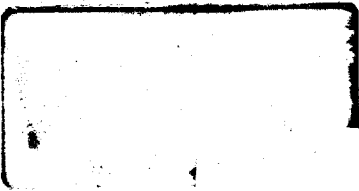


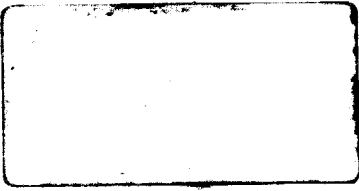
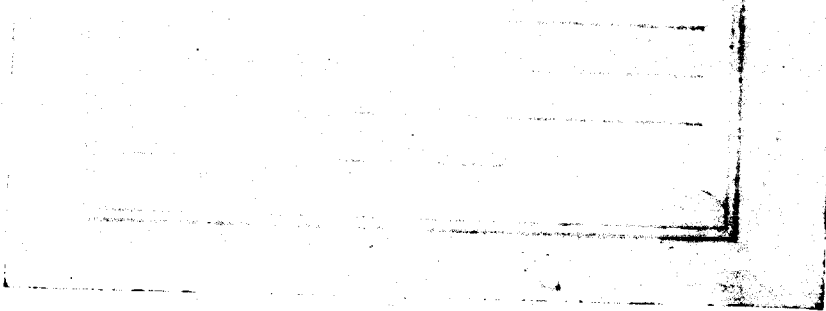
Transcript of Proceedings: examination of April Diggs,  
Theresa Horvath, Elliot Weinstein, Rita Solow, Paul Davidoff,  
W. Milton Kent, Donald H. Stires, Robert Thomas Kattin,  
and William E. Roach, Jr.

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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - SOMERSET COUNTY  
L-28061-71 P. W.

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3 LYNN CIESWICK, APRIL DIGGS, :  
4 W. MILTON KENT, AND JAMES :  
5 RONE, ON BEHALF OF THEMSELVES :  
6 AND ALL OTHERS SIMILARLY :  
7 SITUATED, :

8 Plaintiffs, :

9 vs. :

10 THE TOWNSHIP OF BEDMINSTER, ITS :  
11 OFFICIALS, AGENTS, AND EMPLOYEES, :  
12 THE TOWNSHIP COMMITTEE OF THE :  
13 TOWNSHIP OF BEDMINSTER, AND THE :  
14 PLANNING BOARD OF THE TOWNSHIP :  
15 OF BEDMINSTER, :

16 Defendants. :

17 ----- :  
18 C/W :

19 THE ALLAN-DEANE CORPORATION, :  
20 A DELAWARE CORPORATION :  
21 QUALIFIED TO DO BUSINESS :  
22 IN THE STATE OF NEW JERSEY, :

23 Plaintiff, :

24 vs. :

25 THE TOWNSHIP OF BEDMINSTER, :  
A MUNICIPAL CORPORATION OF :  
THE STATE OF NEW JERSEY, :

Defendant. :

REC'D AT CHAMBERS  
JUN 11 1974  
JUDGE LEAHY

VOLUME I  
II  
III

L-28837-72

TRANSCRIPT OF PROCEEDINGS

Court House,  
Somerville, N.J.

March 4, 1974  
March 5, 1974  
March 6, 1974  
March 7, 1974  
March 12, 1974  
March 13, 1974

EDWARD W. BUDNOWSKI  
Official Stenographic Reporter

1    **B E F O R E :**

2                    **HON. B. THOMAS LEAHY,**  
3                    **J. C. C.**

4    **A P P E A R A N C E S :**

5                    **MRS. LOIS D. THOMPSON ( N. Y. Bar )**  
6                    **and PETER A. BUCHSBAUM, ESQ.,**  
                     **Rr Plaintiffs Lynn Cieswick, et al.**

7                    **WILLIAM W. LANIGAN, ESQ.**  
                     **For Plaintiff The Allan-Deane Corp.**

8                    **EDWARD D. BOWLBY, ESQ. and**  
9                    **MC CARTER & ENGLISH, ESQ.**  
10                   **BY: NICHOLAS CONOVER ENGLISH, ESQ. and**  
                     **BINGHAM KENNEDY, ESQ.**  
                     **For the Defendants.**

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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - SOMERSET COUNTY  
L-28061-71 P. W.

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LYNN CIESWICK, et als., :  
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 Plaintiffs, :  
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 vs. :  
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 THE TOWNSHIP OF BEDMINSTER, :  
 et als., :  
 :  
 Defendants. :

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C/W :  
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 THE ALLAN-DEANE CORPORATION, :  
 etc., :  
 :  
 Plaintiff, :  
 :  
 vs. :  
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 THE TOWNSHIP OF BEDMINSTER, :  
 etc., :  
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 Defendant. :

L-28837-72

TRANSCRIPT OF PROCEEDINGS

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M O R N I N G                      S E S S I O N

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MRS. THOMPSON: Your Honor, I'm terribly sorry. I, unfortunately, got stuck in the traffic on the New Jersey Turnpike and had to sit until the traffic in front of me moved.

THE COURT: All right. That's understood.

According to our Pretrial Memorandum, Mrs. Thompson, you're first.

MRS. THOMPSON: Okay. We have a brief introductory statement, your Honor.

More than twenty years ago Bedminster was the subject of a zoning suit which many believe has set the pattern for suburban zoning as we know it today.

Now, a generation later, we're back in Bedminster, and we're asking this Court to insure that the next generation will not have to suffer the burdens and inequities imposed on this generation of New Jersey residents by zoning regulations which have outlived their usefulness and their relevance.

What is at issue here today is whether Bedminster will be allowed to continue to zone in a manner which denies low and moderate

1 income, black and Spanish-speaking citizens,  
2 access to decent housing, which constrains  
3 hundreds and thousands of New Jersey residents  
4 to live in a poor environment of New Jersey's  
5 decaying central cities, frequently in bad  
6 housing, often compelled to send their children  
7 to segregated schools, increasingly distant  
8 from sources of employment.

9 What the plaintiffs asked this Court to  
10 do is to take cognizance of the tremendous  
11 changes which have occurred in the State of New  
12 Jersey since 1952 when Fisher against  
13 Bedminster was decided, and particularly we  
14 ask the Court to take cognizance of a great  
15 and growing housing crisis.

16 We ask that the Court rule that a form  
17 of zoning which may have been reasonable in  
18 1952 is no longer reasonable under the state  
19 of facts as they exist in New Jersey today.

20 This suit, as we are all aware, is  
21 brought at a critical time in the evolution of  
22 zoning law in New Jersey.

23 Trial Court after Trial Court has been  
24 invalidating challenged zoning provisions  
25 throughout the state on the grounds that they

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serve to exclude low and moderate income people access to decent housing.

As we all know, there is presently pending before the New Jersey Supreme Court a major decision which will probably set the standard for New Jersey for years to come. The Madison Township decision, which was the first of what has already become in two short years a line of cases is presently back before the Trial Judge awaiting his determination of whether the new Zoning Ordinance which Madison Township adopted after its first Ordinance was invalidated as exclusionary is now inclusionary, whether it now provides access to not just the top ten per cent of the population, but to all of the population.

I'll not go into the law in any great detail in our opening statement, because we have covered it in our Brief. The only thing that I would stress is that as the cases we have cited show the New Jersey Courts are increasingly adopting a more liberal or a broader, a more sensitive view of the general welfare, and it is that concept which we would ask this Court to apply to the case at bar. I

1 would point out to do so is particularly  
2 appropriate here.

3 The Cliswick plaintiffs do not bring a  
4 standard developer's lawsuit. They're not at  
5 all like the plaintiffs who were before  
6 another Somerset County Court twenty years  
7 ago. They are not seeking to build a house on  
8 a quarter acre lot where their mother had  
9 thirty-seven acres and only deeded them a  
10 quarter acre. They are low income people who  
11 are denied any opportunity to enjoy any  
12 property in Bedminster, no matter how small  
13 and no matter what form, be it rental or sales.  
14 And I would stress, too, that this is not the  
15 Bedminster of twenty years ago, that the  
16 construction of highways under the Eisenhower  
17 administration twenty years ago is now reaching  
18 its completion, and Bedminster finds itself  
19 in the growth node of the region.

20 I would also point out, as will become  
21 clear at trial, that what we are faced with  
22 here is a community at the growth node of the  
23 region with perhaps the most greedious zoning  
24 of any suburb in the State of New Jersey.

25 What is at issue here is something that

1 we all ought to be concerned with, the question  
2 of whether the promise of the equal protection  
3 of the laws will in fact be fulfilled. The  
4 question before this Court is whether the poor  
5 and minority citizens of the State of New  
6 Jersey are to be accorded the same benefit of  
7 the government's exercise of its police power  
8 as those who are affluent and white.

9 Plaintiffs do not contend that those  
10 who can afford it should not live in \$150,000  
11 homes on five, ten or twenty-acre lots. What  
12 is at issue is the question of whether people  
13 who can afford houses at the price range of  
14 100 to \$150,000 and above are to be allowed to  
15 say, in effect, that no one who cannot afford  
16 such housing may live within their municipality,  
17 or in the particular case of Bedminster the  
18 issue is whether a small group of people who  
19 can afford a particular price of housing may  
20 use the power of government to remove more than  
21 twenty-six square miles of the sovereign State  
22 of New Jersey from access to the majority  
23 of the State's residents.

24 During the course of the trial we will  
25 prove that in light of the existing and growing

1 need for housing in the greater region of New  
2 York metropolitan area, in the State of New  
3 Jersey, in Somerset County, and in Bedminster,  
4 itself, the Zoning Ordinance of Bedminster  
5 must be considered arbitrary, unreasonable and  
6 must fall.

7 We will prove that it denies black and  
8 other minority citizens their rights of equal  
9 access to housing, and their rights to travel  
10 and enter and abide.

11 During the course of the trial you will  
12 hear from a number of witnesses, and we will  
13 receive a great deal of written documentation,  
14 statistical information, government reports  
15 and reports of prestigious organizations  
16 ranging from the American Institute of  
17 Planners to the Regional Plan Association.

18 You will also hear from a number of  
19 witnesses supporting the plaintiffs' case.  
20 First, you will hear from the plaintiffs,  
21 themselves. You will hear from April Diggs,  
22 who at one time was condemned to live in a  
23 basement apartment which flooded everytime it  
24 rained, which was rat infested, and which was  
25 finally condemned by the health officer only

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when she was able to find public housing in Somerset.

You will hear from her that there are only one hundred units of public housing in the entire county.

You will also hear from Milton Kent who when he accepted a job and was forced to move from Trenton had to have the entire agency for which he was to work search for housing for him, and who only found housing when one of his employers ended up renting him his own apartment.

You will hear of the efforts of the Somerset County Housing Association, why it was formed, and when.

You will also hear from Carrie Horvath of the work and accomplishments and terrible frustrations of that organization and its effort to achieve housing opportunities for the lower income citizens of the county.

You will also learn of the City of Plainfield, from the Plainfield City Planning Director, Elliot Weinstein. Mr. Weinstein will tell us how Somerset County presently looks to the City of Plainfield for employees



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to work in its industries. You will learn from him of his zoning studies which he did which led him to conclude that low income black citizens were compelled to live in Plainfield because they could not find housing in the surrounding suburbs.

You will also learn from Mr. Weinstein of the work he has had to do with industries located in Somerset County to make it possible for their lower income employees living in Plainfield to get to work.

You will also learn specifically of the particular provisions of the Bedminster Zoning Ordinance which plaintiffs attack as exclusionary from planner Paul Davidoff. Mr. Davidoff will explain the relationship between the Bedminster Zoning Ordinance and housing and land use conditions in the region.

You will learn of the effects of the Bedminster Zoning Ordinance in perpetuating and increasing existence of the segregated society.

From him you will again learn of the critical location which Bedminster holds in the region. You will learn from him the

1 pattern of industrial development in  
2 Bedminster and in the surrounding areas.

3 You will learn from Mr. Davidoff of  
4 increasing separation between jobs and housing.  
5 You will also learn from him that even as  
6 Bedminster perpetuated its exclusionary  
7 zoning pattern and Zoning Ordinance under  
8 attack it's zoned so that a corporate giant,  
9 A. T. & T. Long Lines, could move its  
10 executive Long Lines into Bedminster so that  
11 the executives could work where they lived,  
12 but did not worry about where their lower  
13 income employees would live.

14 From Allan Malich, formerly of the  
15 Department of Community Affairs, you will  
16 learn particularly and in specific numbers  
17 of the existing housing crisis in the State  
18 of New Jersey, the number of substandard  
19 units, number of deteriorating units, the  
20 number of units which a state agency says  
21 must be built in the State of New Jersey  
22 next year if it is to meet its present needs.  
23 You will also hear from him of the specific  
24 costs of construction under the present  
25 Zoning Ordinance of the State of New Jersey -

1 I'm sorry - under the present Zoning Ordinance  
2 of Bedminster.

3 Finally, anticipating what defendants  
4 intend to do here is to try to convince this  
5 Court that what is at issue is a decision  
6 between people or pollution, and that there  
7 is no middle ground, you will hear from  
8 Ian Macar, distinguished planning ecologist,  
9 who will testify as to the lack of precision  
10 and the standards set forth in the Bedminster  
11 Zoning Ordinance with regard to its so-called  
12 environmental impact, and you will hear from  
13 him of the techniques which exist which make  
14 it possible to protect the environment and  
15 to build housing at the density which insures  
16 that it will be accessible to people who are  
17 not affluent. His will be important testimony  
18 in light of what we expect the defendants will  
19 do.

20 We are convinced that when the trial is  
21 over this Court will be convinced that the  
22 Zoning Ordinance overreaches, that it is far  
23 beyond what is necessary to protect whatever  
24 valid interests there may be in the environment.

25 In here I would add plaintiffs do not

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contest the substance of Bedminster's environmental concerns. These plaintiffs do not sue the Raritan River. These plaintiffs do not sue to derogate the quality of the air. These plaintiffs sue to acquire housing and believe that it is possible to do so in a situation where they, too, may enjoy the environment.

I would point out here that this Court will, of course, be asked to consider regional needs, and I would stress the importance of considering all of the regional needs, the regional environment, the environment of Newark, environment of Hoboken, Franklin Township, as well as the environment of Bedminster.

Walking through Bedminster, as your Honor may, yourself, know, one can forget the existence of Newark. Bedminster is a lovely community, an idealic community, rural community, and the issue behind this court action is whether Bedminster may be allowed to turn its back and create for itself a rural idealic community at the expense of the people in Newark, in Somerville, in Somerset.

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Thank you.

MR. LANIGAN: If the Court please, the thrust of the Allan-Deane case is a little bit different. While we seek to achieve the same result and will urge upon the Court that the Ordinance does not satisfy the needs either of the area or the law, our thrust will be somewhat different.

We will, as the Court can anticipate, rely to large extent upon the proofs and stipulations and some of the basic data which will be furnished by the Cieswick plaintiffs. We are landowners. We are a specific landowner in the township, and we are not a crusader in the sense that we seek to have the Ordinance overturned for the reasons expressed by Mrs. Thompson.

We have a different thrust than we had previously. When we first commenced an action against the township it was five-acre zoning. There was no hope of clustering. There was little hope of any multi-family use. We find ourselves in the posture now where we agree with much of what the township has done, but disagree that it has gone far enough.

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We will take the position and show by our proofs that the township has in fact sought to give with one hand and taken away with the other; that the clustering, for example, which they hold out in the Ordinance as being available is only available if they choose to make it available. It is not a matter of right.

The standards in the Ordinance are completely lacking. It's left the way it's been left for the last twenty-five years, to the discretion of those people that sit in those positions in the Township of Bedminster either as Planning Board members or as Township Committeemen.

We respectfully submit that that is not a step forward, that that puts us back where we were before, that if they decide, the Planning Board decides, that you should be permitted to cluster, then, perhaps, you can, then, perhaps, the two or three hundred acres of unusable land in the sense that it has a steep slope will become usable, but they will decide it at that time. This is so despite the fact that they had three weeks prior to

1 the last time that this case was scheduled for  
2 trial enacted a comprehensive environmental  
3 impact ordinance. They have a very effective  
4 tool. They have utilized it once. We're going  
5 to show that they have utilized it for purposes  
6 of this case, in requiring a fee of 50 or  
7 \$60,000 of the one person who has taken  
8 advantage of it and have utilized the same  
9 witnesses that we're going to hear in this  
10 case.

11 We're going to examine the procedure  
12 that took place in getting to that point.  
13 We want to be able to use our land without  
14 permission of the people who have been saying  
15 you can't use it for the last twenty-five  
16 years; and I respectfully submit that this  
17 Ordinance doesn't permit that now.

18 The floor ratio concept is an admirable  
19 concept, but it is outdated. It is in fact  
20 the Ordinance under suggestion, under test,  
21 twenty-four years old. It has not been updated.  
22 They have used erroneous and old information  
23 to come to their conclusion today.

24 In supporting their position they have  
25 committed a violation of logic. They have

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assumed the consequence, and that is, as the Court is well aware, a fallacy. They have stated that because the County Master Plan says that Bedminster should remain the way it is, then that makes it right. Without examining the reason for the County Master Plan and the position it takes, we respectfully submit that the County Master Plan does nothing more than codify what is already there and what the individual towns want. It would be politically inexpedient to have done otherwise.

Taking that premise, you cannot rely upon it and build on it and say because the County Master Plan says we can remain the way we are, we have a right to rely on it and spend pages in the Brief saying that's so and it's good.

I respectfully submit that if we're going to examine the County Master Plan, and it is not under attack here, but it has been interjected as a matter of defense, that if we are going to examine it we will find that in the northern sector of this county at least it is exactly the way the people have told it should be. It is not progressive. It is not



1 innovative. It does not go forward. It merely  
2 codifies what has been there for twenty-five  
3 years.

4 Finally, the fact that the ecology has  
5 been interjected as a defense here will be of  
6 little or no consequence, because we agree  
7 completely with the township that ecology is  
8 important, that water preservation, water  
9 management, is important, that sewage treatment  
10 and proper use of the ground and all of the other  
11 elements that go into proper property manage-  
12 ment must be adhered to. But, you can't take  
13 with a broad brush the so-called phraseology  
14 and justify everything else you're doing.  
15 There is a balance. There has to be some  
16 standard. You cannot with one brush of saying  
17 it's got to be pure water disallow everything  
18 else because of it. There is no rhyme or reason  
19 to that. It is unconscionable to take that  
20 position. We respectfully submit that that is  
21 exactly what the township has done.

22 In the eagerness to defend its Ordinance  
23 it has as an afterthought, and, frankly,  
24 depositions would disclose this, come up with  
25 the suggestion that perhaps what we have been

1 doing could have been defended twenty-five  
2 years ago and perhaps can be defended today  
3 because of the concern today about ecology.  
4 It wasn't a concern then, and while it is a  
5 concern now it need not be such a concern  
6 so as to eliminate and practically foreclose  
7 the development which could and should be  
8 permitted to take place.

9 We will have very, very few witnesses.  
10 We are concerned basically with the use of our  
11 property. In the sense that the Clewrick  
12 plaintiffs are successful in demonstrating  
13 that the Ordinance does not go far enough,  
14 that it really doesn't permit multi-family  
15 use when it says it does, we will be the  
16 beneficiaries; and we will supply as part of  
17 our proofs those facets and facts which are  
18 peculiar to our property.

19 Thank you, your Honor.

20 THE COURT: Thank you.

21 Mr. English.

22 MR. ENGLISH: If the Court please, the  
23 defendants would like to reserve their outline  
24 of their case until the plaintiffs have rested.  
25 I would merely make a brief comment that as Mr.

1 Lanigan has stated this involves essentially  
2 a question of balance. There is no doubt that  
3 New Jersey has important housing needs for many  
4 of its people. There is, I submit, no doubt  
5 that New Jersey has a need to protect its  
6 environment, preserve the water supply which  
7 is necessary to serve the urban populations  
8 which lie to the east of it.

9 The Brief which the Attorney General  
10 filed on behalf of Commissioner Sullivan,  
11 amicus curiae, is available in this Court  
12 and as part of this case, and it suggests,  
13 I submit, a starting point, a legal frame of  
14 reference, for trying to balance some of the  
15 competing social considerations which are  
16 involved in this case. And it may well be  
17 that a different balance should be struck for  
18 one municipality in one part of the state  
19 from that which is appropriate in another  
20 municipality in another part of the state.  
21 This might well be different municipalities  
22 within Somerset County.

23 I submit that we are not dealing with  
24 absolutes, as the plaintiff Clewick seems to  
25 imply. The criterion for validity of an

1 Ordinance, as your Honor knows, is a matter of  
2 reasonableness which requires consideration of  
3 all of the relevant circumstances. I just  
4 make that sort of a background statement at  
5 this time, and I would like to open our case  
6 more fully when the plaintiffs have rested.

7 THE COURT: All right. Fine.

8 MR. BUCHSBAUM: If the Court please,  
9 we have some exhibits we'd like to have marked  
10 in evidence. I think it would save time if  
11 that were done. Defendants have been made  
12 aware and Mr. Lanigan has been made aware of  
13 the exhibits.

14 Cieswick plaintiffs offer as their  
15 exhibit P-1 "Population - Housing - 1970  
16 Census," published by Somerset County  
17 Planning Board.

18 THE COURT: Have you reviewed these  
19 with other counsel?

20 MR. BUCHSBAUM: We have, Judge.

21 MR. LANIGAN: Yes, your Honor.

22 MR. BUCHSBAUM: There was a memorandum  
23 sent to other counsel of some of the other  
24 matters we wish to put in at this time.

25 THE COURT: All right. I would like to

1 save double marking if there are going to be a  
2 number of them. But, I want to protect other  
3 counsel's right to object.

4 Perhaps if you'll identify each and  
5 I'll just then rely on counsel objecting if  
6 you come across one that you haven't agreed  
7 should be admitted into evidence.

8 MR. ENGLISH: Could I just make this  
9 general statement. I think we have had very  
10 wide agreement as to the genuineness and  
11 authenticity of documents. There has not been  
12 all that much agreement on what is necessarily  
13 going into evidence, but from my vantage point  
14 I would say that counsel has been very  
15 cooperative and agreed to all authenticity  
16 to minimize formal formality of proofs.

17 THE COURT: Is there any objection to  
18 the admissibility of the county document on  
19 population and housing, 1970 census?

20 MR. LANIGAN: Your Honor please, from  
21 our standpoint there is neither - there is no  
22 objection to their authenticity and there is no  
23 objection as to their admissibility of any of  
24 the documents, or any of the stipulations,  
25 which are offered by the Cieswick plaintiffs.

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MR. ENGLISH: No objection to this exhibit.

THE COURT: We'll mark it PC-1 in evidence.

Why don't I take a recess and see if you can review with Mr. English and see which ones you can narrow down that he has objection to its relevancy or admissibility.

MRS. THOMPSON: Thank you, your Honor.

(The aforementioned document entitled "Population - Housing - 1970 Census" is received into evidence and marked Exhibit PC-1 in evidence by the Reporter.)

(Recess.)

MR. BUCHSBAUM: If the Court please, the following exhibits are being marked into evidence by consent, in addition to the Exhibit 1 which has been marked in just before the recess.

Exhibit PC-2A, "Revised Zoning Ordinance, Township of Bedminster, 1973."

Exhibit PC-2B, "Amendments to Revised Zoning Ordinance, 1973."

Exhibit PC-3A, "Master Plan, Bedminster Township, New Jersey."

1 As Exhibit PC-3B, Master Plan Map of  
2 Bedminster Township, New Jersey.

3 PC-4, Resolution of Township of  
4 Bedminster Planning Board, dated December 27,  
5 1971, an amended Master Plan.

6 PC-5, which is the group of census  
7 reports published by the Tri-state Regional  
8 Planning Commission from the 1970 census.

9 PC-6, New Jersey Department of  
10 Community Affairs, Office on Aging, Poverty  
11 and Other Income Statistics for the Elderly,  
12 Somerset County.

13 PC-7, State of New Jersey, Comparison  
14 Rankings of 567 Municipalities by Effective  
15 Tax Rates, 1971, and by Percentage of  
16 Industrial and Commercial Assessed Evaluations,  
17 1971.

18 PC-8, Master Sewerage Plan for the  
19 Upper Raritan and Delaware Water Sheds Within  
20 Hunterdon, Morris and Somerset Counties, New  
21 Jersey. This may be referred to as the  
22 Killam Associates Report at various times.

23 PC-9, Standards of Effluent Discharge  
24 to Be Met By Water Treatment Plants Operating  
25 Within the Boundaries of the Township of

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Bedminster, Somerset County, New Jersey.

PC-10, Census of Population and Housing,  
1970, New Jersey.

PC-11, which is a map of Somerset  
County.

(The aforementioned Revised Zoning  
Ordinance, Township of Bedminster, 1973,  
is received into evidence and marked Exhibit  
PC-2A by the Reporter.)

(The aforementioned Amendments to  
Revised Zoning Ordinance, 1973, is received  
into evidence and marked Exhibit PC-2B by  
the Reporter.)

(The aforementioned Bedminster Township  
Master Plan is received into evidence and  
marked Exhibit PC-3A in evidence by the  
Reporter.)

(The aforementioned Bedminster Township  
Master Plan Map is received into evidence and  
marked Exhibit PC-3B in evidence by the  
Reporter.)

(Resolution of Township of Bedminster  
Planning Board, 12/27/71, is received into  
evidence and marked Exhibit PC-4 in evidence  
by the Reporter.)



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(The aforementioned Tri-state Regional Planning Commission 1970 Census Data is received into evidence and marked Exhibit PC-5 in evidence by the Reporter.)

(The aforementioned Poverty and Income Statistics for the Elderly is received into evidence and marked Exhibit PC-6 in evidence by the Reporter.)

(The aforementioned Tax Rate Rankings 1970/1971 is received into evidence and marked Exhibit PC-7 in evidence by the Reporter.)

(The aforementioned Master Sewerage Plan (Killam Associates) is received into evidence and marked Exhibit PC-8 in evidence by the Reporter.)

(The aforementioned Standards of Effluent Discharge is received into evidence and marked Exhibit PC-9 in evidence by the Reporter.)

(The aforementioned 1970 Census of Population and Housing is received into evidence and marked Exhibit PC-10 in evidence by the Reporter.)

(The aforesaid Map of Somerset County is received into evidence and marked Exhibit

1 PC-11 in evidence by the Reporter.)

2 MR. BUCHSBAUM: We would at this time  
3 offer as PC-12 the Zoning Ordinance and Map  
4 of 1968 for the Township of Bedminster.

5 MR. ENGLISH: If the Court please, I  
6 object simply on the grounds of relevancy and  
7 materiality. That Ordinance is not in effect.  
8 The Court is asked to pass upon the validity  
9 of the Ordinance adopted in 1973 which  
10 superseded the old Ordinance.

11 I see no useful purpose to it being  
12 made an exhibit in this case.

13 THE COURT: What relevancy would the  
14 1968 Ordinance have?

15 MR. BUCHSBAUM: Well, this case involves  
16 a study of the zoning practices of Bedminster  
17 Township, and in granting us permission to  
18 amend our Complaint, rather than requiring  
19 us to file a new one, we understood that the  
20 Court accepted our theory that there had been  
21 a continuing violation of plaintiffs' rights  
22 by the Township of Bedminster. I think this  
23 Ordinance is part of the background of the  
24 case, and which the Court will have to have  
25 before it to understand the present situation

1 in Bedminster.

2 We're going to be talking about the  
3 development of Bedminster over a period of  
4 time and what's happened there, and that effect  
5 on our plaintiffs and Zoning Ordinance is an  
6 instrumental part of our development. I  
7 certainly think the Court should at least have  
8 this Ordinance before it, and when it comes to  
9 make a decision in the case.

10 THE COURT: The objection is overruled.  
11 The 1968 Zoning Ordinance will be admitted.

12 (The aforementioned 1968 Zoning  
13 Ordinance and Map is received into evidence  
14 and marked Exhibit PC-12 in evidence by the  
15 Reporter.)

16 MR. BUCHSBAUM: If the Court please,  
17 there may be other documentary evidence which  
18 we may wish to introduce into evidence and  
19 which it may be possible to get consent on,  
20 but we're not fully ready with all of them  
21 at this time, and we will take appropriate  
22 steps.

23 At this time we're ready to proceed  
24 with the presentation of evidence.

25 THE COURT: All right.

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MRS. THOMPSON: Your Honor, before I call the first witness I was just handed a note telling me that - I had called your chambers last week requesting an adjournment of the trial for this coming Monday, March 11th, and I have just learned that the Second Circuit argument which I was participating in has been postponed to March 15th.

THE COURT: All right. That may not affect the fact that there may be a juvenile calendar on Monday, the 11th. We'll know later.

MR. BUCHSBAUM: I guess I ought to mention at this time that I have been called for argument before a three-Court - a three-Judge Court in Newark on the 13th at 10:00 A. M. This is something that couldn't be avoided. It's a petition for preliminary injunction against a filing disclosure requirement of the State Election Law which goes into effect on March 15th. I have requested that the Court schedule it for the last week in February, but I believe Judge Garth was ill and they were unable to do it. Unfortunately, there is no one whom I can delegate this argument to.

THE COURT: Well, perhaps by that time

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we'll know whether or not whatever is likely to occur on the 13th will be covered and handled by Mrs. Thompson.

MR. BUCHSBAUM: This is not a matter I'm doing with Mrs. Thompson.

THE COURT: We may be able to excuse you and still continue with the trial.

MR. BUCHSBAUM: That could happen, although it may depend on where our case stands at the time.

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MRS. THOMPSON: Plaintiffs call April Diggs.

**A P R I L                    D I G G S,** called as a witness in her own behalf, being first duly sworn, testified as follows:

**THE SERGEANT-AT-ARMS:** State your full name and spell your last, please.

**THE WITNESS:** April Diggs. D-I-G-G-S.

**THE SERGEANT-AT-ARMS:** Thank you. Be seated, please.

**DIRECT EXAMINATION  
BY MRS. THOMPSON:**

**Q            Mrs. Diggs, are you a plaintiff in this litigation?**

**A            Yes.**

**Q            Are you married?**

**A            Yes.**

**Q            How many children do you have?**

**A            Seven.**

**Q            Do all of your children live with you?**

**A            No.**

**Q            How many of your children are presently living with you?**

**A            Five.**

**Q            Will you tell the Court where the other two**

1 are residing at present?

2 A They're residing with my mother.

3 Q And why are they living with your mother?

4 A Because I don't have enough room for them.

5 Q Can you talk a little louder?

6 A I don't have enough room for them in my apartment.

7 Q Where do you live?

8 A 56 Phillips Road in Pine Grove Apartments in Somerset.

9 MR. ENGLISH: I'm sorry. I didn't hear  
10 that.

11 MRS. THOMPSON: 56 Phillips Road,  
12 Somerset. Pine Grove Apartments.

13 BY MRS. THOMPSON:

14 Q Keep your voice up, if you can.

15 A Yes.

16 Q For how long have you lived in the Pine Grove  
17 Apartments?

18 A Seven months.

19 Q And what is the size of the apartment in which  
20 you live? How many bedrooms does it have?

21 A Three bedrooms.

22 Q Could you tell the Court how your family  
23 divides up amongst the three bedrooms, how many people  
24 you have in each one?

25 A I have three boys in one bedroom and two girls in the

1 other bedroom.

2 Q And the third bedroom is for your husband and  
3 yourself?

4 A Yes.

5 Q How much rent do you pay?

6 A 185.

7 Q Are you presently looking for new residence?

8 A Yes.

9 Q And why are you looking for a new residence?

10 A So I can get my other kids back with me.

11 Q You said that you moved to Pine Grove seven  
12 months ago. Where did you live before then?

13 A 56 Mark Street, in Parkside Apartments.

14 Q Do you know whether Parkside Apartments are  
15 public housing?

16 A Yes.

17 Q They are public housing?

18 A Yes.

19 Q For how long did you live there?

20 A About six years.

21 Q And why did you move from the Parkside  
22 Apartments?

23 A Because myself and my husband were making too much  
24 money to live in the apartments.

25 Q When you say too much money, does the Public



1 Housing Authority have a wage level beyond which one cannot  
2 go and remain in public housing?

3 A Yes.

4 Q How many apartments do you have -- excuse me.  
5 How many bedrooms did you have in the Parkside  
6 Apartments?

7 A Four.

8 Q Can you tell the Court how it is that you moved  
9 from Parkside to Pine Grove?

10 A Excuse me. I don't understand the question.

11 Q For how long did you look for housing when  
12 you were told that you had to leave the public housing in  
13 Parkside?

14 A About four months.

15 Q And where did you look for housing?

16 A I went to - I looked all around in the area. Plus,  
17 I went to Somerset County Housing Association and asked for  
18 help. And they didn't know of any housing in the area.  
19 And that's it.

20 Q And when did you find the apartment in Pine  
21 Grove?

22 A Two months later.

23 Q Had your name been on a waiting list for Pine  
24 Grove?

25 A Yes. For about six years.

1 Q Were there any special circumstances that  
2 surrounded your being able to move into Pine Grove?

3 A Yes.

4 Q Could you tell the Court what they were?

5 A The manager of Parkside and the manager of Pine Grove  
6 Apartments got together. What happened, a family had  
7 burned out in the township and had to be placed in an  
8 apartment, either Parkside or Pine Grove. So, the two  
9 managers made a deal because they knew that I had to move  
10 out of Parkside because of my income. So, they made a deal  
11 to take me in Pine Grove and take the lady that burned out  
12 in Parkside.

13 Q Insofar as you know, at that time was your  
14 name number one on the Pine Grove waiting list?

15 A No.

16 Q You said that you had lived in Parkside  
17 Apartments for six years. Where did you live before then?

18 A On Voorhees Avenue in Somerset.

19 Q Could you describe the apartment on Voorhees  
20 Avenue?

21 A Well, I had two rooms. It was a basement apartment.  
22 And when it rained it flooded - it came up halfway and woke  
23 up everybody. Everything would be floating around. And  
24 there was big mice that was jumping across my baby's crib.

25 I went to the Health Center and told him about the

#2

1 place and he came down and condemned it. That's the time  
2 I was trying to get into Parkside. That's how I got into  
3 the Parkside.

4 Q At the time you were living in the basement  
5 apartment how large was your family?

6 A I had three kids.

7 Q Are you presently employed?

8 A Yes.

9 Q And where are you working?

10 A Somerset County Action Program in Somerset.

11 Q What is your position?

12 A Out-Reach Director.

13 Q Can you describe briefly what the role of the  
14 Out-Reach Director is?

15 A I work in the community dealing with all community  
16 problems, and do referrals, and try to help in any way I  
17 can with the community people.

18 MR. ENGLISH: I'm sorry. I can't hear  
19 the witness.

20 THE WITNESS: I said I work in the  
21 community, working with community people,  
22 doing referrals, and trying to help the people  
23 in any way we can.

24 Q Have you at any time had occasion to work with  
25 community people on the issue of housing?

1 A Yes.

2 Q Could you briefly discuss the work that you  
3 have done with the people of Somerset on the issue of  
4 housing?

5 A Well, when I was living in Parkside I started the  
6 Parkside Tenants Association before I moved, which is  
7 very active now. Now they have a new modernization program  
8 which --

9 Q Try and keep your voice up. The accoustics  
10 are bad here.

11 A They have a new modernization program now in Parkside.  
12 Also, since I moved in Pine Grove I started Pine Grove  
13 Tenants Association behind the rent increase.

14 Q Have you worked with any members of the  
15 community in an attempt to get new housing in the area?

16 A Yes, I have.

17 Q Could you describe to the Court what actions  
18 you have taken?

19 A I worked with the Somerset County Community -  
20 Somerset Housing Association.

21 Q What have you done with that?

22 A Well, I went to them for help to try to find an  
23 apartment for myself, and they referred me to Legal Services.

24 Q Now, I asked you before what your position is.  
25 What is your salary?

- 1 A 8,500.
- 2 Q 8,500?
- 3 A Yes.
- 4 Q For how long have you been earning that salary?
- 5 A About three months.
- 6 Q And before that did you hold another position
- 7 with Somerset County?
- 8 A Yes.
- 9 Q What was that position?
- 10 A Out-Reach Aid.
- 11 Q What were you paid in that position?
- 12 A 6,000.
- 13 Q Is your husband employed?
- 14 A Yes.
- 15 Q And where does he work?
- 16 A Twin County Groceries, in Edison.
- 17 Q Do you know what his income is?
- 18 A 10,000.
- 19 Q Do you and your husband presently have any
- 20 money which you can spend on a down payment for a house?
- 21 A Possibly.
- 22 Q Approximately, how much do you have?
- 23 A About a thousand.
- 24 Q You indicated before that you are looking
- 25 for new housing; is that correct?

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A Right.

Q Would you like the opportunity to move to  
Bedminster, New Jersey?

A Yes.

MR. ENGLISH: I object to that as a  
leading question, if the Court please.

THE COURT: Objection sustained.

MRS. THOMPSON: I believe that she  
answered the question.

THE COURT: I didn't hear her answer.

BY MRS. THOMPSON:

Q Have you looked for housing in areas outside  
Somerset-Franklin Township?

A Yes.

Q Do you wish to move out of the Somerset-  
Franklin Township area?

A Yes.

Q Could you tell the Court where you have looked  
outside Somerset-Franklin Township for housing?

A I looked in all the areas that I knew that housing  
were.

Q That housing was available?

A Available. Yes.

Q Was one of those places Bedminster?

A I don't understand your question.

1 Q Did you look in Bedminster?

2 A No.

3 Q Would you tell the Court why you didn't look  
4 in Bedminster?

5 A Because I knew that there weren't any housing.

6 Q Any houses there what? Could you afford the  
7 houses there?

8 MR. ENGLISH: Oh, now, wait a minute.  
9 I object, if the Court please. It's unnecessary  
10 to lead the witness. We know what the thesis  
11 of the plaintiffs is. I think that the witnesses  
12 ought to tell their story without undue  
13 prompting from counsel. I object to that as  
14 a leading question.

15 MRS. THOMPSON: She didn't finish her  
16 sentence, and I would ask her if she'd like to  
17 finish her sentence.

18 THE COURT: Your manner of eliciting the  
19 end of it was somewhat suggestive.

20 BY MRS. THOMPSON:

21 Q Could you explain to the Court again why you  
22 did not look for housing in Bedminster?

23 A Because I knew that there weren't any housing there  
24 in my range.

25 MRS. THOMPSON: I have no further

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questions.

THE COURT: Mr. Lanigan.

MR. LANIGAN: I have no questions, your Honor.

THE COURT: Mr. English.

MR. ENGLISH: No questions.

THE COURT: Thank you, Mrs. Diggs.

(Witness excused.)

\* \* \* \* \*



1 MR. BUCHSBAUM: If the Court please,  
2 plaintiffs call Theresa Horvath as our next  
3 witness.

4 T H E R E S A H O R V A T H, called as a  
5 witness in behalf of the plaintiffs Cieswick, et al.,  
6 being first duly sworn, testified as follows:

7 THE SERGEANT-AT-ARMS: State your full  
8 name and spell your last, please.

9 THE WITNESS: Theresa Horvath.  
10 H-O-R-V-A-T-H.

11 THE SERGEANT-AT-ARMS: Thank you. Be  
12 seated, please.

13  
14 DIRECT EXAMINATION  
15 BY MR. BUCHSBAUM:

16 Q Mrs. Horvath, would you tell the Court your  
17 present address?

18 A My present address is 15 Elmwood Street, Somerset,  
19 New Jersey.

20 Q How long have you lived in Somerset County?

21 A Fourteen years.

22 Q Could you state your present position?

23 A I'm Director of the Somerset County Housing Association.

24 Q How long have you been in that position?

25 A Since February 1971.

Q Did you previously to that time hold any other

1 position with Somerset County Housing Association?

2 A Yes, I did.

3 Q What was that?

4 A Housing specialist.

5 Q How long did you work in that capacity?

6 A Since October 1969.

7 Q So that you have been working continuously for  
8 the County Housing Association since October 1969?

9 A That's right.

10 Q To the present?

11 A That's right.

12 Q Could you describe the Somerset County Housing  
13 Association first with regard to its corporate status?

14 A It's a private non-profit corporation, incorporated  
15 in New Jersey - State of New Jersey.

16 Q And how is it governed?

17 A By a Board of Trustees.

18 Q And how were these elected?

19 A From the membership.

20 Q Could you describe the membership?

21 A The membership is made up of everyone who's interested  
22 - not everyone, but those who are interested in housing and  
23 housing problems across the county, community people, some  
24 people in government, professional. There's no specific  
25 type of people. It's general. Just those who are interested

1 In housing.

2 Q Where do these people come from?

3 A The county. Somerset County.

4 Specific areas?

5 Q Specific areas.

6 A Franklin Township, Somerville, Raritan, Bridgewater,  
7 Meshanic, as far as I know.

8 Q Are there any from the Somerset Hills area?

9 A No. Not that I know of.

10 Q Anyone in particular from Bedminster?

11 A No.

12 Q Now, could you describe the size of the staff  
13 of the organization?

14 A Yes. At present there are three others and myself.

15 Q What are the titles of the three others?

16 A Housing specialist, and we have a university student  
17 in A. C. T. I O. N., I think - I can never remember the title -  
18 it's a former intern who is now working with us from  
19 Livingston College, and Manpower Training, and myself.

20 Q Could you describe briefly the duties of the  
21 housing specialist?

22 A The housing specialist has essentially all of the  
23 counselling duties. She takes care of people coming in,  
24 takes intake applications, and the other two, a sister, in  
25 this position. But, essentially, it's her main position.

1           Out-Reach goes into the community, as well.

2           Q           One question about membership again. How  
3 large is the membership?

4           A           The membership, I would say, at the moment would be  
5 approximately sixty active members.

6                               MR. ENGLISH: Sixty?

7                               THE WITNESS: Sixty.

8 BY MR. BUCHSBAUM:

9           Q           What sizes have the membership reached in  
10 the past?

11          A           Well, it's been, I would say, up to about 150 to 200.  
12 And then it fluctuates from there.

13          Q           Do you have any reason for the fluctuation?

14          A           Unfortunately, housing is no longer a priority.  
15 There's so little that can be done as far as most people are  
16 concerned that they're falling away.

17          Q           That's the main reason, you think?

18          A           I think so.

19          Q           Does your organization have any contracts  
20 with the State of New Jersey?

21          A           Yes. We have two contracts. Both of them are with  
22 the Department of Community Affairs. One is for a home  
23 ownership or down payment assistance program, and the other  
24 one is for a comprehensive rehabilitation program.

25          Q           How long has the organization held those

1 contracts?

2 A The down payment program, since 1969. And the  
3 rehabilitation program, since November 1972.

4 Q Does the organization have a relationship with  
5 the federal government?

6 A Inasmuch as we are an accredited counselling agency  
7 of H. U. D.

8 Q What does this involve?

9 A Originally, what we did was we presented a proposal  
10 to H. U. D. describing the counselling that we were doing  
11 before H. U. D. had come up with a counselling program,  
12 and sent exhibits to them. They sent it to Washington and  
13 determined that we were an organization that could be  
14 accredited by them. And they accredited us.

15 Q Was this done?

16 A This was 1970, I believe.

17 Q And you have been accredited by them for four  
18 years now since then?

19 A Right.

20 Q Could you describe the process by which you  
21 obtained the state grants?

22 A Again, these were done by proposal. We proposed to  
23 do certain - a certain number of things, and we were reviewed  
24 by the state, and then the state determined that we could do  
25 it.

1 Q Which agency of the state?

2 A Department of Community Affairs.

3 Q Now, you stated that you were Executive  
4 Director of the Housing Association?

5 A Right.

6 Q Could you describe in detail your duties as  
7 Executive Director?

8 A Well, it is my responsibility to take care of all the  
9 - not the details, but general workings of the organization.  
10 I especially am involved with the rehabilitation program,  
11 and oversee all the others.

12 One other program I didn't discuss, which was the  
13 Default and Delinquency, which, again, is a voluntary  
14 program that we do for H. U. D. That's to assist those  
15 who are in the possibility of losing their homes, and that  
16 our counsellors work on, as well.

17 I just oversee every part of the program, and I'm  
18 responsible for all the monetary --

19 Q You sign the checks?

20 A Yes. Right.

21 Q You sign the grant applications?

22 A Yes. There has been a provision to allow me doing  
23 that.

24 Q When you say you oversee, what are your duties  
25 with regard to the counselling program? Do you oversee it,

1 personally?

2 A Well, every application that comes in that is to be  
3 sent to the state I must sign. So, I go over all of it,  
4 you know, the people that come in, and make sure all the  
5 exhibits are correct, and submit them under my signature.

6 Q Now, could you just for convenience sake  
7 briefly list the programs that the organization is involved  
8 with?

9 A The Down Payment Assistance Program. The Rehabilitation  
10 Program. Default and Delinquency. Counselling. And  
11 General Home Ownership Counselling.

12 Q Could you describe the total caseload of your  
13 agency, first with regard to the total activity and inactivity?

14 A This is total of how many people we have had in the  
15 agency, or how many people are in our present caseload?

16 Q How many people you have had apply to you for  
17 some kind of assistance starting with the time you have been  
18 working there.

19 A Well, totally, we have received 1500, according to  
20 our last report to H. U. D., and we have a hundred that  
21 would be considered, what we would consider active.

22 Q How do you decide whether a particular file  
23 is active?

24 A Well, it's such a peculiar thing, but if we have  
25 heard from a family within three months they stay in the

1 active file, which means that they're doing something in  
2 the area of housing.

3 So, we keep them in the active file, and then the  
4 others go into the inactive file, which is pulled anytime  
5 it becomes active.

6 Q Do you have any explanation for the reason  
7 for the inactivity of the 1400 files?

8 A Well, we have found that over the period of years  
9 that when there is available housing we have a very, very  
10 active caseload of everything. It's always moving. It's  
11 just that our families are not able to find the housing  
12 that we can help them with.

13 Q Is it fair to say that your active caseload  
14 was larger than earlier times?

15 A Oh, yes.

16 Q Could you say by how much?

17 A That would be difficult for me, but I know that in  
18 1970, 1971 the activity was almost entirely in home ownership.  
19 We were able to keep three full-time people active just with  
20 the home ownership program. And now, of course, one person  
21 can take care of that part-time.

22 Q Do you receive as many applications for  
23 assistance as you did in the past?

24 A No.

25 Q Could you describe maybe in terms of an estimate



1 as to whether it's half of what it was in 1970, '71, or some  
2 other possible figure?

3 A I would say it would be down to one-third.

4 Q And to what do you attribute this decline  
5 in request for assistance?

6 A Well, referrals to us. At one time everyone, you  
7 know, all social agencies, were aware of our ability to  
8 assist. And now since we're not able to assist no one  
9 refers anyone to us.

10 People do come to us in desperation, but there is  
11 so little we can do that we don't have as many people to  
12 come to us.

13 We find that it's not because there's no need, but  
14 it's just futile.

15 So, we get less people.

16 Q When someone comes to you today, or in the  
17 last few months, what do you do?

18 A We take their application. If they're within our  
19 income limits, we take applications.

20 We find out, of course, what their problem is,  
21 because one person's problem may be solved fairly easy  
22 just with some advice, even some referral on our part, or  
23 another might be more difficult, which would require more  
24 referral, or, again, some specific thing that we could do  
25 for them.

1           We discuss their problems and their general income  
2 range to see whether or not they would fit under one of our  
3 programs, and then if it's within the home ownership area,  
4 if they could possibly be eligible for home ownership, we  
5 start them on housing counselling, which goes through the  
6 whole gamut of what to look for, the physical, you know,  
7 entity of the house, and the price ranges that we could  
8 help them with.

9           And then we usually tell them that they would have to  
10 find the place that they want. I mean, they have to find the  
11 house. We don't work as a real estate agency of any sort.

12           Only rarely do we ever find people coming into us that  
13 tells us they have a house. The person has to go out  
14 themselves.

15           Q           Has anyone come to you recently stating that  
16 they have a house, and would you help them find a buyer?

17           A           No. No.

18           Q           When was the last time you recall that  
19 happening?

20           A           I think the last call we have received in that area  
21 was in early 1973.

22           Q           Was there a time when calls like that were  
23 relatively more common?

24           A           Yes. Yes. Very, very definitely.

25           Q           About what time was that?

1 A During the period of 1970, '71. Even very early part  
2 of '72. We were quite active, both on behalf of the buyers,  
3 and we have quite a wide range of, you know, calling activity  
4 with realtors in the area, as well.

5 So that if realtors had places, they would have  
6 called us, too, because our buyers -- the buyers that come  
7 through us would be eligible for a certain level of house,  
8 just because they have already been through our program.

9 Q Did you make more of an effort back a few years  
10 ago to contact realtors?

11 A Well, what we had done originally when we first  
12 started and did over a period of years was contact all the  
13 realtors, go to meetings with groups of realtors, to describe  
14 our program, to tell them what we could do on behalf of  
15 eligible buyers, so that they knew of our work, and we had  
16 a very good rapport with the realtors in the area at that  
17 time.

18 But, as the years have gone by the program has become  
19 less and less effective.

20 Q And you take it the realtors originally  
21 responded as a reaction to the educational programs with  
22 realtors that you had put on?

23 A Well, one of the things we have always done to all the  
24 people who come to us is to give them a letter from us to the  
25 realtors explaining to the realtors that we had a program

1 that this family was eligible for, and if they had any  
2 question to contact us.

3 The realtors were always very happy to find out that  
4 we were around, and that there were things that could be  
5 done.

6 The realtors used to send people to us, used to  
7 refer people to us.

8 Q And this is in response to the people coming  
9 around to them with the letter?

10 A Right. Right.

11 Q But, the last response that you got of that  
12 kind was in early 1973?

13 A Yes.

14 Q Now, you have mentioned some of the programs  
15 which your agency was involved with. One of them was a  
16 down payment program?

17 A Right.

18 Q Could you describe that in some detail,  
19 first describing the funds, source of funds, for that  
20 program?

21 A Right. The Department of Community Affairs funded  
22 us for the period of - well, originally it was for a three-  
23 year period. Now it's gone I don't know how many years -  
24 because we haven't used up our funds, and they've allowed  
25 us to continue with that. On this we have up to \$1500 towards

1 down payment assistance, or for escrow closing costs, and  
2 \$500 towards legal fees for individual families that are  
3 eligible.

4 The income limits - let's see. There are income  
5 limits and there are housing limits. The income limits  
6 for a family of one, the maximum, is \$6900, gross.

7 Now, it goes to a family of, let's say, seven and  
8 more. But, a family of seven would be a maximum income of  
9 14,500.

10 And what we would do then would be to subtract \$300  
11 per child and five per cent toward the Social Security  
12 and income tax of the family to get a net that we would work  
13 with.

14 But, the gross would be about 14,500.

15 Q What was the housing limit?

16 A The housing limit would be for a house up to three  
17 bedrooms - three bedrooms and under would be 21,000. And  
18 up to four bedrooms would be 24,000.

19 Do you understand that?

20 Q You generally left it to the people to find  
21 the houses, themselves?

22 A Yes. Yes.

23 Q Now, was the ability of people to connect  
24 themselves with houses in this program started?

25 A Well, it wasn't wonderful, but it was better than it

1 is now. Up to 19 - well, in fact, up to 1971, the end of  
2 1971, we had 35 placements.

3 From the end of 1971 till today we have 42.

4 So, that's the big difference. Most of our activity  
5 was in '70 and '71.

6 Q If I may characterize what you have said,  
7 you've had seven new placements since the end of 1971.  
8 How would you account for that?

9 A There is no housing in that price range.

10 Q But, at one time you found that there was  
11 such housing?

12 A Of 35, at least.

13 Q You mentioned something about the grant that  
14 you got from the state. How many agencies got this kind of  
15 grant?

16 A Which one is this now?

17 Q The down payment assistance.

18 A I think there are about eight across the state.  
19 I'm not certain. There might be more now, but originally  
20 there were about eight down payment assistance programs.

21 Q Now, was it in the nature of a --

22 A It was a demonstration.

23 Q Do you know why the state settled on your  
24 agency as opposed to others to run this experimental  
25 program of theirs?

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A Again, we presented a proposal, and they approved it.

Q You mentioned the caseload of 42 on this program. When was the last successful case brought into the office?

A Well, we happened to have two in January, but that's only because they were all hanging in through the year before. But, we had two closings in January.

Q On the down payment assistance program?

A Yes. The down payment assistance program is in - is wrapped up with all the other programs. It just gives the down payment assistance to the family. If the family is eligible, they also might be eligible in the rehab project, which one of these was, or - the other family that closed in January happened to have been a case that had congressional intervention, and, therefore, closed, you know, financially closed.

So, this is the way this operates.

Q Previous to those two cases when was the last one?

A In January '72.

Q So, it's been since January - between January '72 and January '74 you didn't complete one closing?

A I may be mistaken. Might have been another one in there some place, but it was very, very sparse.

Q Where were the houses that you bought or that

1 were closed on under this program located?

2 A We didn't buy them. Had individual families bought  
3 them.

4 Q Excuse me. That the clients bought.

5 A We had fourteen of them in Franklin Township and eight  
6 in the Somerville-Bridgewater area.

7 And then we had them scattered. There were two in  
8 Raritan, and one in Warren County, another one in Hunterdon  
9 County, one in Bernardsville. Some of them in - I think one  
10 was in New Brunswick. There were two in North Plainfield.  
11 That type of, you know, scattered thing, all over.

12 I don't know what I counted the number to be, the  
13 number there.

14 Q When a person applies to you, what do you do  
15 with the application, assuming you find the person eligible?

16 A If on the initial discussion the income limits are  
17 within ours, we have notebooks that we put the application  
18 into the - into the notebook, and wait for them to do some  
19 moving on this afterward.

20 They would also be counselled. So long as they're  
21 coming into counselling, you know, we make notes on their  
22 application.

23 But, until we find that there has been some kind of  
24 call from either a realtor or from the families, themselves,  
25 on future information, it stays with all the other applications.



1           As soon as there is some other information, we put it  
2 into a folder.

3           Q       What happens when you get the other information?

4           A       Well, it goes in a folder which would start into our  
5 active file.

6           Q       When something is in the active file, then  
7 what's the process?

8           A       Well, we keep adding to it, until there is a point  
9 where there may be housing. If they find a house, then we  
10 will submit an application to the state for the funds.

11          Q       How many applications of that kind to the state  
12 did you submit last year?

13          A       I think - I'm not certain now. Between fifteen, or so.

14          Q       Were any turned down?

15          A       By the state?

16          Q       Right?

17          A       No.

18          Q       Was there any problem in getting mortgages  
19 on any of the houses?

20          A       No. Our problem is not the mortgages. We at one time  
21 had - we were very close to six Somerset County banks, and  
22 they were giving us the mortgages for our families as they  
23 became eligible, so long as they were moving into Somerset  
24 County.

25          Q       So that most people who were able to find houses

1 you were able to get them mortgages?

2 A Right. Even now I still can.

3 Q Was there any problem with H. U. D. last year?

4 A Yes. Their regulations are very confusing, and it  
5 becomes a problem just to get their - to get through. But,  
6 we don't have any problem getting them through H. U. D. if  
7 the house is within the guidelines - their guidelines.

8 Our biggest problem, of course, is the fact that the  
9 turnover in personnel at H. U. D. is fantastic. So that  
10 we're never quite sure what's happening there.

11 Q Were there any applications turned down by  
12 H. U. D. last year? Perhaps because the house was --

13 A I'm thinking - I'm trying to think. I think there  
14 may have been one or two that had problems.

15 See, what we found is not so much it's been turned  
16 down. H. U. D. will put certain conditions on the closing  
17 of the house, and then the seller will have to abide by them.  
18 And we'll find that a house will come in under our guidelines,  
19 but then H. U. D. will put certain conditions that, you know,  
20 the seller will have to do, and the seller refuses.

21 So, I don't know who it is, you know, to blame there,  
22 whether it's the seller won't sell it, or that H. U. D. has  
23 put the conditions on it, but that's the way we find most  
24 of our houses going through, that the conditions have been  
25 put on by H. U. D., and the seller refuses to abide by them.

1 Q Such as?

2 A Condition of the house. H. U. D. will decide that  
3 the stone driveway is required to be paved, and the seller  
4 says, "I'm not going to pave that driveway," and H. U. D.  
5 says, "Then we won't give you a firm commitment."

6 Q And you need H. U. D.'s approval to get the  
7 mortgage?

8 A Yes. It's the insurance of the mortgage that we  
9 require.

10 Q So that even in cases where you are able to  
11 find a house, or a person is able to find a house, the deal  
12 still may fall through because of H. U. D.'s conditions?

13 A Yes.

14 Q You described the rehabilitation program.  
15 Maybe you could set it forth in more greater detail for the  
16 Court.

17 A Well, the rehabilitation program was and is a program  
18 that we had hoped to get some houses that we would have  
19 control over, that our families would be able to buy,  
20 that would be within the price range of 21 to 24,000; and  
21 that we would be able to bring houses back on the market  
22 that were lost.

23 Essentially, what we did was write a proposal and  
24 presented it to the state, and were funded for this in  
25 November of 1973.

1 Q How large is your grant?

2 A We have a revolving loan of \$100,000.

3 Q How is this loan to be used?

4 A It's to acquire properties, to do the rehabilitation,  
5 and all other things, and sell it to a private individual  
6 in need of housing.

7 Q What is your caseload on this program?

8 How many of these loans have you closed?

9 A Well, essentially, the down payments are - a hundred  
10 cases cover everything. I mean, if they don't fit into one  
11 they don't fit into anything.

12 So, essentially, a hundred families. That covers all  
13 our programs.

14 Q You mean a hundred people come in and you just  
15 try to swap them into any program you can?

16 A Right. It's housing problems.

17 Q So, people that you can't help you can't help  
18 with any of the programs?

19 A Right. We've closed on one, one house. That's one  
20 of the houses in January. We closed on one of our own rehabs.

21 And the other, we have - right now we have a total of  
22 five - well, the one that we closed, and then four other  
23 houses that we're working on. We acquired these from H.U.D.  
24 They were H. U. D. foreclosures. They're not all in the  
25 county, but we have one in Somerville. We have one in South

1 Bound Brook. And we have two in Piscataway, and another  
2 house is finished. The third one is almost completed, and  
3 two to go.

4 Q Is this program of the same income and price  
5 guidelines as the down payment assistance program?

6 A Essentially. Essentially. We might have a little  
7 more give on this.

8 Q How do you get in touch with houses that might  
9 be suitable for rehabilitation?

10 A Well, we had tried - we had sent a letter to all of the  
11 municipalities asking if they had any properties that the  
12 township or municipality owned, themselves, that would be  
13 for sale; and, if so, what would be their procedures.

14 Of the twenty-one municipalities I believed we  
15 received fourteen answers. And of the fourteen there were  
16 two that said they did have properties, but they were not  
17 for sale at the moment.

18 Q So, the answer was totally negative, then?

19 A Right.

20 Q Are there any other means in which you used  
21 to try to find housing?

22 A Well, of course, we followed the ads to see what,  
23 you know - the newspapers and also realtors are interested -  
24 interested realtors to help us know about houses. But,  
25 there's a much bigger market for these houses than there is

1 people who are selling them.

2 So, we are the last ones to find out about them.  
3 Usually, as far as H. U. D. is concerned, the houses they  
4 can't do anything with, they give to us, or they allow us  
5 to buy. I'm not saying they didn't give it to us.

6 Q When you sent these requests out did you send  
7 one to the Township of Bedminster?

8 A Yes.

9 Q What was the response there? Do you recall?

10 A I don't believe we received an answer.

11 Q So, they weren't even among the group that  
12 replied?

13 A I don't believe so.

14 Q Is there any particular reason that you were  
15 going out of the county to look for these houses?

16 A No. We didn't go out of the county. I'm saying that  
17 of the houses that we received from H. U. D. these were the  
18 ones that were available.

19 Q What's the process by which you receive houses  
20 from H. U. D.?

21 A Well, we went to the Management Dispossession  
22 Department and told them that we were in the market for  
23 housing, and did they have housing that we could buy. And  
24 they came up with - at the time it was six houses. One of  
25 them was vandalized beyond any rehabilitation. So, it ended

1 up with five. This was a precursor of their now - what  
2 they're calling in their Homesteading Act. We had gone to  
3 them first, and we received it first, and now the municipalities  
4 are receiving whatever houses are available.

5 Q What do you mean, "the municipalities"?

6 A The municipal governments, like the Township of  
7 Plainfield, the Town of Newark.

8 Q So, you wouldn't be getting any more houses  
9 or housing from H. U. D. through this?

10 A As of this moment, it seems not.

11 Q So, unless you get a more favorable response  
12 from the municipalities than you did in your previous efforts  
13 you will not have any source of housing for this program?

14 A Well, the point is, the number of houses that are  
15 H. U. D. foreclosures are limited. And that's it. If the  
16 municipality takes them we won't receive them.

17 Q Did you inspect any of the H. U. D. foreclosures?

18 A Yes.

19 Q Roughly, how many?

20 A I think, all told, about thirty or so.

21 Q What was the condition of the housing?

22 A Oh, I had a whole stack of them that I thought were  
23 just great, but those were all ones that we couldn't have  
24 because they were too good for us, and that was literally  
25 what was told to us.

1           The ones I thought really, with my uneducated eye,  
2 should be torn down, those are the ones we got. But, we  
3 had an architect and rehabilitative assistant with us, and  
4 they said they were sound, though they were pretty badly  
5 vandalized.

6           Q       Do you have any pictures of those?

7           A       I took some. The problem in taking pictures with  
8 them is that they're all boarded up, so you really don't  
9 get too good a view.

10           Once we started working on them we took pictures of  
11 before and after.

12           Q       These are the only ones that H. U. D. would  
13 allow you to have as far as that program goes?

14           A       Right.

15           Q       And you have no way - you have been unsuccessful  
16 in obtaining any through the municipalities?

17           A       So far, yes.

18           Q       You mentioned some counselling programs,  
19 including default counselling programs. Could you describe  
20 those?

21           A       Well, as I said, what we did with H. U. D. was  
22 propose to them what we had already been doing. So, when  
23 I say we have a counselling program, the counselling program  
24 is part of our down payment assistance program. We were  
25 doing it even before H. U. D. thought of it. And H. U. D.



1 has essentially taken the counselling programs from the  
2 counselling agencies. So that we're giving to them what  
3 we do, and that is maintenance - most of what we did is the  
4 prepurchase counselling, what to look for in a house, and  
5 contracts, mortgages, things that we take for granted that  
6 we should know, but very few people do know much about.

7           The delinquency and default counselling is for those  
8 who already have homes. H. U. D. sends us notices that  
9 says so and so is missing three months mortgages. Well,  
10 the mortgagee will send this to H. U. D., and H. U. D.  
11 sends it to us. And we send them a letter saying, "We're  
12 here for assistance to you, if you want to take advantage  
13 of it, free of charge to yourself. We have received notice  
14 that you have been behind in your mortgages. Is there  
15 anything we can do to help?" And these people will come  
16 to us or call us and say, "It's been cleared up," or call  
17 in and say, "Yes. I need your help."

18           And what we did is, you know, try to find out what  
19 the problem is, contact the mortgagee, see if we can set  
20 up a new schedule of payments until the arrearage is made  
21 up, and try to keep the family in their house.

22           Q           Now, with regard to the general counselling  
23 program, do you receive any - or both programs, do you  
24 receive any grants for that, or is it simply a matter of  
25 being certified?

1 A No. We receive nothing from H. U. D.

2 Q The only thing you get from the government is  
3 a certification?

4 A Right.

5 Q And they have approved you to conduct these  
6 programs?

7 A Right.

8 Q Now, could you just state what your caseload  
9 on the general counselling is? Is that the hundred?

10 A That's about the hundred. That would be the hundred.

11 Q Okay. We have been discussing up to this point  
12 programs involving home ownership. Do you have any programs  
13 with regard to rentals?

14 A No. Not at the moment. When we first started there  
15 was a rent supplement. It was part of the down payment  
16 assistance program. That lasted a very short period of  
17 time. The state determined that a family who received rent  
18 supplement for three years would be in the same boat after  
19 the three years, if not worse, once they, you know, pulled  
20 back the supplement. So, they said they weren't even going  
21 to bother with it, and they pulled that out.

22 So, that was the only time we were able to assist  
23 with the rent supplement. And the only other thing we could  
24 do is to assist individuals however we were able.

25 Q Do you receive requests for assistance with

1 regard to rental housing?

2 A Yes. Rental housing we get a lot of calls on,  
3 problems with rental housing. What we do, if it appears  
4 to be a legal problem, we try to refer them to legal counsel,  
5 however they need it. If it's trying to find rental housing,  
6 we just, you know, give them whatever information we have at  
7 the moment.

8 Q How many requests do you get with regard to  
9 finding rental housing?

10 A I couldn't tell you, since we don't keep a record  
11 of the rental housing. We have no application, or anything  
12 of that sort.

13 I think it would average about once every other day,  
14 or so, we should get a call.

15 Again, once it becomes known that we really can't do  
16 anything, even that, you know - it may have been a lot more  
17 when we first started, but as soon as it becomes known that  
18 there isn't anything we can do, the calls stop or they  
19 subside.

20 Q So, there's been a fall-off in questions about  
21 this type of housing, as well?

22 A Yes, sir.

23 Q Now, what do you tell people who call up with  
24 questions about finding a rental home?

25 A The only thing we can do is to, you know, tell them -

1 we ask what rental they can afford, and then we try to send  
2 them to places that we know would be within the range that  
3 they can afford, and tell them to submit an application,  
4 if applications would be accepted; and, also, take in what  
5 number their application is, and to keep calling to see  
6 whether or not they will - you know, if they're getting  
7 up there on the list somewhere along the line.

8 Q You keep calling --

9 A We make them do that. You know, we try to - you know,  
10 we try to give the people who call us some idea of what  
11 their rights may be. Now, that's not within anything, you  
12 know, as far as legal rights are concerned. The legal rights  
13 have to do with the lawyer. We send them to wherever - mostly,  
14 legal services.

15 But, if they say they think they're having a particular  
16 problem, we'll send them either to Consumer Advocates, or  
17 whatever area that we know specializes in whatever problem  
18 they have.

19 Q With regard to persons inquiring about rental,  
20 would you say there's a call every other day, roughly?

21 A Approximately, yes.

22 Q So, it would be about a hundred and eighty a year?

23 A All right.

24 Q Do you ever hear back from these people?

25 A Oh, yes. We have had a number of people that we have

1 referred over a period of time.

2 Q And what have they reported to you?

3 A Most of the time, really, what it comes down to is  
4 desperation. The ones that - there are some people who just  
5 sort of, you know, just settle back in their problems and  
6 stay there. Others keep trying to fight out of them.

7 The ones that try to fight out of we usually hear  
8 from them quite often.

9 Q What's the typical report you get?

10 A Different places that they have applied to and have  
11 not been successful with, and had I heard anything more,  
12 or any one of the staff members. Things of that sort.

13 Q Where do you advise people to try to look for  
14 rental housing?

15 A Well, as I say, people that I know that are large  
16 enough, also to check out the newspapers for smaller family  
17 houses, though I know the waiting lists on a lot of these  
18 are long, or appear to be very long, the complexes such as  
19 Brookside in Somerville and Pine Grove in Franklin Township,  
20 things of that sort.

21 Q Why do you pick these places?

22 A Well, the rental is within the range. We find that  
23 rental situations are not limited by income or by how much  
24 they're paying, but the people with the higher income usually  
25 are able to manage better without us. Those with the lower

1 Income need more help, and they need more help because  
2 there aren't as many places for them to be able to rent in,  
3 and so we just suggest places for them to go.

4 Q When you refer to higher income, what kind of  
5 income are you talking about?

6 A Well, I would say a family that makes more than our  
7 income limits and less children. When we say a family of  
8 seven, that's five children, and it's 14,500. That isn't a  
9 very high income today in this area, but if it's, you know,  
10 a family of two making 14,500, well, they have more areas  
11 that they could move around in.

12 Q Let's take this family of seven you're talking  
13 about. What places would you recommend to them?

14 A Well, about the only places with three-bedroom  
15 apartments that I know of - one is Pine Grove and the other  
16 is Brookside.

17 Q There's nothing else in the entire county?

18 A As far as I know, with three bedrooms.

19 Q To your knowledge, are there waiting lists  
20 at Pine Grove and Brookside?

21 A To my knowledge, yes.

22 Q What would be the length of these?

23 A Whatever the managing agent says at any given time.

24 Q Have you spoken with the managing agent?

25 A Yes. The waiting list at Pine Grove supposedly is

1 four hundred.

2 Q How about at --

3 A Well, at Brookside I haven't spoken to anyone  
4 recently. The last time I spoke to them they said there  
5 was a waiting list of about a hundred and fifty.

6 Q Did you ever live at any of these places?

7 A I lived at Pine Grove.

8 Q What were the rents when you lived there?

9 A When I lived there it was 160 for three bedrooms,  
10 135 for two bedrooms, I think.

11 Q When did you move out?

12 A July 1973.

13 Q So, it's fairly recent that you were there.

14 How long was the waiting list generally  
15 during the time that you lived there?

16 A Again, it was supposedly between three hundred and  
17 four hundred.

18 Q Now, in your capacity as Executive Director,  
19 if there were other places besides Pine Grove and Brooks'  
20 do you think you'd be familiar with them?

21 A I think so, but I couldn't be certain. I  
22 know about the apartment complexes in the county,  
23 know all the rents, and things of that sort  
24 which ones are lower rents. I know which  
25 bedrooms. That I do know.

1 Q So, it's not very likely that a three-bedroom,  
2 a two-bedroom apartment and low rent, would escape your  
3 knowledge?

4 A No. I doubt it.

5 Q That's because you talked to so many people  
6 about it?

7 A Right.

8 Q Do you ever tell people or suggest to people  
9 that they look outside the county?

10 A I don't suggest that the people look anywhere. I ask  
11 them to - where they would like to live, and, you know, to  
12 continue there.

13 Q Do you have any number of people who maybe  
14 have given up in looking in Somerset County and eventually  
15 try to find housing elsewhere?

16 A Well, essentially, I would say that the people on our  
17 caseload, that 1400, in the beginning when we first started,  
18 we tried to keep, you know, updating the dead file pretty  
19 much to see whether they had found housing, whether they  
20 were happy. But, it just became too much.

21 But, in the beginning we did find that when we did  
22 hear from them anymore they didn't find - you know, they  
23 weren't happy some place else. They just were right where  
24 they were when we heard from them. And they didn't go  
25 anywhere.



1           So, we assumed for that that people are essentially  
2           in the same place or very similar to the place when we saw  
3           them last.

4           Q           I may have missed something. You mentioned  
5           when you were familiar with the Pine Grove waiting list  
6           it was something like 400. So, how many months would it  
7           take to get from number 400 to number 1?

8           A           I have no idea. Absolutely none.

9           You see, one thing we do know, and this is just -  
10          this is because Pine Grove is a H. U. D. owned property,  
11          they have the discretion of saying that if you are - there  
12          is an available apartment, and you're number one, and they'll  
13          just check out your credit rating, and for whatever reasons  
14          your credit isn't to their satisfaction, you don't get the  
15          apartment.

16          The biggest problem there is you're not informed,  
17          and this is the arguments that have been presented to  
18          H. U. D. on behalf of people on their applicant list.

19          You know, they don't say, "All right. You've been  
20          checked out and you're not eligible any longer." You still  
21          think you're on the list. So, it's very difficult. That's  
22          why people have to continually check out.

23          Q           So, there's no guarantee that even if you're  
24          rising on the waiting list at Pine Grove that you're going  
25          to get a place?

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A No.

Q Now, is the situation similar at Brookside, to your knowledge?

A Yes.

Q Is Brookside --

A Brookside is not a H. U. D. owned property. It's private. It's a private complex.

Q The length of the waiting list would be similar?

A I think it's a little lower, but I'm not sure.

Q Where is Brookside located at?

A In Somerville.

MR. ENGLISH: In Somerville?

THE WITNESS: Somerville.

THE COURT: Do you have any more questions?

MR. BUCHSBAUM: I'll have a few, Judge.

THE COURT: Well, we'll break for lunch at this time. We're almost ten minutes into the lunch hour, anyway.

MR. BUCHSBAUM: I have another five minutes, or so.

THE COURT: We'll recess at this point.

(Lunch recess.)

AFTERNOON SESSION

1  
2 MR. BUCHSBAUM: If the Court please,  
3 Mr. Kennedy pointed out that part of Exhibit  
4 PC-5 - inadvertently stapled to it are some  
5 tables that are repetitious of the first set  
6 of tables. So, just for the record I guess we  
7 can separate the repetitive stuff off, with  
8 everyone's consent.

9 THE COURT: Any objection?

10 MR. LANIGAN: No.

11 MR. ENGLISH: No.

12 THE COURT: All right.

13  
14 DIRECT EXAMINATION (CONTINUED)  
15 BY MR. BUCHSBAUM:

16 Q Are you aware of any public housing in the  
17 County of Somerset?

18 A Yes. There is public housing in Franklin, which is  
19 limited to Franklin Township people. There are a hundred  
20 units in the entire complex, sixty for families and forty for  
21 senior citizens.

22 Q When you say it's limited to residents of  
23 Franklin Township, what exactly do you mean?

24 A There is a residency required, as far as I know, of  
25 two years residency in Franklin Township to be eligible to  
move into Parkside.

1 Q Do you have any notion of what the rents are  
2 in the complex?

3 A No, because it depends on the income of the families.

4 Q How do they determine it?

5 A They determine the initial income. You have to be -  
6 they have the means to go into the complex, and then once  
7 you're in there if you have an increase in your income the  
8 rent is changed accordingly.

9 Q Are you aware of any income limit?

10 A I can't recall at the moment. I have it at the office,  
11 but I don't have it in my mind.

12 Q There is no other public housing at all?

13 A No.

14 Q Do you know of any proposals to construct any?

15 A In Franklin?

16 Q In Somerset County.

17 A They can't without any public housing authority,  
18 and there are no other housing authorities.

19 Q Are you aware of any plans in the municipality  
20 to start a public housing authority?

21 A As far as I know, no.

22 Q Do you have any notion of the waiting list  
23 to get into the - strike that.

24 Is there a waiting list to get into this  
25 complex?

1 A Yes.

2 Q What is its length?

3 A That I'm not certain of.

4 Q Do you have any notion?

5 A No. I do know that on personal contact with the  
6 Director of the Public Housing Authority for a number of  
7 years there has been no way of getting anybody, you know,  
8 on the list because of - we were not able to get anyone  
9 into the complex because of the waiting list.

10 Now, what the waiting list is I really can't tell  
11 you.

12 Q You have actually tried to place people in  
13 the housing?

14 A Yes.

15 Q What has been the result?

16 A We have not been able to, because we have been told  
17 that there is a waiting list, and there just is no opening,  
18 particularly for the larger apartments.

19 Q Now, we have discussed in some detail the  
20 clientele you have. One thing we didn't discuss was the  
21 breakdown of the people who come to you to ask you for  
22 assistance. Could you give us an estimate as to the, say,  
23 one hundred active cases, how many of those families or  
24 people are black and how many are white?

25 A Truthfully, I can't give it to you in the hundred,

1 but I can give it to you on the 1500, because H. U. D.  
2 requires it. Therefore, when we make reports, and the last  
3 report was for 1500, I remember we had - we had a breakdown  
4 of 50 per cent white and - no, not fifty. It's 51 per cent  
5 white, 49 per cent black and Spanish speaking. That's the  
6 way they break it down.

7 Q So, your clientele is evenly mixed?

8 A It would surprise me, but it's true.

9 Q You mentioned earlier that you had attempted  
10 to contact the twenty-one towns in Somerset County with  
11 regard to availability of housing for your rehab program.  
12 Have you made any other efforts to contact the towns in  
13 Somerset County about the housing program?

14 A The other time I contacted all the municipalities,  
15 other than rehab, was before then. It was after the 1970  
16 census came out, and we went through the census and picked  
17 out how many houses according to the census were under  
18 \$25,000 value, what the income limits - what the income  
19 distribution was in that area; and we made up a letter to  
20 each municipality describing what percentage of the housing  
21 is under \$5,000.

22 I don't remember what the income area or cut-off was,  
23 but we said, "Such a percentage of people in your municipality  
24 can afford housing only under 25,000, according to H. U. D.'s  
25 guidelines. Don't you believe you need moderate income

1 housing in your municipality?" And, therefore, to resolve  
2 that there is a need for moderate income housing.

3 And we sent this to all municipalities, and we  
4 didn't receive any answers from any of them. I think we  
5 received one resolution from Franklin Township, but they  
6 encumbered it and it wasn't effective, anyway.

7 Q These resolutions are - are they a formal  
8 step?

9 A It's a formal step for the State of New Jersey.  
10 In order to apply for a grant to build from the State of  
11 New Jersey you require a resolution of need from the  
12 municipality.

13 Q So, it was your opinion based on census data  
14 that every town in Somerset County should have enacted a  
15 resolution?

16 A Yes.

17 Q And you received no responses to your inquiries?

18 A No. The response should not have come to us. It  
19 should have gone to the State of New Jersey, Department of  
20 Community Affairs, or Department of Housing Finance Agency,  
21 and they would have put it on file. But, we were in contact  
22 with the Housing Finance Agency, and there were none sent in.

23 Q Was there any reply whatsoever to this circular?

24 A No.

25 Q Not even a letter?

1 A I said, we received a letter from Franklin Township.

2 Q Aside from Franklin Township?

3 A And I think maybe South Bound Brook said, "No," they  
4 didn't believe so, and that was it.

5 Q When you said the one Franklin sent in was not  
6 valid, what do you have in mind?

7 A Well, all you have to say, as a resolution, is that  
8 there is a need for moderate income housing. Franklin  
9 Township said there was a need for moderate income, especially  
10 one and two-family houses. It didn't make any difference,  
11 but the state will not accept that.

12 Q In connection with your activities as housing  
13 agency, have you ever attempted to obtain any rezoning in  
14 Somerset County?

15 A Yes.

16 Q Where was that?

17 A In Somerville.

18 Q What was the result?

19 A We failed in that attempt.

20 Q Since then have you made any other attempts?

21 A No.

22 Q When was that attempt in Somerville?

23 A 1970, early 1971.

24 Q What's the reason that since then you have made  
25 no further attempts?



1 A Well, we just have not been able to, you know, pull  
2 the kind of resolution from our board to attempt another  
3 area after what had happened to us in Somerville. We had  
4 considered Somerville to be an area that we had no problems,  
5 because we were already in the township that had all the  
6 services that would be required. So, we figured once we  
7 were able to complete Somerville, then we could go to the  
8 outlying areas where we would have more problems, you know,  
9 on spaces.

10 So, when Somerville was such a disaster it took the  
11 heart out of a lot of our board members.

12 Q And, therefore, you haven't made any further  
13 attempt to effect rezoning?

14 A Right.

15 Q You described for the Court a large range of  
16 programs and operation of these programs over a period of  
17 three or four years. Could you state for the Court what  
18 your feeling has been as an executive of the Somerset  
19 County Housing Agency about the effectiveness of these  
20 programs?

21 MR. ENGLISH: If the Court please, with  
22 all due respect to this witness, I don't think  
23 her feelings are competent or relevant evidence.

24 MR. BUCHSBAUM: Perhaps the word  
25 "evaluation" could be substituted.

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THE COURT: The original objection is sustained.

Do you object to her evaluation?

MR. ENGLISH: Well, I think maybe she could express a judgment based on her experience, if that's what you mean by "evaluation."

MR. BUCHSBAUM: That's exactly what I had in mind.

THE COURT: All right.

MR. BUCHSBAUM: I'll rephrase the question.

BY MR. BUCHSBAUM:

Q Could you give the Court a judgment based on your experience as an executive director of Somerset County Housing Association of the effectiveness of the programs of that association?

A Well, I would say that they were not at all effective. Just because they haven't - they put next to no families into housing. The whole thing has been - we have tried to help, and that's about all I can say that we have done. We have not really changed anything at all. None of the programs have, except maybe the delinquency program - we've kept them in housing, people who might have lost their houses.

But, we have put 42 families into housing in how many

1 years - four years. And the possibility of a great deal  
2 more is very slim. So, I would say that the effectiveness  
3 has been nil.

4 Q You're saying it's nil on the basis of the  
5 potential need?

6 A Yes. The fact that we have a file of 1500 people  
7 and have been able to essentially help 42, I mean, speaks  
8 for itself. It's a very, very frustrating program.

9 Q Now, as someone who has had experience in  
10 housing in Somerset County for a period of time and offers  
11 this judgment as to the effectiveness of the program that  
12 you have been involved with, would you be able to give to  
13 the Court perhaps a reason for this evaluation, why you  
14 think the lack of effectiveness exists?

15 A Well, essentially, the housing market has become  
16 smaller and smaller. No housing starts, or next to none,  
17 as far as our families are concerned, or the families who  
18 come to us. So that the demand is so great for them that  
19 the prices of the housing goes up. As soon as it goes up,  
20 all of it is out of the market for moderate income families.

21 If there is no housing for the families there is no  
22 place you can put them. Therefore, we're in a situation -  
23 we're in the situation we're in.

24 MR. BUCHSBAUM: No further questions,

25 Judge.

1 CROSS EXAMINATION  
2 BY MR. ENGLISH:

3 Q Mrs. Horvath --

4 THE COURT: Just a second. Did you have  
5 some questions, Mr. Lanigan?

6 MR. LANIGAN: Yes, sir. I did.

7 MR. ENGLISH: I'll withdraw that, then.

8 Excuse me.

9  
10 CROSS EXAMINATION  
11 BY MR. LANIGAN:

12 Q Mrs. Horvath, when you're talking about  
13 housing you're talking about essentially the purchase of  
14 homes as contrasted to the renting of multi-family units?

15 A No. When I say "housing" I mean shelter or dwellings.

16 Q So that you have been looking on behalf of  
17 these clients for both the purchase of moderate income-type  
18 homes and multi-family shelter, as well?

19 A Right.

20 Q Does your range of activity extend to the  
21 Somerset Hills area? By that I mean Bedminster, Bernards,  
22 Peapack-Gladstone, Far Hills.

23 A Now, when you say, "on behalf of the clients," we  
24 do not go out and find housing for our clients. Our clients  
25 must find the housing for themselves. We assist them in any  
way we possibly can. On the basis of purchase, we can assist

1 them through the realtor, through the mortgage, et cetera.

2 So, we don't go out and, you know, find the housing  
3 and call up Mrs. Jones and say, "Mrs. Jones, there's an  
4 apartment."

5 Q I understand. But, does the range of your  
6 activity extend to those towns?

7 A Yes. The entire Somerset County area, and outside,  
8 if necessary.

9 Q Do you have any inventory or any knowledge of  
10 what type of housing exists which would qualify within your  
11 definition of moderate income?

12 A I am sorry. I don't understand your question.

13 Q Well, do you have any knowledge as to the  
14 existence of homes, whether or not they're available for  
15 rent or purchase in the Somerset Hills area?

16 A We have no inventory of housing in that area, because,  
17 as far as we know, through our contacts with realtors and  
18 advertisements in papers, there are no - there is no housing  
19 there that would qualify.

20 Q So that the sole source of your knowledge,  
21 perhaps, will come from the census report which you examined  
22 to decide what already existed?

23 A Well, you see, we know that there is none because  
24 we have not heard of any.

25 Q Okay. Now, have you ever specifically, as an

1 entity, as an association, gone to a municipality and said  
2 to them, "We think your zoning is too large. If your zoning  
3 were smaller, we could have smaller homes and less expensive  
4 homes"? Have you ever done that?

5 A As far as speaking for the association, I would say,  
6 "No." I don't believe so. I'm not certain now, but I don't  
7 believe so.

8 Q Is it a possibility that the municipalities  
9 don't even know about your efforts?

10 A There is a possibility.

11 Q Especially those in the Somerset Hills area  
12 where there are no board members?

13 A Well, may I say I don't think so, but there is a  
14 possibility.

15 Q But, you have never gone to them specifically  
16 and asked them pointedly, "Rezone to permit our people to  
17 find housing," have you?

18 A No.

19 Q Why not?

20 A It's a board policy. And it's not my policy. I'm  
21 directed by the board.

22 Q Okay. Do you get assistance from anyone else?  
23 For example, The League of Women Voters?

24 A Yes.

25 Q Now, are you aware of their efforts on the same

1 subject, moderate income need?

2 A Yes.

3 Q What coordination do you have with an entity  
4 such as that?

5 A Well, we have worked with The League of Women Voters  
6 on various reports that they have been involved with. This  
7 essentially would come in - I'm trying to think of the last  
8 time we had contacted the league. One of the affiliates,  
9 I believe, of the state league is an affiliate of ours.  
10 She's not on our board, but she has been, you know, working  
11 with us, one of the state League of Women Voters.

12 Q I'm more concerned with the coordination  
13 locally in the Somerset Hills area, Badminster Township,  
14 specifically.

15 A Well, I find that with the League of Women Voters  
16 I'm still being called upon to define the problem to them.

17 Q Do you have any knowledge of requests made  
18 by your entity with respect to mobile-type housing?  
19 Have you ever explored that?

20 A Mobile-type housing? No.

21 Q Okay.

22 MR. LANIGAN: I have no other questions.

23  
24 CROSS EXAMINATION  
BY MR. ENGLISH:

25 Q Mrs. Horvath, in your experience is the

1 availability of housing related to the amount of funds  
2 made available by the federal government at any given  
3 time?

4 A The availability of housing depending on federal  
5 funds?

6 Q Yes. Is there any relationship between  
7 federal funding and the availability of housing?

8 A I would say, "Yes," there is.

9 Q And in what respect is there such a relationship?

10 A Well, up until the time the subsidy program was  
11 impounded our program was much more active, and that was  
12 federal funds. When federal funds dried up there, then  
13 there were no longer subsidies, and we found a tremendous  
14 problem in beginning housing. But, now there is no new  
15 housing being built, and because there is no new housing --  
16 and new housing usually insured the federal funds - federal  
17 funds will insure new housing, and because of that, that's  
18 one of the reasons we're not getting a lot of housing coming  
19 in, either.

20 Q When did the federal subsidies cease to be  
21 available?

22 A January 1973. January 5th.

23 Q Well, in the absence of some kind of a  
24 subsidy from somewhere, is it reasonably possible to  
25 provide housing for low income groups in this part of the



1 country?

2 A Yes, it is. The one program that has not been  
3 impounded or has been at all - it's been changed, but it's  
4 been changed because federal - well, H. U. D. has put all  
5 of its eggs into the leased housing program of the public  
6 housing program, so that private individuals or private  
7 developers can build and lease it to a public housing group.  
8 And, therefore, you would have housing coming from the  
9 private market that would be leased to low income families,  
10 and be paid for by a public housing authority.

11 Q Are there other actual examples of this  
12 in Somerset County?

13 A I don't know if it's been released yet, if the moneys  
14 have been released yet, but, no, it hasn't, not in Somerset  
15 County, since there is only one housing authority.

16 Q Yes, but this program has not yet gone into  
17 general effect?

18 A I believe it should start any day now, but it hasn't  
19 quite.

20 Q How many board members of your organization  
21 live in Rocky Hill?

22 A I'm trying to think. I'm not certain. I don't think  
23 I remember a Rocky Hill address.

24 Q Maybe I better ask this: How many board  
25 members do you have?

1 A We have twenty-seven.

2 Q Twenty-seven. How many come from Montgomery  
3 Township?

4 A I think one.

5 Q And what about Millstone Borough?

6 A I'm trying to think. Is East Millstone Franklin  
7 Township? We have somebody in East Millstone, but I don't  
8 think anybody in Millstone.

9 Q How about Hillsborough Borough Township?

10 A No.

11 Q Branchburg Township?

12 A Yes.

13 Q How many from there?

14 A One.

15 Q One from Branchburg. I think you said the  
16 Borough of Raritan was represented, and Somerville?

17 A Right. Franklin, Bridgewater. I believe the majority  
18 of them come from this area.

19 Q Bound Brook?

20 A Yes.

21 Q North Plainfield?

22 A Yes.

23 Q Watchung?

24 A No.

25 Q Green Brook Township?

- 1 A I'm not certain.
- 2 Q What about Warren Township?
- 3 A Yes. I was confused between Watchung and Warren  
4 Township. One.
- 5 Q Any from Bernards Township?
- 6 A No.
- 7 Q Any from Bernardsville?
- 8 A No. We have a member, but not on the board.
- 9 Q Far Hills Borough?
- 10 A No.
- 11 Q Peapack-Gladstone?
- 12 A No.
- 13 Q Bedminster?
- 14 A No.
- 15 Q Of your 100 active cases, at the present time  
16 can you tell us how many of these are residents of Somerset  
17 County?
- 18 A I would assume that between eighty and ninety are of  
19 Somerset County.
- 20 Q And the others of Middlesex County?
- 21 A Middlesex and - yes. They're all Middlesex. Sometimes  
22 we get some people in from Hunterdon.
- 23 Q Hunterdon County?
- 24 A Yes.
- 25 Q Would you have any idea of the proportion of the

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total caseload of 1500 who have come from Somerset County?

A Of the fifteen, I would say up to a certain point we don't have anyone from outside of Somerset County.

And then we had a group of people coming in from New Brunswick. I think that just about 1200 of them would be Somerset County people.

Q And about what point in time did the group from New Brunswick sort of break the Somerset County monopoly?

A It wasn't a question of breaking the monopoly. It's just that there wasn't any other housing, counselling agency, and H. U. D. required us to take anyone within the tri-county area in, and that's why we were getting more people in from Middlesex - from the Middlesex County area.

Q When did that happen?

A That was about 1971.

Q You referred to "tri-county." Which is the third one?

A Somerset, Middlesex and Hunterdon.

MR. ENGLISH: I have no further questions.

THE COURT: Any redirect?

MR. BUCHSBAUM: Just one or two questions, Judge.

REDIRECT EXAMINATION  
BY MR. BUCHSBAUM:

Q You had stated previously that you have twice

1 contacted all the municipalities in Somerset County?

2 A Yes.

3 Q And on the basis of that isn't it likely that  
4 they have some idea of your existence in programs?

5 A Yes.

6 MR. BUCHSBAUM: No further questions.

7 THE COURT: I have a couple of questions  
8 in mind.

9 You spoke in terms of the fact that you  
10 do not go out and seek potential housing.  
11 That's the responsibility of the client family?

12 THE WITNESS: Yes.

13 THE COURT: Then you mentioned, I believe,  
14 fourteen instances in your down payment  
15 assistance program in Franklin Township aiding  
16 Somerville and the Bridgewater area, and the  
17 rest scattered about. From that question arose  
18 in my mind have you become aware of any factors  
19 that influence your client families where they  
20 look for potential available housing within  
21 their means other than the existence or lack  
22 of existence of vacant units?

23 THE WITNESS: Again, because they know  
24 other people, you know, themselves, it's the  
25 feeling of comfort, I would assume, that they

1 know that in Franklin Township there are empty  
2 units or people have "For Sale" signs, and  
3 they're able to say, "Well, if the house is  
4 for sale, we may be able to buy it," and,  
5 therefore, they will pursue that and continue  
6 to pursue it, even though that particular  
7 house may not be suitable for them, and maybe  
8 they can't afford it. But, they will continue  
9 to pursue it, so long as they see that there  
10 is something that is for sale that they are  
11 familiar with.

12 But, they will also go outside if they  
13 know that there are areas for sale. This is  
14 the whole - even if it's not a success, if  
15 they're able to go into a realtor and a realtor  
16 shows them a place in the Somerville-Bridgewater  
17 area, they will continue to go in that area  
18 because they know that there is something  
19 available. But, as soon as the availability  
20 dries up, they just dry up with it.

21 THE COURT: Do you think things such as  
22 nearness to job opportunities affect where  
23 people look?

24 THE WITNESS: More so now than it did  
25 originally. When we first started, because

1 of the driving, you drive to and from work.  
2 Now, of course, it's changed, you know, all of a  
3 sudden, almost immediately, with the question of  
4 ability to get to work. But, the majority of  
5 the plants along 22 and 287, a lot of our  
6 people work there, and so anywhere around that  
7 area would have been beneficial to them as  
8 far as finding housing.  
9

10 THE COURT: Other than the current fuel  
11 crisis, does the availability of public  
12 transportation affect where your clients look?

13 THE WITNESS: No. It hadn't, because  
14 there was no mass transit.

15 THE COURT: There's still the railroads  
16 through the central county corridor, the  
17 Jersey Central.

18 THE WITNESS: Most of the people that  
19 come to us in Somerset County are so involved  
20 with the automobile that this is where they  
21 consider housing, anywhere that the car can  
22 get them.

23 THE COURT: Have you found any  
24 relationship, relative relationship, between  
25 availability of moderate income houses and  
existence of older structures?

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THE WITNESS: Yes. Almost invariably the moderate income housing - everyone of the houses are twenty or more years. Twenty is a new house, comparatively.

THE COURT: Some older parts of the established towns and older pockets of the townships are where your housing does show up when you find it?

THE WITNESS: Right. Right.

THE COURT: Thank you very much.

THE WITNESS: Okay.

(Witness excused.)

\* \* \* \* \*



MRS. THOMPSON: Elliot Weinstein.

1  
2 ELLIOT WEINSTEIN, called as a  
3 witness in behalf of the plaintiffs Cieswick, et al,  
4 being first duly sworn, testified as follows:

5 THE SERGEANT-AT-ARMS: State your full  
6 name and spell your last, please.

7 THE WITNESS: Elliot Weinstein.  
8 W-E-I-N-S-T-E-I-N.

9 THE SERGEANT-AT-ARMS: Thank you. Be  
10 seated, please.

11  
12 DIRECT EXAMINATION  
13 BY MRS. THOMPSON:

14 Q Mr. Weinstein, by whom are you employed?

15 A City of Plainfield.

16 Q What is your position?

17 A Director of City Planning for the city.

18 Q For how long have you held that position?

19 A For the last five years.

20 Q Could you briefly describe the responsibilities  
21 of the job of Planning Director of the City of Plainfield?

22 A Yes. I'm involved in three areas.

23 The first area is the rezoning and development of a  
24 Master Plan for the city, and the types of programs that it  
25 entails, such as in the areas of housing, transportation,  
recreation.

1           Also, I'm involved in developing city plan reviews  
2 for developers who wish to develop in the city, commercial,  
3 industrial, apartment developments.

4           And, thirdly, I'm also involved in working on special  
5 research projects in areas such as Dial-A-Ride Bus Systems,  
6 recreation designing, research of census data, and special  
7 reports that are wished by the Mayor and City Council and  
8 Planning Board.

9           Q       Briefly, would you tell the Court by whom you  
10 were employed before you came to the City of Plainfield?

11          A       Yes. For two years I was Project Director with the  
12 corporation of Metcalf & Eddy, an engineering and planning  
13 firm in New York City, where I worked in several rural  
14 communities as a consultant developing rural and Master  
15 Plans.

16                Prior to that I was working for three years with the  
17 Nassau County Planning Commission on Long Island, working on  
18 its overall county-wide Master Plan, and several projects  
19 affiliated with that Master Plan development.

20           Q       Are you a member of any professional  
21 organizations?

22          A       Yes. I'm licensed - I'm a licensed professional  
23 planner in the State of New Jersey; and I'm also a member  
24 of the American Institute of Planners and American Society  
25 of Planning Officials, and various other - the New Jersey

1 Federation of Planners, and various other organizations -  
2 planning organizations.

3 Q Had you also had occasion to teach any courses  
4 in your field?

5 A I have taught for the past three years a course with  
6 the Bureau of Governmental Research at Rutgers on Introduction  
7 of local planning. And this is the first year I'm teaching a  
8 course in urban problems at Union College.

9 Q Going back to your position with the City of  
10 Plainfield, could you describe to us briefly where the City  
11 of Plainfield is located? Describe it for the Court.

12 A Well, the City of Plainfield is located on the edge  
13 of Union County, so that it is contiguous to several  
14 communities that are in Somerset County, such as North  
15 Plainfield and Watchung, Green Brook. It's also within close  
16 proximity to Bound Brook. It's also located adjacent to  
17 Middlesex County, which has South Plainfield, and, also,  
18 of course, Union County with Scotch Plains and Farwood.

19 It's a county of approximately 50,000 population,  
20 working class population, primarily, although there is a  
21 mixed income - mixed classes of income in Plainfield, middle,  
22 lower and upper class people.

23 As you probably know, over the years there has been a  
24 white exodus in the City of Plainfield, and the census of  
25 1970 reports a population of approximately 35, 36 per cent

1 non-white, primarily black, about one or two per cent being  
2 Spanish speaking.

3 Q Do you by any chance recall the rate of  
4 Plainfield's non-white population growth in the decade  
5 1960-1970?

6 A In 1960 the population of Plainfield was approximately  
7 20 per cent non-white, as it compared to 1970, 1971, I guess,  
8 about 35.

9 There has been an increasing exodus and increased -  
10 increasing number of black families moving into the City of  
11 Plainfield.

12 Q Getting back to a discussion of the location  
13 of Plainfield, is Plainfield served by any major highways?

14 A Yes. Well, there are no highways that bisect the  
15 City of Plainfield. There are highways circulating about  
16 Plainfield, such as Route 22 and the Interstate 78; and,  
17 of course, by going to 22 you can reach 287 and 202, 206  
18 quite conveniently by car.

19 Q By virtue of Plainfield's location in the  
20 region have you during your tenure as Planning Director had  
21 any involvement with any regional planning groups or  
22 associations serving Plainfield?

23 A Yes. There are two groups that we in the city work  
24 with. The first group is - because of its flooding problems,  
25 we work very closely with the Green Brook Flood Commission

1 where we are a member of that commission and work with  
2 Green Brook, North Plainfield, Bound Brook; and, basically,  
3 those are the communities - and Watchung, of course - those  
4 are the communities that we work with from that commission  
5 who are located in Somerset County. And we work with them  
6 on flood problems and programs, because it is a regional -  
7 that is a regional problem, flooding, of course.

8           And the other area that we work closely with, the  
9 other community that we work closely with, is North Plainfield,  
10 primarily, although there are other communities as part of  
11 this package of communities. It's the Plainfield Area  
12 Chamber of Commerce where we work with North Plainfield and  
13 other communities that are concerned with the development  
14 and the future of the commercial area of Plainfield, which  
15 serves a region of many communities, such as North Plainfield  
16 and Watchung, Bound Brook.

17           Q       You mentioned earlier one of your duties in-  
18 volved work on rezoning of the Master Plan for the City of  
19 Plainfield. Have you had occasion to study the housing  
20 stock of the city?

21           A       Yes, I have. We have done a good bit of research in  
22 this area.

23                   One of our problems, for example, is the abandonment  
24 of housing in Plainfield, as most older communities have,  
25 communities with high taxes, obviously. We have studied

1 vacancy housing - housing of vacancies in Plainfield,  
2 locations and programs for dealing with the housing or  
3 abandonment of housing.

4 We have also studied the relationship of Plainfield  
5 to communities around Plainfield in regard to housing and  
6 zoning.

7 And, of course, we have looked at the locations of  
8 multi-family housing, trying to develop multi-family housing  
9 in the City of Plainfield wherever it is feasible.

10 So, we do quite an extensive amount of research in  
11 the area of housing, trying to develop housing programs  
12 that would solve some of the needs, some of the problems  
13 of housing in Plainfield.

14 Q When you refer to needs and problems of  
15 housing in Plainfield, what do you mean?

16 A Well, Plainfield is primarily a very old community  
17 made up of many elderly people, people who have lived in  
18 Plainfield for many, many years.

19 One of the areas that we have been working on and  
20 have been successful in developing is senior citizen housing.  
21 We have had two - we have had many proposals, but we have  
22 encouraged two specific developments, so that we have in  
23 development presently approximately three hundred units,  
24 two developments of approximately three hundred units  
25 together, which are for senior citizen families in Plainfield.

1 primarily in Plainfield, to serve some of the needs of  
2 Plainfield.

3 We also have an urban renewal program in Plainfield  
4 which has housing relocation, which results - as it results  
5 due to housing clearance.

6 We have provided two specific sites for two fifty-unit  
7 developments for moderate income families in Plainfield  
8 which we hope will be implemented this Spring. Well, we'll  
9 start to be able to implement this Spring.

10 We also have worked on a program that was mentioned  
11 briefly before, the lease housing program, trying to look  
12 at some of the abandoned housing in Plainfield which should  
13 be renovated and improved and should be leased to the  
14 housing authorities, or our Plainfield Housing Authority,  
15 for some of the families who are in need of housing who have  
16 to be relocated or are just looking for housing in Plainfield.

17 Of course, we work also very closely with developers,  
18 private developers, who would like to put up luxury  
19 development in Plainfield along several of the - we have  
20 two major roads in the city.

21 Q Referring to the leased housing program, there  
22 is a public housing authority in Plainfield?

23 A Yes.

24 Q Do you know how many units of public housing  
25 exist in the city?

1 A There are two developments in Plainfield for public  
2 housing that are approximately ten years old, and they total  
3 approximately 250 units of low income housing.

4 There is one development that is - that which is for  
5 senior citizens, which is 225.

6 So, together, it's about 475 units, half of which are  
7 for senior citizens, and the other half are for families.

8 Q You referred a moment ago to the age of the  
9 housing stock in Plainfield. Have you made a determination  
10 with regard to the age of the housing stock?

11 A About 65 to 70 per cent of Plainfield's housing stock  
12 is over 75 years of age, which is incredible, and which  
13 causes a great deal of the problems of maintenance problems,  
14 problems of renovating an old building, to convert it to  
15 three or four families, because the houses are so old and  
16 big that they can't really exist in today's economy for heat  
17 and for maintenance improvements. You just have to convert  
18 them. They're big white elephants.

19 Q Are these houses which you have just been  
20 referring to among the houses which have been abandoned  
21 or boarded up in Plainfield?

22 A Yes. Yes.

23 Q Have you made a determination of what percentage  
24 of the houses in Plainfield presently have been abandoned  
25 or boarded up?



1 A Yes. It's an influenced situation because most  
2 of the houses that are abandoned are V. A.-F. H. A.  
3 repossessions. When I say "most" I would say at least  
4 55 per cent are V. A. and F. H. A. repossessions. And  
5 I would say that there is approximately one hundred structures  
6 in Plainfield that had been abandoned and that are presently  
7 on the market. But, this number is influenced, and it  
8 changes every week.

9 Q I believe you indicated earlier that there  
10 was some relationship between the tax rate in Plainfield  
11 and abandonment. Is that correct?

12 A Yes. Well, the relationship really is that the  
13 is that due to the high tax situation in our community,  
14 in our city, the family who purchases a house has between  
15 its mortgage and tax situation just the monthly cost to  
16 maintain that house and to live in that house. It becomes  
17 quite astronomical.

18 Buying a house for, say, \$25,000, a \$1500 per year  
19 tax, with a mortgage of another 1500, I would say it would  
20 average about 300 to \$325 a month just to live in one of  
21 those homes. And that's excluding heating and other types  
22 of expenses, such as maintenance.

23 Q Do you know what the present tax rate is in  
24 the City of Plainfield?

25 A I think it's - no. I really don't have the exact

1 figure. It's one of the highest. I think it's ten and a  
2 half, 10.6 - no. I'm sorry. I just don't have the exact  
3 figure.

4 It is one of the highest. I believe it's "the"  
5 highest in Union County. I'm sure it would be quite high,  
6 compared to Somerset.

7 Q With regard to your work concerning housing  
8 in Plainfield, have you made any studies of the housing  
9 needs presently reflecting the residents of Plainfield?

10 A Housing needs? What we have done, we have done  
11 studies concerning the needs for housing in Plainfield,  
12 which we have documented for the city, but we have also  
13 studied the surrounding suburban zoning practices that  
14 surround Plainfield, which have an effect on the housing  
15 situation of Plainfield, obviously the needs of Plainfield;  
16 and we have had developed a publication which discusses the  
17 suburban practices surrounding Plainfield.

18 Q Let me show you a document, "Suburban Zoning  
19 Practices Surrounding Plainfield," and ask you if this is  
20 the document to which you are referring?

21 A Yes.

22 Q Did you prepare that document?

23 A Yes.

24 Q When was it prepared?

25 A It was prepared in 1971 under my supervision by a

1 member of my staff.

2 MRS. THOMPSON: I move its admission  
3 in evidence.

4 MR. ENGLISH: If the Court please, may  
5 I ask the witness a question or two with respect  
6 to the document offered?

7 THE COURT: You may.

8 MR. ENGLISH: Mr. Weinstein, does your  
9 study include the suburban zoning practices in  
10 Bedminster?

11 THE WITNESS: It includes the population  
12 and industrial developments of Somerset County,  
13 but it does not touch on specifically Bedminster,  
14 since it is not adjacent to Plainfield.

15 MR. ENGLISH: Well, I show you a chart  
16 in this document which has been offered in  
17 evidence, and which is entitled, "Suburban  
18 Communities Surrounding Plainfield," and some  
19 of those are shaded.

20 THE WITNESS: Yes.

21 MR. ENGLISH: And am I correct in  
22 understanding that your study has included the  
23 municipalities which are shaded on this map but  
24 not the ones that are left unshaded?

25 THE WITNESS: It includes specifically

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the communities that are shaded. But, it also covers each of the three counties which surround Plainfield.

So, to answer your question, it's, "Yes, you're right." However, it does include Somerset County as one of the three counties.

MR. ENGLISH: Right. But, in dealing with Somerset County did you deal with it as a single entity?

THE WITNESS: In Somerset, yes, I did.

MR. ENGLISH: Without any breakdown as between Somerset County and municipality?

THE WITNESS: Yes.

MR. ENGLISH: My statement is correct?

THE WITNESS: Yes, it is.

MR. ENGLISH: If the Court please, I object to this document, because it seems to me it is irrelevant to the matter of zoning in Bedminster. It does not deal with Bedminster. It is undoubtedly an interesting document about Plainfield, but I submit that it is beyond the scope of the issues that are before the Court.

MRS. THOMPSON: I would submit to your Honor it's a highly relevant document, because

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we have the largest city closest to Somerset County, having done a study involving suburban zoning practices, and draw certain conclusions with regard to relationship of zoning patterns and housing and residents in the City of Plainfield.

Moreover, as it will become clear, this study was a prelude to a resolution which Mr. Weinstein will testify to which does not restrict itself to the particular municipality study, but is a general call for rezoning throughout the area.

MR. ENGLISH: May I address the Court?

THE COURT: Yes.

MR. ENGLISH: If the Court please, I think we recognize there are nationwide general housing problems. It's a general subject of interest and importance. But, the issue here is the reasonableness of the Bedminster Zoning Ordinance, and whatever may be a lot of abstract conclusions about suburban zoning and this kind of thing, it seems to me, is too far-fetched to aid the Court in determining the reasonableness and validity of the Bedminster Ordinance.

1 MRS. THOMPSON: I would point out, also,  
2 your Honor, as Mr. English established on his  
3 voir dire, that the report does make specific  
4 references to Somerset County as a county,  
5 and it's particularly concerned with the  
6 projected relationship between residences  
7 throughout the county and industrial growth  
8 throughout the county, and then draw certain  
9 conclusions with regard to zoning, but does  
10 speak about county development patterns as  
11 such; and Bedminster certainly is very much a  
12 part of Somerset County.

13 THE COURT: Mrs. Thompson, I'm of the  
14 opinion that thus far any relevancy is only  
15 tenuous, but I'll admit it on that basis. If  
16 you're driving at Bedminster's situation as  
17 part of a region, it's going to take more to  
18 persuade me that Bedminster is part of the  
19 Plainfield region as opposed to the Morristown  
20 region. But, I'll admit the document for what  
21 limited relevancy it appears at this point to  
22 have, subject to you're tying in more closely  
23 as we progress.

24 MRS. THOMPSON: Thank you.

25 (Publication entitled "Suburban Zoning

1 Practices Surrounding Plainfield" is received  
2 into evidence and marked Exhibit PC-13 in  
3 evidence by the Reporter.)  
4

5 DIRECT EXAMINATION (CONTINUED)  
6 BY MRS. THOMPSON:

7 Q Mr. Weinstein, would you explain to the Court  
8 what led you to conduct this study which led to the  
9 production of Plaintiffs' Exhibit PC-13?

10 A Yes. In 1971 Plainfield embarked on a housing needs  
11 program where we began to study the relocation problems,  
12 and the reason for why people were moving into Plainfield,  
13 primarily, especially low and moderate income families,  
14 and why families, upper middle income families, were exiting.

15 We looked at the needs of Plainfield. We also looked  
16 at the problems of zoning that existed surrounding Plainfield,  
17 to draw some conclusions about Plainfield and the future  
18 in terms of housing, why was Plainfield, you know, doing it  
19 all, why was Plainfield supplying most of the housing needs  
20 for the area. We wanted to know what was presently happening,  
21 and why. And we also wanted to have some idea of the future  
22 of Plainfield and its housing problems.

23 So, therefore, we looked at this particular area  
24 which is covered, the Plainfield area, and we also looked  
25 at each of the three counties to try to draw some conclusions  
about Plainfield now and for the future.

1 Q Did you reach any conclusions as to why low  
2 and moderate income people were moving into Plainfield?

3 A Well, we studied three areas. The answer to your  
4 question is "Yes."

5 To determine this, we studied three areas, population  
6 growth, as well as industrial growth, as well as zoning  
7 practices. And we used a major resource, of course, the  
8 census data, as well as the three county planning boards,  
9 Somerset, Union and Middlesex County Planning Boards, that  
10 have been developing reports on the economy of each of their  
11 counties, as well as the population growth of each of their  
12 counties.

13 We also studied the zoning practices of each, and we  
14 went to each county surrounding Plainfield and received  
15 zoning maps and zoning plans for each of the counties.  
16

17 Our conclusion was that the reason why Plainfield is  
18 having problems with its zoning is - with its housing needs,  
19 or having an increasing housing need, is because the counties  
20 surrounding Plainfield are not providing multi-family housing  
21 in their community or any creative form of zoning.

22 When I say "creative" it doesn't have to be just  
23 multi-family. It could be a form of P. U. D. It could be  
24 a cluster concept. It could be other types of zoning  
25 practices which could supply housing needs in that particular  
community.



1           Q           In looking at the Zoning Ordinances of  
2 the communities surrounding Plainfield, did you also  
3 look at zoning patterns of communities other than the  
4 municipalities which are directly adjacent to the City  
5 of Plainfield?

6           A           No, we didn't. We didn't study the zoning  
7 practices of the other communities.

8           Q           Did you look at Master Plans for the three  
9 adjacent counties?

10          A           Yes, we did. We looked at the Master Plans of  
11 each of the counties to see what were the existing land  
12 use patterns and what the projected land use patterns  
13 were in the counties. But, they didn't really deal with,  
14 specifically, what each county was zoning for.

15          Q           In terms of the adjacent counties which you  
16 did study, could you characterize for the Court what  
17 their Zoning Ordinances were like, other than the reference  
18 you have already made to creative housing forms and  
19 multi-family housing?

20                       MR. ENGLISH: I object, if the Court  
21 please. I think this gets beyond any  
22 relevancy to Bedminster. It may be that  
23 every one of the Zoning Ordinances of the  
24 towns surrounding Plainfield were absolutely  
25 illegal, unconstitutional and invalid, but

1 that's got nothing to do with the validity  
2 of the Bedminster Zoning Ordinance, which  
3 is the issue before this Court.

4 MRS. THOMPSON: Your Honor, what I'm  
5 seeking to establish is that the municipalities  
6 are similar to those further out in Somerset  
7 and Middlesex.

8 THE COURT: How do you propose to do  
9 that?

10 MRS. THOMPSON: I'm going to ask Mr.  
11 Weinstein whether he compared the Zoning  
12 Ordinances which he studied with the Master  
13 Plans which he's already said he studied.

14 MR. ENGLISH: The Somerset County  
15 Master Plan was prepared and promulgated  
16 before Bedminster adopted its current Zoning  
17 Ordinance in April 1973. And there are  
18 significant differences between the current  
19 Bedminster Zoning Ordinance and its  
20 predecessor.

21 From what I have heard, I would assume  
22 that the witness' study did not include the  
23 interesting features of the new Bedminster  
24 Zoning Ordinance, which is the one before  
25 your Honor.

1                   So that on the statement of what he  
2                   did, it's still irrelevant.

3                   THE COURT: I'm going to sustain the  
4                   objection to the question directed to the  
5                   zoning practices of those communities  
6                   immediately abutting Plainfield.

7 BY MRS. THOMPSON:

8                   Q           Now, could you state for the Court what  
9                   your major findings were with regard to the impact of  
10                  zoning of surrounding regions on the City of Plainfield?

11                  MR. ENGLISH: I'll object, because  
12                  it calls for a conclusion on the basis of  
13                  data which the Court has ruled is irrelevant.

14                  THE COURT: Not precisely. It includes  
15                  the zoning practices reflected in the County  
16                  Master Plans of Somerset, as well as  
17                  Middlesex and Union.

18                  MR. ENGLISH: Well, as I just suggested  
19                  to your Honor, that would not reflect the  
20                  present Bedminster Zoning Ordinance, which  
21                  was adopted after the County Master Plan  
22                  was prepared.

23                  THE COURT: There is a fallacy some  
24                  place there, Mr. English, because you argue  
25                  either in your pleadings or in your Brief

1 one of the virtues of Bedminster's Zoning  
2 Ordinance is its furthering of the legitimate  
3 purposes of the County Master Plan. If  
4 you're going to pin your hat on the County  
5 Master Plan counsel for plaintiff is entitled  
6 to bring information pertaining to the impact  
7 of that County Master Plan forth.

8 MR. ENGLISH: I don't think so. The  
9 County Master Plan proposes, speaking  
10 generally, that Bedminster be a low density  
11 land use area, primarily residential.

12 Bedminster's new Ordinance is unusual,  
13 if not unique, in seeking to control density  
14 through a method of limiting the percentage  
15 of floor area ratio to the total land area  
16 of the lots or tract to be built on, as  
17 distinguished from the old-fashioned  
18 checkerboard of single family house on a  
19 lot of specified size.

20 Now, the important difference between  
21 the new Bedminster Zoning Ordinance and the  
22 traditional type of single family house on a  
23 lot of X acres is that in the Bedminster  
24 Zoning Ordinance, even though low density  
25 is preserved, multi-family housing in a

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variety of housing types clustering in all garden apartments, even modular housing, are permitted.

And from what I thought I heard in some of the testimony that has happened, the concern that the witness expressed about the Zoning Ordinances in the towns surrounding Plainfield was the absence of multi-family housing.

Now, Bedminster permits that. That is one of the interesting features of the Ordinance. And it does that consistently with the County Master Plan, which is more concerned with the density of land use and with whether it is single family or multi-family or whatever.

In fact, the Master Plan advocates a variety of housing types, and the Bedminster Ordinance has tried to implement that recommendation in its new enactment.

MR. LANIGAN: Your Honor, may I be heard?

THE COURT: Yes.

MR. LANIGAN: I refer the Court to defendant's Brief, on page 7, where they

1 make the bald statement, "The Bedminster  
2 zoning plan is compatible with land uses  
3 in the surrounding municipalities." Here  
4 is the circular reasoning again, "We show  
5 you what everything else is. It's all low  
6 density around us. And, therefore, because  
7 it's low density around us, and that's okay,  
8 ours is okay, too, because it says the  
9 reasonableness of the zoning plan of  
10 Bedminster must be considered in the light  
11 of the uses to which land in the neighboring  
12 municipalities have been put." And they  
13 very neatly construct their syllogisms  
14 based on faulty premises around them.

15 Now, it is relevant to this Court to  
16 find out what the situation is in those other  
17 municipalities. If they choose to base their  
18 premise on what's going on elsewhere, they are  
19 going to lose, because what's going on  
20 elsewhere is the same thing that's going on  
21 in Bedminster. But, that isn't before this  
22 Court, except to the extent that they have  
23 brought it to this Court, and to the extent  
24 that they rely upon what is going on around  
25 them.

1 I submit it is relevant to examine  
2 that even in the limited extent that this  
3 witness proposes.

4 MR. ENGLISH: May I respond to Mr.  
5 Lanigan, if the Court please?

6 THE COURT: Yes.

7 MR. ENGLISH: The Bedminster Ordinance  
8 and our argument, if the whole Brief is read,  
9 rests upon more than just the land uses in  
10 the adjacent municipalities. That is one  
11 of the number of relevancy. Certainly,  
12 another is the need to, and protect the water  
13 quality of the Raritan River. However, none  
14 of the municipalities studied by the witness  
15 in this document is adjacent or adjoining  
16 Bedminster. The ones in Somerset County are  
17 Green Brook, North Plainfield and Watchung.

18 So that what the witness is talking  
19 about or what Mr. Lanigan is talking about  
20 are not the same municipalities at all. And  
21 all the witness can do is to help us on  
22 Green Brook, North Plainfield, Watchung,  
23 plus half a dozen other municipalities in  
24 Union and Middlesex Counties.

25 MRS. THOMPSON: I would suggest two

1 other things, your Honor. What we have  
2 here is a conflict among perhaps all the  
3 parties when we referred to a regional  
4 locality, as to what a regional locality  
5 would be. It is clear that Bedminster is  
6 defining that region for certain circumstances  
7 only to include the communities which are  
8 adjacent to it, when he talks about looking  
9 at some other zoning laws. However, when he  
10 talks about looking at other environment,  
11 Bedminster looks to other communities beyond  
12 adjacent to it.

13 Moreover, I would point out that  
14 Bedminster in referring to the Somerset  
15 County Master Plan as a justification for  
16 the zoning talks about the fact that, well,  
17 high density use is supposed to be in the  
18 central corridor of Somerset County, and  
19 because housing needs of Somerset County  
20 is going to be met in the center corridor  
21 we don't have to meet it in Bedminster.  
22 And I would submit it's highly relevant if  
23 it turns out the zoned communities which are  
24 in that central corridor can no more meet that  
25 need than Bedminster can.



1 THE COURT: The objection is overruled,  
2 again as far as the County planning and what  
3 was derived from that, Mr. Weinstein's  
4 conclusions from that.

5 MRS. THOMPSON: I think we better  
6 read back the last question.

7 (The Reporter read back the preceding  
8 question as follows:

9 "Q Now, could you state for the Court what  
10 your major findings were with regard to the  
11 impact of zoning of surrounding regions on  
12 the City of Plainfield?"

13 A Yes. The findings were - I'll summarize them. In  
14 the area of population growth for the region it was projected  
15 that the population would increase approximately 30 per cent  
16 over the next ten years for the region.

17 In the area of employment, there would be a projected  
18 increase in industrial employment of approximately 9,000,  
19 or about 26 per cent increase over the next ten years.

20 In the area of housing and income, which was looked  
21 at in terms of family incomes, a large percentage of the  
22 families living in this region were felt to not be able to  
23 afford the suburban homes or the market prices for suburban  
24 housing.

25 And, of course, in the last area of zoning I wouldn't

1 get into it because it speaks specifically of the six -  
2 I believe more than six - about eight communities that  
3 surrounding Plainfield.

4 Q When you say that those who were going to  
5 be living in the area wouldn't be able to afford the  
6 housing which is built according to the suburban zoning  
7 laws, did you reach any conclusions as to where those  
8 people would therefore live?

9 A Yes. It was the conclusion of our planning  
10 division in the city that Plainfield primarily would be  
11 the location where these families would be living.  
12 Plainfield would be doing it or providing it.

13 Q Did you make any determination for the  
14 purpose of this study of where the families who would  
15 end up living in Plainfield would be coming from?

16 A No.

17 Q You referred earlier to an increase in the  
18 non-white population of Plainfield. Have you made any  
19 determination of where the existing families who are  
20 contributing to the population growth in Plainfield,  
21 black population growth, presently are coming from?

22 A This report didn't cover that at all, but we have  
23 done this type of analysis recently by a guy by the name  
24 of Dr. George Sternlied, who has written a book, who has  
25 studied the Plainfield situation in depth, and has written

1 a book on the subject within the last year.

2 His analysis --

3 MR. ENGLISH: Wait a minute. I object  
4 to the witness giving testimony about another  
5 student's studies published in a book which  
6 has not been furnished to counsel nor listed  
7 as one of the exhibits offered in evidence.

8 Q Have you, yourself, made a determination  
9 of where the non-white population of Plainfield would  
10 come from?

11 A We have done some surveys, phone surveys, in our  
12 office to discuss - to find out where families are moving  
13 from and why families are leaving Plainfield. We have  
14 found that the non-white family is coming from the South,  
15 from the Newark, Elizabeth and Jersey City area, as well  
16 as New York. Those key areas.

17 We haven't been able to find out why families are  
18 moving out, as, unfortunately, they wouldn't tell us -  
19 on the phone, that is.

20 Q Was the study which was just in reference,  
21 plaintiffs' Exhibit 13, prepared at the request of any  
22 other city agency?

23 A I didn't hear it.

24 Q Was the study which you just were referring  
25 to prepared by you at the request of any other city agency,

1 within the City of Plainfield?

2 A I believe it came as a request from our Urban  
3 Renewal Agency as one agency that was interested in  
4 relocation of housing. And I assume attached to Urban  
5 Renewal Agency is the Housing Authority, also concerned  
6 in relocation of housing as well as providing housing for  
7 low income families.

8 Q After your report was completed, to whom  
9 did you submit it?

10 A The report was submitted to the Plainfield City  
11 Council for its review and comments in '71.

12 Q Was it submitted to any other agencies of  
13 government besides your own City Council?

14 A We submitted the report to Mr. Bernstein, who is  
15 Harry Bernstein, who was at that time - maybe still is -  
16 the Chairman of the Governor's Housing Task Force at that  
17 time, and he, in turn, submitted the report to each member  
18 of his Task Force.

19 I also was involved in discussing the report in  
20 depth with those members of his Task Force, as well as  
21 the report being submitted to all of the county agencies  
22 that were involved, as well as all of the municipalities  
23 that were surrounding Plainfield, contiguous to Plainfield.

24 And then we did mailing on it. We advertised in  
25 the New York-New Jersey Federation of Planners, and we

1 must have submitted a couple of hundred reports - this  
2 report.

3 Q Why did you determine to do the report in  
4 mass circulation?

5 A Why?

6 Q Yes.

7 A Because of the problem of Plainfield is really a  
8 very typical problem which many communities like Plainfield  
9 face all over the United States, obviously.

10 Q Now, in referring to the submission of the  
11 report to the City Council, did the City Council take any  
12 action after receiving a copy of your report?

13 A Yes. They passed a resolution which was unanimously  
14 adopted, discussing the exodus of - pardon me - the  
15 exclusionary zoning practices of surrounding communities,  
16 and --

17  
18 MR. ENGLISH: If the Court please,  
19 I would object to the witness characterizing  
20 the resolution. If the resolution or the  
21 substance of it is to be before the Court  
22 I think the text ought to be here. And I  
23 object to the witness using this word,  
24 "exclusionary." There hasn't been any  
25 basis shown for that. I don't think the  
Court wants to decide this case on the label.

1 I think if the resolution is to be discussed  
2 it ought to be entered into evidence first.

3 THE COURT: Objection sustained.

4 BY MRS. THOMPSON:

5 Q Mr. Weinstein, I show you a document and  
6 ask you whether it's the resolution to which you refer?

7 A Yes.

8 Q Were you present when the resolution was  
9 adopted?

10 A Yes, I was. I presented the report to the City  
11 Council at its meeting.

12 Q Did you in fact draft the text of the  
13 resolution?

14 A Yes, with the Corporation Council.

15 MRS. THOMPSON: I'll offer it in  
16 evidence.

17 MR. ENGLISH: If the Court please,  
18 may I ask the witness a question or two  
19 about this document?

20 THE COURT: You may.

21 THE WITNESS: May I have a copy of  
22 the resolution?

23 MR. ENGLISH: Sure.

24 Mr. Weinstein, there are references  
25 in here to adjacent communities. Are those

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the same ones that are listed in Table 1 of your report, which is Exhibit PC-13?

THE WITNESS: Yes.

MR. ENGLISH: And is it correct, therefore, that the only Somerset County municipalities included in the term "adjacent communities" as used in the resolution are Green Brook, North Plainfield and Watchung?

THE WITNESS: Yes.

MR. ENGLISH: Now, the resolution also talks about surrounding areas. Could you define that for me in terms of the municipalities in Somerset County?

THE WITNESS: I think it refers primarily to those communities that you pointed out on that table, Table Number 1.

MR. ENGLISH: So that the only Somerset County municipalities would be Green Brook, North Plainfield and Watchung?

THE WITNESS: Yes.

May I comment on one thing more?

MR. ENGLISH: Sure.

THE WITNESS: The final resolution or comment that the resolution makes is that the

1 City Council does urge the Governor and  
2 his Housing Task Force to effect the  
3 necessary zoning changes throughout this  
4 state to provide housing for all those who  
5 work in the community.

6 MR. ENGLISH: Right. But, in terms of  
7 adjacent communities and surrounding ones  
8 based upon this study you are not talking  
9 specifically about Bedminster?

10 THE WITNESS: No, I wasn't, sir.

11 MR. ENGLISH: If the Court please,  
12 I object to the proffer of the resolution  
13 as being unrelated to the issues in this case,  
14 and since it does not involve anything directly  
15 affecting Bedminster.

16 MRS. THOMPSON: Your Honor, once again,  
17 I think it's really significant that the  
18 Planning Director of the City of Plainfield  
19 studied municipalities in Somerset County,  
20 particularly those in the central corridor  
21 of the county, including their Zoning  
22 Ordinance, and the effect of limiting access  
23 by low income and moderate income people to  
24 those communities putting the burden on  
25 Plainfield in a lawsuit in which the defendant



1 Bedminster is saying that it is the central  
2 corridor of the county to which the Somerset  
3 County Master Plan looks for housing of those  
4 very people, and uses as a defense the fact  
5 that a housing need will be met, but will be  
6 met not in Bedminster, but in the central  
7 part of the county.  
8

9 Additionally, as the witness, himself,  
10 has pointed out, he and apparently the City  
11 Council perceived a relationship between the  
12 zoning which they had studied specifically  
13 around Plainfield and zoning in a broader  
14 area and, therefore, directed their resolution  
15 not simply to the adjacent towns, but to the  
16 State of New Jersey.

17 MR. ENGLISH: If the Court please,  
18 if I may correct counsel on one point,  
19 Somerset County's Master Plan, as I recall  
20 it, suggests the intensive residential  
21 development in what they call "The Central  
22 Corridor" but that would be Raritan, Bound  
23 Brook, Manville, parts of Bridgewater and  
24 that general area which are not included in  
25 this study.

Certainly, Green Brook and Watchung were

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not proposed in the County Master Plan as the central corridor of the county where this intensive development should take place.

I don't think the point made by counsel is well taken.

THE COURT: I'm not sure whether my recollection coincides with yours. I have a recollection of a crescent, sort of an early moon, that goes through the county, and I think it's hooked in one corner of North Plainfield.

MR. ENGLISH: Well, North Plainfield would be in it, I'm sure, but, certainly, not Green Brook and Watchung, if my memory is correct. And I did include municipalities outside the scope of this gentleman's study, Somerville, Raritan and Bound Brook, and so on.

THE COURT: I think it goes along the Central Railroad of New Jersey and Route 22.

MR. ENGLISH: That's right.

THE COURT: And the two diverge as they go east of Bound Brook, sort of fanning that crescent.

There is sufficient relevancy. I'll permit the document.

1 (The aforementioned Resolution of  
2 February 15, 1971 is received into evidence  
3 and marked Exhibit PC-14 in evidence by the  
4 Reporter.)

5 THE COURT: I think the record should  
6 reflect and counsel should understand in  
7 accepting Mrs. Thompson's argument on that  
8 resolution I'm not accepting her statement  
9 that defendant municipality's argument is  
10 that the housing needs will be met. I believe  
11 defendant municipality's argument is that the  
12 housing need should be met in the central  
13 populated corridor.  
14

15 DIRECT EXAMINATION (CONTINUED)  
16 BY MRS. THOMPSON:

17 Q Mr. Weinstein, getting back to the studies  
18 which led to the report in the resolution, did you have  
19 occasion to study the increase of the non-white population  
20 of the City of Plainfield, to study the population of the  
21 Plainfield schools in terms of their racial composition?

22 A Yes.

23 Q And what is the racial composition of the  
24 Plainfield schools?

25 A Approximately 80 per cent of the school system is  
non-white.

1 MR. ENGLISH: Is non-white?

2 THE WITNESS: Non-white.

3 BY MRS. THOMPSON:

4 Q Did you also have occasion to study the  
5 income levels of Plainfield City residents?

6 A Yes.

7 Q Do you know what the median income of  
8 Plainfield is?

9 A I'd like to see the census data, rather than just  
10 guess at it.

11 Q I'm showing you a document entitled "1970  
12 Census Data, Plainfield, New Jersey," and ask you whether  
13 this refreshes your recollection?

14 A Yes.

15 The median income of Plainfield, 1970 census,  
16 is 11,000.

17 Q Do you know how that median income compares  
18 to the median income of communities surrounding Plainfield?

19 A No. I wouldn't be able to quote any.

20 Q Now, early --

21 THE COURT: I'm sorry. Was that  
22 individual or family?

23 THE WITNESS: Median income per family.

24 THE COURT: Thank you.

25 MRS. THOMPSON: Excuse me, your Honor.

1 We have one problem. There is a witness  
2 who is sitting here who needs to make an  
3 appointment. I was wondering how late we  
4 will be sitting today.

5 THE COURT: Four o'clock.

6 MRS. THOMPSON: I was just wondering  
7 if we came up a few minutes - Miss Solow,  
8 our next witness, has a piano lesson to give  
9 at 3:30, and it's possible Mr. Weinstein's  
10 testimony will conclude somewhere between 3:30  
11 and 4. I --

12 THE COURT: I doubt it would be logical  
13 to start any witness after Mr. Weinstein.

14 MRS. THOMPSON: Then we can tell her  
15 she can leave. Thank you, sir.

16  
17 DIRECT EXAMINATION (CONTINUED)  
18 BY MRS. THOMPSON:

19 Q Mr. Weinstein, in studying the housing and  
20 land situation in Plainfield, did you have any occasion  
21 to assess the amount of vacant land in the city?

22 A Yes. 96 per cent of Plainfield is developed land.  
23 4 per cent is undeveloped, primarily due to flooding  
24 problems, land susceptible of flooding, topography.

25 Q Now, does the limited amount of vacant land  
within the City of Plainfield in any way complicate the

1 problem of meeting housing needs of the City of Plainfield,  
2 of the residents of the City of Plainfield?

3 A Yes. For a developer to develop in Plainfield,  
4 or in any community, the developer will primarily, unless  
5 it's an urban renewal program where he'll be able to clear  
6 the property - the developer will have to locate or find  
7 vacant land in order to make it economically possible to  
8 develop per the housing program for that community. And  
9 we have very, very little vacant land.

#6

10 Q Now, with regard to the two projects to  
11 which you referred earlier, the fifteen-unit housing  
12 projects, did the City of Plainfield take any specific  
13 actions in order to create the vacant land?

14 A Yes.

15 Q What were the actions taken?

16 A The City of Plainfield after several public hearings  
17 in our high school, and when I say, "the City of Plainfield,"  
18 I mean the City Council, developed a housing resolution  
19 which indicated three locations in Plainfield for future  
20 housing development; and one of those locations were for  
21 scattered site housing and the other two were for specific,  
22 which would be owner occupied, and the other two sites  
23 were private developments. When I say "private" I mean  
24 the multi-family development.

25 Q When you refer to scattered site development,

1 what do you mean?

2 A I mean vacant lots which were city - which are  
3 city owned and which the city has some control over.

4 And they recommended that the City Council recommend  
5 that these single lots, these scattered lots, throughout  
6 the city be auctioned off in a package to developers who  
7 would be interested in developing at that time 235 housing,  
8 which was a form of middle income housing.

9 Q Were there any problems involved in locating  
10 land for such a program that were outside areas of minority  
11 concentration?

12 A Was there any problem?

13 Q Yes.

14 A No. I didn't see any problems.

15 Q Did you find areas of land which were  
16 outside areas of minority concentrations in the city?

17 A No. I mean, Plainfield is an integrated community.

18 Q Now, at the very beginning of your testimony  
19 when you were first describing the City of Plainfield you  
20 referred to it as having a working class population. What  
21 did you mean by that?

22 A Blue collar workers, primarily.

23 Q Have you made any studies to determine  
24 where those blue collar workers who reside in the City of  
25 Plainfield work?

1 A No.

2 Q Had you ever made any study to determine  
3 the extent, if any, of commutation from the City of  
4 Plainfield out to the surrounding area?

5 A No.

6 Q Now, have you at any time made any studies  
7 or had any occasion to observe the relationship between  
8 where these residents of the City of Plainfield live and  
9 where they work?

10 A Yes. We have tried to work on this subject with  
11 our bus transportation concepts that we have been trying  
12 with over the years, over the last three years, and we  
13 have studied the locations of employment for families who  
14 live in a public housing development, mainly because that's  
15 just a matter of looking through files and records.

16 It's much, much more difficult to seek this  
17 information unless you perform your own census counts.

18 So, the answer is, "Yes," but only for public  
19 housing families.

20 Q Do residents of Plainfield public housing  
21 work in Somerset County?

22 A Oh, yes. I don't remember the numbers, but they do.  
23 They do.

24 Q Did you make any attempt to learn how those  
25 residents of Plainfield public housing who work in Somerset



1 County get to work?

2 A Yes. I would say practically all of them either  
3 car pool it or drive their own cars to work.

4 There just isn't any bus system in the region to  
5 get people to work.

6 The railroad just isn't very convenient.

7 Q As a matter of your own personal knowledge  
8 are you aware of any industries in Somerset County which  
9 have had problems of getting their low income workers  
10 into the county for work?

11 A Yes. We have had meetings and correspondence with  
12 one large corporation, and that's Ortho, very, very  
13 recently, within the last few months, to discuss  
14 transportation of employees in the Plainfield area to  
15 Ortho.

16 We have discussed the possibility of Ortho footing  
17 the bill for a bus system that would take people from  
18 Plainfield into the Somerset County area each day, and,  
19 of course, mornings and evenings.

20 Q Do you know where Ortho is located?

21 A I believe it's located in Raritan, 202, 206.

22 Q Now, with regard to your discussions with  
23 representatives of the Ortho Company, did you make any  
24 recommendations to them about what they should do in terms  
25 of getting their employees to work?

1 A Yes. I think the main recommendation that I made  
2 to the Ortho representatives was that, and I meant this  
3 sincerely, was that instead of putting a great deal of  
4 their time and resources into having meetings and  
5 discussions over a bus concept for Ortho, they should  
6 consider the possibilities of developing and providing  
7 housing within their neighborhood or community, which  
8 would provide the housing for the employees that may have  
9 to be taking a bus to get there every morning if they  
10 implemented this system.

11 Q And if a major employer were to move to  
12 Bedminster, New Jersey would you make the same recommendation  
13 to that employer?

14 MR. ENGLISH: I'll object to that as  
15 hypothetical.

16 THE COURT: Sustained. The objection  
17 is sustained.

18 MRS. THOMPSON: I have no further  
19 questions.

20 MR. LANIGAN: I have no questions.

21 THE COURT: Why don't we take a two  
22 minute break before we have cross examination  
23 by Mr. English.

24 (Recess.)

25 MRS. THOMPSON: Your Honor, I have one

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more question which I neglected to ask Mr. Weinstein before the recess.

THE COURT: All right.

**DIRECT EXAMINATION (CONTINUED)**  
**BY MRS. THOMPSON:**

Q I was just wondering, Mr. Weinstein, if you could explain to the Court why you advised the Ortho Pharmaceutical Company to work towards building housing rather than busing their people?

A I think the main reason why we advised them was that Plainfield - while the community of Raritan or the community or the industry is located, in this case it's Raritan, pays the taxes to Raritan, Plainfield, the community of Plainfield, and its residents, are primarily burdened with the educational costs, as well as the services that are attached to the homeowner of our community, and we feel that this is a very strong cost to pay for our community where we have such high taxes already.

Q Did your suggestion to the representatives of Ortho Pharmaceutical have anything to do with the conditions of the workers, themselves?

A The conditions of the workers? Just that it was - we felt, our staff felt, that the workers could benefit by living much closer, to have a better style of life by living closer to their place of employment.

1 Q Okay.

2 MRS. THOMPSON: I have no further  
3 questions.

4 MR. LANIGAN: No questions.

5  
6 CROSS EXAMINATION  
7 BY MR. ENGLISH:

8 Q Mr. Weinstein, you stated earlier in your  
9 testimony that your department works with the Plainfield  
10 Area Chamber of Commerce, I think?

11 A It's now the Plainfield Central Jersey, as of last  
12 month.

13 Q Okay. Can you tell us, please, what  
14 municipalities are embraced within the jurisdictional  
15 area of that body?

16 A Yes. I would say that the communities of North  
17 Plainfield, Watchung, I believe Green Brook, as well,  
18 Dunellen - those are the communities that I know of in  
19 Somerset County.

20 I'm not sure whether it goes as far as Bound Brook,  
21 off the top of my head. But, it encompasses communities  
22 from each of the three counties.

23 Q Can you give us all the communities, regardless  
24 of county?

25 A Yes. Well, I wouldn't be - would you like me to  
guesstimate instead of being accurate? Because I can't

1 really, you know, from the top of my head - I can't really  
2 come up with a direct answer to your question, a precise  
3 factual answer.

4 Q Anyway, you're reasonably sure that Watchung  
5 and Green Brook and North Plainfield are the only ones in  
6 Somerset County that would be included?

7 A At least those. Yes.

8 Q Well, are you sure that Bedminster is not  
9 included in?

10 A Might be also Warren. Yes, I am sure of that,  
11 if that was your question.

12 Q Can you tell us to what municipalities  
13 outside of Plainfield most of your low income workers  
14 commute to? You said they commute - commuted by car.  
15 Can you identify the municipalities where most of them  
16 work?

17 A No.

18 Q Do you know of any that work in Bedminster?

19 A I don't know of any.

20 Q Mr. Weinstein, I direct your attention to  
21 Table 7 in your report which has been marked Exhibit  
22 PC-13.

23 Am I correct that that table is entitled,  
24 "Residential Aspects of Zoning Ordinances, Plainfield  
25 Region"?

1 A Yes.

2 Q And tell us, please, which municipalities  
3 you list in that table.

4 A All of them?

5 Q Yes.

6 A Dunellen, Piscataway, South Plainfield, Green Brook,  
7 North Plainfield, Watchung, Fanwood, Plainfield, Scotch  
8 Plains.

9 Q In that table you show which of these  
10 municipalities provides in its Zoning Ordinance for  
11 multi-family dwellings?

12 A Yes.

13 Q And which ones do?

14 A Well, there's Plainfield, and there is an asterisk  
15 next to North Plainfield, which indicates that at the time  
16 of the writing, which was in 1971, North Plainfield had  
17 proposed in its Zoning Ordinance a provision for multi-family,  
18 called the B. O. A. Zone, Business, Office, Apartment Zone,  
19 in its downtown area, at which point there was a residential  
20 lawsuit made against the Borough Planning Board and the  
21 Borough Council, and at that point the Borough Council  
22 and Borough Planning Board pulled out its recommendations  
23 for an apartment zone in North Plainfield, as well as  
24 the Republican Chairman and Republican Council at the next  
25 election converted into a Democratic Mayor and Democratic

1 town. So, there were very hard feelings about that  
2 rezoning from a social and political standpoint.

3 Q So, the possibility alluded to in your  
4 asterisk in this table did not come to pass?

5 A Correct. It was proposed at the time of this  
6 writing. Unfortunately, it fell through.

7 Q Right. So that do I understand correctly  
8 that of the six municipalities listed in this table --

9 A There's nine.

10 Q Nine. Thank you. Of the nine municipalities,  
11 Plainfield is the only one that has any provision for  
12 multi-family housing in its Zoning Ordinance?

13 A Yes.

14 THE COURT: Does that take into  
15 account the thirty or forty per cent of  
16 the housing, existing housing, units in  
17 North Plainfield being garden apartment?

18 THE WITNESS: That's in use variance.  
19 That was public hearings.

20 THE COURT: Wasn't that zoned for  
21 that in the mid 1960's?

22 THE WITNESS: I wouldn't know.

23 THE COURT: There are a few thousand  
24 apartments in North Plainfield along Route

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THE WITNESS: A few thousand?

THE COURT: Two to three thousand,  
if you go from Regency Village all the way to  
Green Brook.

THE WITNESS: There are many, but I  
don't have the exact number. Could be.

THE COURT: All right.

BY MR. ENGLISH:

Q Mr. Weinstein, in your direct testimony you  
made some reference to the high real estate taxes in  
Plainfield.

A Yes. In fact, the highest real estate taxes in  
our county.

Q And is it not true that the laws which create  
the municipal real estate taxes are state laws?

A Yes.

Q Beyond the control of any municipality?

A Yes, sir.

MR. ENGLISH: I have no further questions.

MRS. THOMPSON: I have no questions on  
redirect.

THE COURT: Mr. Lanigan?

MR. LANIGAN: No.

THE COURT: That last point, Mr.  
Weinstein, raises a question in my mind. You



1 referred to your advice to the executives  
2 at Ortho of using their good offices to  
3 persuade the community to which they pay  
4 taxes to permit construction of residential  
5 units for Ortho employees?

6 THE WITNESS: Yes.

7 THE COURT: As opposed to providing a  
8 daily bus service to Plainfield and back?

9 THE WITNESS: To give their resources -  
10 to give of themselves, or begin to negotiate,  
11 discuss and work on this specific area,  
12 rather than negotiate with our community  
13 for a system of - a bus system. Yes.

14 THE COURT: As a licensed city planner  
15 and an experienced and educated planner, if  
16 the tax laws in New Jersey were different  
17 and everything were dependent upon the local  
18 real estate taxes, would it be as important  
19 in your view as planner that every community  
20 provide residences for every type of income  
21 level as it now is?

22 Or would it be logical to go back to  
23 the way things were forty or fifty years ago  
24 where people lived by income and neighborhoods?

25 THE WITNESS: I feel that I'm an

1 advocate of the new planning legislation  
2 that has been created, that has been  
3 proposed, which is the fair share concept  
4 of giving the responsibilities to each of  
5 the community planning boards by the state  
6 to come up with a fair share plan for  
7 different levels of housing for different  
8 levels of family incomes per that county.

9 THE COURT: Would your support be  
10 modified if there were a change in the tax  
11 structure of the state?

12 THE WITNESS: I wouldn't personally  
13 feel different. I wouldn't, no. I wouldn't  
14 feel any different one way or the other.

15 I hope that there is a tax structure  
16 change, obviously, for Plainfield, communities  
17 like Plainfield, but I wouldn't change my  
18 opinion, professional opinion, about housing  
19 needs and sharing of those housing needs.

20 THE COURT: Is there any legitimacy  
21 in planning to the theory of use zoning that  
22 would be oversimplified, reflecting the  
23 phrase that birds of a feather tend to flock  
24 together, allowing for those with like means  
25 and interests to live near one another?

1 THE WITNESS: It's a very philosophical  
2 question, really. I have found that in  
3 Plainfield, communities like Plainfield  
4 where I have worked, there is a need for  
5 the Italians to live in close proximity to  
6 the Italians, the Jews to live in close  
7 proximity to Jews, and the blacks to live in  
8 close proximity to the blacks. But, I haven't  
9 I feel a healthy community would be a  
10 community that has a healthy - a healthy  
11 neighborhood would be a healthy neighborhood  
12 that has a healthy economic mix, where my  
13 family could rub elbows with a family from  
14 a higher income level and my family could  
15 rub elbows with a lower income family.

16 That's my own personal feeling.

17 THE COURT: Is that a realistic goal,  
18 in your opinion? You have to take human  
19 nature into account in planning, don't you?

20 THE WITNESS: Sure. Is it realistic?  
21 I think if it's to be successful, if planning  
22 for all levels of incomes is to be realistic,  
23 I think that you must have different income  
24 families with different incomes living  
25 alongside of each other.

1 I think for us to get away from the  
2 segregating poor people in one corner of a  
3 community and segregating the middle income  
4 people in another corner of the community -  
5 I think that's no longer a realistic concept  
6 for today. And I think that we have to get  
7 away from that and begin to bring in the  
8 different levels of income families together.

9 I feel very strongly about that, and  
10 I advocate the mixing of -- in the  
11 developments that we try to create in  
12 Plainfield, I try to advocate the mixing,  
13 the getting away from the project where the  
14 low income family lives with two hundred  
15 other low income families. I think that's  
16 nothing more than a ghetto, potential  
17 ghetto, for that development, and I think  
18 you see that all over the state, wherever  
19 there are housing developments where low  
20 income families live next door to each  
21 other, and eventually turns into a  
22 deteriorated community, deteriorated  
23 neighborhood.

24 THE COURT: From your reading in  
25 your field as an expert are there any places

1 that you know of where it has been  
2 successfully accomplished, that the  
3 introduction of various income levels in  
4 the same adjacent neighborhood has stabilized  
5 and remained thus?

6 THE WITNESS: The only area that I  
7 can quote as someone who has read on the  
8 subject is a new community that has been  
9 formed in Maryland, and that's Columbia,  
10 Maryland, where there is the mixing of  
11 different classes of people within one  
12 environment, within one community, within  
13 one neighborhood.

14 THE COURT: Is that about ten or  
15 twelve years old now?

16 THE WITNESS: That might be. Yes.  
17 I would say it's about ten years old. I  
18 remember looking at it when I was in college.

19 THE COURT: That has proved to be  
20 stable?

21 THE WITNESS: That has proved to be  
22 quite stable and successful.

23 And, of course, the other community  
24 that has provided different kinds of mix is  
25 a community where you have low rise, high rise,

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single family ownership, rental occupancy in one community or one neighborhood, which has been quite successful and which has proved to be a landmark, which is Radburn, which is a community in Fair Lawn, New Jersey, which is probably the oldest Green Belt community in the United States.

THE COURT: How do you spell that?

THE WITNESS: R-A-D-B-U-R-N. Radburn.

THE COURT: Thank you.

Any other questions?

MR. LANIGAN: No, sir.

MRS. THOMPSON: No, sir.

THE COURT: Thank you.

THE WITNESS: Thank you very much, sir.

THE COURT: We'll recess until nine o'clock tomorrow morning.

(Court adjourned.)

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - SOMERSET COUNTY  
L-28061-71 P. W.

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LYNN GIESWICK, et als, :

Plaintiffs, :

vs. :

THE TOWNSHIP OF BEDMINSTER, :  
et als, :

Defendants. :

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C/W :

L-28837-72

THE ALLAN-DEANE CORPORATION, :  
etc., :

VOLUME II

Plaintiff, :

vs. :

THE TOWNSHIP OF BEDMINSTER, :  
etc., :

Defendant. :

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MR. BUCHSBAUM: If the Court please,  
we'll call as our first witness this morning  
Miss Rita Solow.

R I T A                      S O L O W,      called as a witness in  
behalf of the plaintiffs Cieswick, et al, being first  
duly sworn, testified as follows:

THE SERGEANT-AT-ARMS: State your full  
name and spell your last, please.

THE WITNESS: Rita Solow. S-O-L-O-W.

THE SERGEANT-AT-ARMS: Thank you. Be  
seated, please.

DIRECT EXAMINATION  
BY MR. BUCHSBAUM:

Q            Mrs. Solow, where do you currently live?

A            98 Grove Street, Somerville.

Q            How long have you lived at that address?

A            About seven years.

Q            How long have you lived in Somerville?

A            Since 1953.

Q            When had you first become involved in what  
might be broadly termed as human rights activities?

A            Well, about five years after we lived in Somerville,  
I moved to Somerville, we happened to meet some people who  
had taken an adult education course under Archie Montague,



1 called, "Human Relations Course." The course was over,  
2 but we were invited over to join the group. It was  
3 strictly a discussion group, not an activist group.

4 What we discussed were various types of activities  
5 and relationships and what people do to one another.

6 Out of this grew a need to correct some of the  
7 deficiencies that we saw in human relationships around  
8 us, and a human rights council of the Somerville area  
9 developed, not all of the people from the human relations  
10 council, but some, put together a human rights council  
11 which applied itself strictly to problems of minority  
12 groups, and the exclusion of them from the main stream of  
13 life, specifically, in housing and employment.

14 Q When you say, "deficiencies" in human  
15 relations that you had noticed exactly what did you have  
16 in mind?

17 A What did we have in mind? We had in mind the fact  
18 that minority groups in this area, both black and Hispanic,  
19 were being excluded from good and decent and sanitary  
20 housing in most of the areas of Somerset County.

21 Also, we were receiving - as soon as we organized  
22 we were receiving many complaints that had to do with  
23 employment problems. They were being excluded also from  
24 the kinds of employment that other people were able to  
25 get easily.

1           So, housing seemed to be the focus, however,  
2 because it was the most urgent of the needs.

3           Q       At this time, which, I guess, would have been  
4 the late fifties, early 1960's, was there any countywide  
5 organization operating with regard to these problems?

6           A       No, there wasn't.

7           The human rights council of the Somerville area  
8 was the first one that took on this burden. But, shortly  
9 thereafter the black community in the area with a few white  
10 people in coalition with them organized a chapter of the  
11 N. A. A. C. P., National Organization for Advancement of  
12 Colored People. It was the first of the civil rights  
13 organizations that really organized in this area.

14          Q       What did the human rights council do at the  
15 time?

16          A       What did the human rights organization do? We let  
17 it be known through other organizations that we existed  
18 for one thing. We had already come in contact through the  
19 human relations group with some minority members who  
20 immediately spread the word that we were going to assist  
21 in any way possible in cracking some of the barriers that  
22 were keeping black people from living in what was then  
23 lily-white neighborhoods and suburbs and garden apartments,  
24 and so on, places from which they were excluded.

25          Q       What was your role in the council?

1 A At first I was just a member. We had perhaps  
2 fifty or sixty members, and only a chairman. We didn't  
3 have a very formalized structure. We had a chairman who  
4 then was labelled a president, and after that I became  
5 President for two years.

6 Q Which two years were those?

7 A I don't think I can be exact. It was probably  
8 1964 and '65 or '65 and '66. I'm not sure.

9 Q You mentioned the formation of a chapter  
10 of the N. A. A. C. P. When did that take place?

11 A I think that was just about the same time, just  
12 in that '64-'65 period.

13 Q What was your part in the formation of  
14 that chapter?

15 A I had no part in it. There was a news release  
16 in the newspaper that it was going to be formed, but I  
17 don't know who put the news release in the paper, but  
18 the public was invited and anybody who wanted to come to  
19 it could come.

20 I went. There were just a few sprinklings of white  
21 people, and mostly black. They proceeded to organize  
22 according to the charters that are handed down from the  
23 National N. A. A. C. P. There is a very specific type of  
24 organizational charter that you have to follow.

25 So, shortly thereafter officers were elected and,

1 you know, the procedures were exact. And I was asked  
2 to be on the Executive Board.

3 Q You say a sprinkling of white people.  
4 Roughly, how many?

5 A I would say at the first meeting there were about  
6 four out of, perhaps, fifty people.

7 By the second or third meeting there were up to  
8 twenty.

9 Q Aside from this group at this time were  
10 there any other individuals or groups active in what  
11 might be broadly termed civil rights activists in Somerset  
12 County?

13 A In Somerset County?

14 Q Yes.

15 A I don't believe so. I think the human rights  
16 council and the N. A. A. C. P. were the only two at that  
17 time.

18 Q As a member of the Executive Committee of  
19 the N. A. A. C. P., what kind of things did you do?

20 A Well, the chairmanship that I was given was called,  
21 "Community Coordination Chairman." And I suppose to that  
22 I would be called, "Chairperson."

23 We were supposed to become knowledgeable about the  
24 entire county, the municipalities in that county, orient  
25 ourselves with the organizations that existed, such as

1 Rotary, Lions, League of Women Voters, Jaycees, Chamber  
2 of Commerce, and so on, and relate to them. I was in  
3 charge of relating to them either through a speakers  
4 bureau or through inviting them to our meetings, or having  
5 us invited to their meetings.

6 In other words, it was exactly what - what the  
7 title said, community coordination, to acquaint the rest  
8 of the county with the problems that minority groups were  
9 encountering.

10 Q At this time what did you feel the problems  
11 to be?

12 A Again, basically, the most salient one was housing,  
13 and the second was employment.

14 Q What was your success in interesting other  
15 groups in programs of your organization?

16 A We got verbal agreements from people who said,  
17 "yes, you are doing the right and moral thing," but not  
18 much else. We didn't get any active involvement. In  
19 fact, I would guess that that - this is just an opinion  
20 - that there was resistance.

21 For instance, several real estate people came to  
22 me and said, "Look, you're doing what's right, and,  
23 undoubtedly, that will come, what you're striving for  
24 will come, but we're not going to lift a finger to help  
25 you." That was told to me directly by several real estate

1 people.

2 Q When they said, "You're doing what's right,"  
3 and, "That will come," what's right in that?

4 A Integrated housing, good housing, enough housing,  
5 moderate income housing.

6 Q And do you have any notion of how many  
7 realtors told you this kind of thing?

8 A Well, at least two told me this directly to my  
9 face. It was indicated to me that this was the feeling  
10 of most of them, but that was just simply an indication.

11 Q How was it indicated to you that that was  
12 the feeling of most of them?

13 A The two that told me told me this was the feeling  
14 of other real estate people.

15 Q What area did they say they were speaking  
16 for?

17 A This county, because it was a county association  
18 of realtors.

19 Q Now, what specific programs -- aside from  
20 the community coordinating for the N. A. A. C. P., were  
21 you involved in any specific programs?

22 A Yes. Well, I hadn't curtailed my activities with  
23 the human rights council. This was a dual role I was  
24 playing. However, between the two organizations we were  
25 able to integrate several of the - well, specifically,

1 Brookside Gardens, which is an apartment complex in  
2 Somerville, we got the first black family in there.  
3 We got the first non-white family in Branchburg. And  
4 they were problems. The family in Branchburg got a rock  
5 thrown through the window. They were all typical problems  
6 that were happening during the sixties when change was  
7 coming about. It wasn't easy. It was a struggle all  
8 the way.

9 In sitting down and discussing how to break into  
10 this cycle of both poverty and discrimination we came to  
11 the conclusion that you had to start with the very, very  
12 young.

13 So, long before there was a Head Start Program,  
14 I would say five years before there was a Head Start  
15 Program, we decided to organize a pre-school for welfare  
16 children.

17 Q This would be about 1963, or so?

18 A No. It would have to - yes. '64, probably.

19 The dates are a little hazy.

20 Q You mentioned Brookside Gardens. Were  
21 you in court yesterday?

22 A Yes.

23 Q Was that the same Brookside Gardens to  
24 which Mrs. Horvath was referring as one of the places -  
25 few places she could tell people to go to?

1 A Yes. At that time there was some turnover and  
2 some vacancy rate. Today there isn't any. There's a  
3 turnover, but the vacancy rate is zero.

4 Q Until your organization became active,  
5 with regard to Brookside, had they refused black applicants?

6 A Yes.

7 Q What specific action did you take with  
8 regard to Brookside?

9 A We worked through the Civil Rights Division of the  
10 State of New Jersey.

11 Q How did that work?

12 A Well, with effort we got the first one in, with  
13 great effort. There was a point at which we had twenty  
14 cases pending all at the same time because there was no  
15 cease and desist order given to the landlord. He just  
16 continued to discriminate, and only under the greatest of  
17 pressure, severe pressure from the state, did he finally  
18 open one or two apartments after awhile.

19 Now, I would say that there is a substantial  
20 number of black people living in Brookside. However,  
21 there is a white section and a black section. He has  
22 managed to keep it that way.

23 Q Did you have similar experiences with other  
24 apartment complexes in Somerset County?

25 A Yes. When South Bridge Gardens opened on South Bridge



1 Street --

2 Q Is that in Somerville?

3 A In Somerville. It was a more luxury-type apartment,  
4 mostly one bedroom apartments, and a few two bedrooms,  
5 professional black couples were trying to get in there,  
6 people who had jobs in the area or near this area, who  
7 needed a one bedroom apartment, perhaps, and it was very  
8 difficult for them to get in.

9 Again, we took the case to the Civil Rights Division,  
10 and, again, we cracked that, with pressure.

11 Q Any others?

12 A Well, the purchase of the home in Branchburg was  
13 a very difficult situation. It did not involve the  
14 Civil Rights Division, but it involved my enlisting the  
15 aid of the State Troopers, somebody from the Employees  
16 Community Relations of the State - I guess that was the  
17 Civil Rights Division - and a whole group of volunteers  
18 who helped this family move in. It took all that. The  
19 resistance in Branchburg was incredible.

20 As I said, there was a rock through this person's  
21 window, garbage strewn on the lawn, harassment, threats,  
22 and so on.

23 After about three months in which we found out who  
24 was doing a lot of the threatening and a lot of the damage,  
25 it ceased, and the people are still living there.

1 Q At this time did you form any conclusions  
2 as to the nature of attempts by black citizens to find  
3 housing in Somerset County?

4 A Yes. We formed conclusions. We formed conclusions  
5 that it was a great struggle, and that it took a tremendous  
6 amount of guts for any black person to move into a solid  
7 white community and subject their children to that kind of  
8 terror and harassment.

9 Q You mentioned a pre-school program in which  
10 you have been involved. Could you describe that program?

11 A Yes. As I said, we had decided that one way to  
12 break into the cycle was to start with the very young,  
13 and I was asked to do everything I could to organize this,  
14 since this seemed to come under the heading of Community  
15 Coordination.

16 The first thing I did was to go up to the Welfare  
17 Department and speak with Mrs. Giamroy who understood what  
18 I was trying to do and was extremely cooperative and said  
19 that normally she does not give out names of welfare  
20 families, that normally all of the material is secret,  
21 but that if she spoke to the families first and if they had  
22 a four-year old or three-year old and if they would welcome  
23 me to come to their home to discuss the idea of a pre-school,  
24 then she would give me the names of the children.

25 This is exactly what happened, and I went to each

1 home with the President of the N. A. A. C. P.

2 We went to each home and sat down for an evening  
3 with the family, described who we had in mind, and got  
4 very cordial receptions everywhere. Everybody was willing  
5 to have their children enlisted in such a program.

6 I then went to Northover Camp on Vosseller Avenue  
7 in Bound Brook, which is a summer camp for underprivileged  
8 children from New York City run by Christodora House,  
9 which is a settlement house in New York City, asked them  
10 if they had a winterized building in which we could meet  
11 for this purpose, because they didn't use the premises  
12 during the winter, and they were more than willing to  
13 give us a building to have this nursery school.

14 So, all that remained was to get volunteer teachers  
15 and food.

16 So, I called a great many women that I knew who  
17 were free during the daytime, and I got a complete  
18 resounding "Yes, I'll help you." Everybody was interested  
19 in doing this.

20 I went to the various churches and asked if they  
21 would supply the food for the pre-school, and, again,  
22 I was met with great success. It seems that everybody  
23 is interested in children.

24 So, for four years we operated this nursery school  
25 on no budget whatever. Equipment was given to us by

1 Industry. Ortho gave us beautiful playground equipment.  
2 Various other organizations gave us our paper supplies,  
3 excels, paints, and that sort of thing.

4 The only expense we had was approximately a  
5 hundred dollars a year for insurance, and that cost was  
6 split between the Human Rights Council and the N. A. A. C. P.

7 Q During the course of this program did you  
8 have occasion to - strike that.

9 Roughly, how many children were involved  
10 in this program?

11 A Over the years? Over the four years, perhaps a  
12 hundred.

13 Q And at one given time there would be a  
14 hundred in the program?

15 A Oh, no. No. I'm saying that was the sum total.  
16 Some stayed two years, some stayed less than two years.

17 We didn't have, you know, a large staff, and it  
18 was only a volunteer staff, and we could not handle a  
19 great many children.

20 Q Did you have about twenty-five at any one  
21 time?

22 A Yes. Something like that.

23 Q During the course of your involvement with  
24 this program did you have occasion to visit the homes  
25 of the people?

1 A Always.

2 Q Who were involved?

3 A Always. And I involved the parents in the program  
4 as much as possible so that we could have some input from  
5 the parents as to what the children's needs were.

6 I went to the homes. I frequently had to help  
7 the children get dressed in the morning if the parent was  
8 sick or absent, or that type of thing.

9 We had black, white and Spanish-speaking children  
10 from all parts of Bound Brook, Bridgewater, Somerville,  
11 Bradley Gardens. And I think those were the four  
12 communities we touched on. Perhaps some from Hillsborough  
13 and Branchburg. I think we did have a few from there.

14 Q Roughly, these children were all families  
15 from Welfare? All Welfare families?

16 A Welfare or the working poor.

17 Q And in the course of visiting their homes,  
18 what kind of housing situations did you observe?

19 A Well, some of them were indescribable. In one house  
20 - I know this will be hard to believe - I saw eighteen  
21 people living in three rooms.

22 I saw one family of ten living in a chicken coop  
23 that had neither heat nor indoor running water, nor indoor  
24 toilet facilities.

25 Q Could you describe generally - could you give

1 generally an assessment of the housing situations that  
2 you saw?

3 A Generally, they were substandard. Generally,  
4 I was shocked that the people could keep them even a little  
5 bit clean and neat. Most of them were clean and neat, but  
6 I don't know how they kept it that way, considering the  
7 fact that there was in many cases outhouses and lack of  
8 water. Of course, they had water, but it was outside.

9  
10 In one case I went to visit a family on a very cold  
11 morning in January, and I introduced myself, and I said,  
12 "I would like Michael to become part of my nursery school.  
13 May we start picking him up tomorrow morning?" And the  
14 mother said, "Yes. I have heard of your nursery school,  
15 and, yes, you can have him, but you can't have him till the  
16 end of March."

17 And I said, "Well, can you give me a reason why  
18 you can't start with him right away?" She said, "Yes. I  
19 intend to keep him in bed until March, because we have no  
20 heat."

21 Q Roughly, how many families did you visit  
22 during the course of this program?

23 A Just about all of them.

24 Q About a hundred?

25 A Yes. Plus other families who were friends of theirs.  
And I just simply got to know the community.

1 Q Were there many exceptions to the kind of  
2 conditions that you have just described?

3 A Yes. A few people had livable quarters, but in  
4 some cases there were two families doubling up, because  
5 they couldn't find other places.

6 I mean, the homes, themselves, were livable, but  
7 they were frequently overcrowded.

8 Q Could you give an estimate as to the hundred  
9 families, roughly how many would you describe as not being  
10 either overcrowded or substandard?

11 A You mean good conditions? Maybe twenty out of a  
12 hundred.

13 Q Did you have any reason to believe that the  
14 families you saw were not typical of the poor families  
15 in Somerset County?

16 A No. I would say they were typical.

17 Q And eighty per cent of those families live  
18 in conditions as you would describe as substandard?

19 A I would describe it so. Yes.

20 Q During this time, I guess the middle - toward  
21 the late sixties, did you have any other means of involvement  
22 with housing problems in Somerset County?

23 A Yes. Well, you see, once a person gets known and  
24 has some kind of a reputation for being willing to assist,  
25 the phone calls come thick and fast. So, I was getting

1 just continual phone calls from social workers, from  
2 agencies within the county, from the schools, such as the  
3 school social worker or school special services department,  
4 whatever, saying, "Are you the person that finds housing?"  
5 I would say, "Well, what's the problem?" Invariably,  
6 they would pour out a very heartbreaking story about a  
7 family in trouble, in trouble that was like, you know,  
8 the house was being sold out from under them, or it's  
9 going to be torn down to make room for a jurors' parking  
10 lot, or whatever, all kinds of things happening, housing  
11 gets torn down, urban renewal was displacing many, many  
12 families in the town, and the urban renewal agency was  
13 having a terrible time relocating these families.

14 So, my phone rang constantly over the years with  
15 people with urgent, real emergency housing problems.

16 In most cases we had a very difficult time helping  
17 them. In some cases we were successful. In some cases  
18 they had to break up their families, send the children  
19 out of state to a grandmother, or move far out of their  
20 county, far, far away from whatever employment they did  
21 have.

22 All sorts of hardships were evident.

23 Q It may be a little difficult, but, perhaps,  
24 you can quantify for the Court the number of calls or  
25 complaints you were getting at this time?



1 A It would be difficult, but I would say not a day  
2 went by that I didn't get at least one.

3 Q So, it would be at least several hundred  
4 per year?

5 A Oh, yes.

6 Q Would you give the Court some idea of the  
7 amount of time you were able to actually help someone?

8 A Well, it depended upon the type of problem. If  
9 it was a matter of a person saying, look, I put in an  
10 application at Pine Grove, Brookside, wherever, or, I  
11 answered an ad in a newspaper and I was rejected because  
12 of my color, then it was a lengthy procedure to go through  
13 this Civil Rights Division. That takes months. So, those  
14 successes were a little bit slower. But, frequently, we  
15 succeeded.

16 I would say that the success ratio there was quite  
17 high, but slow.

18 When it --

19 Q How many cases did you process through  
20 civil rights?

21 A Oh, heavens, maybe fifty.

22 Q What was the success rate on these cases?

23 A Well, I'm not sure I can be exact. It was probably  
24 seventy-five per cent.

25 Frequently, you see some people lose heart during

1 the struggle and just by the time we get the apartment  
2 for them they have decided not to challenge it.

3 Q What towns were involved in these cases?

4 A Somerville, Bridgewater, Bound Brook, Franklin.  
5 I'm not sure that there were any others.

6 Q Did you have any reason for why those  
7 particular towns were involved in a lot of this?

8 A Yes, because housing that was within the price  
9 range, the market range, for these people was available  
10 in these communities. Outside and up further they just  
11 couldn't approach the cost.

12 Q Would you include Bedminster as one of those?

13 A Yes.

14 Q Before you had started to talk about other  
15 kinds of remedial action you may take. Can you tell the  
16 Judge what other steps you were involved with in helping  
17 people?

18 A Yes. Well, after you begin to take these one by  
19 one cases you realize that the problem will never be  
20 solved in a one by one manner, and that there had to be  
21 massive changes made in the entire housing picture before  
22 we could satisfy, even remotely satisfy, all of the needs  
23 that were so evident.

24 So, I sat down one time with a very widely based  
25 cross section of people. These were grass roots people,

1 people - when I say that, I mean people who were in need  
2 of housing, community people from the middle class level,  
3 a few minority people, professional people, businessmen.  
4 In other words, it was a wide ranging group of people.

5 We formed a non-profit housing corporation, which  
6 is now known as Somerset County Housing Association. The  
7 purpose of it was to incorporate and contract for funds  
8 with both the state and the federal governments which  
9 would enable us to pursue all avenues of improving the  
10 housing opportunities for people who were denied good  
11 housing opportunities.

12 Q When did this formation take place?

13 A We began to meet in 1968, in the Spring of 1968,  
14 and I was asked by the group to become chairman pro tem  
15 until we were a real organization. So, I accepted.

16 When we finally organized properly we got our  
17 incorporation papers signed on September 6, 1968.

18 Q Now, you had stated that one of the reasons  
19 you were involved in this formation was your decision  
20 that a case by case approach no longer worked?

21 A Right.

22 Q And you mentioned that you had been  
23 involved in a slow case by case process in the Division  
24 of Civil Rights?

25 A Well, those were strictly concerned with discrimination.

1 Q Were there any other things that you were  
2 involved with that led you to the conclusion that a case  
3 by case approach was no longer a viable one?

4 A Just the fact there wasn't enough housing. We  
5 just came to the conclusion that housing had to be built.  
6 There simply wasn't enough housing.

7 There were other houses which were falling apart  
8 and could easily have been rehabilitated. All this  
9 became part of our thinking. We realized that poor people  
10 and black people were systematically discriminated against  
11 in applying for mortgages, so that, you know, if they  
12 wanted to buy a home, if they could succeed in buying a  
13 home, this really became a hurdle that many of them  
14 couldn't jump.

15 So, there were many approaches that we intended  
16 to pursue. We intended to pursue building, rehabilitating,  
17 mortgage assistance, rent supplement, and anything else  
18 that you can think of that would alleviate these difficulties.

19 Q As chairman of the newly formed Somerset  
20 County - then called Somerset County Housing Association,  
21 what were your responsibilities?

22 A When it was finally incorporated I was elected  
23 President, and I remained President for two years.

24 My duties were to set up committees, so that it  
25 would be still a very widely based organization. We had no

1 Intention for it to become run by any kind of clique.

2 We wanted every committee to be manned by people from all  
3 levels of our community.

4 So, we set up a site committee, a rehab committee,  
5 a purchasing committee and a committee to look into the  
6 possibilities of co-ops.

7 Q Could you describe the responsibilities of  
8 the site committee?

9 A Yes. The site committee was asked by the group  
10 to spend as much time as it could as a group riding around  
11 the county, almost every last inch of the county, if  
12 possible, determining where there were open spaces for  
13 new building, determining where such building had never,  
14 you know, been existant, determining where good roads  
15 might lead to - I'm not phrasing it well - to accessibility,  
16 I suppose, for housing; determining where there would be  
17 the least number of problems in trying to construct low  
18 to moderate income housing.

19 Also, they were supposed to determine where there  
20 were houses possibly to be rehabilitated.

21 Q Did the site committee look at the Somerset  
22 Hills area, specifically, Bedminster?

23 A Yes, it did.

24 MR. BOWLBY: What was that answer?

25 THE WITNESS: Yes, it did.

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MR. BOWLBY: Thank you.

BY MR. BUCHSBAUM:

Q Did they report back to you as to what they found in that area?

A Yes. They found wide open spaces. They found beautiful lands, and no low to moderate income housing.

Q Did they come to any conclusions as to the advisability of involving themselves with a site plan in that area?

A Yes. We discussed it at great length.

We discussed the fact that the problems would be tremendous, and that before we tried to overcome the obstacles there we would aim for success in places where the obstacles weren't quite so great.

Q When you talk about obstacles, what do you have in mind?

A Zoning problems, sewers, electric lines, roads.

In other words, it would have to be a whole new hell on earth there.

But, in a place like, let's say, Somerville or Boston or Franklin, where most of these things already were in existence, we wouldn't have quite the problems that we would have up in The Hills.

Q So, what did you conclude with regard to site planning?

1 A We concluded that that would not be a first  
2 priority, but, perhaps, a later one, that we would aim  
3 for an easier success first so the people wouldn't get  
4 discouraged right away.

5 Q Talking about this easier success, what,  
6 in particular, did you have in mind?

7 A Well, we were fortunate enough to meet someone  
8 who owned 4.4 acres in Somerville and was willing to  
9 hold that land for our purposes. In other words, he was  
10 interested in helping us build low to moderate income  
11 housing. He would be the construction expert in this  
12 situation. It was his - he owned the land.

13 So, we agreed to work together and try for the  
14 development of some kind of low to moderate income housing  
15 in Somerville where the need was very great because of a  
16 great deal of substandard housing, also where there was  
17 already a street, already electricity and sewers and mass  
18 transportation, and where the families already lived.

19 Some of the families that we were concerned with  
20 already lived in Somerville.

21 Q You mentioned that you had a number of  
22 committees. Did you decide that this site and building  
23 approach was going to be given priority over some of the  
24 other approaches to the housing situation in Somerset  
25 County as you then viewed it?

1 A Did we decide that the Somerville project would  
2 take priority?

3 Q That the idea of buying or constructing  
4 housing would be given priority over other possible  
5 approaches?

6 A High priority, because there wasn't enough housing.

7 Q What were some of the other approaches that  
8 you had considered?

9 A One of the other approaches was the fact that Pine  
10 Grove Manor, which is, I think, two hundred and ninety-eight  
11 or three hundred and ninety-eight unit apartments in  
12 Franklin Township, was going to come up for auction, and  
13 we thought that perhaps if we could own it we could turn  
14 it into a co-op.

15 So, we were planning to purchase Pine Grove Manor.

16 Q What happened with that?

17 A It just wasn't feasible. They wanted a very large  
18 down payment, and we just weren't able to swing it. We  
19 were a non-profit group. We had no money, except what  
20 we were contributing out of our pockets.

21 Q What other approaches did you consider at  
22 the time?

23 A Mortgage assistance and rent supplement.

24 Q Is it fair to say that at this stage, I  
25 guess 1968 or so, you decided to give a big push on the



1 site with regard to Somerville?

2 A Yes. But, just before we gave the big push on the  
3 Somerville site we decided that that would take time,  
4 so that just preliminary to that we wanted another, you  
5 know, chance at some kind of success that we would keep  
6 the people from becoming too dispirited. So, we applied  
7 for a grant from the State of New Jersey, Department of  
8 Community Affairs, through their housing finance agency,  
9 a grant which would enable us to administer a mortgage  
10 assistance and rent supplement program.

11 We wrote the proposal. We had legal assistance  
12 in drawing it up, and we were granted \$145,220 in 1969  
13 to carry on a three-year program.

14 That money was not to be administered to the people.  
15 This was to engage a staff.

16 Q Now, getting back to the Somerville project,  
17 what steps did you take with regards to that site in  
18 Somerville?

19 A What steps did we take? Well, the first thing we  
20 did was to engage the services of a planner, a planner  
21 who helped us to understand what we could do with that  
22 land.

23 We engaged the services of an architect, who gave  
24 us some excellent advice on how best to utilize that land.

25 We had all read about the difficulties across the

1 United States with high rise apartments, and we were  
2 certain that we weren't going to aim for anything of that  
3 nature. We planned a very safe type of development,  
4 where there would be no hallways, where there would be  
5 up and down rather than hallways, you know. Each person  
6 would have a duplex apartment.

7 We were looking to build two, three and four  
8 bedroom apartments which would accommodate the people  
9 who were part of our so-called caseload.

10 We wrote up proposals in great detail, and I  
11 think I must have gone two and three times a week to  
12 Trenton to sit down with the advisors at the housing  
13 finance agency, Department of Community Affairs.  
14 Everything was done with an eye to doing this project  
15 correctly and adequately and according to every last  
16 stipulation on both governmental and state governmental  
17 rules.

18 Q Has the state government departments  
19 ever approved or disapproved of the program?

20 A They were completely in favor of it. We were  
21 offered adequate funding, both from the federal government  
22 and state government. They were delighted with the  
23 project and thought it was exactly what it ought to be.

24 Q What departments of the federal and state  
25 governments were involved?

1 A Federal would be H. U. D. and state was the  
2 Housing Finance Agency, which is part of the Department  
3 of Community Affairs.

4 Q Just to set the record straight, you mean  
5 Housing and Urban Development?

6 A Yes.

7 MR. BOWLBY: Your Honor, if I may,  
8 I'm having difficulty in connecting this  
9 with anything that has to do with this case  
10 and the activities of the Bedminster  
11 Township Committee and its Planning Board,  
12 and the reasonableness of their activities.  
13 I object to its relevancy.

14 MR. BUCHSBAUM: Judge, I think what  
15 we're trying to do here is paint a picture  
16 of the housing situation in Somerset County.  
17 Bedminster insists that the region is  
18 involved. To this extent we're agreeing with  
19 them. We're trying to show what happens  
20 when an attempt has been made to build  
21 housing for the kind of people that our  
22 plaintiffs represent in Somerset County.

23 The situation is essential background  
24 for this case. I think if the housing  
25 situation in Somerset County had been rosy in

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the past this case would have a somewhat different coloration to it than it does.

It's important to give the Court this background.

MR. BOWLBY: I think what we're dealing with here, your Honor, is a specific case and specific town. I'm familiar with it. I was there for that one, too.

I can't see how it's connected with the activities of the Bedminster Township Committee and its Planning Board and the regional activities. It's far removed geographically, as far as that's concerned.

This site has no comparison to anything that I know of in Bedminster Township. The zoning in Somerville is entirely different. The situation in the surrounding area here is entirely different.

There's no comparison between these two places, and I don't see as a zoning matter how one has got anything to do with the other.

All we're doing is getting the specifics of an incident which happened here in Somerville, with which I am familiar, and I think maybe a good number of us in this

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courtroom are, and I think has nothing whatsoever to do with zoning in Bedminster Township.

THE COURT: How is it tied in, Mr. Buchsbaum?

MR. BUCHSBAUM: Judge, I think the point is there is very little housing available for moderate income people in Somerset County.

THE COURT: Mrs. Solow has already made that point.

MR. BUCHSBAUM: And we would like to show as part of the reason for it what happens, discrimination, blocking of plans to build low and moderate income housing.

THE COURT: Well, surely, your argument isn't because the people of Somerville were not amenable to a suggested need, or whatever the phrase of art is, that that affects what Bedminster can or should legally do under its zoning power?

MR. BUCHSBAUM: But, it certainly affects what the housing need today is.

THE COURT: You've already established the housing need through Mrs. Solow's

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experience and her comments on what she did learn and observe. Mr. Bowlby's objection is what is the relevancy of the conduct of the Somerville governing body.

MR. BUCHSBAUM: Insofar as we're considering the region, Judge, in trying to determine what the regional housing need is, or are, the conduct of other municipalities in the region is relevant.

THE COURT: That I don't understand. The logical connection between the Somerville governing body's reaction to this need, what relevancy does that have to the Bedminster governing body's reaction to the need?

MR. BUCHSBAUM: I think it's relevant, also, that both Mrs. Horvath and Mrs. Solow have testified that they felt going to Somerville would be doing the easy thing first, and that I'd like to show that not even that worked.

MR. BOWLBY: That's a conclusion to which I should have objected, your Honor, but I didn't. The motive of the Bedminster officials have never been called into question here that I can see.

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As a matter of fact, I have yet to hear a witness that knows very much about Bedminster at all. Everything's been around the Somerville area.

Certainly, the motives of the activities of the Borough Council in Somerville in response to certain need requests in my judgment have nothing to do with the motives or the intent or purposes of the Bedminster Zoning Ordinance.

MR. BUCHSBAUM: Judge, I would at least like to bring out the fact that their housing was not built.

THE COURT: All right. I think the objection is that getting into such detail on this specific instance of an effort at some steps toward the solution of the housing problem in the county is an overemphasis on one particular attempt. I'll let you go to the extent of what happened to their application, generally. But, that's about as far as it should go, rather than go into detail, because the details of how Somerville's elected officials reacted to the housing need is not, in my opinion, relevant to Bedminster's

1 powers under the State Zoning or Planning  
2 Act.

3 MR. BUCHSBAUM: Thank you, Judge.

4 BY MR. BUCHSBAUM:

5 Q Did there come a time, Mrs. Solow, when  
6 you applied to the Somerset governing bodies for permission  
7 to build the project you had proposed?

8 A We didn't start out asking for permission to build.  
9 What we started out with was a resolution of need or a  
10 certificate of need which would merely have enabled us  
11 to get seed money from the state to proceed with our  
12 architectural plans, and so on.

13 It was not a permission to build. It was merely a  
14 resolution of need in the borough.

15 Q What was the result of your application?

16 A We had several behind doors meetings with counsel  
17 in which we explained our plans, and they promised to  
18 bring it up to a vote in September of 1970, I think.

19 At that time it was voted down four to two.

20 Q Was there any reconsideration of that vote?

21 A Yes. We asked them why they turned it down,  
22 and they told us that it was because of - well, the time  
23 wasn't right for it, that there were other problems in  
24 the borough that came first; and that the number of  
25 four bedroom and three bedroom apartments was an indication



1 that we might be overloading the school with extra  
2 school children, despite the fact that we explained that  
3 these children already lived in Somerville.

4 There were many reasons given, and we understood  
5 them, and so we modified our plans. We reduced the  
6 number of apartments, reduced the number of four and  
7 three bedroom apartments, and came back with a second  
8 set of plans some time later, which was modified.

9 On the first try there wasn't even a second to the  
10 motion.

11 On the second try, months later, there was a vote,  
12 which was tied, and the Mayor broke it in our favor,  
13 but the vote to give us the certificate of need was  
14 encumbered with some stipulations that were not acceptable  
15 to either the state or us.

16 Q What was the result then?

17 A Two weeks, after some disturbances, there was a  
18 certificate of need given to the Somerset County Housing  
19 Association. It was given.

20 Q Was there any other governmental approval  
21 you needed?

22 A We needed the Board of Adjustment to make the  
23 proper variances, or to permit us proper variances to  
24 build such housing.

25 Q What happened with the Board of Adjustment?

1 A That dragged on for many, many months, and it was  
2 turned down.

3 Q What time was it turned down?

4 A What time? I guess it was 1971.

5 Q This was how long after the proposal had  
6 been initially submitted to the Somerville government?

7 A Between a year and a half and two years later.

8 It was turned down for several reasons, among  
9 which were the fact that there was a flood plain  
10 involvement, and that it would have created a traffic  
11 hazard. And I would like to point out that there are  
12 more apartments on that 4.4 acres today than we had  
13 proposed. And it would seem that there was no longer a  
14 flood plain problem or traffic hazard, even though there  
15 are more people.

16 Q As a result of this battle did the  
17 organization change its strategy at all with regard to  
18 dealing with the housing problem at all in Somerset County?

19 A We decided that it was pretty hopeless to try to  
20 approach other areas where the problems were multiple,  
21 compared to Somerville's. So, we decided that until we  
22 could challenge some of the zoning laws in the state  
23 and in the county and in the country we couldn't possibly  
24 hope to succeed with building low to moderate income housing  
25 in other areas, other types of areas.

1           So, we began to concentrate on mortgage assistance  
2 and rehabilitation.

3           Q       Was there any particular reason you did not  
4 become involved in the zoning challenge?

5           A       Well, we were advised actually that we could have  
6 won a challenge to Somerville. Most people who were  
7 knowledgeable told us we could have challenged Somerville  
8 on its findings. We simply didn't have the money. We  
9 simply didn't have the money to proceed.

10          Q       The grant you got from the state did not  
11 cover anything like this?

12          A       No. No. No. The grant we got from the state  
13 enabled us to hire a staff to process mortgages and lend  
14 supplement. Nothing more.

15          Q       Was there any reaction that you received  
16 to your role in this project?

17          A       You mean personally?

18          Q       Yes.

19          A       Yes. I was threatened. I received hate mail,  
20 hate phone calls, threats to my life.

21                   My husband had a bullet through his window and  
22 stone through his window at his store.

23                   My music students' parents were contacted and  
24 told not to send their children to me for music lessons  
25 anymore.

1           In other words, it polarized the community.

2           Q           You say your music students' lessons.

3           What's your profession with regard to music?

4           A           I teach music.

5           Q           You still do?

6           A           Yes.

7           Q           Now, did there come a time at which you  
8           terminated your involvement with the Somerset County  
9           Housing Association?

10          A           Yes. I terminated it that year, but not because  
11          of that incident. My resignation had been in before.  
12          I just decided not to run after two years, that it was  
13          better and healthier for the organization to have  
14          different people at the helm. So, I just stepped down  
15          willingly and because I thought it was better.

16          Q           Did you come to any conclusion as to the  
17          direction in which the housing programs have to go in  
18          Somerset County as a result of your chairmanship of  
19          this organization?

20          A           My conclusion, as far as Somerset County, is my  
21          conclusion as far as the whole United States, and that is  
22          that we simply have to do something about spreading out  
23          and decentralizing the concentrations of low and moderate  
24          income housing, which seemed to all center in the decaying  
25          urban centers.

1 I feel that, you know, if some utopian idea,  
2 like five per cent of every community in the United  
3 States were given in to low and moderate income, no one  
4 would even notice it, and it would be widespread. Even  
5 five per cent in Bedminster wouldn't show up very much.

6 Q Now, this is about 1971 when you ceased  
7 being chairman of the housing association. Do you still  
8 hear from any of the people that used to contact you  
9 with regard to assistance?

10 A Constantly. Constantly. Social workers still  
11 call me and say, "Are you still involved in housing?"

12 They don't call me everyday anymore. I get about  
13 one call a week, though, from people with housing problems.

14 My response to them is that, "No way can I do  
15 anything for you."

16 I mean, if you're stuck with five children and  
17 you haven't got a place to live, I don't know what I  
18 can do for you.

19 Frequently we go over the newspaper ads and  
20 answer them.

21 Frequently I suggest that they put in their own  
22 ad in the newspaper saying, "Housing needed urgently.  
23 I have a family with five children." Some such thing.  
24 In other words, a reverse ad.

25 And in most cases we are totally unsuccessful.

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There just isn't any housing.

Q You're still attempting to help people today?

A Yes, I am.

Q And the result of that is not --

A It's almost zero.

MR. BUCHSBAUM: No further questions.

CROSS EXAMINATION  
BY MR. LANIGAN:

Q With respect to capability income and financial capability, what price range, in terms of housing, are your people, your people that constitute your caseload, looking for?

A Most of them tell me that they can stretch their budgets up to \$200, because they're paying that now for substandard housing.

Q That's rental now?

A Rental.

Q Do you have any idea what they're talking about in capability of purchasing a home?

A Not over 24 or \$25,000.

Q Somewhere in that region?

A Somewhere in there. Not over.

Q Did you as part of your function, whatever it was, either as chairman or as an individual, or as a member of some other group, look in the so-called Somerset

1 Hills area for houses in that range?

2 A Not bodily. Not physically. We went through  
3 the ads in the newspapers and we went to realtors who  
4 had multiple listings, and we did all the things without  
5 physically going.

6 Q What was the result of your search now  
7 with respect to the purchase of housing?

8 A There was virtually nothing in that range.

9 Q Now, with respect to multi-family or  
10 leasing or renting, did you make any examination or  
11 look in the Somerset Hills area for accommodations of  
12 the type that your clients or your caseload could afford?

13 A Physically, no. Only through the newspapers.

14 Q And what was the result of your findings?

15 A There just wasn't any.

16 Q Do you have any opinion as to why there  
17 isn't?

18 A Oh, I think it would be an opinion, of

19 Q You do have an opinion then?

20 A Yeah.

21 Q What is that?

22 A My opinion would be the  
23 Hills wish to keep the character  
24 as it has been and not change it a

25 Q How are they doing that?

1 A By establishing ordinances or rules, understood  
2 tacit agreements, that would have to do with the amount  
3 of land - well, that's a Zoning Ordinance, of course -  
4 or the character of the house, or the type of lawn, or  
5 the, you know, whole cosmetic feature of The Hills. I  
6 think they do not want it changed in any sense.

7 Q Let's limit some things. Do you think  
8 the municipality should build these houses and build  
9 this type of housing?

10 A The municipality, itself?

11 Q Yes.

12 A Well, that's one possibility. But, I don't think  
13 it's the only one.

14 Q Okay. What is your opinion as to what the  
15 municipality should do?

16 A I think the municipality should zone certain areas  
17 for multiple family dwellings, two-family, three-family,  
18 garden apartments, moderate income, and just spot it  
19 around the community so that it is not all concentrated,  
20 and it doesn't impinge upon the hundred-acre estates.  
21 It wouldn't, really.

22 Q Well, had you ever made such a specific  
23 proposal to any of the municipalities in the Somerset  
24 Hills area, and, particularly, the Township of Bedminster?

25 A Only in the sense that Mrs. Horvath described



1 yesterday. We explained through a letter to each community  
2 in Somerset County that we felt that a resolution of need  
3 for moderate income housing should be passed by every  
4 community in this county. That was the only type of  
5 approach.

6 Q How does that get the zoning changed?

7 Have you done anything else, specific,  
8 other than to send out two letters?

9 A To challenge through the Courts? No.

10 Q Or to make a request even to the governing  
11 body or the Planning Board?

12 A No. As I tried to point out before, we started  
13 with what we felt was an easy success, and then we'd  
14 move on to the difficult ones.

15 When we floundered, as we did, we just lost heart,  
16 because we had no money to proceed.

17 Q Do you view your function as trying to get  
18 the zoning changed?

19 A Yes.

20 Q But, the only thing you have done about it  
21 really are the two letters?

22 A Yeah. Well, in starting with Somerville we tried  
23 to get a simple variance changed, and couldn't.

24 Q Okay. How do you think the housing is going  
25 to get built that is, obviously, as you have surmised,

1 needed - your surmise, I mean?

2 A Well, it's my impression that it's never going  
3 to come through voluntary cooperation of any community.  
4 It's going to have to come through the Courts.

5 Q In what sense?

6 A Decisions having to do with zoning, exclusionary  
7 zoning.

8 Q You don't mean Courts telling the towns  
9 they have to build this?

10 A I don't know how opinions of Judges are worded,  
11 but I think that they are worded in such a way that it  
12 becomes incumbent upon a community to make the kind of  
13 judgment that is indicated in that opinion.

14 Q If you think the zoning was changed, do  
15 you think the housing would just spring up?

16 A It wouldn't spring up. You would have to have  
17 builders who are willing to build it and total cooperation  
18 from all segments.

19 Q Right now there isn't any?

20 A Right now there isn't any.

21 Q Thank you.

22 MR. LANIGAN: I have no other questions.

23  
24 CROSS EXAMINATION  
25 BY MR. BOWLBY:

Q Mrs. Solow, the organization which you

1 represent --

2 A I don't represent it anymore. I'm sorry.

3 Q Oh.

4 At the time that you testified that you  
5 belonged to it, and when it was organized, how did you  
6 select the membership?

7 A Some were members of the N. A. A. C. P. Some were  
8 members of the Human Rights Council. Some were members  
9 of the group that was in need of housing. There was a  
10 clergyman, a member of the Planning Board - there were a  
11 couple of officials. It was a very widely based organization.

12 Q You say "widely based." Did you seek any  
13 membership in the Somerset Hills?

14 A Seek it?

15 Q Yes.

16 A We didn't know of anybody up there. So, we didn't  
17 seek it.

18 Q You never sought any members from the  
19 Somerset Hills?

20 A No. They didn't come to our meetings. We did have  
21 a woman from Far Hills, and we did have some support from  
22 Millicent Farwick, who is in the Bernardsville area.

23 Q What was the total membership of it?

24 A Approximately, seventy when we began.

25 Q And none from Bedminster?

1 A We had nine communities represented, but Bedminster  
2 was not represented.

3 Q What were the nine?

4 A Oh, Somerville, Bridgewater, Bound Brook, Franklin,  
5 Hillsborough, Montgomery. It's hard for me to remember.  
6 It goes back several years. I've got seven, but I don't  
7 remember the other two. I probably could be refreshed.

8 Q Nothing, say, roughly, north of Route 22,  
9 or within a half mile beyond the northern boundary of  
10 Route 22; is that right?

11 A Yeah. There was one from Warren. That's another  
12 one.

13 I'm trying to think if there was one from Watchung.  
14 There was one from North Plainfield.

15 Q But, generally speaking, the southern half  
16 of the county?

17 A Generally speaking.

18 Q Why is it that you had no one from the  
19 northern part of the county?

20 A We had no contacts.

21 Q Why didn't you seek some contact?

22 A Seek?

23 Q Yes. Seek. Look for.

24 A I understand the word. We didn't seek people in  
25 general. We simply had people who had been with us

1 throughout the era of the Human Rights Council and  
2 N. A. A. C. P. These were people who had come through  
3 the years to our organizations.

4 No one had come from The Hills.

5 Q Then would you say that the name "Somerset  
6 County Housing Association" might be a misnomer? Maybe  
7 it was southern Somerset County rather than Somerset County  
8 that was being represented?

9 A We weren't labelling ourselves according to who  
10 our membership was. We were labelling ourselves according  
11 to where our activities were going to be involved.

12 Q So, your activities were all in the southern  
13 part of this county, and not in the northern part?

14 A No. Our activities were proposed for the entire  
15 county, regardless of whom our membership was. The county  
16 was our goal.

17 Q The county was what?

18 A Our goal, to develop housing within Somerset County.

19 Q I see. All run, however, by people from  
20 southern Somerset County, to the exclusion of those from  
21 the northern part? Isn't that right?

22 MR. BUCHSBAUM: I object, your Honor.

23 I don't think there's been a question of  
24 exclusion. Mrs. Solow has testified as to  
25 what the membership practices of the Somerset

1 County Housing Association were. She  
2 testified that it was open. So, I think  
3 the word "exclusion" is a mischaracterization.

4 MR. BOWLBY: I think that I've heard  
5 a great deal this morning about the activities  
6 of this Somerset County Housing Association  
7 as representing the situation in the entire  
8 county of Somerset. It appears to me that  
9 nothing has happened north of Route 22 with  
10 this organization since it's been formed,  
11 Montgomery, Franklin, Somerville, and not even  
12 any consideration of Somerset Hills. And I  
13 think that ought to be brought out.

14 MR. BUCHSBAUM: I think the reason is  
15 that no one from Somerset Hills ever came  
16 forward during the formative years when these  
17 groups were established. I think that's  
18 pretty clear from the testimony.

19 I think asking a question relating to  
20 exclusion is a mischaracterization of what  
21 has been said.

22 THE COURT: There's an underlying  
23 assumption, of course, in the debate between  
24 the two of you right at this point that there  
25 is an awareness in the Somerset Hills of what's

1 going on in central Somerset County. Let's  
2 at least recognize right now on the record  
3 that the Court recognizes after twenty years  
4 experience in this county that the county  
5 suffers from schizophrenia due primarily  
6 to the fact that its media are divided in  
7 four or five different ways; and the people  
8 of Somerset Hills have no more idea they live  
9 in the county in which Somerville is their  
10 county seat than they know what the weather  
11 is going to be next week.

12 MR. BOWLBY: I think that's quite  
13 expressive, your Honor.

14 THE COURT: May well be. It's a matter  
15 that stands a little debate in this case.  
16 However, the objection is to the use of the  
17 word "exclusion."

18 Mrs. Solow has proved herself quite  
19 capable of distinguishing her answers. I'll  
20 permit the question. She can answer it, if  
21 she wishes.

22 THE WITNESS: What was the question?

23 THE COURT: Would you read it back,  
24 please?

25 (The Reporter read back the preceding

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question as follows:

"Q I see. All run, however, by people from southern Somerset County, to the exclusion of those from the northern part? Isn't that right?"

A That is not right. We excluded nobody. Our meetings were always publicized in the newspaper.

Let me point out what --

THE COURT: Which newspaper? That was one point I was interested in.

THE WITNESS: Frequently, the Messenger Gazette.

THE COURT: Never in the Morristown papers?

THE WITNESS: Morristown? Never. No. We don't relate, somehow, to Morristown.

THE COURT: You'll find the Hills do.

THE WITNESS: Well, we don't. I'm sorry.

THE COURT: They think they're part of Morris County, many of them.

THE WITNESS: I would like to point out one incident. Millicent Ferwick showed great interest in what we were doing and came



1 to my house one day and said, "I'd like to  
2 know more about your activities, and I'd  
3 like you to show me some of the substandard  
4 housing that you're talking about, because  
5 we in The Hills don't believe that there is  
6 substandard housing in Somerville, in  
7 Somerset County."

8 And I said, "I assure you that there are  
9 people who are living without houses and  
10 without the amenities."

11 So, I took Mrs. Fenwick and another  
12 woman, whose name I do not recall, on a tour.  
13 We spent most of the day. We went to  
14 Franklin. We went to that area which is  
15 known as, "Hobbsdown," also called "Somerville  
16 Manor." We went to some of the outlying  
17 districts, and I showed them housing that  
18 they couldn't believe; and I gave them the  
19 case history of families living behind the  
20 doors that we did not enter.

21 They were appalled, and --

22 MR. BOWLBY: Just a moment. I don't -  
23 I didn't ask this question, as far as I can  
24 remember. I think the witness has gone a  
25 little bit afield.

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THE WITNESS: No. I'm saying we did not exclude them. We included them.

THE COURT: Continue your answer. Are you through with your answer?

THE WITNESS: I'm not through with my answer.

MR. BOWLBY: I'm sorry.

THE COURT: Finish it.

THE WITNESS: Mrs. Fenwick then promised me that she and a few other people --

MR. BOWLBY: I've got to object to what Mrs. Fenwick said in promises and her reaction that she was appalled. I didn't ask that question.

MR. BUCHSBAUM: This is cross examination. The question called for involvement of people from the northern part of Somerset County.

THE COURT: The question did not invite volunteering of hearsay. So, the objection to Mrs. Solow's volunteering a quotation of Mrs. Fenwick's out-of-court utterances is a valid objection.

Mrs. Fenwick is not in court under oath, Mrs. Solow. So, unfortunately, her utterance that day on your tour doesn't meet the test.

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Let the record reflect that for those of us who may not be familiar who review this record that Mrs. Fenwick is a former Assemblywoman from Somerset County and Director of the Department of Community Affairs for the State of New Jersey.

MR. BUCHSBAUM: Consumer Affairs, Judge?

THE COURT: Consumer Affairs.

THE WITNESS: I don't know how to proceed without relating some --

THE COURT: I think you've answered the question. You've stated that there was no overt exclusion practice.

THE WITNESS: I just wanted to say that I was told that there would be a meeting of women from The Hills to come and do precisely what these two women had done, to go on another tour, but that it never took place.

BY MR. DONLEY:

Q Are you familiar with the Zoning Ordinance in Bedminster Township

A Today?

Q Yes.

1 A Not in detail, no. I know it has been altered.

2 Q Are you familiar with the fact that - do you  
3 know whether or not it permits any multi-unit development,  
4 multi-family development?

5 A I believe that it does. However, I believe that  
6 it would not be suitable for low and moderate income  
7 families.

8 Q What do you think it takes to make a site -  
9 what do you think it takes to make a Zoning Ordinance  
10 suitable for low and moderate income housing?

11 A Just whatever requirements are made that would keep  
12 the price down instead of elevating it.

13 Q Keep the price down?

14 A Yes.

15 Q Do you think it's strictly a matter of price?

16 A Yes. I think the more luxuriously an apartment is  
17 built the higher the price is bound to be.

18 Q Is it the purpose of your organization to  
19 amend the Zoning Ordinances that have large lot zoning?

20 A I would like to correct you. It is not my organization,  
21 and I do not am not the President of it, since 1971. There's  
22 three years that I have not been associated with it.

23 Q I'm sorry. Was the purpose when you belonged  
24 to it to crack the Zoning Ordinances of the Somerset Hills  
25 and like communities?

1 A It was not "the" purpose. It would have become  
2 one of the necessities. It was not "the" purpose.

3 Q I notice that you used the word "crack"  
4 when you spoke of introducing a black family into an  
5 apartment house here in Somerville. What do you mean by  
6 "crack"?

7 A When you crack a barrier you're cracking it.

8 Q Would you think that the same thing should  
9 be done with the Zoning Ordinance in Somerset Hills?

10 A It's another word for making inroads.

11 Q Have you given any thought to the fact that  
12 low and moderate income housing may be appropriate in some  
13 areas and not in others?

14 A I don't happen to believe that.

15 Q Do you think that low and moderate income  
16 housing ought to be allowed everywhere?

17 A When you say "everywhere" do you mean in each  
18 municipality in the United States?

19 Q Yes.

20 A Yes, I do.

21 Q Do you think every conceivable use of land  
22 besides low and moderate income housing ought to be allowed  
23 in every community in the United States?

24 A I haven't delved into that, and I have no opinion.

25 Q You have delved only into housing, and that's

1 your only concern; is that right?

2 A For people who can't find housing, yes.

3 Q E Regardless of the effect on the zoning  
4 scheme of the county?

5 A Well, zoning schemes of counties seem to me not  
6 always to be healthy for everybody but only for some.

7 Q But, only when you're dealing with housing,  
8 not when you're dealing with any other subject, as far as  
9 you're concerned; is that right?

10 A I don't understand your question.

11 Q Well, wouldn't you think that an intelligent  
12 community ought to plan its zoning scheme so that it has  
13 some sort of intelligent plan to follow?

14 A I don't understand the use of the word "intelligent."

15 Q Smart. Wouldn't you think it would be smart  
16 for a community to plan their development of the geography  
17 in that community in a sensible way in accordance with  
18 the comprehensive plan?

19 A It should depend on whose plan.

20 Q You don't think that a community should plan  
21 that way?

22 A It depends on who the community is. If the  
23 community is going to be self-centered, it's not going to  
24 want change.

25 Q Supposing a community is entirely developed

1 wall to wall houses, wall to wall buildings. Do you  
2 think that community should be required to have low and  
3 moderate income housing introduced into it?

4 A Wall to wall luxury apartments, you mean?

5 Q Either way. Any kind of buildings.

6 A Since this is a hypothetical, I don't know how  
7 I can answer it. I can only say that I don't think  
8 it's healthy for any community to be a one-type personal  
9 community. I think that we are a plural society, and the  
10 sooner our children understand the pluralism of the  
11 United States of America the better off we will all be.

12 Q Do you think that it is to the advantage  
13 of low and moderate income people to put them in any  
14 town regardless of the character of that municipality?  
15 Do you think it's to their advantage?

16 A Yes. I certainly do. I have been down to  
17 Columbia, Maryland, which is designed exactly for that  
18 purpose. It's an intentional community, a built ideal

19 community. Are you familiar with it?

20 Q I know of it. Yes.

21 A Yes. Well, I've been there. There's housing  
22 that starts with very low income and very low rent, up  
23 to homes that are a hundred thousand dollars and more,  
24 all together in a planned community. And it works.

25 Q Well, you, of course, must recognize that

1 communities differ significantly even in Somerset County?

2 A Undoubtedly.

3 Q The geography differs; isn't that so?

4 A That's correct.

5 Q The question of whether or not sewers are  
6 available?

7 A Correct.

8 Q The question of whether or not train service  
9 is available?

10 A Correct.

11 Q Whether or not public transportation is  
12 available?

13 A Yes.

14 Q Do you think all these things should be  
15 disregarded by that community in planning itself?

16 A These were the reasons that I gave for not attempting  
17 to approach The Hills section before we tried the Somerville  
18 section.

19 In other words, The Hills section just isn't  
20 appropriate.

21 A It could be made appropriate, but it has many more  
22 obstacles.

23 Q Don't you think the community ought to  
24 consider those obstacles in planning?

25 A Oh, change is always able to be made.



1 Q But, the way things stand right now there  
2 are just too many obstacles in the way of low cost building  
3 in The Sunset Hills, isn't there?

4 A No. Not at all. The same.

5 Q It would cost too much, wouldn't it?

6 A No. The same thing happened with Long Island.  
7 The same thing happened with Nassau County. It's happening  
8 all over.

9 It's just that resistance is deep and change comes  
10 slowly. It will come, but it's slowly.

11 Q You do recognize the fact that geographically  
12 and with all the other items and factors that I have  
13 suggested there are some places where low income housing  
14 is more appropriate than others; isn't that so?

15 A I didn't agree with you before, and I don't agree  
16 with you now.

17 Q Thank you.

18 MR. BOWLBY: Nothing further.

19 MR. BUCHSBAUM: I have nothing, Judge.

20 THE COURT: Mrs. Solow, on that last  
21 point, if someone has a limited income, you  
22 were talking about people who stretch their  
23 budgets to housing expenses, possibly up to  
24 \$200 a month. Is it not fiscally wiser for  
25 them to live where public transportation is

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available than have to add the cost of acquiring and maintaining an automobile to their monthly budget?

THE WITNESS: Yes. It would be fiscally wiser, but I have seen people manage unbelievably well on very small budgets. Somehow they manage to keep a car even if the car only cost them \$150.

THE COURT: So, you don't feel that that's a legitimate planning standard?

THE WITNESS: No. I don't think it's one of the main obstacles, no.

I think mass transportation is a tremendous help, but I don't think it's one of the things that we're going to look for first, as far as an assist. It would be very, very helpful.

THE COURT: I see.

THE WITNESS: There is car pooling, and, you know, there are other ways to handle this. People have relatives who have cars, too. So that if they have jobs, they can get to their work. I don't think it's "the" problem.

THE COURT: All right. Thank you.

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(Witness excused.)

MRS. THOMPSON: Plaintiff will call Paul Davidoff.

**PAUL DAVIDOFF**, called as a witness in behalf of the plaintiffs Clewick, et al, being first duly sworn, testified as follows:

THE SERGEANT-AT-ARMS: State your full name and spell your last, please.

THE WITNESS: Paul Davidoff.  
D-A-V-I-D-O-F-F.

THE SERGEANT-AT-ARMS: Be seated, please.

THE COURT: Mrs. Thompson, so you'll be guided, at approximately eleven o'clock I'll be taking a fifteen or twenty-minute recess. I have to hold a juvenile detention hearing, which is almost a daily event.

MRS. THOMPSON: Thank you, your Honor.

EXAMINATION  
MRS. THOMPSON:

Q Mr. Davidoff, what is your position?

A I am an urban planner.

Q Will you tell the Court what an urban planner does?

A The task of the urban planner is to work to develop

1 proposals for guiding the development of urban communities,  
2 urban regions, to propose possible objectives that may be  
3 pursued by the nation or a state or region seeking solutions  
4 to the problems that beset the urban communities at this  
5 time.

6 The urban planner, I believe, should be qualified  
7 to work within a process that is essentially one employing  
8 rational decision-making techniques in which he seeks to  
9 give assistance in the determination of appropriate  
10 objectives for an entity and environment, jurisdiction,  
11 in which he seeks to provide bases for determining  
12 appropriate courses of action to meet stated or identified  
13 objectives, and in which he seeks to assist in providing  
14 strategies and techniques for implementing the effectuation  
15 of the means that have been determined for movement towards  
16 the appropriate objectives.

17 Q In your experience, you have alluded a  
18 number of times to the adjective "urban" in referring  
19 to a planning, and you have also referred to some reference  
20 to national problems.

21 In your definition of the role of an  
22 urban planner, are there any areas of the United States  
23 with which you, as an urban planner, would not be  
24 concerned?

25 A Primarily, the urban planner is concerned with

1 the development of policies and programs that affect  
2 areas of heavy concentration of population, of growth of  
3 new population, of growth of new employment.

4 In particular, I call myself an urban planner  
5 rather than to say a public planner or some broader  
6 definition of national planner.

7 I do not believe myself to be an expert in areas  
8 of rural development, of national economic development,  
9 but, certainly, those areas are areas that have an effect  
10 upon urban growth and urban policies within the nation.

11 There are hardly areas within the nation in which  
12 there are not some consequence of public policy upon the  
13 urban areas, communities, of the nation.

14 Q Have you had occasion to study planning  
15 in order to call yourself an urban planner?

16 A Yes, I have. I received a Master of City Planning  
17 Degree from the University of Pennsylvania in 1956, and  
18 then taught planning for a long time during which period  
19 I think I was a student of planning.

20 Q Have you at any time received any other  
21 profession degrees other than the Master's in planning?

22 A Yes. I received a Bachelor of Laws Degree from  
23 the University of Pennsylvania in 1960 or '61.

24 Q You referred to some academic experience  
25 with planning. Have you also had any opportunity to

1 actually practice the art or science of urban planning?

2 A Yes. I have had numerous jobs in the field of  
3 planning, beginning back in 1954 or '55, working in the  
4 summer of '54, working in the developing of suburban  
5 County of Rockland outside of New York City; then working  
6 in '55 - mainly in 1955 in Delaware County outside of  
7 Philadelphia.

8 I had done my first job after completion of my  
9 degree at the University of Pennsylvania with the town of  
10 New Canaan, Connecticut, where I was town planner for a  
11 period of about a year and a half.

12 Thereafter I worked as a senior planner on the  
13 writing of a new residential Zoning Ordinance resolution,  
14 they call it, for New York City, which my particular  
15 area of work was in designing the new residential  
16 regulations for that resolution.

17 After that I taught for a number of years at the  
18 University of Pennsylvania, and then at Hunter College;  
19 and then in 1969 began a job that I presently hold as  
20 Director of the Suburban Action Institute, which is a  
21 planning agency.

22 Q You referred to your work with the New  
23 York City Planning Commission. During the course of that  
24 work did you have occasion to deal with the concept  
25 known as "Floor Area Ratio"?

1 A Yes. The floor area ratio was one of the major  
2 devices, improvements, made in zoning in the late forties  
3 and fifties in this nation - perhaps it had its birth  
4 in techniques in Britain at an earlier time.

5 I had occasion to work greatly with a tremendous  
6 number of developments that were taking place in the  
7 New York City area, residential developments, as well as  
8 commercial and industrial, in which we employed the floor  
9 area ratio as a measure of intensity.

10 During the course of that study we chose to develop  
11 a new concept called "The Open Space Ratio" which we  
12 believed to be a more sophisticated technique of  
13 measuring the relationship between open space on the lot  
14 and the amount of floor area developed within a lot.

15 I think it's a better performance measure of  
16 intensity, but the floor area ratio is still a very  
17 popular technique.

18 Q I take it from what you say in your work  
19 with the City Planning Commission you studied and  
20 employed the technique beyond the floor area ratio?

21 A That is correct.

22 Q In terms of your activities as a  
23 practitioner of urban planning is it accurate to  
24 characterize your work history as one which involved  
25 both suburban and urban planning?

1 A Yes. As I expressed, my first job after  
2 [REDACTED] from planning school was in the suburb, New  
3 [REDACTED] and done a great deal of work in the suburbs  
4 of many different types of work, in consulting work,  
5 in addition to the jobs I have held; and, of course,  
6 I have worked in New York City, and a large part of my  
7 work in the education of planning was done in particular  
8 problems dealing with the cities, particularly Philadelphia  
9 and New York.

10 Q Have you at any time also had occasion to  
11 work with any cities in the State of New Jersey?

12 A Well, I have had the occasion to prepare a  
13 Zoning Ordinance for the City of Camden.

14 While on the faculty at the University of  
15 Pennsylvania I prepared a draft of a Zoning Ordinance  
16 for that city.

17 I have had occasion in the years that I have  
18 been in New York at Hunter College and Suburban Action  
19 [REDACTED] plans for the area of Newark and its  
20 [REDACTED] region.

21 Now, in terms of - we'll come back to this.

22 In terms of the work which you have done  
23 with regard to analysis concerning needs of the City of  
24 Newark, has that been in conjunction with any New Jersey  
25 based organization?



1 A Well, yes. There is now an organization that  
2 has developed in New Jersey called "The Coalition to End  
3 All Suburban Exclusion" with the acronym "C. E. A. S. E.",  
4 which has developed in the last five months or so.

5 I have been a consultant to that organization  
6 within its development.

7 Q And has its work concentrated primarily  
8 in Essex County?

9 A That organization grew in Essex County and was  
10 concerned with Essex County and the surrounding region.

11 Q You have indicated that you had occasion  
12 to teach planning courses.

13 Could you indicate briefly the subject  
14 matter which you taught?

15 A Yes. At the University of Pennsylvania I was  
16 primarily responsible at first for teaching of the  
17 planning law course which was essentially a course  
18 devoted to the growing area of land use law.

19 And then later I gave more and more effort to  
20 the development of courses in the field of planning  
21 theory, and that became something of a specialization  
22 for me at the University of Pennsylvania and later at  
23 Hunter College.

24 Q With regard to a course in planning theory,  
25 can you explain briefly to us what planning theory involved?

1 A I don't know if I can be brief, but I'll try.

2 A planning theory course is an explanation of the  
3 practice of planning, and in the process of planning  
4 it is an attempt to define and identify the work that  
5 planners do, and to establish formative prescriptions  
6 for the nature of the planner's work.

7 It's an attempt to describe the job and task of  
8 planner.

9 Q Now, within the planning profession are  
10 you identified with any particular planning theory?

11 A Well, I would say that the major part of my work  
12 has been in the development of perhaps three areas,  
13 specifically in the field of planning theory:

14 One, the development of the concept of the  
15 subjective nature of planning decisions, in which I have  
16 sought to give emphasis to the fact that the ethical  
17 decisions that are involved in determining future courses  
18 of action for an urban community are not objective truths.  
19 There are, in other social determinations, subjective  
20 determinations of appropriate courses of behavior and  
21 action, and that I have sought in the work I have done  
22 in planning theory to emphasize the need for conscious  
23 choice among the range of alternatives that are available  
24 to us at all times in determining our future. That has  
25 been one area.

1           Related to that has been a development of a  
2           concept of what I have called "Pluralism in Planning" in  
3           an attempt to democratize the planning process by seeking  
4           to bring into the discussion of appropriate future  
5           courses of action a debate about the - these choices  
6           among the different interest groups that are potentially  
7           affected by the choice amongst alternatives.

8           One of the things that has most concerned me as a  
9           theoretician and observer of planning in this country  
10          and throughout the world is that there is a centralizing  
11          of planning among government or one party attempt to  
12          determine plans or courses of action.

13          I have felt that it was inappropriate within a  
14          democratic setting for us to have a one party or  
15          monolithic form of a determination, and have sought to  
16          create within the planning field a situation in which  
17          different interests would have a chance themselves to  
18          develop plans, to have those plans presented before  
19          official planning bodies and governmental bodies, and  
20          to have a type of debate that is characterized by  
21          the political process.

22          My own view is that the planning determination is  
23          a part of that political process.

24          As a part of that work in pluralizing the planning  
25          process I have given great emphasis to trying to find

1 representation in the planning process for those classes  
2 of citizens in the United States, racial and economic  
3 minorities, who have been poorly represented, weakly  
4 represented, in the development of plans and proposals  
5 and have been a part of a movement which is called  
6 "The advocate Planning Movement in the United States"  
7 which theoretically is a process of providing advocacy  
8 or support behind different interest groups in general  
9 but which in practice has been a definition of work  
10 in support of the interest of racial or economic  
11 minorities.

12 Q And was the concept of advocacy planning  
13 the third concept in terms of your planning theory?

14 A No. I lost count for a moment.

15 Q We have two.

16 A We have two.

17 And the third really is the concept of social  
18 planning, which is directly related to this treatment.

19 Planning as it developed in this nation grew out  
20 of an architectural and design emphasis.

21 The very early plans of the nation's planners  
22 gave strong emphasis to architectural or urban design  
23 inclusions.

24 It's well known in the history of American city  
25 planning that the early days there was what was called

1 "The City Beautiful Movement" at the turn of the century  
2 [REDACTED] there was great concern with the issue of city  
3 [REDACTED] and the design of a more amenable and  
4 beautiful city as a response to the degradation of the  
5 industrial development of our cities in the latter  
6 part of the nineteenth century.

7  
8 Throughout the development of planning in this  
9 nation and the land use controls that were used to  
10 implement it there was a heavy focus on the physical  
11 nature of the community, on the land and what the land  
12 could support, and upon the structures that could be  
13 built and the intensity of the structure and design of  
14 the structure and the harmonization of the different  
15 uses in activities.

16 What a number of us sought to do in the latter  
17 part of the fifties and in the sixties was to suggest  
18 that planning had been somewhat myopic in not examining  
19 closely enough social considerations in areas of urban

20 [REDACTED]  
21 [REDACTED] I think a good illustration of our point was the  
22 statement that the visitor from another planet coming  
23 to our nation and looking at our Master Plans would not  
24 know that this nation had problems of race or economic  
25 poverty, that we had a tendency in our planning to  
aggregate problems, to look at a situation in terms of

Direct - Davidoff

1 the average or median condition, to get  
2 conditions of our states and communiti  
3 look at our communities in distributi  
4 at different sectors of the society a  
5 that they possess, the opportunities  
6 their ability to function adequately within the society.

7 It was my attempt and the attempt of others  
8 within the planning field to try to broaden the base,  
9 the purview, of the work of the planner so that he would  
10 examine more completely the interaction between the  
11 social and economic opportunities of the citizens of a  
12 community or of the nation in whose name plans were  
13 being prepared as they related to the physical elements.

14 that the planner had his concern with previously.  
15 We did not wish to in any way weaken the concern  
16 with the physical environment and the enhancement, but  
17 we saw it necessary to integrate to be more holistic,  
18 in our analysis, of the city in an urban  
19 community.

20  
21 The result of our work was a change in the  
22 mid-nineteen sixties in the Constitution of the  
23 Institute that speaks for the professional planners  
24 of the United States, the American Institute of Planners,  
25 which is the Institute of professional planners, now  
having a membership of about eight thousand professional

1 planners, whose definition of the work of planning had  
2 at an earlier epic spoken of the physical environment.

3 As a result of our work in trying to give  
4 emphasis to social issues, that was changed in the  
5 mix-sixties so that today planning is seen as all  
6 issues that are of concern in the environment, not  
7 restricted to the physical.

8 Q Let me interrupt you for a moment to  
9 show you a copy of Article 9 of the Code of Professional  
10 Responsibilities and Rules of Procedure of the American  
11 Institute of Planners and ask you whether it's that code  
12 of responsibility to which you refer?

13 A No. That is not what I was referring to.

14 I was referring to the preliminary definition  
15 of the work of the planner which appears in earlier  
16 sections of the Constitution of the American Institute  
17 of Planners.

18 The code that you show me here, the code of  
19 professional responsibility, has, itself, been more  
20 recently changed to give reflection to the social  
21 conditions which the planner must take account of  
22 today.

23 Q In referring to the American Institute of  
24 Planners, to your knowledge, are any of your writings  
25 recommended readings of the A. A. I. P. to new, young

1 professional planners?

2 A A number of years ago the American Institute of  
3 Planners began a process of testing members of the  
4 organization to become full members, and as a part  
5 of the testing the applicant was required to read a  
6 certain number of articles, book, theories, of the  
7 planning process. There were ten of them on the  
8 suggested list.

9 Twelve of my works dealing with the choice  
10 theory of planning and advocacy in planning were parts  
11 of those required readings or suggested readings in  
12 preparation of the test.

13 I might point out that subsequently the test has  
14 been - reading list has been modernized and I have been  
15 excoriated from that list, I think at great mistake to  
16 new planners. But, no, I'm presently not on that list.

17 Q I take it, then, that certain of your  
18 thoughts about planning theory have been reduced to  
19

20  
21  
22 Could you identify some of your major  
23 writings in the field of planning?

24 A Yes. Probably the piece that has had the widest  
25 dissemination is the article that appeared in the  
November 1965 issue of the American Institute of Planners



1 Journal, entitled "Advocacy in Planning, Advocacy in  
2 Planning in Planning."

3 And then an earlier piece which has just  
4 recently been identified as the leading theoretical  
5 piece in the area of planning, in a publication of  
6 readings in planning theory, was entitled "A Choice  
7 Theory of Planning" which I co-authored with Professor  
8 Thomas Rhiner of the University of Pennsylvania in  
9 1961 or '62.

10 There have been a number of other articles, ~~one~~  
11 describing the work of the organization I presently  
12 head, Suburban Action, as an example, as a model of  
13 advocacy planning agency to pluralize the planning  
14 process, and that article, I believe, was entitled  
15 "Suburban Action Advocate Planning For An Open Society."  
16 And that appeared in an issue of the Journal of American  
17 Institute of Planners in, I believe, 1970.

18 Q In addition to writing with regard to  
19 ~~the~~ theory, have you also had occasion to write  
20 ~~the~~ to the substance of zoning and planning  
21 ~~issues?~~

22 A Yes, I have.

23 An article by my wife and my partner in the  
24 establishment of Suburban Action - my wife's name is  
25 Linda Davidoff, and my partner's name is Neil Gold -

1 appeared in the Sunday Times Magazine Section of 1970  
2 [REDACTED] and I think the title was "The Suburbs Must Open  
3 Their Gates."

4 At about the same time my wife and I co-authored  
5 an article that I believe was entitled "Tort Inclusionary  
6 Land Use Controls" that appeared in the Syracuse Law  
7 Review, I believe, in 1971.

8 There have been a number of other articles in  
9 different planning and other journals describing the  
10 issues of suburban development.

11 Q Were you also at one point asked to write  
12 a paper for the United Nations on the subject of planning  
13 and land use controls?

14 A Yes. There was a special conference held in  
15 Stockholm two years ago on the subject of integrated  
16 social development; and along with Margaret Mead I was  
17 a United States representative to that, and wrote a  
18 paper for that conference on fostering social integration.

19 [REDACTED] We have been referring to the American  
20 [REDACTED] of Planners. Are you, yourself, a member of  
21 that institution?

22 A Yes, I am.

23 Q Have you at any time held an executive  
24 position with that organization?

25 A A position as a member of the governing body of

1 the American Institute of Planners, the Board of Governors.

2 I have - I served on that for a three-year period  
3 that just ended this October.

4 Could you tell us briefly the other  
5 professional organizations to which you belong?

6 A I am a member of the American Society of Planning  
7 Officials.

8 I may be a member of some others, but I'm not  
9 certain that I am.

10 Q Now, in detailing the work and study which  
11 you have done in the past you have not covered any work  
12 with any federal agencies.

13 Have you in fact done any work with any  
14 federal government or agencies?

15 A I have been a consultant to a number of federal  
16 agencies or federally appointed commissions.

17 I have prepared two studies for the United States  
18 Commission on civil rights, one of those detailing the  
19 ~~impact of the~~ effects of the movement of federal facilities  
20 ~~from Washington~~ to the suburbs on the employment  
21 opportunities of the minority employees.

22 The particular case study that my wife and I  
23 prepared dealt with the movement of the National Bureau  
24 of Standards from Washington to Gaithersburg, Maryland.

25 Then I did a - prepared a study for that same

1 commission dealing with the effects of metropolitanization  
2 of the school system as a means of integration in terms of -  
3 actually, I should say the effect.

4 What I was asked to look at was the consequences  
5 of metropolitan busing, as to whether it would be a  
6 feasible solution to the problem of creating a  
7 metropolitan school system.

8 Q Could you tell us when you did these studies?

9 A The report for the commission on civil rights was  
10 about 1967 or '68. And I think the report for that  
11 school integration may have been about the same time,  
12 '66 or '67.

13 Subsequent to that time I was asked to prepare  
14 studies for the Kaiser Commission, the President's  
15 Commission on Urban Housing; to do a study of land  
16 availability for housing in metropolitan areas.

17 And then as the co-director of the Urban Research  
18 Center at Hunter College I was asked by the Douglas  
19 Commission, the presidential commission on urban problems,  
20 to do a study on the consequences of suburban  
21 zoning on the housing opportunities of economic and  
22 racial minorities.

23 Q You indicated --

24 A Excuse me. Just more recently I am the Director  
25 now of a grant that has been given to the Suburban

1 Action Institute to make a study for the national  
2 ~~institute~~ of the arts on the subject matter of the design  
3 of the city edges, or, in our terms, of the emergent  
4 fringe of metropolitan development.

5 Q And that is a study which is presently  
6 underway?

7 A That is right.

8 Q Let me get back to one reference which you  
9 just made.

10 You indicated that you had held a position  
11 at Hunter College, in addition to your position as a  
12 Professor. Could you explain that?

13 A Yes. I was a Professor of Planning at Hunter,  
14 and I was Chairman of the Department of - the official  
15 title was "Graduate Program in Urban Planning."

16 I was asked to develop that program. It was the  
17 first city planning program at the City University of  
18 New York, as one of the constituent parts. And I was  
19 ~~asked to develop that job in 1965, and the program developed~~

20 ~~in 1965.~~  
21 Q Were you a tenured faculty member?

22 A Yes. And previously at the University of  
23 Pennsylvania.

24 Q Have you had occasion recently to do any  
25 studies for any state governments?

1 A Suburban Action has been asked by the Secretary  
2 of Community Affairs of the State of Pennsylvania,  
3 the Commonwealth of Pennsylvania, to prepare studies  
4 of the nature of exclusionary zoning.

5 The Secretary has called upon us to assist him  
6 in determining whether there are exclusionary zoned  
7 communities within Pennsylvania.

8 He has asked this because under the guidance  
9 of the Attorney General of the State he has withheld  
10 State recreational dollars that are within his domain  
11 from counties that have been found to practice  
12 exclusionary zoning.

13 We have just recently finished a lengthy  
14 two-volume study on exclusion for the Department of  
15 Community Affairs.

16 The report includes identification of six  
17 communities as to whether or not their zoning was  
18 exclusionary, and it contains an analysis of the issue  
19 of development in urban communities and identification  
20 of communities measuring whether or not a community is  
21 practicing exclusionary zoning, plus a number of other  
22 detailed studies, examining things such as the regional  
23 diseconomies that result from the practice of exclusionary  
24 zoning.

25 Q Now, with regard to the study which you

1 did do for the State of Pennsylvania, did you develop  
2 your methodology for analyzing the land use practices,  
3 studying preferences of communities, to determine whether  
4 or not they were exclusionary?

5 A Yes. The report contains a very lengthy  
6 description of the elements of that determination.

7 Q And in applying that methodology to the  
8 six communities that you were asked to study, did you  
9 reach the conclusion they were all exclusionary?

10 A No, we did not. We found half and half.  
11 Some were exclusionary. Some were not  
12 exclusionary.

13 Q Now, you have referred a number of times  
14 to an organization known as "Suburban Action Institute."

15 Could you tell the Court what "Suburban Action  
16 Institute" is?

17 A The Suburban Action Institute is an agency that  
18 was established in 1969 as a tax-exempt institution  
19 supported by foundations and private gifts. It is called  
20 Suburban Action Institute.

21 Called by whom?

22 A Called by the Internal Revenue Department,  
23 and others, a 501C-3 organization, in the sense that  
24 gifts and donations to the organization are charitable  
25 contributions and tax exempt.

1           The organization was created by myself and Mr.  
2 **Neil Gold** for the purpose of bringing to the attention  
3 **of the public** and particularly to decision makers  
4 **concerned with urban affairs** the great opportunities  
5 that could be brought to bare in the solution of urban  
6 problems by the employment of suburban resources.

7           It was our contention in establishing the  
8 organization that the nation's attempt to combat the  
9 very difficult problems of poverty and discrimination,  
10 lack of opportunity, congestion, pollution, within the  
11 urban centers, primarily in older cities, but primarily  
12 in older industrial suburbs surrounding our industrial  
13 cities - the solution so difficult to find would be more  
14 easily found if the suburbs at the surrounding ring  
15 of new development in our metropolitan areas were asked  
16 to - did contribute on their own the immense resources  
17 that they possessed, and the resources we spoke of were  
18 vacant residential land suitable for development,  
19 **creating jobs**, and the potential to become the job base,  
20 **the job base** of the nation, and relative physical  
21 **superiority** of many of the suburban communities were in a  
22 position of physical superiority to the inner suburbs  
23 and to the inner cities.

24           In particular, we were concerned in the  
25 development of Suburban Action with two major issues.



1 On one hand, Suburban Action was a response to the  
2 growth in the mid-nineteen sixties of what was called  
3 the Model Cities Program.

4 This program was, itself, a response to a  
5 decade of failure in urban renewal on the nation,  
6 parts of the nation's housing agency and the many  
7 local agencies that sought to renew cities.

8 The practice of urban renewal in the decade  
9 from '49 to '60 was characterized by the term "Urban  
10 Renewal" which means negro removal.

11 In large measure, the major clearance of older  
12 worn out slum areas of our cities brought about the  
13 relocation of the minority population to other slums,  
14 and it brought about a tremendous degree of tension in  
15 the urban communities in our cities. It brought about  
16 a situation of great anger upon the part of minorities  
17 who had been transported in some cases on numerous  
18 occasions from one slum to another in order to make  
19 way for the rebuilding of downtown cities, in order to  
20 make way for new apartments that would primarily not  
21 serve low or moderate income families, but would serve  
22 middle and upper income families, that would make way  
23 for major new governmental facilities or educational  
24 facilities, that would make way for commercial  
25 redevelopment.

1           Now, the Achilles heel of the urban renewal  
2 program was its failure to take account of the needs  
3 of the minorities who lived in the slums.

4           As a response to that the nation as part of the  
5 war on poverty and the civil rights movement of the  
6 sixties developed a program called "First Demonstration  
7 Cities" and later "Model Cities" which attempted to  
8 bring government power and wealth to bare in the  
9 redevelopment of the slum areas or what had at that time  
10 come to be known as the ghetto areas, because they were  
11 the place of inhabitation of racial minorities, sometimes  
12 economic minorities, whites as well as non-whites, but  
13 typically of non-white minorities.

14           There grew in the mid-sixties a sense in the  
15 urban American policy that it was the right policy  
16 for America to rebuild ghettos, and Suburban Action  
17 in large measure is a social response to the concept  
18 of ghetto rebuilding, a concept that ghetto is alien  
19 to American tradition, that ghetto is a restraint,  
20 that the program should be to do away with restraint  
21 and create opportunities, that it was improper as a  
22 matter of policy to rebuild ghettos. Ghetto is a  
23 condition that should be removed. And we sought to  
24 develop a program or policy for the nation and urban  
25 development that would give focus to the creation of

1 opportunities so that instead of looking at the physical  
2 plan and what might be done to it to make it better, to  
3 look to the residents of the slum area and say what  
4 opportunities might be afforded to them to enhance  
5 their livability, their conditions of life.

6 And so we sought to develop ability to create  
7 new opportunities not only in the ghettos, but outside  
8 of the ghettos.

9 A part of our theory was that the ghetto resident  
10 might choose to remain in the rebuilt ghetto, but if the  
11 ghetto was no longer a place of restraint, but was a  
12 place of choice, and was an ethnic neighborhood, and  
13 there is a significant choice of our use of words here -  
14 ghetto is a place of restraint. In an ethnic neighborhood  
15 we would not say it is a place of restraint. Very often  
16 people in our society of like backgrounds would choose  
17 to reside together. And it was our feeling not to  
18 dictate to citizens whether they should live together  
19 in a segregated ethnic neighborhood, segregated by  
20 class, or in an integrated community, integrated in  
21 the sense of living together with other groups, classes,  
22 races, that our view of urban policy would be one of  
23 enhancing, entitling individuals to make choices for  
24 themselves.

25 Now, in that sense we were concerned with doing

1 away with the emphasis on ghetto rebuilding as a  
2 ~~major~~ issue as we saw it as a denial of equal  
3 protection of the law of due process, of a host of  
4 civil rights statutes, in that ghetto policy mandated  
5 that people because of race or income had to reside  
6 within certain areas. We thought that was improper  
7 under the law. We also thought it was immoral.

8  
9 But, there was a second reason for the development  
10 of Suburban Action.

11 Q Let me interrupt one moment. Perhaps we  
12 can undertake the second reason after the recess.

13 THE COURT: Yes. I think we'll take  
14 a fifteen-minute recess at this point.

15 (Recess.)

16 DIRECT EXAMINATION (CONTINUED)  
17 BY MRS. THOMPSON:

18 Q Mr. Davidoff, you were about to tell us  
19 the second reason.

20 A Yes. It was a pragmatic reason. In the post-war  
21 period, the city's urban communities or metropolitan areas  
22 which include the central city and then surrounding  
23 suburban areas, counties, around that ring as all parts  
24 of the urban community have seen a tremendous growth  
25 in the population that reside outside of the central  
city and called "the suburbs" to a point at which the

1 suburban population of the nation has now far surpassed  
2 that of the central cities as well as that of the  
3 metropolitan areas of the nation. The suburbs are  
4 now the dominant place of residence in the nation.

5 People free to choose where to live in America  
6 have chosen by and large to live in the suburbs.

7 At the same time, and to an extent less well  
8 recognized, at least at the time of the formation of  
9 the Suburban Action, the jobs of America have moved  
10 with the population from central cities to the suburbs  
11 and it is now the case that about half of America's  
12 metropolitan jobs are located in the suburbs, and that  
13 that number in the suburbs is growing annually at a  
14 rate estimated to be about seventy to eighty per cent  
15 of the new jobs created in the metropolitan area being  
16 such.

17 So that as the population has become suburban,  
18 so the jobs of the metropolitan area will be suburban.

19 In light of the fact of this growth of jobs and  
20 moving to the suburbs we saw the suburbs as containing  
21 the greatest opportunities that is so desperately needed  
22 in order to eradicate problems of low income and of  
23 poverty in our society, and saw that the growing job  
24 base of the suburbs, plus the potential growth in the  
25 future, made great sense as a resource for use in

1 solving the problems of poverty of poor income in  
2 ~~suburban~~ centers.

3 ~~It was~~ it was our view that if the people who were  
4 employed in the suburbs who lived in the city and who  
5 would wish to live in the suburbs close to their jobs  
6 could have that opportunity, that there would be an  
7 immense efficiency, termination of a great deal of  
8 pollution, environmental benefits and a great cost  
9 saving in time and in dollars; and there would also be  
10 the possibility that workers who could not find houses  
11 near the growing jobs of the suburbs would be able to  
12 live in decent environments, rather than absolute polluted  
13 slum environments of the inner city.

14 So, we saw the growth of the suburbs as holding  
15 out the potential for eradicating many of the problems  
16 that posed burdens when the solution to these problems  
17 was looked to solely within the confines of city  
18 jurisdiction.

19 ~~Q~~ Are you currently the executive director  
20 ~~of~~ Suburban Action?

21 ~~Q~~  
22 Q Is it correct that you gave up your  
23 tenured position as a Professor to become director of  
24 Suburban Action?

25 A I did.

1 Q You referred earlier to Suburban Action  
2 as a planning agency. Can you briefly outline the  
3 planning activities of Suburban Action?

4 A Yes. The Suburban Action is an Institute for  
5 study and research, but it is an action institute.  
6 It seeks to employ the studies, research it has developed,  
7 concepts it's developed about the future of metropolitan  
8 growth in ways to bring about change.

9 We are engaged in an immense amount of research  
10 activity concerning the growth of American metropolitan  
11 areas.

12 We are engaged in studies that are carried out  
13 under foundation grants, in terms of the growing issue  
14 of energy resource, environmental amenity, the preservation  
15 of environment, and the bringing together of those issues  
16 with the issue of affording an equitable environment,  
17 affording equal opportunity for all citizens to be the  
18 beneficiaries of programs to enhance the environment  
19 and to conserve energy.

20 We have recently received a grant from the Ford  
21 Foundation to deal with the issues of metropolitan  
22 growth equity and environment.

23 We last year conducted a major national conference  
24 on the theme of "The environment of an open society" in  
25 which major national environmentalists spoke about the

1 need to see that the environmental movement was not  
2 discriminatory or segregating, but dealt with the  
3 environment of the larger metropolitan region, and saw  
4 that activities were undertaken in a way to enhance the  
5 conditions of all who resided within the metropolitan  
6 areas, and not be the - the environmental movement not  
7 be restricted to development of a particular solution  
8 to particular locations, localities, within the  
9 metropolitan area.

10 Q Previous to the conference which you just  
11 described, did Suburban Action have occasion to hold a  
12 national conference on the issue of relationship between  
13 housing and jobs?

14 A Yes, it did.

15 The second conference that Suburban Action  
16 sponsored dealt with the responsibility of corporations  
17 for determining that adequate housing would be available  
18 in proximity to their growing jobs that they were creating  
19 within the suburbs.

20 (It was a national conference in which major  
21 governmental and corporate figures addressed the  
22 conference on this issue.

23 Q And Suburban Action also has a legal staff;  
24 does it not?

25 A Yes, it does. There are lawyers who are on the



1 staff of Suburban Action who have been called upon by  
2 citizens in communities throughout the tri-state New York  
3 area and in some other jurisdictions to give assistance  
4 to them in seeking to obtain decent housing and  
5 opportunities in communities in which the present  
6 zoning barriers prohibit the development of housing  
7 for racial minorities or economic minorities.

8 Q And you have in fact served as an expert  
9 witness in one lawsuit, at least, in which Suburban  
10 Action's attorneys have been involved; have you not?

11 A Yes. I was an expert, a planning expert, in the  
12 case of Oakwood at Madison versus Madison Township, a  
13 case involving the Ordinance adopted in Madison Township  
14 in 1970 as a means to prevent growth.

15 Q And you also have been involved as an  
16 expert witness in litigation involving Suffolk County  
17 in New York?

18 A Yes. I was - I didn't testify, but I prepared  
19 an affidavit in a case involving a suit by environmentalists  
20 to protect the environment of Suffolk County that was  
21 joined by the Urban Coalition, National Coalition, as a  
22 means of forming a unity between these two movements,  
23 that for equitable housing and that for decent housing,  
24 to see that the decent environment that would be created  
25 would be an environment available to all citizens regardless

1 of race or class.

2 And you have, of course, been asked to do  
3 work as an expert witness in this lawsuit; is that correct?

4 A Yes, I have.

5 Q Could you tell us briefly what you have  
6 been asked to do with regard to the Bedminster  
7 litigation?

8 A I have been asked in this case to examine the  
9 planning practices, in particular the land use controls  
10 adopted under the Zoning Ordinance of Bedminster, to  
11 evaluate these in terms of their consequence to  
12 different racial and economic groups within Bedminster,  
13 Somerset County, the surrounding region, the State of  
14 New Jersey, and the larger tri-state metropolitan area.

15 I have been asked to examine specifically the  
16 new Zoning Ordinance, the recent changes to the Zoning  
17 Ordinance, to look to the consequence of this Zoning  
18 Ordinance in terms of housing opportunities for persons  
19 who may be employed in Bedminster, in new jobs that have  
20 recently been created in Bedminster, to examine the  
21 ability of the new Zoning Ordinance to provide for the  
22 development of housing opportunities for all classes  
23 in new proposed residential developments in Bedminster.

24 I have been asked to examine the effect of the  
25 Bedminster Ordinance on housing, job and educational

1 opportunities throughout the different regions that I

2  
3 I have been asked to look at the issue of the  
4 relationship between Bedminster's Zoning Ordinance  
5 and planning process to the county's planning process,  
6 and that in itself in relation to larger regional issues.

7  
8 And further than that I have been asked to look  
9 very specifically at issues of environmental control  
10 and to evaluate the Bedminster planning and zoning  
11 practices in regard to environmental objectives as  
12 they affect these different regions that I mentioned.

13 Q This study which you have undertaken for  
14 the purpose of this litigation is not the first time  
15 you have had occasion to study Bedminster, is it?

16 A No. I have had a long contact with Bedminster,  
17 first at a distance as a professor who taught a course  
18 in planning law and to look to the case of Bedminster  
19 versus Fisher as one of the earlier cases in zoning  
20 dealing with the issues specifically of large lot zoning.  
21 I was familiar with the town and its zoning  
22 practices for some time, earlier than I had been in  
23 physical contact with the community.

24 I first became aware of Bedminster in the early  
25 work of Suburban Action for a number of reasons.

Bedminster looked, to those of us in Suburban

1 Action, as in a very significant regional position  
2 [REDACTED] structure of the two interstate highways,  
3 78 and 287.

4 It seemed to us in terms of our analysis of the  
5 growing jobs of the suburbs of metropolitan New York  
6 and where there should be new housing opportunities  
7 that the area close to that intersection represented  
8 one excellent area that met our criteria in terms of the  
9 resources we saw available there.

10 I came to know something more about Bedminster  
11 at the time that Western Electric made a proposal to  
12 move its corporate headquarters to facilities in  
13 Bedminster, and at that time Suburban Action was deeply  
14 concerned that if Western Electric should move to  
15 Bedminster that it provide adequate housing for the  
16 employees within Bedminster; and that the zoning of  
17 Bedminster be made - be altered so that that type of  
18 housing could be constructed.

19 [REDACTED] position in regard to the development of  
20 [REDACTED] of industrial employment in Bedminster,  
21 other suburbs, was not positive or negative, but solely  
22 one that if the industry chose to develop job opportunities  
23 that it had a mandate, as we saw it, under the Civil  
24 Rights Act of 1964, Title 7, which prohibited employment  
25 discrimination, for determining that there would be

1 adequate job opportunities for all workers employed by  
2 Western Electric at that site; that it would not carry  
3 out the traditional practices of company moving to  
4 suburbs and leaving the minority workers out of the  
5 jobs and back in the cities or distantly removed to  
6 which they had to commute to at great cost.

7 I appeared at the preliminary hearing held in  
8 Bedminster to listen, and I believe that at the end  
9 of the hearing I stood up and made some comments in  
10 regard to the need for Bedminster if it accepted Western  
11 Electric to follow by altering its zoning so that housing  
12 could be built for a range of income groups.

13 Q I realize you have a lot to say. Would  
14 you say it more slowly so the reporter and I can hear?

15 A I'll try.

16 Q With regard to the proposed location of  
17 Western Electric to Bedminster, did you also have  
18 occasion to study proposed or actual moves of other

19 [REDACTED] either to Bedminster or to the Somerset

20 [REDACTED]  
21 [REDACTED] Suburban Action was involved in the  
22 movement, proposed movement, of A. T. & T. to the area,  
23 and to Bernards Township, originally.

24 And in regard to that proposed movement we were  
25 similarly concerned that there be adequate housing

1 opportunities, and we proposed to both the F. C. C.  
2 and the Equal Employment Opportunities Commission -  
3 Federal Equal Employment Opportunities Commission -  
4 that A. T. & T. did have an obligation to develop  
5 housing opportunities proximate to the site of their  
6 new facility.

7 Q Did you subsequently have occasion to  
8 testify before the Federal Communications Commission  
9 with regard to your allegations concerning A. T. & T.?

10 A I prepared testimony for presentation before the  
11 F. C. C., and I have a record of that testimony. I was  
12 out of town at the time those hearings were held, and  
13 my partner, Neil Gold, made the presentation for both  
14 of us at that hearing.

15 Q In that prepared testimony is there  
16 specific reference to movement by A. T. & T., Long  
17 Lines Division, to Bedminster Township?

18 A Yes, there is.

19 Q Let me show you two documents, the first  
20 a letter of June 2, 1971, addressed to the Honorable  
21 [redacted] Chairman, Federal Communications Commission,  
22 and the Honorable William H. Brown, Chairman, United  
23 States Equal Employment Commission, and ask you whether  
24 this bears your signature and the signature of - bearing  
25 your signature and Neil Gold's and ask you if this is the

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letter you wrote to those two federal agencies in regard  
to A. L. J.'s move?

A. Yes, it is.

MRS. THOMPSON: I move its admission  
into evidence.

MR. ENGLISH: If the Court please,  
I have not seen this letter before. It's  
five pages of single-space type. I think  
I ought to have an opportunity to read it  
before determining our position with  
respect to the offer of evidence.

THE COURT: All right. Why don't  
we have it marked for identification at  
this point and you'll have some time free  
during the lunch hour --

MR. ENGLISH: Sure.

THE COURT: -- to review it and  
see if there is an objection at that time.

MRS. THOMPSON: Let me also show  
Mr. Davidoff another document --

THE COURT: Well, let's get one  
identified so it's in the record.

Mark it PC-15 for identification.

(The aforementioned letter, dated  
June 2, 1971, from Suburban Action, is

1 marked for identification as Exhibit PC-15  
2 for identification by the Reporter.)

3 BY MRS. THOMPSON:

4 Q Let me also show you another document  
5 which bears no date, but which is entitled "Federal  
6 Communications Commission, Public Hearings, as to New  
7 York Telephone Company and Other Bell System Companies,  
8 Testimony of Paul Davidoff and Neil M. Gold, Directors  
9 of the Suburban Action Institute."

10 Do you have a copy of that?

11 A Yes, I do.

12 Q Is this document the document which  
13 sets forth your testimony before the Federal Communications  
14 Commission?

15 A Yes, it is.

16 MRS. THOMPSON: I would also move  
17 its admission into evidence.

18 MR. ENGLISH: If the Court please,  
19 I understand we'll have an opportunity to  
20 examine this document over the luncheon  
21 recess before having to determine whether  
22 to consent to or object to its admission.

23 THE COURT: Yes. We'll mark it  
24 for identification, PC-16 for identification.

25 (The aforementioned document



1                   entitled "Federal Communications  
2                   Commission, Public Hearings - Testimony of  
3                   Paul Davidoff and Nell M. Gold, Co-directors  
4                   of the Suburban Action Institute," is  
5                   marked for identification as Exhibit PC-16  
6                   for identification by the Reporter.)

7 BY MRS. THOMPSON:

8                   Q           With regard to your present study of  
9                   Bedminster, can you briefly set forth the methodology  
10                  which you used in undertaking the task which you  
11                  previously outlined?

12                  A           I'll try to be brief in doing it. Perhaps  
13                  there is a way to make it brief.

14                               In developing a system for analyzing particular  
15                               communities to make a determination as to whether or  
16                               not their zoning and planning practices have an  
17                               exclusionary effect we have developed in our office  
18                               a method for examining communities. The method is  
19                               rather detailed and specific.

20                                       It appears in an appendix to the report that  
21                                       was prepared for The Department of Community Affairs  
22                                       of Pennsylvania. It goes through a very lengthy  
23                                       identification of the character of the community and  
24                                       its region, looking at issues of population, income and  
25                                       housing, many components of housing, looking at the

1 Zoning Ordinance and its components, examining the  
2 Zoning Map, administrative practices, development  
3 guidelines and the policies.

4 The report then looked at means for identifying  
5 the community's population, its income distribution,  
6 its changes in population and income characteristics  
7 over time, its housing supply and its housing in  
8 relationship to the income of residents of the community  
9 or potential residents of the community.

10 In its great detail it identifies sources of  
11 information from the census and other places where  
12 we have been able to identify the demographic characteristics  
13 and describe the particular changes in demographic  
14 characteristics that are included in this analysis.

15 One of the parts of this study - I'm trying to  
16 outline it, to be brief, that we detailed at some  
17 length, and I think it's important to mention as we'll  
18 be referring to it - I'll be referring to it in my  
19 analysis - is a new system for analyzing changes in  
20 income in a community.

21 One of the problems in identifying the issue  
22 as to whether or not there is growing economic  
23 segregation in metropolitan areas is that of determining  
24 the changes over time in the make-up of the different  
25 economic classes in the community.

1           Typically, the analysis has been of shifts in  
2 the median income, relative changes in median income.

3           We felt that that was an inexact measurement of  
4 the full class of citizens within a community or  
5 region and so have created an analysis which we call  
6 by name a "quintile analysis" in which we take the  
7 income of the larger region of a state or of the  
8 nation and we break that into five equal groups, or  
9 quintiles, which consists of the lowest twenty per cent  
10 of income earners up to the wealthiest twenty per cent  
11 of income earners.

12           And we examine that quintile, to use an example,  
13 for the State of New Jersey, in 1970, and then look at  
14 a particular community, in this case Bedminster, to look  
15 at the proportion of Bedminster's population that falls  
16 within each of these quintiles, that is, if in New Jersey  
17 in 1970 twenty per cent of the families and unrelated  
18 individuals earned under, say, \$6600.00 we would see  
19 what percentage of Bedminster's population earned under  
20 that figure.

21           In New Jersey, twenty per cent of the population  
22 is in each quintile. What we wish to see is whether in  
23 a particular community there is a greater or lesser  
24 amount of concentration of population in any one of  
25 those quintiles. And we compare these quintiles for

1 the State, or for the metropolitan area, and for the  
2 town in 1970, or in some cases in 1950 where we have the  
3 data, in order to see the changes that have taken  
4 place.

5 I will be presenting some evidence along those  
6 lines early in - there's a new way of looking at income  
7 movement and it is very helpful in being able to  
8 determine whether or not there is a growing concentration  
9 of the poor or of the wealthy within a community.

10 Q And what are the other aspects of the  
11 community which you studied?

12 A Well, after examining the community, the  
13 income of a community, we have examined in great detail  
14 the racial composition, the shifting of make-up of the  
15 racial components of the town, and then we have examined  
16 the housing characteristics in many dimensions of  
17 housing, rents or ownership characteristics, vacancy  
18 characteristics, single-family, multi-family, mobile  
19 home, members within the community, and the shift in  
20 these over time.

21 We look very closely at questions of housing  
22 value, as to whether to see, make a determination as  
23 to whether different income classes would have access  
24 to the housing of the community.

25 In general, we have employed a rule of thumb

1 that a family should pay for a home roughly no more  
2 than twice its income. That is a figure that the Federal  
3 Housing Administration has used. At an earlier time  
4 a figure of 2.5 times income was employed, but with  
5 changes in consumer patterns and with growing inflation,  
6 increased mortgage problems, the F. H. A. has reduced  
7 that figure to two times income, and has even brought  
8 it down to, in some case, 1.9, and at one time 1.8  
9 times income, to see whether a family can afford a  
10 house at a particular price.

11 In terms of the rental market, we look at  
12 figures ranging from twenty per cent to twenty-five  
13 per cent of income, or, roughly, one week's earnings,  
14 to see if a family can afford the rentals within a  
15 community.

16 We have, as I mentioned before, examined the  
17 vacancies in the community.

18 Then, of course, the major area of analysis  
19 that is undertaken is that of identifying the  
20 restrictiveness of the Zoning Ordinances.

21 I think here I would like, if I may, just to  
22 read a paragraph:

23 "In analyzing the restrictiveness of  
24 a community --

25 Q Tell us what you're reading from.

1 A Surely. This is from the Addendum Report on  
2 Identifying Exclusionary Zoning, the portion of the  
3 study on exclusion prepared for the Pennsylvania  
4 Department of Community Affairs.

5 Q Before you read the paragraph, I take it  
6 It's your testimony that it is precisely that methodology  
7 which you applied to Bedminster?

8 A Yes, it is.

9 "In analyzing the restrictiveness of a  
10 community's zoning laws, policies and  
11 practices, we attempt to identify  
12 those regulations and procedures which  
13 unreasonably and arbitrarily restrict  
14 certain types of dwelling units, add to  
15 the cost of constructing units, or  
16 discourage the development of certain  
17 dwellings."

18 "All aspects of zoning controls are  
19 reviewed, the Zoning Ordinance requirements,  
20 the Zoning Map, the administration of the  
21 Zoning Ordinance and development guidelines  
22 and policies."

23 We then go into greater detail in specifying the  
24 type of analysis that we make of different sections  
25 and the type of data that we will look for.

1                   Our objective in this, again, if I may quote  
2 from the report, from page 23 -

3                   "Those regulations within the Zoning  
4 Ordinance which prevent the development  
5 of residential uses available to low  
6 and moderate income persons and which  
7 are necessary to protect the health,  
8 safety, morals and welfare of the public  
9 may be labelled as 'restrictive.'

10                   "While zoning provisions are intended to  
11 protect, we view some of these provisions  
12 as exceeding that intent, with the result  
13 of limiting residential development."  
14

15                   Q           In addition to the analysis which you have  
16 just summarized, are there any other steps which you  
17 take, which you took, in analyzing Badminster's Zoning  
18 Ordinance?

19                   A           Yes. We examined issues, which I do not think  
20 mentioned, on analyzing the development guidelines  
21 and policies, the plans that have been developed over  
22 time, the planning process that has been employed,  
23 in preparation for the development of zoning control.

24                   Q           Would this be the analysis of the Master  
25 Plan of the township?

A           Of the Master Plan and documents relating to the

1 planning process.

2 We have made field visits to Bedminster.

3 We have examined Bedminster firsthand through  
4 our numerous trips to the community.

5 We have also examined issues of employment,  
6 and the growing employment within the community, the  
7 job opportunities that are developing within the  
8 community and within the surrounding region.

9 That becomes a part of the analysis.

10 MRS. THOMPSON: I'd like to mark  
11 for identification the document to which  
12 Mr. Davidoff has been referring, entitled  
13 "Addendum Report on Identifying Exclusionary  
14 Zoning," prepared by Suburban Action  
15 Institute, prepared for the Department  
16 of Community Affairs, the Commonwealth of  
17 Pennsylvania, November 1973.

18 (The aforementioned Addendum  
19 Report on Identifying Exclusionary  
20 Zoning is marked for identification as  
21 Exhibit PC-17 for identification by the  
22 Reporter.)

23 MRS. THOMPSON: I would also move  
24 to permit it into evidence as setting  
25 forth Mr. Davidoff's methodology.



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MR. ENGLISH: If the Court please,  
I would like an opportunity to examine  
that before taking a position on its  
admissibility.

THE COURT: I'll reserve on that  
until after lunch.

BY MRS. THOMPSON:

Q Mr. Davidoff, could you briefly summarize  
to the Court the conclusion which you drew with regard  
to the Bedminster Zoning Ordinance and Land Use Plan  
after applying the methodology which you have just  
outlined?

A Yes.

Bedminster Zoning Ordinance is an exclusionary  
Zoning Ordinance.

Bedminster's Planning Process has supported  
the growing segregation of income and racial groups  
within Bedminster, as compared to the surrounding  
region.

Its comprehensive planning process has been a  
shallower one in terms of a rational process to identify  
the range of alternatives that would be available to  
Bedminster to meet the needs of its present residents  
and future potential residents.

It has not examined clearly the range of possible

1 practices of development that could guide its growth  
2 in the future.

3 The plan is deficient in terms of understanding  
4 how growth of Bedminster affects growth of opportunities  
5 for low and moderate income families and racial minorities  
6 within New Jersey, and within Somerset County in particular.

7 It is deficient in failing to examine the needs of  
8 families of different economic groups and of different  
9 racial categories.

10 In general, it fails completely to comport with  
11 the standards of - the standards of analysis that have  
12 been prescribed in the Code of Professional Responsibility  
13 by the American Institute of Planners.

14 The planning and the related Zoning Ordinance  
15 of the town fail to relate the job growth that is  
16 occurring within Bedminster to the needs for housing  
17 for those who will be employed within Bedminster; and  
18 that tends to further the segregation that exists  
19 within Somerset and within the state and within the  
20 region, as between families of different incomes,  
21 between families of higher income and families of  
22 lower income; and it contributes to growing racial  
23 segregation that exists between inner cities and suburbs  
24 and the outer suburbs of New Jersey.

25 The planning process and then the result of that

1 process as reflected in the Zoning Ordinance fails to  
2 perceive Bedminster's location within the region at one  
3 of the major growth nodes of the region for the latter  
4 part of this century.

5 The planning process and the Zoning Ordinance  
6 of Bedminster by failing to take account of the needs  
7 to provide housing opportunities for all classes and  
8 races within Bedminster has a direct consequence of  
9 furthering the pollution of inner cities and inner  
10 suburbs of New Jersey, and of contributing to the  
11 growing segregation that occurs in the education system  
12 of New Jersey.

13 Q Did you make any determinations with  
14 regard to the character of Bedminster?

15 A Yes. We have examined Bedminster's character  
16 and land and suitability for development, and to find  
17 that it is presently a largely vacant area within  
18 New Jersey that is maybe characterized as resided in  
19 by affluent whites, and increasingly that has been the  
20 case in the past two decades, and it is an area that is  
21 susceptible to great change and growth, so that it may  
22 contribute to meeting the well defined needs for housing  
23 and educational and economic opportunity for families of  
24 middle and lower moderate income throughout the State of  
25 New Jersey.

1 Q Did you draw any conclusions with regard  
2 to the tax consequences and physical concerns in  
3 Bedminster's zoning and land use?

4 A Yes. It is apparent from an analysis of the  
5 planning documents that Bedminster has been persuaded  
6 to employ devices to enhance its physical position as  
7 one of those communities in New Jersey with the lowest  
8 tax rate.

9 Amongst some five hundred and some odd - I  
10 think five hundred and fifty - jurisdictions in New  
11 Jersey I believe that Bedminster ranks somewhere around  
12 five hundred and fortieth or five hundred and forty-eighth  
13 - five hundred and forty, from top to bottom, in the  
14 sense that it has one of the very lowest tax rates,  
15 and it has been deeply concerned with trying to avoid  
16 forms of development that would enlarge the tax rates  
17 and the tax burdens of citizens; and it has been advised  
18 by the planner to attract those types of activities that  
19 would essentially restrict Bedminster to junior and  
20 senior executives, forms of development that would  
21 maintain a physical stability in the community and not  
22 greatly enlarge the tax burden.

23 Q Now, in order to reach these conclusions  
24 did you examine any particular documents?

25 A Well, there is a set of documents that should

1 be identified that are external to Bedminster, and  
2 these are the documents of the State of New Jersey  
3 which have identified the housing crisis that exists  
4 in New Jersey, statements that have been made by  
5 former Governor Cahill to the State Legislature on  
6 two occasions calling for a change in local zoning  
7 practice because that practice has resulted in  
8 discrimination, and a failure upon the part of the  
9 state to meet the needs of housing --

10 MR. ENGLISH: Just a minute. I  
11 object to the witness characterizing  
12 what Governor Cahill said. If there's a  
13 speech or a paper, let's get it in  
14 evidence. But, I think the Governor is  
15 well able to speak for himself, and I ask  
16 that the answer be stricken. It's a  
17 characterization of a document not yet in  
18 evidence.

19 THE COURT: Your objection is  
20 sustained. The answer will not be stricken,  
21 though. It's part of the record.

22 BY MRS. THOMPSON:

23 Q Mr. Davidoff, what other documents did  
24 you examine?

25 A I examined a study prepared by the Department

1 of Community Affairs, published in April of 1972,  
2 called "Land Use Regulation, the Residential Land Supply,"  
3 which was a study of housing in New Jersey, prepared  
4 by the State Department of Community Affairs, which spoke  
5 of the --

6 MR. ENGLISH: Wait a minute. I object  
7 to any characterization of what it said.  
8 He described the nature of it, and I have  
9 no objection to that.

10 Q Mr. Davidoff, do you have the document  
11 with you here in court?

12 A Yes, I do.

13 Q You say this is a document on which you  
14 premised your evaluation of Bedminster?

15 A Yes.

16 MRS. THOMPSON: I move its submission  
17 into evidence, "Land Use Regulation,  
18 Residential Land Use Supply."

19 THE COURT: Mrs. Thompson, P-17 - Is  
20 that the only copy you have?

21 MRS. THOMPSON: Unfortunately.

22 MR. ENGLISH: I have no objection to  
23 this.

24 MR. LANIGAN: I have no objection.

25 MR. ENGLISH: That will be marked

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PC-18 in evidence?

THE COURT: Yes.

(The aforementioned document entitled "Land Use Regulation, the Residential Land Use Supply," is received into evidence and marked Exhibit PC-18 in evidence by the Reporter.)

BY MRS. THOMPSON:

Q Mr. Davidoff, are there any other documents you relied on?

A Yes. The report by the Somerset County Planning Office, entitled, "Housing and Jobs, Somerset County, New Jersey." I believe it was published in 1970.

I should say that this report was prepared, as it says in the report, cooperatively by the Office of Economic Development and the County Planning Board.

MRS. THOMPSON: I would move its admission into evidence.

MR. ENGLISH: No objection.

MR. LANIGAN: No objection.

THE COURT: PC-19 in evidence.

(The aforementioned document entitled, "Housing and Jobs, Somerset County," is received into evidence and marked Exhibit PC-19 in evidence by the Reporter.)

1 BY MRS. THOMPSON:

2 Q Are there any other documents on which you  
3 relied?

4 A I had occasion to examine the Second Regional  
5 Plan, prepared by the Regional Plan Association of  
6 New York, a November 1968 publication.

7 MRS. THOMPSON: Your Honor, this is  
8 a document which all parties have admitted  
9 the authenticity of. I would now move its  
10 admission into evidence.

11 MR. ENGLISH: No objection.

12 MR. LANIGAN: I have no objection.

13 THE COURT: PC-20.

14 (The aforementioned document entitled,  
15 "Second Regional Plan," is received into  
16 evidence and marked Exhibit PC-20 in evidence  
17 by the Reporter.)

18 BY MRS. THOMPSON:

19 Q Are there any other documents upon which  
20 you relied?

21 A Yes. Master Plan of Land Use, Somerset County,  
22 entitled, "Toward the Year 2000."

23 Q And are there any other documents on which  
24 you relied?

25 A I did rely on the writings of a number of experts



1 on zoning, brief articles. Would you like me - I have  
2 read through a series of descriptions of the zoning  
3 situation in the United States, including the reports  
4 of the Douglas Commission and the Kaiser Commission,  
5 presidential study, a report done for the President by  
6 specially appointed commissions.

7  
8 And then I examined reports, studies, prepared  
9 by experts in the field of planning and zoning.

10 I looked at the study by William Holly White  
11 on the Last Landscape.

12 I examined the report prepared by Miss Ann Louise  
13 Strong for the Department of Housing and Urban Development.  
14 That examined open spaces for urban America. A 1965  
15 publication.

16 Q Did you also have occasion to consult  
17 census data?

18 A Yes. I relied extensively upon census data,  
19 a United States census data, of 1950, '60, and '70  
20 for the United States, for New Jersey, for Somerset  
21 County, for Bedminster and surrounding communities.

22 Q On the basis of your examination of these  
23 documents did you form a determination of the definition  
24 of the region in which Bedminster is located?

25 A Yes. Bedminster is a part of a number of regions.  
The immediate region is the area of Somerset

1 County and portions of Morris County that immediately  
2 about the township.

3 It is closely related by reason of the fact  
4 of the two interstate highways to a much larger region  
5 that has placed Bedminster in close proximity to the  
6 New York metropolitan area, to most parts of that area,  
7 and with the completion of both of those interstate  
8 highways in very great proximity to those parts of the  
9 metropolitan region. So that I would say that Bedminster  
10 is clearly a part of the closest of the Somerset County  
11 region. It is part of a region that is New Jersey,  
12 and it is part of a larger thirty-one county region  
13 that is the tri-state New York, New Jersey, Connecticut  
14 region.

15 Q Did you have occasion to determine changes  
16 in the physical characteristics of the region of which  
17 Bedminster is a part during the course of your study?

18 A Yes, I have.

19 Q And what changes did you observe?

20 A We observed that there has been a tremendous  
21 change in the population of the region, a population  
22 that has increasingly, as I said earlier, become  
23 suburbanized. And --

24 THE COURT: Are you referring to  
25 the general or immediate region?

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THE WITNESS: I am talking about the New Jersey region and the tri-state region.

I have seen in the examination of the data on the growth of population in this period the fact that the suburban communities have increasingly taken on the share of new growth from decade to decade.

In New Jersey, for example, from 1960 to 1970, while the state's population increased by some eighteen per cent, the population of the largest city of New Jersey, Newark, declined by 22,000 - almost 23,000 in population, by approximately six per cent in population.

The change in population and the change in jobs in New Jersey, as well as in the larger tri-state area, have been characterized by a growth of new housing primarily for families of upper income in the suburbs, and a relegation to families of lower and moderate middle income to the older housing stock of the region.

During the period of the decades of '50 to '70, or the post-war period, we have seen a tremendous change in the inner cities

1 of New Jersey, of the major cities of New  
2 Jersey, in which there's been a serious  
3 decline in the physical condition and  
4 quality of life in those communities;  
5 and at the same time there's been a great  
6 change in the suburban areas which have  
7 been characterized by new growth, by  
8 changes from open space and open land to  
9 areas that have been heavily developed by  
10 new suburban housing and accompanying jobs.

11 Q Now, specifically, with regard to Bedminster  
12 and the location in Somerset County, did you make any  
13 determinations of the absolute changes in population  
14 of Bedminster in the decade 1960 and 1970?

15 A Yes. Yes, during the decade from '60 to '70  
16 Bedminster's population increased from 2,322 to 2,597.  
17 That is an absolute change of 275, and a percentage  
18 increase of 11.8.

19 It might be helpful here if we might --

20 Q Let me ask you, did you prepare any color  
21 charts which illustrate the changes in Bedminster's  
22 population growth over the last decade?

23 A Yes, I have. I have one chart here which  
24 illustrates the shifts in the non-white proportion of  
25 the total population of Bedminster as compared to New

1 Jersey, and then as compared to the largest city in  
2 New Jersey, Newark.

3 Q Was this chart prepared on the basis of  
4 your census data?

5 A It comes from an analysis of the 1950, 1960 and  
6 1970 census.

7 The materials here are deficient in regard to the  
8 1950 data for Bedminster, as we did not have access to  
9 information.

10 We show these figures of the proportion of  
11 non-white population for Newark and Jersey as a whole,  
12 but we do not have it for Bedminster for the period.

13 I should also suggest that a deficiency in this  
14 report that I think could be corrected by my identifying  
15 the numbers are that we do not include in this graph  
16 information on the non-white proportion of the total  
17 population of Somerset County; and I might fill the record  
18 by suggesting that in 1960 Somerset County had 3.3 per cent  
19 of its population as non-white, and in 1970 4.1 per cent  
20 was non-white.

21 The other data is here.

22 MRS. THOMPSON: I'd like to mark the  
23 chart for identification and ask Mr. Davidoff  
24 to explain it.

25 If we hang the chart on this board

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would you be able to see it?

All right. We'll move it out.

(The aforementioned chart entitled, "Non-white Proportion of Total Population," is marked for identification as Exhibit PC-21 for identification by the Reporter.)

BY MRS. THOMPSON:

Q Could you, Mr. Davidoff, explain your findings as to non-white population growth as set forth on plaintiff's Exhibit PC-21 for identification?

A Yes. On this chart, as well as in the other charts that will be presented, I have presented in graphic form illustrations of the growing segregation that exists as I see it between Bedminster and the rest of the state.

And, in particular, comparing Bedminster with the largest city in New Jersey to illustrate the fact that as compared to that city, which is an example of - it is true for the other cities of New Jersey - there has been a heavy concentration and increase in the non-white population in the period from 1950 to 1970.

As the graph shows, for the State of New Jersey as a whole the non-white population has increased from 7 per cent in 1950 to 9 per cent in 1960 to 11 per cent in 1970.

1           But, more significantly, in terms of the social  
2 problems that confront the State of New Jersey the  
3 concentration of non-white population has been very  
4 heavy within the cities, and Newark illustrates this,  
5 as would the other cities of Jersey, in seeing a change  
6 in the non-white proportion of its population growing  
7 from 17 per cent in 1950 to 34 per cent in 1960 to 56  
8 per cent in 1970.

9           A basic cause for the increase in the proportion  
10 of the non-white population of Newark is not only the  
11 absolute increase in numbers, increase in size of some  
12 74,000, in population of the non-white population, but  
13 because there has been a demise or decrease - a decrease  
14 in the number of whites that reside in Newark by an  
15 amount that totals roughly a hundred thousand in the  
16 decade from 1960 to 1970.

17           What has happened is that the non-white population  
18 of the state has increasingly moved to the cities, and  
19 the white population is leaving the cities at a very  
20 rapid rate, meaning that the cities have become  
21 increasingly non-white.

22           At the same time, the suburban portions of the  
23 state have seen a very small increase in the non-white  
24 population. In Bedminster the increase is from one per  
25 cent of the population in 1960 to just two per cent in

1 1970.

2 The State has seen a growth in the non-white  
3 population at a rate of two per cent a year, two per  
4 cent a decade over the period from 1950 to 1970.

5 Bedminster has a growth rate on a very small  
6 base of only one per cent of an additional one per cent  
7 during the period from 1960 to 1970.

8 I believe that the reason for this vast difference  
9 in the growth of the non-white population relates very  
10 heavily to the housing opportunities that have been  
11 afforded by Bedminster and other suburban communities  
12 as compared to the housing opportunities found for  
13 families of low and moderate income within the central  
14 cities.

15 Q Before we proceed to a discussion of the  
16 housing studies which you did, did you do any other  
17 studies with regard to population composition of  
18 Bedminster and surrounding area?

19 A Yes. One of the major studies that I performed  
20 was that of examining the changes in the income mix  
21 of families residing within Bedminster as compared to  
22 families residing in the State of New Jersey and as  
23 compared, again, with an example of the studies of  
24 New Jersey as can be seen in the larger city of New  
25 Jersey, in Newark.



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THE COURT: That seems to be a logical point that you and counsel will be able to remember. It's a new concept. I think it's just as important that counsel have an opportunity to sustain strength as you read the various reports that have been marked for identification. So, I'm going to recess now for lunch until 1:30 to allow us a little time for eating as well as reading.

(Lunch recess.)

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AFTERNOON SESSION

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THE COURT: Are we in a position to hear anything on the exhibits?

MR. ENGLISH: Yes, your Honor. The defendants have no objection to PC-17 for identification, which was the addendum report to the report that Mr. Davidoff prepared, which sets forth his methodology.

THE COURT: Mr. Lanigan, do you agree?

MR. LANIGAN: Yes, sir.

THE COURT: All right. There being no objection we'll admit PC-17.

(Exhibit PC-17, previously marked for identification, is now received and marked into evidence as Exhibit PC-17 in evidence by the Reporter.)

MR. ENGLISH: However, the defendants do object to PC-15 for identification, which is a letter signed by Mr. Davidoff and Mr. Gold directed to the Chairman of the Federal Communications Commission and to the Chairman of the Equal Employment Opportunities Commission.

The basis for the objection is that this has absolutely nothing to do with

1                   Bedminster. It is directed to A. T. & T.  
2                   In regard to its proposed move of one of  
3                   its division into Bernards Township;  
4                   and I submit that it has absolutely  
5                   no relevance or materiality in respect  
6                   to the issues before this Court.

7                   THE COURT: That's 15?

8                   MR. ENGLISH: That's PC-15.

9                   MRS. THOMPSON: Your Honor, we would  
10                  submit it's highly relevant in that Mr.  
11                  Davidoff has, as he has testified, and  
12                  will become more clear throughout his  
13                  testimony, is very concerned about and has  
14                  studied the region of which Bedminster is a  
15                  part; and I think there's no question about  
16                  the fact that Bedminster cannot be very much  
17                  closer to Bernards Township.

18                  Certainly, Mr. Davidoff's study of  
19                  the movement of industry and the problems  
20                  created by the movement of industry into  
21                  Bernards Township must reflect on his  
22                  opinions, as it will be shown, and has  
23                  already been shown, with regard to Bedminster  
24                  and particularly the issues which he has  
25                  addressed himself to in terms of examining

1 the Zoning Ordinance and the relationship  
2 between employment and housing.

3 Additionally, as we already know,  
4 A. T. & T. is planning to move into  
5 Bedminster, and Mr. Davidoff's letter and  
6 testimony expressed concern with the entire  
7 movement of A. T. & T., its repercussions  
8 for employees, and, more importantly, the  
9 perception which is evidenced by the concern  
10 in the letter that the Somerset Hills area  
11 is a growing source of employment, that  
12 major industries are moving into the area,  
13 and that Bedminster cannot proceed simply  
14 in a vacuum as the one community and one  
15 employment source which is readily available  
16 to Bedminster Township.

17  
18 MR. LANIGAN: Your Honor, from the  
19 outset, Bedminster has based and premised  
20 their needs on the extent that if there are  
21 needs in the area as they have defined  
22 it in the region, in order to broaden itself  
23 beyond the municipal boundaries of Bedminster,  
24 then those needs are being satisfied by  
25 others, and since they are in fact being  
satisfied by others, then Bedminster need not

1                   respond to the degree that the plaintiffs  
2                   of these cases seek. I submit, as I have,  
3                   that that is a holey premise, that they  
4                   have injected in this case the facts that  
5                   other areas abutting the township, abutting  
6                   this defendant, are of significance to it  
7                   in its defense, that they are in a certain  
8                   status or not, it is respectfully submitted  
9                   that these indications, these documents,  
10                  are some indication of the present status  
11                  of the immediate area and the fact that  
12                  those needs are not in fact being satisfied  
13                  and that, therefore, based upon this  
14                  assumption their defense cannot rely upon  
15                  what is being done elsewhere.

16                                 MR. ENGLISH: May I comment on Mr.  
17                                 Lanigan's observations?

18                                 Number one, I did not recognize as  
19                                 defendant's position what counsel has just  
20                                 stated it to be.

21                                 Secondly, I think it's a matter of  
22                                 common knowledge known to the Court that  
23                                 the part of Bernards Township where  
24                                 A. T. & T. is constructing a facility is  
25                                 about as far from Bedminster as you could

1 get in Bernards Township. It is certainly  
2 important - the distance we are concerned  
3 about, what is right over the township  
4 line from Bedminster is Bernards and Far  
5 Hills and the other communities. It is of  
6 prime importance, but the fact remains  
7 that an analysis of the sins of A. T. & T.  
8 and of the sins of Bernards Township  
9 which is my characterization of this  
10 letter, has nothing to do with the  
11 Bedminster Zoning Ordinance. If Mr.  
12 Davidoff has made this study, he is  
13 competent to testify to the results of  
14 that in relation to Bedminster.

15 But, I submit that all the  
16 plaintiffs are trying to do by this is  
17 give a black eye to Bernards Township and  
18 then convict Bedminster on the grounds of  
19 guilt by association. I think that is a  
20 process which is unjudicial and prejudicial,  
21 and I object to it. That's all this does.

22 MRS. THOMPSON: May I be heard,  
23 your Honor?

24 There is no intention at all, of  
25 course, to convict by guilt by association,

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but what I would point out is that Article 2 of the Zoning Ordinance, which is under attack here, talks about the purpose of the Ordinance being, among other things, "to encourage appropriate use of land throughout the municipality based on . . . location of the township and state and region," and I would submit that the conditions which prevail in the state and region are highly relevant to the lawsuit.

THE COURT: The objection is sustained. I can see the relevancy, an analysis by Mr. Davidoff of Bedminster's planning and zoning conduct. I can see comment by him as an expert on what has happened in the Bedminster region and the general region.

To pinpoint what has happened in a specific instance of one community within the immediate region would have the tendency to draw the Court, as finder of fact, off the basic issues and confuse the situation by emphasizing what one neighboring community has done or has not done.

I'm not saying that Bernard's response

1                   thus far to any existing needs is not  
2                   relevant, but I'm saying that its relevancy  
3                   is only as part of a region. And I'll  
4                   hear testimony, if you wish, to offer it  
5                   on that. But, not a specific report  
6                   vis-a-vis Bernards and one major new  
7                   industrial employer.

8                   MR. ENGLISH: May I address myself  
9                   to the - if the Court please, this leads us  
10                  to Exhibit PC-16 for identification, and  
11                  the defendants object to its admissibility  
12                  into evidence. This is a fairly lengthy  
13                  document which I think the witness described,  
14                  and the document describes itself as the  
15                  testimony of Paul Davidoff and Neil M. Gold,  
16                  co-directors of the Suburban Action Institute,  
17                  in a proceeding which is described as  
18                  "Federal Communications Commission, Public  
19                  Hearings," as to the New York Telephone  
20                  Company and other Bell System Companies.  
21                  There is virtually no reference to Bedminster  
22                  in this document except a statement that one  
23                  of A. T. & T.'s constituent parts, the  
24                  Long Lines Division, is proposing to move  
25                  from New York City to Bedminster.



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There is a section of about two and a half pages entitled "Long Lines Department Move to Bedminster."

The facts - such facts as are stated in that section are facts which I think are already in evidence or which can readily be put into evidence by the census data and other matters.

There is some discussion of the Bedminster Zoning Ordinance, which was the Old Ordinance, as it existed prior to the one which is now before this Court. So that in terms of providing any new or helpful information to this Court in resolving the issues before this Court, there is nothing in this exhibit that does that. It certainly could not be covered by the testimony of Mr. Davidoff who is now on the witness stand. Moreover, it just purports to be the testimony of Mr. Gold, who is not here. According to the information which the plaintiffs have furnished us, there is no intention to call Mr. Gold. And I think the document which purports to be the testimony of

1 a witness who is not to be made available  
2 for cross examination would be manifestly  
3 improper; and I, therefore, object to the  
4 admission of PC-16 for identification.

5 MRS. THOMPSON: Your Honor, I would  
6 submit that the document sets forth  
7 statistics relating to the growing  
8 employment in the region of which Badminton  
9 is a part. In addition to dealing  
10 specifically with the move of A. T. & T.  
11 to Bernardsville, the report specifies  
12 all of the moves by A. T. & T. into the  
13 area dealing with everything from the move  
14 of the Treasury Department to Piscataway  
15 along 287 up through the movement along  
16 287, and then also talking about the move  
17 of A. T. & T., Long Lines, to Badminton,  
18 so that you have an analysis of the pattern  
19 of one circle of development by one particular  
20 company, a major employer, throughout the  
21 area.

22 Moreover, I would suggest that as to  
23 the issue with regard to cross examination  
24 that the testimony is the joint testimony  
25 of Mr. Davidoff and Mr. Gold. It's written

1 In joint testimony, and I'm sure that there  
2 is nothing about it which Mr. Davidoff  
3 cannot be cross examined on. It's  
4 specifically joint testimony and was  
5 prepared as joint testimony. I find it  
6 hard to believe that in this situation  
7 where there are co-authors that one needs  
8 to pull into Court every author of the  
9 treatise.

10 MR. LANIGAN: If the Court please,  
11 I would urge its admission. It contains  
12 an exceptionally fine analysis of the  
13 Bernards Ordinance. It is something  
14 upon which and the character of the  
15 area is something upon which the township  
16 does and has relied.

17 I invite the Court's attention to  
18 page 8 of their Brief at this point,  
19 which states, in the third full paragraph:

20 "Accordingly, the reasonableness  
21 of low density zoning in Bedminster  
22 is confirmed by the low density  
23 land uses in municipalities lying  
24 west, north and east."

25 We start with the premise that ours is

1 okay because theirs is okay, and because  
2 theirs is okay ours is okay. And I  
3 respectfully submit that this will be  
4 helpful to the Court in analyzing that  
5 premise.

6 THE COURT: I haven't seen the  
7 exhibits, but from listening to the  
8 discussion of it I get the distinct  
9 impression that it does deal with the  
10 regional concept that I spoke of earlier.  
11 So, I'll admit it as relevant.

12 MR. ENGLISH: I didn't hear your  
13 Honor's ruling.

14 THE COURT: I'll admit it as  
15 relevant since it deals with the apparent  
16 regional concept.

17 (Exhibit PC-16, previously marked  
18 for identification, is now received and  
19 marked into evidence as Exhibit PC-16 in  
20 evidence by the Reporter.)

21 MRS. THOMPSON: Your Honor, there are  
22 two matters that I'd like to raise at this  
23 point before continuing with Mr. Davidoff's  
24 testimony.

25 Lynn Cieswick, who is one of the

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plaintiffs in this litigation, is presently serving as a student teacher, and she finds it very difficult to get to court before 3:30 or quarter of four. I was wondering whether you would indulge her problems and be able to sit after four, perhaps on Thursday.

THE COURT: Not on Thursday.

MRS. THOMPSON: How about tomorrow?

THE COURT: I have a meeting every Wednesday afternoon at four o'clock that usually takes an hour to an hour and a half.

MRS. THOMPSON: Unfortunately, she has to be at work at eight, which makes it a little difficult on the other end.

THE COURT: Where is she working?

MRS. THOMPSON: She is doing student teaching through Rutgers. I believe it is in Piscataway.

THE COURT: They won't let her off a half hour earlier?

MRS. THOMPSON: She was going to check today, but she was very leery about it.

THE COURT: I would think a Board of Education being a government entity would

1 recognize the need of a co-government  
2 entity. Give it a good healthy try, and  
3 if she can't get here, you know, by three  
4 o'clock, or so, we'll accommodate her.

5 MRS. THOMPSON: Thank you very much,  
6 your Honor.

7 The other matter is that Mr. McHarg,  
8 who is to be an expert witness on behalf of  
9 plaintiffs, is presently in Japan, and the  
10 defendants have graciously agreed, if it  
11 meets with your Honor's schedule, to allow  
12 Mr. McHarg to present his testimony during  
13 their case, as opposed to our case, which  
14 will be resting shortly.

15 Mr. McHarg will be back the week of  
16 March 18th.

17 THE COURT: All right. So long as  
18 we're talking about scheduling matters,  
19 there is a rather prolonged argument on a  
20 series of motions in a consolidated action in-  
21 volving nineteen separate lawsuits that's  
22 scheduled for this Thursday afternoon. So,  
23 you can all count on being through at - I may  
24 sit till one o'clock and then take a late  
25 lunch. But, you can count on being through

1 on Thursday at one o'clock. And on Monday  
2 there is a full calendar. So, I won't be  
3 able to sit on this case on Monday. So,  
4 you'll be able to either prime yourselves  
5 further on this or accomplish something else  
6 between one o'clock Thursday and nine o'clock  
7 Tuesday morning.

8 MR. LANIGAN: Thank you, your Honor.

9  
10 DIRECT EXAMINATION (CONTINUED)  
11 BY MRS. THOMPSON:

12 Q Mr. Davidoff, before we broke for lunch we  
13 were talking about the socio-economic conditions of  
14 Bedminster and its regions. I'd like to return for a  
15 moment to the analysis of racial composition of Bedminster  
16 and ask you if you have done any analysis to determine  
17 whether there are areas of racial concentration in  
18 Somerset County.

19 A My analysis of the census information indicates  
20 that while four per cent of the non-whites of the  
21 population of Somerset in 1970 was categorized as  
22 non-white, of that population roughly three-quarters,  
23 seventy-four per cent, resided in the communities of  
24 Franklin and Somerville.

25 So that there is within - there is not by any  
means an equal distribution of that non-white population,

1 out of heavy concentration in those two communities.

2 Q Have you had any occasion to study the  
3 number of Spanish-speaking people living in Bedminster  
4 and the area?

5 A Yes. The 1970 census addresses the category of  
6 Spanish-speaking persons, and it reveals that Bedminster  
7 had thirtu-five - or 1.3 per cent of its population in  
8 the category of Spanish-speaking persons.

9 That compares to Somerset County's population of  
10 3,153, or 1.6 per cent.

11 Bedminster and Somerset County are about identical.

12 New Jersey had over 300,000 such persons,  
13 constituting 4.3 per cent of its population.

14 The City of Newark had twelve per cent of its  
15 population in that category.

16 Q When we broke for lunch we were going to  
17 discuss the income characteristics of Bedminster and  
18 its region. Did you make any determination with regard  
19 to the median family income of Bedminster, residents of  
20 Bedminster?

21 A Yes, I did.

22 The 1970 median family income in Bedminster was  
23 \$15,612.

24 Q How does that median family income compare  
25 to the median family income for the State of New Jersey



1 taken as a whole?

2 A For the State as a whole, the median income was  
3 11,407.

4 Q Did you also do an analysis with regard  
5 to median family income of Somerset County?

6 A Yes. That falls between the state and Bedminster  
7 at 13,433.

8 THE COURT: Would you repeat those  
9 figures?

10 THE WITNESS: Bedminster is 15,612.  
11 Somerset is 13,433.  
12 New Jersey, 11,407.

13 THE COURT: Thank you.

14 BY MRS. THOMPSON:

15 Q And have you determined the comparable  
16 figure for the City of Newark?

17 A Yes. 7,735.

18 Q Did you also have occasion to determine  
19 the median family income of black families living in  
20 the four geographical areas we have just spoken of?

21 A The census information does not provide data on  
22 Bedminster's non-white population because the size is  
23 so small. It does, though, for the other three categories.

24 In Somerset County the median black family income  
25 was 9,678.

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In New Jersey it was 7,644.

And in Newark, 6,742.

Q Did you make comparable findings with regard to the median family income of persons of Puerto Rican birth or parentage?

A Yes.

Again, the figures for Bedminster are so small in the number of Spanish-speaking persons, or persons of Puerto Rican birth, that no answer is provided.

But, the median family income of persons of Puerto Rican birth or parentage for the three other areas are:

Somerset County, 9,731.

New Jersey, 6,459.

Newark, 5,437.

Q I believe you indicated earlier in the testimony that you had some dissatisfaction with studies of median incomes. Is that correct?

A That is right.

Q Did you, therefore, have occasion to study the income of Bedminster in the region in which it finds itself with regard to something other than a median family income?

A Yes. I performed a quintile analysis of the income distribution for Bedminster and the other areas,

1 for the years 1970 and 1960.

2           Let me say something at the outset about this  
3 comparison. In 1960 the Bedminster data includes the  
4 data for Far Hills. They were reported as a unit. In  
5 '70 they're separated. That might be suspect, except  
6 that our determination based upon the fact that Far Hills  
7 was a small portion of that whole, and that the Bedminster  
8 and Far Hills reports in 1970 are quite similar, that it  
9 is our judgment that the tying together of Bedminster  
10 and Far Hills for 1960 purposes in dealing with the  
11 percentage distribution does not distort the figures for  
12 what Bedminster could predictably have reported had there  
13 been a report for Bedminster exclusively.

14           Q           Can you explain to the Court your findings  
15 with regard to the quintile analysis of Bedminster?

16           A           Well, let me begin by repeating the analysis.  
17 We started by examining the New Jersey population in  
18 1960 and 1970, dividing that family income into five  
19 equal categories.  
20           In 1960, quintile one, of which I'm going to have  
21 to give you some number of these figures - let's just call  
22 it "Q 1" if we may - was that category of the population,  
23 twenty per cent of the families of New Jersey, that earned  
24 \$4184 or less.

25           In 1970 quintile one were those families earning

1 under \$6627.

2 Q Let me interrupt you for a moment and ask  
3 you for the explanation for why the absolute number  
4 changes from '60 to '70.

5 A There was a tremendous increase overall in the  
6 income of Jersey or of the United States in the decade  
7 from '60 to '70. So, these figures for each quintile  
8 reflect that sizable increase of anywhere from fifty per  
9 cent up to as we will see almost one hundred per cent  
10 increase in income in these different categories.

11 Q Proceed.

12 A The second quintile is that class between thirty  
13 and forty per cent of the population distribution by  
14 family; and in 1960 it was that class that earned  
15 between \$4184.00 and \$5956.00.

16 In 1970 it was between \$6627 and \$9936.

17 The third quintile, which is the middle income  
18 class - these are people who are in the middle income  
19 bracket in New Jersey - in 1960 was between \$5956 and  
20 \$7718.

21 And in 1970, between \$9936 and \$13,088.

22 What might be called the upper middle income  
23 category, quintile four, in 1960 was between \$7718 and  
24 \$10,674.

25 In 1970 it was between \$13,088 and \$19,236. And

1 then finally the wealthiest fifty of income earners,  
2 ~~upper income~~ bracket, in 1960 were those families having  
3 incomes above \$10,674.

4 In 1970 the richest quintile were those families  
5 having incomes above \$19,236, above that amount.

6 Q Excuse me. You mentioned in the fourth  
7 quintile in 1960 it started at --

8 A 7,718. And the top portion of that bracket was  
9 10,674.

10 Q Now, did you have occasion to determine  
11 the manner in which Bedminster's population fell within  
12 those New Jersey quintiles?

13 A Yes. In 1970 - let me go back.

14 In 1960 the figures, and again this is for  
15 Bedminster and Far Hills, combined, in the first quintile  
16 - I gave you the percentage, twenty per cent of their  
17 population - was this quintile one. Sixteen per cent  
18 in quintile two. Thirteen per cent in quintile three.  
19 ~~Eighteen per cent~~ in quintile four. And thirty-six per  
20 cent in quintile five.

21 Q Did you make any findings with regard to  
22 Bedminster's population in 1970 in relation to the  
23 quintiles?

24 A Yes. I would like to give you, if I may, two sets  
25 of figures, one which will be a continuation of Bedminster-

1 Far Hills for that year so that you can compare it with  
2 Bedminster for 1970 so as to see how similar they are.

3 In 1970 Bedminster-Far Hills had sixteen per cent  
4 in quintile one.

5 THE COURT: Which would be --

6 THE WITNESS: Sixteen per cent in  
7 quintile one. A drop of four per cent from  
8 1960.

9 A Fourteen per cent in quintile two, a diminution  
10 of two per cent.

11 Thirteen per cent in quintile three, the same as in  
12 '60.

13 Fifteen per cent in quintile four, the same as in  
14 '60.

15 And forty-two per cent in quintile five, which was  
16 an increase of six per cent in the upper income category.

17 For Bedminster alone in 1970 the figures are  
18 fifteen per cent in quintile one, thirteen per cent in  
19 quintile two, thirteen per cent in quintile three,  
20 sixteen per cent in quintile four, and forty-three per cent  
21 in quintile five.

22 Q Mr. Davidoff, did you have occasion to  
23 compare any charts which set forth your findings with  
24 regard to Bedminster's population representation in the  
25 New Jersey quintiles?

1 A Yes. Let me first - I wonder - if there's some  
2 ~~ways we can put~~ the three up on the wall.

3 Q If we tape them together we can --

4 A This is just a graphic presentation of the comparison  
5 between 1960 and 1970 showing the changes that took place  
6 for the distribution of incomes for Bedminster-Far Hills.

7 This is the twenty per cent line for New Jersey.

8 If there were an equal distribution for  
9 Bedminster-Far Hills for New Jersey, each line would  
10 be at the twenty per cent bracket.

11 Each quintile, if it had its proportionate share  
12 of the Jersey family income distribution, each of its  
13 quintiles would be at twenty per cent. But, because it  
14 is not in equal distribution we find these changes below  
15 and above.

16 The significant change that takes place is in the  
17 first quintile in which there is a reduction by a matter  
18 of about a quarter of - or a fifth from the 1960 to the  
19 ~~1970~~ and then the corresponding increase takes  
20 ~~place~~ from a combination of the diminution of the first  
21 and second quintiles to a rise of six per cent, one-sixth  
22 increase, from 1960 to 1970 in the upper income of quintile.

23 THE COURT: Before we leave that,

24 let's have that marked for identification  
25 so the record reflects what you're referring

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to.

MRS. THOMPSON: Mark the document entitled "Bedminster-Far Hills, Family Income Distribution by Quintile, 1960 and 1970."

THE COURT: PC-22 for identification.

(The aforementioned chart entitled, "Bedminster-Far Hills Family Income Distribution by Quintile, 1960 and 1970," is marked for identification as Exhibit PC-22 for identification by the Reporter.)

BY MRS. THOMPSON:

Q Mr. Davidoff, did you also have occasion to analyze the relative economic status of residents of Newark City in relationship to the quintiles for the State of New Jersey that you have just discussed?

A Yes. If I may - If I may, I'll provide you with the data for Somerset County and for Newark, because the graph does not, I believe, that you had, show the Somerset distribution, but I think that is highly relevant to the analysis.

In 1960 and 1970, quintile one in Somerset County had fourteen per cent in '60, and eleven per cent in '70.

In quintile two, eighteen per cent in '60, sixteen per cent in '70.



1           In quintile three, twenty-one per cent in '60,  
2 ~~twenty-one per cent~~ in '70.

3           In quintile four, twenty-three per cent in '60,  
4 ~~twenty-five~~ per cent in '70.

5           In quintile five, twenty-four per cent in '60 and  
6 ~~twenty-seven~~ per cent in '70.

7           Then for Newark, for the City of Newark, in 1960,  
8 quintile one had thirty-two per cent, and quintile two -  
9 I'm sorry - in 1960, thirty-two per cent, and in 1970,  
10 ~~forty-two~~ per cent.

11           Quintile two, twenty-five per cent in '60,  
12 ~~twenty-three~~ per cent in '70.

13           Quintile three, sixty-six per cent - excuse me -  
14 ~~seventeen~~ per cent in '60, fifteen per cent in '70.

15           Quintile four, fifteen per cent in '60, twelve per  
16 ~~cent~~ in '70.

17           Quintile five, eleven per cent in '60 and eight per  
18 ~~cent~~ in '70.

19           Q       Now, it's true, is it not, that you prepared  
20 ~~a graph setting~~ forth the relationship of Bedminster and  
21 Newark City to the quintiles for the state?

22           A       Yes, I did. For just the year 1970, just in order  
23 to illustrate the difference. An almost symmetrical  
24 opposition of Newark's distribution and Bedminster's  
25 distribution. Again, the even distribution being for New

1 Jersey. On the left, Bedminster, with categories below  
2 the twenty per cent figure in the first four quintiles,  
3 and then forty-three per cent or more than twice its  
4 proportionate share of the fifth quintile in that  
5 category.

6 And then for Newark, the opposite, almost the  
7 same amount in the first quintile as Bedminster has  
8 in the fifth quintile, and then reductions down to  
9 second quintile of twenty-three per cent, slightly above  
10 the statewide normal, and then below the statewide normal  
11 in the third quintile down to fifteen per cent. Further  
12 down to twelve per cent for the fourth quintile. And  
13 all the way down to eight per cent in the upper income  
14 category.

15 THE COURT: Let's get that marked.

16 MRS. THOMPSON: Family Income  
17 Distribution by Quintile, 1970, Bedminster  
18 Township, New Jersey, Newark City.

19 THE COURT: PC-23 for identification.

20 (The aforementioned Family Income  
21 Distribution by Quintile - 1970 is marked  
22 for identification by the Reporter as  
23 Exhibit PC-23 for identification.)

24 BY MRS. THOMPSON:

25 Q Mr. Davidoff, on the basis of your analysis

1 of the quintile distribution of income in Bedminster,  
2 ~~State of New Jersey~~, and Newark City, did you form any  
3 ~~conclusions~~ with regard to the relative economic status  
4 of residents of Bedminster?

5 A Yes. The conclusion is that Bedminster is  
6 comprised of a population that is disproportionately  
7 wealthy when compared to the income distribution of the  
8 state as a whole, and that disproportionate wealth has  
9 increased significantly in the last decade.

10 Q Did you also prepare a chart setting forth  
11 the changes in each of the five quintiles in Bedminster?

12 A Yes, I did.

13 Q Let me show you an exhibit entitled  
14 "Bedminster-Far Hills, Absolute Change in Number of  
15 Families in Each Quintile."

16 MRS. THOMPSON: Let's mark it for  
17 identification before we stick it on the  
18 board.

19 (The aforementioned chart entitled  
20 "Bedminster-Far Hills, Absolute Change in  
21 Number of Families in Each Quintile,  
22 1960-1970" is marked for identification  
23 as Exhibit PC-24 for identification by the  
24 Reporter.)

25 BY MRS. THOMPSON:

1 Q Mr. Davidoff, can you explain what PC-24  
2 for identification shows with regard to the changes in  
3 economic status, relative economic status, of residents  
4 in Bedminster in 1960 to 1970?

5 A From 1960 to 1970 there was an increase in the  
6 number of families in Bedminster of one hundred and  
7 twenty-two.

8 And examining the changes in the absolute numbers  
9 of families in each quintile in Bedminster as between  
10 1960 and 1970 I found that there was a diminution of  
11 twelve families in the first quintile. There was a loss  
12 in the total number of families in the first quintile of  
13 twelve.

14 There was no change in the total number of families  
15 in the second quintile.

16 The third quintile contained fourteen more families  
17 in 1970 than it did in 1960.

18 The fourth quintile contained twenty-six more  
19 families than it did in 1960 -- 1970 contained twenty-six  
20 more than 1960.

21 And the fifth quintile sustained most of the growth,  
22 ninety-four more families in 1970 than 1960.

23 Q Your basis of the analysis of the change in  
24 distribution by quintile from 1960 to 1970 - did you form  
25 any conclusions with regard to the economic status of the

1 families moving into Badminster in the decade 1960 to 1970?

2 A Yes. My analysis of this data suggested to me that  
3 during the decade the growth that took place in Badminster  
4 was comprized almost exclusively of the families of  
5 upper middle income and upper income; and perhaps almost  
6 exclusively of the upper income category - in fact,  
7 seventy-seven per cent of the change in quintile, the  
8 change in the distribution amongst the quintiles, is  
9 attributed to the change in the fifth quintile.  
10

11 I might, just for the record, indicate the percentage  
12 changes, the absolute change as a per cent of the total  
13 change in the quintiles. In quintile one it was a  
14 diminution of ten per cent; in quintile two, no change;  
15 in quintile three, a twelve per cent increase; in quintile  
16 four, a twenty-one per cent increase; and in quintile five,  
17 a seventy-seven per cent increase.

18 Q During the course of your study did you have  
19 occasion to relate your analysis of the income of families  
20 residing in Badminster with housing prices in Badminster  
21 and costs of housing acquisition in Badminster?

22 A Yes, I did. To begin with, we prepared a study  
23 of the housing census of Badminster, Somerset, Newark City  
24 and New Jersey.

25 First examined the absolute growth or change in  
the number of housing units, and discovered that there was

1 an increase in Bedminster from 766 housing units in 1960  
2 to 840 housing units in 1970, a growth of 74 housing  
3 units.

4 In Somerset County the growth was 15,987, an  
5 increase of that number of dwelling units.

6 In Newark, there was a decrease of 7,448 units.

7 And in New Jersey, as a whole, there was an increase  
8 of 389,111.

9 To translate those changes in housing units into  
10 percentage increases or decreases, in Bedminster there was  
11 a 9.7 or, say, a ten per cent increase in the housing  
12 stock from 1960 to 1970.

13 In Somerset County there was a 37.8 per cent  
14 increase, almost four times as great as in Bedminster.

15 In Newark, there was a decrease of 5.5 per cent.

16 And in New Jersey, there was an increase of 19.5  
17 per cent in the housing stock, or approximately twice the  
18 rate of increase as in the Town of Bedminster.

19 Q Did you make a determination with regard to  
20 the housing units in New Jersey - I'm sorry - in Bedminster,  
21 number of multi-family units and number of single-family  
22 units?

23 A Yes. I was interested in seeing what that  
24 distribution was between single-family and multi-family  
25 units.

1           In 1970 there were seventy-three multi-family  
2 units in Bedminster. And a multi-family unit, for purposes  
3 of a census definition here, is structures of two or more  
4 units.

5           Seventy-three multi-family units in Bedminster.  
6 767 single-family units.

7           The single-family units comprised 91.3 per cent  
8 of the housing stock; the multi-family units, 8.7 per  
9 cent.

10           Q       Did you have occasion to compare the  
11 relative numbers of multi-family units and single-family  
12 units in Bedminster with the relative numbers of such  
13 units elsewhere in the region?

14           A       Yes. I compared them with Somerset, Newark and  
15 the state.

16           Q       What were your findings?

17           A       In Somerset County, as a whole, 26.1 per cent of  
18 the units were multi-family 73.4 per cent single-family.  
19 The absolute numbers, 15,237 multi-family units; 42,781  
20 single-family units.

21           In the City of Newark, ninety per cent of the  
22 units - 90.4 per cent - were multi-family. 9.4 single-family.  
23 115,000 were multi-family. 12,000 single-family.

24           Q       Did you make similar computation for the  
25 State of New Jersey as a whole?

1 A Yes.

2 In New Jersey, 41.5 per cent of the total occupied  
3 units were multi-family units; 57.9 per cent in  
4 single-family units.

5 The absolute numbers are 959,000 in multi-family  
6 units; 1,334,000 in single-family units.

7 Q On the basis of this analysis did you reach  
8 any conclusions with regard to the relative amount of  
9 multi-family housing existing in Bedminster as of the  
10 1970 census?

11 A I did. I would characterize Bedminster in 1970  
12 and today as a community that is overwhelmingly comprised  
13 of single-family residence; and as compared to the  
14 surrounding county and the state as a whole disproportionately  
15 a single-family community.

16 Q With regard to your analysis of the  
17 characteristics of Bedminster's housing stock as being  
18 disproportionately single-family, did you assess the  
19 number of mobile homes presently existing in Bedminster?

20 A Yes, I did.

21 Q How many did you find there?

22 A I found none. No mobile homes in Bedminster in  
23 1970.

24 And that compares with Somerset County having  
25 134 such homes, which represented 0.2 per cent of its



1 And for the City of Newark, 17,100.

2 Q Now, since the 1973 census - 1970 census,  
3 have you had occasion to make a determination of more  
4 recent housing prices in Bedminster?

5 A Yes. I have been shown the deed registrations  
6 for Bedminster for the year 1973, showing the price range  
7 of the twenty-five residential sales listed.

8 Q What were your findings with regard to  
9 these twenty-five residential sales?

10 MR. ENGLISH: If the Court please,  
11 could we have a further identification of  
12 the source of this? The witness says he's  
13 been shown something. It doesn't appear  
14 where it came from, and I think that ought  
15 to be on the record.

16 MRS. THOMPSON: Your Honor, we served  
17 notice on the township to produce the  
18 records of which Mr. Davidoff has seen.  
19 If they're in court we can produce them.

20 MR. BOWLBY: We have them here.  
21 They're in that box.

22 MRS. THOMPSON: Do you want them to be  
23 produced?

24 MR. ENGLISH: No. I just wanted the  
25 record to show what he's talking about.

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THE COURT: What are they?

MR. BOWLBY: The pink slips.

BY MRS. THOMPSON:

What did your studies show were the deed registration slips for 1973?

A I have made a chart showing the distribution and price ranges of these sales. I'll give you a figure showing the number of sales and the price range and the percentage of the total in each of these categories.

In the price range between twenty and \$30,000 there was one sale, which represents four per cent of the total.

In the category between thirty and 40,000, three sales, or twelve per cent.

In the category of forty to 50,000, two sales, or eight per cent.

In the category fifty to 60,000, five sales, or twenty per cent.

In the category sixty to 70,000, three sales, or twelve per cent.

I might stop for a moment and indicate that forty-four per cent of the sales were in the category up to 60,000, and fifty-six per cent were in the category between sixty and 70,000. So that the median sales price is roughly in the category of \$65,000. Somewhere between

1 sixty and \$70,000.

2 in the category between seventy and 80,000, four  
3 sales, or sixteen per cent.

4 None between eighty and ninety.

5 Two between ninety and a hundred, or eight per cent  
6 of the sales.

7 One between one hundred and one hundred and twenty-  
8 five, or four per cent.

9 And four between one hundred and fifty thousand  
10 and one hundred and seventy-five thousand, or sixteen per  
11 cent of the sales.

12 Q From the basis of your analysis of the 1970  
13 census data and the deed registrations for 1973, how would  
14 you characterize the prices of housing in Bedminster?

15 A As very, very high. Perhaps amongst the very  
16 highest one would find in any community in the nation'  
17 and at prices at levels which are within the reach of  
18 only a very small percentage of the population of the  
19 State of New Jersey.

20 Q Mr. Davidoff, you indicated earlier, I  
21 believe, that the rule of thumb which you use is that  
22 a person can afford a house which is twice the family  
23 income. Is that correct?

24 A That is right.

25 Q Did you prepare a chart which showed the

1 relationship between family income and house price in  
2 Bedminster?

3 A Yes, I did.

4 Q Can we mark that? Do you have that?

5 A Yes.

6 Q Is this the chart?

7 A Yes.

8  
9 MRS. THOMPSON: This is an untitled  
10 graph, which does say "Proportion of  
11 Bedminster Homes With 1970 Sales Price  
12 Listed, or Below," and then it's keyed into  
13 figures. And "1970 Proportion of New Jersey  
14 Households With Incomes Affording Houses  
15 At Sales Prices."

16 THE COURT: Mark it for identification.

17 (The aforementioned chart, bearing no  
18 title, the graph of ability to purchase  
19 housing, is marked for identification as  
20 Exhibit PC-25 for identification by the  
21 Reporter.)

22 BY MRS. THOMPSON:

23 Q Could you explain this chart?

24 A Before I put it up, perhaps I'll explain it. It  
25 is a very difficult chart. What we've done is examine  
the distribution of income and made an assumption that a

1 numbers of homes being served. Roughly, thirty per cent  
2 of the population, thirty-five per cent of the population,  
3 would have - no. No. - let me put it the other way.  
4 Seventy per cent of the population would be able to  
5 afford the first two homes sale in Bedminster.

6 Q The first two homes being --

7 A The lowest priced homes sale in Bedminster.  
8 Only, roughly, twenty per cent of the population of  
9 Jersey would be able to afford the lowest twenty per  
10 cent of housing offered for sale.

11 In other words, only twenty per cent of Jersey's  
12 population was available in dollar terms to buy the  
13 lowest - to buy housing at twenty per cent of the  
14 housing being offered - this is confusing - I'll try  
15 to make a summary of it and not disturb your attention  
16 further. The summary statement is that a disproportionately  
17 vast amount of the housing offered for sale in Bedminster,  
18 roughly eighty per cent of that housing offered for sale,  
19 was available to a portion of the income distribution  
20 in New Jersey that was less than twenty per cent of the  
21 total population.

22 In other words, the housing market of Bedminster  
23 might be said to be available and open to roughly twenty  
24 per cent of the population; and, in fact, a very significant  
25 portion of the sales category would be available only to a

1 figure of perhaps seven per cent of the total population.  
2 In other words, the housing market of Bedminster is  
3 closed to the overwhelming majority of families residing  
4 within the state.

5 Now, one further caution on this chart. This  
6 shows a 1970 distribution of income. A 1973 figure  
7 might be somewhere along this line, so that perhaps  
8 we might say that instead of seven per cent, ten per  
9 cent of the New Jersey population is essentially  
10 available for the housing that was sold last year,  
11 or the majority of housing that was on the market  
12 last year in Bedminster.

13 Q Now, getting back for a moment to your  
14 study of the economic composition of the residents  
15 of Bedminster, with regard to those residents of  
16 Bedminster who presently are found within the lower  
17 quintile did you make any determination with regard to  
18 the characteristics of that population?

19 A Yes, I examined figures related to the poverty  
20 of elderly families in the State of New Jersey, and,  
21 in particular, the poverty population of Bedminster,  
22 and the poverty within families sixty-five years or  
23 older in Bedminster.

24 Bedminster in 1970 had forty-six of its families  
25 in the categories of incomes below \$3,000. Of those

1 forty-six, twenty-one were families whose age was above  
2 ~~sixty-five.~~

3 The conclusion that can be drawn from this is  
4 that although the population, sixty-five and over, is  
5 about ten per cent of the total population of Bedminster,  
6 it represents roughly fifty per cent of the poverty  
7 families, the impoverished families of Bedminster.

8 Q Did you form any conclusions as to the  
9 dates of residence of these elderly - this elderly  
10 population in Bedminster?

11 A I have a few hypotheses about why there is this  
12 distribution. It may well be that the families who have  
13 such low income are long term residents of Bedminster  
14 who may have acquired their homes many years ago, paid  
15 off their mortgage, may now be living on Social Security,  
16 maybe with additional income, families who have not had  
17 to in recent years put forth the funds necessary to acquire  
18 the housing that they require in the Town of Bedminster.

19 I would assume there are families who have not  
20 recently moved to Bedminster, but, rather, are long time  
21 residents of the town. But, that is merely the --

22 THE COURT: Where do your income  
23 figures come from?

24 THE WITNESS: The basic income  
25 distribution figures come from the United

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States census report, as reported by the Tri-state Regional Planning Commission.

THE COURT: Is that taxable income, or any kind of income?

THE WITNESS: I think these reports are of taxable income. It's not - I believe that to be the case. It's not a measure of wealth. It's not a measure of assets, because that's one of the - another surmise, that these may be families of some wealth who are retired. But, then, the only income would be shown on the dividend income or such other income that might be reported, taxable income that would be reported.

THE COURT: I see.

THE WITNESS: But, the data, to finish, came from reports of the Tri-state Regional Planning Commission in New York which gave complete distribution figures for all of the counties and all of the towns in the tri-state area.

THE COURT: My curiosity was whether it was taxable income or other income.

THE WITNESS: Yes.

MRS. THOMPSON: At this time, your



1 A Yes, I did.

2 Q What did your analysis show?

3 A The most striking evidence is the increase in  
4 the number of jobs in Somerset County in the recent  
5 years. The analysis that I performed looked to the  
6 changes in the composition of jobs in the larger  
7 tri-state region, and particularly in the Northern New  
8 Jersey region from 1968 to 1971, using data that comes  
9 from the United States County Business Pattern Reports  
10 on Unemployment, reports that are issued for each state  
11 every three years.

12 The significant fact is that in this three-year  
13 period Somerset's employment growth of 4,868 jobs, or  
14 an increase of 11.2 per cent, was a greater increase  
15 than in any of the northeastern counties of New Jersey,  
16 which include Bergen, Essex, Hudson, Middlesex, Morris,  
17 Passaic, Somerset and Union.

18 It might be of interest to observe that during  
19 that same period New York City had a loss of some 2.7  
20 per cent of jobs, or loss of 59,000 jobs, and that in the  
21 region one county, Suffolk County on Long Island, had a  
22 greater increase than Somerset.

23 Q When you speak of "the region" are you  
24 now referring to the thirty-one counties?

25 A Larger tri-state region. Right?

1 entitled "Employment, Somerset County, By Thousands"  
2 prepared by the Somerset County Planning Board, July  
3 1978 and ask you if this reflects the breakdown in  
4 forms of employment in Somerset County?

5 A Yes, it does. And it shows, as well, the  
6 expected - the predicted growth in jobs in these  
7 different categories up to 1990.

8 MRS. THOMPSON: Can we mark it  
9 for identification?

10 THE COURT: PC-26 for identification.  
11 (The aforementioned chart entitled  
12 "Employment - Somerset County By Thousands"  
13 is marked for identification as Exhibit  
14 PC-26 for identification by the Reporter.)

15 MRS. THOMPSON: I now move its  
16 admission into evidence.

17 MR. BUCHSBAUM: You can obtain  
18 extra copies from the Industrial Economic  
19 Development Office.

20 MR. ENGLISH: I have no objection.

21 MR. LANIGAN: No objection.

22 THE COURT: PC-26 in evidence.

23 (Exhibit PC-26, previously marked  
24 for identification, is now received and  
25 marked into evidence as Exhibit PC-26 in

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evidence by the Reporter.)

BY MR. THOMPSON:

Q Mr. Davidoff, with regard to your analysis of housing, housing prices and absolute number of jobs in Somerset County, did you have occasion to assess the relationship between number of jobs and existing housing opportunities within the county?

A Yes. The growth of jobs in Somerset County had for some time been accompanied by a co-equal growth in the production of housing. But, recent studies by the Somerset County Planning Board and other bodies, private bodies, concerned with conditions of housing opportunities in the region have revealed that there is now a shortage of housing being produced for the jobs created.

The Study on Housing and Jobs, prepared by the Economic Development Commission and the County Planning Board have indicated that there is a strong likelihood of a growing gap in the provision of housing within Somerset County to meet the needs of the future employees working in Somerset County.

Q Do you know what that gap is?

A If I may just take a moment. I'm sorry to take your time.

Let me, if I may, read the summary statement of the study, Housing and Jobs, on page 12, where it says:

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"There is extensive need for all citizens of Somerset County to appoint themselves with the growing prices in the availability of housing for moderate and low income families.

"The impact of this crisis falls heaviest upon those sectors of our society that have no equity and cannot meet the income requirements and large down payments required to purchase a home.

"The crisis applies equally to the rental housing market with large apartments not available and smaller apartments only available after extended waiting time.

"During the early part of the sixties Somerset County was largely meeting its need for housing, except for the lowest income group.

"Upon entering the seventies we are not able to meet the need of the majority of people requiring new housing.

"It is expected that employment will

1 grow by about thirty-two thousand  
2 during the seventies, and that  
3 there will be a commensurate need  
4 for some 27,500 units during the  
5 decade, or production at the rate  
6 of about 2500 units per year during  
7 the first five years, 3,000 units  
8 per year during the last half of the  
9 decade."

10 Q Do you know whether production has occurred  
11 at the rate of 2500 units per year --

12 A No. I believe --

13 Q -- for the first three years of the decade?

14 A No. I believe it is considerably less than that  
15 amount. But, I am afraid that I do not have the exact  
16 figure at hand as to what that annual production rate is.  
17 But, I know it to be considerably under 2500 units.

18 Q Now, Mr. Davidoff, in analyzing the  
19 relationship between housing and jobs, and the absolute  
20 number of jobs presently existing in Somerset County,  
21 have you had occasion to determine whether there is  
22 any commutation by non-residents of the county into  
23 Somerset County for employment?

24 A Yes, there is.

25 Q Do you know the extent of that in-commutation?

1 A Yes. In 1970 the census information report  
2 indicates that of a total work force of 56,771, 30.2  
3 per cent of 17,117 workers were in-commuters, persons  
4 who commuted into Somerset to find jobs.

5 Q Did you make any determination on the  
6 basis of the available data of the localities from which  
7 the in-commuters do commute?

8 A Yes. The major proportion come from these  
9 counties:

10 Middlesex, forty-two per cent.

11 Union County, twenty-one per cent.

12 Hunterdon County, nineteen per cent.

13 Morris County, 8.2 per cent.

14 Mercer County, 5.1 per cent.

15 And Essex County, 4.8 per cent.

16 Q And of the counties which you have just  
17 listed, have you made any determination of the areas  
18 within those counties which produced the largest number  
19 of in-commuters into Somerset County for employment?

20 A Yes. The data reveals that Plainfield City has  
21 fifty per cent of the in-commuters to Somerset County.  
22 Plainfield City in Union County, workers residing in  
23 Plainfield who work in Somerset, represent fifty per  
24 cent of the Union County work force that works in -  
25 that resides in Union and works in Somerset.

1 situation that has overtaken other suburban counties  
2 in the metropolitan tri-state area, and in other counties  
3 around the nation, in which the work force commuting into  
4 suburbs for jobs has come to be about as great as the  
5 group commuting out of the county; and that we now have a  
6 situation in which there is a tremendous amount of  
7 commutation to jobs in the whole metropolitan area, and  
8 Somerset today has to rely increasingly upon residents  
9 who reside outside of the county who cannot come to -  
10 who do not live in Somerset for its work force; and that  
11 that trend will, unless there is a significant change in  
12 the housing production of Somerset, will continue.

13 So that the in-commuters represent an increasingly  
14 greater proportion of the total work force of Somerset  
15 County.

16 Q Now, with regard to the discussion which  
17 we have just had of the socio-economic data concerning  
18 Bedminster in Somerset County and of the jobs and housing,  
19 would you like to make any conclusions with regard to  
20 Bedminster's general relationship to the region?

21 A Well, the census data reveals that Bedminster  
22 has a labor force of 938 in 1970; and that there are 603  
23 resident workers, and 335 out-commuters from Bedminster.  
24 There is a very small work force in Bedminster at the  
25 present time.

1           But, the projected growth of the new A. T. & T.  
2 Long Lines Division in Bedminster will place Bedminster  
3 in a position that it is perhaps prototypical of the  
4 growing condition in Somerset County of a community that  
5 has a large number of jobs but is incapable of providing  
6 the housing for the workers employed within the town.

7           Q       Have you noted any relationship between  
8 the projected number of workers to be in Bedminster  
9 when A. T. & T. Long Lines is completed and the absolute  
10 present residential population of Bedminster?

11          A       Yes. There is an almost one to one corresponding  
12 figure that the work force projected. The preliminary  
13 work force projected at the A. T. & T. Long Lines  
14 Division is, I believe, around 2800, which is close  
15 to the present population of Bedminster.

16          Q       Now, with regard to the characterization  
17 which you have given to Bedminster as a community which  
18 is disproportionately wealthy, and whose housing is  
19 ~~extensive~~ have you formed any conclusions as to the  
20 ~~relationship~~ between those characteristics and the  
21 ~~housing~~ prevalence of the Township of Bedminster?

22          A       Yes, I have. And I think in terms of my earlier  
23 description of the racial characterization of Bedminster  
24 within the region we might say that it is, as well as  
25 being affluent, also a disproportionately white community,



1 disproportionate in the sense of comparison with the  
2 population distribution for the state as a whole, or  
3 even compared to Somerset County.

4 In answer directly to your question, I believe  
5 that the zoning practices of Bedminster have exacerbated  
6 tendencies and conditions which have led to a situation  
7 in which the town has become open essentially to a very  
8 small minority of the population of New Jersey, that  
9 portion of the population that is white and affluent  
10 or is in that income category that places it within the  
11 upper approximately twenty per cent of income earners  
12 in the State of New Jersey.

13 Q Now, we have been talking primarily about  
14 the period of 1950 through 1970 in Bedminster's history.  
15 This is a period which coincides with the pre-existing  
16 Zoning Ordinance.

17 Is it your testimony that there was a  
18 relationship between the socio-economic data we have  
19 been discussing and the provisions of the pre-existing  
20 Zoning Ordinance?

21 A I may take a moment to go back to something  
22 I said much earlier, in examining the effects of zoning  
23 in the nation, particularly in suburbs, upon housing  
24 opportunities for families of low and moderate income,  
25 a study prepared for the Douglas Commission, it was observed

1 that zoning could not be called "the" sole factor,  
2 the sufficient cause of the exclusion of racial minorities  
3 or economic minorities. I think in observing the zoning  
4 practices and planning practices of Bedminster that the  
5 same conclusion can be drawn about Bedminster.

6 The zoning did not by itself make Bedminster an  
7 exclusive white affluent community, but the zoning and  
8 planning practices have exacerbated the tendencies that  
9 the location and private market of Bedminster have  
10 created and have distributed significantly to the  
11 maintenance and growth of patterns of racial and  
12 economic exclusion within Bedminster.

13 Q Is it your opinion that the new Zoning  
14 Ordinance will continue to exacerbate those patterns?

15 A Yes, it is.

16 MRS. THOMPSON: Your Honor, this  
17 would be a logical time to break, if your  
18 Honor is planning to take one, because  
19 we're ready to begin a discussion on --

20 THE COURT: I appreciate that.  
21 We'll recess for approximately ten minutes.

22 (Recess.)

23 MRS. THOMPSON: Judge, I just wanted  
24 to make a brief statement. We have an  
25 expert witness, Allan Malick, for whom

1 tomorrow would be inconvenient, although  
2 we could have conceivably made it for late  
3 in the afternoon. I don't believe that  
4 we're going to be finished with Mr. Davidoff's  
5 examination today, and Mr. English has  
6 informed that that to the best of his ability,  
7 although it's a tough thing for him to  
8 estimate, he'll be at least a half day  
9 cross examining Mr. Davidoff. And we have  
10 another witness to put on tomorrow.

11 So, I would like to inform Mr. Malick  
12 that there is no need for him to appear.

13 THE COURT: it sounds like a logical  
14 move on your part.

15 MRS. THOMPSON: I just wanted to put  
16 it on the record in case we come up short  
17 tomorrow.

18 THE COURT: I can anticipate Mr.  
19 Davidoff's cross examination will take some  
20 time. Then, perhaps, you can prevail on  
21 Mrs. Cieswick to get here a little bit  
22 earlier.

23 MRS. THOMPSON: I'll try.

24  
25 DIRECT EXAMINATION (CONTINUED)  
BY MRS. THOMPSON:

1 Q Mr. Davidoff, before we proceed to the  
2 Zoning Ordinance let me show you a document entitled  
3 "Estimated Net Total Housing, Somerset County" and ask  
4 you whether it refreshes your recollection as to the  
5 number of housing units which have in fact been constructed  
6 in Somerset County during the first three years of this  
7 decade?

8 A Yes. This was the piece that I was looking for.

9 Q Did it indicate the 2500 units a year  
10 have been constructed in the county?

11 A No. It indicates that the number is, as I  
12 suggested, much less than that; that in each of the  
13 three years, the total addition to the housing stock  
14 has been in the neighborhood of seven hundred to eight  
15 hundred and fifty units per year, far below 2500 required  
16 to meet the need to serve the new employees of the county.

17 MRS. THOMPSON: I'd like to mark  
18 this document for identification.

19 THE COURT: PC-27 for identification.

20 (The aforementioned chart entitled  
21 "Estimated Net Total Housing - Somerset  
22 County" is marked for identification as  
23 Exhibit PC-27 for identification by the  
24 Reporter.)

25 MRS. THOMPSON: And I would not move

1 its admission into evidence.

2 MR. ENGLISH: No objection from the  
3 defendant.

4 MR. LANIGAN: No objection.

5 THE COURT: PC-27 will be admitted.

6 (Exhibit PC-27, previously marked  
7 for identification, is now received and  
8 marked into evidence as Exhibit PC-27 in  
9 evidence by the Reporter.)

10 BY MRS. THOMPSON:

11 Q Now, Mr. Davidoff, with regard to the  
12 Zoning Ordinance of the Township of Bedminster, could  
13 you explain to the Court how you went about analyzing  
14 the Zoning Ordinance?

15 A My analysis of the Zoning Ordinance included an  
16 analysis of the specific provisions of the Ordinance,  
17 itself, an analysis of the Zoning Map, the distribution  
18 of vacant land in the different zones of Bedminster,  
19 an evaluation of the provisions of the Ordinance in  
20 regard to how they would affect opportunities of families  
21 of low, moderate and middle income and non-white families  
22 to gain access to the county.

23 If I might, there is a point in that evaluation  
24 that I should clarify from my previous discussion. The  
25 median income and the income distribution figures for the

1 non-white population of New Jersey, as well as for  
2 the nation as a whole, placed the income of that  
3 category, that class of the population, far below the  
4 income of the white population, and thus any Zoning  
5 Ordinance or other form of restriction on housing which  
6 has a severe effect upon the opportunities of families  
7 of middle, moderate or low income to gain access to  
8 housing will have an even greater effect upon the  
9 opportunities of the non-white families of Somerset,  
10 New Jersey or the nation as a whole.

11 Q Is it your testimony then that you analyzed  
12 the Bedminster Zoning Ordinance to determine what the  
13 economic consequences would be with regard to the black  
14 population as a discernible segment of the total population?

15 A That is right.

16 Q Now --

17 A I would like to add one thing in answer to the  
18 question of my analyses of the zoning. An important  
19 part of the analysis is the analysis of the administrative  
20 procedures of the Zoning Ordinance and how they operate,  
21 and, particularly, the relationship in a Zoning Ordinance  
22 as between those sections of the Ordinance which would  
23 permit development as of right and those which permit  
24 development subject to discretionary approval.

25 Q Now, with regard to the Zoning Ordinance of

1 the Township of Bedminster let me first direct your  
2 ~~attention to~~ Article 2, Declaration of Purposes and  
3 ~~Essential~~ Considerations, and specifically to that  
4 section of the Ordinance referring to the location  
5 of the Township of Bedminster in this state and region.

6 For the specific purpose of analyzing the  
7 Bedminster Zoning Ordinance, to what region did you  
8 look?

9 A Bedminster, as I indicated earlier, by reason  
10 of the development of the two interstate highways has  
11 become inextricably related to other sections of ~~New~~  
12 Jersey - to the State of New Jersey, and even to portions  
13 of New York City, now so closely connected - or which  
14 will be closely connected at the completion of 287,  
15 up through Rockland County in New York and by the opening  
16 of Interstate 78 to the Holland Tunnel, giving access  
17 to New York City.

18 Most directly, though, the significance of these  
19 ~~highways~~ is the close proximity that is created  
20 ~~between Bedminster~~ and Newark and other areas of northeastern  
21 New Jersey which are now roughly within or will be at the  
22 completion of these highways within a half hour drive  
23 of Bedminster.

24 Q Did you make a determination with regard  
25 to the relative location of a community like Morristown

1 In connection with the projection of the new highway?

2 A Yes. Morristown has become a close neighbor  
3 in time to Bedminster, being approximately twelve to  
4 fifteen minutes - under the new speed regulations  
5 perhaps a little bit more than that, but, roughly,  
6 say, fifteen minutes driving time to Bedminster.

7 Q Now, with regard to the Bedminster Zoning  
8 Ordinance can you identify for the Court those provisions  
9 of the Ordinance which drew your attention with regard  
10 to your analysis?

11 A Yes. I would say that the very first item of  
12 the Ordinance which concerned me was that statement  
13 that you had just identified, the purpose of the  
14 Ordinance is to encourage the most appropriate use of  
15 land throughout the municipality, based on an ecological  
16 balance of land and people, and on the location of the  
17 township in the state and region, and the relation of  
18 its various districts to transportation facilities.

19 That is language that is somewhat unique in a  
20 zoning Ordinance, and which I think modernizes and in a  
21 way that places zoning in the context of the increasing  
22 state concern with the environment, the ecology of the  
23 state, and of the region, and establishes a proper norm  
24 for evaluating zoning.

25 The identification of concern with transportation



1 again suggests that the Ordinance is no longer, as has  
2 so often been the case in the past, inordinately  
3 ~~favorable~~. It is concerned with the state and the region  
4 ~~and means of~~ gaining access to different points in the  
5 region by its concern with transportation facilities.

6 The issue that is of greatest concern in analyzing  
7 this Zoning Ordinance, I think, deals with the question  
8 of ecological balance of land and people; and the question,  
9 as I see it, is one of how the environment that is created  
10 in Bedminster has effect on the ecology and the relationship  
11 between land and people in the surrounding region and in  
12 the State of New Jersey.

13 Now, to look to the specific items of the  
14 Zoning Ordinance I would like to begin with Article 3,  
15 Classes and Boundaries of the District. There are  
16 created in the Ordinance only three residential districts,  
17 and there are created business districts and reserve  
18 office districts which prohibit the development of  
19 residential development.

20 It is significant in identifying this because  
21 in some ordinances those districts might be open for a  
22 class of residential development.

23 In much of modern town planning thought there is  
24 the concept that it is useful to permit residential  
25 development over stores, over commercial uses. The older

1 traditional pattern in zoning has been to separate  
2 these activities, to segregate commercial and residential  
3 activities, and it has led in many people's minds to a  
4 rather sterile development of land use, and has denied  
5 in communities for families who could live in apartments  
6 above the commercial uses and opportunity to find  
7 apartments which frequently could be provided at a  
8 relatively reasonable cost.

9         So, the first thing I would observe in going  
10 through this Ordinance from the start and working  
11 through it is that in the creation of the districts  
12 there was an opportunity in the establishment of  
13 districts essentially non-residential to create  
14 opportunity for provision of residential uses which  
15 might be good neighbors and harmonious neighbors to  
16 those non-residential uses.

17         Much of New Jersey development in the past has  
18 been characterized by mixed use development. It is not  
19 necessarily harmful. It can be organized and designed  
20 in the most purposeful way and in a way create an  
21 ability to provide a proximity and excitement to an  
22 urban life that is denied when commercial and residential  
23 uses are separated distantly.

24         The same point might be made about the research-office  
25 district, that that type of district has been designed

1 In other instances to permit Planned Unit Development,  
2 ~~cluster development~~, forms of modern development that  
3 could fit in very effectively with the type of development  
4 that takes place in a research-office district.

5 The major difficulties with the Bedminster  
6 Ordinance insofar as it is to be evaluated in terms of  
7 offering opportunities to families of middle, moderate  
8 and low income, to non-white families, is that the use  
9 regulations in Article 4 controlling residential districts  
10 operate in such a manner as to almost of necessity  
11 preclude the development of housing that can be built at  
12 reasonable cost.

13 The only type of use that is permitted, residential  
14 use that is permitted, as of right is the single-family  
15 detached dwelling unit. The single-family detached  
16 dwelling unit is a popular form of development in the  
17 United States. It has up until the past decade or so  
18 been the overwhelmingly favorite form of new development  
19 in the suburbs.

20 ~~It is~~ increasingly today that form of development  
21 ~~is found~~ to be exceptionally expensive.

22 The fact that the house is detached and unrelated,  
23 spatially, to a neighboring unit requires separate walls.  
24 It requires elongation of the utilities and roads servicing  
25 each house. It denies the possibilities of compactness

1 that arise when housing units are attached.

2 The detached unit is also increasingly finding  
3 disfavor as an energy wasteful form of housing, as a  
4 form of housing that because it has four separate walls  
5 requires greater utilization of heat to service the  
6 particular unit. Heat savings are potential and  
7 greater where there is an attachness amongst dwelling  
8 units.

9 A favorite form of dwelling unit for providing  
10 housing for families of middle, moderate and low income,  
11 the favorite forms, are the two-family home or three-family  
12 home, the townhouse or row house, which might be a  
13 single-family or two-family unit, and the garden  
14 apartment.

15 For those of us who are concerned with providing  
16 a large supply of housing for families in those income  
17 categories, the high rise apartment or an apartment  
18 requiring an elevator, apartments of four floors or  
19 more, are generally disfavored. The cost per unit of  
20 constructing such types of housing are relatively  
21 higher than those for the low rise attached unit such  
22 as those that I have identified.

23 Q Mr. Davidoff, why is the attached garden  
24 apartment, townhouse, or two-family house, the preferred  
25 form of housing for low and moderate income people?

1 A Studies that have been made of the costs of  
2 construction and servicing, maintaining, different  
3 types of housing suggests that the clustering of  
4 housing in these forms can be achieved at costs which  
5 will allow great savings due to the fact that the  
6 units are related in close proximity, touching proximity;  
7 that there is not wastage of space between units, that  
8 the service roads and facility - utilities servicing  
9 these units can be constructed at a per unit cost in-  
10 creasingly exceptionally below that required for the  
11 single-family home.

12 One of the highest costs associated with the  
13 development of the single-family attached home is  
14 associated with the required frontage and the  
15 separation between houses, and the lengthening of the  
16 distance between homes, which requires an increased  
17 amount of - or, to put it in other terms, an inefficient  
18 use of roads, streets and pipes, and wiring serving a  
19 ~~big~~ lot of homes.

20 The development cost per unit of the building  
21 of homes, of garden apartment variety, or townhouse,  
22 and the construction costs, because of the sharing of  
23 the party walls, brings the costs of that construction  
24 to a lower level on a per unit basis than for the  
25 single-family detached home.

1 I don't mean to indicate the single-family  
2 detached home is an inappropriate form of development.  
3 It could, if built in small size, be built at a price  
4 somewhat lower than how it is built today; and, of  
5 course, it serves the need and desires of the people.  
6 It is a good form of residential development, and I'm  
7 not suggesting in any way that zoning should prevent  
8 its development.

9 What I am suggesting is that a Zoning Ordinance  
10 which is attuned to meeting the needs of the majority  
11 of the population must allow for a housing type to be  
12 developed that can be built at a relatively low price,  
13 and that the Bedminster Ordinance prohibits that type  
14 of development on an as-of-right basis. It is not a  
15 permitted use as of right within Bedminster.

16 Q You have been stressing the concept of the  
17 use being permitted as of right. What is the significance  
18 of that, in your opinion?

19 A That the proposed builder of one or more units  
20 of such a use need only develop a plan that meets  
21 established standards, and have a permit granted by the  
22 building inspector of the community; that there is no  
23 necessity of the costs of going through an administrative  
24 procedure which frequently becomes a protracted procedure  
25 in which the developer has to make a proposal to the town

1 where there is planned - where there is planning review  
2 of a proposed development under standards which are  
3 open and not precise and in which the discretionary  
4 procedure allows the administrative agency in charge of  
5 reviewing the application to quite frequently ask for  
6 amendments and changes to the plan of development  
7 which will have a consequence along with the protracted  
8 time of review of the plan of significantly increasing  
9 the cost of development.

10           The studies that I prepared for the Douglas  
11 Commission on zoning practices in the suburbs throughout  
12 the United States carefully documented the fact that  
13 these discretionary procedures are very often used  
14 primarily as a means of assuring to the community that  
15 the use that will be developed under these discretionary  
16 procedures will pay a sufficient amount in taxes to the  
17 community so as to carry its own freight; that the  
18 discretionary procedures are a way of guaranteeing that  
19 a type of residential development will not take place  
20 that will overly tax the community, that will force an  
21 increase in the taxes.

22           The result of these discretionary procedures is  
23 very often that the apartments built, garden apartments  
24 or townhouses constructed, are in fact restricted to  
25 families who have a relatively high income; and, quite

1 often have been used here in New Jersey and elsewhere  
2 as a means of restricting development to families who  
3 are beyond the child-bearing age.

4 There is a great proliferation today in housing  
5 being built in land unit developments approved by the  
6 localities here in this state and elsewhere that  
7 restrict housing to senior citizens, that almost  
8 guarantees that the residents promise that they will  
9 not procreate and do anything to add further to the  
10 tax burden of the community by calling for increased  
11 educational services.

12 Q The Bedminster Ordinance does provide by  
13 special permit for the development of multi-family units;  
14 does it not?

15 A Yes, it does. In the Planned Unit procedures  
16 there is a process by which the building of multi-family  
17 housing is approved in the community.

18 Q In your opinion, are there provisions  
19 written into the Bedminster Zoning Ordinance which will  
20 have an effect on the multi-family units developed  
21 pursuant to that special permit procedure?

22 A The Zoning Ordinance, if we look at Article 9  
23 on the regulations controlling density, setbacks, height  
24 and street frontage of the Ordinance, and particularly  
25 look at the controls on the minimum net habitable floor



1 area and the controls established in Schedule A,  
2 dealing with the floor area ratio, minimum lot size,  
3 and the height of buildings, operate together to require  
4 builders of multi-family units to build at such a low  
5 density and probably such a large sized unit that the  
6 possibilities of development of clustered development  
7 in the planned residential areas would require housing  
8 of a luxury cost.

9 Q Can you explain to us precisely how the  
10 provisions within Article 9 lead to a low density  
11 multi-family development of large residences?

12 A Let me begin by addressing the issue of the  
13 net habitable floor area. The minimums established  
14 under that rule provide, first, that if there is a  
15 development approved subsidized by the State of New  
16 Jersey or by the United States Government the sizes of  
17 those rooms may comply with standards that have been  
18 established by the state or federal government,  
19 standards which are reasonable in terms of the size  
20 required.

21 The minimum floor area required under Article 9,  
22 Section C, Subsection I, are not, per se, unreasonably  
23 high for those developers who would build privately  
24 without subsidy.

25 For those non-profit developers or developers who

1 would wish to build mixed income housing, those minima  
2 set in Subsection 1 are not overly restrictive.

3       However, when they are increased by the requirements  
4 of Subsection 3 requiring a twenty per cent increase for  
5 storage space for single-family houses, and a ten per  
6 cent increase for multi-family units, then it is possible  
7 that these units are approaching a figure that is perhaps  
8 a little too high for what is required for purposes of  
9 public health or safety.

10       Then, in addition, there is a requirement that  
11 the floor area ratio take account in determining the  
12 floor area ratio, or the floor area utilized in  
13 development of a unit - there is a requirement of  
14 consideration of the space for a parking space.

15       And let me say it now, I'm turning to Article 13,  
16 and the requirements of off-street parking and loading  
17 spaces, and Subsection 1, and we see that there is a  
18 requirement of one space, one parking space, for each  
19 house or dwelling unit in each district. And the  
20 requirement in Article 13, Section B(1) is that there  
21 will be a space of some two hundred square feet required  
22 as the minimum in the minimum parking space.

23       So that each bedroom in a unit requires two hundred  
24 square feet of parking space, which two hundred square  
25 feet is taken into account in determining the floor area

1 ratio, and the floor area utilization of a development  
2 on a lot.

3 Now, it is my belief that the regulations in  
4 regard to the amount of floor area required per unit  
5 when put together with the parking space requirement  
6 and the requirement of additional twenty per cent for  
7 single-family house storage and ten per cent for  
8 multi-family house storage produces a required floor  
9 area per dwelling unit that is considerably above the  
10 minimum necessary for purposes of public health or  
11 safety, or above an amount reasonably related to what  
12 the present market for such units calls for.

13 I have before me a paper which describes the  
14 requirements of the Ordinance, the gross floor area,  
15 at various floor area ratios and lot areas which I  
16 believe to have been provided by the planner --

17 Q Before you refer to that, could you explain  
18 to the Court the way in which floor area ratio operates  
19 under the Ordinance?

20 A Well, let me, if I may, give the definition of  
21 floor area ratio directly from the Ordinance.

22 THE COURT: Let me get that the  
23 first thing in the morning when I'm fresh.  
24 We'll recess at this point until nine o'clock  
25 tomorrow morning.

(Court adjourned.)

1 is a preferred family use for low, middle and moderate income  
2 families. Is that correct?

3 A That's correct.

4 Q Have you examined the Zoning Ordinance to  
5 determine whether there are any provisions in that  
6 Ordinance which militate against the development of  
7 multi-family housing for low, moderate and middle income  
8 persons?

9 A Yes, I have.

10 Q Did you examine the density provisions  
11 of the Zoning Ordinance?

12 A I did.

13 Q Did you draw any conclusion with regard  
14 to the effect of the density provisions on the ability  
15 to build housing under the Zoning Ordinance for low,  
16 moderate and middle income persons?

17 A Yes.

18 Q What was your conclusion?

19 A Not effective - the effect of the density provisions  
20 of the Zoning Ordinance preclude entirely the development  
21 of housing for families of low and moderate income, and  
22 most probably for families of middle income, those  
23 families falling in that third quintile that I described  
24 yesterday.

25 Q Could you explain to the Court what aspects

1 of the Zoning Ordinance have that effect?

2 A The Zoning Ordinance as it is written does not,  
3 as most Zoning Ordinances do, prescribe a certain number  
4 of units per acre, but, rather, the permitted number of  
5 units that may be developed per acre is a function of the  
6 inter-relationship of two major standards established in  
7 the Ordinance.

8 The first of these is a minimum lot size. And  
9 the minimum lot size is described in terms of the  
10 minimum diameter - the diameter of the circle which  
11 can be inscribed within the lot lines.

12 Thus, for example, in the R-3 Zone a minimum lot  
13 size is set of 350 feet, which is the effective diameter  
14 of a circle that can be inscribed within the lot lines.

15 The determination then of the number of dwelling  
16 units permitted on a parcel of land is a function of the  
17 determination of the area of the lot that is established  
18 by the diameter figure; and then that amount of land for  
19 a particular lot divided into the total amount of land  
20 available for development.

21 Q How do you determine what the lot size  
22 would be in terms of acreage of a lot whose minimum  
23 size is 350 feet?

24 A Well, my testimony on that point would be greatly  
25 assisted if I had a sheet of paper in front of me of Mr.

1 Agle's computations of the permitted development.

2 Q You refer to a paper, "Gross Floor Area  
3 at Various Percentage Ratios and Lot Areas"?

4 A Yes, I am.

5 MRS. THOMPSON: We'll mark it for  
6 identification.

7 (The aforementioned document entitled  
8 "Gross Floor Area at Various Percentage  
9 Ratios and Lot Areas" is marked for  
10 identification as Exhibit PC-28 for  
11 identification by the Reporter.)

12 MRS. THOMPSON: I'll move its  
13 admission into evidence.

14 MR. LANIGAN: Can we get a copy of it?

15 MRS. THOMPSON: We do have another  
16 copy, but we'll have to get it.

17 MR. ENGLISH: No objection.

18 MR. LANIGAN: No objection.

19 THE COURT: Do you wish to have it  
20 marked into evidence?

21 MRS. THOMPSON: We'll move its  
22 admission.

23 THE COURT: PC-28 in evidence.

24 (Exhibit PC-28, previously marked  
25 for identification, is now received and marked

1                   Into evidence as Exhibit PC-28 in evidence  
2                   by the Reporter.)

3 **BY MRS. THOMPSON:**

4           Q       Mr. Davidoff, who is the "Aga" you referred to?

5           A       Mr. Charles Agle, who is the Planning Consultant  
6           to the Town of Bedminster.

7           Q       My question to you is whether you have  
8           determined what the acreage of the lot would be that  
9           complied with the requirement that the minimum lot size  
10          be 350 feet?

11          A       The required acreage would be for a single-family  
12          home in the R-3 district, and the smallest lot that could  
13          be inscribed under these regulations would be one of 2.81  
14          acres for a single-family home.

15                   I have to say that because the density under these  
16          provisions depends very much as to how a developer would  
17          divide the land. Normally, in development practice a  
18          lot is divided rectilinearly rather than into squares.  
19          This is the case because the most expensive form of the  
20          part of development is the frontage cost, and the tendency  
21          in development is to reduce frontage and to create a lot  
22          that is narrower in the front and back than it is from -  
23          in its dimensions from side to side than it is in its  
24          length from front to back.

25                   Normally, one sees in a Zoning Ordinance a rectangle

1 of perhaps a ratio of one to two between the width of  
2 the lot and the length. Here the developer under this  
3 particular form of control tends to create a higher  
4 density for himself if he works with a lot size that is a  
5 square in shape.

6 The tendency, though, is, if the lot is square,  
7 to increase by a tremendous amount the frontage costs of  
8 development.

9 So that we can say the smallest lot to be developed  
10 here would be one of 2.81 acres. However, if the lot were  
11 to be in a rectangle, then, and Mr. Agle's chart indicates  
12 this, the minimum acreage would be five acres for a  
13 single-family home in the R-3 district, or the same size  
14 as it was under the old Ordinance.

15 Q Now, there are other minimum lot sizes  
16 set by the Bedminster Ordinance?

17 A Yes. The R-6 Zone prescribes a two hundred and  
18 twenty-five foot minimum lot size, or a diameter of that  
19 size.

20 Q Have you determined what the lot sizes  
21 would be both of the square lot and rectilinear lot?

22 A Yes. According to Mr. Agle's computations, and  
23 I have examined these myself, the minimum lot size in  
24 the R-6 Zone would be 1.6 acres, if development were  
25 built in square form on lots that were squares.



1           If a rectangle were constructed, rectangular  
2 pattern constructed, then two acres would be required  
3 in the R-6 Zone for each unit.

4           Q       Is there any other lot size set for  
5 residences in the Bedminster Ordinance?

6           A       Yes. In the R-8 Zone the minimum lot size is  
7 150 feet.

8           Q       And what does that become in terms of the  
9 size of the square lot and the rectilinear lots?

10          A       The square lot would be a half acre, and the  
11 rectangle would be one acre.

12          Q       You testified earlier that density was a  
13 factor of lot size and of something else. Could you tell  
14 us what that other thing is?

15          A       Yes. It is a function of the control over the  
16 lot size and the permitted floor area ratio. And the  
17 floor area ratio is a ratio determined by the relationship  
18 of the gross floor area to the lot area.

19                In very simple terms, if on an acre of ground,  
20 an acre lot of 43,560 square feet, the permitted floor  
21 area ratio was one, it would mean an acre of floor area  
22 might be developed upon an acre of lot area.

23                If the floor area ratio were .10, then that would  
24 mean a tenth of the lot area could be created in floor  
25 area, or 4,360 feet.

1 Q And what are the floor area ratios  
2 mandated by the Bedminster Ordinance?

3 A Under the Ordinance in the R-3 Zone it is three  
4 per cent, or .03.

5 In the R-6, six per cent, or .06.

6 And in the R-8 Zone, eight per cent, or .08.

7 Q Now, have you made any determinations  
8 of the densities at which multi-family units can be  
9 built in Bedminster applying the lot size and floor area  
10 ratio requirement?

11 A Yes. If there is an acre of ground - given an  
12 acre of lot area, in the R-3 Zone, with a permitted  
13 floor area ratio of three per cent, there is available  
14 for residential development 1307 square feet.

15 In the R-6 Zone, with a floor area ratio of six  
16 per cent, there is available for development on an acre  
17 2614 square feet of floor area.

18 And in the R-8 Zone, a total of 3485 square feet.

19 To then determine how many units can be placed on  
20 the land, it is necessary to examine the requirements  
21 for the net habitable floor area for different size  
22 dwelling units.

23 In a simpler version of zoning it might be just a  
24 one dwelling unit size given, but Mr. Agle has described,  
25 as is quite appropriate in zoning, different sizes according

1 to the number of bedrooms in order to have a density  
2 related to the number of people that would occupy the  
3 lot.

4 Thus, he provides the possibility of building more  
5 units with fewer bedrooms than units with larger bedrooms.

6 The determination then of the number of units  
7 that can be created on a lot is a function of the minimum  
8 required net habitable floor area required under Article  
9 9, Subsection C(1).

10 For example, if we look at the requirements of a  
11 two bedroom unit, we discover that the requirement is  
12 900 square feet. In addition to that, Article 9, Section  
13 C(3), requires an additional floor area for storage space,  
14 in addition to the 900 square feet, equivalent to the  
15 ten per cent of the area of the net habitable floor area.

16 So, it's 900 feet plus 90 feet, or a requirement  
17 of 990 feet.

18 In addition to that, in the Article dealing with  
19 parking, Article 13 of the Zoning Ordinance, there is a  
20 requirement for one parking space for each bedroom.  
21 And the parking spaces must be a total of 200 square  
22 feet, and the Ordinance mandates that there be a  
23 computation of the floor area that includes the total  
24 amount of floor area required by each parking space.

25 So that a two bedroom unit requires two 200 square

1 foot parking spaces, or a total of 400 square feet of  
2 parking space, which must be added to the 990 square feet  
3 of floor area to provide a total amount of floor area of  
4 1390 square feet.

5 Now, that is for a two bedroom unit. The  
6 consequence of that is that in an R-3 Zone, with the  
7 three per cent F. A. R., there could be the potential  
8 for approximately one, just slightly less, point nine four  
9 two bedroom units on an acre.

10 In the R-6 Zone the Ordinance would permit 1.88  
11 bedroom units, two bedroom units; and in the R-8 Zone,  
12 2.5 two bedroom units.

13 Q Have you made similar computations for  
14 other size units in the R-3, R-6 and R-8 Zone?

15 A Yes, I have. And I have prepared a chart which  
16 shows what the permitted density of units would be in  
17 each of these zones by bedroom count.

18 Q Is the chart to which you refer a chart  
19 entitled "Multi-Family Units Per Acre in Planned  
20 Residential Neighborhoods"?

21 A It is.

22 MRS. THOMPSON: Can we mark it for  
23 identification?

24 THE COURT: PC-29 for identification.  
25 (The aforementioned chart entitled

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"Multi-Family Units Per Acre In Planned Residential Neighborhoods" is marked for identification as Exhibit PC-29 for identification by the Reporter.)

MRS. THOMPSON: I would now offer it in evidence.

MR. LANIGAN: I have no objection.

MR. ENGLISH: I understand this was actually prepared by Mr. Davidoff?

MRS. THOMPSON: Mr. Davidoff, was it prepared by you?

THE WITNESS: Yes.

MR. ENGLISH: No objection.

THE COURT: All right. It may be admitted.

(Exhibit PC-29, previously marked for identification, is now received and marked into evidence as Exhibit PC-29 in evidence by the Reporter.)

BY MRS. THOMPSON:

Q Could you explain to the Court why your chart makes specific reference to planned residential neighborhoods?

A Yes. The Ordinance as described earlier prohibits the development of multi-family units as of right in the

1 Article dealing with permitted uses.

2 The planned residential neighborhood is a device  
3 created by the Ordinance for discretionary approval of  
4 multi-family development; and the Ordinance permits this  
5 pattern of development subject to the discretionary  
6 approval.

7 Q And, also, to clarify the record, your chart  
8 shows densities which would occur in planned residential  
9 neighborhoods in the R-3 Zone.

10 It's true, is it not, that planned residential  
11 neighborhoods are no longer permitted in the R-3 Zone?

12 A That is right. Under the original Ordinance  
13 there was potential for that, and an amendment to the  
14 Ordinance has changed that, so that multi-family is no  
15 longer permitted in the R-3 Zone as a discretionary  
16 procedure.

17 Q Now, referring to your chart, can you tell  
18 us the maximum density of multi-family units which is  
19 allowed in Edminster Township under the presently  
20 existing Zoning Ordinance?

21 A Yes. Under the R-8 Zone procedures the maximum  
22 number of units would be as follows:

23 For a studio unit, six units to the acre.

24 A one bedroom unit, four to the acre.

25 A two bedroom unit, 2.5 units to the acre.

1 Three bedroom unit, 1.8 units to the acre.  
2 A four bedroom unit, 1.35 units to the acre.  
3 And a five bedroom unit, one unit to the acre.  
4 That's 1.08 to be precise.

5 Q Now, with those densities is it possible  
6 to construct housing for low and moderate income people  
7 in Bedminster Township?

8 A No, it is not possible. These are far too  
9 prohibitive in the fact that they do not provide  
10 sufficient number of units to bring down the costs of  
11 development to a point at which development of moderate,  
12 low and probably middle income housing is possible.

13 Q When you refer to costs of development,  
14 to what costs do you make reference?

15 A I make reference to the costs of land acquisition,  
16 the cost per unit of the land, and to the construction  
17 costs of the dwelling unit.

18 Q Now, you testified yesterday, I believe,  
19 that with regard to subsidized housing units it would be  
20 possible under the Bedminster Ordinance to waive the  
21 mandated minimum interior floor size and use the minima  
22 of the particular federal or state programs. Is that  
23 correct?

24 A That is correct.

25 Q Have you made any determinations of whether

1 It would be in fact possible to qualify for construction  
2 under these federal and state subsidy programs with the  
3 densities mandated by the Bedminster Ordinance?

4 A If the floor area ratios prescribed under state  
5 and federal provisions were employed, rather than the  
6 ones prescribed in Article 9 of the Ordinance, it still  
7 would be impossible to construct housing, because the  
8 effective change in the density would be so insignificant  
9 as to not bring about the required density of units that  
10 would be needed to reduce the costs of development.

11 Q I'm not sure I understood your answer.  
12 Were you referring to the floor area ratio?

13 A The net habitable floor area would be reduced.  
14 That is, the state and federal government require floor  
15 areas that are perhaps anywhere from ten to as much as  
16 35 per cent lower, depending upon the number of bedrooms,  
17 than is required in the Bedminster Ordinance.

18 And those floor areas, if they were applied,  
19 rather than those required under the Ordinance, and did  
20 not require the ten per cent addition for storage space,  
21 which under the Ordinance would seemingly not apply to  
22 subsidized housing, but if those subsidized units still  
23 required the additional floor area computation for the  
24 parking spaces, would still bring about a result that  
25 would not greatly change the permitted number of units per



1 acre to give it - to bring it up to a high enough number  
2 to qualify for a subsidized program.

3 Q Have you made any estimate of what the  
4 effect on density would be, with the minimum habitable  
5 floor area of the Ordinance not applied, but the minimal  
6 habitable floor areas of the relative federal and state  
7 agencies applied?

8 A If I might use an example of a two bedroom unit  
9 which permits in the R-8 Zone under the procedures for  
10 private development 2.5 bedrooms, the requirement under  
11 a subsidized program would, to the best of my knowledge,  
12 bring that up to about three units to the acre, from  
13 2.5 units to the acre.

14 Similarly in the other zones, there would be  
15 that slight increment, but not significant enough to make  
16 it possibly feasible to create a sufficient number of  
17 units.

18 Q When you say that it would not be feasible  
19 to create a sufficient number of units, are there particular  
20 requirements of the state and federal programs which led  
21 you to that conclusion?

22 A Well, the state and federal programs will usually  
23 put a restriction on the amount of money that will be  
24 paid per unit for land cost in development; and while  
25 these rules vary according to program and may be altered

1 under certain circumstances, a good rule of thumb would  
2 be to say that the land cost should approach, for land  
3 to be available for subsidized development, approximately  
4 \$2,000 per unit. And then the question is, what are the  
5 land costs in Bedminster for development? And here again  
6 our studies indicate in general we might use a figure of  
7 at least a minimum of \$10,000 per acre of development  
8 cost - of acquisition cost per acre of land in Bedminster.

9  
10 Q Now, in reviewing the Ordinance and in  
11 making the density computations, have you had occasion  
12 to evaluate the required minimum net habitable floor  
13 area mandated by the Ordinance?

14 A Yes, I have.

15 Q Have you made any determination of the  
16 reasonableness of those provisions with regard to units  
17 of three, four and five bedrooms?

18 A Yes, I have.

19 Q What determination did you make?

20 A Those figures that are presented are - may be  
21 described in two ways. They are reasonable in regard  
22 to the practices of private developers. They establish  
23 minimums which are not untypical of what is practiced  
24 in the private market.

25 Looked at in terms of minima for subsidized housing,  
looked at in terms of the objective of reducing the costs

1 of development within units that are entirely adequate  
2 for public health and safety purposes, the requirements  
3 for the two, three, four and five bedroom floor area  
4 are excessive.

5 Q Have you looked at any particular standards  
6 on which you base your conclusion?

7 A The standard that I examined is from the American  
8 Health, Public Health Service, which establishes a  
9 minimum of a hundred and fifty square feet for the first  
10 individual in a unit, and a hundred --

11 MR. ENGLISH: May I interrupt?

12 I think if the witness is reading from a  
13 document it ought to be offered in evidence,  
14 if the Court please.

15 THE COURT: Are you referring to  
16 something, Mr. Davidoff?

17 BY MRS. THOMPSON:

18 Q Are you referring to a document which I now  
19 hand you, "Public Health Principles of Housing and its  
20 Environment, APHA-PHS, Recommended Housing Maintenance  
21 and Occupancy Ordinance"?

22 A Yes, I am.

23 THE COURT: What year was that?

24 MRS. THOMPSON: 1971.

25 THE COURT: 1971?

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THE WITNESS: 1971. Yes. Copywrite, American Public Health Associates.

THE COURT: Do you want to have that marked?

MRS. THOMPSON: Yes.

THE COURT: PC-30 for identification.

(Document entitled "Basic Health Principles of Housing and its Environment - APHA-PHS, Recommended Housing Maintenance and Occupancy Ordinance" is marked for identification as Exhibit PC-30 for identification by the Reporter.)

MRS. THOMPSON: Your Honor, this is a document whose authenticity has been admitted by counsel.

MR. LANIGAN: I have no objection.

MR. ENGLISH: May I ask the witness a question?

THE COURT: You may.

MR. ENGLISH: Mr. Davidoff, is this document related to the minimum standards for new construction?

THE WITNESS: This establishes basic principles of occupancy - of health of occupancy for construction.

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MR. ENGLISH: So, it would apply to an existing building, perhaps an old one, to determine whether it was healthy?

THE WITNESS: That's right. It would apply to a new building or old, as the minimum requirements for purposes of public health.

MR. ENGLISH: Is it not true that the American Public Health Association has put out another document which relates to the standards for new construction?

THE WITNESS: It may have. I don't know that I'm familiar with it.

MR. ENGLISH: Are you familiar with the document which was marked for identification at your deposition on November 28, 1973 entitled, "Planning The Home For Occupancy"?

THE WITNESS: Oh, yes. Yes. That's an older study.

MR. ENGLISH: Right. But, this older study which was marked at your deposition is related to new construction as opposed to determining the standards for the habitability of already existing buildings?

THE WITNESS: No. As I understand

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this more recent study, it is establishing --

MR. ENGLISH: Just a minute. I asked you about the old document. Not about the new one.

THE WITNESS: Excuse me. Could you repeat the question?

(The Reporter read back the preceding question as follows:

"Mr. English: Right. But, this older study which was marked at your deposition is related to new construction as opposed to determining the standards for the habitability of already existing buildings?")

MRS. THOMPSON: Your Honor, I would object to the question. We're proffering a particular document in evidence.

MR. ENGLISH: I know, but I want the Court to understand what the document is directed to.

MRS. THOMPSON: I would submit that would be proper for cross examination, but has no bearing on Mr. Davidoff's testimony and his use of the document which we're presently offering in evidence.

THE COURT: Well, the point seems to be

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whether or not the document is relevant to an open, unbuildt, community, and whether or not the document offered applies to new construction, or whether it's been superseded by its own source.

Isn't that your point?

THE WITNESS: Yes, it was.

MR. ENGLISH: That's right.

THE COURT: I'll permit the question.

THE WITNESS: Would you read it back?

(The Reporter read back the preceding

question as follows:

"Mr. English: Right. But, this older study which was marked at your deposition is related to new construction as opposed to determining the standards for the habitability of already existing buildings?")

THE COURT: We can assume this lawsuit is not about converting existing structures.

MRS. THOMPSON: Yes, we can, your Honor.

MR. ENGLISH: My question is directed to the older document, Mr. Davidoff.

THE WITNESS: I'm terribly sorry. Could you read that again?

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(The Reporter read back the preceding question as follows:

"Mr. English: Right. But, this older study which was marked at your deposition is related to new construction as opposed to determining the standards for the habitability of already existing buildings?")

THE WITNESS: My answer to that is that I believe these 1971 standards to be a minimum established for any dwelling unit, new or old.

MR. ENGLISH: Will you please answer the question which was related solely to the document which was marked D-1 for identification at your deposition? Does this older document entitled, "Planning The Home For Occupancy," deal with new construction as distinguished from existing buildings?

THE WITNESS: I would have to refresh my memory about this, as to my definition, if it was solely for that purpose.

I'm confused. Your question was about the older?

MR. ENGLISH: Yes. Yes.

THE WITNESS: Yes. I would have to



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review it to see its definition.

MR. LANIGAN: Your Honor please, what does the voir dire on an offer of proof on a document which we have in front of us, which is being offered into evidence, have to do with examination of some other exhibit, which is not being offered, which was marked for identification at some other deposition?

I respectfully submit that if he wants to cross examine as to the relevancy and extent and the breadth of the knowledge of the witness, or the content of that document, he can do so on cross examination. But, at this point I would respectfully submit that we're limited to what is being offered.

THE COURT: Well, unfortunately, I'm not sure I fully understand what Mr. English is driving at yet, but if his point is going to be that the proffered document has been superseded or abandoned by its creator in lieu of this other document, I'm going to permit him to try to make that point.

I just get that idea from his question.

MRS. THOMPSON: Mr. Leahy -- I'm sorry - Judge Leahy, I think Mr. English's point is

1 the other way around. That's why I think  
2 Mr. Lanigan and I are having trouble  
3 understanding the relevance of the  
4 objection, because Mr. Davidoff is referring  
5 to a '71 document, and it's my understanding  
6 Mr. English is referring to a document  
7 prepared in the 1930's or 40's.

8 THE COURT: Would you make at least  
9 an offer of what it is you want to examine  
10 by your voir dire?

11 MR. ENGLISH: Yes. What I'm trying  
12 to clarify is my understanding which is that  
13 the document which is now PC-30 in evidence  
14 is not designed primarily to relate to the  
15 standard for new construction which I submit  
16 was covered by an earlier study put out by the  
17 same body -- I'm sorry. It's PC-30 for  
18 identification -- but that the new document  
19 which has been offered in evidence relates  
20 to standards for the habitability of old  
21 buildings as well as new construction.

22 Therefore, I think the Court ought to  
23 understand this, so that the Court does not  
24 assume that the document which has been  
25 offered in evidence is intended by its authors

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to be the criterion for all new construction of houses.

I'm trying to clarify it. I admit that this could also be developed on cross examination, but the length and complexity of this witness' testimony, and so on, made it seem important to me to try to clarify in the Court's mind at this point just what this particular document purports to do and what it does not purport to do.

THE COURT: Clarification close to the use and reference of the document makes sense.

MR. ENGLISH: This is what I'm trying to do.

THE COURT: You can ask a few more questions to try to pinpoint what it is you're seeking to have acknowledged.

MR. ENGLISH: Is it your position, Mr. Davidoff, that Exhibit PC-30 for identification is designed by its authors to set forth the minimum standards for new construction of houses?

THE WITNESS: Yes. New, as well as old.

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MR. ENGLISH: That's your position.

THE COURT: All right. Having clarified at least the disagreement --

MR. ENGLISH: Well, there's a disagreement, but I can't pursue it any further at this time.

THE COURT: Is there any objection to the document?

MR. ENGLISH: Well, I've admitted its authenticity. I'll not object to its admissibility, although I certainly reserve the right to argue its effect and the propriety of the inferences to be drawn from it.

THE COURT: That's understood. All right. It will be admitted.

MR. ENGLISH: If the Court please, may I ask another question which I think may clarify what we have been talking about?

THE COURT: Just a moment.

(Exhibit PC-30, previously marked for identification, is now received and marked into evidence as Exhibit PC-30 in evidence by the Reporter.)

THE COURT: Ask your question.

1  
2 MR. ENGLISH: Mr. Davidoff, I direct  
3 your attention to Exhibit PC-30, its  
4 introduction, and what appears to be page 15  
5 in Roman numerals, and ask you if I read  
6 correctly a statement with respect to this  
7 document:

8 "It forms the second half of this book  
9 and represents the committee's view  
10 of the bare minimum standards for all  
11 existing housing."

12 Did I read that correctly?

13 THE WITNESS: You did.

14 MR. ENGLISH: Thank you.

15 THE COURT: What organization or  
16 entity is this put out by?

17 THE WITNESS: American Public Health  
18 Association.

19 DIRECT EXAMINATION (CONTINUED)  
20 BY MRS. THOMPSON:

21 Q Mr. Davidoff, so long as we're reading from  
22 the introduction of the document, would you direct your  
23 attention to page 14, Roman numeral 14, and read aloud  
24 the first full sentence of the second paragraph, beginning,  
25 "The basic principles --

A "The basic principles are intended to set forth the

1 health requirements for housing and its environment  
2 in terms of the 1970's. It is hoped that they will  
3 provide guidelines useful in formulating public policy  
4 as well as goals to cope with the urban crisis in that  
5 they will suggest criteria for plans and programs to  
6 improve future housing and community developments.

7 "In addition, these principles are offered as a  
8 basis for performance standards to replace certain  
9 specifications, standards and housing, building and  
10 community development controls, codes and regulations."

11 Q Thank you. Now, I believe it was your  
12 testimony that you had relied on this document in terms  
13 of your evaluation of the Bedminster Ordinance. Could  
14 you tell us what the specific aspects of this document  
15 are on which you have relied?

16 A Yes. I have looked at Chapter 8 which addresses  
17 the problem of maximum density, minimum space use and  
18 location requirements.

19 May I read from that chapter, the particular  
20 provisions that apply?

21 MR. ENGLISH: Could we have a page,  
22 please?

23 THE WITNESS: The page is 98.

24 MR. ENGLISH: Thank you.

25 A "No person shall occupy or let to be occupied any

1 dwelling or dwelling unit for the purpose of living  
2 therein unless there is compliance with the requirements  
3 of this Section, Section 8.01.

4 "The maximum occupancy of any dwelling unit shall  
5 not exceed the following requirements. Section 8.01, .01.  
6 For first occupant, one hundred and fifty (150) square  
7 feet of floor space and at least one hundred square feet  
8 of floor space for each additional occupant thereof,  
9 the floor space to be calculated on the basis of total  
10 habitable room area.

11 "Section 8.01, .02. A total number of persons  
12 equal to two (2) times the number of its habitable rooms."

13 That finishes what I conceive to be the important  
14 measurement of habitable healthy minimum standards for  
15 a unit.

16 Q Now, on the basis of your analysis of  
17 PC-30, did you form a conclusion with regard to the  
18 Bedminster standard for two, three, four and five bedroom  
19 units?

#10 A I did. I should add that I had tried to acquire  
21 the minimum floor area requirements of subsidized units,  
22 and have not received those in the mail as I hoped I  
23 would. But, certainly, in terms of the APH Standards -  
24 APHA Standards - these requirements are in the  
25 Bedminster Ordinance, are far in excess of the standards

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22 and have not received those in the mail as I hoped I  
23 would. But, certainly, in terms of the APH Standards -  
24 APHA Standards - these requirements are in the  
25 Bedminster Ordinance, are far in excess of the standards



1 established for purposes of protecting the health of  
2 the public.

3 Q Under the standards established in the  
4 Bedminster Zoning Ordinance, do they have any effect  
5 with regard to the ultimate cost of housing constructed  
6 under the Ordinance?

7 A They have a very significant effect. One can  
8 determine that by assuming a certain cost of developing  
9 the floor area required above a reasonable minimum,  
10 and then seeing what the effect of that increase would  
11 be upon the rent of the unit, and then make a determination  
12 as to what that consequence would be to the portion of  
13 the public that might be able to reside within such a  
14 unit.

15 Q Have you made such determination with  
16 regard to units under the Bedminster Ordinance?

17 A In general, I have.

18 Q Could you explain that to the Court?

19 A Yes. The general conclusion is, as I said before,  
20 that the excessive floor area requirements under the  
21 Bedminster Ordinance drive up the cost of housing quite  
22 high.

23 If I might, I would like to explain that with one  
24 example. The two bedroom unit which requires 900 square  
25 feet, and then an additional ten feet for storage space,

1 giving a total of 900 and --

2 Q Ten feet, or --

3 A Ten per cent. Excuse me. Ten per cent additional  
4 for storage, requires a unit of 990 square feet.

5 If one used a figure which I believe to be more  
6 reasonable as a minimum, 800 square feet, which is a  
7 figure considerably in excess of the bare minimum -  
8 bare minimums established by the American Public Health  
9 Association for purposes of protecting public health,  
10 there would be a difference of approximately 200 feet,  
11 190 feet.

12 Assuming that it costs approximately \$20 per  
13 square foot to build floor space for residential  
14 purposes, an increment of 200 square feet results in  
15 an increased cost of about \$4000 in total construction  
16 cost.

17 That has an effect upon rental, which, again,  
18 using a general approximation, would result in an increase  
19 in the per monthly cost of rental of about \$40 a month.

20 Assuming that rents represent one-fifth of monthly  
21 income, that means an increase of \$200 a month in income  
22 required in order to achieve that ability to pay that  
23 rent increase, or an increase in income of about \$2400  
24 a year.

25 That is the effect, essentially, of requiring that



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THE COURT: All right.

BY MRS. THOMPSON:

Q In evaluating the Bedminster Zoning Ordinance is it fair to say that the old five-acre zone is now mapped as the new R-3 Zone?

A It's almost a complete transfer of one to the other.

Q Would it also be fair to say that the previous 15 per cent F. A. R. Zone is now a 3 per cent floor area ratio zone?

A That is right.

Q "F. A. R." being floor area ratio?

A That's right.

Q Did you have occasion to study the mapping of the R-3, R-6 and R-8 Zones under the new Bedminster Zoning Ordinance?

A I did.

Q Have you determined how much land exists in the - how much vacant land exists in the R-6 and R-8 Zones?

A Yes. An examination of the maps of Bedminster suggests that there are approximately 750 vacant acres in the R-6 Zone, and 120 vacant acres in the R-8 Zone.

Q Have you determined the amount of vacant land existing in Bedminster taken as a whole?

A Our study taken from the Somerset County Master Plan

1 Report taken on the distribution of land throughout  
2 Somerset County and for each particular town suggest  
3 that there are approximately 13,000 acres of vacant land  
4 in Bedminster.

5 THE COURT: Did you intend to define  
6 that term?

7 THE WITNESS: Yes.

8 BY MRS. THOMPSON:

9 Q Mr. Davidoff, would you define that term?

10 A Thank you. Might I ask for the copy of the  
11 Somerset Plan?

12 Q Yes.

13 MRS. THOMPSON: Let the record show  
14 that I'm handing Mr. Davidoff a document  
15 entitled "Master Plan of Land Use - Somerset  
16 County, New Jersey."

17 MR. ENGLISH: Shouldn't that be marked,  
18 perhaps, as an exhibit? Everybody has  
19 agreed to its authenticity.

20 THE COURT: Is that in yet?

21 MRS. THOMPSON: No, it isn't.

22 THE COURT: Do you wish to offer it?  
23 You don't have to.

24 MRS. THOMPSON: I think I would just  
25 prefer to mark it for identification.

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THE COURT: All right.

(The aforementioned document entitled "Master Plan of Land Use - Somerset County, New Jersey" is marked for identification as Exhibit PC-31 for identification by the Reporter.)

A The analysis we made of vacant land included three types of land that are identified in the land use survey for Somerset County. These include land --

MR. ENGLISH: Can you give the page, please?

THE WITNESS: Yes. Surely. Page 13.

MR. ENGLISH: Thank you.

BY MRS. THOMPSON:

Q Go ahead.

A These include land identified as vacant. That's 1359 acres.

Land included as agricultural, 7748 acres.

Land included in the heading "Wooded Acres" are 416 acres.

Q Now, with regard to your analysis of the --

A If I may, that is a total of 13,723 acres.

Q Now, with regard to your analysis of the mapping of the Bedminster Zoning Ordinance, did you form any opinion with regard to the mapping of the R-6 and R-8

1 Zones, as compared to the mapping of the R-3 Zone?

2 That's compared to the mapping of the total community.

3 A Oh, yes.

4 Q What would that be?

5 A That the mapping of Bedminster's residential zones  
6 places the overwhelming majority of the land in - almost  
7 all of the vacant land - in the R-3 Zone, that only a  
8 very small amount of vacant land, roughly a fifteenth  
9 of it, is zoned in R-8 and R-6.

10 Q In your opinion, the mapping which you just  
11 described, does it have any effect on the ultimate price  
12 of housing developed in the R-6 and R-8 Zones?

13 A Yes. I think it will have a very great effect.  
14 The reason for that is that the Zoning Ordinance requires  
15 that for planned residential neighborhoods there must be  
16 a tract of at least 25 acres.

17 There are very few tracts of 25 acres available  
18 now in the R-6 Zone, and possibly none in single ownership  
19 in the R-8 Zone.

20 Thus, the very limited amount of land available  
21 today for development under the procedures permitting  
22 multi-family development are restricted so greatly that  
23 the consequence will be, I predict, that the land cost  
24 per acre of those few acres available will be greatly  
25 inflated by the demand of developers who might seek to

1 build luxury housing, luxury multi-family housing,  
2 condominium housing, on those sites.

3 The effect of tightening the market of land  
4 available for the supply available for this type of housing  
5 will be in very great demand for such land. The effect  
6 will be to drive up the cost for such land very high.

7 Q In your analysis - strike that.

8 You referred a moment ago in your analysis  
9 or your statement with regard to vacant land in Bedminster  
10 to agricultural uses. Are agricultural uses allowed under  
11 the present Bedminster Zoning Ordinance?

12 A Yes. In the permitted use, Article 4, using  
13 regulations controlling residence district, Subsection 5,  
14 permits farming and agricultural uses, including crops,  
15 nurseries, poultry, small animal and livestock raising,  
16 and training, throughout the entire residential area,  
17 needing - no special discretion is required anyway.

18 Q If I understand your testimony earlier,  
19 you testified that the residential provisions of the  
20 Zoning Ordinance had the effect of regulating number of  
21 units, and, therefore, the number of people per acre in  
22 Bedminster; is that correct?

23 A That is right.

24 Q Are there any similar regulations with  
25 regard to the number of livestock and animals in Bedminster?



1 A No. Under the Ordinance there is no restriction  
2 on the number of livestock per acre in any of the  
3 residential zones.

4 Q And do large animals in fact exist in  
5 Bedminster?

6 A Yes. There is a sizable number of animals that  
7 have been reported in Bedminster.

8 Q And is it your opinion - let me ask you,  
9 do you have an opinion on whether livestock and large  
10 animals contribute in any way to pollution of the  
11 environment?

12 MR. ENGLISH: Just a minute. If the  
13 Court please, the witness has not qualified  
14 himself as an expert on ecology or pollution,  
15 or any of those matters. He's simply a  
16 planner.

17 THE COURT: Mr. English, we're dealing  
18 with two rather esoteric fields. Whether  
19 the one overlaps the other I'm not sure.  
20 I'm satisfied that a grasp of ecology is  
21 required as a planner. It's become an  
22 integral part of the planning process.

23 MR. ENGLISH: If the Court please,  
24 I think your Honor is making an assumption  
25 of certainly what ought to be the situation,

1 but has not been brought out on the record  
2 that that in fact applies to this witness.  
3 He studied law. He studied city planning.  
4 I haven't heard anything yet in his  
5 background to suggest that he's an expert  
6 on agriculture or pollution or the sciences  
7 that all relate to those matters.

8 THE COURT: All right. Your objection  
9 has sufficient reach to it that I'll ask  
10 counsel to lay some foundation questions.

11 BY MRS. THOMPSON:

12 Q Mr. Davidoff, in your experience as a planner  
13 have you had any experience in terms of dealing with the  
14 availability and assessment of the existence of sewer  
15 systems and public water systems?

16 A Yes, I have. As a part of my training and as a  
17 part of my work in suburban planning, I have.

18 Q Have you at any time had any occasion to  
19 assess the amount of wastes, sewage produced by humans?

20 A Yes, I have.

21 Q Have you at any time had the occasion to  
22 determine whether or not livestock produce sewage or waste?

23 A Yes, I have.

24 Q Do livestock produce sewage and wastes?

25 A They do.

1 Q Have you at any time had occasion to  
2 determine the forms of pollution which exists in bodies  
3 of water?

4 A I have.

5 Q Have you had occasion to determine  
6 whether human wastes contribute to the pollution of  
7 bodies of water?

8 A They certainly do.

9 Q Have you had occasion to determine  
10 whether wastes generated by livestock and animals,  
11 husbandry, contribute to the pollution of bodies of water?

12 A They, too, may.

13 Q In your study of Bedminster have you had  
14 occasion to determine how many livestock, agricultural  
15 animals, exist in the Township of Bedminster?

16 A I have.

17 Q Can you tell the Court how many you found  
18 in Bedminster?

19 A A report by the Cooperative Extension Service  
20 of the College of Agriculture, Environmental Sciences,  
21 Rutgers, 1972 reveals that there were a total of 1466  
22 animals, roughly half the population, the human population,  
23 of Bedminster, in the town at that time.

24 That's broken down. The major component is beef,  
25 673 head.

1 Dairy, dairy cows, mature and young, 323.

2 Goats, 2.

3 Ponies and horses, 226.

4 Poultry, 18.

5 Sheep, 215.

6 Swine, 9.

7 Q Let me show you a document entitled

8 "Somerset County By Municipalities, 1972." It's another  
9 long title. "Number of Farms, Land Use, Acreage of Crops,  
10 and Number of Livestock, As Determined From Farm Use  
11 Motor Vehicle Applications."

12 Is this the document from which you derived  
13 those numbers?

14 A Yes, it is.

15 MRS. THOMPSON: This, again, is a  
16 document whose authenticity has been admitted,  
17 and I'll offer it into evidence.

18 MR. LANIGAN: I have no objection.

19 MR. ENGLISH: I have no objection.

20 THE COURT: There being no objection,  
21 it's admitted in evidence.

22 (The aforementioned document entitled  
23 "Somerset County, 1972, By Municipalities,  
24 Number of Farms," etc. is received into  
25 evidence and marked Exhibit PC-32 in evidence

1 by the Reporter.)

2 THE COURT: All right. Continue.

3 BY MRS. THOMPSON:

4 Q Now, Mr. Davidoff, yesterday you testified  
5 with regard to preferred forms of housing for low, moderate  
6 and middle income people. Are mobile homes included in  
7 your categorization of preferred forms of housing for  
8 low, moderate and middle income people?

9 A Yes, they are.

10 Q And why are they included in your category?

11 A Because they have become a major resource for  
12 families, working class families, families of limited  
13 income. They have become a dominant form of housing in  
14 this nation in the past decade for that group.

15 Q Are mobile homes permitted under the  
16 Bedminster Ordinance?

17 A It is my belief that the mobile home is prohibited  
18 in the Ordinance. I say that because there is a definition  
19 of ~~permanence~~ for a modular home, but one that must be  
20 ~~permanently~~ affixed, and which I think would normally  
21 ~~preclude~~ the possibility of development of the mobile  
22 home.

23 Q Assuming that mobile homes can be  
24 interpreted to be permitted under the Bedminster Ordinance,  
25 are there any provisions of the Ordinance which would make

1 It difficult to use mobile homes as housing for low  
2 and moderate and middle income people in Bedminster?

3 A Yes, there are.

4 Q And what are those provisions?

5 A The same provisions we recently reviewed in terms  
6 of multi-family housing, the density provisions. Those  
7 density provisions establish requirements of lot area  
8 per unit for a detached mobile home that are so restricted  
9 that the land costs for development of a unit of land for  
10 a single mobile home would place it far beyond the reach  
11 of probably 98 per cent of the occupants of mobile homes  
12 in the nation.

13 Q We have been testifying - you have been  
14 testifying at some length with regard to the lot sizes  
15 under the Bedminster Ordinance. Have you had occasion  
16 to study existing development in Bedminster to determine  
17 the extent to which presently existing residences within  
18 the township comply with the requirement lot sizes?

19 A I have.

20 Q What have you found?

21 A I have found in my field trips to Bedminster that  
22 there is a sizable development in Bedminster of older  
23 homes, in what I might describe, if I may, as very lovely  
24 older village settlements, built at densities that  
25 considerably exceed those permitted for single family

1 houses today under the new Zoning Ordinance.

2 Q Would it, therefore, be your testimony -  
3 strike that.

4 Under the existing Zoning Ordinance could  
5 the homes about which you have just been testifying,  
6 neighborhoods about which you have just been testifying,  
7 be replicated under the present Zoning Ordinance?

8 A No. I do not believe they could.

9 Q Let me direct your attention back to the  
10 statement of purposes about which you testified yesterday  
11 in the Bedminster Zoning Ordinance. I direct your  
12 attention specifically to the initial provisions starting  
13 with, "The purpose of this zoning is." On the basis of  
14 your analysis of the Zoning Ordinance of Bedminster,  
15 do the provisions with regard to residential development  
16 indicate to you that it is possible to achieve these  
17 stated purposes?

18 A No. I believe that the Ordinance employs means  
19 that prohibit the accomplishment of the stated objectives  
20 of the Ordinance.

21 Q In your analysis of the Bedminster Zoning  
22 Ordinance have you formed any opinion as to the  
23 relationship between the forms of housing permitted  
24 under the Bedminster Zoning Ordinance and the need for  
25 housing for workers which you identified in your testimony

1 yesterday?

2 A I have.

3 Q What is that opinion?

4 A That the Bedminster Ordinance falls entirely to  
5 provide for the housing needed for families of low and  
6 moderate income, for families who will be employed within  
7 Bedminster, if there is development of new employment  
8 within Bedminster as, for example, in the development of  
9 the A. T. & T. Long Lines Division structure.

10 Q Now, in relation to the A. T. & T. Long  
11 Lines, to which you have just referred, are you familiar  
12 with the zoning designation of the land which A. T. & T.  
13 Long Lines owned to Bedminster?

14 A They are -- I am familiar.

15 Q What land does A. T. & T. Long Lines own?

16 A Their land is zoned in the research office district.  
17 That is almost entirely a rezoning into that category.

18 Some of their land, I believe, is within the R-8

19 Zone.

20 Q Now, with regards to the R-0 Zone, did the  
21 R-0 Zone encompassing that land which A. T. & T. Long  
22 Lines owns exist in the pre-existing Zoning Ordinance?

23 A No, it did not.

24 Q Do you know how that land was designated  
25 in the pre-existing Zoning Ordinance?



1 A I believe it was part of the five-acre zone at  
2 the earlier time.

3 Q Do you know what the floor area ratio is  
4 for the land in the R-0 Zone?

5 A It had originally established a floor area of  
6 ratio of 13, and by amendment has been changed to a  
7 floor area ratio of 18.

8 I think in looking at the map the zone - I believe  
9 the land in the R-8 Zone is in the R-6 Zone. The remaining  
10 land is outside that. I believe it is - the tract of land  
11 is in the R-6 Zone that belongs to A. T. & T.

12 Q Are you referring to a tract of land  
13 separated from the rest of A. T. & T. holdings by  
14 Interstate 287?

15 A That is right.

16 THE COURT: When you used 18 per cent  
17 for your coverage figure in the R-0 Zone,  
18 did that include parking?

19 THE WITNESS: Does the floor area  
20 ratio apply to parking in that zone? I  
21 don't know if - I must say, your Honor,  
22 I'm not familiar as to whether that requirement  
23 is included within the non-residential -  
24 within the non-residential zone.

25 THE COURT: Thank you.

1 BY MRS. THOMPSON:

2 Q Mr. Davidoff, have you formed an opinion  
3 as to whether the provisions of the Bedminster Zoning  
4 Ordinance which we have been discussing has an effect on  
5 access of non-whites to residency in Bedminster?

6 A I have.

7 Q What is your opinion?

8 A I believe that the present Ordinance acts as a  
9 bar to the movement to almost the entire non-white  
10 population.

11 it's conceivable that a few non-whites will be able  
12 to afford the very high price of entrance into Bedminster  
13 mandated by the Zoning Ordinance, but for reasons that I  
14 explained in earlier testimony, because of the  
15 disproportionately low income of the non-white population  
16 of New Jersey, any Ordinance which prohibits very severely  
17 access to a community to families of low and moderate  
18 income will have an even more severe effect upon the  
19 non-white population.

20 Q Now, yesterday, Mr. Davidoff, you testified  
21 with regard to the impact of zoning regulations on the  
22 character of Bedminster. Tell me if I'm characterizing  
23 your testimony correctly.

24 Was it your testimony that the Zoning  
25 Ordinance was not the only cause of the present character

1 which is found in Bedminster?

2 A That is right.

3 Q Can you tell me what effect, if any, you  
4 believe that the Zoning Ordinance, as such, has on  
5 access of non-whites to residency in Bedminster?

6 A The Zoning Ordinance by itself as written will  
7 have the effect that I just described, that is, it will  
8 act as almost a total bar to the movement of non-white  
9 population into Bedminster.

10 Q Now, as a planner have you had occasion to  
11 study the text of the Zoning Ordinance as such with  
12 regard to the purposes set forth in the Zoning Ordinance  
13 to determine whether the devices within the Zoning  
14 Ordinance will promote those purposes?

15 A I have.

16 Q Have you made any study of the techniques  
17 employed by the Zoning Ordinance with regard to  
18 preservation of open space?

19 A I have.

20 Q Have you formed any conclusions with regard  
21 to the particular provisions of the Zoning Ordinance and  
22 preservation, likelihood of preservation, of open space?

23 A I have.

24 Q What are those opinions?

25 A In the open - excuse me - the Ordinance relies on

1 measures to achieve openness throughout Bedminster  
2 which in effect do not create open space for the public.

3       What the Ordinance does is to prevent development  
4 in large areas of the town where there is vacant land  
5 in the R-3 Zone by imposing such stiff requirements as to  
6 prohibit residential development almost entirely, and so  
7 to keep land that is presently open in private open use,  
8 but not to enlarge the amount of open space that is  
9 available to the public.

10       Q       Now, in your study of planning and zoning  
11 theory have you familiarized yourself with techniques  
12 which can be employed in Zoning Ordinances to preserve  
13 open space for the benefit of the public?

14       A       I have.

15       Q       What are those techniques?

16       A       There are numerous techniques that can be applied.  
17       The most direct technique for acquiring open space  
18 for public use or to see that open space becomes available  
19 for the public is to purchase land that is presently open,  
20 or to acquire the development rights to land that is  
21 presently open.

22       There are, of course, different techniques, other  
23 techniques that have been employed around the nation  
24 seeking to acquire open space for the public through gifts,  
25 special tax benefits that are provided for land that is

1 made open to the public through an easement to the  
2 public for its use.

3 There are many different devices for creating  
4 open space that places it within the hands of the public,  
5 usable by the public.

6 Q Have any of these alternatives been  
7 employed by Bedminster within the present Bedminster  
8 Zoning Ordinance?

9 A No. None have.

10 Q Is it your opinion that these alternatives  
11 which you have just described could have been or should  
12 have been employed by Bedminster?

13 A To both of those questions the answer is "Yes."

14 THE COURT: Within the Zoning Ordinance?

15 THE WITNESS: Within a - yes. Even  
16 within a Zoning Ordinance, your Honor, there  
17 have been devices.

18 These are recommended in the planned  
19 residential neighborhood and open space  
20 cluster as devices for very restricted use  
21 and in the very limited amount of land that  
22 is set aside for that type of development.

23 What it does not do is touch the  
24 immense of land that is in the vacant  
25 portions of the R-3 Zone. I think, I take it

1 from your question, that the devices for  
2 achieving openness would be normally outside  
3 of the Zoning Ordinance. That is correct.

4 BY MRS. THOMPSON:

5 Q In relation to devices which might exist  
6 outside the Zoning Ordinance, have you had occasion to  
7 review the various planning and land use devices employed  
8 by Bedminster other than its Zoning Ordinance?

9 A I think I am familiar.

10 Q Have you determined that any of these  
11 alternatives for achieving or preserving open space exist  
12 in any of Bedminster's other land use documents?

13 A I am not familiar. I have not seen any such use.

14 Q Now, you testified yesterday that in your  
15 work you dealt with the relationship between planning and  
16 zoning. Have you had occasion to analyze the relationship  
17 between the planning processes and zoning in the Township  
18 of Bedminster?

19 A I have.

20 Q And what did you find?

21 A Well, that's a very - it's not simply answered.  
22 I think one requires a consideration of many of the aspects  
23 of the planning recommendations that have been made by the  
24 planners, the planner, to the town in the adoption of its  
25 zoning.

1           The most general conclusion, I suppose I could  
2 reach in regard to the relationship between the two,  
3 is that the planning process in reviewing the potential  
4 for development of Bedminster, in accordance with the  
5 desires of - established in its own set of purposes in  
6 the Zoning Ordinance, has been a shallow one, as I think  
7 I indicated yesterday, insofar as the planning process  
8 failed to explore a range of alternatives which I believe  
9 might have established the level of amenity in Bedminster  
10 that the residents of Bedminster seek for themselves  
11 while at the same time guaranteeing that Bedminster as  
12 a part of the State of New Jersey was a location that  
13 could be occupied by citizens seeking its location  
14 regardless of their race or their income.

15           I think the planning process by failing to account  
16 for that has in fact supported the development of a  
17 Zoning Ordinance whose effect is to restrict very  
18 greatly access to Bedminster to the affluent white  
19 population.

20           Q       Is there anything which you have found  
21 in the Master Plan or planning materials concerning  
22 Bedminster which indicates the community which Bedminster  
23 sought to achieve?

24           A       Yes, there are. And it will take me a moment to  
25 pull together the materials on the plan.

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THE COURT: Why don't you do just that while we take a two-minute recess.

(Recess.)

BY MRS. THOMPSON:

Q Mr. Davidoff, before we go to the planning documents, during the break did you have occasion to further study the Zoning Ordinance with regard to the provisions of the R-0 Zone?

A I did.

Q Could you tell the Court how the lot acreage - lot area definition of the Zoning Ordinance applies to the R-0 Zone?

A There is a very special regulation that appears within Article 17, Definitions. Under definition of lot area, it is stated, "For the purpose of this Ordinance, contiguous land in an adjacent municipality held permanently vacant by a recorded instrument satisfactory to the Township Attorney may be included in the computation of the floor area ratio for non-residential use."

Q Is there anything in the Ordinance which indicates to you that land outside Bedminster Township may be used for the floor area ratio computation for residential dwelling?

A The next sentence says, "For residential use a municipal boundary shall be considered as a lot boundary,



1 but it shall not be so considered for setback regulation  
2 purposes," though it is my assumption from the reading  
3 of that language that it might not be included within  
4 the lot area formulation of the floor area ratio for  
5 residential districts.

6 Q What is the effect of permitting a  
7 non-residential use to include vacant land in another  
8 township in its floor area ratio computation?

9 A It is a transfer of development rights in a sense  
10 which permits a more intensive use of the lot area within  
11 Bedminster, so as to increase the permissible floor area  
12 beyond the 18 per cent that is now allowed in the R-0  
13 district.

14 Q So, would it therefore be your conclusion  
15 that as a concept Bedminster is familiar with the idea  
16 of transferring development rights?

17 A It has employed it in this instance. Yes.

18 Q Is that the only instance of such a  
19 transfer which you have found in the Zoning Ordinance?

20 A That is.

21 Q Now, also, with regard to the testimony  
22 which you gave concerning computation of floor area  
23 for application in the floor area ratio, did you find  
24 any indication that in the R-0 Zone there is a provision  
25 for using utility and storage space as part of that

1 computation?

2 A It is my understanding that the - of reading the  
3 Ordinance that the requirements of the additional  
4 provision of storage space in the floor area determination  
5 of residential zones is not carried over to be made a  
6 part of the requirements of the determination of floor  
7 area in the non-residential zone, in the R-0 Zone.

8 Q Now, at the break I had asked you whether  
9 you have reviewed the Master Plan and planning documents  
10 of Bedminster.

11 Mr. Davidoff, that reminds me of - it  
12 reminded me of one other thing.

13 MRS. THOMPSON: Yesterday, your Honor,  
14 you had asked Mr. Davidoff what the census  
15 definition of income is, and he has since  
16 checked the definition and is prepared to  
17 give it to you.

18 THE WITNESS: Your Honor, if I may,  
19 I would like to read from the definition  
20 of the term "income" that appears in the  
21 report from the United States Department of  
22 Commerce On the General Social and Economic  
23 Practices of New Jersey. This is a standard  
24 definition which appears within all of the  
25 census information; and it states that the

1 "Information on money income received in  
2 the calendar year 1969 was requested from  
3 all persons fourteen years old and over  
4 in the 20 per cent sample. The total income  
5 is an algebraic sum of the amounts reported  
6 in Item 40A, wage or salary income; Item 40B,  
7 non-farm, net self-employment income; Item  
8 40C, farm, net self-employment income; Item  
9 41A, Social Security or railroad retirement  
10 income; Item 41B, public assistance or  
11 welfare income; and Item 41C, all other  
12 income. Earnings is the algebraic sum of  
13 the amount reported as wage or salary income  
14 and non-farm and farm, net self-employment  
15 income."

16 BY MRS. THOMPSON:

17 Q In response --

18 THE WITNESS: Let me just clarify  
19 this last sentence. The figures represent  
20 the amount of income regularly received  
21 before deductions for personal income taxes,  
22 Social Security, bond purchases, Union dues,  
23 Medicare deductions, et cetera.

24 MRS. THOMPSON: That answers my  
25 question.

1 BY MRS. THOMPSON:

2 Q Now, Mr. Davidoff, I had asked you whether  
3 you had occasion to study the Master Plan and planning  
4 documents of Bedminster Township to determine what the  
5 planning goals of the township are. Have you had such  
6 an occasion?

7 A I have.

8 Q And what have you found the planning goals  
9 of the township to be?

10 A The planning goals are established in a formal  
11 sense in the Master Plan of Bedminster Township in which  
12 objectives are established for a number of the different  
13 forms of use.

14 For example, in the section - In Section 2 of the  
15 Master Plan, entitled, "Residential Development," it is  
16 stated, "To preserve the township's present rural  
17 residential character, and thereby protect its chief  
18 asset, its reputation as a highly desirable place in  
19 which to live."

20 I would say that that objective of making  
21 Bedminster a highly desirable place to live has run  
22 through almost all of the reports that I have seen of  
23 memoranda and reports from the planning consultant to  
24 the Town of Bedminster.

25 I would observe that the materials I have seen

1 suggest in seeking to maintain Badminster as a highly  
2 desirable place one of the criteria of desirability  
3 appears to be that it be a place that is resided in  
4 by families of affluence.

5 More often, the term appears to be that it is  
6 a community that should be available to junior and  
7 senior executives.

8 Q When you say that the term appears to be  
9 a community available to junior and senior executives,  
10 what have you seen - where have you seen this expression?

11 A In the reports, as I suggest, I have seen of Mr.  
12 Agle in the memoranda written over the years to the Town  
13 of Badminster describing the conditions as they are  
14 developing in Somerset and in Badminster.

15 For example, in a memorandum prepared in 1964  
16 entitled, "General Considerations in the Planning of  
17 Badminster," Mr. Agle made - excuse me. Should we have  
18 this marked as an exhibit?

19 Q Mr. Davidoff, is this the document to  
20 which you're referring?

21 A Yes, it is. Yes. Yes.

22 Q All right.

23 MRS. THOMPSON: I would offer  
24 "General Considerations in Planning of  
25 Badminster" which, again, is a document,

#11

1 the authenticity, I believe, of which has  
2 been admitted, in evidence.

3 MR. ENGLISH: No objection.

4 MR. LANIGAN: No objection.

5 THE COURT: PC-33 in evidence.

6 (The aforementioned document entitled  
7 "General Considerations in Planning of  
8 Bedminster" is received into evidence and  
9 marked Exhibit PC-33 in evidence by the  
10 Reporter.)

11 BY MRS. THOMPSON:

12 Q You were indicating where you found references  
13 to junior and senior executives.

14 A "It is stated that Bedminster is vulnerable to  
15 but not eminently suited for mass housing for employees  
16 of plants. It is eminently suited for continuation of  
17 its present use, that for junior and senior executives  
18 still employed in New York.

19 "This train of reasoning does not differ  
20 substantially from the general sentiments which have been  
21 expressed at various meetings in various parts of the  
22 township."

23 Throughout the examination - excuse me - throughout  
24 the reports of Mr. Agie to the town there seems to be a  
25 sense that the town should maintain its desirability for

1 that class that has found residence in it.

2 This is in contradistinction to the recently  
3 enunciated principles of planning that say that the  
4 desirability of a township should be made available to  
5 all citizens.

6 MR. ENGLISH: If the Court please,  
7 I ask the answer be stricken. I think it's  
8 improper for the witness to characterize  
9 what Mr. Agle has thought when the document  
10 is in evidence, and I didn't know that was  
11 coming when the question was asked, but I  
12 think that the document speaks for itself,  
13 and it is improper for this witness to put  
14 his own interpretation on it.

15 Now, I'm basing that on what's been  
16 in the record thus far. The witness said,  
17 and I think this is a literal quote, that  
18 Mr. Agle recommended that Bedminster should  
19 be available to junior and senior executives.  
20 "Should be available."

21 Now, that language does not appear  
22 in this report. What was read from it was  
23 excerpts which omitted material which  
24 certainly changed the sense and effect of  
25 what the witness read from the document,

1 and what Mr. Agle says is that Bedminster  
2 "is eminently suited for a continuation of  
3 its present use, that for junior and senior  
4 executives."

5 Now, I submit there is a difference  
6 between characterizing suitability of a  
7 continuation of an existing use from the  
8 proposition that the planner was urging that  
9 a certain kind of use ought to be provided  
10 for. There is a difference between recognizing  
11 the appropriateness of a continuation of the  
12 status question distinguished from making a  
13 recommendation as to something in the future.

14 This, I submit, is a misinterpretation  
15 of what the document says, and, therefore, I  
16 am going to object to characterizations by  
17 this witness of the documents which have been  
18 prepared by the planner. They speak for  
19 themselves.

20  
21 The witness can, of course, state his  
22 own view, but he has no authority or right  
23 to state somebody else's view in his own  
24 terms.

25 MRS. THOMPSON: I'm sorry, your Honor.  
Perhaps I wasn't listening as closely as I



1 should have been, but I don't understand  
2 Mr. English's objection, because I thought  
3 that the language he read out loud was  
4 identical to the language that Mr. Davidoff  
5 just read out loud.

6 MR. ENGLISH: No. That is not the  
7 heart of my objection. It illustrates the  
8 reason for it, because the witness was  
9 characterizing Mr. Agle's position, based  
10 upon his interpretation of the document.

11 The argument that I made was that the  
12 record shows now that the witness has not  
13 correctly characterized Mr. Agle's view,  
14 as a reference to the document will show.  
15 The whole line of testimony here, as I  
16 understand it, is an effort by Mr. Davidoff  
17 to show that the recommendations of the  
18 planner amounted to something or other  
19 which I guess is inconsistent with the  
20 stated purpose as to zoning.

21 In any event, I submit it is not  
22 proper for this witness to characterize  
23 documents prepared by Mr. Agle as a planner.

24 He can say, "I've read these things,  
25 and my view is thus and so," but to attribute

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certain views to Mr. Agle, which are not necessarily supported by the documents, is beyond the scope or the proper testimony of any witness.

MRS. THOMPSON: Your Honor, I don't believe Mr. Davidoff was characterizing the views of Mr. Agle, but rather saying that on the basis of his reading of the various documents he had derived an impression of those documents, was testifying to those impressions and substantiating it by reference to those documents.

Certainly, as an expert planner, he is capable of reading documents and deriving impressions from them.

MR. ENGLISH: Certainly, Mr. Davidoff can express his view as to these matters, but what he was doing and what prompted my objection was he was attributing certain views to Mr. Agle, which is other than a direct quote from Mr. Agle's document. And this, I submit, is improper.

THE COURT: To the extent that there may have been characterization, I'll sustain your objection.

1                   Quite frankly, I didn't catch the  
2                   characterization that you note for me. I  
3                   heard it as reference to the language of  
4                   the planning report by the consultant to,  
5                   I gather, the Planning Board or Township  
6                   Committee. Mr. Davidoff's reference was  
7                   that the language of that report, the thrust  
8                   of it, was contra what he deems to be  
9                   appropriate termed planning principles.

10                   I think you better save this one  
11                   for cross examination to clarify any further.

12                   MR. ENGLISH: Well, right. Maybe my  
13                   recollection isn't as good as your Honor's,  
14                   but --

15                   THE COURT: It could be vice versa.

16                   MR. ENGLISH: But, what stimulated  
17                   me to rise to my feet was that what I would  
18                   guess was the next to last or third to last  
19                   sentence of the answer contained what I  
20                   heard as the witness' view of what he  
21                   attributed to Mr. Agle. And this is what I  
22                   object to.

23                   THE COURT: All right. My attention's  
24                   been called to it, if there's more covered  
25                   on cross.

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MR. ENGLISH: Well, I suppose the useful function of my objection, if there is one, is to prevent this objectionable element from creeping into the answer of the witness, because I would prefer not to have to interrupt with frequent objections if I don't have to.

THE COURT: Right.

BY MRS. THOMPSON:

Q Mr. Davidoff, I may have forgotten now what the testimony was, but you were referring to a particular document and were comparing it to principles of the American Institute of Planners. Is that correct?

A I had referred to a contemporary principle of planning which I felt to be opposite to the concept I observed in this report, and in others that I'll mention.

Q Could you tell us, first, whether you have found other planning documents prepared in Bedminster Township which indicate to you that Bedminster is attempting to exclude a particular character?

A I have.

Q And what are they?

A They are further memoranda from the planner to the Planning Board or to the town.

Q Do you have any others?

1 A Yes. A memorandum of February 20, 1964, "Planning  
2 For Open Space."

3 Q Is this the document to which you're  
4 referring?

5 A Yes, it is.

6 MRS. THOMPSON: I would move its  
7 admission into evidence.

8 MR. ENGLISH: No objection.

9 MR. LANIGAN: No objection.

10 THE COURT: All right. PC-34 in  
11 evidence.

12 (The aforementioned memorandum of  
13 February 20, 1964, "Planning For Open Space,"  
14 is received into evidence and marked Exhibit  
15 PC-34 in evidence by the Reporter.)

16 BY MRS. THOMPSON:

17 Q Could you tell the Court what you found in  
18 that document?

19 A Yes. I found in this document a restatement of  
20 the point made in the first document I addressed. It  
21 says at the outset of this memorandum - Mr. Agle stated,  
22 "In my memorandum on General Considerations in Planning  
23 of the 24th of January 1964 we ended up with the general  
24 conclusion that the greatest mass of the township area  
25 was destined for sparse residential use of high quality,

1 appealing to junior and senior executives commuting from  
2 New York and from the newer research and industrial  
3 development elsewhere in the vicinity, and to retired  
4 and semi-retired families able to enjoy premium  
5 environment.

6 "The preservation of quality attractive to these  
7 groups is a primary concern in the planning of the  
8 township, itself."

9 It is that language --

10 Q You have now stopped quoting?

11 A I've stopped quoting.

12 It is that language that suggests the obligation  
13 to plan for only a portion of the population, and that  
14 a relatively affluent part of the population that I find  
15 to be in opposition to principles of planning, as I  
16 understand them, that suggest that land development and  
17 growth policies for a community should be directed toward  
18 expanding opportunities for all citizens regardless of  
19 their income or their race.

20 Q Have you found additional evidence in your  
21 review of these planning documents of Bedminster with  
22 regard to the definition of communities which you have just  
23 been setting forth?

24 A Yes. In a memorandum of March 30, 1964 there are  
25 a number of statements.

1 Q Do you know the title of that?

2 A "Preliminary Notes On Future Land Use."

3 Q Is the document which I'm handing you the  
4 document to which you refer?

5 A It is.

6 MRS. THOMPSON: I would offer it in  
7 evidence.

8 MR. ENGLISH: No objection.

9 MR. LANIGAN: No objection.

10 THE COURT: It will be admitted.

11 PC-35.

12 (The aforementioned document entitled  
13 "Preliminary Notes On Future Land Use" is  
14 received into evidence and marked Exhibit  
15 PC-35 in evidence by the Reporter.)

16 BY MRS. THOMPSON:

17 Q Could you read to the Court the language  
18 to which you're making reference?

19 A Yes. At the outset of this report, "Regional  
20 Considerations," on page 1, "A perusal of the composite  
21 Zoning Map of Northern Somerset County and its surrounding  
22 municipalities (courtesy, County Planning Board) will  
23 give Bedminster some comfort and confidence.

24 "The concensus of surrounding municipalities  
25 fortifies the possible preservation of its large lot,

1 rural estate zoning indefinitely."

2 And then on --

3 Q Go ahead.

4 A Then on page 3, "Some future case might later  
5 be made for living quarters suitable for very small,  
6 young and late middle aged families and single individuals.

7 "Presently, however, there's no case for any small  
8 lot development beyond those areas already so constructed  
9 or committed by an approved subdivision which have already  
10 sold lots off in separate ownership.

11 "This does not mean, of course, that there is no  
12 market for land for small lot development. Indeed,  
13 after 287 and 78 are completed, there will be increasing  
14 pressure for exploitation. But, that development of  
15 small houses would be disastrous to the tax base of the  
16 township, and, in the long run, would be incompatible  
17 with the rural destiny of this fringe of the metropolitan  
18 district."

19 Q Mr. Davidoff, let me direct your attention  
20 to the appendix of the Master Plan, Section II of the  
21 Master Plan.

22 Can you tell me whether the three documents  
23 from which you have just read are among the documents  
24 which you relied on in the Master Plan?

25 A The quote from the memorandum of February 20, 1964,



1 "Planning For Open Space," is included.

2 The memorandum that I just read, March 30, 1964,

3 "Preliminary Notes On Future Land Use," is included.

4 The first item, "General Considerations In The  
5 Planning of Bedminster, 24 January '64," is also included  
6 as one of the consultant reports included as an appendix  
7 to the Master Plan.

8 Q And to the best of your knowledge is the  
9 Master Plan which we have been discussing presently the  
10 Master Plan of the Township of Bedminster?

11 A To my knowledge, it is.

12 Q Is it your opinion that the Zoning Ordinance  
13 of the Township of Bedminster which we have been discussing  
14 this morning carries out those purposes set forth in the  
15 Master Plan which we have just been discussing?

16 A The zoning carries forth the objectives which are  
17 set forth in the Master Plan as well as in the reports?

18 Q Yes.

19 A As considering them as part of the Master Plan?  
20 Yes. I think the Zoning Ordinance operates effectively  
21 to achieve the objectives of making Bedminster a highly  
22 desirable place for a very restricted affluent sector  
23 of the population.

24 Q And directing our attention again to  
25 Section 2 of the Master Plan, and particularly through the

1 objective concerning residential development, with regard  
2 to reputation as a highly desirable place in which to  
3 live, is it your opinion that a mixed economic community  
4 can be a highly desirable place in which to live?

5 A It is.

6 THE COURT: I'm going to take a recess  
7 at this point until half after the hour as  
8 the regular morning recess.

9 (Recess.)

10 DIRECT EXAMINATION (CONTINUED)  
11 BY MRS. THOMPSON:

12 Q Mr. Davidoff, we've just been referring to  
13 the Master Plan, itself, when we broke for the recess.

14 Within the Master Plan have you found any  
15 perception of Bedminster's place in the region?

16 A Yes. I think in the section dealing with  
17 transportation, Section 5, traffic control and major  
18 thoroughfares, it is said in the outset, with respect to  
19 through traffic, "Few communities are more fortunate than  
20 Bedminster in its location in the regional highway pattern."

21 Q Have you found any --

22 A Let me go with the next clause.

23 "Interstate 78 on the south would lead to Manhattan,  
24 37 miles, or about 40 minutes, and to all western points.

25 "And Interstate 287 in the southeast corner will give

1 ready access to the northeastern points and to the  
2 southeastern points."

3 Q In your review of the other planning  
4 documents of Bedminster Township, have you found any  
5 reference to the effect of Bedminster's regional location  
6 on Master Plan proposals?

7 A Yes. There is in the memorandum I was just reading  
8 from, and later, consideration of the fact that with the  
9 completion of the two Interstate highways Bedminster will  
10 be proximate to many areas in the region, and, thus, will  
11 become a site for potential development.

12 In the memorandum of March 30, 1964, preliminary  
13 notes on future land use, on page 3, Mr. Agle wrote,  
14 "Indeed, after 287 and 78 are completed there will be  
15 increasing pressure for exploitation, but mass development  
16 of houses would be disastrous to the tax base of the  
17 township, and, in the long run, would be incompatible  
18 with the proper rural destiny of this fringe of metropolitan  
19 district."

20 He then went on to say, "There is, however, room  
21 for considering research or other unobjectionable  
22 employment facilities in the vicinity of the interchange  
23 between 206 and 287, provided a bypass road is built  
24 around Pluckemin to avoid making it into a traffic doormat  
25 for employees."

1 Q Now, with regard to potentials for research  
2 and office development, have you found any later discussion  
3 concerning that potential and other Bedminster planning  
4 documents?

5 A Yes. Most recently, although there have been a  
6 number of memorandums in recent years concerned with the  
7 proposals of new jobs in the Bedminster area, there is a  
8 memorandum which I think expresses these concerns well.  
9 It is December 14, 1970, a memorandum entitled, "Rezoning  
10 of Schley Property For Western Electric."

11 Q Is this the document to which you make  
12 reference?

13 A Yes. This is it.

14 MRS. THOMPSON: I would move its  
15 admission in evidence.

16 MR. LANIGAN: No objection.

17 MR. ENGLISH: No objection.

18 THE COURT: It will be admitted.

19 (The aforementioned memo to the  
20 Bedminster Planning Board from Charles K.  
21 Agle, dated December 14, 1970, entitled,  
22 "Rezoning of Schley Property for Western  
23 Electric," is received into evidence and  
24 marked Exhibit PC-36 in evidence by the  
25 Reporter.)

BY MRS. THOMPSON:

1 Q Can you indicate to the Court what you  
2 found in that document?

3 A At the outset, Mr. Agle recommended no change in  
4 the Zoning Ordinance or Master Plan. He recommended  
5 against the development of the Schley property for Western  
6 Electric. He expressed concern with who worked in the plant;  
7 and on page 2, under that title, "Who Works In The Plant?"  
8 he writes, "It is very tempting to welcome a big name  
9 corporation because of the glamour of the name alone.  
10

11 "Behind the glamour, however, we have people who  
12 individually are about the same as anyone else. They must  
13 make a living, raise a family, have a place to live,  
14 drink water, flush toilets, generate traffic, educate  
15 their children and have community service."

16 He goes on to examine who it is that works for  
17 an industry and discovers from a profile of what he calls  
18 a "leading clean research and light industry in New Jersey,"  
19 that the large number of workers in the plant are of  
20 relatively modest income.

21 MR. ENGLISH: What page is this?

22 THE WITNESS: This is on page 3,

23 "Economic Profile."

24 A Looking at the income distribution, he prepares  
25 a table showing the cumulative percentages under certain

1 incomes, and shows that 74.7 per cent of the workers  
2 in this industry earned under \$10,000; 84 per cent earned  
3 under twelve and a half thousand dollars; that only  
4 approximately 3 to 4 per cent earned above \$20,000.

5 In this finding he supports the general knowledge  
6 that I have in this area that modern industry is  
7 composed of a large number of working class people,  
8 white collar and blue collar, who support an industry  
9 in a community, that it is not comprised exclusively of  
10 executives.

11 Q Did Mr. Agle make any statements in that  
12 document with regard to housing for workers?

13 A Yes, he did. On page 4 he remarks, "It, therefore,  
14 follows that any new workers in Bedminster would have to  
15 commute considerable distances to find any housing they  
16 could afford.

17 "The only currently available alternatives would  
18 be the construction of a substantial amount of government  
19 financed housing locally."

20 And I think those are the particular points that  
21 need to be stressed about that memorandum.

22 Q Would it be accurate to characterize  
23 your reading of Mr. Agle's recent memos to indicate that  
24 the recommendation of Mr. Agle to the township was that  
25 if it's zoned for industry it should also be zoned for

1 housing for workers?

2 MR. ENGLISH: If the Court please,  
3 I think what Mr. Agle recommended ought to  
4 come from him, not an interpretation by this  
5 witness of what Mr. Agle said or intended.  
6 This is the substance of my earlier objection.

7 THE COURT: Your objection is sustained.

8 BY MRS. THOMPSON:

9 Q Mr. Davidoff, have you found any other  
10 evidence in the planning documents of Bedminster with  
11 regard to discussion of zoning for research office uses  
12 and housing for workers?

13 A Yes. If I may have a moment.

14 I'm afraid that I do not have them in front of me  
15 at this moment.

16 Q Let me direct your attention to a document  
17 entitled, "Considerations In Economic Development, 24  
18 August 1970," and ask you whether this is the document  
19 which you have had occasion to review?

20 A Yes, I have.

21 Q Would you direct your attention to page 3  
22 of that document and tell me whether it reflects any --

23 MR. ENGLISH: Should it be marked  
24 before?

25 MRS. THOMPSON: I'm sorry. I would

1 offer, "Considerations in Economic  
2 Development, 24 August 1970."

3 MR. LANIGAN: No objection.

4 MR. ENGLISH: No objection.

5 THE COURT: PC-37 in evidence.

6 (The aforementioned document entitled,  
7 "Considerations in Economic Development,  
8 24 August 1970," is received into evidence  
9 and marked Exhibit PC-37 in evidence by the  
10 Reporter.)

11 BY MRS. THOMPSON:

12 Q Let me direct your attention to page 3 of  
13 PC-37, under page 3, "Morals and/or Consequences."  
14 Under that heading Mr. Agle writes, "New development  
15 must take place somewhere because of the population  
16 expansion, plus increasing prosperity which enables  
17 people to reach for a better life under less crowded  
18 conditions."

19 Then, in the next paragraph, he writes, "Given  
20 these facts, it only seems moral for a municipality  
21 which accepts a major ratable to accept also the housing  
22 of those specific people and all other urban trappings  
23 made essential by that increased intensity of development.

24 "The contrary prevailing practice of reaching for  
25 the ratable but shrugging off the population as a mobile



1 work force is a municipal immorality, although currently  
2 legal. If for no other reason than traffic aggravation  
3 and air pollution, this is irresponsible.

4 "The geometry of future land use requirement is  
5 such that this will soon kill home rule and force the  
6 consequences of state intervention, making such immorality  
7 also illegal."

8 Now, Mr. Davidoff, is the A. T. & T. Long Lines  
9 installation, in your opinion, a major research office  
10 use?

11 A It certainly is.

12 Q In your evaluation of the planning and  
13 the zoning of Bedminster, have you formed an opinion  
14 as to whether the Township of Bedminster has responded  
15 to the moral obligation set forth in the memorandum  
16 from which you have just read with regard to zoning for  
17 housing for workers?

18 A No, it has not.

19 Q Have you formed an opinion?

20 A I have formed an opinion.

21 Q And your opinion, I take it --

22 A That it has not.

23 Q Now, earlier in your testimony you made  
24 reference to Principles of the American Institute of  
25 Planners. Did you refer to those principles in evaluating

1 the planning and zoning document of Bedminster Township?

2 A Yes, I have.

3 Q Let me show you a document entitled,  
4 "Code of Professional Responsibilities and Rules of  
5 Procedure," and ask you whether this is the document  
6 to which you did look?

7 A Yes. This is it.

8 MRS. THOMPSON: I would offer it in  
9 evidence.

10 MR. LANIGAN: No objection.

11 MR. ENGLISH: If the Court please,  
12 I object, unless some relevant purpose is  
13 shown for this document.

14 THE COURT: What is the relevancy,  
15 Mrs. Thompson, of the Code of Professional  
16 Responsibility? Is that of the American  
17 Institute of Planners?

18 MRS. THOMPSON: Yes. I believe Mr.  
19 Davidoff testified both yesterday and today  
20 that the American Institute of Planners  
21 was the primary planning body for planners  
22 in the United States, and that it had evolved  
23 a series of standards for planning, and that  
24 he used those standards as a means for  
25 formulating his own theories of planning and

1 means for evaluating Bedminster's Zoning  
2 Ordinance; and I would submit those standards  
3 are relevant in terms of what the thinking of  
4 the profession is today with regard to what  
5 should be done in the process of planning  
6 and zoning a community.

7 THE COURT: What does that have to do  
8 with state law?

9 MRS. THOMPSON: I think it has to do  
10 with state law in that it sets forth the  
11 expectations of the planners and their  
12 interpretation of what a planner should do,  
13 and then the question becomes in terms of  
14 planning whether the standards of the  
15 profession have been adhered to, because if  
16 it turns out the planning profession, itself,  
17 has conceived of a new concept of planning  
18 I think that would be relevant to the Court's  
19 analysis of what a modern definition of the  
20 general welfare should be.

21 THE COURT: Mr. English.

22 MR. ENGLISH: Well, if the Court please,  
23 I have not seen this document before, and in  
24 the amount of time it's been in my hand I  
25 have made only a superficial examination of it.

1 But, it looks to me as if this is more like  
2 a code of professional ethics, what you would  
3 disbar a planner for. And if I'm correct in  
4 that impression, then I don't see the  
5 relevancy of this document to the issues  
6 before the Court.

7 We're not trying Mr. Agle for  
8 professional conduct.

9 THE COURT: What about Miss Thompson's  
10 point that the generally accepted attitudes  
11 of planners as reflected through their  
12 national association is a source from which  
13 Courts should determine the mean of the  
14 various general welfare under the state  
15 enabling statute for planning and zoning?

16 MR. ENGLISH: Well, I don't think that  
17 a private body can control the Courts on that.

18 THE COURT: How about guide?

19 MR. ENGLISH: Well, it might have some  
20 value on that.

21 THE COURT: I'm going to overrule your  
22 objection so that the matter is available  
23 within the record, without my ruling on  
24 its admissibility being any reflection yet  
25 on my ruling on its weight, and whether or not

1 responsibility to plan for the need of the disadvantaged  
2 groups and persons, and shall urge the alteration of  
3 policies, institutions and decisions which militate  
4 against such objectives."

5 Q Is it your opinion that -- do you have an  
6 opinion as to whether the Zoning Ordinance and planning  
7 documents of the Township of Bedminster recognize a  
8 special responsibility to plan for the needs of  
9 disadvantaged groups?

10 MR. ENGLISH: Now, if the Court please,  
11 I object to that. This document talks about  
12 a planner, and now he's talking about an  
13 Ordinance.

14 These are separate matters.

15 THE COURT: Well, in effect, my ruling  
16 indicates that that can go in the record.  
17 It's going to depend on argument and citation  
18 as to whether that has anything to do with the  
19 lawsuit.

20 I am, in effect, refusing to prejudge  
21 the applicability of this standard to the  
22 legal questions in the case.

23 To sustain your objection would be to  
24 determine that issue at this point. I'm  
25 withholding decision, so to speak, and allowing

1           It requires an examination of the means that  
2 **Bedminster** has for assisting in finding housing  
3 opportunities for families of low and moderate income,  
4 of families of racial minorities.

5           It includes an analysis upon the part of **Bedminster**  
6 of how it might develop a series of development guides  
7 that would make possible areas within the town in which  
8 housing that could serve the needs of a wide range of  
9 income groups could be built.

10           It includes a determination of how the community  
11 might incorporate within its population all elements of  
12 the population in the future in such a way as to do that  
13 and at the same time guarantee to itself that the  
14 environmental goals, that the amenity goals that it has  
15 set forth itself will be maintained, that it seek to find  
16 those courses of action in the acquisition of open space,  
17 the preservation of open space, the preservation of the  
18 quality of the water and the air in the community; that  
19 it seek under its present goals, but how that might be  
20 achieved at the same time with a more intensive form of  
21 residential development.

22           Now --

23           Q           Let me interrupt you. I take it, then,  
24 are you testifying that within the planning process  
25 **Bedminster** has not studied certain issues? Is that what

1 you're saying?

2 A It is my conclusion from having examined the materials  
3 I've seen of the Bedminster planning process that these are  
4 issues that it has not dealt with.

5 Q Now, had Bedminster dealt with those issues,  
6 are there specific devices which could be included within  
7 the Zoning Ordinance to meet the housing needs of lower  
8 income people?

9 A Yes, there are.

10 Q And what are those devices?

11 THE COURT: Before you answer that,  
12 would you give me a minute, please?

13 Thank you very much.

14 Q Mr. Davidoff, I've been asking you about  
15 zoning techniques which could be incorporated in a Zoning  
16 Ordinance to promote the development of housing for low  
17 and moderate income people.

18 A And what are they?

19 Q Yes.

20 A Let me answer by going through the sections of the  
21 Zoning Ordinance, different parts of the Zoning Ordinance,  
22 and illustrating ways in which a Zoning Ordinance might  
23 respond.

24 First, the statement of purposes of the Zoning  
25 Ordinance would include identification of the town's

1 desire to be a community which can house families  
2 regardless of income or race; that it is concerned with  
3 establishing a system of land development that will  
4 permit people who work in the community, particularly  
5 its civil servants, its teachers, policemen, firemen,  
6 to be able to find housing close to their jobs, and also  
7 for others who might be employed within the town; that  
8 amongst its purposes will be to facilitate transportation  
9 between work place and place of residence; that it seeks  
10 to create a system of open space and environmental  
11 amenity that is usable by the public.

12           It's not set forth in private space, but usable  
13 by the public.

14           Then to move to specific portions of the Zoning  
15 Ordinance, first under the classification of permitted  
16 uses, it would establish, in accordance with modern  
17 standards of zoning, a general residential district in  
18 which all forms of housing would be permitted as of right;  
19 and that the control over the performance of residential  
20 development would essentially be controlled in the sections  
21 under intensity of use, which would include and give primacy  
22 to a section on density.

23           So that under "Use" those forms of housing that  
24 could be built at a relatively modest price would be  
25 permitted to be developed throughout the residential



1 districts of the community. Then it would establish  
2 under its intensity of use section density controls  
3 that would guarantee that a form of development that  
4 could serve the needs of moderate income families would  
5 not be precluded in the different sections of the town,  
6 that there would be districts established throughout the  
7 jurisdiction that would permit a development of garden  
8 apartment or townhouses at an intensity that would comport  
9 with knowledge of the land prices in the community.

10 So that there would be the possibility of developing  
11 mixed income housing, that is, housing to serve the needs  
12 of all classes, not necessarily a project set aside for  
13 a particular income group.

14 The Ordinance would ascertain and include  
15 provisions that would guarantee that the various rules  
16 on separations of building, that the light angle controls,  
17 the height regulations, all comported with the general  
18 desire to see that a reasonably priced house could be  
19 built within the community.

20 The administrative procedures of the Ordinance  
21 would be premised on a general theory of zoning that as  
22 much as possible of the Ordinance, Zoning Ordinance,  
23 should be in performance standards; that whatever can be  
24 done in the discretionary fashion to regulate and to  
25 protect the environment can probably be established in

1 specific terms, specific guidelines, so that discretionary  
2 choices would be severely limited, but under the purposes  
3 as reflected in the administration would be procedures  
4 that would demonstrate the town's outlook that it wishes  
5 its Zoning Ordinance to operate in such a way that decisions  
6 which will be made to expand the choices and opportunities  
7 of all citizens, that the Zoning is seen as an inclusionary  
8 device to make possible development to meet the needs of  
9 different groups.

10 Two other provisions that I think that would want  
11 to be specified within such an Ordinance would be one  
12 dealing with requirements of open space, to see that new  
13 residential development did cluster, provided for the  
14 possibility of residential clustering of units, and  
15 provided significant amount of open space for general  
16 recreational conservation purposes.

17 There is in most towns, Bedminster is certainly a  
18 case, the possibility that most of the open space could  
19 be preserved in open space, in usable open space, and  
20 that residential development meeting these objectives  
21 would not take up an immense amount of the land.

22 There would be a requirement that today has been  
23 put into law, in a number of jurisdictions, that developers  
24 of projects containing above a certain number of units,  
25 it might be ten, twenty or fifty, would be obligated to

1 see that a certain fixed percentage of those units serve  
2 the needs of families of low and moderate income.

3 And then, lastly, I think there would be a  
4 specific requirement that applicants for land to be used  
5 for employment purposes would have to be responsible for  
6 demonstrating that there would be housing available in  
7 suitable living environments within the community for  
8 the range of employees, that is, the range within the  
9 income classes of the employees who would be employed  
10 within such a facility.

11 And, lastly, the Zoning Ordinance, if it could,  
12 if there wasn't some problem about whether the locality  
13 could control itself and other governmental entities  
14 in terms of its own facilities, and/or state and federal  
15 facilities within its borders, that similar provision of  
16 housing facilities be a part of the objectives of the  
17 Zoning Ordinance to see that those working in the town  
18 can find opportunity to be housed within the town.

19 Q In speaking of a reasonable density, which  
20 would promote the development of housing for moderate and  
21 middle income people, have you made an estimate of what a  
22 reasonable density should be?

23 A I must preface an answer by saying that the range  
24 that can be given does, of course, differ with a particular  
25 town, and the town's disposition of its land and the nature

1 of zoning in surrounding land, surrounding communities.

2           If there is a pattern within a large area of very  
3 restrictive zoning and requirements of very large lot  
4 development, and then one town brings about a change,  
5 the change required will be greater than it would if the  
6 towns together combined to undertake this.

7           If one town makes the first change, then a more  
8 intensive use may be needed at least at the beginning  
9 by reason of the fact that there will be pressure for  
10 development in that community.

11           My surveys of residential practices suggest that  
12 the appropriate density for portions of the community  
13 where it would be feasible to build mixed income housing,  
14 particularly to meet the needs of moderate and low income  
15 housing, would suggest a range of anywhere from approximately  
16 five dwelling units, and speaking here of a dwelling unit  
17 being large enough to contain a family of at least a  
18 three-bedroom unit, upwards to a level of perhaps fourteen  
19 or fifteen units to the acre.

20           Q           You have been making reference to mixed  
21 income communities. Are you aware of any mixed income  
22 communities presently existing in the region?  
23

24           A           Yes. There are many examples to be found of mixed  
25 income housing. I'm a little at a loss to answer it in  
terms of the region, except for certain types of - certain

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1 types of developments in New York City in which housing  
2 has been open to a wide range of income groups.

3 Most of the areas in which this mixed income  
4 housing has been developed are outside of the immediate  
5 region, at least those that I am familiar with.

6 Q What are the mixed income communities  
7 which you're familiar with?

8 A I think the best known examples of mixed income  
9 housing are, first - the ones that are best known perhaps  
10 as the finest developments in the United States are in  
11 the new towns of Columbia and Reston - R-E-S-T-O-N -  
12 Reston, Virginia and Columbia, Maryland, in which a wide  
13 range of income groups have been served.

14 Less well known but quite significant in terms  
15 of the numbers are some 10,000 or more units of housing  
16 that have been financed by the Massachusetts Housing  
17 Finance Agency, serving a wide range of income groups.

18 Similarly, the Urban --

19 THE COURT: Are these concentrated or  
20 spread out?

21 THE WITNESS: Spread out. Many  
22 different densities, depending upon their  
23 location in the state.

24 BY MRS. THOMPSON:

25 Q Let me interrupt you. These are 10,000

1 units that have been built in various communities in  
2 Massachusetts?

3 A That's right. That's right. Not all one project.  
4 Many different projects.

5 And then the Urban Development Corporation of  
6 New York State, headed by Edward Logue, is in the process  
7 of building a large number of units in different communities  
8 of mixed income housing.

9 And then lastly, and perhaps the best in the world,  
10 are the new towns that have been developed in Western  
11 Europe, and particularly those of Scandinavia, most famous  
12 of which is called Tapiola - T-A-P-I-O-L-A - which is the  
13 most beautiful community that I have ever observed, which  
14 commenced as a housing project supported by labor and  
15 social welfare groups, and today has become very mixed  
16 in the type and class of residents.

17 Q I don't believe you were in court the other  
18 day, Mr. Davidoff, but I'd like to pose to you a question  
19 which was asked by Judge Leahy of another witness.

20 Is it your feeling as a planner that, to  
21 quote Judge Leahy, birds of a feather flock together,  
22 that the type of mixed income communities you have been  
23 speaking of are counter to human nature in terms of  
24 mixed development?

25 A I think there are within human settlements strong

1 evidence of patterns of families aligning themselves  
2 with other families of similar background and tradition.

3       There are, however, counter tendencies which we  
4 have seen very often in urban settlements, villages of  
5 towns of this country of a rather broad mixture of persons  
6 living together, though that has been sometimes in -  
7 sometimes in this country we talk about the family on  
8 the other side of the track, which indicates that though  
9 people have been together in the same township and  
10 community of different classes, they have not always  
11 lived cheek by jowl, but we do have very great examples  
12 of mixtures of income groups in cities and in communities,  
13 settlements, of different levels of mixture of income  
14 groups within the same spatial area; not always in an  
15 integrated sense of families acting as a unit as the  
16 families being together in all of their activities as  
17 being one, but in which there is a considerable amount  
18 of social interaction between the groups and a mutual  
19 satisfying of their needs and desires for good environment,  
20 good place of residence.

21                   THE COURT: I don't want to get off  
22 that. In your professional opinion does that  
23 cover every spectrum of economic classes of  
24 families, or does that work similar to your  
25 established boroughs around here where you

1 have certainly within the same town,  
2 same political subdivision, families  
3 ranging from the lowest income group up  
4 to perhaps upper middle? Does that also  
5 include upper, very highest level of  
6 income groups? Or is there a social  
7 tendency for those groups to depart when  
8 "mixed" introduces itself?

9 THE WITNESS: Well, I think we'll find  
10 - I'd be happy if it would be helpful to  
11 develop a memorandum indicating communities  
12 in which there is a very close proximity  
13 between the highest income and the lowest  
14 income group.

15 One of the interesting examples is  
16 in the South where in many southern cities  
17 there was a tendency to have a tremendous  
18 amount of racial integration in which you  
19 have the whites living on the main street  
20 in a rather high income fashion, and right  
21 around them a very low income black  
22 community. So that spatially they were  
23 close.

24 I think of immense areas of our  
25 cities. I'm thinking particularly of New



1 York City now, which I know best, in which  
2 there are the richest and the poorest  
3 living in, if I might just suggest areas,  
4 the upper west side, Broadway, West End  
5 Avenue, Riverside Drive, where relatively  
6 affluent people are living right around the  
7 corner from some of the lowest income  
8 settlements in the City of New York.

9 On 96th Street, New York, and Park Avenue  
10 is the mark line between the affluent  
11 portion up the hill and the Puerto Rican  
12 section down the hill.

13 You have families today living right  
14 across the street from each other in which  
15 there have been inroads in both communities  
16 moving up and moving down, of rich and poor  
17 living quite close together. I think that  
18 pattern is not unusual. It does not suggest  
19 that there is social intercourse between  
20 the - well, between the classes, except  
21 where their children are together in the  
22 schools and they are together in shopping;  
23 that they are aware and together and have  
24 that type of contact, not necessarily that  
25 they go to the same social functions

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together.

THE COURT: Okay. Thank you.

BY MRS. THOMPSON:

Q I just have one more question.

Mr. Davidoff, what would your expert opinion be with regard to the effect of the Bedminster Zoning Ordinance on the creation of mixed income communities?

A Today?

Q Today.

A It makes it impossible. It excludes that type of development.

MRS. THOMPSON: I have no further questions.

THE COURT: All right. That's a very appropriate point at which to recess for lunch. We'll take an hour and resume at 1:30.

(Lunch recess.)

\* \* \* \* \*

**AFTERNOON SESSION**

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**MR. BUCHSBAUM:** If the Court please, we have in court one of our plaintiffs in the case, Milton Kent. He'll be unavailable tomorrow, and with the consent of all counsel we would request that he be allowed to testify now, and then cross examination of Mr. Davidoff can begin.

**THE COURT:** Is there any objection, gentlemen?

**MR. LANIGAN:** No objection.

**MR. ENGLISH:** No objection.

**THE COURT:** All right.

**MR. BUCHSBAUM:** We call as our next witness Mr. Milton Kent.

**W. MILTON KENT,** called as a witness in behalf of the plaintiffs Cieswick, being first duly sworn, testified as follows:

**THE SERGEANT-AT-ARMS:** State your full name and spell your last, please.

**THE WITNESS:** W. Milton Kent. K-E-N-T.

**THE SERGEANT-AT-ARMS:** Thank you. Be seated, please.

**DIRECT EXAMINATION  
BY MR. BUCHSBAUM:**

1 Q Mr. Kent, could you state your present  
2 address?

3 A 20 Franklin Street, Morristown, New Jersey.

4 Q What is your present job?

5 A I'm presently working as Director of the Morris  
6 Housing Investment Fund.

7 Q Do you have any other --

8 MR. ENGLISH: I'm sorry. I didn't  
9 hear the answer.

10 Can you keep your voice up, Mr. Kent?  
11 The acoustics are a little difficult in here.

12 THE WITNESS: I'll try.

13 (The Reporter read back the preceding  
14 answer as follows:

15 "A I'm presently working as Director of  
16 the Morris Housing Investment Fund.")

17 BY MR. BUCHSBAUM:

18 Q Do you hold any other employment?

19 A Yes. I start Monday with the Morris County Savings  
20 Bank, in the Department of Advertising.

21 Q And in what capacity would you be employed  
22 there?

23 A Advertising.

24 Q Now, when did you move to Morris County?

25 A 1970. July, I think it was.

1 Q What was the occasion of your moving to  
2 Morris County?

3 A I transferred employment.

4 Q And at that time did you try to find --  
5 where did you move from?

6 A Trenton.

7 Q And when you moved in 1970 did you try to  
8 find a place to live in Morris County?

9 A Yes.

10 Q Could you describe to the Court what happened  
11 when you attempted to find housing?

12 A Yes. It took about ten months to find adequate  
13 housing for myself and my family.

14 Q And what kind of efforts did you make to find  
15 housing?

16 A Well, we looked, meaning, "We," the Executive Board  
17 for the Fair Housing Council, which I was working for,  
18 and myself, and we checked the daily papers, made personal  
19 contacts with various brokers and realtors, and was unable  
20 to find anything.

21 Q How many people are on that Executive Board?

22 A Twenty-five.

23 Q Was that true during the whole time that you  
24 were looking for housing?

25 A Yes.

1 Q Now, you were working in Morris County at  
2 the time you were looking?

3 A Yes.

4 Q Where was your family living?

5 A Trenton.

6 Q Were you commuting daily, or were you trying  
7 to work out some kind of arrangement in Morris County  
8 at the time?

9 A For about the first three months I commuted daily,  
10 and then I was - I found a room at the Y. M. C. A., and  
11 I lived there for the balance of the time.

12 Q Could you tell if this arrangement was  
13 satisfactory or unsatisfactory?

14 A It was unsatisfactory.

15 Q What kind of consequences did it have?

16 A Well, my family was falling apart at the seams.  
17 I almost got killed on 287 going to Trenton one night.  
18 I fell asleep riding down the road.

19 Q So, you wouldn't describe it as especially  
20 a happy situation?

21 A By no means.

22 MR. ENGLISH: I object to that as  
23 leading, if the Court please.

24 THE COURT: The objection is sustained.

25 BY MR. BUCHSBAUM:

1 Q At this time what kind of housing were you  
2 looking for?

3 A Three bedroom, and, hopefully, with a study.  
4 It wasn't absolutely necessary that I had a study.

5 Q Why were you looking for a three-bedroom  
6 place?

7 A I have three children. I have two girls and a boy.

8 Q Do you consider anything smaller to be  
9 insufficient?

10 A It would be in violation of the municipal health  
11 code, and I certainly wouldn't want my children doubled up.

12 Q When you say "doubled up" what do you mean?

13 A Well, like I said, I have a boy and two girls,  
14 and I can't see putting a ten-year-old boy and an  
15 eleven-year-old girl or thirteen-year-old girl in the  
16 same room.

17 Q Now, when you were looking for housing,  
18 did you look for places to rent or places to buy as well  
19 as rent?

20 A Both. I initially started out looking for places  
21 to rent, and then later on my wife and I decided maybe  
22 we should find something to buy. We couldn't, not at the  
23 going prices.

24 Q Just generally, how much money did you have  
25 by way of equity at that time that you could put up towards

1 a house?

2 A We had about \$2,000. We just sold our house in  
3 Trenton.

4 Q That's what you realized from the sale of  
5 the house?

6 A Yes.

7 Q Now, prior to the place you actually found,  
8 did you have any prospects that you regarded as encouraging?

9 A Well, one. I saw one advertisement in the paper,  
10 and I went out to take a look at the apartment, and I never  
11 got my foot out of the car. I'll never forget that.  
12 Someone ran out and said it was rented. And later on  
13 we found out it wasn't rented. And we tested it out, and  
14 we found it wasn't rented, when in fact they did not want  
15 black families living there.

16 Q Did you take any action on that finding of  
17 yours?

18 A Yes. We filed a complaint with the Division of  
19 Civil Rights. By the time the Division took action on  
20 it it was too late. The place had already in fact been  
21 rented to another family.

22 Q How many months was it before you even found  
23 this particular prospect?

24 A I think it was somewhere around seven or eight months.  
25 It's quite a while.



1 Q Were there any other prospects before that?

2 A There were some out in the garden apartments,  
3 but, again, the apartments, themselves, are physically  
4 too small. They were all two bedrooms.

5 Q What was your income at that time?

6 A 9,500.

7 Q And your wife's income?

8 A I think she was six. 6,000.

9 Q So, the total was --

10 A 15 - little over 1500 - 15,000, rather.

11 Q And you found no three-bedroom apartments  
12 you felt you could afford?

13 A No.

14 Q And no single-family dwelling that you  
15 felt were appropriate and that you could afford?

16 A That's right.

17 Q How did it come to pass that after ten  
18 months you finally found a place?

19 A Well, we found a house in Morristown on Court  
20 Street. It was an old house, absentee landlord, and  
21 we had like a paint party. The deal was that we rented  
22 the house and we'd have to do our own painting and  
23 decorating.

24 Believe it or not, we used 65 gallons of paint  
25 in that house. They were the old, dry plaster walls. And

1 we had about 25, 30 people painting this house for about  
2 a week, and the paint just kept shooting through the  
3 walls.

4 Q What, generally, was the condition of the  
5 house when you moved into it - or when you first learned  
6 of its availability?

7 A The exterior wasn't bad. The interior was pretty  
8 well beat. We had to resurface some walls and floors,  
9 and what have you.

10 Q You would characterize the amount of work  
11 you did in preparing this house for your occupancy as  
12 quite extensive, then?

13 A Yes.

14 Q And did you require the assistance of other  
15 people in preparing it?

16 A Yes.

17 Q Roughly, how many people were in this paint  
18 party you mentioned?

19 A About 30 people.

20 Q How did this particular apartment or house  
21 become known to you?

22 A A member of my Executive Board had been in touch  
23 with this realtor who had the house on the market  
24 originally to sell. But, he agreed to rent it for one  
25 year, with the understanding that if a buyer came along

1 within the course of that year we would terminate the  
2 lease and give up the property.

3 Q This is one of the people in the Executive  
4 Board who, along with other members, had been looking  
5 for housing for you?

6 A Yes.

7 Q So, that effort finally paid off after ten  
8 months?

9 A Yes.

10 Q How long did you in fact live at that  
11 address at Court Street?

12 A I think it was something like eight months. Seven  
13 or eight months.

14 Q Was that longer or shorter than the time  
15 you spent looking for it?

16 A It was shorter. I spent more time looking than I  
17 actually lived in the apartment.

18 Q What happened that caused you to move?

19 A The house was sold as a commercial property.

20 Q Now, upon finding out that the house was  
21 going to be sold -- did you find out in advance of the  
22 sale that it was going to be sold?

23 A Yes.

24 Q And upon finding that out did you take any  
25 steps with regard to securing other housing?

1 A Yes, I did.

2 Q And what was that?

3 A Initially, we looked around again, on the open  
4 market, and we couldn't find anything, and it just  
5 happened that my co-worker had an apartment that came  
6 available around the same time. So, we were lucky to  
7 move into her apartment.

8 Q When you say "co-worker" what was the  
9 capacity in which you worked?

10 A She's a certified counsellor in housing. Housing  
11 counsellor.

12 Q Someone you worked with quite closely?

13 A Yes.

14 Q Is that your present address?

15 A Yes.

16 Q How long have you lived there?

17 A 1971 to - I can't think of the month, exactly.

18 Q Do you have any idea if -- you are renting?

19 A Yes.

20 Q Do you have any idea if that place will be  
21 available to you for an extended period of time?

22 A No. I know for a fact that within a year, year  
23 and a half, the Coggershoals (spelled phonetically) intend  
24 to move back into their house. That's C-O-S-G-G-H- --  
25 C-O-S-E-G-G- -- boy, you've got me on that -- let's spell

1 It C-O-S-H-A-G-G- -- that's as close as I can get.

2 Q What do you think you'll have to do at that  
3 point?

4 A Well, we'll have to start looking again.

5 Q Even if there weren't this prospect of  
6 being forced to move, do you think you'd be indefinitely  
7 satisfied with your present quarters?

8 A I think eventually we would like to purchase our  
9 own home.

10 Q Is there anything in particular that - do  
11 you have any particular things that you are dissatisfied  
12 with about your present place?

13 A Just the fact that you are a tenant, you're renting.  
14 You build no equity. You really have no assurance when  
15 you're a tenant of having a home. You can have it for a  
16 year, six months, or whatever, but there is no continuance  
17 of assurance that this home is yours.

18 Q Now, does the location of the home suit you,  
19 the present one?

20 A Not really. See, I grew up in a city, and I'd  
21 like to be in an area where you have some space, some  
22 freedom to grow.

23 Q Where is your present apartment located?

24 A It's right in, you might as well say, the heart  
25 of Morristown, on one of the busiest streets in Morristown.

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Q Is there much room around it, as you just referred to that term?

A No. We have a fairly decent-sized back yard, but, again, it's shared with a doctor and patients and all that bit. And there's no front yard.

Q Now, in anticipation of the fact that you'll have to move within a year or so, have you started to look again for housing?

A Yes.

Q And where have you been looking?

A Looking in all of Morris County, part of Somerset County, and up to Warren County.

Q Now, when you say "looking" what kind of activity are you referring to?

A Well, I checked the broker's listing, talked with various brokers to find out what's on the market, what kind of prices they're going for, conditions of the house.

Q Now, with regard to Somerset County you said you were interested in a place there. What particular sections of Somerset County would interest you the most?

A Around in Bedminster, that general area. I'd like to stay as close as I could to Morris -- well, moving all the way this end, basically.

Q Is it fair to say an element of proximity is

1 an important factor to you?

2 A Very much.

3 Q Now, from your description of having commuted  
4 to Trenton, I assume you're familiar with the drive  
5 between Morristown and Bedminster?

6 A Yes.

7 Q And how would you characterize that drive?

8 A Heck of a lot easier than driving to Trenton.

9 Q Are you familiar with the Township of  
10 Bedminster, itself?

11 A Yes.

12 Q And how did you gain this familiarity?

13 A Through some studies that we have conducted when  
14 I was with the Fair Housing Council. We did what I call  
15 an industrial presentation for Morris and the surrounding  
16 areas, the lack of housing, and see if we could find some  
17 ways to help create housing or bring about the development  
18 of housing.

19 Q Are you physically acquainted with Bedminster?

20 A Basically, driving through it almost every day.

21 Q Do you have any social contacts there?

22 A No.

23 Q Do you visit anyone there?

24 A Yes. I think it was Bedminster. I know it was up  
25 in - I came off of 287. It was in Bedminster. I can't

1 tell you exactly where I went at. I have a friend that  
2 lives there - an acquaintance, rather.

3 Q Now, in your looking on the housing market,  
4 have you seen anything in the price range, in the price  
5 range that you're interested in, in the Bedminster area?

6 A No.

7 Q What price range are you looking at?

8 A 36 - well, 35 would be my maximum, with a strain.  
9 So, realistically, you're talking about maybe 30,000.  
10 30 to 35,000.

11 Q And you have checked with the realtors,  
12 generally, to try to find out what's available?

13 A Yes.

14 Q Would you be interested in possibly a  
15 modular home, if that became available?

16 A Yes.

17 Q But, you see nothing like that on the market,  
18 either?

19 A As far as I know, they're zoned out.

20 Q Now, from your familiarity with Bedminster,  
21 would you say that it's the kind of place you'd like to  
22 live in?

23 A Yes.

24 Q What is the reason for that?

25 A Well, there's many reasons. Primarily, it's the



1 factor of my family. I like to think that they're going  
2 to be living in an area where they're going to be  
3 relatively safe, have decent education, and in a viable  
4 community.

5 Q When you refer to "viable community" what  
6 do you have in mind?

7 A A community that has a life span to it, of upward  
8 mobility rather than a downhill slide. The trend is to  
9 move in - if you move into a predominantly black community,  
10 the community takes on a whole new composition, and you,  
11 in fact, build in a potential ghetto.

12 Q And you regard that as something desirable  
13 or undesirable?

14 A As far as I'm concerned, it's undesirable.

15 Q And you would rather live in a community  
16 that did not have this character, but had some other  
17 character?

18 A Yes.

19 Q Even though it might be a predominantly  
20 white community?

21 A True.

22 Q Now, have you seen any housing on the market  
23 in the range of which you were just speaking?

24 A Yes. They're in areas that I would not regard as  
25 sound and viable. There are some properties that are on

1 be involved in that kind of situation again?

2 A Not if I can help it.

3 Q Now, you talked about your going through the  
4 newspaper ads and other means. Would you describe yourself  
5 as a person who is familiar or unfamiliar with the real  
6 estate market?

7 A I'd like to think I'm familiar with it.

8 Q What are the sources of your acquaintanceship  
9 with that market?

10 A I am a graduate of the Housing Specialist Institute  
11 of American University.

12 Q What kind of subjects did you study in the  
13 course of your training there?

14 A Urban, Urban America, Redevelopment of Urban America,  
15 Suburban Development, P. U. D. Developments, and the total  
16 concepts of F. H. A., V. A. administrations, and how it  
17 works.

18 Q Is there any professional employment that  
19 you had that has also contributed to your awareness of  
20 the real estate market?

21 A Yes. In two areas. When I was with the Morris  
22 Housing Investment and with Morris County Fair Housing  
23 Council.

24 Q Could you describe with regard to the first  
25 of those areas what your activities were?

1 A Well, okay. I think I should start with what the  
2 Morris Housing Investment is. It's a second mortgage  
3 program that assists families in the down payment schedule  
4 so they can purchase a home. In this I assist a family in  
5 finding a home, getting them to brokers, packaging a closing  
6 for them, what have you.

7 Q Now, your experience in financing homes  
8 for people --

9 A Well, dealing with that, I get to look all over  
10 the county, Warren, Essex, Sussex County. We look for  
11 homes, inspect the homes, and, in fact, come back with a  
12 - with some type of appraisal on that property.

13 Q Your experience in this regard is not  
14 translated into any ability to get something for yourself  
15 at the price range you're looking for at this time?

16 A No. Well, I wrote the program, and I wrote it in  
17 such a way that none of the members or the executive staff  
18 can derive any benefits from the program.

19 Q You also mentioned the Morris County Fair  
20 Housing Council and your source of expertise in familiarity  
21 with the real estate market. Can you describe what your  
22 position there was?

23 A I was Director of Project Services, which was the  
24 planning and development programs for the council. I  
25 conducted various feasibility studies, developed projects,

1 such as landlord-tenancy matters, assisted in the  
2 development of tenancy organizations.

3 Q Several days ago we had Theresa Horvath of  
4 the Somerset County Housing Association describe a down  
5 payment assistance program to us. Do you have a program  
6 of down payment assistance through the Morris County Fair  
7 Housing Council?

8 A Yes.

9 Q And do you recall what the housing price  
10 limits were on that program?

11 A The maximum was 24,000.

12 Q Roughly, how many applicants did you have  
13 for that program?

14 A About 200. We had one that actually completed all  
15 the way through from application to closing.

16 Q That was during your three years at the Fair  
17 Housing Council?

18 A Yes.

19 Q And out of the 200 what you're saying is that  
20 only one had completed all the way through?

21 A Yes.

22 Q What happened to the rest?

23 A Still waiting. We hope to be able to work with some  
24 of the families and help them redefine some priorities,  
25 and, hopefully, get them into different job markets, and

1 what have you, to enhance their buying power.

2 Q Now, Fair Housing had gotten money for this  
3 program from some state agency.

4 A Yes. From the Department of Community Affairs.

5 Q Was Fair Housing in contact or certified by  
6 any other governmental agency?

7 A Yes. When I took over the job there I wrote some  
8 prescriptions or job inspections for a counselling  
9 program, and we were approved by H. U. D. as a counselling  
10 agency, federal counselling agency.

11 Q So, you during the period in which you  
12 worked there were essentially working for an agency  
13 that had been certified by H. U. D.?

14 A Yes.

15 Q And given a state grant?

16 A Yes.

17 Q All in the field of real estate and  
18 financing housing?

19 A Housing. Yes.

20 Q Did you have any programs at this Fair  
21 Housing Council with regard to rentals?

22 A Only as working with the tenants' association.  
23 We did - or they did take applications to assist families  
24 in finding rental units.

25 Q And during the period in which you attempted

1 to assist families did you become familiar with the  
2 rent levels on the market in Morris County?

3 A Yes.

4 Q And what were the typical levels that you  
5 encountered during the period 1970 to 1973?

6 A High to lows? Typical one-bedroom apartment would  
7 run you about 190. A two-bedroom apartment would at that  
8 time - was coming out about 210 a month, not including  
9 your utilities.

10 Q How about three bedrooms?

11 A They're non-existent, unless - let me rephrase that.  
12 They're non-existent as far as garden apartments are  
13 concerned.

14 Again, you'll find them in areas where you have  
15 normally single-family homes being converted over to  
16 two families, and you'll find some three bedrooms in that  
17 range. But, they're few and between.

18 By and large, most municipalities zone out  
19 three-bedroom apartments in the initial development of  
20 a garden apartment complex.

21 Q Could you give the Court an estimate in the  
22 course of a year how many three-bedroom places you're  
23 likely to see on the market?

24 A I've seen ten.

25 Q During a year?

1 A During a year.

2 Q What were the rent ranges of those places,  
3 if you recall?

4 A About 3 to \$400 a month. Some of them were as high  
5 as \$500 a month.

6 Q Did you work with people who were trying to  
7 find three and four-bedroom places?

8 A Yes. Quite often.

9 Q Was the result of that work similar or  
10 different from your own efforts to find a house?

11 A It was very similar.

12 Q Now, during the course of your work at Fair  
13 Housing you stated that you were a certified counselling  
14 agency and you have taken various state programs. Did  
15 you become acquainted with other people in the general  
16 area who were also working for counselling agencies?

17 A Yes. I worked very closely with Theresa Horvath  
18 here in Somerset, with her agency, the reason being that  
19 we were closely - geographically close together, and we  
20 covered the same area. But, we got to set up a statewide  
21 organization. So, I was in touch with mostly all the  
22 agencies throughout the state.

23 Q Would you characterize your relationship  
24 with the Somerset County agency as closer or more distant  
25 than those with other agencies in the state?

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A Much closer.

Q Specifically, what kind of activities did you carry on in conjunction with the Somerset agency?

A We would do a - a referral system, where Somerset may call - in fact, where they had families that wanted to move from one area to the other. Or I may have families that wanted to move from Morris to Somerset. And we would exchange a lot of the material and work and coordinate it together and try to assist a family.

Q There was a close working relation?

A Yes.

Q Your organization was concerned generally about the problem of housing?

A Solely.

Q And you have mentioned that it had taken some position with respect to zoning?

A Yes.

Q Could you describe, firstly, when that position was taken?

A Well, I think they tried to deal with zoning in the very beginning, about eleven years ago. But, it really came to surface around in 1971, 1970 - 1971. Somewhere around there.

We conducted a feasibility study which showed various things. And one of the things we came out - or the



1 A Yes.

2 Q What did you find?

3 A Nothing.

4 Q Did you look for houses of the type you could  
5 afford in terms of the maximum amount you stated to be,  
6 30 or 35,000? Did you look for those kind of houses  
7 to purchase?

8 A Yes.

9 Q What did you find?

10 A Nothing.

11 Q Thank you.

12 MR. LANIGAN: That's all.

13 THE COURT: Mr. English.

14  
15 CROSS EXAMINATION  
16 BY MR. ENGLISH:

17 Q Mr. Kent, do you like the present character  
18 of Bedminster as a place in which to live?

19 A Yes. I think so.

20 Q And do I understand that you're looking for  
21 a single-family home?

22 A Yes.

23 Q You prefer that to an apartment?

24 A Yes.

25 Q Can you tell us how many homes you have found  
for people through the Morris County Housing Investment Fund?

1 Q What?

2 A 32.

3 Q Excuse me?

4 A 32. Right. Isn't 15 and - would you say - I can't  
5 do it - I'll do it this way --

6 Q You said yours was ten and --

7 A What did I put down? Oh -- thanks. I'm no good  
8 without my adding machine. Seventeen, five annually.

9 Q Thank you.

10 MR. BUCHSBAUM: That's all.

11

12 RE-CROSS EXAMINATION  
13 BY MR. ENGLISH:

14 Q Mr. Kent, whereabouts does your wife work?

15 A I. B. M.

16 Q What locality?

17 A Morris Plains. County of Morris.

18 Q Thank you. Thank you very much.

19 THE COURT: Thank you very much.

20 (Witness excused.)

21 \* \* \* \* \*

22 P A U L D A V I D O F F, having been

23 previously sworn - continued.

24 MR. LANIGAN: If your Honor please,

25 I have no questions of Mr. Davidoff.

1 THE COURT: All right.

2  
3 **CROSS EXAMINATION**  
4 **BY MR. ENGLISH:**

5 Q Mr. Davidoff, have I correctly understood  
6 you to characterize Bedminster as an affluent community?

7 A Yes.

8 Q And can you define that in more precise terms,  
9 please?

10 A Yes. I would say in terms relative to other  
11 communities in the State of New Jersey or in the United  
12 States, in terms of its median income, in terms of its  
13 income distribution, the proportion of the population  
14 residing in Bedminster is of far greater affluence than  
15 one would find in the typical community.

16 Q How would you compare it in terms of  
17 affluence with other municipalities in Somerset County?

18 A I would suggest that it's one of the more affluent  
19 of those, one of the more affluent in terms of its income  
20 distribution and its growing concentration of wealth in  
21 the upper quintile group.

22 Q Mr. Davidoff, are you familiar with the  
23 document I show you which is entitled "Somerset County  
24 1970 Census Tract Data" compiled by the Somerset County  
25 Planning Board?

A I don't believe I've seen that before.

1 MR. ENGLISH: Mrs. Thompson, can we  
2 admit the authenticity of this document?

3 MRS. THOMPSON: I believe we already  
4 have.

5 MR. ENGLISH: May I have the document  
6 marked?

7 (The aforementioned document entitled,  
8 "Somerset County 1970 Census Tract Data," is  
9 marked for identification as Exhibit D-1 for  
10 identification by the Reporter.)

11 BY MR. ENGLISH:

12 Q Mr. Davidoff, I'll direct your attention,  
13 if I may, to some of the material in Exhibit D-1 for  
14 identification, and particularly to Table P2, beginning on  
15 page 5, which is entitled, "Social Characteristics of the  
16 Population 1970," and will you tell us what the population  
17 of Somerset County is shown in that table?

18 A I see a total of 198,372.

19 Q Thank you. And what is the number of that  
20 population which is characterized here as foreign stock?

21 A I see the figure of 59,698.

22 Q Would you be willing to hazard a guess or  
23 make a calculation as to the percentage of the Somerset  
24 County population which is characterized as a foreign  
25 stock in the census report?

1 Spanish speaking. Am I right?

2 A Yes.

3 Q Now, in Table 2 on page 7 I direct your  
4 attention to a column with the heading "BM" and I ask  
5 you if we can agree that the column "BM" refers to  
6 Bedminster?

7 A That's what it says there. Yes.

8 Q What is the total population of Bedminster  
9 as shown in this document?

10 A 2,597.

11 Q And the number of foreign stock in the  
12 Bedminster population is how many?

13 A 592.

14 Q And would you give us your calculation  
15 of the percentage of the Bedminster population that is  
16 of foreign stock?

17 A Well, it's close to - it's just a little bit  
18 under a quarter. You have 23 per cent written, and I  
19 would assume that that's pretty close to it. It might  
20 be it exactly.

21 Q All right. Now, how many persons of  
22 Spanish speaking or Spanish language are listed as living  
23 in Bedminster?

24 A 35.

25 Q What percentage of the Bedminster population

1 would those 35 persons comprise?

2 A A little more than one per cent of the population.

3 Q Does 1.35 sound about right to you?

4 A Seems realistic.

5 Q Now, Mr. Davidoff, in this same document,  
6 Exhibit D-1 for identification, I would like to direct  
7 your attention to Table P4 beginning on page 15, which  
8 is entitled "Income Characteristics of the Population."  
9 And on page 17 I direct your attention to the column  
10 headed "BM" which I think we can agree relates to  
11 Bedminster.

12 A That's right. That is right.

13 Q What is the median income shown for  
14 Bedminster?

15 A 15,612.

16 THE COURT: We're still dealing with  
17 median family?

18 MR. ENGLISH: Median family income.

19 That's correct, sir.

20 A No. No. No. This table says, if it's the same -  
21 it says "Median Families and Unrelated Individuals."

22 Q Thank you. I'll stand corrected.

23 As a matter of fact, isn't that figure of --

24 A No, but this one here is families. So, here - you  
25 see, this is all families. And this would be median income

1 of all families. And then this is median income.

2 So, you did show me the figure for all families,  
3 and not for unrelated individuals. Just for families.  
4 It has a tendency to increase the income slightly.

5 Q Now, Mr. Davidoff, can we agree that the  
6 columns in Table 4 headed "BW" related to Bridgewater  
7 Township?

8 A Yes.

9 Q All right. And there appears to be one,  
10 two, three, four, five, six, seven census tracts dealing  
11 with Bridgewater. Is that correct?

12 A That is correct.

13 Q Nods don't appear on his machine.

14 A I don't know, because I can't read it.

15 Q Would you tell me the figures shown on page  
16 15 of Table 4 dealing with the median family income of  
17 the four tracts of Bridgewater which are listed on that  
18 page?

19 A Yes. They are 11,695. 15,653. 15,426. 16,826.

20 Q And will you please give me the same figures  
21 for the three census tracts of Bridgewater Township  
22 appearing on page 16?

23 A 18,114. 17,081. And 12,856.

24 Q Now, directing your attention to the column  
25 in Table 4 on page 17 headed "WC" can we agree that that

1 relates to the Borough of Watchung?

2 A Yes.

3 Q And what is the median family income in this  
4 table for the Borough of Watchung?

5 A 18,993. And 18,000 --

6 Q No. No. That's Bernards. I'm sorry.

7 A No. This is Watchung. This is Watchung, these two.  
8 18,993 is Watchung.

9 Q Just one is Watchung, just this one, 18,993.  
10 These four relate to Bernards?

11 A Right. Right.

12 Q I had you confused.

13 Now, can we agree that the columns headed  
14 "BN" relate to Bernards Township?

15 A Yes.

16 Q And there appear to be four census tracts  
17 dealing with Bernards Township on page 17?

18 A Yes.

19 Q But, only three of them have any figures at  
20 all for median family income? Is that right?

21 A Right.

22 Q Is that correct?

23 A Right.

24 Q Would you please tell us what those three  
25 figures are for Bernards Township?



- 1 A 18,212.
- 2 That's 15, isn't it?
- 3 Q Yes.
- 4 A 15,028. 18,391. And 16,000 cops - I've moved over.
- 5 Q The last one was 18,391.
- 6 A Right.
- 7 Q Now, can we agree that the column headed
- 8 "BV" deals with the Borough of Bernardsville?
- 9 A We can.
- 10 Q All right. Directing your attention to the
- 11 column headed "BV" on the table of income characteristics
- 12 of the population, can you tell me, please, what the median
- 13 family income for Bernardsville is shown to be?
- 14 A 16,389.
- 15 Q Now, on page 18 I direct your attention to
- 16 the column headed "RH" and ask you if we can agree that
- 17 that relates to the Borough of Rocky Hill?
- 18 A We can.
- 19 Q And will you tell me, please, what is the
- 20 median family income shown for Rocky Hill?
- 21 A \$15,879.
- 22 Q Can we agree that the three columns on page
- 23 18 headed "MG" relate to Montgomery Township?
- 24 A We can.
- 25 Q Will you please tell me what the listings of

1 median family income are for each of the three census  
2 tracts from Montgomery Township?

3 A 17,500. 14,663. And 13,000.

4 Q Mr. Davidoff, may I direct your attention,  
5 please, in Exhibit D-1 for identification, to Table H1,  
6 which is entitled "Occupancy, Utilization and Financial  
7 Characteristics of Housing Units" which begins on page 20;  
8 and on page 22 I direct your attention to the column  
9 headed "BM" which we agree is Bedminster, and ask you  
10 what the figure given in that column is for median rent  
11 asked?

12 A Let me see if I understand what this table --  
13 this is 840 year-round units for rent?

14 Q No. Let me withdraw that question.

15 A Oh, here it is. I see. I see. Right.

16 Q Can we agree that this table lists for  
17 each census tract the number of all housing units,  
18 and various other things, including a category of  
19 owner-occupied houses, renter-occupied houses, vacant  
20 year-round properties, and then for sale only, and then  
21 for rent?

22 A Right.

23 Q And under the "For Rent" heading there is a  
24 line which is given as median rent asked?

25 A Yes.

1 Q And may I direct your attention to the figure  
2 for median rent asked in the column dealing with Bedminster?

3 A \$120.

4 Q Now, directing your attention to the columns  
5 for the census tract in Bridgewater, how many of those  
6 columns dealing with Bridgewater contain any figure for  
7 median rent asked?

8 A Just one.

9 Q And what is the figure in that one?

10 A \$194.

11 Q Can we agree that the columns headed  
12 "NP" refer to North Plainfield?

13 A We can.

14 Q And of the five columns under North  
15 Plainfield, how many of them show any figures for  
16 median rent asked?

17 A Three.

18 Q And what are those amounts?

19 A 115, 163 and 150.

20 Q Dollars, in each case?

21 A That's right.

22 Q Now, can we agree that the column in Table H1  
23 headed "GB" relates to Green Brook?

24 A Yes, we can.

25 Q And what is the figure for median rent asked

1 listed under Green Brook?

2 A \$137.

3 Q I think we've already agreed, Mr. Davidoff,  
4 that the column "BV" relates to Bernardsville.

5 What is the median rent asked which appears  
6 in the Bernardsville column?

7 A \$156.

8 Q Can we agree that the column headed "SB"  
9 refers to South Bound Brook?

10 A We can.

11 Q And what is the figure given for South Bound  
12 Brook as to median rent asked?

13 A \$140.

14 Q Now, can we agree that the columns headed  
15 "FL" relate to Franklin Township?

16 A We can.

17 Q And there appear to be one, two, three, four,  
18 five, six, seven census tracts dealing with Franklin  
19 Township. Is that correct?

20 A That's correct.

21 Q Is that correct?

22 A That's correct.

23 Q And how many of them have any figures for  
24 median rent asked?

25 A Four. Oh, no. Excuse me. I was reading over too

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far. Just two.

Q And what are the figures given for Franklin Township?

A \$146.00 and \$107.00.

Q Thank you.

MR. ENGLISH: Mrs. Thompson, I would like to ask the witness some questions about a document which is annexed to a Request for Admissions which we served upon you, which, I believe, the authenticity of which has been admitted.

MRS. THOMPSON: Yes.

MR. ENGLISH: May I correct my statement. The admission is the truth of any and all statements of fact contained in the article annexed to the Request for Admissions.

MRS. THOMPSON: Yes.

Just so the record is absolutely correct I believe the admission was, Had the caveat, but for the existence of a misprint which might subsequently develop. I don't believe any has.

BY MR. ENGLISH:

Q By any chance, Mr. Davidoff, have you ever seen a clipping, copy of which I show you, from the New York

1 Times, of Sunday, August 27, 1972?

2 A Yes. I believe I've seen that. Let me just look  
3 it over. Let me just look at it.

4 Q Surely.

5 A Yes. I remember seeing this.

6 Q Now, I direct your attention to the - would  
7 you call that a map, or --

8 A Yes. I would call it a map.

9 Q All right. I direct your attention to the  
10 map which is labelled "Family Income in Somerset County,  
11 1970," and I believe this indicates percentage of families  
12 with income over \$15,000.

13 A Yes. That's right.

14 Q And can you identify from that map the  
15 municipality shown where 60 per cent or more of the  
16 families have an income of over \$15,000?

17 A Where 50 per cent or more?

18 Q Sixty.

19 A Sixty per cent or more.

20 If I read it right, Bernardsville, Warren - what is  
21 this - is this --

22 Q I think that's part of Bridgewater.

23 A Yes. It may be divided by census tract.

24 Q And parts of Bernards, too, if I may correct  
25 it.

1 A Maybe that's divided, part of Bernards, part of  
2 Warren, part of - or is that all of Watchung? And I  
3 don't know if that's part or all of Montgomery.

4 Q And in what category or percentage of income  
5 over \$15,000 is Bedminster Township listed in?

6 A In the listing immediately below that, 50 per cent  
7 to 60 per cent.

8 Q And what other communities appear to be in  
9 the same 50 to 60 per cent category with Bedminster?

10 A As I see it, Bedminster, part of Bridgewater,  
11 part of Bernards, Bernardsville - what is this over here -  
12 is that part of Franklin?

13 Q Yes.

14 A Maybe part of Franklin. Maybe a part of Rocky Hill.

15 Q Mr. Davidoff, in addition to your relationship  
16 with Suburban Action Institute, have you ever been connected  
17 with an organization called Garden Cities Development  
18 Corporation?

19 A Yes, I had.

20 Q And can you tell us, please, what Garden  
21 Cities Development Corporation is?

22 A Yes. It is a not for profit corporation organized  
23 for the purpose of sponsoring mixed income housing,  
24 particularly to establish a strong housing base for  
25 families of low and moderate income and non-white families in

1 mixed income open communities.

2 Q Has there ever been any relationship between  
3 Garden Cities Development Corporation and Suburban Action  
4 Institute?

5 A Yes, there has.

6 Q Can you tell us what that is, please?

7 A Yes. The founders of Suburban Action Institute  
8 created Garden Cities Development Corporation. And the  
9 directors of Suburban Action acted for a while as the  
10 chairman and President of Garden Cities Development  
11 Corporation, until there was a split in the directorship  
12 and I became director exclusively of Suburban Action and  
13 Mr. Gold became director exclusively, President and  
14 Chairman, of Garden Cities Development Corporation.

15 Q Are you a trustee or on the governing board  
16 of Garden Cities Development?

17 A Yes. That relationship still continues. I am  
18 still a member of the Board of Directors of Garden Cities  
19 Development Corporation.

20 Q All right. I show you a document and ask  
21 you if you can tell the Court what that is, please?

22 A Yes. This is a letter that Garden Cities Development  
23 Corporation included within a brochure in May of 1973,  
24 signed by myself and Mr. Gold, explaining to them a  
25 proposal for a new community to be developed in Mahway,



1 New Jersey, if Mahway, New Jersey's Zoning Ordinance  
2 will be amended to permit this type of development.

3 MR. ENGLISH: May I have the letter  
4 identified by the witness marked Exhibit  
5 D-2 for identification?  
6

7 (The aforementioned letter from  
8 Garden Cities Development Corp. dated  
9 5/14/73 is marked for identification as  
10 Exhibit D-2 for identification by the  
11 Reporter.)

12 BY MR. ENGLISH:

13 Q Now, I show you a document entitled  
14 "Housing and Open Spaces" and ask you if you can please  
15 tell the Court what that is?

16 A Yes. Within the brochure describing the proposed  
17 development, Open Community in Mahwah we included  
18 different descriptions of the content of that community,  
19 why we thought it would be such an attractive community,  
20 and included in that would be a description of the type  
21 of housing that we would build, and the number and the  
22 size that we would hope each one of these units would be.

23 Q And that is this document of Housing and  
24 Open Spaces?

25 A That's right.

Q Thank you.

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MR. ENGLISH: May I have the document entitled "Housing and Open Spaces" marked Exhibit D-3 for identification?

(The aforementioned brochure entitled "Housing and Open Spaces" is marked for identification as Exhibit D-3 for identification by the Reporter.)

BY MR. ENGLISH:

Q Mr. Davidoff, while you are thinking of an appropriate location for housing for minority and low income groups, is it important to have certain kinds of community services readily accessible to such housing developments?

A Could you be clear as to type of services you're speaking of?

Q Well, one would be transportation accessibility to employment opportunities, shopping areas, medical services, recreation areas, day-care centers and educational facilities.

A Yes. In the new communities that Garden Cities has proposed it is proposed to construct such services and is sought to locate in proximity to good transportation facilities.

Q How would you characterize the present transportation accessibility from Bedminster to employment

1 opportunities?

2 A Excellent.

3 Q By what means?

4 A By -- presently, by a motor vehicle.

5 Q Is there any public transportation in  
6 Bedminster?

7 A To my knowledge, not as yet.

8 Q Do you know of any specific plans for a  
9 public transportation system covering Bedminster?

10 A I am aware that throughout metropolitan New York,  
11 suburban communities, under the energy crisis, they're  
12 beginning to recognize the need which others have  
13 recognized but done nothing about for twenty years to  
14 try to foster mass transportation.

15 Q Do you know whether anything specifically  
16 is being done in Bedminster to provide public transportation?

17 A I am aware that they have never thought of it.

18 I shouldn't say that they never, because I would  
19 not know that. I see nothing in the record that indicates  
20 that they have considered it seriously.

21 Q Is it fair to say you do not see any  
22 immediate likelihood of public transportation being  
23 provided to and from Bedminster?

24 A No. No.

25 Q That's not fair to say?

1 A That's not fair to say.

2 Q All right. How would you put it?

3 A I would put it in two ways. First, that, as I  
4 said, I see a - growing in the suburban counties a  
5 demand for systems to conserve utilization of gas, and  
6 many, many places are beginning to think about mass  
7 transit that they have never thought of before.

8 My own home community has begun developing plans  
9 along these lines, when they have been very out-of-istic  
10 in their thinking about it. They're beginning to think  
11 of it and recognize the need.

12 I see it happening, and I think it's one of the  
13 beneficial aspects of this energy crisis.

14 So, I say, one, I wouldn't be surprised if people  
15 in Bedminster would begin developing plans. And, two,  
16 I would suggest that if development occurs in the  
17 community that one of the goals of the developer would be  
18 to try to provide a mass transit system for residents of  
19 the community in order to make it attractive.

20 That's what we proposed in the Mahwah scheme.

21 Q Do you know of any specific proposal to  
22 provide public transportation to Bedminster?

23 A No. I said I do not know of one.

24 Q Where are medical services located that might  
25 be utilized by Bedminster residents?

1 A I don't know the location of the various medical  
2 centers in Somerset or in neighboring Morris County.

3 I would assume that probably the closest ones would be in  
4 Somerset - in Somerville and in Morristown. But, they  
5 may be farther or closer. I'm afraid I don't know.

6 Q Now, for a housing development for minority,  
7 low income people, should there not be readily accessible  
8 community and neighborhood facilities that service to  
9 minorities, the poor, the young, the elderly and the  
10 handicapped?

11 A First, I want to say that I have not, you know -  
12 I don't particularly espouse a development that's  
13 restricted to minority and poor and non-white. Our  
14 proposals that you were addressing for mixed income were  
15 more open. But, for a group, if there were a development  
16 of that kind, or if it were part of a more open community,  
17 I would assume that the services you mentioned would be  
18 built in as part of the package of the new community.

19 Q What kind of community and neighborhood  
20 facilities and services do you have in mind?

21 A Well, I would say I think you have identified some  
22 of them, but I would think there would be local health  
23 facilities.

24 In our own thinking we have contemplated developing  
25 small hospitals, if they were needed as a regional service,

1 If they were lacking, and you only had the larger medical  
2 center somewhat distant, but otherwise it would be some  
3 type of clinic; and that there would be provisions for  
4 the elderly for social services, social service center  
5 for the elderly; that there would be day-care centers;  
6 that there would be adequate recreational space, internal  
7 and external, for full range of ages, but with particular  
8 attention to the requirements of youth; that there would  
9 be a host of commercial services that would have to be  
10 provided, and, of course, an important one is one you  
11 have identified, transportation facilities.

12 Q Are such facilities presently available  
13 in Bedminster Township?

14 A To my knowledge, probably only a few of those  
15 that I have identified. Perhaps those in the area of  
16 recreation. I don't know about provisions of services  
17 for the elderly or for youth. They might have that, as  
18 well.

19 Q You've made no study of local services?

20 A No. I'm not aware of any.

21 Q Do you know the location of shopping centers  
22 that might serve low income and minority people living in  
23 Bedminster?

24 A I would assume probably the same shopping centers  
25 that the more affluent population presently relies on.

1 Q Do you know where they are?

2 A Well, there are small stores in each of the  
3 small villages within Badminton and Pluckemin. I would  
4 think these are the beginning points of development.

5 Q Mr. Davidoff, in your judgment as a planner  
6 do you see any value in preserving the present character  
7 of the Somerset Hills area?

8 A Would you be more specific about the character  
9 that you seek to preserve?

10 Q How would you describe the character of  
11 the present Somerset Hills area?

12 A I would describe it as an area that is at the  
13 fringe of metropolitan development, that has been placed  
14 in proximity to many areas within the region that is  
15 characterized as beautiful topography, an area of  
16 immense amount of vacant land suitable to be conserved  
17 for open space and for residential development, that is  
18 of - how shall I say it - most attractive environment.  
19 It's a very attractive environment. In those senses it  
20 should be preserved.

21 Let me be specific. In the sense of being a  
22 beautiful environment, I believe it should be preserved.

23 Q Mr. Davidoff, in your direct testimony you  
24 gave us some analyses of the population related to income  
25 by quintiles.

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A Right. Right.

Q And you gave figures which compared Bedminster with the entire State of New Jersey.

Why did you compare Bedminster with the entire State of New Jersey?

A Well, if I had to look for an entity of which Bedminster was a part, to which Bedminster was responsible, most closely tied as an agent, I would see it as being an agent of the State of New Jersey, serving the state and citizens of New Jersey. I would see it quite local as being considered as that, rather than part of a tri-state region.

Q Is it your view that municipalities in New Jersey ought to approach the same relationship in each of these quintiles?

A No.

Q Then you tolerate differences between one municipality and another with respect to the relative affluence of its population?

A I tolerate differences? You mean that - that my normative response to what I would like to see take place in New Jersey would see that there would be differences between the municipalities in their quintile distribution?

Q Yes.

A My answer to that is I would not wish to foster a



1 characterized by extremely low incomes and those that are  
2 almost absent in white population, very often been  
3 characterized by exceptionally high incomes.

4 I think I would do the same as I did in an analysis  
5 of measures to alleviate poverty. Some of the more  
6 advanced thinking in the nation on this would suggest  
7 that there be some national standard that would seek to  
8 arrive at a level of income that no family would have an  
9 income that was less than half of the median income for  
10 the nation, that that would be a first reduction in the  
11 wide disparities that are now so prevalent.

12 There have been studies of income distribution in  
13 the nation. As you're probably aware, the upper 20 per  
14 cent of income earners for the nation is about 8 to 10  
15 times as much as the bottom 10 per cent, and those that  
16 are concerned with the elimination of poverty have sought  
17 to reduce that.

18 To suggest a time period for a plan that might  
19 reduce that disparity between the upper fifth and bottom  
20 fifth to something less than an eight to one ratio,  
21 perhaps to a six to one ratio in time, or five to one  
22 ratio over time.

23 Q Now, would you agree, Mr. Davidoff, that  
24 in the metropolitan area of which Northern New Jersey  
25 is a part that the political boundaries of municipalities

1 have little significant meaning for many purposes?

2 A That's a difficult one to answer, the way it's  
3 phrased.

4 Q Well, it is pretty general, I admit.  
5 In terms --

6 A Yes.

7 Q In terms of land usage, do you think that  
8 every municipality is an independent entity unto itself  
9 regardless of the extent of its political boundaries?

10 A No. I think it's inextricably a part of the  
11 larger dimensions of urban growth within a metropolitan  
12 area.

13 Yet, it has within its power, I think - it has  
14 within its power to control the quality of its development.

15 Q Would you then agree that the solutions of  
16 these regional problems of disparity of wealth and  
17 residential opportunity, and so on, was really more  
18 important in terms of the region than in terms of any one  
19 particular municipality?

20 A No. As I see the dealing with these issues in a  
21 nation that today that has had so much difficulty with  
22 its increased centralization, and with its loss of democracy  
23 at the local level, I would say that the nation really must  
24 work at the local, regional, state, national level to deal  
25 with these issues of disparities that at the local level

1 the primary importance is to see that there is a policy  
2 of desegregation, that policies that foster segregation  
3 under the law are eliminated.

4 I think that that will have a very great effect  
5 on assisting in the processes of reducing the disparities.

6 Q Mr. Davidoff, if I understand your comments  
7 about the present Bedminster Zoning Ordinance, one of your  
8 concerns is the density of land use?

9 A That is correct.

10 Q And do I understand it's your view that if  
11 greater density was permitted, availability of low income  
12 housing would be enhanced?

13 A It is a necessary condition to make that  
14 possibility arise.

15 Q Now, Mr. Davidoff, did I correctly  
16 understand you to suggest that in your opinion the  
17 Bedminster Zoning Ordinance ought to permit as of right  
18 all forms of housing, which would include multi-family  
19 housing, in all residence zones?

20 A That is correct.

21 Q And as a planner would you be willing to  
22 locate - strike that.

23 I think you suggested densities of five to  
24 fifteen dwelling units per acre?

25 A I suggested that those would be densities that would

1 be required in zones located in different parts of the  
2 community so as to make possible the conditions necessary  
3 to allow for the development of mixed income housing,  
4 particularly that housing that could serve needs of low  
5 and moderate income families.

6 Q Can you tell me in what parts of the  
7 Township of Bedminster you would locate housing projects  
8 of that sort?

9 A Well, I would start by identifying the larger  
10 part of the community, and then I would say that the  
11 conditions precedent to moving towards the rezoning of  
12 land towards that is the propriety of the area, the  
13 appropriateness of the area, to be served by necessary  
14 water and sewer facilities, and that that is essential.

15 We're not in any way suggesting that the whole  
16 of the Township of Bedminster necessarily be zoned at  
17 the density of five to fifteen.

18 I say that it should be in different parts of the  
19 community, but to amplify what I had said earlier, and  
20 make certain that public health standards are met, the  
21 area to be served at densities like that must be an area  
22 in which there can be facilities, water and sewer  
23 facilities, that meet the standards established by  
24 public health officials in the State of New Jersey.

25 Q Well, at the present time whereabouts in the

1 township do the requisite water and sewerage facilities  
2 exist?

3 A Well, I'd have to answer that in two ways. The  
4 facilities may not - may not exist presently, and I don't  
5 know - I don't know if present plans would permit  
6 expansion of areas that will be sewered to be covered,  
7 so that there could be an expansion utilizing new planned  
8 sewer facilities.

9 The more important question, as I see it, is  
10 whether it is feasible to develop sewer facilities in  
11 the different parts of the town; and if it were, then  
12 I would think that it would be feasible for development  
13 to take place there.

14 Q Now, what would be your criteria of the  
15 feasibility of the development of sewerage facilities  
16 in any part of the town?

17 A A plan prepared by a competent expert for such a  
18 facility that has the approval of the state officials  
19 charged with granting approval for such facilities.

20 They might be built publicly, preferably publicly,  
21 but I would think that if a private developer could  
22 propose a private facility that was met - that met all  
23 of the standards, that that, too, would be acceptable.

24 Q Do you know what those standards are?

25 A No. I'm not competent to define what those standards

1 would be.

2 Q Suppose the public authorities decided  
3 that certain parts of Bedminster could not be sewered  
4 in conformity with their standards. Would you accept  
5 that?

6 A I think if I looked at their findings and, you  
7 know, agreed with those findings, or had experts who  
8 were more competent than myself agree with those findings,  
9 we would.

10 At the final conclusion, when there is agreement  
11 that that is not developable, then it should not be  
12 developed.

13 Q How many units of housing for low income  
14 - for low and moderate income persons do you think  
15 should be added to the Bedminster housing stock?

16 A The same that's available for all classes.

17 I don't think that it's proper to think in these  
18 terms, in terms of a certain amount of housing units  
19 for a particular class. It's our opposition to the  
20 present ordinance because it thinks in terms of a  
21 restricted class.

22 I think Bedminster should be an open community  
23 that allows growth to take place in an environmentally  
24 sound, healthful manner; and that the class is not  
25 something that you say, "We're going to have two hundred

1 of them come to our community." I don't think that's  
2 proper.

3 I think what's proper is to make it an open  
4 community in which development can take place for all  
5 groups.

6 Part of that in our day requires some positive  
7 affirmative action by a township, such as Bedminster,  
8 to determine the need for housing within its borders,  
9 and to take the active steps to create the ability to  
10 foster the development of housing, particularly for low  
11 and moderate income families.

#14 Q Well, then, is it your position, so long  
13 as you like the Bedminster Ordinance, you don't care how  
14 many low income people actually live in Bedminster?

15 A So long as it's possible for the developer of  
16 mixed income housing or low and moderate income housing  
17 to be able to come to Bedminster on an equal footing  
18 with developers of other types of housing, make his plan,  
19 if it is submitted, if it meets the standard, build his  
20 housing. Then I would say that one part of the need is  
21 met.

22 I do think in our society at this time the laws  
23 of Jersey have suggested there is a critical need for  
24 housing and to assist in the development of housing.  
25 That's why there is a Jersey housing finance agency,

1 that's why there's a federal low cost housing program,  
2 and New Jersey communities may create housing to assist  
3 in meeting the needs of low income housing.

4 I would say that today in the face of the  
5 tremendous need for housing in Jersey there is an ob-  
6 ligation upon the part of each community to establish the  
7 proper legal entities that can foster the development of  
8 housing for low and moderate income families.

9 Q Is it your position, Mr. Davidoff, that  
10 housing costs are due solely to zoning provisions?

11 A No.

12 Q What are the other elements that bear upon  
13 the ultimate cost of housing?

14 A Price of materials, labor, land, location in the  
15 region, community name, reputation.

16 Q How many of those matters are under the  
17 control of the municipality such as Bedminster?

18 A Oh, I would say most of them are. The construction  
19 costs are by and large outside of the hands of the  
20 community, although even there I think their ability to  
21 test and establish codes that, you know, permit a reduced  
22 price for development might be useful.

23 There have been communities that have worked with  
24 the labor unions to foster development of non-union-built  
25 housing as a way of reducing costs of non-white construction



1 employment.

2 There are a number of ways I think a community  
3 might impact that. But, essentially, those factors,  
4 labor costs and costs of materials, are extraneous to  
5 the ability of the community.

6 Q And, certainly, lay outside the zoning  
7 power, as such?

8 A Well, no. The use of the modular home or the  
9 mobile home represents a technique that zoning can  
10 incorporate, the fact that a type of housing that I have  
11 talked about, attached housing, garden apartments, can  
12 be constructed at lower unit cost than a single-family  
13 detached is within their - their establishing construction  
14 costs by what type of uses are permitted.

15 Q Bedminster - the Bedminster Ordinance  
16 does permit multi-family housing, townhouses, garden  
17 apartments, and modular housing, as well; isn't that so?

18 A Under very severe constraints. Places it in a  
19 less favored position under the law than single-family  
20 housing.

21 Q Strength is a matter of density?

22 A No. Matter of density and discretion. They're  
23 not permitted as of right. They're disfavored in that  
24 sense, that the community doesn't feel that a builder -  
25 doesn't feel that a developer may come to the community

1 with plans for development of those facilities, meet  
2 established standards and build them. Rather, they  
3 want to oversee the processes of their development and  
4 design.

5  
6 THE COURT: We'll take a brief recess  
7 at this point.

8 (Recess.)

9 CROSS EXAMINATION (CONTINUED)  
10 BY MR. ENGLISH:

11 Q Mr. Davidoff, just before the recess I  
12 think we were talking a little bit about manufactured  
13 or modular housing. Is it not true that the Badminton  
14 Zoning Ordinance permits manufactured or modular housing  
15 as of right within any residence district?

16 A I believe that is right.

17 Q Now, we were also talking about some of the  
18 elements that make up the total cost of housing.

19 I think you mentioned location of the  
20 ~~location~~ one of them.

21 Now, in terms of the location of Badminton,  
22 you have had occasion to refer more than once to the fact  
23 that in it there exists the crossing of Interstate 78 and  
24 Interstate 287.

25 A Yes.

Q Are you familiar with the methods of access

1 to those highways at their point of interchange from the  
2 local streets?

3 A Yes.

4 Q Is it not correct to say that there is no  
5 access to or from local streets from either of those  
6 interstate highways at their intersection?

7 A That is right. Yes.

8 Q In your judgment, does that constitute a  
9 limiting factor as to the growth opportunities of the  
10 land in the immediate vicinity of that intersection?

11 A Not a very significant one, because the access  
12 can be obtained to the highways from those localities  
13 proximate to it.

14 Q Well, that would depend, would it not, on  
15 the location and nature of the access to and from those  
16 highways from wherever they may be in the community?

17 A That's right.

18 Q And that how many points of access to  
19 Routes Interstate 78 are there in the Township of  
20 Bedminster?

21 A I can't give you the answer immediately. I believe  
22 that there is one intersection in which there is access.

23 Q And what part of the township is that  
24 located in?

25 A In the southern part of the township.

1 dwelling units per acre. What effect, in your judgment,  
2 would that have upon the value of that tract of land?

3 A I think it would increase the value of that land.  
4 So, I would say that the zoning would control the value.  
5 It would increase the value. It would be of much greater  
6 value, just as today I imagine the land in R-6 and R-8  
7 probably brings a greater price per acre than the land  
8 in R-3.

9 Q And is the reason for that because to a  
10 degree the greater the density, the greater the intensity  
11 of land use, the more valuable that land becomes?

12 A That's right.

13 Q Mr. Davidoff, let me show you Exhibit PC-18,  
14 which is a paper entitled, "Land Use Regulation, The  
15 Residential Land Use Supply," which appears to have been  
16 issued by the Division of State and Regional Planning of  
17 the Department of Community Affairs of the State of New  
18 Jersey. May I direct your attention to page 26 of that  
19 report and ask you if I read correctly from it:

20 "For one thing, if municipal zoning practices  
21 can be changed and made less prohibitive of low and moderate  
22 cost housing, would the construction of such housing  
23 accelerate, or would other factors, material, labor or  
24 financing costs, operate to depress the development of  
25 low and moderate cost housing despite the zoning changes?

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"If not, then what other aspects need also  
to be dealt with?

"These questions require further study."

Did I read that correctly?

A Yes, you did.

Q Do you agree with that statement?

A May I have a chance to look at it for a moment?

Q Certainly. Certainly.

MRS. THOMPSON: What page was that?

THE WITNESS: Page 26.

MRS. THOMPSON: Thank you.

A Well, my answer to that is that if there were  
a significant change in zoning practice, so as to  
significantly increase the opportunities for development  
of housing that could serve the needs of low and moderate  
income families, while that in itself might not be  
sufficient to make possible the development of such  
housing, it would be the necessary condition. I think  
I have said that earlier.

So that without this there cannot be the development.  
If towns stand in their way the zoning prohibits the  
development of that kind of housing to meet needs of  
low and moderate income. Then other changes will not  
by themselves overcome that prohibition. The land must  
be made available for the type of housing that can be

1 constructed to meet the needs of low and moderate income  
2 families. And that, by itself, may just be a sufficient  
3 condition, given the willingness of certain developers  
4 or non-profit developers to build within a particular  
5 community that has made these changes, because our zoning  
6 laws are so restrictive as the preceding paragraph of  
7 that report suggests, that the findings of municipal  
8 zoning laws are restrictive, because they are, we haven't  
9 had yet an ample experience with testing, whether the  
10 availability of ample amounts of free land zoned for the  
11 type of housing that I suggested would or would not  
12 suffice to provide the development of more mixed income  
13 housing.

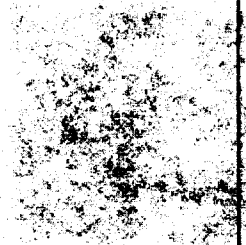
14 MR. ENGLISH: If the Court please,  
15 I am about to start on a line which may not  
16 finish by the hour suggested by your Honor.  
17 Do you want me to begin --

18 THE COURT: No. If you're at a logical  
19 point of change it would be convenient for me  
20 to recess at this point. I do have a  
21 conference set up with about six probation  
22 officers. So, I'll recess now so that I can  
23 take care of that.

24 Thank you. I'll see you all at nine  
25 o'clock tomorrow.

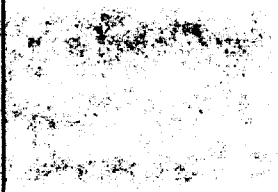
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