23 vacant developable land was calculated? As of what
24 date was it valid?

25 A I don't recall.

1 Q Okay. Okay, Do you know how much vacant
2 land presently is in Passaic Township?

3 A No.

4 Q Do you know how much vacant land existed
5 in Passaic Township in 1970?

6 A No.

7 Q Do you know how much vacant land existed
8 in Passaic Township in 1975?

9 A No.

10 Q Okay. Do you know how much land exists
11 in Passaic Township presently which has slopes in
12 excess of 12%?

13 A No.

14 Q Do you know that figure as of 1970?

15 A No.

16 Q 1975?

17 A No.

18 Q Okay, Do you know how much tax exempt
19 land presently exists in Passaic Township?

20 A No.

21 Q In 1970?

22 A No.

23 Q Or in 1975?

24 A No.

25 Q Do you know whether there are any public

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1 lands presently in Passaic Township?

2 A No.

3 Q Do you know whether there were any public
4 lands in Passaic Township in 1970?

5 A No.

6 Q In 1975?

7 A No.

8 Q Okay. Do you know whether there's any
9 flood plain or flood fringe areas in Passaic Township
10 presently?

11 A No.

12 Q In 1970?

13 A No.

14 Q In 1975?

15 A No.

16 Q Are you familiar with the Great Swamp
17 National Wildlife Refuge?

18 A I know of its existence.

19 Q Do you know where it is located?

20 A In southern portions of the County. I don't
21 know precisely.

22 Q Would you consider that area appropriate
23 for development?

24 A I have not studied it in particular. Because
25 it's called a swamp, I don't suggest it ought to be

1 looked at.

2 Q Do you know who owns the Great Swamp
3 National Wildlife Refuge?

4 A No.

5 Q Do you know if it exists or is present
6 in Passaic Township?

7 A I believe so.

8 Q Do you know how much land is part of the
9 Great Swamp?

10 A No.

11 Q Okay. With reference to that study which
12 was Appendix D of the DCA Allocation Report, the
13 study of vacant land, do you know how that study was
14 done to compute the vacant developable land figures?

15 A I have read that. I don't recall.

16 Q If you can refresh--if you can find out
17 any information about how those figures were calculated,
18 if you could supply it to counsel and let me know.

19 A Okay.

20 Q I'm willing to find out any information
21 anybody might have.

22 Do you consider the vacant developable
23 land figures in the DCA Allocation Study of 1978
24 reliable?

25 A In the evaluation I did of the New Jersey DCA

1 Allocation Plan, I did not find sufficient reason
2 for questioning it.

3 Q Why or why not?

4 A Just, in the things I looked at or the report
5 I looked at, I didn't see any basis for questioning
6 its reliability.

7 Q Okay. If the figures for vacant develop-
8 able land listed in the DCA Allocation Report of
9 1978 are incorrect, would that affect your allocation
10 of the fair share least cost housing for any
11 community?

12 A It would have an affect on it, yes.

13 Q How would it effect it?

14 A It would depend on how the vacant land figure
15 changed. That figure is used as one of four criteria
16 in allocating the need, prospective need, and it
17 would have, to that extent, an effect on the allocation.

18 Q Would it also have an affect if some
19 community had reached its development limit and the
20 allocation was above that development limit?

21 A That's correct.

22 Excuse me for just a second. I do have to
23 catch the 4:12 train.

24 Q Okay. Do you want to leave now or would
25 you want me to try to finish?

1 A It depends on what can be done.

2 MR. EISDORFER: Let's go off the record.

3 (There is a short discussion off the
4 record.)

5 Q Okay. Would the region for Passaic
6 Township change if it was shown that Passaic residents
7 and those employed in Passaic resided in a smaller
8 region than the eight county DCA region?

9 A No, because as we have discussed, the region
10 is determined on more bases than that factor that
11 you just indicated.

12 Q Okay. Are you familiar with the "developing
13 community" concept in New Jersey exclusionary housing
14 cases?

15 A To some extent.

16 Q Okay. What factors do you consider in
17 determining whether a community is developing, as
18 used in the New Jersey exclusionary housing cases?

19 MR. EISDORFER: I'm going to object to
20 that question. You are asking her to construe
21 the---

22 MS. MC DERMOTT: I'm asking her what factors.
23 Yesterday we had objection that you could ask
24 the factors, but you couldn't ask the conclusions.
25 So I'm asking as to factors that she would

1 consider, not her conclusions, as to whether
2 one municipality or not is developing. She is
3 giving us a variety of factors on fair share
4 planning.

5 A I have not---

6 MR. EISDORFER: You can answer the
7 question.

8 A I have not set forth the criteria that I will
9 use for delineating a developing jurisdiction.

10 Q Okay. And you do not, then, have any
11 opinion as to whether Passaic Township is developing
12 or not?

13 A No.

14 Q Do you have any opinion regarding the
15 amount of growth that has occurred within Passaic
16 Township?

17 A Not other than the data presented in the
18 report.

19 Q Okay. You do not know what amount of
20 developable and there presently exists in
21 Passaic Township?

22 A No.

23 Q And do you know whether the population
24 in Passaic Township has increased or decreased in
25 the past--since 1970?

1 A Not other than as indicated in the reports that
2 were submitted.

3 Q Can you describe where Passaic Township
4 is located in reference to Newark?

5 A It is west and, I believe, somewhat south.

6 Q Do you know the extent of the development
7 that presently exists in Passaic Township?

8 A No.

9 Q Do you know the amount of commercial
10 development that exists in Passaic Township?

11 A No.

12 Q Do you know the amount of industrial
13 development that exists in Passaic Township?

14 A No.

15 Q Do you know the proportion of commercial
16 and industrial development, as opposed to residential
17 development, in Passaic Township?

18 A No.

19 Q Do you know how large Passaic Township
20 is in terms of acres?

21 A No.

22 Q Square miles?

23 A No.

24 Q Okay. Can you tell me what you would con-
25 sider a rural area, as opposed to suburbs or urban

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areas?

A If I were going to provide a definition, it would probably be based a combination of current density and prospective growth. I have not developed that definition.

Q Okay. In your observations of Passaic Township, would you consider it an urban, suburban or rural community, if you have an opinion?

A I don't.

Q No opinion?

A Correct.

Q Okay. Do you know whether there are any sewers in Passaic Township?

A No.

Q Do you know whether any major roads go through Passaic Township, major highways?

A Not off the top of my head, no.

Q Do you know whether any railroads go through Passaic Township?

A No.

Q Okay, Do you know how water is supplied to the residents in Passaic Township?

A No.

Q All right. If a town settled with the Public Advocate for a figure for least cost housing

1 less than that requested in your allocation, your
2 adjusted allocation of the DCA Report, how would that
3 affect the fair share of any of the other communities?

4 A I guess I need more information, really, to
5 answer the question. It would depend on the time frame
6 established and whether or not there were additional
7 pieces of evidence submitted.

8 Q Okay. Say, for example, you list as
9 Passaic Township's fair share--I believe it's roughly
10 2,300 units. Assume that you put in, Passaic Town-
11 ship agrees to put in, 16 units in its town.

12 A 16?

13 Q 1,600 units, as opposed to the 2,300
14 units, what happens to the remaining units that were
15 to be allocated, if tomorrow we agree to do this?

16 A Assuming that those needs have not been met prior
17 to the element nor is there an intention to meet it
18 within the time period, those needs would not be met.

19 Q And would you reallocate those needs to
20 other communities?

21 A That seems unlikely.

22 Q Would Passaic Township be--if we provided
23 our 1,600 units out of the 2,300 suggested in the
24 report, would we be providing our fair share?

25 A Not according to the Housing Allocation Plan.

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MS. MC DERMOTT: I think we better stop. I
 have a few more questions. But if you wanted to
 get to the train, we better stop.

* * * * *

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

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

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MORRIS COUNTY FAIR HOUSING COUNCIL, :
et al, :
 :
Plaintiffs, :
 :
-vs- :
 :
BOONTON TOWNSHIP, et al, :
 :
Defendants. :

CERTIFICATE

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

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

Robert Mirabella
A Notary Public of the State of New Jersey

Dated: 3/18/80

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