

AD - Bernards

4/5/76

The Allen-Deane Corp. v. Trp. of Bernards

Defendants' demand for answers to  
interrogatories (first set)

pgs 79

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McCarter & English  
550 Broad Street  
Newark, New Jersey 07102  
(201) 622-4444  
Attorneys for Defendants

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION-SOMERSET COUNTY  
DOCKET NO. L 25645-75 P.W.

THE ALLAN-DEANE CORPORATION, a :  
Delaware corporation, qualified :  
to do business in the State of :  
New Jersey, :

Civil Action

Plaintiff, :

INTERROGATORIES  
(FIRST SET)

-vs- :

THE TOWNSHIP OF BERNARDS, IN :  
THE COUNTY OF SOMERSET, et als., :

Defendants. :

TO: MASON, GRIFFIN & PIERSON  
Attorneys for Plaintiff  
201 Nassau Street  
Princeton, New Jersey 09540

SIRS:

PLEASE TAKE NOTICE that the undersigned demand that  
the plaintiff, THE ALLAN-DEANE CORPORATION, give certified  
answers to the following Interrogatories, based upon the knowl-  
edge and information available to them and to their agents and  
attorneys, within the time period allowed by the rules of court.

McCarter & English  
Attorneys for Defendants

*McCarter & English*

Dated: 4/5/76

## DEFINITIONS

Whenever any of the following terms is used in the Interrogatories, the term shall have the following meanings:

"Plaintiff" shall mean THE ALLAN-DEANE CORPORATION and any of its agents, servants or employees, including any attorneys it may have employed or still employs.

"Defendant" shall include THE TOWNSHIP OF BERNARDS, THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BERNARDS, and THE PLANNING BOARD OF THE TOWNSHIP OF BERNARDS, or, where applicable, any individual member of the Committee or Planning Board.

"Person" shall mean any individual, corporation, partnership, or unincorporated association, or sole proprietorship.

"Document" or "writing" shall mean all documents as defined in Rule 4:18-1 of the New Jersey Rules of Civil Procedure, all writings of any nature whatsoever and all non-identical copies of different versions of the same document (e.g. copies of a printed document with different handwritten notations), in your possession, custody or control or to which you have or have had access, regardless of location, and includes but is not limited to, agenda, agreements, analyses, announcements, articles, assignments, bills, books, books of account, brochures, bulletins, calendar and diary entries, charts, checks, communications, computer output or input, contracts, correspondence, data sheets, drawings, handwritten notes, inserts, instructions, invoices, indexes, labels, magazines, magnetic tapes, manuals, maps, memoranda of agreements, mechanical reproductions, memoranda,

minutes, motion picture film, notebooks, notes, notices, orders, packages, pamphlets, papers, periodicals, pictures, price lists, receipts, recordings, records, reports, samples, schedules, statements, statistical or informational accumulations, studies, summaries, tabulations, tape recordings, telegrams, teletypes, video tapes, vouchers, working papers, or any other written, recorded, transcribed, taped or photographic matter, however produced or reproduced.

Whenever the words "identify the source" are used, they mean:

1. If the source material is written, specify the author, publisher, date of publication and all information sufficient to identify the writing. If the writing is a letter or other document not exceeding fifteen pages, attach a copy of it to your answers to these Interrogatories. If the writing exceeds fifteen pages, state where the writing may be inspected and copied and the name and address of the person who has possession of it.

2. If the source material was orally given or submitted, state:

- (a) The name and address of the person who gave it
- (b) The date, time and place when given
- (c) The name and address of all persons present when the oral information was given
- (d) Exactly what was said by each person present
- (e) Whether plaintiff has a memorandum or any other writing evidencing said oral material

given, and if so, attach a copy thereof to your answers to these Interrogatories.

1. Identify the source of the statistical information relating to Bernards Township set forth in paragraph one of the First Count. Include in your answer to this Interrogatory the identity of the source of the statistical information with respect to Somerset County and New Jersey set forth in paragraph one of the First Count.

2. Identify the source for the statistical data alleged in paragraph two of the First Count, and set forth how median family income was calculated. State whether any additional calculations of family income were made or were examined, and identify the source of each of said calculations.

3. Identify the source for the statistical data alleged in paragraph three of the First Count of the Complaint.

4. Identify the source of the statistical allegations made in paragraph six of the First Count.



5. Identify the source of the statistical data with respect to the racial composition of Bernards Township as alleged in paragraph seven of the First Count.

6. Identify the source of the statistical data of the educational characteristics of Bernards Township as alleged in paragraph seven of the First Count, and identify the source of the statistics as to median age as alleged in paragraph seven of the First Count.

7. Identify the source of the statistical data relating to residential housing set forth in paragraph eight of the First Count.

8. Identify the source of the statistical data alleged in paragraph nine of the First Count.

9. Set forth all facts in support of the allegation of paragraph nine of the First Count that since the 1970 census housing values have increased markedly throughout New Jersey, and identify the source for each such fact or compilation of facts, including the "one survey" referred to in paragraph nine of the First Count.

10. Identify the source of the allegation in paragraph nine of the First Count that the assessed valuation of the average housing value in Bernards Township has increased to \$60,355 by 1974.

11. Set forth all facts upon which plaintiff relies to support the allegation of paragraph nine of the First Count that new construction ranges from \$80,000 upwards in cost, and identify the source of each such fact.

12. Identify the source for the statistical allegations in paragraph ten of the First Count, including the property tax rankings of the Townships in New Jersey, Bernards Township's relative rank in the property tax rate, the per capita real estate tax, and the income of the residents of Bernards Township.



13. Identify the source of the statistical data in paragraph eleven of the First Count relating to the favorable tax climate and the equalized real estate tax rate.

14. Identify the source for all statistical allegations in paragraph twelve of the First Count relating to the A T & T Worldwide Headquarters, its tax yield revenues, and the entire Bernards Township total tax levy.

15. Identify the source of the allegations concerning the assessment, revenues and other data relating to the A T & T facilities alleged in paragraph thirteen of the First Count.

16. Set forth all facts upon which plaintiff will rely to support the allegations of paragraph fourteen of the Complaint that Bernards Township will be able to lower its present tax rate at least \$1.00 to \$1.86 per \$100 of assessed population [sic], and identify the source of each and every fact or compilation of facts upon which such statement is based.

17. Set forth all facts upon which plaintiff relies to support the allegations of paragraph sixteen of the First Count as to the projected increase in population because of its own primary employment, geographic location with respect to other employment centers and its highway system, as alleged in paragraph sixteen of the First Count, and identify the source of each such fact.

18. Attach to your answers to Interrogatories a copy of the letter dated November 1, 1971 from Allan-Deane to the defendant Planning Board, as alleged in paragraph twenty-one of the First Count, and set forth all facts in support of the allegation in paragraph twenty-one that Allan-Deane "formally applied", and set forth exactly the nature and title of the "formal application", and specify the statute, the rule, ordinance or other statutory, constitutional or other rule under which the alleged formal application was made.

19. Does plaintiff have a transcript or minutes of the presentation it made on or around November 1, 1971 or at the "informal meetings" thereafter, at which it allegedly pointed out that its property could be developed at reasonable densities in a responsible manner, as alleged in paragraph twenty-one of the First Count. If so, attach a copy thereof to your answers to these Interrogatories.

20. Set forth the dates of each of the "several informal meetings as alleged in paragraph twenty-one.



21. Attach a copy of the letter dated November 11, 1971 from the Planning Board to Allan-Deane to your answers to these Interrogatories.

22. Set forth a schedule of all documents, data or other writings submitted to the defendant Township or the defendant Planning Board by plaintiff with respect to its proposal for the development of its land from November 1, 1971 through December 18, 1975. Attach a copy of each and every such document to your answers to these Interrogatories, or, in the alternative, make same available for the inspection and copying at reasonable times and places by the attorneys for defendant.

23. With respect to paragraph twenty-five of the Complaint, state whether plaintiff has a transcript of the meeting held on February 10, 1976.

24. If not set forth in your answers to the preceding Interrogatories, set forth a schedule of each and every transcript or minute in plaintiff's possession of any meeting of the Township Committee or the Planning Board of Bernards Township.

25. Set forth all facts upon which plaintiff relies, and identify the source of, the allegation of paragraph twenty-six (b) that the Allan-Deane property can be developed at reasonable densities without adverse environmental impact and is suitable for multi-family development.

26. Set forth all facts upon which plaintiff relies, and identify the source of, the allegation of paragraph twenty-six (c) that the Master Plan and natural resource inventory is contradictory and indefensible.

27. Set forth all facts upon which plaintiff relies, and identify the source of, the allegation of paragraph twenty-six (d) that the existing PRN zones are unrealistic and that the environmental and zoning constraints in the PRN zone make it doubtful that any housing below the \$90,000 price range can be constructed.

28. Set forth all facts upon which plaintiff relies to support the allegation of paragraph twenty-six (e) that Bernards Township has excluded<sup>not</sup> only its fair share of regional need for low and moderate income housing but also its fair share of the regional need at all income levels below \$30,000 per year.



29. Identify the source of the allegation in paragraph twenty-seven that there is a housing shortage in the Bernards Township housing region.

30. Identify the source of and define all facts in support of whatever plaintiff's contention is as to the existence, dimensions, scope and geographic location of the "Bernards Township housing region" as set forth in paragraph twenty-seven of the Complaint.

31. Set forth all facts in support of the allegation of paragraph twenty-eight of the Complaint that housing can be constructed on the Allan-Deane property in an environmentally responsible manner and at a price range affordable to all categories of people who might desire to live there, and identify the source of each and every such factual allegation if plaintiff has relied upon written documents or a compilation of reports and/or factual data.

32. Has Allan-Deane or any of its affiliated persons ever worked with a "sponsoring agency" within the meaning of that phrase as it is used in paragraph twenty-nine? If so, set forth the name of the person, the name of the sponsoring agency, the date, and all facts sufficient to identify the transaction or series of transactions involved.

33. Set forth all facts in support of the allegation of paragraph thirty that the affect and design and structure of the zoning ordinance is to unnecessarily increase housing costs, and identify the source of each and every fact upon which the allegation is based.

34. Set forth all facts upon which plaintiff relies to support the allegation of paragraph thirty (c) that the minimum floor area requirements in the PRN zone are excessive and bear no relationship to health, safety or welfare, and state specifically what minimum floor area requirements plaintiff alleges are realistic and should be imposed, and identify the source of each and every such requirement.

35. Set forth each and every fact, and identify the source thereof, upon which plaintiff relies to support the allegation of paragraph thirty (d) that the maximum gross density is extremely low, and requires high cost private units and precluding subsidized units.

36. Set forth all facts in support of the allegation of paragraph thirty of the Complaint that the PRN zone is the most environmentally sensitive.



37. Specifically set forth each and every fact, and identify the source thereof, for the allegation therein that the average housing unit cost of construction in the PRN zone should exceed \$90,000 per unit in 1976 dollars.

38. Set forth each and every fact upon which plaintiff relies, and identify the source thereof, to support the allegation of paragraph thirty-two of the Complaint that the zoning ordinance assures that housing built in Bernards Township would be more expensive than housing similarly constructed elsewhere.

39. Set forth each and every fact upon which plaintiff relies to support the allegation of paragraph thirty-three of the Complaint, and identify the source thereof, that defendant has deliberately sought to preserve Bernards Township as an enclave of affluence and social homogeneity by influencing County and State agencies and agencies of the Federal Government to adopt restrictive policies.

40. With respect to each and every particular instance, as alleged in paragraphs thirty-three (a) and thirty-three (b), set forth all instances of "influence" which defendant has used or caused to be used upon the Somerset County Planning Board with respect to designation of areas to be developed in a sparse residential manner or with respect to areas which are not intended to be sewered.

41. Set forth the names and addresses of each and every person who has knowledge of any and all attempts or instances of "influence" as used in paragraph thirty-three.

42. Set forth each and every fact, and identify the source thereof, in support of the allegation of paragraph thirty-four that the land in Bernards Township which is residentially zoned is available only to the upper 5% of New Jersey's population by income.

43. Set forth all facts upon which plaintiff relies, and identify the source thereof, to support the allegation that there is a critical housing shortage in New Jersey and in the Bernards Township housing region.

44. Set forth all facts in support of the allegation of paragraph thirty-five that the housing need of the Bernards Township housing region will be increased by the construction of the A T & T World Headquarters, and identify the source of all such facts.



45. Set forth all facts upon which plaintiff relies, and identify the source thereof, in support of the allegation of paragraph thirty-six that the A T & T complex will employ 3,500 people who will require an estimated 2,450 homes.

46. Identify the source of the statistical data and tax revenue data with respect to the A T & T complex as alleged in paragraph thirty-seven of the Complaint.

47. Set forth all facts upon which plaintiff relies, and identify the source thereof, to support the allegation of paragraph thirty-nine that the majority of employees of A T & T will be unable to afford housing for their families within Bernards Township.

48. Set forth the source of any and all data with respect to A T & T employees which plaintiff has used, and state the name and address of each and every representative of A T & T who has supplied any such data to plaintiff.

49 . Set forth all facts upon which plaintiff relies, and identify the source thereof, to support the allegation of paragraph forty of the Complaint that the A T & T Long Lines Division complex in Bedminster Township will require 2,450 homes and the employees of which will be excluded from Bernards Township and the suburban municipalities which surround it and will have to commute excessive distances.

50. Identify the suburban municipalities referred to.

51. What is the "substantial external impact" of the Bernards Township zoning ordinance and the Township's system of land use regulation, which is alleged in paragraph forty-two of the Complaint?

52. Set forth each and every way in which the zoning ordinance is contrary to the general welfare.



53. Set forth each and every fact upon which plaintiff relies, and identify the source thereof, to support the allegation that defendant imposed an unfair burden on other municipalities, as alleged in paragraph forty-two (a).

54. Set forth all facts upon which plaintiff relies, and identify the source thereof, to support the allegation of paragraph forty-two (b) that defendant deprived other communities, cities and urban areas of the rateables they need to create a better balance for their community.

55. Set forth each and every fact, and identify the source thereof, upon which plaintiff relies to support the allegation of paragraph forty-two (c) that the Bernards Township zoning ordinance contributed adversely to a national and local energy crisis.

56 Set forth each and every fact, and identify the source thereof, to support the allegation of paragraph forty-two (d) of the Complaint, that the zoning ordinance and land use regulation system imposed an unfair burden on the workers employed in the Bernards Township housing region, specifying the geographical location of the Bernards Township housing region, and any other factor relevant to said allegation.

57. Set forth each and every fact, and identify the source thereof, on which plaintiff relies to support the allegation of paragraph forty-two (e) of the Complaint that the Bernards Township zoning ordinance and the system of land use regulation contributed to the process of urban decay presently afflicting our cities.

58. Set forth all facts and identify the source thereof, upon which plaintiff relies to support the allegation of paragraph two of the Second Count that defendant has unfairly competed with and attracted valuable tax rateables away from "our cities and urban areas to further reduce its tax rate."

59.. Set forth all facts, and identify the source thereof, upon which plaintiff relies to support the allegation of paragraph three of the Second Count that defendant has neglected to provide for housing needs of the employees of [A T & T] and has left to other municipalities the responsibility of providing housing for said employees.

60. Set forth all facts, and identify the source thereof, upon which plaintiff relies to support the allegation of paragraph four of the Second Count that defendant has demonstrated its intent to preserve the Township of Bernards as an "enclave of affluence and social homogeneity and to use every delaying tactic towards that end."



61. Set forth all facts, and identify the source thereof, upon which plaintiff relies to support the allegation of paragraph five of the Second Count that the general welfare of all citizens of New Jersey will be irreparably harmed by any delay in the resolution of this case.

*upon which plaintiff  
relies to support*

62. Set forth each and every fact, and identify the source thereof, ~~of~~ the allegation of paragraph two of the Third Count that the zoning ordinance is unreasonable, arbitrary and capricious.

63. Set forth each and every fact, and identify the source thereof, on which plaintiff relies to support the allegation of paragraph three of the Third Count that the zoning ordinance is discriminatory and exclusionary.

64. Set forth each and every fact, and identify the source thereof, upon which plaintiff relies to support the allegation of paragraph two of the Fourth Count that the zoning ordinance is as applied in violation of the State and Federal constitutions and deprives plaintiff of its property without due process and equal protection of the laws.

65. Is plaintiff a subsidiary of Johns-Mansville Properties Corporation? And if so, what percentage of the stock does said corporation own of plaintiff?

66. Set forth the names of any other subsidiaries of Johnsmansville Properties Corporation.

67. With respect to each and every corporation named in the answer to the foregoing Interrogatory, state its principle business and activity.

68 . State also whether any such subsidiary is engaged in the business of land purchase, sale or ownership.



69 . Has plaintiff or any of the corporations named in the answer to the preceeding Interrogatories ever worked with a "sponsoring agency", a housing agency of a city or municipality in New Jersey or any other state of the United States to provide low, moderate or subsidized housing? If so, set forth:

- (a) the State
- (b) the municipality
- (c) the approximate date when any such arrangement or agreement was executed
- (d) all facts and information sufficient to enable defendant to investigate plaintiff's experience and expertise in working with subsidized housing or housing for low or moderate income persons.

70. Set forth the name and address of each and every person who has knowledge of the facts relevant to this action.

71. Set forth the name and address of each and every expert witness whom plaintiff intends to call as a witness at the trial of this action. Attach to your answers to these Interrogatories a true copy of each and every report of such expert.

72. Attach to your answers to these Interrogatories a true copy of each and every draft report, preliminary report, or informal report, submitted either orally or in writing, by any expert named in answer to the preceding Interrogatory.

If any such report was oral, set forth:

- (a) the date when submitted
- (b) the name and address of each person present when submitted
- (c) exactly what was said by each person present including the expert when said oral report was given.

73. Set forth the name and address of each and every person who was consulted by plaintiff with respect to its land use plan and proposals for its land in Bedminster Township and Bernards Township from the time it acquired said property until the institution of this action.

74. With respect to each and every person named in the preceding Interrogatory, specify each and every document transmitted by said person to plaintiff, and the name and address of the person who has present custody of each and every such document.

75. Does plaintiff contend that defendant has made any admissions in this action? If so, set forth:

- (a) the date, time and place when the alleged admission was made
- (b) the name of the person who made it
- (c) the name and address of each and every person who was present when the alleged admission was made
- (d) if oral, the alleged admission verbatim, and if in writing, attach a copy thereto to the answers to these Interrogatories

76. With respect to plaintiff's properties in Bernards Township and Bedminster Township, set forth:

- (a) date of acquisition
- (b) acquisition price
- (c) development costs incurred since acquisition
- (d) any costs incurred or moneys expended by plaintiff since acquisition in an effort to develop said property.