

AD - Association of Bedminster
Citizens v. Bedminster

AAA. ~~PAID~~
Nov. 28, 1973

- Stenographic notes transcript of Paul Davidoff's deposition

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - SOMERSET COUNTY
DOCKET NO. L-27700-72 P.W.

S-9929

ASSOCIATION OF BEDMINSTER
CITIZENS, a corporation of
the State of New Jersey,

Plaintiff,

-vs-

THE TOWNSHIP COMMITTEE OF
THE TOWNSHIP OF BEDMINSTER,
et al.,

Defendants.

X✓

T R A N S C R I P T of stenographic notes of
the proceedings as taken in the above entitled matter
before FRANK ANTHONY, a Notary Public and Certified
Shorthand Reporter of New Jersey, at the offices of
SUBURBAN ACTION INSTITUTE, 150 White Plains Road, Tarrytown,
New York, on Wednesday, November 28, 1973, commencing at
10:05 A.M.

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

PETER A. BUCHSBAUM, ESQ.
Attorney for Plaintiffs, Lynn Cieswick, et al
(No Appearance)

WILLIAM W. LANIGAN, ESQ.
BY: RICHARD A. RAGSDALE, ESQ.
Attorney for Plaintiff, The Allan-Deane Corporation

STRONG, STRONG & GAVARNY, ESQS.
Attorneys for Plaintiff, Association of Bedminster
Citizens

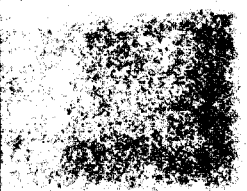
LOIS D. THOMPSON, ESQ.
Associate Counsel, Suburban Action Institute

A P P E A R A N C E S (Continued)

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EDWARD D. BOWLBY, ESQ.
and
MC CARTER & ENGLISH, ESQS.
BY: NICHOLAS CONOVER ENGLISH, ESQ.
Attorneys for Defendants

FRANK ANTHONY
Certified Shorthand Reporter



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INDEX TO WITNESS

Witness

Direct

Paul Davidoff

4

EXHIBITS

Number

Description

Identification

D-1

Document entitled "Planning the Home for Occupancy"

22

D-2

Brochure entitled "Housing and Open Space"

28

D-3

Letter to William W. Lanigan, Esq. from Suburban Action Institute, dated November 29, 1971

66

1 MRS. THOMPSON: I'd like to state at the out-
2 set that Mr. Davidoff is produced as an expert
3 witness here and does expect to be compensated
4 as a consultant at his normal rate.

5 MR. ENGLISH: No problem.

6 P A U L D A V I D O F F, residing at
7 18 Forest Park Avenue, Larchmont, New York, being
8 first duly sworn, testifies as follows:

9
10 DIRECT EXAMINATION

11 BY MR. ENGLISH:

12 Q What is your occupation, Mr. Davidoff?

13 A I'm an urban planner.

14 Q And are you employed by any outfit in that
15 connection?

A Yes, I'm employed as
16 Executive Director of the Suburban Action Institute.

17 Q Is the Executive Director the top official of that
18 organization?

A Yes.

19 Q Would you tell me, please, what your educational
20 background is.

A Yes.

21 I have a Bachelor's Degree from Allegheny College,
22 a Master's of City Planning Degree from the University
23 of Pennsylvania and a Bachelor of Law Degree from the
24 University of Pennsylvania.
25

1 MRS. THOMPSON: I have here a copy of
2 Mr. Davidoff's curriculum vitae, if that would
3 make it easier.

4 MR. ENGLISH: Thank you.

5 Q Mr. Davidoff, does this curriculum vitae which
6 Mrs. Thompson just handed me list your employment or
7 occupational experience, apart from your academic
8 background? A I believe it does.

9 Q All right.

10 Now we've been advised by the plaintiffs' attorneys
11 that you may be called as an expert witness at the trial of
12 this case, and I'd like to ask you what fields of expertise
13 you will claim to possess in such an event.

14 A I would claim those dealing with the fields of urban
15 planning and zoning, with the questions of urban policy and
16 regional growth policy as they affect urban planning.

17 Q I take it that you are generally familiar with
18 the issues in the Cieswick-Bedminster action?

19 A I believe I am.

20 Q Toward what issues do you expect to direct
21 your testimony at the trial? A I've been

22 asked to examine the issues of the localities, the
23 Bedminster Zoning Ordinance, and to examine the particular
24 aspects of that ordinance as they relate to that community
25 and to determine whether or not those sections of the

1 ordinance -- and I should also mention to examine the
2 map as part of the ordinance -- do or do not have a con-
3 sequence of bringing about discriminatory consequences to
4 families of low and moderate income and to racial minorities.

5 I have also been asked to examine the social and
6 demographic characteristics of the Town of Bedminster to
7 try to determine what the relationship between the Town's
8 growth over the past two decades has been related to the
9 effects that the land development laws, particularly that
10 of zoning, have had upon that Town's growth.

11 Further, I've been asked to examine the larger
12 regional structure of which Bedminster is a part and to
13 look to the question as to whether the effects of Bedminster's
14 zoning are such as to restrict possibilities for low and
15 moderate income families -- working-class families and
16 non-white families -- to gain access to Bedminster, and at
17 the same time to examine whether or not the consequences
18 of Bedminster's zoning practices do inhibit possibilities
19 for movement of minority, economic and social groups, such
20 that they are forced to remain living in ghettos and
21 in slum conditions, as a consequence and part of Bedminster's
22 zoning.

23 Q Can you tell me in brief summary what is the
24 general thrust of your proposed testimony?

25 A Well, from my examination of the Bedminster ordinance,

1 from my examination of the Town as it has grown, from my
2 examination of Bedminster in relationship to the region,
3 I would most likely be prepared to say -- but I'm still in
4 the midst of the study -- but I would most likely be prepared
5 to say that the Bedminster ordinance, in terms of a regulation
6 restricting land development, is excessive in its demands
7 for behavior on the part of private developers or individuals
8 seeking to achieve housing within that community, so that
9 the zoning has the effect of driving up the costs of
10 development excessively within that Town, and as a con-
11 sequence families not only of low and moderate income,
12 but families of middle income stature, as well, that is
13 in terms of being in the middle third of the income
14 distribution for families of the State of New Jersey, would
15 be excluded from being able to move to the Town of Bedminster.

16 The requirements of large houses on large lots,
17 this has led to a development that has restricted the
18 growth in the past decade to families of relatively high
19 wealth, and that further the growth of Bedminster has
20 been a segregated growth restricted to affluent whites.
21 Also, that it has not absorbed a minority population in
22 terms of low and moderate income families or racial
23 minorities that is anywhere near what has taken place in
24 Somerset County and some of the towns of Somerset County,
25 nor in New Jersey as a whole.

1 And, more specifically, in terms of the big
2 cities such as Trenton and Newark, it has not absorbed a
3 proportionate share at all of families of low and moderate
4 income or non-white families. And, further, from my
5 examination of the ordinance, most likely I would conclude
6 that the effect of these various controls in Bedminster
7 has been to restrict minority families to ghettos, to slums
8 and to seriously damage their environmental conditions of
9 their lives and to restrict very greatly their economic
10 opportunities for finding decent jobs close to where they
11 live or to be able to find jobs where the new jobs would
12 grow within the State and to constantly remove them from
13 the growth of those new jobs.

14 I think I should add that will be a major part
15 of the testimony. Looking at the planning aspects of
16 Bedminster in terms of its relationship to the larger
17 region, to observe that its location at the intersection
18 of Interstate 78 and Interstate 277 --

19 MR. ENGLISH: That's Interstate 287.

20 MRS. THOMPSON: Yes, 287.

21 A. Its location at the intersection of Interstate 78 and
22 Interstate 287 places it at a juncture which is bound to
23 be the growth node of the region in the future. And I might
24 add that immense new growth will take place there in the
25 latter part of this decade and that Bedminster is and has

1 now, as a result of President Eisenhower's determination
2 to build an urban and interstate highway system, that
3 Bedminster has been placed in a location that will make it
4 an area of tremendous growth in jobs and in future population.

5 That has been put to the region by the intersection--
6 by the existence of both of these interstate systems.

7 And if I might go further, I will be speaking in my
8 testimony about the failure in the Somerset region and in
9 the larger Morris-Mercer areas, as well as in the State of
10 New Jersey as a whole, to see a linkage between housing
11 opportunities and new job growth within the State, and I
12 will look to reports that have been made recently in that
13 area that speak very strongly of the separation of place of
14 job from place of work.

15 And I will speak of the very great increase in the
16 cost of housing that has made it very difficult for the
17 majority of workers in that area, whose income is at median
18 income or below, to find housing possibilities in reasonable
19 proximity to their place of employment.

20 Q Of what has your study of Bedminster Township
21 and the region consisted? A Well, I've
22 examined the documents -- I've looked at the older zoning
23 ordinance, the present zoning ordinance, the sheet that
24 purports to be a Master Plan, the Somerset County Master
25 Plan, the Regional Plan Association's Second Regional Plan,

1 the Tri-State Transportation Commission's studies of the
2 region.

3 I think it's the Middlesex-Somerset County Regional
4 Council Study of Housing and Jobs within the region.

5 Also I will look at all of the census data
6 regarding Bedminster-Somerset County. I should qualify
7 that. I probably will not look at every last piece of
8 input to the census data of the region, but I will examine
9 the census materials to look at the population change,
10 income change, ratio change, change in the characterization
11 of employment within Bedminster and within the region and
12 within the State.

13 I will try to familiarize myself with the issues
14 of the growth of new jobs within the region, what class of
15 jobs they have been. I will be examining issues of
16 transportation, modes of transportation within the region and
17 within Bedminster.

18 I will be looking at issues of water and sewer
19 facilities, issues of environmental control as they have
20 been developing in Bedminster within the region, I will
21 be looking at a good deal of the documentation for the
22 need for housing within the State of New Jersey and within
23 the region and within Bedminster that have come from
24 studies of the Executive Branch of New Jersey's Government.

25 I will be examining some larger studies of housing

1 needs within the tri-state region and within the nation as
2 a whole, as well as some of the major Presidential Reports
3 that have dealt with housing needs.

4 There may be some others that I'm not mentioning,
5 but those would be the beginning.

6 Q All right.

7 I think in one of your answers you referred to
8 low income and moderate income people. Can you give us the
9 dollar range that you have in mind for those terms?

10 A Well, those are terms that are a little hazy at the
11 edges.

12 Generally, though, I think the definition that
13 we will employ will be that of a low income family being
14 a family that would qualify for a low income housing
15 grant or grants to a low income housing project sponsored
16 by the Federal Government aid subsidies or assistance,
17 and I would speak of moderate income families as being
18 families that were qualified for assistance under special
19 Federal programs such as the 235 and 236 Programs.

20 As a general rule a moderate income family would
21 be a family whose income is below the median income for
22 the State of New Jersey.

23 Q Can you give me any dollar ranges for these
24 terms?

25 A Well, the median income for
Jersey in 1970 was around \$11,000. I would imagine today

1 it may be around in the neighborhood of \$13,000.

2 I would speak of the range for entrance to low
3 ~~cost~~ housing or low income families might -- it will depend
4 upon the number of children in a family, the size of the
5 family and so on. But to use a rough figure, a rough cut
6 of \$7,000 is what we're probably talking about what would
7 be a fair measure of that entrance requirement today for a
8 family of low income.

9 Q Is it your position that any municipality in
10 Somerset County should be more or less of a cross section
11 of the County population in terms of income levels, ratio
12 breakdown and so forth? A No.

13 Q Then is it fair to say that you recognize that the
14 economic levels of the population in one municipality may
15 properly differ from those in another?

16 A You say "may properly." I don't know. They may.

17 They may do it. I would, if I can try to answer
18 the question, say that I think that the community under
19 its zoning should make it possible for families of all
20 incomes, of all races, to find housing within its borders.

21 As I understand it from my background in the
22 field of planning the locality is an agency of the State;
23 that its obligations in terms of its land use planning
24 are to its own citizens and to the citizens of the State,
25 and even under the Constitution to citizens of other States.

1 It should not employ zoning regulations which have the
2 consequence of denying to significant portions of the
3 population the opportunity to find residence within its
4 borders. I don't think it has to be a cross section or a
5 microcosm, because I don't think we're speaking in terms
6 of proportionality as much as I think the term that the
7 American Institute of Planners has been speaking of today's
8 requirements for concern on the part of planners for social
9 needs of all citizens. And that is to speak in terms of
10 opportunities.

11 I don't think it is to doctor the results so that
12 it's a perfect microcosm, as much as to say that there is
13 opportunity within the borders for all to participate in
14 the development of the community.

15 Q Well, does the quality of the opportunity make
16 a difference? I mean, if there's an opportunity, for
17 example, for one low income family to live in Bedminster,
18 is that sufficient or does it have to be more than that?

19 A It should not. The quality of opportunity should not
20 be strained. I'd say that no, it would have to be -- the
21 opportunity there would be related to the proportion of
22 families within the State that have need for and wish to
23 find housing within that community, and that there is
24 some measure of proportionality of need and opportunity that
25 could be developed, and that I would clearly say is not from

1 the fact that one black family found opportunity to move
2 into Bedminster in this particular decade, that Bedminster
3 has been open to racial minorities.

4 Q Well, I think the proportion of black people to
5 the population in New Jersey is somewhere at 11 per cent.
6 Anyway, let's assume that as the figure.

7 A All right.

8 Q In order to satisfy the kind of criteria you have
9 in mind, what per cent of the population of Bedminster ought
10 to be black? A That's just what I was trying
11 to say.

12 I wouldn't say there's any fixed per cent that
13 ought to be black.

14 What I would like to suggest is that my under-
15 standing of contemporary planning principles is that black
16 families should have the opportunity to find residence
17 within Bedminster, and then the result would be created
18 by a market situation assisted where necessary with the
19 input of State and Federal aid for housing, if such
20 programs are still available.

21 The result is not of particular importance in
22 terms of precise percentage. The important thing is that
23 the structure be open so that the choice may be made
24 freely.

25 Q All right.

1 Well, could you tell me what's wrong with the
2 present Bedminster zoning ordinance? May I interrupt
3 myself here to say when I talk about "the Bedminster
4 zoning ordinance" or the present one, I'm including both
5 the ordinances adopted on April 16, 1973 and the amendments
6 which were adopted, I think, in September.

7 MRS. THOMPSON: Yes, September.

8 A Yes.

9 Could I just take a break for a moment?

10 MR. ENGLISH: Surely.

11 (At this point in the proceeding -- 10:25 A.M. --
12 the witness left the hearing room and he returned
13 to the hearing room at 10:27 A.M.)

14 MR. ENGLISH: Repeat the last question,
15 please.

16 (The requested question is read by the report-
17 er.)

18 MRS. THOMPSON: Do you want the ordinance?

19 THE WITNESS: Yes, let me have it in front
20 of me.

21 A I would say that what is wrong with the present
22 Bedminster zoning ordinance is that it's not one that is
23 related to the needs of a broad section of the citizens
24 of the State of New Jersey, that through various devices
25 incorporated within it it has the effect of restricting

1 access unnecessarily to the very wealthy.

2 Why I say "unnecessarily" is because I think that
3 many of the controls which I would find to be excessive in
4 their demands for performance upon the part of the developer
5 of new housing could adequately -- could be constructed to
6 standards that would allow a less expensive form of
7 development and thereby permit more or a greater proportion
8 of Jersey's citizens to gain access to residence in
9 Bedminster should they wish it.

10 Then as can be found under the present ordinance,
11 there are a series of controls which I can enumerate here.

12 Q I wish you would. A They have the
13 effect of, I would say, in terms of planning standards and
14 meeting needs of community health and safety and general
15 welfare, asking too much of the developer of the housing.

16 What I speak of here are the requirements of
17 minimum lot size, which although they have been altered in
18 the present device into a method which I find fascinating
19 in terms of the purpose of the circle, and I think might
20 make a major new form of measuring area for purposes of
21 zoning. I still find the radius or the diameters to be
22 excessive.

23 Changing the shape hasn't changed the excessivity
24 of the excessiveness of the lot sizes.

25 As I see it the requirements for floor area of the

1 units are when one adds up the total requirements in each
2 zone for floor area, taking into account the requirements
3 of excess percentage and additional percentage for storage
4 space, these are again beyond what minimum standards --
5 beyond minimum standards required for purposes of health
6 or safety.

7 And my position is that each additional square
8 foot of space required or each additional square foot of
9 lot area required has a cost and each additional dollar
10 requirement cuts off a certain number of families who might
11 have access to living in the community. We are talking
12 about the floor area and lot area requirements.

13 The floor area ratio, to my mind -- and I've had
14 a good deal of experience in developing controls in using
15 the floor area ratio and the open space ratio, which isn't
16 found in here, these are excessive in their demands of
17 performance on the part of builders of new housing units.

18 I would say that the ordinance smacks of a hoary type
19 of zoning which restricts major development to single-
20 family detached units. By right the thinking and planning
21 for quite some time has been that the proper measurement
22 is the intensity of development and not the structural
23 type.

24 And other types of development, such as the
25 semi-detached, the two-family home, the town house or row

1 house, the garden apartment and the mobile home, these
2 might all represent forms of development that would be
3 as appropriate as the single-family detached unit.

4 I might make special note that we're in the
5 middle of an energy crisis and the single-family detached
6 unit is probably the most energy wasteful form of energy
7 development one can conceive of today in requiring four
8 walls exposed to the elements, unrelated, and the excessive
9 demands for the infra structure being spaced and spread
10 over a much wider area than where clustering is possible.

11 So I would say that the requirement that single-
12 family units be the permitted uses of right and that other
13 forms be permitted only discretionarily is counter to
14 modern thought in the field of planning.

15 The floor ratio, I said, was excessive, and as
16 a particular part of that the requirement of computation
17 of the parking space in the consideration of the floor area
18 ratio is, I think, further -- I believe it further burdens
19 that ratio, making it an excessive demand in terms of
20 the minimal amount of space that can be developed on a lot
21 or floor area.

2 22 The requirement of one parking space for each
23 bedroom is an excessive demand. I think probably it is
24 unrelated to needs, family needs, and I would certainly
25 hope by trial to be able to document that a little more.

1 Q Well, the ordinance -- A That may
2 not be all. There may be more.

3 Q The ordinance does permit clustering, does it not?

4 A Discretionarily. And the standards are very poorly
5 set. Not permitted as of right.

6 Q And the ordinance does permit multi-family
7 housing of various types? A Not in all

8 zones.

9 In a restricted area, in a very small part of a
10 municipality is it permitted.

11 Q And it does permit mobile homes on a foundation?

12 A Well, I don't know if that's mobile homes. I'd say
13 it probably doesn't permit mobile homes. It permits modular
14 housing but, in fact, not the mobile home.

15 Q All right.

16 I'm not trying to get hung up on terminology.

17 A No, no. But that is an important distinction.

18 Q But manufactured modular housing is a lot cleaner
19 than other forms of housing, is it not?

20 A It's a good form and it should be permitted.

21 Where it's permitted, it's very useful.

22 Q And it's permitted in this ordinance, is that
23 right? A Right.

24 Q But your objection, I take it, is that clustering,
25 multi-family housing and so on is discretionary rather

1 than as of right? A It should be as of right
2 throughout the whole ordinance, in the whole area of the
3 community.

4 Q Before you used the term "floor area ratio."
5 Do I assume correctly that you mean floor area ratio in
6 relationship to the land area? A That's
7 how it's used.

8 There's a ratio between the floor area of the
9 structures and the lot area upon which they are constructed.

10 Q Right.

11 Now the ordinance fixes those at various parts
12 of the Town at three per cent, six per cent and eight per
13 cent. A That's right.

14 Q Which of those do you regard as excessive?

15 A The three per cent, six per cent and eight per cent.

16 Q It ought to be a higher percentage than that?

17 A Right.

18 I don't see those as being related to factors
19 dealing with health or safety.

20 Q Now you referred to the requirements for the
21 floor area of units -- A That's right.

22 Q -- as being excessive. Is that right?

23 A Yes.

24 Q Are they grossly excessive or only just a little
25 bit over? I mean, how bad is this picture?

1 A If I may say, I think that's a good question, an
2 interesting question as to how excessive they are.

3 It's certainly the case that some regulations
4 I have seen have been even considerably more excessive than
5 these. These are only slightly excessive of reasonable
6 minimums, independent of the requirement for storage.
7 The ten and twenty per cent storage addition, I think,
8 begins to bring up the size to one that is unrelated to what
9 I would show is a standard of a decent unit for a family
10 of three or four persons or a larger number of persons.

11 Q Well, do I understand you correctly to mean that
12 if the inclusion of the storage areas was eliminated, these
13 minimum floor areas would, in your judgment, be reasonable
14 and not improper? A No.

15 I said that I think they are excessive, but in
16 answer to your first question I think they're not grossly
17 excessive at that point. They are excessive, though, and I
18 would like to answer that more fully.

19 I'd like to go back and try to recompute this.
20 What this would mean for different forms of units is if we
21 did it exclusive of the storage requirements and the
22 consideration of the parking space within the floor area
23 ratio, which has some impact in the final determination of
24 the number of bedrooms that can be constructed per unit,
25 then I believe -- and I may be wrong in this -- that the

1 maximum number of units I think that could be placed on
2 the land is something in the neighborhood of six units per
3 acre, and that's in the R-8 District for studios. That's
4 for a studio apartment, which is for that form of apartment
5 which is known as -- it's a very small one. It's a very,
6 very low density of development.

7 And that's only in a very limited area of the
8 community.

9 Q You are familiar, are you not, with what's some-
10 times referred to as the Winslow Report that was issued
11 in 1950 by the American Public Health Association?

12 A The 1950 Standards, yes.

13 Q And it's entitled "Planning the Home for
14 Occupancy." A Well, let me see that, and

15 let me see if it's the one I'm familiar with.

16 I believe I have seen this, yes.

17 Q Are the requirements of the Bedminster zoning
18 ordinance significantly different from the requirements
19 for minimum space in the 1950 report of the American Public
20 Health Association?

21 THE WITNESS: Would you give me a moment to
22 re-examine that to refresh my memory as to that?

23 MR. ENGLISH: Sure.

24 A Well, those standards are -- I'm trying to recall.

25 You see, these are far ahead of what the standards

1 required in the building codes have been, I believe, in
2 the State of New Jersey. Here are three persons in 1,000
3 square feet. If I recollect the post-war home, that was
4 32 by 24, and that was about 768 feet, and adequately housed
5 without any health damage families of four or five people,
6 maybe more, and that's here set down as a size for two
7 persons.

8 I would think that these are high. They're
9 certainly beyond -- I think these are nice standards.
10 One can't oppose them for being nice. But the question is:
11 Are they reasonable in terms of health demands? I would
12 say that these are excessive in terms of what a public health
13 official would say would be the minimum requirement guaranteed.

14 MR. ENGLISH: May I have this marked for
15 identification, please.

16 (The above mentioned document entitled
17 "Planning the Home for Occupancy" is received and
18 marked Exhibit D-1 for identification.)

19 A I do believe those standards which you've just shown
20 me are excessively large, as compared to what the Federal
21 Government, the F.H.A. has required for the size of units
22 for families of three persons or more, and those have been,
23 I think conceived of as reasonable and not bare bones mini-
24 mums.

25 Q Mr. Davidoff, are you familiar with the Garden

1 Cities Development Corporation? A I am.

2 Q Can you tell me what that organization is?

3 A Yes.

4 It's a not-for-profit development corporation.

5 Q Are you related to that corporation in any way?

6 A I'm a member of the Board of Directors of it, yes.

7 Q Is Garden Cities Development Corporation a sub-
8 sidiary or affiliate or first cousin, or something or other,
9 of Suburban Action Institute? A It has no

10 legal relationship with Suburban Action Institute.

11 Q Is Suburban Action Institute officially interested
12 in the affairs of Garden Cities Development Corporation?

13 MRS. THOMPSON: I think I would have to
14 object to that question as it's worded.

15 Q Well, how would you describe the practical
16 relationship between Garden Cities Development Corporation
17 and Suburban Action Institute? A Suburban
18 Action Institute is very supportive. It's a development
19 of mixed income housing in the suburbs, planned new mixed
20 income housing, and it's the purpose of the Garden Cities
21 Development Corporation to provide housing to meet the needs
22 of low and moderate income families and racial minorities,
23 to open housing for all income groups in what has been called
24 mixed income housing, and because Suburban Action is seeking
25 to find ways to make land of the suburbs available to

1 all groups who wish to reside in the suburbs, it warmly
2 imparts the objectives and proposals made by Garden Cities
3 Development Corporation.

4 Q Would you describe Garden Cities Development
5 Corporation as an affiliate of Suburban Action Institute?

6 A Well, the word "affiliate" is not one of law. It's
7 one in affiliation in objectives.

8 Q Well, let me repeat the question: Would you
9 describe Garden Cities Development Corporation as a develop-
10 ment affiliate of Suburban Action Institute?

11 A No, I would not now. I would not now describe it in
12 those terms.

13 Q Is that a facsimile of your signature at the bottom
14 of this paper? A Yes, it is.

15 Q Will you please read the second paragraph of this
16 document into the record. A Yes.

17 "Our purpose in sending you this brochure is
18 to familiarize you with the work of Garden Cities, the
19 development affiliate of the Suburban Action Institute."

20 Q All right.

21 Do you want to change your answer to the last
22 question? A No.

23 I think if you go back and read my answer, I used
24 the word "now."

25 Subsequent to this publication there has been

1 a change in the structure. Here I have signed this letter,
2 the one which you have shown me, as Chairman of Garden
3 Cities Development Corporation. I have since severed my
4 day-to-day responsibilities with Garden Cities Development
5 Corporation and I think that we would say that Suburban
6 Action has an affiliation with the objectives, but not in
7 a legal sense, which we think was misleading in our past
8 publications of this type. That's why I wanted to make
9 the sharp distinction between them.

10 They are two separate organizations that are
11 working in some common areas and the Directors ~~of~~
12 organization had at one time were also the Administrative
13 Directors of the other organization. But there has been
14 a separation between those two organizations.

15 In that way, that one Director now runs Garden
16 Cities exclusively and one -- myself -- is running Suburban
17 Action exclusively.

18 Q By "Director" do you mean an executive official
19 as opposed to a member of a Board?

20 A An executive official, that's right.

21 Q In other words, is Mr. Neil Gold now running
22 Garden Cities Development Corporation?

23 A Yes, he is. That's right. He is exclusively concerned
24 with Garden Cities Development Corporation.

25 Q So now you are the sole head of Suburban Action

1 instead of being half of it? A Yes. Right.

2 Q In terms of the Board of Trustees or Directors
3 or the corporate body, is there any overlapping between
4 Garden Cities Development Corporation and Suburban Action
5 Institute? A Yes, there is.

6 Mr. Gold is a trustee of Suburban Action and I
7 am a member of the Board of Directors of Garden Cities.

8 Q Are you the only two people who are on both Boards?

9 A That's right.

10 Q How big a Board does each organization have?

11 A Suburban Action is charitable, a charitable trust with
12 two trustees, and Garden Cities has a Board with four
13 members.

14 Q All right.

15 Now I understand that Suburban Action is supportive
16 of what Garden Cities Development Corporation is trying to
17 do, is that right? A That's right.

18 Q Are you familiar with this two-page brochure called
19 "Housing and Open Space"? A Right.

20 Q And was that issued by Garden Cities Development
21 Corporation? A Yes.

22 MR. ENGLISH: Mark this for identification,
23 please.

24 (The above mentioned brochure entitled "Hous-
25 ing and Open Space" is received and marked

1 Exhibit D-2 for identification.)

2 Q Now may I direct your attention to the figures on
3 the inside of D-2 for identification dealing with the
4 square footage of the proposed apartments.

5 A It lists the distribution of dwellings at Ramapo
6 Mountain. Yes.

7 Q Right.

8 Do you regard the figures in that table, the
9 figures of square footage, as being excessive?

10 A Well, here they're not put in a regulatory framework.
11 They're being proposed here as the standard size for new
12 development, and I think they are very good standards,
13 but they're not a minimum standard. This isn't written into
14 law as the minimum necessary for health.

15 Q Now, I understand that. But in terms of good
16 planning for a residential development in the suburbs, are the
17 figures in D-2 for identification appropriate in your
18 judgment? A I think they're very good figures,
19 yes.

20 Q Would you say that a zoning ordinance which
21 required figures like that was unreasonable as a matter of
22 law? A Yes.

23 Q Why do you make that distinction?

24 A As a matter of law. As a matter of planning standards,
25 yes. I think so, because I think the minimum standards

1 should be a minimum that is suitable for purposes of health
2 and safety, and I think that health factor is the more
3 important one.

4 And I think that units considerably smaller than
5 this could be constructed that would not do any violence
6 to public health. I think that these are very good and
7 certainly if I were developing a community would want
8 standards in my development, which is serving a broad mix
9 of population, to be like that.

10 If I were building houses that were available
11 only to low income families, then I would like it to be
12 of this variety. But as a matter of law, not of private
13 disposition, I would say that that might be asking too
14 much, and if the consequence would be to deny to families
15 of low and moderate income the ability to move into the
16 community, and if some lower standards would permit that
17 to happen, then I would take the lower standards, so long
18 as the State public health officials said that there was
19 no negative consequence of employing that lower figure.

20 Q Is it your judgment that the proposed development
21 of Garden Cities Development Corporation, with the apartment
22 sizes listed in D-2 for identification, would have the
23 effect of excluding significant segments of the population?

24 A No, because the development is aimed at serving
25 families of low and moderate income, and we will seek out

1 all forms of Federal and State assistance to make it open
2 to families of low and moderate income.

3 Additionally, the profits that would be derived
4 normally by a profit-making organization -- because Garden
5 Cities is non-profit -- would be used to further reduce the
6 cost of housing. So the corporation is rather atypical.

7 It's trying to set a model of what modern
8 development might do in housing, but it's atypical.

9 Whereas, I think an individual of low or moderate
10 income might wish to acquire land or housing in Bedminster,
11 or a developer, a private developer might like to build
12 to meet the needs of families, let's say, and these would
13 be persons who will be working at the new industrial
14 complexes that are spreading and will spread over Bedminster
15 and adjacent communities, and there may be families of
16 incomes that are below the median who could not afford
17 a large amount of room, as large today as Garden Cities
18 is proposing.

19 There is a difference, I think, between the
20 minimum established for purposes of public health and
21 what a private or even the public agency might wish to
22 build.

23 The standards used by public housing in
24 developing housing have been above many minimums required
25 for public health.

1 Q Well, would you regard the minimum floor areas
2 as set forth in D-2 for identification as being
3 exclusionary of persons in their effect?

4 A If they were written into the laws as minimums, yes.
5 But, no, because of the purpose of this development, which
6 is primarily to provide housing for families of low and
7 moderate income, so that it can build at above the minimums
8 I'm suggesting should be written into the law.

9 It's building at a higher status, but because of
10 its non-profit status and because of the assistance it
11 will seek to derive from Federal and State bodies, it
12 will try to absorb the costs that are created by building
13 a decent-sized unit.

14 Q Well, Mr. Davidoff, are you saying that if the
15 square footages of apartments as set forth in Exhibit D-2
16 for identification were incorporated in a development by
17 a profit-making venture, they would be exclusionary?

18 A Well, their effect would be to exclude families of
19 low and moderate incomes, unless that company, itself,
20 had sought to in other ways incorporate those families.

21 In the private market standards such as these
22 have worked and do work to exclude families of low and
23 moderate income from housing.

24 Q Well, is that due to factors other than the
25 minimum size of the apartments?

A Oh, that

1 depends upon what the minimum size mandated by the local
2 zoning is.

3 Many communities don't mandate it. We have said
4 for some time that as a matter of planning, good planning,
5 the minimum floor area should not be in the State ordinance
6 but the State Housing Code, which would be the appropriate
7 place to establish that minimum for health purposes.

8 May I take a moment, if I may, to compare these
9 two documents?

10 MR. ENGLISH: Yes.

11 A I'm now looking at the standards for health.

12 Q That's D-1? A Yes, D-1.

13 And I'm comparing it with D-2.

14 If we examine the standards here -- well, let's
15 take a family of three persons. In the document marked
16 D-1, in 1950 1,000 square feet are required. In D-2,
17 a two-bedroom unit can be built for 950 feet. Well, a two-
18 bedroom unit could certainly serve four persons and perhaps
19 five.

20 But let's say, typically, that a two-bedroom unit
21 would not be required for a family of three persons but
22 for a family of four. A family of three more often would
23 take a one or two-bedroom unit, but certainly a family
24 of four could very well live and do live normally in two-
25 bedroom units and 950 feet here is established as the

1 figure for two bedrooms, whereas here, for four bedrooms
2 the requirement is 1,150 feet. So we're talking about 200
3 square feet more for a family of four.

4 That applies, whether talking about apartments or
5 houses. In D-2, similarly, if we take three-bedroom units,
6 the minimum required in D-2 is 1,200. It's not a minimum.
7 It's the estimated square footage.

8 It would be 1,250 feet for three bedrooms and --
9 well, let's say that under the requirements for five or
10 six persons who might well live within a three-bedroom
11 unit are the standards of 1,400 and 1,550 feet. That's
12 for a five and six-person unit.

13 So that the standards that you've shown me from
14 1950 are somewhat higher than the standards that are
15 created in the Ramapo proposal, the one marked Exhibit D-2.
16 They're not identical.

17 Q But do I take it that it's your position that
18 if the standards set in D-2 for identification were
19 incorporated in a profit-making housing venture, you would
20 regard them as exclusionary? A Their effect
21 would be exclusionary, unless the corporation sought to
22 overcome the pricing effects of the larger sums by promoting
23 opportunities for families of low and moderate income,
24 as Garden Cities proposes to do, to reside within such units.

25 Now, also, may I just point out that the minimums

1 established under the zoning ordinance of Bedminster are,
2 I believe, higher than the housing standards you're showing
3 me in Exhibit D-2 for Ramapo Mountain.

4 For example, a three-bedroom unit is 1,200
5 square feet in the ordinance and 1,250 feet in the Ramapo
6 proposal, but that is before the percentage increment
7 has been added on for storage space.

8 And under Section -- what is that? Under
9 Article 10, Section C-3 of the Bedminster zoning ordinance,
10 there is an additional requirement of 20 per cent in floor
11 area for single-family homes and ten per cent in the --
12 standards for multi-family housing units which are in-
13 corporated, which would bring this up to another 120 feet,
14 taking it up to 1,320 feet in the Bedminster zoning
15 ordinance and up to over 1,400 feet for the single-family
16 home in the Bedminster zoning ordinance.

17 I'm not sure, as I read this. I would have to
18 review the Bedminster zoning ordinance that refers to the
19 single-family houses.

20 I would speak of a town house as being a single-
21 family home and requiring the 20 per cent overage for
22 storage or whether it's considered a multi-family unit.

23 Q What does the Bedminster zoning ordinance require
24 for a one-bedroom apartment in terms of square footage?

25 A A one-bedroom apartment is 600 feet as compared to

1 the 750 feet required in terms of the Ramapo proposal.
2 Then added is a 20 per cent for a single-family home, and
3 that would be 720 feet or 650 feet for the multi-family
4 unit. In both cases for the one-bedroom unit it would be
5 less than the amount proposed at Ramapo Mountain.

6 Q Well, would you say the requirements of the
7 Bedminster zoning ordinance for a one-bedroom dwelling unit
8 were exclusionary? A When one adds the storage
9 requirements and then the consequence.

10 Q Well, then, the storage requirements are included
11 in the ten per cent, are they not? A Yes.
12 That's right. I meant that.

13 When adding the storage -- I was then going to say
14 when the parking requirements which affect the floor area
15 ratio and what the size of the unit and the potential
16 density is when taken into account, they are. But looked
17 at just alone I would say that the one-bedroom unit at
18 600 feet is -- while it's excessive, just to go back to
19 your very first question, I'd like to say it is not greatly
20 excessive. It's more than I think would be required for
21 one person to live, for example, in a unit. That's in a
22 one-room unit. It would be far above what the State Building
23 Code would require for a one-bedroom unit.

24 I would have to review this. The public health
25 laws speak of 150 feet as a base for one person and 100

1 additional feet for each person thereafter.

2 Q Yes.

3 That's in the New Jersey State Housing Code, is
4 that right?

5 A Either the Housing Code or
6 the Building Code.

7 I've seen reference to it but I would have to go
8 back to examine that more closely.

9 But that's true in other states as well, that
10 in either the multiple dwelling law or the Building Code
11 there would be a standard which would be much closer to
12 that bare minimum which would be required by the public
13 health officials.

14 And that bare minimum is what I'm referring to
15 when I say these figures are excessive in establishing
16 controls to affect public health.

17 Q What sort of a zoning ordinance do you think
18 Bedminster ought to have?

19 A Well, I should
20 think that it should have an inclusionary zoning ordinance,
21 one that is so written as to provide for a decent environ-
22 ment and suitable living for everyone who lives within
23 Bedminster, so as to achieve the state of police power
24 purposes of a zoning ordinance, as under the older
25 traditional methods, but which would go beyond that
in being focused on the ability of the community to respond
to the immense housing needs of families of low and

1 moderate income and of non-white stature in the State of
2 New Jersey.

3 These are needs which have been well documented
4 by the State and by the Governor in his addresses to the
5 State Legislature.

6 Q Well, in terms of density of residential
7 development, how would you translate those purposes?

8 A I would say that the first requirement of such an
9 ordinance would be to have a State public health official
10 mandate whatever standards would apply or would ~~satisfy~~
11 a minimum standard of public health. The second is ~~that~~
12 there be adequate determination by public safety officials
13 that the safety requirements of the State would be
14 adequately met.

15 As to the permissible density, that would be
16 a function very much of the water and sewer facilities
17 that could be constructed within the Town. If adequately
18 sewerred, the Town of Bedminster conceivably, as one far out
19 alternative, being larger than Manhattan, could house over
20 2,000,000 people. Not pleasantly, but it could house over
21 2,000,000 people.

22 I don't think that that's a reasonable expectation
23 or desire for Bedminster, but Manhattan has been able to
24 absorb that population. Bedminster can absorb much more
25 than 2,500 persons if properly sewerred.

1 And, also, if sewerred, it could house or take
2 densities -- fair densities up to 20 units to the acre --
3 and I'm speaking of possibilities of garden apartment
4 development.

5 But where it couldn't be sewerred or where sewers
6 were not yet available, then the appropriate minimum should
7 be one that would satisfy the requirements of the State
8 public health officials. And the two issues of appropriate
9 density and of adequate health protection through adequate
10 sewerred and provision of water, I think they have to
11 be viewed together.

12 It isn't enough, I believe, from a planning view-
13 point for the communities to say, "We don't have sewerred;
14 therefore, we must require housing on large lots."
15 This is not so because, in a sense, it is making the
3 16 Government the end-all of personal existence in that area.
17 Rather than the Government serving the needs of the
18 individual, the individuals serve the needs of the
19 community. And from my point of view, as a planner,
20 I see the community as servicing the needs of the citizens.

21 And what is required in Bedminster is a plan,
22 and not only for Bedminster but for Somerset and a larger
23 region, and for the State to have a plan that shows where
24 sewerred may be implanted within Bedminster so that it can
25 respond to the needs. As I understand it, those plans

1 are not forthcoming now.

2 There is a very, very restricted view of the
3 requirement for adequately sewerage that area. I believe that
4 those plans should exist or that there should be the
5 possibility for private developers to develop their own
6 private sewerage treatment plants that meet adequate public
7 health standards. Those should be written into the
8 development laws of Bedminster. They're not there
9 presently.

10 Q But where development takes place and there is
11 not adequate sewerage facilities, what then should be the
12 appropriate minimum lot size? A I'm not
13 prepared to say today what that is. I don't know that
14 I'm competent to say that.

15 I think that would be something that the State
16 public health official would have to examine to see whether
17 an adequate minimum for public health purposes would be
18 a quarter acre, a half acre or what. I think those might
19 be small.

20 I think that five acres in the past has been
21 excessive. I think the requirements under the ordinance
22 now for R-3, which is the majority of the vacant land of
23 the community, are probably excessive in terms of public
24 health standards.

25 Q What do you mean by "public health standards"?

1 Do you mean the percolation rate for septic tanks?

2 A That's right. That a public health official would
3 guarantee the residents of the lot and surrounding
4 community and the residents of Badminster and surrounding
5 townships, that they would not in any way impair their
6 health by reason of improper functions of the septic tanks
7 due to the density of development.

8 Q But I take it you are not in a position to resolve
9 that question? A I'd have to leave that to a
10 public health expert.

11 Q Now, apart from the matter of density which we've
12 just discussed, what other affirmative provisions would you
13 think ought to be included in the Badminster zoning
14 ordinance? A Well, I would, as I said

15 earlier, permit all forms of housing as of right. I would
16 permit clustering as of right.

17 I do believe -- and I don't want to go off into
18 a lengthy academic discourse -- I believe that there has
19 been too much discretionary control placed in the hands of
20 officials, control which has led to many different forms
21 of abuse and discrimination in the uses of zoning throughout
22 the nation. And I do believe, quite sincerely, that the
23 standards that are applied in discretionary procedures can
24 be created into performance standards in the ordinances,
25 themselves, so that a good deal of discretion over the

1 development of clustering, the building of clustering,
2 can be written into the law.

3 I think the judgment that men make can be written
4 down as standards. The political decision has to be made
5 before the fact and not after the fact. I think that's the
6 difference.

7 But if they can make the judgment that something
8 is or is not reasonable in terms of the standards in the
9 ordinance, then I think those standards they've applied to
10 determine the reasonableness of the application under the
11 standards set forth could be written into the law so that
12 discretion would be, perhaps, made unnecessary or placed on
13 a much more restricted role in terms of the total ordinance.

14 Now let me restate this: I think that the ordinance
15 should permit all forms of housing in all of the residential
16 districts as of right. I think that it should permit a
17 type of unit that would be a smaller size than is presently
18 required and that would permit a greater floor area ratio
19 than is presently permitted and that would not make excessive
20 demands for parking space that are unreasonably related to the
21 use, let's say, that we'll make of cars that are in the
22 community.

23 I think that there should be ample provision for clus-
24 tering for development of the type that I think the planned
25 residential and neighborhood and open space clusters are

1 seeking to develop.

2 But I think presently they seek to develop it under
3 discretionary procedures in densities that are far too low.

4 I think that I would incorporate within an
5 inclusionary ordinance for Bedminster the provision that if
6 the ordinance is redrafted so as to permit the development
7 of offices, businesses or industries within Bedminster, that
8 ample provision should be made for housing of all of the
9 people who will work at that facility within Bedminster,
10 and that the zoning ordinance should demonstrate that those
11 who come to work in Bedminster and pay taxes to Bedminster
12 in their industrial employment should, if they so wish, have
13 the ability to live within Bedminster. That doesn't exist
14 presently.

15 Well, there may be some more, but those would be,
16 I think, the major things I would say about it.

17 Q All right.

18 Now is it your view that the opportunity for all
19 of the employees of any employer in Bedminster, to live in
20 Bedminster, should be provided by the zoning ordinance?

21 A As I said, I was thinking perhaps that I might not demand
22 that on a one-to-one basis, but I think probably I would
23 come very close to that, to say if the community wishes to
24 employ these persons, particularly at a time when there's
25 such a severe housing shortage in the State of New Jersey,

1 and particularly at that time when it has been observed
2 that the local property taxes discriminate so against
3 families of low and moderate income, and of non-white status
4 who are residing in the older cities and suburbs, I would
5 say that the new developments in the suburbs have made the
6 tax burden so unequal throughout the State that the towns
7 that are absorbing the benefits of industrial growth should,
8 themselves, absorb the cost of new residential growth, as
9 well as the servicing of residential needs.

10 Among the needs assumed under that are families
11 who work at a new site; that is, the educational costs and
12 other costs of servicing a family.

13 Q In terms of Bedminster as a place for low income
14 families to live, does the lack of public transportation
15 facilities in Bedminster have any significance in your mind?

16 A No.

17 But let me explain. I think there is one thing
18 that comes to mind. In many low income families or others
19 today, what with the energy crisis, Bedminster might
20 establish a bus transportation service. It might be very
21 useful to do that.

22 With a new industry coming into Bedminster, that
23 might be very useful.

24 Secondly, the low income person who chooses to
25 live in Bedminster probably will have a car. While the

1 distribution of automobiles is disproportionately higher
2 among low income families -- working-class people -- they
3 have cars, and if they choose to live in Bedminster, then
4 today they would have to have a car.

5 Q So Bedminster would not be, in your judgment,
6 acting in an exclusionary fashion if low income families
7 without cars found themselves unable to live there?

8 A Well, that would depend on how many low income families
9 there were and as to what the duty was upon the part of
10 Bedminster.

11 Presently a standard practice is not to impose
12 such a burden on a town.

13 And to respond to your question, I'd say no, there
14 isn't such a burden. But if a large number of families of
15 low and moderate income inhabited Bedminster, then at a
16 certain point it has a certain requirement to see that
17 adequate mass transit facilities of one type or another
18 would be provided.

19 Q I think you said you were familiar with the
20 Somerset County Master Plan. Is that right?

21 A I've examined it.

22 Q In your judgment is the Bedminster zoning ordinance
23 generally consistent with the Somerset County Master Plan?

24 A I would say in broadest outlines from my first review
25 of it, that it's -- I would like to examine it more closely

1 to make an informed judgment on that.

2 Q My question was only asking for a broad general
3 answer.

4 In your judgment is the Somerset County Master

5 Plan a good plan? A No.

6 Q What's the matter with it?

7 A I think it has all the failings of contemporary master
8 plans for suburban counties in that it fails totally to
9 take account of the desperate needs for housing and other
10 economic opportunities of families of low and moderate
11 income, of non-white families, and that it rather addresses
12 the problems of Somerset County in New Jersey as if New
13 Jersey and Somerset County were classless and raceless.

14 It does go beyond the older ordinance in
15 identifying some of these problems, but not in a very
16 serious vein.

17 Q What "older ordinance" were you referring to?

18 A I mean the older master plans. I mean at least it
19 recognizes that there are families of low and moderate
20 income in certain places, and it alludes to the problems
21 of such families.

22 In some places it may make the allusion to growing
23 jobs and the need for housing and it handles it in a way
24 with no in-depth analysis of race factors or income
25 factors in New Jersey, in Somerset.

1 In a very naive way it deals with these situations,
2 and I would say in materials of policy it's just terribly
3 weak in trying to consider how it would wrestle with racial,
4 economic and social problems in Somerset and New Jersey.
5 This has been the traditional form of planning in this
6 country.

7 It is only recently that there's been a change in
8 the outlook to examine race issues and social issues in ways
9 that were not previously done.

10 Q Can you give me in general terms the sort of a
11 master plan that you think Somerset County ought to have?

12 A I think one ought to look to the Dayton region of Ohio
13 for the type of development which has worked in what is
14 called a "Fair Share Plan", and all the communities
15 surrounding Dayton have worked with them to find an
16 adequate solution to problems of housing in this region.

17 Q Well, the Somerset County Master Plan provides,
18 does it not, for a doubling of the present population of the
19 County over whatever period of time it purports to use?

20 A I believe it does.

21 Q Is that in itself inadequate, in your judgment?

22 A I'd want to study more in terms of the region's
23 needs to see whether Somerset is responding to the needs
24 of the region adequately when it projects that type of
25 growth.

1 Q What sort of a region are you referring to?

2 A I talk about the State of New Jersey and, particularly,
3 about the needs of Newark, Trenton and Camden, and I also
4 include within that a larger region such as New York City
5 and its immense needs.

6 Say that Somerset County is a part of that larger
7 tri-state region which has just tremendous problems in
8 terms of providing adequate opportunity for families who
9 are economic or racial minorities and all parts of that
10 region have an obligation, I would say, to assist in
11 providing a solution to that problem.

12 Q Well, what would be some of the steps that would
13 have to be taken to solve that problem?

14 A Well, I would say, number one, that Somerset first
15 ought to define the problem, to look to the problem of
16 inadequate housing and opportunity and racial discrimination
17 throughout. Within the larger region of the tri-state
18 area, the New Jersey area, within the immediate Somerset
19 area and surrounding counties, I would address problems
20 in research in terms of opportunities and substandard
21 living conditions and try to make some estimate of the
22 needs and attempt to determine what would be an appropriate
23 share of the responsibility for the solution to those needs
24 that should take place in Somerset.

25 Q Well, could you give me some of the criteria?

1 For example, should Somerset County be prepared to house
2 everyone now living in the Stella Wright Home in Newark?

3 A No, no.

4 First of all, a lot of the people in the Stella
5 Wright Home in Newark want to live there and don't want
6 any part of Somerset.

7 In reference to opportunities and choice, I
8 would say that Somerset would probably wish to understand
9 what its responsibility is in terms of meeting that need.
10 Somerset is one of many counties and does not have the
11 responsibility of doing it all by itself.

12 But I think it has a responsibility which it
13 isn't looking to thus far.

14 Q Well, would this call for more extensive areas
15 of relatively dense development in Somerset County?

16 A Yes.

17 Q So this would be a defect in the master plan
18 as you see it?

19 A It might mean a readjustment
20 of the plan so that whatever the higher density areas
21 proposed in Somerset County are, that they would be permitted
22 throughout the whole County rather than restricted areas
23 of the County.

24 The plan tends to 'ghettoize' the poor today in
25 terms of minorities.

26 Q Well, the Somerset County Master Plan, among other

1 things, proposes a relatively low density land use in
2 essentially the western part of the County where the upper
3 reaches of the Raritan River run.

4 Q What's your comment about that?

5 A I think it's negative in terms of the growth of new
6 jobs along 287 and 78 and, particularly, at the intersection
7 of those two.

8 I think it fails to take account of the fact
9 that there's going to be immense growth of new jobs there
10 and that the people working there should be housed within
11 reasonable proximity of the new locations.

12 Q Well, then, are you dismissing as unsubstantial
13 the expressed concern in the Somerset County Master Plan
14 of the water quality of the Raritan River?

15 A No.

16 I indicated before the primary concern with me
17 as a planner, as one concerned with community development,
18 are the environmental factors, including water, and that
19 these be preserved and the quality enhanced.

20 But I do believe that development can take place
21 and water purification, and increasing the quality of that
22 water is technically feasible.

23 Q How would you go about that?

24 A By employing a man who works in the field of water
25 quality, a water engineer, a hydrologist, to assist me

1 in making the determination of the plan.

2 What I mean to say is that it has been possible
3 for communities to grow at a much greater density than
4 Bedminster and to preserve the quality of the water.

5 Q What would you do? Would you sewer the area,
6 for example? A Well, it depends on the level
7 of density.

8 But, certainly, one would contemplate considerably
9 more sewerage than is taking place presently. Bedminster
10 does not have problems sewerage the new plants that
11 develop there. That seems to be permissible, to have
12 large areas of taxpaying industry in Bedminster.

13 Q Well, do you see any detriment to the water quality
14 from sewerage the whole County? A I would
15 want to propose to an engineer or hydrologist that he
16 come forward with a plan that would show there could
17 be sufficient sewerage that would not disturb the quality
18 of the water and might improve it, because a town such
19 as Bedminster is probably endangering the quality of the
20 water today by the problems with their septic facilities.

21 Q But you made no investigation of that, as a matter
22 of fact? A No. Only by way of having read
23 the studies that have taken place in Bedminster.

24 Q I think you mentioned before the Second Regional
25 Plan of the Regional Plan Association.

1 A Yes.

2 Q What's your judgment about the merit of that
3 proposal? A Mixed.

4 Q Well, can you enlarge a little bit on that?

5 A I could try.

6 I would say that that plan in its search has
7 gone far beyond, say, Somerset's, as well as others,
8 in beginning to identify questions of race and income which
9 are of concern in regional development.

10 My major problem with that plan is that it too
11 tends to come up with a form of regional growth which tends
12 to terribly restrict the opportunities of families of
13 less than median income or less than middle-class status,
14 and it tends to 'corridorize' them and place such families
15 in the major transportation belts of the region and not
16 to allow them to live in an environment that I think would
17 be far more salubrious and less urban, and to permit them
18 to enjoy the benefits of a development of a low density
19 variety, relatively low density variety.

20 The Regional Association's plan calls for
21 nodes close to major transportation, which would be the
22 high density development areas. It tends, as I read the
23 plan, to restrict opportunities for maybe 60, 70 per cent
24 of the population to find new housing in high density
25 situations in those nodes, rather than permitting them to

1 share with the remaining third of the population the
2 opportunity of finding good housing in low density
3 situations.

4 Q Now are you familiar with the general thinking
5 and proposals of the Tri-State Planning Commission?

6 A Yes, I am.

7 Q And what are your comments about those?

8 A Well, I think again they're mixed, and I'd say that
9 there's some conflict in the thinking of Tri-State because
10 it sets forth some criteria that recognizes the needs of
11 families of low and moderate incomes to have decent
12 environment and to find work close to opportunities, and
13 when they transfer those into a plan for the region's
14 development, they tend to come into this problem that many
15 planners do, the problem of classifying populations and
16 the opportunities that they will have, such that families
17 below median income and racial minorities, as well, will
18 be restricted to places in which they will find suitable
19 environment, but the type of environment will be less
20 suitable than those that might be developed at lower
21 densities in mixed income development throughout the region.

22 I should say that there's no question there is
23 sufficient land within Metropolitan New York to adequately
24 house all of those who need adequate housing, which is the
25 entire population, in a suitable living environment.

1 And there will be adequate open space available to
2 surround new community development to prevent some of the
3 damaging qualities of urban sprawl that Tri-State and
4 the Second Regional Plan are concerned with, but will go
5 beyond them.

6 They will go beyond them in treating all citizens
7 as equally deserving of a good environment.

8 Q Could you enlarge a little bit on the respects
9 in which Tri-State's proposals and the Second Regional Plan
10 restrict the opportunities of low income groups?

11 A Yes.

12 Because their proposals call for a type of
13 development of relatively low density in major areas of
14 the region to patterns of development I think would
15 prohibit a development of housing to serve the needs of
16 working-class citizens of the minority groups which we've
17 identified.

18 I see too much of the plans that they are
19 promoting as permitting a continuation of what we have
20 called missionary development practices and patterns
21 throughout the region.

22 Q I'm trying to get a handle on this, Mr. Davidoff.

23 Do I understand correctly that it is essentially
24 the density of development that in your judgment opens up
25 the opportunities for low income groups to live somewhere?

1 A Yes, yes.

2 Q And maybe this is an oversimplification, but
3 your criticism of Tri-State's thinking and the Second
4 Regional Plan, and I guess the Somerset County Master Plan,
5 too, is that it has too large an area for low density
6 development and not enough scattering?

7 A Enough to permit the development throughout the area
8 of densities of, say, five to ten units to the acre, and
9 with that it can build very good communities that can
10 serve the entire population.

11 Q Are you familiar with the so-called Horizon Plan
12 which was put out unofficially by the New Jersey State
13 Department of Community Development for a discussion
14 at a Rutgers forum in 1967? A I've heard of
15 it. I'm not sure I've ever seen it. I'm not sure if I
16 reviewed it thus far. I'm aware of it.

17 MR. ENGLISH: Off the record.

18 (Discussion off the record.)

19 MR. ENGLISH: Back on the record.

20 Q Well, getting back to the thinking of the
21 Tri-State Regional Planning Commission and the Second
22 Regional Plan, and I guess to a degree the Somerset County
23 Master Plan, is it not true that they propose more or less
24 channeling intensive development in the Newark-Philadelphia
25 corridor across New Jersey? A I think they

1 tend to do that, yes.

2 Q And I take it that that is one of the basic
3 propositions which you disagree with?

4 A Yes.

5 Q Are you familiar with the studies that have been
6 published by the Center for Urban Policy Research at
7 Rutgers? A I've seen some of them.

8 Q In the ones you've seen, are they professionally
9 meritorious or otherwise? A I'm sure they're
10 professionally of merit.

11 How meritorious, I wouldn't want to say at this
12 time because I'd have to be more familiar with them.

13 Q Assuming that adequate sewerage were provided in
14 Bedminster, would a substantial increase in the population
15 have any adverse effect on the water quality in your
16 judgment?

17 THE WITNESS: Would you repeat that, please.

18 (The pending question is read by the
19 reporter.)

20 A It might and it might not.

21 That would depend upon what other plans went with
22 the development of the sewerage to protect the quality of
23 the water.

24 Q Can you be more specific about what you have
25 in mind? A No.

1 I'd like to, as I said earlier, call on the
2 help of some experts in water quality to guide me. I do
3 believe -- and I've discussed this at some length with
4 experts in the field and environmentalists -- that at
5 cost it is possible to develop adequate solutions to permit
6 development to take place and to protect the quality of
7 the water.

8 Merely the increase in density and the creation
9 of sewerage facilities and sewerage treatment plants
10 need not necessarily lead to a deterioration in the water
11 quality and it might lead to an improvement.

12 Q Now in your judgment would denser land usage
13 have an effect on reducing the cost of land per dwelling
14 unit? A Yes.

15 Q And would it have any effect on reducing building
16 costs? A If a building type were created
17 that you could build two-family homes or a cluster
18 development of garden apartments; that is where you
19 reduce the separation between building units, yes, it
20 will reduce the cost.

21 Q All right.

22 Now, did -- A One can employ
23 the use of a party wall to reduce the cost.

24 Q Well, this is permissible in Bedminster.

25 A Discretionarily.

1 Q Discretionarily, right.

2 A At a very low density.

3 Q Now would you agree that one of the elements in
4 the high cost of housing today is the building cost as
5 opposed to the land costs? A Certainly
6 one element, yes.

7 Q And the building costs are pretty high even for
8 multi-family housing units, are they not?

9 A Not as high, but they're high. Yes, they're high
10 and they're increasing in cost.

11 Q Do you have any idea what the proportion of the
12 total cost of a dwelling unit is divided between land on
13 the one hand and materials on another and labor on the
14 third? A I'd use a very rough rule: You

15 might talk about a quarter to a fifth in terms of the
16 land cost, as between the costs of construction and
17 the labor cost, as opposed to the material cost.

18 The labor costs are significantly higher, but
19 the material costs have been rising very rapidly in the
20 last few years. That is a significant fact. They're
21 all rising -- land costs, materials and labor. All of them.

22 Q Well, even if you had your ideal zoning ordinance,
23 is it your judgment that unsubsidized housing could be
24 produced that would be within the range of low income
25 persons? A No, I don't think it would be

1 possible for families of low income to be served by new
2 housing without significant outside assistance into the
3 process. Some form of subsidy would be required.

4 Q Is governmentally financed housing permitted in
5 the Bedminster zoning ordinance? A Yes, it
6 is.

7 I don't think it could prohibit it.

8 Q Well, if you had that kind of subsidy, why couldn't
9 adequate provision be made for low income people to live
10 there? A Well I would say, first of all,
11 that the land costs are so high in Bedminster and the
12 permitted density units are so low that the cost per unit
13 of land cost under the existing ordinance would create a
14 price that would be above what the Federal Government would
15 under its standards permit in development of such housing.

16 If we talk about a land cost of, say, about
17 \$2,000 per unit and it's permissible, then I don't see,
18 under the present zoning ordinance, that you're going to
19 get a land cost down to that factor in Bedminster at the
20 present densities.

21 Q In other words, you are saying that vacant land
22 in Bedminster is above \$2,000? A Above
23 \$2,000. It's \$12,000 an acre for bedroom units.

24 If you were to build just studio apartments --
25 and I don't know why one would do that -- but say if one

1 were to build studio apartments, I think it would be
2 possible today to build units of publicly assisted houses
3 of studio apartments. It would be getting close to the
4 cost of land in Bedminster. But I think the acreage cost --
5 the estimates I have of land are very general estimates, and
6 they would be between \$5,000 and \$7,000 an acre for raw
7 land.

8 But that's mainly in what is now the R-3 zone.
9 Raw land in the higher density, the R-8 zone, I imagine
10 might be more expensive. But I'm trying to find that answer
11 now. I'm trying to get some answers to that.

12 I don't have that now.

13 Q Well, let's assume for the sake of argument that
14 the land generally in Bedminster is expensive. Would the
15 kind of a zoning ordinance that you have in mind have
16 any effect upon the cost of land or the value of land?

17 A Well, I would say it would have two types of effects:
18 Number one, the per unit cost of a more intensive density
19 permitted at a more intensive rate would permit a unit
20 cost considerably below the present cost.

21 Secondly, it would depend to an extent on whether
22 Bedminster were alone in rezoning.

23 A significant rezoning of Bedminster by itself
24 would be very helpful, and a significant rezoning of other
25 areas surrounding Bedminster would even be more helpful

1 in reducing the per unit cost.

2 Q Well, do you think zoning alone could do the trick
3 to bring land costs down to the point where significant
4 amounts of low income housing could be constructed?

5 A Yes, if we had the Federal subsidies and if there was
6 not a prohibition against a moratorium on use of subsidies
7 for low income housing, then it would be effective.

8 But, certainly, in the possibilities of building
9 moderate income dwellings that could serve families that
10 could afford a little over \$20,000 for a home, for a garden
11 apartment unit on a rental basis or condominium basis,
12 then a change in zoning would be the essential step -- the
13 essential necessity.

14 Q Well, would you be willing to settle for moderate
15 income housing in significant quantities in Bedminster even
16 though low income housing were not feasible?

17 A Well, anything that we could build for moderate income
18 families could be made available for low income families,
19 at which time Federal or State funds would be made available.

20 I would not be satisfied with a solution in
21 any town that prohibits the development of housing for
22 low income families. I believe that would leave all the
23 problems the State is addressing -- well, not addressing,
24 but it has identified them, even though it hasn't addressed
25 it in terms of housing needs.

1 But if we could build housing for moderate income
2 families, then I'm sure that same housing could be
3 constructed to serve low income families were the State and
4 Federal aid available.

5 Q In other words, a given zoning scheme might permit
6 low cost housing if governmentally subsidized or if at
7 the same time it is privately financed moderate income
8 housing? A That's right. True.

9 Q One approach to the problem, Mr. Davidoff, seems
10 to be that so many elements contribute to the high cost
11 of housing: Land, materials, building costs and so on.

12 Except for, really, Government subsidies, do
13 you see any solution to this? A Nationally?

14 Q Well, either -- A You're asking
15 a very general question.

16 Q Well, let's talk about New Jersey and, hopefully,
17 Somerset County. A I think there are really

4 18 possibilities for significant solutions. I see that
19 the non-profit sector of the economy -- churches,
20 foundations, pension funds of labor and universities --
21 provide a pool that could provide the solution immediately
22 to the problems of housing in the State of New Jersey.

23 And not only that, but it would bring back a
24 reasonable return on the investment to the investor if it
25 were permitted.

1 The problem in housing in New Jersey is that the
2 land based upon which the solution is required has been
3 locked up by exclusionary zoning and has taken immense
4 areas well suited for development out of use for residential
5 development.

6 Q How would you describe the purposes and functions
7 of Suburban Action Institute? A Meritorious.

8 MRS. THOMPSON: Not mixed.

9 A The organization's purpose is to seek to encourage
10 and bring about changes in urban growth policies and
11 practices in the nation so that the immense resources that
12 exist in the suburbs of land and growing jobs can be used
13 effectively to assist cities and inner suburbs in solving
14 problems of poverty, discrimination and general lack of
15 opportunity.

16 Q What is the basis of Suburban Action Institute's
17 financial support? A Foundation funding,
18 essentially, and some private funds given by individuals.

19 Q Have you received any contributions from builders
20 or building construction firms? A No.

21 I mean, it may be that a couple of the private
22 donors have been that, and if it's more than one per cent
23 of our total amount, I'd be surprised.

24 Q And what kinds of projects is Suburban Action
25 Institute engaged in? A Well, the major part

1 of our efforts are those of public information and education,
2 to try to address to the public our perception of ways
3 in which the urban problems can be corrected or can be solved
4 by employment of Suburban resources, addressing large
5 numbers of groups throughout the nation.

6 We are engaged in a research program, a program
7 which is trying to document what has been happening in
8 growth in the suburban area in the post-war period.
9 We are putting together a lot of details about the
10 characterization of that growth ratio in economic terms.

11 We have done a major piece of work for the
12 Department of Urban Affairs of the Commonwealth of
13 Pennsylvania in identifying issues of exclusionary zoning
14 and assisting that department in identifying communities
15 that are practicing exclusionary zoning.

16 We have been actively engaged in the issue of
17 corporate relocation to the suburbs, seeking to demonstrate
18 the corporation as well as public agencies that have built
19 new facilities in the suburbs and have failed in providing
20 adequate housing in reasonable proximity to those new
21 sites and as a result have participated in the segregation
22 of metropolitan communities in economic, social and
23 racial terms.

24 We have been trying to educate corporations and
25 public bodies on this, and we have been seeking to employ

1 the services of Equal Employment Opportunity Commissions to
2 bring action against communities that use exclusionary
3 practices but do not provide housing for their workers.

4 We have the services of lawyers who have worked
5 to assist community groups and individuals in challenging
6 restrictive practices in New Jersey and the metropolitan
7 area, as well as elsewhere throughout the nation.

8 We have been actively engaged in organizing
9 different groups to take a more active stand against
10 exclusionary practices in New Jersey and elsewhere.

11 Q Now we talked a little earlier about the
12 Garden Cities Development Corporation. Do you have
13 any other related organizations of that kind?

14 A Well, there are other groups throughout the nation
15 that are doing the kinds of work that Garden Cities is
16 doing, private groups. We provide a great deal of
17 assistance to small groups in different communities
18 throughout the nation who call or write for assistance.

19 There's none in which there is that close a link
20 as we developed earlier with Garden Cities.

21 Q Is Garden Cities Development Corporation
22 handling the proposed development of Candlewood Lake
23 near Danbury, Connecticut? A Yes, it is.

24 Q When did Suburban Action Institute decide to
25 concern itself with the Bedminster zoning litigation?

1 MRS. THOMPSON: If you know.

2 A Well, I would say the answer is in two parts: The first
3 is when Western Electric proposed to move to Bedminster.
4 We looked into that particular move as an example of the
5 issue of corporate relocation and began examining the
6 Bedminster zoning ordinance and zoning practices and
7 familiarized ourselves with it at that time.

8 So I would say that was the moment in which we
9 became familiar with Bedminster.

10 Q Well, having become familiar with Bedminster,
11 when did your organization decide to involve itself in
12 some way in the litigation brought by The Allan-Beane
13 Corporation?

14 A I would say at a point at
15 which certain private individuals had made contact with
16 our legal staff and called upon them for their assistance
17 in bringing about an action in regard to Bedminster's
18 zoning.

19 Q Can you give me the approximate time when such
20 individuals did make contact with you?

21 A I don't know. I really think you'd have to ask that
22 of our lawyers.

23 Q I show you what appears to be a copy of a letter
24 to William W. Lanigan, Esq. on the letterhead of Suburban
25 Action Institute, dated November 29, 1971.

I ask you if you were aware of the writing of

1 that letter at the time it was sent.

2 A I think Mr. Ray had spoken to me at that time about
3 it.

4 MR. ENGLISH: Mark this letter for
5 identification, please.

6 (The above mentioned letter to William W.
7 Lanigan, Esq. on the letterhead of Suburban
8 Action Institute, dated November 29, 1971,
9 is received and marked Exhibit D-3 for
10 identification.)

11 Q Do you know specifically whether this letter,
12 D-3 for identification, was written before or after people
13 had sought the help of Suburban Action Institute in
14 connection with the Bedminster zoning litigation?

15 A I don't know.

16 Q Can you tell me the reason for the delay until
17 May of 1972, which was the time when an effort was made
18 by Mr. Ray and Mrs. Thompson, representing the Plaintiffs
19 Cieswick and others, to intervene in the Allan-Deane, or
20 something called Johns-Manville litigation?

21 A No.
22 I really think you have to speak to Mrs. Thompson
23 about that.

24 Q I see on the letterhead which has been marked
25 D-3 for identification a couple of people listed as

1 Community Organizers. What do they do?

2 A Their role has been one of, as I indicated in talking
3 about the work, trying to bring to the attention of
4 residents of different communities, some in the cities and
5 some in the suburbs, the issues that Suburban Action
6 Institute is discussing and to try to bring about greater
7 understanding of the possibilities of solution to urban
8 problems by using Suburban's resources, and most recently
9 in bringing together a number of groups to create coalitions
10 to work on this issue.

11 Q Now was it as a result of their work that the
12 Plaintiffs Chieswick and so forth were brought to your
13 attention?

14 A Again, I have not met the
15 plaintiffs and would assume that they must have heard from
16 some source or another of the work that Suburban Action
17 was doing. Whether it came from some educational program
18 our Community Organizers were doing or not, that I don't
19 know.

20 Q A few moments ago you were talking about the
21 Institute's interest in the whole problem of corporate
22 relocation in the suburbs.

A Yes.

23 Q What is your view in terms of the total Bedminster
24 zoning ordinance and its legal validity growing out of
25 the zoning of the tract owned by AT&T which would
apparently facilitate the relocation of their Long Lines

1 headquarters in Bedminster?

2 MRS. THOMPSON: I must note for the record
3 that Mr. Davidoff hasn't claimed any competence
4 in the legal validity, as you expressed it.

5 MR. ENGLISH: All right.

6 Q I take it that even though you have a law degree,
7 you prefer not to express a legal opinion. Is that right?

8 A Not being a member of the Bar -- from my informed
9 background as a graduate of law school, I'd be happy to
10 make it, if it's understood that it's with that restriction
11 on it.

12 Q Well, I don't want to build up any jurisdictional
13 dispute between you and Mr. Ray or Mrs. Thompson.

14 MRS. THOMPSON: No, no.

15 A I've taught Planning Law in planning schools for a
16 long time, but I'm not a lawyer.

17 I'm educated in the law but I'm not a practicing
18 attorney.

19 Q Well, given your background, may I have your
20 opinion on it? A Yes.

21 On the rezoning to permit --

22 MR. ENGLISH: Do you want the question
23 repeated?

24 THE WITNESS: Yes.

25 (The requested question is read by the

1 reporter.)

2 A I would say that its validity, which I have
3 questioned already on other grounds, is put in further
4 doubt due to the failure of the Town to rezone an
5 appropriate amount of land for the development of housing
6 to meet the needs of those who will work at that site.

7 Q Well, would you be opposed to the location of
8 an employer such as Long Lines Division in Bedminster?

9 A No.

10 Q So that's all right.

11 But it's just the concomitant housing that you
12 are concerned with, is that right? A That's
13 right.

14 I think I want to add to that, to make it clear,
15 that it isn't only the concomitant housing. It's the
16 issue of the tax inequality. In the State of New Jersey
17 that results from the benefits that adhere to a town such
18 as Bedminster which takes on an office such as Long Lines
19 but fails to provide the housing for the workers associated
20 there, and they then must be housed somewhere else in
21 New Jersey.

22 Q Well, are you familiar with the fact that the
23 New Jersey Supreme Court has declared invalid the
24 existing arrangements for financing the public school
25 systems out of local property taxes?

1 A Oh, yes.

2 Q Would you see some likelihood of some change
3 in the tax structure which might alter the situation
4 you've just mentioned?

A I think it's been
5 mandated by the Court. I don't know if it's forthcoming
6 or not.

7 Q Well, conceivably that might take care of itself,
8 despite the best efforts of Suburban Action Institute.

9 A Yes.

10 MR. ENGLISH: I have no further questions.

11 MR. RAGSDALE: No questions.

12 MRS. THOMPSON: No questions.

13 (Whereupon, the hearing is adjourned.)

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - SOMERSET COUNTY
DOCKET NO. L-28061-71 P.W.

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LYNN CIESWICK, et al., :

Plaintiffs, :

-vs- :

C E R T I F I C A T E

THE TOWNSHIP OF BEDMINSTER, :
et al., :

Defendants. :

I, FRANK ANTHONY, the officer before whom the
foregoing deposition was taken, do hereby certify that the
witness whose testimony appears in the foregoing deposition
was duly sworn by me, and that said deposition is a true
record of the testimony given by said witness; that I am
neither attorney nor counsel for nor related to or employed
by any of the parties to the action in which the deposition
is taken; and further that I am not a relative or employee
of any attorney or counsel employed by the parties hereto,
or financially interested in the action.

Frank Anthony
CERTIFIED SHORTHAND REPORTER & NOTARY PUBLIC

Dated: Dec. 5, 1973