

RULS - AD - 1977 - 20

1/25/1977

- DEPOSITION OF JAMES OHLG

PGS - 155

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

S-1290

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

B. GRAY
1/13/77

Plaintiff :
JAN 12 20 1977 :
SOMERSET COUNTY :
L. R. OLSON, CLERK :
JAMES OHLS :
ORAL DEPOSITION UPON :
ORAL DEPOSITION OF :
#2

-vs-

THE TOWNSHIP OF BERNARDS IN THE :
COUNTY OF SOMERSET, a municipal :
corporation of the State of New :
Jersey, THE TOWNSHIP OF BERNARDS, :
and THE PLANNING BOARD OF THE :
TOWNSHIP OF BERNARDS, and THE :
SOMERSET COUNTY PLANNING BOARD, :

RULS - AD - 1977 - 20

Defendants. :
----- :

TRANSCRIPT of proceedings in the above-entitled
matter taken by and before Jeannette Johnson, a Certified
Shorthand Reporter and Notary Public of the State of New
Jersey, on January 4, 1977 at the offices of Mason,
Griffin & Pierson, Esqs., 201 Nassau Street, Princeton,
New Jersey, commencing at 10:00 A.M.

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

2 MESSRS. MASON, GRIFFIN & PIERSON,
3 BY: BENJAMIN N. CITTADINO, ESQUIRE and
4 HENRY A. HILL, JR., ESQUIRE,
 Attorneys for the Plaintiff.

5 MESSRS. McCARTER & ENGLISH,
6 BY: STUART E. RICKERSON, ESQUIRE,
 Attorneys for the Township of Bernards, et al.

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I N D E X

WITNESS DIRECT CROSS REDIRECT

James Ohls

| | | | |
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| By Mr. Hill | 38, 126 | | 151 |
| By Mr. Rickerson | | 148 | |

E X H I B I T S

| <u>NUMBER</u> | <u>DESCRIPTION</u> | <u>IDENT.</u> |
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| PJO-2 | Report entitled Fair Share Analysis for Bernards Township Low and Moderate Income Housing | |
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1 J A M E S O H L S, Sworn.

2 DIRECT EXAMINATION BY MR. CITTADINO:

3 Q Mr. Ohls, my name is Ben Cittadino. As
4 you know, Mason, Griffin and Pierson represents the
5 plaintiffs in a lawsuit in which Bernards Township among
6 others is defendant.

7 Have you ever been the subject of a deposition
8 before?

9 A No.

10 Q Then what this is is the taking of your
11 testimony under oath just as if you were in a Court of Law
12 and indeed there are certain circumstances under which
13 the record of your testimony can be used in a Court of Law.

14 I am going to ask you questions. I'm going to ask
15 you to respond. There may be times when your attorney,
16 who is present, Mr. Rickerson, will object to questions.
17 At that time you should stop answering the questions and
18 Mr. Rickerson and I will discuss it, and then you follow
19 his advice as to whether to answer a question or not to
20 answer it.

21 Well, do you have any questions about the procedure
22 at all?

23 A No.

24 Q You have talked about it with your lawyer
25 ahead of time, I suppose?

1 A Yes.

2 Q Now, what I'd like to know is first off,
3 how you first became involved in this litigation, who
4 contacted you?

5 A Charles Agle, the planning consultant for Bernards
6 Township.

7 Q All right. And when was that?

8 A I would guess it was probably in late Spring of
9 last year, '66 -- '76. I'm not sure exactly.

10 Q All right. And what did he -- how did he
11 contact you, by phone?

12 A He called me and then he has an office on ~~Mass~~
13 Street, came over and we talked in my office.

14 Q And what did you talk about?

15 A Doing a larger version of this project. As you
16 know, from I assume you have read my Court testimony in
17 the other Bernards Township case, initially the project
18 was conceived, at least we talked about doing the project
19 somewhat more broadly to include both the employment
20 forecast, which I have made, and also taking it one step
21 further and going from the employment forecast to population
22 forecast, some kind of fair share housing estimate. We
23 talked about both halves of that project, that possible
24 project.

25 Q That project was in connection with litigation

1 or in connection with litigation or what?

2 A At the time, and we were -- I remember during the
3 conversation we talked about the Governor's then recent
4 executive order on fair share housing, and we were also
5 talking in connection with the litigation Bernards Township
6 was in. My mind is somewhat blurry with regard to the
7 multitude of suits that Bernards Township seems to be the
8 subject of.

9 Q At that time did you come to some agreement
10 with Mr. Agle as to --

11 A As I recall.

12 Q -- what you were going to do for him?

13 MR. RICKERSON: Let him finish the
14 question.

15 A As I recall, we agreed that I would write something,
16 you know, write up a rough outline of what a project might
17 look like, come up with some kind of price estimate, and
18 I would send it to him. We would go from there.

19 Q Before we go further along the chronology,
20 then, can you tell me something about your own expertise?
21 What is your area of expertise? Are you an economist?

22 A I have a P.H.d. in economics.

23 Q All right. You don't have a curriculum
24 vitae or anything with you?

25 A No.

1 Q Can you give me a brief outline of your
2 educational experience and employment experience?

3 A I have a Bachelor Degree from Harvard in economics
4 in '67, a Master's Degree, then P.H. Degree in economics,
5 The University of Pennsylvania in '71. Four years in
6 teaching joint employment in Wilson School in the Economics
7 Department, and then about a year and a half ago moved to
8 M.P.R. where I think my title is Senior Economist, something
9 like that.

10 Q So who were your relations with with
11 respect to the particular report that you provided in this
12 litigation? How did that initiate? In other words, were
13 you contacted by Mr. Agle again?

14 A I see. The thing, I guess I heard nothing, perhaps
15 nothing about an acknowledgment for two or three months and
16 had pretty much assumed that the project was dead. And then
17 I assumed Agle must have called me and somehow Agle got back
18 in touch with me. There was a meeting, I had a meeting at
19 the Bernards Township offices with Agle and several -- is it
20 their Planning Board, Stuart? It isn't clear to me exactly
21 what body it was. Several elected and appointed officials
22 of Bernards Township, and it was at that point that we
23 essentially agreed on this current project.

24 MR. CITTADINO: All right. Perhaps
25 it would be appropriate at this point to

1 mark -- do you have a copy of your report?
2 Maybe we can mark yours for identification.

3 THE WITNESS: I have.

4 MR. CITTADINO: As PJO-1.

5 (Thereupon, a report entitled
6 Employment Growth Projection for Six Counties
7 Surrounding Bernards Township, New Jersey,
8 is received and marked PJO-1 for
9 identification.)

10 Q All right. Now, I'm showing you what's
11 been marked as PJO-1 for identification, and can you tell
12 me what that is?

13 A That is the final report that I produced as part
14 of the research project that came out of the negotiations
15 I described earlier.

16 Q All right. Now, were your negotiations
17 solely with Mr. Agle or did you talk with other people?

18 A No, I talked to -- as I say, I met at Bernards
19 Township with Fred Connally, the Township Administrator,
20 with several elected, I think, members of the Town Board.
21 One is Bill Allen, the author of some of the other documents
22 you undoubtedly have, and several other people whose names
23 I don't remember.

24 Q Now, are you familiar with Mr. Allen's
25 report, with his Fair Share Analysis for Bernards Township

1 Low and Moderate Income Housing, which he prepared or
2 finished, completed in about October of '76, I guess?

3 A Yes, I am very familiar with an earlier version
4 of that completed sometime during the Summer, which, as
5 far as I could tell from a brief look at this, is very
6 similar.

7 Q You are talking about July 16, 1976 draft,
8 then, is probably what you are more familiar with?

9 A Probably. I think the one I was working with wasn't
10 dated.

11 Q Yes. I have a copy, which we don't need to
12 mark in evidence or for identification.

13 It has July 16, '76 draft, October 31, '76 final.

14 So you indicate that the document you probably
15 saw was the draft?

16 A Yes, though again I'm not certain.

17 MR. CITTADINO: Off the record.

18 (Thereupon, an off the record
19 discussion is held.)

20 (Back on the record.)

21 MR. CITTADINO: Mark this as
22 PJO-2 for identification.)

23 (Thereupon, a report entitled Fair
24 Share Analysis for Bernards Township Low and
25 Moderate Income Housing is received and

1 marked PJO-2 for identification.)

2 Q Now, you indicate that you are familiar with
3 the Fair Share Analysis for Bernards Township prepared by
4 William Allen, and I would like to ask you when you first
5 saw it?

6 MR. RICKERSON: Maybe before we go
7 on we identify that document as being the one
8 he is familiar with since there were two
9 drafts or one draft and one final copy.

10 MR. CITTADINO: All right.

11 Q I'll ask you to look at what's been marked
12 for identification as PJO-2, then tell me if you are
13 familiar with that?

14 A Okay. This I am confident that I'm familiar with the
15 substance of this. As I say, the actual document that I
16 read in detail during my own research was an earlier draft
17 of that.

18 Q Okay. And when did you read the earlier
19 draft?

20 A I would guess it was probably -- well, I can
21 remember explicitly when I read it in detail, which was
22 early September of '76. It's conceivable I had the copy
23 earlier.

24 Q And when did you begin preparation of the
25 report that's been marked PJO-1?

1 A Soon after our formal contract with Bernards
2 Township was signed I began thinking about it and began
3 talking with my consultant, Peter Bearse.

4 Q When did you sign the formal contract, do
5 you remember?

6 A No, I assume you probably have a copy of that.

7 Q No, I don't know that I do. Do you have a
8 copy of it? Will you provide it?

9 A It was introduced in evidence, if I am not mistaken,
10 at the earlier trial.

11 Q All right. Well, you must understand one
12 thing before we go on. This trial is unrelated to the
13 earlier one. We have the benefit of some of the discovery
14 and some of the documents that were available there. We
15 don't have the benefit of all of them at this time.

16 A It's the agreement, in any case.

17 MR. RICKERSON: I think I have a
18 copy of the document, although I don't know
19 whether it's -- I will check on whether this
20 is the contract.

21 THE WITNESS: That's it.

22 MR. RICKERSON: That was finally
23 executed.

24 MR. CITTADINO: Let's mark that
25 PJO-3, then, ask the witness if he can

1 identify that.

2 A Yes, that is the contract and it's dated August, '76.

3 Q All right, fine.

4 (Thereupon, a contract agreement

5 dated August, 1976, is received and marked

6 PJO-3 for identification.)

7 A That may, incidentally, not be the whole contract.

8 The contract I think this document makes reference to to

9 a proposal I had written earlier. Perhaps not. No, I'm

10 sorry. It's included in this, fine.

11 Q All right. The contract appears to refer to

12 a maximum total compensation of \$7,935 . Is that correct?

13 Is that your understanding of the contract terms?

14 A Yes.

15 Q And has that been paid, all of that?

16 A It was a cost plus contract and my -- I never checked

17 at the end, but my impression was that we came in about

18 \$500 less than that.

19 Q I see.

20 A Stu probably has that someplace in his records,

21 Stu's firm.

22 Q So, in other words you were paid on the basis

23 of your costs?

24 A Plus a fee.

25 Q Plus the fee, and this \$7,935 represents the

1 fee.

2 A No, that represents the total cost of the research
3 including the fee. There's a budget breakdown toward the
4 end there someplace. It may make it clear.

5 Q Oh, yeah.

6 A The fee is computed as a percentage. I'm not sure
7 how, exactly how the person who wrote the contract.

8 Q Now, with the preparation of this report,
9 of the report that's been marked PJO-1, are your duties
10 over with respect to this litigation other than your perhaps
11 testifying at a trial?

12 A Yes. I mean, there's been no talk of anything other
13 than occasional time spent in situations like this in the
14 trials.

15 Q Okay. Let's take a look at what's been marked
16 for identification as PJO-1, then, and I'll ask you if this
17 is the only report that you provided to McCarter and English
18 or to Bernards Township or any other party to this
19 litigation? Documentary report, now, I'm speaking of.

20 A Yes. There was an earlier version with a couple
21 typographical errors that were corrected, that is corrected
22 in the version that you have, but substantively, the only
23 report produced.

24 Q How do you mean typographical errors? Were
25 there a specific number of them?

1 A No, quite specifically, there's a table, which
2 appears on Page 2 and again on Page someplace towards the
3 end, Page 22, and the columns of -- I'm sorry. The table
4 that appears on Page 3 and Page 22, same table.

5 Q Page 3 and Page 22, okay.

6 A The columns of that table got reversed in typing,
7 so that what should have been the second column of numbers
8 became the third column, which should have been the third
9 column became the second column. I didn't notice that
10 before it went out and Mr. English caught that and we
11 sent back the report.

12 Q I see. Now, was the entire column reversed
13 or was just the numbers?

14 A The numbers. I mean, there would have been no
15 problem with the entire column if the heading had been
16 reversed, too. There would have been no problem.

17 Q And that was the only difference in the
18 earlier report and this report?

19 A As far as I can recall.

20 Q Okay. Was there a transmittal letter or
21 anything that had any kind of reference to conclusions or
22 any other additional information in the report?

23 A Surely, there was a three sentence transmittal
24 letter just saying here it is.

25 Q What about before you provided this written

1 report? Did you give an oral representation of what you
2 found to McCarter and English or anybody else, any other
3 party to this litigation?

4 A Yes, they had been naturally curious what I was
5 going to find and probably maybe two weeks before the date
6 of this report in conversation they asked roughly what the
7 results were going to look like. I told them that I
8 couldn't guarantee what the results would look like until
9 I completed the research and did the final report, but
10 gave them my best guess of what the report would look like
11 and indeed, it was they were not unlike what's in the
12 report.

13 Q I see. The first thing I'd like to ask
14 you about the report, I guess, is who, beside yourself,
15 contributed to it?

16 A Peter Bearse, the co-author.

17 Q What did he do, what are his qualifications?

18 A He has a P.H.d. in economics, I think from the
19 New School, for several years was the Chief Staff person
20 on the New Jersey Governor's Economic Policy Council, or
21 something like that. He is now on the faculty of Princeton
22 in the Woodrow Wilson School as I think a lecturer.

23 Q Now, the title of this report says
24 Employment Growth Projections for Six Counties Surrounding
25 Bernards Township, New Jersey. Who chose the six counties?

1 A They did. Those are the same six counties that
2 Allen had used in his earlier study. It seemed to me that
3 my thing would be most useful to them if I had structured
4 my research, that it made sense to in a way that was
5 compatible with what Allen had done, and it seemed to me
6 it was quite reasonable to use those six counties.

7 MR. CITTADINO: All right. I have
8 a map here and I'd like to mark it with the
9 next number.

10 (Thereupon, a map is received and
11 marked PJO-4 for identification.)

12 Q Do you recognize that map? Are you familiar
13 with the geography of New Jersey?

14 MR. RICKERSON: For the record, it
15 appears to be a Xeroxed copy of a map of
16 New Jersey with certain areas on the map
17 colored in various colors and a circular
18 line around Bernards Township.

19 May I ask who prepared it?

20 MR. CITTADINO: I believe Mr.
21 Reading prepared it, didn't you prepare it,
22 Mr. Reading? Someone in Mr. Reading's
23 office.

24 Q Are you, generally, yourself, familiar with
25 the geography of New Jersey?

A Yes.

1 Q Does that map appear to you to reflect
2 your own knowledge of the geography of New Jersey?

3 A Yes.

4 Q Haven't moved any of the counties, right?

5 A Okay.

6 MR. RICKERSON: Just while we are
7 on this, it doesn't include all of the
8 geography of New Jersey, though, does it?

9 THE WITNESS: No, it seems to go
10 down as far south as Mount Holly, in the
11 south.

12 Q Okay. Now, the six counties to which you
13 directed your study are shown there on the map, aren't they?

14 A Yes. In various colors.

15 Q Before I ask you, I just want to use this
16 map later in our discussions, I want to have it sort of
17 in front of you, do you have any reason other than the fact
18 that Mr. Allen used those six counties in his report, for
19 using those six counties in terms of your own methodology
20 for which you are accomplishing? I mean, you were given
21 those six counties to come up with figures for.

22 A My methodology, essentially has to do with just
23 making employment projections and the techniques I used
24 were quite general. They are done at the county level and
25 they are quite general to any county in New Jersey. So

1 essentially, I don't -- with regard to my methodology,
2 I have no reason. Had I been choosing six counties to use
3 as a basis for a fair share analysis, I would have given
4 some more thought to it, but those looked like six reasonable
5 counties to use.

6 Q I see. During your discussions with Mr.
7 Agle or McCarter and English or any of the parties to this
8 litigation, was there ever a time when you had discussion
9 on the subject of whether you could make employment
10 projections for portions of six counties as opposed to
11 counties as units of themselves?

12 A Yes, I was asked whether my analysis could be done
13 at the township level rather than the county level, which is
14 tantamount to asking that question.

15 Q Right. And what was your response to that?

16 A I think initially my response was it could, and if
17 I am not mistaken, in the contract, which we were just
18 looking at.

19 Q Somewhere.

20 A There is a covering letter or a letter disavowing
21 my earlier claim. Let me look, okay. During the meeting
22 I had with the Township officials.

23 Q To the best of your recollection, so that
24 we can get a picture of this --

25 A Right.

1 Q About when would this meeting have occurred?

2 A The letter I'm about to refer to is dated
3 July 8th. I would guess it probably happened in very
4 early July.

5 MR. RICKERSON: That's Exhibit B
6 to the contract marked PJO-3 for
7 identification.

8 MR. CITTADINO: All right.

9 Q And who was present? You say the Township
10 officials. Do you have any specific recollection?

11 A Fred Connally was there, Bill Allen was there, the
12 Mayor of the Township was there, and probably three other
13 elected officials whom I didn't know, whose names I don't
14 remember.

15 Q Okay. Go ahead. Now, what happened?

16 A Okay. At that meeting Bill Allen asked me whether
17 I can make forecasts at the Township level as opposed to the
18 County level, and at that time I said I thought I probably
19 could. However, in this July 8 letter to Fred Connally,
20 which is incorporated in the contract, I essentially changed
21 my mind on that and said the methodology I'm using only
22 works essentially at the County level, though in a
23 parenthetical phrase, I said if they really needed it, we
24 can talk about ways about going below the County level,
25 but they never picked up on that, which may be just as well

1 because I am not quite sure.

2 Q I would like you to tell me in a little more
3 detail why you felt you couldn't go on a municipal level
4 as you previously indicated.

5 A Essentially, in the report I use two methodologies.
6 Each of which are variances of -- let me see if that's what
7 I want to say.

8 Let me back-track and say that essentially, I mean,
9 there are two issues. One of data. The data base that was
10 made available to me was disaggregated just to the County
11 level. And I don't think it could have been disaggregated
12 further, though I didn't explore that in great detail. There
13 is also just an issue of time for essentially an \$8,000
14 contract that would have been a substantially increased
15 work to have done it on a lower level than that, which I
16 did it.

17 Q I see. Now, you are not a planner, as such,
18 you are an economist; is that correct?

19 A Right.

20 Q But, nevertheless, you have had discussions
21 with Mr. Allen and others in which the term Bernards
22 Township Housing Region has been used, have you not?

23 A I am not sure I recall that phrase, but I can
24 imagine what it would mean to me.

25 Q And do you have an understanding, yourself,

1 of what the Township's or Mr. Allen's position is with
2 respect to a Bernards Township housing region?

3 MR. RICKERSON: I object to that
4 question. For one thing, it calls for
5 hearsay, and he's not being offered as a
6 planner or an expert on fair share housing.

7 MR. CITTADINO: I understand the
8 objection, but this is not being offered
9 to prove what Mr. Allen's position is. It's
10 not being offered to prove the truth of the
11 statement made out of Court. It's being
12 offered -- I am asking him the question to
13 determine if he has an understanding. It
14 may be an incorrect understanding, and if it
15 is, it would be a good thing for us to know
16 that he has a misunderstanding. It may be
17 irrelevant, it may be relevant. He's an
18 expert witness. He has done a study, he has
19 indicated he explored the possibility of
20 doing less than countywide investigations;
21 specifically, municipal investigations, and
22 what I would like to know is whether he has
23 any understanding of what the significance
24 of doing less than a countywide study would
25 be and whether he understands the context

1 in which he's working in terms of this
2 lawsuit. Obviously, the -- well, I don't
3 think it's necessary to go on in any more
4 detail. I'm not going to use his statement
5 of what Mr. Allen's position is or the
6 Township's position is with respect to a
7 housing region to prove what their position
8 is with respect to a housing region. I'm
9 using it to find out whether he knows.

10 MR. RICKERSON: But, if he's not a
11 planner and he's only an economist, what is
12 the relevance whether he understands it
13 correctly or incorrectly?

14 MR. CITTADINO: Because he was asked
15 to do a study of all of Essex County. Then
16 he was asked if he could do it by municipality
17 and the relative position of municipalities
18 such as Newark and Millburn may be
19 significant with respect to the housing
20 region that we are talking about in Bernards
21 Township, and I want to know whether he
22 appreciates that there may be some
23 significance to that with respect to choosing
24 an entire county for which to do a study as
25 opposed to doing a specific municipality,

1 which may have more or less relevance to
2 a housing region.

3 MR. RICKERSON: Significance as an
4 economist?

5 MR. CITTADINO: That's right.

6 MR. RICKERSON: Well, the fair share
7 housing analysis that we are talking about
8 is not -- it's a planning technique, if I
9 understand it. It's not something which --

10 MR. CITTADINO: Well, let me see
11 if I can rephrase the question to get around
12 your objection.

13 Q When there was discussion concerning doing
14 your study on less than a countywide basis, was there any
15 discussion as to why there was a desirability on doing it on
16 less than a countywide basis?

17 A I'm not sure. If there was, there may have been
18 some along these lines. I mean, I'm aware --

19 MR. RICKERSON: Don't speculate.
20 If you remember, answer what you remember.
21 If you don't remember, say you don't
22 remember.

23 A I'm not sure.

24 Q You do recall that you were requested or you
25 were asked whether or not you could accomplish this employment

1 projection on a municipal level as opposed to a county
2 level, you recall that?

3 A Right.

4 Q And you don't recall that anyone told you
5 why it would be desirable to have you do it that way?

6 A The question came up during a meeting. I'm just
7 not sure -- I mean, I'm not sure whether Bill Allen told
8 me or not.

9 Q Do you know whether he ever did?

10 A No.

11 Q You've never had any discussion with
12 Mr. Allen concerning the relative desirability of doing a
13 countywide study as opposed to a municipalwide one?

14 MR. RICKERSON: I think he said he
15 doesn't remember.

16 MR. CITTADINO: I am entitled to
17 press him on the point now.

18 MR. RICKERSON: You asked him three
19 times.

20 A I didn't say I never had discussion. I said I
21 don't recall for sure whether I had discussion.

22 Q I see. Is it your testimony then that you
23 being an economist, you were merely hired to do employment
24 projections for counties that were given to you, provided
25 to you, and that you, although you made investigation as to

1 whether or not you could pursue the matter on a municipal
2 level, you don't recall what those conversations were about?

3 A First of all, in the initial contract, I think the
4 counties were not -- I'm almost certain they are not
5 specified. I think the substance of the contract was that I
6 would do employment forecasts for several counties to be
7 mutually agreed upon between the two of us. At some point
8 I must have told them I was going to do the six counties,
9 if they thought I should do otherwise, they should tell me,
10 but I don't recall the explicit discussion of which six
11 counties. I think it gradually evolved as we went along,
12 given that Allen had did those six counties and given I had
13 said in my letter it wasn't clear to me, I could go below
14 the county level.

15 Q Have you prepared a fair share analysis
16 for Bedminister Township?

17 A No.

18 Q You have not. Have you done any research
19 or have you any experience with calculations of fair share
20 for housing for any municipalities?

21 A No.

22 Q Have you any experience with determining
23 housing needs in municipalities?

24 A I have read some of the literature, but I never done
25 specifically research, myself, in that area.

1 Q What have you read, I mean, specifically,
2 that you can think of?

3 A Let's think. These are now three or four. Well,
4 while I was at the Wilson School, I taught a course on
5 housing policy and I taught it jointly with another person
6 and it was the other person who taught that week. I know
7 I did the reading for it, which I think consisted of three
8 or four miscellaneous planning documents for various areas.
9 One I know for John Kim for Middlesex County.

10 Q You say you taught a course on housing
11 policy?

12 A Jointly with a member of the planning school
13 faculty at Princeton.

14 MR. CITTADINO: Off the record.

15 (Thereupon, an off the record
16 discussion is held.)

17 (Back on the record.)

18 Q Let me show you something, which has been
19 previously marked as A-8, consisting of a memorandum from
20 Jim Ohls to Charlie Agle.

21 A Right.

22 Q And then an outline of possible research
23 project for Bernards Township.

24 A Right.

25 Q Essentially, what does that first paragraph

1 say?

2 A Essentially, that these are preliminary discussions
3 for a tentative research project on fair share housing,
4 preliminary outlines or ideas for research project on fair
5 share housing for Bernards Township.

6 Q What facts are you aware of or qualifications
7 are you aware of that would give you any kind of expertise
8 to do a fair share project on housing?

9 A Well, first, I think, as I say, I have read the
10 literature, I know where to find it, and I think could bring
11 myself up to speed, if I had the time. I think in this
12 document I proposed the use of a consultant named Michael
13 Danielson. I did. At the Woodrow Wilson School, who is
14 a political science professor there, who has done a lot of
15 work in related matters.

16 Q And didn't you also discuss the possibility
17 even in this litigation of conducting a broader analysis
18 with Mr. Agle, which would start with employment projections,
19 as you have done here, then move to population projections
20 and move to fair share?

21 A As I said about a half-hour ago.

22 Q You did say that?

23 A As I said, we talked about that and I was prepared
24 to do it.

25 Q All right.

1 And in your discussions with Mr. Agle and your
2 discussions possibly with Mr. Allen, did you become aware
3 of what they believe to be the Bernards Township housing
4 region?

5 A I became aware of their general thinking on the
6 matter. I'm not inclined to say I became aware of that
7 particular phrase because it may be well defined and if it
8 is -- I don't recall that phrase. I think I have some
9 notion of what they had in mind.

10 Q All right. Now, in preparing your report,
11 you indicate that you had the benefit of Mr. Allen's fair
12 share analysis for Bernards Township?

13 A Right.

14 Q And in his analysis for Bernards Township,
15 isn't it true that he uses for the relevant housing region
16 a ten-mile --

17 A Yes.

18 Q -- radius from the center of the population
19 in Bernards Township?

20 A Yes.

21 Q All right. I'm going to represent to you
22 that this circle on this map that we have previously marked
23 as PJO-4 for identification represents a ten-mile radius
24 from the population center of Bernards Township.

25 A Right.

1 Q And as you can see, the circle extends
2 through the lower portion of Morris County, does not reach
3 Essex County, extends through the western, extreme western
4 edge of Union County, the northwestern corner of Middlesex
5 County, and about half of Somerset, the northern half of
6 Somerset County, and eastern portion of Hunterdon County.

7 Does that comport with your own knowledge of the
8 area and does that appear to be accurate to you, an
9 accurate reflection of the ten-mile radius?

10 A Roughly, it appears to be.

11 Q Now, how is an employment projection for
12 Essex County at all relevant to a housing region if we were
13 hypothetically to define a housing region as this ten-mile
14 circle on the map?

15 A Okay. I think we have to go back to the sense in
16 which Allen uses the ten-mile circle.

17 Q Okay.

18 A In the report. Allen's methodology essentially is
19 based on an assumption that there's a relationship between
20 the probability there's a relationship between distance from
21 Bernards Township and the probability of a worker living at
22 that distance -- working at that distance actually living in
23 Bernards Township. The farther out you get, the lower the
24 probability of a worker at that far out region actually
25 living in Bernards Township. He has, essentially, a declining

1 expediential mathematical relationship between distance
2 and probability of living in Bernards Township.

3 Q Okay.

4 A That relationship has certain parameters in it
5 that he has to choose in order to actually put in numbers
6 through his system and the ten -- as I recall, and I actually -
7 let me look at this first for a second.

8 Q Sure, go ahead.

9 A To make sure I'm right before I confuse things.
10 Okay. That's the mathematical relationship.

11 MR. CITTADINO: Let the record
12 reflect that the witness is referring to
13 Page 8 of the Fair Share Analysis marked
14 PJO-2 for identification and is referring to
15 an equation, which appears in the upper
16 one-third of the page.

17 A May I just, to hedge, let me say my paraphrase a
18 while ago is indeed a fair phrase of what he's doing. It
19 couldn't purport to be an explicit statement of what he's
20 doing.

21 Q No problem.

22 A He needs a parameter to plug into that relationship
23 in order to manipulate his numbers. The more spread out
24 you think pop -- the residents of Bernards Township are
25 and where they work, the either higher or lower the parameter

1 I'm not sure whether it's negative or positive. The
2 parameter he chooses is one that will make it be the case
3 in his math that fifty percent of the people who -- I'm
4 sorry, let me make sure I get it right.

5 Okay. Essentially, the parameter he computes,
6 if I am not mistaken, is one that makes fifty percent
7 of the people living in Bernards Township commuting less
8 than ten miles. And the converse of that is well, fifty
9 percent of the workers in Bernards Township commuting less
10 than fifty miles -- ten miles and hence, fifty percent
11 also commuting more than ten miles. Okay. So there is no
12 assumption in Allen's methodology that all the people
13 living in Bernards Township work within ten miles. Indeed,
14 quite explicitly there's an assumption that half of them
15 live within ten miles. I'm not sure exactly how he uses
16 the phrase. That's why I am glad now I was careful before
17 in disavowing explicit knowledge of how he uses housing
18 region. Essentially, what he's assuming is fifty percent
19 of the people live in Bernards Township are within the
20 circle, but there are, therefore, significant numbers of
21 Bernards Township residents working in the distance beyond
22 the circle. The farther out you go, the lower the
23 proportion living that far out. Indeed, it's consistent
24 with his assumption to assume that there are a few
25 Bernards Township residents working even in counties not

1 included, like Warren or Mercer. Does that make sense?

2 I mean, I can go through that again.

3 Q No. I understand what you are trying to
4 say. Just hold on a second.

5 A That's related to the question asked me because it
6 means that, in fact, there are a significant -- under his
7 assumptions, there are a significant number of Bernards
8 Township residents working in Essex County, even though
9 Essex County is beyond the ten-mile radius.

10 Q I see. Are you aware of any relationship
11 or the converse of fifty percent of the people in Bernards
12 Township working within a ten-mile radius? Is there a
13 converse to that, that is equally true in Mr. Allen's
14 formula?

15 A Well --

16 MR. RICKERSON: Maybe you should
17 explain converse. I'll object to the form
18 of the question so you can tell him what you
19 mean by those words.

20 Q Well, in other words, would it be equally
21 true that there are a significant number of people residing
22 within the ten-mile radius? Well, hold on a second.

23 That fifty percent of the people who reside or
24 fifty percent of the people who are employed in Bernards
25 Township reside within ten miles of Bernards Township?

1 A I believe that's true. I mean, again, I haven't
2 carefully reviewed Allen's report for some time, but as
3 I recall his methodology, that makes sense. If it was
4 very important, I would want to take an hour off and
5 re-read his report carefully.

6 Q Just one basic theoretical question I have
7 for you with respect to your expertise in economics.
8 Perhaps you can help me. How does one construct a model
9 such as the one that you examined that was constructed by
10 Mr. Allen and upon which you've relied in your report in
11 the section in which you are dealing with implications for --

12 A I am not sure. I guess I would object to the use
13 of the word "rely".

14 Q It is not up to you to object now. I understand
15 rely may not be the word that I want to use. The word I am
16 looking for is that you used in your report in order to
17 extrapolate your figures into some significance for Bernards
18 Township.

19 MR. RICKERSON: Perhaps if you don't
20 like that particular word used, you could
21 qualify the word or use your own word so you
22 can best explain your meaning.

23 A The phrase that I think I used in the report is
24 that with respect to which I showed the implications of
25 my employment forecasts.

1 Q Right. In any event, assume for a moment,
2 if you will, that a model of residential patterns and
3 employment patterns is constructed in an area, and this is
4 a hypothetical question now, in which there has been
5 exclusionary zoning such that those which would prohibit
6 those people with low and moderate income housing budgets
7 from living in those areas, isn't it true, then, if you
8 assume that you are trying to construct a model and you are
9 dealing with an employment center, but you are also
10 dealing with an exclusionary zoning scheme, that the zoning
11 scheme, itself, because it doesn't, the zoning scheme,
12 have an effect upon where people -- wouldn't it have an
13 effect upon where people live with respect to where people
14 work?

15 MR. RICKERSON: Read the question
16 back.

17 (Thereupon, the Court Reporter
18 reads back the pending question.)

19 Q I want you to try to deal with this
20 question: If you have in an area an exclusionary zoning
21 scheme, as well as an employment center, okay?

22 A Right.

23 Q Isn't it true that the exclusionary zoning
24 will have an effect on where people live and that you can't
25 simply make a prediction of where people will live based

1 upon where they work?

2 MR. RICKERSON: I will object to
3 that question. I don't know what you mean
4 by "exclusionary zoning" or "scheme" or
5 "employment center".

6 MR. CITTADINO: If he understands
7 what I mean, perhaps he can tell me what
8 he interprets it to mean before he answers
9 the question.

10 MR. RICKERSON: You are asking the
11 question. You have got to tell him what
12 you mean. He might put different meaning
13 on the same words.

14 MR. CITTADINO: What is your objection?
15 Let me take the objections one at a time.

16 MR. RICKERSON: I object to the form
17 of the question because it uses words which
18 are not precisely defined, I don't think, by
19 anyone, such as exclusionary zoning, scheme,
20 employment centers, things like that.

21 Q All right. Well, let's deal with
22 exclusionary zoning scheme, number one. By exclusionary
23 zoning in the question, I mean residential zoning which
24 prohibits those with low income and moderate income from
25 living in an area where they might be closer to where they

1 work. Let's make a specific example. Let's say the
2 A.T.&T. complex in Bernards Township employing a large
3 number of people. Isn't it true that the places where
4 those people live are not only affected by the place of
5 their employment, but also by -- and I'm not asking you to
6 make any conclusion with respect to what the zoning is or
7 isn't, but wouldn't it be true that places where they live
8 would be affected by zoning which prohibited someone of
9 moderate or low income from living there?

10 MR. RICKERSON: I still don't
11 think you've cleared up the question
12 sufficient that either I or Dr. Ohls can
13 understand it.

14 Q Well, let's just say this: Can zoning
15 affect housing location?

16 A Yes.

17 Q Okay. And do income levels affect where
18 someone -- the relationship between place of work and place
19 of residence? I'll repeat the question.

20 A I'm just thinking about the answer. I guess I'm
21 not -- my guess is that they might, but I'm not aware of any
22 systematic research that examines that question directly.
23 You asked me whether incomes affect the relationship between
24 distance and residential.

25 Q Not necessarily distance, but location.

1 A Location and work. I mean, it's clear that
2 incomes affect location. Whether they systematically
3 affect the relationship between location of residence and
4 location of work place is not clear to me.

5 Q All right. Let's get away.

6 A I don't think you need that for your point.

7 Q Let's get away from zoning and talk more
8 about housing costs, then.

9 Wouldn't housing costs affect necessarily where
10 someone would work as opposed to where they reside or
11 where they reside as opposed to where they work?

12 MR. RICKERSON: Now, which is it,
13 housing costs affects where you work?

14 MR. CITTADINO: Where you live as
15 opposed to where you work.

16 A I guess phrasing it I am more comfortable with
17 I think, all you need for the points you seem to be making
18 is, I think, where you live is affected both by the price
19 of patterns of the price of housing in the vicinity of where
20 you work and by where you work.

21 Q All right. And to your knowledge, does the
22 JORD formula of Mr. Allen consider the price of housing in
23 the computations of where people work and where they live?
24 Specifically, is that cranked in somewhere?

25 A Not directly, though. He says, I think either in

1 this report or in an earlier discussion of JORD housing,
2 which I may have read, that his choice of the parameter
3 to use in that formula that led to fifty percent of the
4 people living within ten miles, the choice of that
5 parameter was based to some degree on observed data, and I
6 don't recall which. I think he had some data from two.

7 Q He used the methodologies based on
8 RCA data in Bridgewater, isn't that true?

9 A That sounds right. That's what I'm referring to.

10 Q He had the place of work of Bridgewater
11 RCA employees and from that relationship he made a
12 mathematical formula?

13 A In fitting his general mathematical formula to the
14 facts, to the data, he made use of obviously the existing
15 data, the existing data clearly reflected the structure of
16 housing prices at that time.

17 Q So then his conclusions based upon the
18 existing data, which included housing prices at that
19 time, was based upon whatever the present housing situation
20 was, wasn't it?

21 A Based in part.

22 Q And it would not necessarily be the same
23 if there were say, in other words, if lower cost housing
24 were available closer to Bridgewater and take the RCA
25 example?

1 A The observed patterns could well be different.

2 Q The patterns could well be different. Then
3 his model would be different?

4 A Yes, economists use model in a very technical
5 sense. I mean, as it's used usually in the economic
6 literature, the model refers to the generalized conceptual-
7 ization of the thing. It is not clear that would be
8 different, but specific parameters that are used to actually
9 fit numbers to the general conceptual --

10 Q The numbers might be different?

11 A The numbers might be different.

12 (Break.)

13 (After the break.)

14

15 QUESTIONING BY MR. HILL:

16 Q Mr. Ohls, what kind of economist are you,
17 how do you describe yourself?

18 A Generally, as an applied micro-economist. At
19 Princeton I taught courses in Housing Policy, Urban
20 Economics, Public Finance, principally.

21 Q Have you had occasion to construct free
22 market models? Have you in your inquiries academically
23 as an economist, attempted to ascertain how the market would
24 operate absent certain kinds of government controls?

25 MR. RICKERSON: Free market meaning

1 in what field?

2 MR. HILL: Well, in any field.

3 A Essentially, the answer to your question is yes.
4 Though, any time you do any market model, you are assuming
5 at least property rights and so that I mean, you are assuming,
6 I think, in any modeling work, you are assuming some
7 government controls, at least property rights. Then the
8 question becomes what government structure you are assuming.

9 Q Well, you are familiar, are you not, with
10 the fact that the New Jersey Supreme Court a little over a
11 year and a half ago made a broad declaration of general
12 public policy that a municipality should not through its
13 zoning exclude its fair share of low and moderate income
14 housing?

15 A Yes.

16 Q And if that is the public policy, then the
17 problem for economists and planners is to construct a
18 methodology that would ascertain accurately what a
19 municipality's fair share of low and moderate income housing
20 might be absent housing costs being artificially manipulated
21 upwards by government regulation, i.e., exclusionary
22 zoning?

23 MR. RICKERSON: I object to that
24 question. For one thing, you have told him
25 what the public policy is in your words. Now

1 you are putting a further gloss upon that,
2 and I don't think it's capable of answering,
3 at least in that form.

4 Q Well, my question to you is how would an
5 economist or a planner or in your opinion, go about the
6 problem of determining what a municipality's fair share of
7 housing might be absent governmental regulations, which
8 might artificially increase the cost of housing in certain
9 areas?

10 MR. RICKERSON: Now you are asking
11 him to speculate and to grade, whatever.
12 I should think that you will use this to
13 grade what someone has done, either your
14 planner or other planners in the State, and
15 I object to it on that ground.

16 MR. HILL: Well, you can object,
17 Mr. Rickerson. If you intend to offer him
18 as an expert, we are entitled to ask him
19 questions.

20 MR. RICKERSON: We are offering
21 him as an expert, as an economist who has
22 done this study.

23 MR. HILL: Are you directing the
24 witness not to answer, Mr. Rickerson?

25 MR. RICKERSON: He is neither a

1 lawyer and so doesn't know, nor do many
2 lawyers, what Mount Laurel means, and I don't
3 think the question you pose to him is a
4 fair question.

5 MR. CITTADINO: Off the record.

6 (Thereupon, an off the record
7 discussion is held.)

8 (Back on the record.)

9 MR. HILL: There is no sense, Ben,
10 in trying to persuade Mr. Rickerson our
11 questions are fair. He can either rule on
12 them or not rule on them and we can move
13 appropriately.

14 Are you directing him not to answer
15 the question?

16 MR. RICKERSON: In the form that
17 you have asked?

18 MR. HILL: Yes.

19 MR. RICKERSON: Right.

20 Q Did you give McCarter and English or
21 Bernards Township a proposal, did you not, which rather
22 broadly determined what their fair share might be?

23 A Yes.

24 Q And in submitting that proposal, you held
25 yourself out, I take it, as qualified to conduct that study

1 with the assistance outlined in the report?

2 A Yes.

3 Q And was the outline of possible research
4 project, which we have marked as A-8, principally your
5 work?

6 A Yes.

7 Q And did you address the problem of how a
8 municipality's fair share might be determined?

9 MR. RICKERSON: The witness has
10 testified that much of this work would be
11 done by another person. The outline may be
12 his, I don't know whether the rest of that
13 is his.

14 MR. HILL: Are you directing the
15 witness not to answer?

16 MR. RICKERSON: Read the question.

17 (Thereupon, the Court Reporter
18 reads back the pending question.)

19 MR. RICKERSON: Are you asking how
20 it might be one of many ways in which it
21 could be determined, the way he might have
22 chosen or several from among he might choose
23 one; is that right?

24 MR. HILL: The question speaks for
25 itself, Mr. Rickerson.

1 MR. RICKERSON: Okay.

2 A I don't recall that proposal in detail. I'm
3 sure I listed several factors. I think most of them
4 taken from the Governor's executive order, which might well
5 be considered in developing a fair share estimate.
6 I'm not sure. If you want, I can look at it. My
7 recollection is that I didn't go into any detail about the
8 method, the way in which those factors would, in fact, be
9 used.

10 MR. RICKERSON: Would it help you
11 to look at the exhibit?

12 THE WITNESS: Depends what he wants
13 more.

14 Q In tackling the problem of what an economist
15 might contribute to the problem of determining what a
16 municipality's fair share of a broad spectrum of housing
17 might be, what contributions can an economist, in your
18 opinion, make?

19 A Okay. I think in preparing to do that large a
20 project, I think it may be worth pointing out that to the
21 extent that I was going to do it, myself, I think to some
22 degree I would not have been functioning as an economist,
23 at least the way most of the profession defines economist.
24 But, rather as a broadly, a social science researcher.
25 I'm not sure that there's anything in the economics literature

1 that would help you. Basically, the problem is to define
2 the word fair. Okay, what's fair? I'm not sure there's
3 anything in the economics literature that is going to go
4 very far in helping you define what's fair, and indeed,
5 what's fair presumably is determined in the end through the
6 political process broadly defined.

7 Q One of the ways, is it not, that an economist
8 determines what the effects of a certain government
9 regulation might be is to construct a free market model?
10 Have you heard of that?

11 A Yes, of course, I have heard of that. But, the
12 issue, as I see it, was not to determine what the -- I mean,
13 one state of the world would be a world without zoning,
14 just no zoning laws. While it's a very hard problem, it is
15 within the province of the economists as the profession
16 usually defines the discipline, to try to guess or try to
17 predict what residential patterns would look like in a world
18 with no zoning, or we could predict what residential
19 patterns would look like under any other zoning configuration,
20 explicit zoning configuration you care to offer. That's
21 a different task. That's not the same thing as defining
22 what fair housing is, which is really defining what zoning
23 ought to be. But, that's not a task that economists
24 usually do.

25 Q Well, getting away from zoning, isn't it

1 true an economist, in order to determine what the effect
2 of a tariff might be, has to construct a model as to
3 what one approach is to construct a model and determine
4 how the economy might operate without any tariffs, then
5 determine how it operates with different levels of tariff,
6 so that you can make the broadest kind of social policy
7 choices?

8 A Sure. That's different from defining fair housing,
9 but that's what you just described, which I think is quite
10 analogous. What I just described about zoning is something
11 that is in the purview of economics.

12 Q What do you call that analytical technique
13 of creating a free market model and analyzing how the
14 economy operates on that free market model as opposed to
15 how it operates with different government regulations?

16 A Yes. I mean, I have objected before to the use
17 of -- I'm not sure the phrase, I'm sorry. Object to is
18 a loaded word here. I have said before I am not sure the
19 phrase free market is quite well defined there, but
20 essentially, what described is model. You attempt to
21 create models under various forms, which shows how the
22 economy would operate under various forms of regulation.

23 Q Well, isn't one of an economist's
24 disciplines in evaluating such models an ability to judge
25 which models accurately, really portray the market in its

1 freer state as opposed to those models which are inherently
2 biased? Have you had any training along or any experience
3 looking at models?

4 A What economists do and what I claim to be able to
5 do is build models which attempt to predict what an
6 economy would look like under various forms of government
7 regulation, and part of that task obviously is judging
8 if you have two models, which attempt to predict the same,
9 what the economy would look like under the same set of
10 regulations, then I attempt to judge which of the two
11 is more likely to be correct.

12 Q All right. Now, with this background in
13 modeling, how would you go about the task of, in the
14 broadest general terms, of ascertaining what a municipality's
15 fair share of low and moderate income housing might be if
16 the purpose of your model is to test against and to evaluate
17 the possible effects of government regulation, which tend to
18 increase housing costs?

19 A Read the question again.

20 (Thereupon, the Court Reporter reads
21 back the pending question.)

22 A Again, maybe we are getting hung up in a word, but
23 I think what I just said is my modeling background doesn't
24 let me ascertain what fair share might be, because fair
25 share is, at least so far, not defined. I mean, I can

1 ascertain in principle, but it's a very difficult task.
2 I can try to ascertain the amounts of housing that would
3 be in a municipality under various configurations of
4 government constraints. That I can do. But, telling you
5 what the fair share might be, I can't do, because you
6 haven't told me what fair share is and there's nothing in the
7 economics literature that tells me what fair share is.

8 Q Well, could you create a model which would
9 determine who might live in a given municipality, given
10 certain employment, with unlimited housing available in
11 that municipality, all the way up from subsidized housing
12 to the highest priced ranges?

13 A Given time, I could construct a model that would
14 do that as well as I think any other economist. I mean,
15 as I emphasize in my report, economics is not a perfect
16 science by any means. But, in principle, that's the sort
17 of thing that economists, in general, and I, in particular,
18 could try to do.

19 Q So the purpose of constructing such a
20 model would be to test that model against who actually
21 lives in a municipality in order to isolate what affects
22 regulation might be, would it not?

23 A I'm not sure I understand the question. I mean,
24 you can -- I'm not sure what you mean by test against. Who
25 actually -- okay. You mean to just compare who would live

1 under zoning policy A, against who lives currently under
2 zoning policy C. If that's our correct policy.

3 Q Right.

4 A A model could be used in that way, yes.

5 Q All right. I'm not asking you to testify
6 with respect to the JORD model. I will give you a
7 hypothetical question. Let us assume that the JORD model
8 or model A, was created by analyzing the residential
9 patterns of RCA workers working out of a certain plant in
10 Bridgewater Township, and Bridgewater Township is on your
11 map. It's right here. And that Mr. Allen or the model
12 developer, whoever you choose, had a list of all the people
13 work worked on the plant, worked in the plant, and where
14 they live by municipality, and what their income ranges
15 were, and using that information, developed a mathematical
16 formula, giving residential distribution around Bridgewater
17 Township. Let us further assume that Bridgewater Township
18 was located in Somerset County and that many of the
19 municipalities around Bridgewater Township, including
20 Bridgewater Township, itself, had adopted governmental
21 regulations; the effect of which was to unnaturally increase
22 the cost of housing way above its natural level.

23 Now, my question is, given those, given one, the
24 fact of exclusionary zoning around Bridgewater Township and
25 in Bridgewater Township, and two, given the fact that that

1 housing was used, the RCA housing patterns were used to
2 create the JORD model, would that model, in your opinion,
3 represent a proper, ideal free market kind of model?

4 A Okay. First of all, just a mild caveat. You talk
5 about natural level of prices, and again, that's a word
6 that just isn't defined in the economics literature. I
7 think what you probably mean in my jargon is prices that
8 would prevail in the absence of zoning.

9 Q Yes.

10 A Okay, fine. Okay. I think it seems clear that
11 data based on a situation, which includes zoning, is not
12 perfectly suited to predicting what the world would look
13 like under a different configuration of zoning or indeed
14 with no zoning, which is one possible configuration. As
15 I said before, economics is not a perfect science. It's
16 conceivable to me that if I thought about the issue a lot
17 more and indeed I would want to think about it a lot more,
18 investigate other data sources, I would, in the end,
19 decide that was the best state to use in the perfect data
20 set to use would be data taken by some equivalent of
21 Bridgewater and some other state, which looked exactly like
22 New Jersey, but didn't happen to have zoning. That perfect
23 data set doesn't exist. Given that it doesn't, given the
24 data limitations that any researcher doing that sort of
25 task would face, it might or might not be the case that the

1 Bridgewater data was the best available and I wasn't
2 paid to look into that matter and it's not a trivial task
3 to do it. You would want to look very carefully at other
4 data sources.

5 Q Isn't it true as a general statement that
6 if you were to use that as data for your model, that any
7 exclusionary zoning patterns existing in the model would be
8 carried through and be incorporated as a bias with the
9 model used later?

10 MR. RICKERSON: I object to the form
11 of the question only because we've already
12 made the distinction between model and
13 modeling and data source, and I think that
14 question might confuse the distinction that's
15 been made. See what I'm getting at?

16 MR. HILL: What word?

17 MR. RICKERSON: Model. Maybe you
18 should define model again.

19 MR. HILL: Bias is, I believe, a
20 statistical term.

21 MR. RICKERSON: No, I'm not worried
22 about that.

23 A Instead of the model being biased, it may be the
24 results, the noun you want to use are the results biased.

25 MR. RICKERSON: The data source is

1 what came out of in your hypothetical,
2 the RCA research. The model, itself, is
3 something which that data base is applied
4 to. Is that right?

5 THE WITNESS: Yes. Right, that's the
6 way I was using the words.

7 Q Well, in a hypothetical situation, were I
8 to construct a plant in an area that required a hundred
9 acres as a minimum lot size, and that every worker at the
10 plant who couldn't afford to buy a hundred acres to build a
11 house had to travel twenty-five miles to get out of my
12 hundred acre zone, if I were to take the data from that
13 plan and use it in New Jersey in order to ascertain whether
14 or not a given zoning scheme was exclusionary, do you think
15 that that would be a proper use of data and a proper
16 modeling technique?

17 A Let me just rephrase your question. I mean, if,
18 if such a situation -- you could not in such a situation
19 use those datas properly, those data properly to predict
20 what a free -- nonzoning residential structure might look
21 like. I think I'm agreeing with the essence of your
22 question.

23 Q You could not use it properly.

24 A In that stream.

25 Q Were your tasks as a researcher, as a social

1 scientist as opposed to your task for a witness for one
2 side in specific litigation is to obtain, is to give, is to
3 obtain results which can lead to reasonably well-guided
4 policy decision, is it not?

5 A Yes.

6 Q And did you understand that a part of your
7 task was to assist Bernards Township in evaluating its
8 own zoning in order to ascertain whether it, in fact, was
9 exclusionary? Did you understand that to be a part of
10 your task or part of the ramifications of your work?

11 A A part of my task, I think, was to provide informal
12 comments to Bernards Township officials. I mean, in all of
13 the related matters. I'm not sure it was ever explicitly
14 said I would give them my opinion as to whether their
15 zoning was exclusionary; nor do I think I did, but indeed,
16 we agreed there was the Allen documents and there seemed to
17 be the possibility of other Allen documents or similar
18 documents. We agreed I would read them and give them any
19 comments that occurred to me on relatively quick reading.

20 Q Did you give them comments?

21 A Yes.

22 Q What comments, what do you recall? Did
23 you reduce those comments to writing?

24 A I think at least once, perhaps twice.

25 Q Do you have a copy of those writings?

1 A No, I could supply them.

2 Q Would you certainly supply them?

3 A Sure.

4 MR. HILL: Do you have a copy,
5 Mr. Rickerson?

6 MR. RICKERSON: I don't.

7 Q Do you recall the gist of any of those
8 comments?

9 A I mean, I would say the essence of them was that
10 while details might be done differently, that while I
11 might do details differently, indeed, if I had time to think
12 about it, I might even adopt a whole new strategy. What
13 they did didn't seem to be unreasonable to me. It seemed
14 on the face of it reasonable.

15 Q Did you make any comments with respect to
16 whether or not the use of the RCA data in Bridgewater was
17 appropriate as the cornerstone to the entire methodology?

18 A I may have. I'm not sure. I mean, it occurred to
19 me that if more data were available, it would be nice to
20 use it. And whether I mentioned that explicitly to them,
21 I just don't recall.

22 Q Are you aware that there are cities such
23 as Houston that has no zoning?

24 A There are very restricted, a strong set of restricted
25 covenants and also just a whole economic structure far different

1 from Somerset County, New Jersey.

2 Q Did you make any comments either about the
3 use of the RCA data, that you recall?

4 A As I say, I may have, but I don't recall doing so.

5 MR. HILL: Go ahead.

6
7 DIRECT EXAMINATION BY MR. CITTADINO, (CONTINUING):

8 Q Well, I'd like you to look at your
9 report that you provided. I thought I had asked you earlier
10 whether you had provided any other written information
11 to any party to this litigation. You indicated this was the
12 sole document that you provided.

13 A I'm sorry.

14 Q You weren't thinking in the same context.

15 A I just wasn't thinking. This is the product that
16 was produced at the end. The others are both products,
17 I would suspect in July. Probably one of them is dated
18 September.

19 Q Is there any other document, now that you
20 have had a chance to think about it and relaxed from our
21 initial conversation, that you provided to any party in
22 this litigation with reference to the subject matter of this
23 action?

24 A Again, I don't recall any.

25 Q Now, the first thing I'd like to ask you

1 about, this report we talked about the choice of six
2 counties and you indicated, am I correct, that the choice
3 was dictated by the six counties used by Mr. Allen in his
4 fair share analysis?

5 A Right.

6 Q Now, the time frame is something I'd like
7 to ask you about, 1976 to 1982. What relevance does that
8 time have?

9 A Again, that was done consistently with Allen or
10 done to be consistent with Allen.

11 Q His time frame was six years?

12 A Yes.

13 Q From the what, the date of the adoption
14 of the ordinance until a revaluation, six years later?

15 A As I recall, he uses the years '76 to '82.

16 Q Now, with respect to employment estimates
17 and projections in counties in general, are you aware of
18 other people, agencies, et cetera, who've come up with
19 employment projections?

20 A Well, I mentioned two in the report. I mention an
21 earlier Rutger's study.

22 Q The Modeling State Growth?

23 A Right, and the State Department of Labor and
24 Industry's work.

25 Q All right. And neither one of those studies

1 deals with the same time period that you deal with?

2 A That's right, and I don't know of any that does.

3 Q So you knew, then, at the outset of your
4 research, then, that there were no other studies to which
5 your results could be compared within those particular
6 time frames?

7 A Yes. I mean, I didn't know of any.

8 Q But, you knew that when you started that
9 there wouldn't be any?

10 A That's right.

11 Q Now, you indicated that you relied upon
12 County Business Patterns for some base line data?

13 A Right.

14 Q What line of reasoning led you to that
15 particular source of data?

16 A Well, again, it's discussed in the report.

17 Q I know it is. I'd like to hear it from
18 you.

19 A The line of reasoning was essentially consider the
20 possible alternatives and try to consider which was the
21 best. One major alternative was the State Covered
22 Employment Trends data. That was restricted because of
23 potential problems, which Allen, who uses that data, mentioned
24 because of corrected problems, which Allen, who tried -- who
25 uses the data, mentions in his report, in Allen's report,

1 that the coverage of the unemployment insurance statistics
2 or system has changed over time, and there appear to be
3 no obvious way of correcting for possible problems caused
4 by that.

5 Q Could you just determine what points it had
6 changed and what degree it would affect people covered in that
7 process?

8 A It would have been possible to determine that. I
9 didn't. I mean, I could have gone more deeply into that.
10 Again, one can't pursue all lines completely on what, by
11 my company standards is a very, very modest budget, and
12 you have to make choices without pursuing everything, and
13 one choice I made that that probably wasn't the most
14 fruitful line, path to follow.

15 Q Do you recall what the date of the current
16 County Business Patterns that you had access to was when
17 you were preparing your report?

18 A As I said in the report, the data base that I used
19 was, in fact, not assembled by me, but assembled by a team
20 of researchers at Rutgers, who are in the process of using
21 it for other purposes. They had available published data,
22 as I say in the report, through I believe '73, and had
23 contacted the Department of Commerce in Washington to
24 obtain preliminary data for '74 and '75.

25 Q All right. Now, your report does set out

1 what you consider to be the employment growth projections
2 for the six counties, and then you do reach some
3 conclusions with respect to the implications of your
4 results for Bernards Township population predictions. Is
5 that correct?

6 A Again, the way I'd like to phrase it and the way
7 I think I do phrase it in the report is that I show what the
8 implications of my employment forecasts are when coupled
9 with the Allen fair share methodology.

10 Q I see. But, you do make an analysis of that?

11 A I show those implications.

12 Q All right. Now, referring again to JO-4 for
13 identification, the City of Newark appears on this map,
14 does it not?

15 A Yes. It must be there someplace.

16 Q The eastern side of Essex County, as does
17 the Municipality of Millburn, in Essex County.

18 A Where is Millburn?

19 Q Over here.

20 A Yes.

21 Q Now, it's true, is it not, that the City
22 of Newark is at the extreme easternmost portion of Essex
23 County and that Millburn is the closest municipality in
24 Essex County to Bernards Township; is that correct?

25 A Right.

1 Q Now, your figures for employment growth
2 projections make no distinction between Millburn and Newark,
3 do they?

4 A I mean, I'm computing essentially countywide totals.

5 Q Countywide. Now, however, you do come to
6 some conclusions as to the implication of your countywide
7 figures for the Bernards Township - Allen methodology,
8 don't you?

9 A Yes.

10 Q However, isn't it true that generally
11 speaking, the Newark growth projection would be less or,
12 in fact, possibly even negative for business as opposed to
13 the Millburn - Livingston area or that there might be
14 significant differences in different parts of Essex County
15 between municipalities?

16 A It's quite possible, yes.

17 Q In fact, in view of your personal experience,
18 is it a fact that Newark is the center city, old, decaying
19 and losing business?

20 A Sure.

21 Q To the more rural, suburban areas in Essex
22 County and elsewhere?

23 A Right.

24 Q Would you agree, after your studying of the
25 Allen methodology and your conclusions with respect to the

1 implications of your work, when applied to the Allen
2 methodology, that his methodology deals on a municipal
3 scale for employment centers, doesn't it?

4 A When I use the Allen methodology, I mean, refer to
5 the package of thinking contained in that report --

6 Q Right.

7 A He develops his JORD methodology.

8 Q Based on municipalities?

9 A Based on municipality level. His employment
10 projections are done as mine are, at the county level,
11 because that's the data he had. So that essentially,
12 what he's doing is getting a JORD relationship for the
13 individual municipalities, then taking an average of that
14 for each county, and then applying the average JORD
15 relationship to the county employment totals.

16 Q I see.

17 A That's what I did, as well. That's clearly the
18 second best, not the best way, to do it. If you had
19 employment projections at the municipal level, you would
20 certainly use them.

21 Q Well, isn't it true that there are some
22 very obvious and significant problems with, for example,
23 using countywide estimate for Essex County in view of the
24 nature of Newark, which is way over here furthest away or
25 one of the furthest municipalities away from Bernards, as

1 opposed to Livingston and Millburn?

2 A I mean, as I said, that's clearly not the first
3 choice you'd make if you had more disaggregated data. It
4 simply is not clear to me without further research the
5 degree to which that is likely to raise problems. I mean,
6 it will raise some problems, and whether those problems
7 are significant, I just haven't done the research to make a
8 professional judgment on.

9 Q All right. But, wouldn't you say, then,
10 that it may be that well, you have said it, yourself. Let
11 me just try to characterize your testimony. You tell me
12 if it is correct.

13 You have indicated that the Allen methodology and
14 the JORD model is based on municipal what, municipal
15 employment centers?

16 A Essentially, yes. Yeah, based on employment
17 disaggregated to the municipal level.

18 Q Fine. And that the employment projections
19 used for the actual numbers of employment are obtained from
20 the county level down. Is that correct?

21 A To the county level.

22 Q At the county level?

23 A At the county level.

24 Q And it may be that there is no relationship
25 between a particular municipality, as far as its share of

1 employment projections for a county is concerned, isn't
2 that true?

3 A I'm not sure. I mean, I am not sure I'd quite put
4 it that way.

5 Q Let me say this: It's true, then, if you
6 have an employment projection for Essex County, all right?

7 A Right.

8 Q And that it's also true that under the
9 JORD formula, it would appear that Millburn has a more
10 significant relation to Bernards Township than Newark does?

11 A Yes.

12 Q As far as where people live as opposed to
13 where they work?

14 A Right.

15 Q And yet, in the statistics that we are
16 dealing with, we acknowledge, I think, that's why I have
17 chosen Newark, we acknowledge that Newark is a decaying
18 city, losing employment, and is much more likely to bring
19 the average of Essex County down much more, have much more
20 of an effect on that average than it has to any relationship
21 to Bernards Township, isn't that true?

22 A Let me just decide if that's correct.

23 MR. RICKERSON: Do you want it
24 read back?

25 THE WITNESS: No, I know what the

1 question is. I'm trying to decide if it
2 is right.

3 A I mean, I'm really not playing games. I just want
4 to work out the math before I agree literally to what
5 you said. The thrust of what you are saying, I think, is
6 the JORD framework implicitly assumes that Millburn and
7 Newark have the same job growth rates, and they don't.
8 I mean, not the JORD methodology, but the aggregation
9 that's necessary because of this data make that implicit
10 assumption. Indeed, it's very unlikely that they do and
11 in this particular pair of municipalities, the results
12 are likely to lead to somewhat lower estimates of **Bernards**
13 Township growth than one would get with a disaggregated
14 methodology.

15 Q Exactly.

16 A Other pairs might lead to different -- other
17 differences, but that pair leads to that bias, that's
18 correct.

19 Q Okay. And we don't know whether it's
20 a wash for the whole situation, do we?

21 A That's right.

22 Q Okay. But, you would also agree that
23 some areas in extreme western Hunterdon County, Holland
24 Township, Kingwood, are extremely rural in character and
25 agricultural in use, wouldn't you?

1 A Yes, indeed I would guess that you would or may
2 get a partial offset there.

3 Q Well, would you get an offset then, though?

4 A Okay. Go on.

5 Q Because these areas aren't developing,
6 are they?

7 A That -- I mean, I haven't looked carefully, but
8 I think probably not, that's correct.

9 Q They are not going to have a very high
10 growth rate, either?

11 A Right.

12 Q So that would also pull down because areas
13 closer to Bernards Township would be developing more
14 quickly than these areas out here, right?

15 A Okay, but that goes against you.

16 Q All right. Tell me how.

17 A Because, let's take Clinton as an area that probably
18 is growing faster than Holland Township way out in the west.

19 Q Yes.

20 A Clinton's relatively rapid growth rate relative to
21 Holland will tend to lead to rapid growth as to Bernards
22 Township. But, Clinton's rapid growth rate is to some
23 extent pulled down when we take the county average by the
24 townships way on the western end of Hunterdon, so to some
25 degree that offsets.

1 Q But, we don't know again what the result
2 is, do we, overall?

3 A Overall, we don't, that's correct.

4 Q And, therefore, the -- well, let's leave
5 that.

6 Let's get to your three major forces that you
7 talk about influencing our -- where are you, Page 5?

8 A Five, yes.

9 Q Now, am I correct in assuming or in stating
10 that the three forces can be characterized as number one,
11 an overall slowdown in the rate of employment growth in the
12 United States; two, the recent trend of dislocation of
13 employment away from the northeastern portion of the United
14 States, where New Jersey is admittedly located, and a
15 statewide trend in movement of employment centers away from
16 the older urban areas and into suburban rural areas of the
17 State?

18 A More than Statewide, I think national trends.

19 Q That's also a national trend?

20 A Yes.

21 Q Now, you've referred to these three forces
22 in your report and can you explain to me how those three
23 forces, if they are at all, are cranked into your formula
24 or into your considerations with respect to the county
25 projections?

1 A As I say in the report, I use two methodologies
2 in the report. Both methodologies are essentially, in
3 part, anyway, extrapolation techniques. One of them also
4 makes use of some national population forecasts. Okay.
5 The first, which is almost pure extrapolation only includes
6 forces which are already apparent in the historical data
7 on which the methodology is, which services the data base
8 for the methodology. The movement out of cities and the
9 movement out of the northeast are both movements which have
10 been ongoing, at least since -- well, for a long time, but
11 certainly to a large extent they have been talked about a
12 lot since the late sixties. So that those movements are
13 clearly both reflected in the ten years of past data that
14 I used to fit my equations.

15 Q I see.

16 A The third force, the force of a slowdown largely
17 as a result of demographic factors in the population, that
18 third force is not included -- well, that slowdown is just
19 now starting to happen. It appears because it is just now
20 starting to happen. It's not included in methodology
21 one very well. It is included in methodology two, which
22 makes use of national population projections which have been
23 carefully done on the basis of census data by other
24 researchers and indeed, the use of the incorporation of that
25 third force in methodology two is my best guess of why

1 methodology two leads to substantially a lower growth
2 rate projections than does methodology one. Did that --

3 Q No, that's fine. However, you are not
4 saying anything in this report with respect to how these
5 three forces in particular are presently working on
6 Bernards Township, are you?

7 A Well, that section was meant -- it appears toward
8 the introduction of my -- toward the beginning of my
9 paper, and was meant to provide some brief look at the
10 context in which the specific numbers and projections
11 involved in my research.

12 Q Let me ask you this: Do you know anything
13 about the overall rate of employment growth in Bernards
14 Township?

15 A I'm aware of the very substantial increases as
16 a result of the A.T.&T.

17 Q So the first powerful force that we were
18 discussing really doesn't apply in the sense to which
19 it's applying to other areas to Bernards Township,
20 particularly, does it?

21 A Which was the first?

22 Q The first, overall slowdown in rate of
23 employment growth.

24 A No, I think more I mean more what I'd say is the
25 second or the third, the movement out of cities and into

1 relatively suburban and rural environments happens to
2 apply with more strength to Bernards Township, specifically,
3 than to most other areas.

4 Q I was going to take them one at a time.
5 We talked about three powerful forces. Now, I have asked
6 you, you referred to overall slowdown in the rate of growth
7 in the United States. I have not argued with you about that.
8 I'm not in a position to admit or deny whether that's
9 a fact, but I'm asking you, and I have asked you whether you
10 are aware of the rate of employment growth in Bernards
11 Township and you have indicated that there's a very
12 significant increase in the rate of employment in Bernards
13 Township, which you are personally aware?

14 A Right.

15 Q So then maybe the conclusion is implicit
16 and we don't have to go any further than that.

17 A What I'm saying is that there are these three
18 forces at work and the final change in population or in
19 employment reflects all three forces.

20 Q Sure. Let's go to the second.

21 A The fact that force three is particularly strong
22 doesn't mean that force one is not applicable. It just
23 means that if you look just at Bernards Township, I think
24 the clear force that predominates is that which led A.T.&T.
25 to locate there, which is probably a special case.

1 Q That works in Bernards Township's favor
2 in terms of employment, doesn't work against Bernards
3 Township as it might in the case of Newark?

4 A That's correct.

5 Q So we talk about two and three, recent
6 dislocations of employment away from the Northeastern
7 portion of the United States where New Jersey is located,
8 however that doesn't seem to have been the case in Bernards
9 Township particularly, because one and three work so much
10 in Bernards Township's favor, the overall effect of these
11 three forces are not negative, but positive?

12 A We agree with that.

13 Q So all of this talk in your report, and
14 it's not meant as a criticism of your report, but the talk
15 in the report of these three powerful forces, which are
16 negative forces on New Jersey and the Northeast in terms of
17 projecting employment, are really not negative forces when
18 we look at Bernards Township, are they?

19 A All right. But, we ought to make the distinction
20 here that what ought to be looked at, what is looked at
21 and what I look at is not employment specifically in
22 Bernards Township, but employment in the Essex County
23 region.

24 Q No problem. And you made those comments
25 with respect to the six county region, not with respect to

1 Bernards Township?

2 A It appears in my introduction in the six county
3 work.

4 Q I have a problem with a footnote that you
5 have here when you are talking about, on Page 10 --

6 A So do my editors, but go ahead.

7 Q On Page 10, footnote one, this is of the
8 document again, which is marked PJO-1, you state in the
9 footnote, "It is not clear whether the Department of
10 Commerce data set we have used or the State data set is
11 more nearly correct in absolute terms. We do not believe
12 that the discrepancy is important for the present analysis,
13 however, since we are estimating rates of change in
14 employment and the two series, while they differ in
15 absolute levels, tend to move parallel to one another over
16 time."

17 Is that really what you are concerned about, a
18 rate of change as opposed to absolute numbers?

19 A I think ultimately what we are concerned with is --
20 well, ultimately what the report is in the Allen
21 methodology is explicitly concerned with is absolute
22 numbers of increase. I mean, on table 5 on Page 22, those
23 numbers in the first row are estimated increase in
24 population. Okay. So it's not total population, it's
25 estimated increase in population. So it's the absolute

1 numbers of increase, which you get by applying a growth
2 rate to a base.

3 Q But, aren't we really dealing here with a
4 starting point in terms of what, choosing County Business
5 Patterns over Covered Employment Trends in New Jersey,
6 which is going to drastically affect where you end up
7 after you apply your rate of increase; in other words,
8 if you start at a different level?

9 A One thing you should say just to clarify a
10 confusion I think you have, is that the New Jersey data
11 set that I'm referring to here is not the Covered
12 Employment Trends.

13 Q I understand that.

14 A But, rather, the State total estimates.

15 Q I understand and they had made estimates
16 to try to cover up for things that were not covered.

17 A That's right.

18 Q But, were actually part of the total
19 employment?

20 A Those bases differ, as I recall, by five to ten
21 percent. Now, to that five or ten percent we are applying
22 growth rates of something like twenty percent, ten to
23 twenty percent. So I mean, the discrepancies essentially,
24 the product of those two fractions create the kind of
25 discrepancies you want. Am I correct in my percentages or

1 am I low?

2 Q Did you --

3 A No, I'm not using by themselves those published
4 datas, as I say in the report.

5 Q Right. You are cranking some other things
6 in?

7 A Right.

8 Q And would you agree with the statement
9 that the employment total reflected by County Business
10 Patterns could be as much as thirty percent from what the
11 actual -- thirty percent lower than the actual total
12 employment in the area because of the people that are
13 excluded, the agricultural?

14 A They print that table every year.

15 Q Is it the same table every year or does it
16 change?

17 A It changes only marginally.

18 MR. CITTADINO: Let's mark this

19 PJO-5.

20 (Thereupon, a document entitled
21 County Business Patterns is received and
22 marked PJO-5 for identification.)

23 MR. CITTADINO: I'll describe this
24 as a photocopy of portions of a document
25 called County Business Patterns, 1973. The

1 original is in Princeton University
2 Library. It's marked, "received April 25,
3 1975" by Princeton, and I'm referring now
4 to a table in our discussions with Dr.
5 Ohls, on Page, I guess marked Page 1 of the
6 main portion table on the lower right-hand
7 side.

8 Q It talks about the statistical base. So
9 when you add up all those figures in that table, and you
10 are familiar with the fact, then, that you, that at least
11 as of 1973, and they could be as much as thirty percent
12 low, what they believed to be the actual true employment?

13 MR. RICKERSON: Excuse me. Where
14 do you get that thirty percent figure?

15 MR. CITTADINO: Well, from the table.
16 It doesn't say thirty percent there, but if
17 you subtract all those people that aren't
18 covered --

19 A It seems to me to be twenty-five percent. As
20 published, the County Business Patterns data excludes
21 something like twenty-five or thirty percent of all
22 employment. As used by me, the data set I used is the
23 County Business Patterns data augmented by the State
24 Department of Labor and Industry estimates for the things
25 excluded in the County Business Patterns data set.

1 Q Now, you did not check County Business
2 Patterns for things that were included in their, you know,
3 in their computations against the State figures Labor and
4 Industry figures, did you, you just used State?

5 A I'd have to look to know for sure, but my
6 intuition is you couldn't because excluded from County
7 Business Patterns is at least a sizable chunk of self-
8 employed people, and if I am not mistaken, the State data
9 doesn't break it out by that. The available State numbers
10 don't give you disaggregated self-employed versus wage,
11 payroll employees. So that that could be wrong, but if that's
12 right, there's no number in the State data, which purports
13 to be an equivalent number there.

14 Q But, there is a number in the State data
15 which includes people who are definitely not included here?

16 A Yes, I believe. Again, it's been a while since
17 I have looked at those data sets, but I believe that to be
18 the case. So there is a number in the State data set that
19 should, by definition, be bigger than numbers reported there.

20 Q Well, now, it's my understanding, and I'm
21 just trying to get this from Page --

22 A Ten.

23 Q -- ten. And also from Page 9 where you say
24 that the data from County Business Patterns does not
25 include information on government and agricultural sectors.

1 These sectors were obtained from New Jersey State
2 Department of Labor and Industry. So there was apparently
3 an area where Labor and Industry said this is --

4 A Oh, I'm sorry.

5 Q This is something that's not included in
6 the Federal, they didn't say that, but it was something
7 they reported, the Feds didn't report?

8 A Okay. But, I think your question earlier whether
9 there were numbers in the County Business Patterns --

10 Q That was my question. There is no way
11 you are saying you can make any comparison between the two,
12 as I recall.

13 A I know I didn't make any. It is not obvious to me
14 in retrospect, I could have. It is something with more
15 resources I might have explored more fully.

16 Q All right. But, now, it is true that
17 neither the State nor the Government, I mean the State nor
18 the Federal source published the sources on Governmental
19 employees; isn't that true? You have got the Governmental
20 employees from somewhere else, even?

21 A No, again I'd want to check my records, but I'm
22 at least ninety-five percent certain that the series on
23 Government employees came from State estimates.

24 Q Okay. And I was not able to find in your
25 report a particular issue or date of the County Business

1 Patterns from which your data base was obtained. You
2 don't know which issue it was obtained from, do you?

3 A Well, as you know, County Business Patterns is
4 published annually.

5 Q Right.

6 A So, as I say, I didn't personally assemble the
7 data set. The Rutgers people did. I assume that they did
8 one of two things; either they copied the numbers from each
9 year, the published numbers from each year, or conceivably,
10 if they were lucky, they were able from Commerce to get
11 a data tape, which had in machine readable form, the
12 entire series that would have saved them a substantial
13 amount of keypunching.

14 Q You don't know what the latest year
15 available to the people who assembled your data base was,
16 do you?

17 A As I say in the report, they use published data
18 up through '73.

19 Q Okay.

20 A And preliminary data, which they had obtained from
21 the Department of Commerce for '74 and '75.

22 Q Okay.

23 A I think that's in the report someplace.

24 Q Well, I didn't read it. Oh, here, yes, it
25 is. Page 10. It certainly is. Not officially published.

1 Okay.

2 Would it be fair to characterize your two
3 methodologies as the first being an extrapolation of past
4 county trends in jobs by industry, and the second one being
5 a projection of a proportional trend of State total
6 employment held in various counties?

7 A I mean, I'd use the same verb with both. In one
8 case I'm extrapolating absolute numbers. The other case
9 I'm extrapolating shares.

10 Q Okay. Are you aware of employment
11 estimates made by county planning boards and by the
12 Port Authority of New York and New Jersey for each county?

13 A Yes.

14 Q Okay.

15 A I mean, I am not in any great detail, but I am
16 aware they exist.

17 Q Did you make any comparison of the results
18 with your results for employment projections?

19 A I had available to me a copy of the Reading
20 Associates report on fair share housing in Bernards or
21 something like that, dated, I think, last Spring, and I
22 remember at one point out of curiosity I looked at the numbers
23 there and tried to see if there seemed to be order of
24 magnitude differences between the various numbers they
25 report, which include these other sources, and mine.

1 Q I'm curious. Excuse me. Go ahead.

2 What about as an economist, just to go away from the
3 specifics of your report a second, do you understand or do
4 you know what I'd be referring to if I were referring to
5 what's called a multiplier effect of primary jobs for
6 an employment center?

7 A I would have a good guess about what you were
8 referring to.

9 Q What would you think if I talked about that?

10 A There is something in the economics literature
11 called economic base theory, which points out that in
12 principle, you can divide jobs in any region into two
13 different categories; those which produce something which
14 are shipped outside the region, either literally or
15 figuratively; legal services, for instance, might be
16 figuratively shipped outside the region. Okay. That's
17 one category. The second category is jobs which involve
18 service, industries which provide services, like retail
19 services to both the employees of the first sector and also
20 the employees of the second sector and the multiplier you
21 are referring to is often used in the literature to represent
22 the relationship between these two.

23 Q All right. Then if I were to give you the
24 following facts, and that is that A.T.&T. were going to
25 introduce seven thousand new primary jobs into the

1 Bernards Township area at a given time, could you, based
2 on your expertise as an economist, tell me how many
3 secondary jobs would be generated by that?

4 MR. RICKERSON: Wait a second.

5 You testified that you generally had an
6 idea what this is about; that you could
7 surmise your best estimate.

8 MR. CITTADINO: If he can't do it,
9 he can tell me that.

10 A When I hedged there, I wanted to find out how he
11 was using the language before I claimed to know it. I
12 do claim in my area of expertise, a familiarity with
13 economic base analysis.

14 Q All right.

15 A I couldn't do it off the top of my head, but I
16 claim the expertise that would allow me to go into the
17 literature and try to develop such an estimate on the
18 basis of --

19 Q Well, what would you have to do to develop
20 an estimate?

21 A Essentially, there are two things I'd have to do.
22 One is figure out where those new folks in Bernards, new
23 workers in Bernards Township are going to live. That's
24 where the secondary employment would find itself.

25 Q Yes.

1 A And secondly, figure out where the -- what the
2 economic base ratio or which is another jargon for the
3 multiplier, seem to be for communities of roughly the
4 size communities that they are going to be. This
5 multiplier relationship is different for different
6 densities. I mean, the multiplier characterizing Newark
7 is likely to be substantially different from the multiplier
8 characterizing Basking Ridge, for instance, because some
9 services that are provided internally in Newark, soda bottles,
10 which is classic in the literature, are not probably
11 provided internally within Basking Ridge. So in any case,
12 what I would do is go out and find out where the folks
13 were living then for where they were living try to make
14 guess estimates based on available data of this multiplier
15 relationship and apply that multiplier to the export
16 industry totals.

17 Q It seems we come full circle now. You'd
18 have to know where they were living in order to do that.
19 But, where they are living might be affected by the cost
20 of housing in Bernards Township, mightn't it?

21 MR. RICKERSON: I object to this.

22 I think when we are talking about general
23 terms, about what his expertise is, what
24 he could or could not do, I think that's
25 fine. He's testified to that. But, to go

1 beyond that, you know, he hasn't been
2 retained for that purpose, and it's beyond
3 the scope of anything that is within his
4 retention here by us.

5 Q In the document, which we previously
6 referred to as an Outline for Possible Research Project for
7 Bernards Township, which was marked A-8 previously, does
8 it indicate your indication, Doctor, on Page 6, what does
9 that underlined portion say there?

10 A That I'm the author of several published articles
11 about housing policy and land use controls.

12 Q And that was submitted to Bernards Township
13 as part of your qualifications for being hired, right?

14 A Right.

15 Q Are those articles around somewhere?

16 A Yes, I mean, they are available in the library,
17 if you want, I can send you a vita that will list them.
18 At one point there was a vita attached to the end of that
19 document you are looking at. You might look to see if
20 there is.

21 Q No, no. I would very much like you to
22 provide the vita and I'd like to see all of those documents
23 because maybe I don't know -- off the record.

24 (Thereupon, an off the record
25 discussion is held.)

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(Back on the record.)

Q Well, having then published articles about housing policy and land use controls, --

What was my question that you objected to?

(Thereupon, the Court Reporter reads back the last question.)

Q That wouldn't be places where people in Bernards Township working at A.T.&T. live be affected by the housing costs in Bernards Township, to a degree?

MR. RICKERSON: Well, I have the same objection.

MR. CITTADINO: Are you going to let him answer it or what?

MR. RICKERSON: Well, I don't see what you are getting at, what the possible relevance of this is. If you want to retain him as your expert and give him a scope of work, well, that's something else.

MR. CITTADINO: Well, maybe we will do that.

MR. RICKERSON: He's been retained for different purposes and I think that insofar as what you have been discussing about his report, that's relevant, but I think this is not relevant.

1 MR. CITTADINO: Well, Stu, I don't
2 mean to cut you off, but you can't have your
3 cake and eat it, too. You have retained an
4 expert here, a P.H.D., and economist. He
5 is going to come and testify at this trial.
6 He has a great deal of expertise and we are
7 entitled to probe into his knowledge of the
8 entire area of his expertise as it relates
9 to this case, not just what you would like
10 him to say and what you particularly want him
11 to come forward with. If he has knowledge,
12 which will work in our favor, then we are
13 entitled to explore it at this deposition.
14 He's paid for his time at this deposition.
15 He's an expert economist. He's offered as
16 such and we are entitled to explore both his
17 expertise and probe whatever his knowledge
18 is with respect to anything relevant to this
19 case.

20 MR. RICKERSON: And I have let you
21 do that on general terms.

22 MR. CITTADINO: Now, can I get him
23 to answer that question or are you going to
24 instruct him not to answer the question?

25 MR. RICKERSON: I don't think it has

1 any relevance and it is not reasonably
2 calculated to lead to the discovery of any
3 relevant evidence in this case.

4 MR. CITTADINO: If that's your
5 opinion, but it doesn't change mine as to
6 whether or not I would like an answer to the
7 question. I would like an answer to it,
8 if you will permit him to answer.

9 MR. RICKERSON: I will instruct him
10 not to answer, then.

11 MR. CITTADINO: Okay.

12 Q Now, let's try to go back to your report
13 so we can see if we can come up with some more information
14 on the base line data, which you started from the starting
15 point in making your projections.

16 A Right.

17 Q Are you aware of whether the Labor and
18 Industry statistics or other governmental statistics,
19 which are compiled, are broken down in such things as, oh,
20 communication industry, or other types of particular areas
21 of employment?

22 A Yes, the seven industry breakdown I use is
23 essentially what's called in literature a one-digit standard
24 industrial classification code breakdown. At least some
25 of the Department of Labor and Industry data from the State

1 are available in two or three-digit breakdowns, which are
2 much finer breakdowns. Whether I mean I know I have seen
3 some with that breakdown, I don't know how much of it is.

4 Q Like Number 48, 48 would be communication
5 industry. Okay.

6 MR. CITTADINO: Let's mark this.

7 (Thereupon, a portion of Current
8 Business Patterns from 1966 is received and
9 marked PJO-6 for identification.)

10 Q I show you what's been marked PJO-6. It's
11 a portion of a Current Business Patterns from 1966. It's
12 a table, has a little red circle around the portion
13 relevant to the communication industry, and I believe is
14 that Somerset County, New Jersey?

15 MR. RICKERSON: Are you going to
16 put the entire document in?

17 MR. CITTADINO: No, it's part of the
18 document. I'm not going to ask him to any
19 other part of it. I will show you the
20 entire document so you can see what it's
21 part of.

22 A It seems to be Page 92 of that document.

23 Q Fine. You see the little circle where it
24 indicates jobs in Somerset County?

25 A Right.

1 Q What does it indicate for the communications
2 industry there?

3 A With regard to the numbers of employees, there's a
4 symbol D, which I think means -- no, here it is, that
5 D denotes figures withheld to avoid disclosure of operations
6 of individual reporting units. Essentially, there's a
7 convention that if they don't have some minimum number of
8 reporting units, they don't report numbers, because people
9 could then tell about individual company operations from
10 the reported numbers.

11 Q Now, with respect to Somerset County, and
12 your data base, is there anywhere reflected in your base
13 that you are aware of, the seven thousand A.T.&T. employees,
14 which are working in Bernards Township?

15 A No, those --

16 MR. RICKERSON: Wait a second. Are
17 you telling him that there will be seven
18 thousand employees in Bernards Township?

19 MR. CITTADINO: No, I'm asking him
20 whether or not there's reflected in his
21 data base any adjustment for the A.T.&T.
22 complex. Leave the number out to get rid of
23 any problem with respect to exact numbers.

24 Q Did you make an adjustment in your starting
25 point here for the A.T.&T. complex?

1 A I don't know when that came -- when that significant
2 number of people were actually employed there. The County
3 Business Patterns data are first quarter data. The last
4 year in my data set, the last year for which I have data
5 is 1975. If there were significant numbers of A.T.&T.
6 employees there in 1975, they are reflected in my data base.
7 If there aren't, if there were not, and I don't think there
8 were, then they are not reflected in the data base.

9 Q So then the most recent figures you would
10 have, just so that I get it clear in my own mind, would be
11 reported as of March, 1975?

12 A That's right.

13 MR. RICKERSON: Well, for the record,
14 the March number comes from Mr. Reading.
15 Is that right?

16 MR. CITTADINO: Well, he knows when.

17 Q I said first quarter. I mean it's roughly
18 March, early 1975. Yeah, I shouldn't have agreed to the
19 March, because I'm not certain of it, but it's early '75.

20 Q If I told you that A.T.&T. started staffing
21 in November of '75, okay, and I further told you that
22 the A.T.&T. facility was under construction in March of
23 1975, are you able to tell me whether or not, based upon
24 your knowledge of your sources of data, there is any
25 reflection of the staffing to come, prospective staffing,

1 reflected in your data base or in your computations anywhere,
2 of this significant new factor?

3 A There are two questions there. In my data base,
4 no. In my employment projection work, no. In when I show
5 how my numbers fit into the Allen methodology, yes. Allen
6 has a correction factor in his paper, which I, you know,
7 because I was following his methodology, used it, and in
8 a log of my data set.

9 Q He has a correction for the A.T.&T. facility,
10 itself?

11 A Yes.

12 Q But, your data base --

13 A My growth projections do not, that's right.

14 Q And do you have any idea, yourself, of the
15 magnitude of significance of the A.T.&T. complex in terms
16 of employment in Bernards Township overall?

17 A I'm aware it's overriding.

18 MR. RICKERSON: What do you mean by
19 "magnitude of significance"?

20 MR. CITTADINO: The size of the
21 significance of A.T.&T. as it fits into the
22 employment pattern of Bernards Township.

23 MR. RICKERSON: The number of people?

24 MR. CITTADINO: That's right, the
25 relationship of the number of people employed

1 at A.T.&T. will have back in November, '75
2 as it began staffing, the influence that
3 A.T.&T., the total.

4 A What you are talking about, the ratio of A.T.&T.
5 workers to the total workers.

6 Q There you are.

7 A I don't know the ratio, but I expect it's very
8 large.

9 Q It was not taken into account in your
10 projections?

11 A That's correct. One thing I should point out is
12 that first of all, I wasn't making projections for the
13 Township, for the County. And also --

14 Q I understand that.

15 A And also, the projected jobs reflect the fact --
16 I mean, the data set does reflect the fact that in the
17 past several large business have moved further and further
18 from New York into this general area and it's likely that
19 that kind of movement will continue. Now, that's reflected
20 in my data set, so in some sense, some of the A.T.&T.
21 jobs or perhaps all of them are reflected in the projections,
22 but, they are not explicitly included in the data set.

23 Q Okay. If you can refer to Page 17 of your
24 report. You indicate that, do you not, that, "Many different
25 steps in the estimation process are subject to judgment,

1 including choice of data bases, choice of functional forms
2 of equations, choice of the time period over which to run
3 the regressions, and choice of variables to include in the
4 equations."?

5 A Right.

6 Q And you do admit that that choice of the factor
7 plays a role in the equations that you ultimately got,
8 right?

9 A Of course.

10 Q And were you aware when you chose the data
11 base that you did, in terms of absolute numbers, that it was
12 the lowest data base or the lowest absolute figure from which
13 to start? If it was, I'm saying were you aware? You
14 indicated you had considered and rejected certain other
15 data bases?

16 A Right.

17 Q Now, were you aware, did you consider and
18 reject any data base, which resulted in a lower starting
19 point for you?

20 A Okay. First of all, the Covered Employment Trends,
21 because of its lack of total inclusion, clearly has a
22 lower starting point, unless you adjust it some way.

23 Q Yes.

24 A The real choice, I mean, having decided not to use
25 that, the real choice that I faced was between the County

1 Business Patterns data set and the Department of Labor and
2 Industry data set.

3 Q Okay. Well, let me do this first: Why
4 don't we, since the question first, if you want to explain
5 it or qualify it, something like that, it sounds as if the
6 answer is unresponsive at this point, what I would like to
7 do is get a yes or no first, then if you feel I am not going
8 to cut you off like they do, I will let you explain it, if
9 you want to.

10 Is that data base, which you chose, the lowest of
11 all of those which you considered?

12 A Not to my knowledge. Well, is it the lowest?

13 Q In absolute terms.

14 A I thought the question you asked me earlier was did
15 I know at the time it was the lowest.

16 MR. RICKERSON: Why don't you read
17 the question?

18 Q Did you know at the time, then, I will ask
19 you the other one, did you know at the time it was the
20 lowest, if it was, indeed, the lowest?

21 A If it was the lowest, I don't know. I hadn't made
22 any comparisons.

23 Q Do you know, do you now know it was the
24 lowest?

25 A There are two data sets. Of the two, as I say in the

1 report, the one I used was the lower of the two.

2 MR. RICKERSON: There was the third,
3 which you didn't use, which was lower still?

4 THE WITNESS: There is the Covered
5 Employment, which was lower still.

6 MR. RICKERSON: So there was one,
7 at least. I'm sorry. I'm trying to clear
8 this up for the purpose of the record.

9 MR. CITTADINO: You will get a chance
10 to rehabilitate him after all this questioning
11 is over. You can make a note and do it then,
12 but all right.

13 THE WITNESS: The qualification, I
14 think, there was a substantive reason for
15 my qualification. I mean, it wasn't clear
16 in your question whether or not I should
17 count the Covered Employment Trends as one
18 of the ones I was considering. If I
19 count it, then I was aware that there was a
20 lower one. I was aware that Covered
21 Employment Trends had a lower absolute
22 value than the one I used. Perhaps you
23 shouldn't count that in the comparison.
24 Then the comparison boils down to the two
25 I talk about in my footnote on Page 10.

1 Q So, in other words --

2 A Of those two, I did not know which was the lowest,
3 but after the fact, it turned out that mine was a bit lower
4 than D.O.L.'s.

5 Q Okay. Let's go back. You've testified now
6 that you have spoken with Mr. Agle with respect to the
7 subject matter of this litigation. If I tell you, let us
8 say hypothetically, that someone like Mr. Agle, okay, has
9 testified previously that seven thousand primary jobs
10 at A.T.&T. would have a multiplier effect of one and a half
11 times; in other words, nine thousand five hundred secondary
12 jobs, okay? Are you able to make any evaluation, based
13 upon your knowledge as an economist, of the multiplier
14 effect of that statement?

15 MR. RICKERSON: Do you mean primary
16 and secondary jobs in that region and without
17 any effect on housing?

18 MR. CITTADINO: I am talking about
19 solely what I asked, just jobs.

20 MR. RICKERSON: You are talking
21 about hypothetical testimony without further
22 explanation.

23 MR. CITTADINO: I can't present to
24 him facts that I don't -- I can't show him
25 the testimony that I would like to represent

1 to him. If you will permit me, I will
2 represent to him that Mr. Agle has testified
3 that seven thousand primary jobs created by
4 A.T.&T. would create or have a multiplier
5 effect of one and a half times, and that they
6 would create nine thousand five hundred
7 additional, what he termed secondary jobs.
8 Now, it's either a hypothetical question or
9 a representation of previous testimony.

10 Q What I'm asking you to do is take my
11 statement from me and ask you whether, as an economist, you
12 can make any intelligent comment about it in an economic
13 sense.

14 A Off the top of my head, I would be reluctant to.
15 It sounds plausible, but high to me, but I would want to do
16 further research to evaluate it.

17 Q Okay. What about a further statement made
18 by Mr. Agle that the total sixteen thousand five hundred
19 jobs would support a population, okay, of three people per
20 job in an area?

21 MR. RICKERSON: What do you mean by
22 finish.

23 Q In an area for a total population as a
24 resultant of the seven thousand primary jobs would result in
25 a total population, after multiplying secondary jobs and

1 three people for every job, of forty-nine thousand five
2 hundred people. Is that something that makes sense to you?

3 MR. RICKERSON: What do you define as
4 "supportive population"?

5 MR. CITTADINO: Would produce a
6 population.

7 In other words, as I understand it,
8 after given seven thousand jobs in an area,
9 new jobs, there would be a multiplier effect
10 to produce a total number of jobs of sixteen
11 thousand five hundred, and that the presence
12 of sixteen thousand five hundred jobs would
13 result in the presence of forty-nine
14 thousand five hundred, presumably family
15 people, as a population, and I'm asking the
16 Doctor if he agrees with that statement.
17 If he is not in a position to comment about
18 the statement at all, if he can evaluate
19 it intelligently as an economist and P.H.d.
20 from Harvard and U. of Pennsylvania.

21 A Well, three is about right. I have the feeling that
22 the number comes up in applying the Allen methodology.
23 And I have the feeling that the number was like 2.8 rather
24 than 3.

25 Q All right.

1 A The multiplication factor, but it's plus or minus.
2 One or two-tenths.

3 Q Do you know what the Allen factor is?

4 A The Allen factor isn't directly comparable with the
5 number I just used, because he, Allen's employment total
6 absolute employment totals are noticeably lower than mine,
7 as I recall, and that tenths imperical factoral relationship
8 to employment to population would, therefore, also be
9 different from mine.

10 Q Okay. Let's see if I can find attachment
11 4.

12 A I would guess he uses 3.1 to 3.2.

13 Q Would forty-six thousand two hundred, if
14 you use 2.8, that would result in forty-six thousand two
15 hundred, does that sound reasonable to you?

16 A Well, I said before that the multiplier ratio on
17 which that number is based strikes me as high, though I
18 might, in the end, agree to it.

19 Q It strikes you as reasonable, although high?

20 A After doing research I might well come back and say
21 I thought one was a lot closer.

22 Q We understand the context under which the
23 questions are being asked. This is PJO-2 for identification,
24 Attachment 4, a chart of Mr. Allen's, State Population and
25 Employment. I think this is the ratio.

1 Do you have any comment with respect to the
2 presence of the same ratio here as here?

3 A He --

4 MR. RICKERSON: Why don't you
5 identify that, for the record?

6 Q The same ratio under 1974 as 3.2377 under
7 1982 as 3.2377.

8 A Yes. I mean, well, what he did was take the last
9 ratio he had, which with his employment data was 3.2,
10 and assume that that ratio would stay constant to 1982.

11 Q I see.

12 A That's how it comes from there. Indeed, I'm
13 surprised that he didn't draw a trend line through the past
14 data and come up with a lower ratio.

15 Q Just so I understand, basically something
16 about this multiplier effect, for which municipality would
17 the multiplier be higher, Newark or Basking Ridge, if there's
18 a correlation between those municipalities?

19 A Well, let's define multiplier carefully. Are we
20 going to define multiplier as the ratio of secondary to
21 primary? I mean, the problem is it gets defined differently
22 in different parts of the literature. The concept there is
23 the same, but the math comes out differently.

24 Q You define it. Secondary to primary seems
25 all right to me.

1 A If we define multiplier as the ratio to secondary
2 jobs to primary jobs --

3 Q That's how Agle did it, didn't he?

4 A Yes, it sounds like it.

5 Q Then if you pick a number out of the air
6 for Basking Ridge --

7 A Yes, I know what the question is. I want to make
8 sure. This came up every year when I taught Urban
9 Economics. Every year I had to sit down and figure out.
10 As the city gets bigger, if you add a primary job, you are
11 going to add more secondary jobs. So the ratio --

12 Q The top half will get larger and the ratio
13 will go up as the city gets larger?

14 A Right. I mean, I guess I might want to think about
15 that for ten more minutes, but I'm at least ninety-five
16 percent confident that that's correct.

17 MR. CITTADINO: Okay. Does anybody
18 want to have lunch? It is quarter of one.

19 (Lunch break.)

20 (After the lunch break.)

21
22 BY MR. CITTADINO:

23 Q I want to take up on one point that we hit
24 just before the break, and that was our equation for the
25 multiplier effect and whether, I think I indicated to you

1 that a question, something like whether the multiplier
2 would be larger or smaller in Newark as opposed to Basking
3 Ridge, and you indicated that more secondary jobs would be
4 created per primary job in the larger city. Is that
5 correct? Is that a fair characterization of what we
6 discussed?

7 A Yes.

8 Q So I would like to throw in one other
9 factor and see whether you feel it's at all relevant, you
10 know, to that characterization, and I understand I asked
11 you to do it on the spur of the moment, and just want to get
12 your reaction to this: In view of the fact that Newark
13 is a city on the decline, in other words, it has been
14 developed and is now losing centers of employment and losing
15 population, wouldn't it be fair to assume the reintroduction
16 of primary jobs into Newark would not require as large a
17 number of secondary jobs as the introduction of new jobs
18 into a relatively undeveloped area? For example, if you
19 wanted to introduce more school children into Newark, into
20 the Newark school system, argument might be made that there
21 are facilities, at least buildings presently there that are
22 not being utilized that could simply be rehabilitated and
23 yet, if you wanted to produce more school children in
24 Basking Ridge, you would have to start building more
25 schools from scratch and, therefore, have more secondary

1 jobs? That kind of argument, you think, is on the right
2 track or would you discount it and say the formula is
3 accurate as you stated previously?

4 MR. RICKERSON: Before you answer,
5 and for my information, what do you say is
6 the possible relevance of this?

7 MR. CITTADINO: Well, it is going to
8 lead to further discovery. He's an economist.
9 We have already been through the multiplier
10 relevance with regard to his expertise.

11 MR. RICKERSON: I still have no
12 understanding how it is going to lead to any
13 discovery of admissible evidence.

14 MR. CITTADINO: I don't really feel
15 it is important for me to go into a
16 justification of the relevance unless --

17 MR. RICKERSON: It is really relevant
18 or it is not relevant.

19 MR. CITTADINO: I say it's
20 relevant.

21 MR. RICKERSON: Upon what theory?

22 MR. CITTADINO: Because the
23 multiplier effect is relevant to the situation
24 in Bernards Township and he's an economist
25 and he's already testified about the

1 multiplier effect. If you are going to
2 object now after we have already been
3 through this whole exercise once, why raise
4 an objection when you didn't raise it
5 previously?

6 MR. RICKERSON: Well, I think the
7 objection, I understand that all objections
8 except as to form are preserved.

9 MR. CITTADINO: That's true.

10 MR. RICKERSON: I just don't see
11 why we need prolong this. Any testimony
12 he might give would not be evidence,
13 affirmative evidence as to you. I don't
14 see any other reason why you might use it.
15 Maybe you can provide me with one.

16 MR. CITTADINO: I don't think it is
17 my duty at this point to provide it. I
18 think you can see it is clearly relevant .
19 Our complaint speaks of A.T.&T. It speaks
20 of secondary employees, secondary jobs.
21 It speaks of the duty of Bernards Township
22 to provide housing for all of these people
23 provided for this sort of employment. This
24 man is an economist. He's an expert. He
25 already testified at this deposition about

1 the multiplier effect. He's reached a
2 conclusion with respect to the effect of
3 multiplier of the size of the city on the
4 multiplier factor, and now I'm asking him
5 to consider another factor and whether or
6 not that fits in with his analysis and for
7 you to object now, I mean is it necessary
8 for us to argue about it or are you going
9 to direct him not to answer the question?

10 MR. RICKERSON: What we talked about
11 with Mr. Ohls, Dr. Ohls testified to before
12 was more, much more general. I think ~~that~~
13 we are going now into something that's so
14 far attenuated. That even covered bearing on
15 what the educational impact, the impact the
16 educational system of Newark has.

17 MR. CITTADINO: My question is not
18 with respect to educational systems. That
19 was the example of the general proposition.
20 Now, he doesn't have to consider the specific
21 example I gave him. I simply gave that to
22 clarify the question.

23 The question is whether or not a
24 decaying city, which has already developed
25 and is sliding back, will the multiplier factor

1 be affected by reintroducing primary jobs
2 in that older city to the same extent as
3 it would be affected in the undeveloped
4 area.

5 MR. RICKERSON: And how is this
6 relevant to the study which Dr. Ohls has
7 prepared?

8 MR. CITTADINO: It is relevant to
9 his status as an expert witness and an
10 expert economist, and we are entitled to
11 on cross-examination, to explore his
12 expertise in the area of economy, and it may
13 well lead to an area which we want to explore
14 in discovery --

15 MR. RICKERSON: Well, perhaps.

16 MR. CITTADINO: -- with other
17 witnesses.

18 MR. RICKERSON: Perhaps we will
19 permit you to do that on cross-examination.

20 MR. CITTADINO: This is cross-
21 examination.

22 MR. RICKERSON: At trial, not at this
23 time.

24 MR. HILL: You are forcing us, in
25 effect, to bring a motion over this point.

1 You know that this is a subject of
2 controversy. You know we got answers to
3 admissions just yesterday in which Mr. Allen
4 is attempting to backtrack on something he
5 had previously testified to. You know the
6 multiplier effect, the entire effect of
7 A.T.&T. is central to our complaint. You are
8 arguing with a position that we take in our
9 complaint. You have introduced a witness
10 who we think can verify that the economic
11 principles upon which our complaint is
12 based are accurate and correct. We have the
13 right to call him as our own witness, if
14 need be, or subpoena him, and it has never
15 been defense to discovery that we are
16 exceeding the scope of your direct
17 examination. We don't have to just question
18 him with regard to this. His knowledge is
19 much broader than that and he admits, himself,
20 he has written articles on this, he has
21 taught courses on Housing, and plight of the
22 cities and as an economist. The field
23 definitely fits into what we are talking
24 about is our economic principles, planning
25 principles and housing and his field is

1 as relevant as that of a planner to these
2 areas and I just don't want to waste time
3 by more motions and more expense when all
4 we are trying to do is establish that your
5 economic witnesses will not contradict our
6 economic witnesses on fundamental economic
7 principles.

8 MR. CITTADINO: Aside from which,
9 and I don't think we should double team you
10 at all, but for purposes of discussion, this
11 man is not a client, he's not a party to the
12 action, and I don't really know that you
13 can direct him not to answer anything. You
14 are representing him here in a sense, I
15 suppose, but he's an expert witness and I
16 don't see how you can legitimately argue
17 against me asking a question about an area
18 which is admittedly within the scope of his
19 expertise. Now, I don't have to lay out my
20 case in front of you and tip my hand as to
21 what I'm getting at in front of you, now,
22 when I can easily just ask him the question
23 and it's up to me to determine whether it is
24 relevant and whether I'm willing to take the
25 time to do it. But, for you to insist for

1 me to tell you what I am getting at before
2 I get to each question is not fair. I have
3 in the back of my mind an area that I am
4 going into. I am not asking the question
5 for my health, but for me to go ahead of
6 time and tip you and the witness off so you
7 can know all the consequences of a question
8 before -- this is an area we have already
9 been over without objection. It relates
10 to something which is admittedly within the
11 area of the expertise of the witness and
12 it is something that relates directly to the
13 allegations in the complaint. I don't see
14 where in the world your objection lies.

15 MR. RICKERSON: Well, I don't believe
16 it has relevance to this witness' testimony.
17 It's not evidence, it's not reasonably
18 calculated to lead to evidence.

19 MR. CITTADINO: What testimony?

20 MR. RICKERSON: The witness'
21 testimony today, the purpose he has been
22 retained by McCarter and English.

23 MR. CITTADINO: The man is an
24 economist. There are economic issues involved
25 in the complaint. He's being called by you.

1 We have a right to examine him both now and
2 after his direct testimony. We need not
3 confine ourselves to the scope of any direct
4 testimony. Indeed, in this case there's
5 been no direct testimony, no case put on by
6 you first for us to cross-examine. We are
7 exploring every area of this man's expertise.
8 If we can, everything we ask him about now,
9 indeed may go to our objecting to him being
10 qualified as an expert at the time of trial.
11 He's holding himself as a P.H.d. economist
12 qualified to give opinions in certain areas
13 and to testify as an expert economist at
14 trial. If we have an economist who says
15 in order to be an expert economist you have
16 to be able to know about multiplier effects,
17 we may use that right in the first instance
18 at trial to object to his qualifications as
19 an expert. So we can have a million reasons
20 to object to these reasons. I don't have
21 to give you all those reasons, especially
22 on something as liberal as discovery might
23 be. You are not objecting that questions
24 on multipliers effects are within his
25 expertise. Are you saying that's something

1 he doesn't know about? He said earlier
2 today he did.

3 MR. RICKERSON: He is saying he
4 knows in general terms or can surmise what
5 you are talking about.

6 MR. CITTADINO: You let him give an
7 opinion without objection as to whether or
8 not Basking Ridge and Newark, what the
9 relationship would be on the multiplier effect.

10 MR. RICKERSON: Well, as I say, you
11 preserve your objections on such depositions
12 until trial.

13 MR. CITTADINO: You want to be
14 satisfied with the answer you got. Now
15 you don't want to go any further.

16 MR. RICKERSON: I see no point to go
17 further.

18 MR. CITTADINO: I wasn't satisfied
19 with the answer he gave the first time.
20 You were. You don't want him to say any more.
21 I wasn't. I want to go into it.

22 Are you going to make him refuse to
23 answer the question over that?

24 MR. RICKERSON: I am going to direct
25 him not to answer the question and hope you

1 will not pursue this collateral --

2 MR. CITTADINO: I will guarantee
3 you, I am going to pursue it. It is
4 outrageous.

5 MR. HILL: What is the purpose of
6 our meeting tomorrow?

7 MR. CITTADINO: You have got a
8 favorable answer the first time. You felt
9 it was favorable. Now you are cutting him
10 off. You let us go halfway, but not all the
11 way to cross-examine him on it.

12 MR. RICKERSON: I don't believe that's
13 right at all. You talked about general
14 things in the beginning. That should be
15 sufficient for the purposes of qualifying
16 him as an expert or not or whatever purpose
17 you need. Now you are going into specifics,
18 which I think are completely irrelevant to
19 this lawsuit, and I don't see any purpose
20 for it.

21 MR. CITTADINO: You don't see any
22 purpose?

23 MR. RICKERSON: You want to go off
24 the record to talk about that?

25 (Thereupon, an off the record

1 discussion is held.)

2 (Back on the record.)

3

4 BY MR. CITTADINO:

5 Q Dr. Ohls, we have had a previous discussion
6 about multiplier effect and what it is, and I'd like to
7 know whether you feel that there is any relationship between
8 whether a municipality is an older, decaying, if you will,
9 urban center or it is a developing, growing municipal
10 area, and if there is a relationship between those factors
11 and the multiplier effect, what is it?

12 A I would guess, I mean, in my judgment, I guess I
13 would say that probably there might well be an effect.
14 My first guess, and that's all it is, not having done
15 research, it's my educated guess not having done research,
16 but sort of knowing the concepts is that I would not expect
17 that relationship to be large. I would not expect the size
18 of the multiplier to vary dramatically or even substantially.

19 Q So then you would stand pretty much on
20 your previous statement that the larger the city or urban
21 unit or municipal unit, the more number of secondary jobs
22 would be created by a primary job?

23 A Yes, but, as I say, if I were retained to do serious
24 research in the matter, that judgment could change as a
25 result of that research.

1 Q Just one other question, then, on this
2 line. Then we will move.

3 What relationship, if any, would there be between
4 the existence of an infrastructure, an existing infrastructure
5 for services and jobs and the multiplier effect or the
6 absence of such an infrastructure, if you understand what
7 I mean?

8 A If there were a substantial infrastructure in place,
9 and sort of that were the only difference say decaying cities
10 and non-decaying cities with respect to the multiplier,
11 then it is probably true. If there is much of an effect,
12 it would go in the direction of the multiplier being smaller,
13 the larger the existing infrastructure.

14 Q Okay. I think we can probably leave that
15 at this point.

16 Now, let's go to again your data base for the report,
17 which you prepared. You've indicated in previous testimony
18 that you relied in part upon the publication County Business
19 Patterns. Do you know the sources of data, specifically,
20 that County Business Patterns has available to it and then
21 uses in putting together the data, base line data upon
22 which you relied?

23 A In part, relied in part.

24 Q I can show you the document that's been
25 previously marked.

1 A In general, the data base are firm reports, well,
2 firms are required to fulfill certain reporting
3 requirements as part of the Social Security system and
4 it is those reports by firms that are the ultimate data
5 source for County Business Patterns.

6 Q All right. And isn't it also true that
7 there are other sources other than the Social Security
8 Administration, which form the sources of the data?

9 A For the published data?

10 Q Yes.

11 A That appears to be true for 1973.

12 Q Okay. And you don't know about later?

13 A That's right.

14 Q Can you tell me just basically what seems
15 to be indicated for 1973?

16 A On Page 4 of the '73 edition.

17 MR. CITTADINO: We did mark this.

18 I don't see the mark on there.

19 MR. RICKERSON: We did on another
20 copy, I think.

21 MR. CITTADINO: That's true.

22 Q Okay. Then showing you again what the
23 benefit of County Business Patterns of 1973, referring to
24 Page 4 of that document, can you tell what were the sources
25 of statistical data for that document?

1 A It says that in addition to the Social Security
2 data, they used what they call a special multi-unit survey
3 conducted by the Social Security Administration or a similar
4 survey conducted by the Census Bureau based on mandatory
5 reporting.

6 Q Do you know anything about how the data
7 was collected or anything like that?

8 A No.

9 Q And do you know anything about how the data
10 was processed, who was responsible for processing it?

11 A I assume since the publication is put out by the
12 U.S. Department of Commerce, and also since that both of
13 those agencies they mention is in the U.S. Department of
14 Commerce, that it was done and processed by them. But,
15 I have no direct knowledge.

16 Q Now, in just wondering exactly where you
17 stand as far as the accuracy of your base line data here,
18 is it your testimony that your findings here are contingent
19 upon the accuracy of the data which was supplied to you by
20 those people who you thanked in here, James -- let's see
21 here, who are those people?

22 A It's on the first page, I think, or what,
23 acknowledgment on the cover page. It appears later as well.

24 Q James Hughes and Connie Michaelson. That's
25 the base line data they provided, right?

1 A Right.

2 Q You indicated how you believe it was
3 assembled. Is that correct?

4 A Right.

5 Q And the actual numbers, in other words,
6 the starting out point you don't have, you are not prepared
7 to testify as to, personally, as to the accuracy of those
8 statistics or the way that they were compiled?

9 A I checked the order of magnitude of the numbers
10 against the New Jersey D.O.L. estimates. That was how I
11 happened to notice the D.O.L. estimates are a little higher.
12 So that I mean, I take responsibility for the general
13 level of magnitude of them. I don't take responsibility
14 for each digit in the numbers being accurate. But, it's
15 my judgment, after talking to them, that it was. Indeed,
16 the only way I can take full responsibility, even had I had
17 an M.P.R. research assistant done it again, I could not
18 guarantee every number was accurate. I could say I take
19 what struck me as reasonable safeguards on data accuracy
20 and to my knowledge it was accurate.

21 Q So in general, then, that you would stand
22 behind those figures based upon your expertise and the
23 practice of your profession?

24 A I think it's inevitable in any large data set there
25 will be errors. The hope is that they are relatively few and

1 that in performing the statistical analysis they wash out.

2 Q That takes care of Chapter 2 of your
3 report.

4 Now, with respect to Chapter 3, do you stand behind
5 the same degree, the JORD analysis that's outlined there
6 in terms of its accuracy and reliability?

7 A I'm not sure what that means. I know what the
8 accuracy of data are, but I'm not sure what the accuracy
9 of analyses is.

10 Q As a method, as a technique?

11 A I have testified in Court before that while I
12 wasn't retained to do a complete analysis of whether or not
13 that was the best possible technique, I was asked to read
14 Allen's report in some detail and to comment on whether or
15 not it struck me as generally reasonable.

16 Q And you were asked to do that by Bernards?

17 A By the Bernards Township people. And in my
18 judgment, upon a reasonably close reading, but not a full
19 analysis, it struck me as reasonable.

20 Q All right. So in light of the fact that
21 you've given an opinion to Bernards Township that it struck
22 you as reasonable, I would ask you whether you would agree
23 with the statement that the housing need as a term as used
24 in the Fair Share Housing Analysis, which you offered to do
25 for Bernards, and which Mr. Allen, in fact, did, and about

1 which you rendered an opinion, is composed of component
2 parts, which can be described as prospective need; in other
3 words, the six-year planning period to which we have referred,
4 the need down the road for increased housing and the second
5 component being present need, that need being the need
6 of people who may presently have a need for housing in
7 Bernards or elsewhere and for whatever reason, not have the
8 need filled or not be able to fill that need for housing?
9 So would you agree with that statement?

10 A May I ask whether that seems reasonable to me?

11 Q I am asking. In other words, you have given
12 an opinion, you testified you gave an opinion to Bernards
13 that this seemed reasonable as a housing allocation under
14 the Fair Share Analysis. What I'm asking you, I would think
15 that before you would render an opinion that something
16 was reasonable for purposes of fair share --

17 A Right.

18 Q -- you would have an idea of what fair share
19 would mean.

20 A Right.

21 Q And what regional housing need would mean
22 in your own mind?

23 A Right.

24 Q So what I am asking you, then, is whether
25 or not you agree with me that housing need, as it must be

1 considered for planning purposes, consists of both
2 prospective need and present need combined?

3 A Okay. In my judgment, it is reasonable to look
4 at it that way. Had I started from scratch to develop
5 a whole new methodology for predicting fair housing allocation,
6 I don't know whether I would have made that, drawn the line
7 that way or drawn the line some other ways in order to come
8 up with what seemed to me reasonable. That strikes me as
9 a reasonable approach to doing it.

10 Q Further, you indicated in the document which
11 we've consistently referred to as A-8, the Agle document,
12 proposal, you indicate that a number of Court rulings in
13 New Jersey and elsewhere within the past three years,
14 coupled with recent actions taken by the Executive Branch
15 of New Jersey State Government have clearly established the
16 principle that all local jurisdictions in the State must
17 accept their share of new housing construction. That's
18 on the first page of the April 26 outline of possible
19 research project. Those are your words. Is that correct?

20 A Yes.

21 Q Since you referred in that document to the
22 Court decisions, can you tell me whether you personally
23 reviewed the Mount Laurel decision?

24 A I have never read the decision. I've read secondary
25 treatments of it in various journals.

1 Q And are you familiar with how the opinion
2 in that case treats the concept of need to which we have
3 just been referring?

4 A Not in any detail, no.

5 Q So, then, you are not in a position to say
6 to me, just so I understand it clearly, whether or not the
7 Court speaks in terms of present need and prospective need?
8 You don't know.

9 A No, I do not know.

10 Q Again, in this document that we have just
11 been talking about, A-8, there are references to the
12 Johns Manville Properties Corporation Report on Fair Housing
13 in Bernards Township. I believe that's found at one, two,
14 three. It's numbered Paragraph 2 on Page 4 underneath
15 estimates. Well, just above estimates of reasonable housing
16 demand.

17 A Yes.

18 Q Just for the record, it will, however, be
19 possible to identify methods of modifying these existing
20 projections, which are more sophisticated and more reliable
21 than the straight line employment projections, which are
22 used as the basis for the September, 1975 Johns Manville
23 Properties Corporation Report.

24 You, I take it, reviewed the Johns Manville
25 Properties Report of 1975?

1 A I read it. I didn't in great depth.

2 Q How do you -- what does "more sophisticated"
3 mean in your words, when you say "more sophisticated" and
4 "more reliable", but specifically "more sophisticated"?
5 What did you mean by that? In what respects would yours
6 be more sophisticated?

7 A That's an easier thing to answer than sophisticated.
8 I think of my two methodologies, the one that is clearly
9 more sophisticated is the second methodology, which relies
10 extrapolating on shares. First of all, it is more
11 sophisticated, specifically, because it is more complex.
12 Secondly, it allows the use of controlled projections made
13 more carefully by other researchers with more resources
14 at their command, in particular, the ultimate that the
15 shift share methodology used as my second methodology
16 ultimately incorporates employment forecasts made by the
17 Department of Commerce on the basis of demographic trends
18 observed in census data. Undoubtedly, they spent several
19 hundred thousand dollars in the research included, reported
20 in making those projections clearly beyond the scope of anything
21 you do for the current litigation. Because of the technique,
22 the technique allows me to incorporate their research as
23 part of my work.

24 Q When you say "outside the scope of anything
25 we do for the current litigation", are you referring to

1 something that anybody would do for the current litigation
2 or something you would do?

3 A That is a judgment I shouldn't have made. Clearly
4 beyond the scope of any budget that was talked about with
5 me with regard to --

6 Q With you. What projection did Johns
7 Manville Properties Corporation make in 1975? Was it for
8 the County or for the Bernards Township or what?

9 A I think it was a set of County projections, but I
10 am not sure. It's been a while since I looked at that.

11 Q Okay.

12 A There are other ways in which my work is more
13 sophisticated; the disaggregation by industry represents
14 another complication that takes time, that hopefully leads
15 to somewhat more accurate results. Another way is that
16 I include, I use multiple regress techniques, which make it
17 possible to take into account changes in the unemployment
18 rate.

19 Q Do you know whether there's an unemployment
20 figure worked in at a later time in that projection?

21 A In the Johns Manville?

22 Q Yes.

23 A Not that I recall. I wouldn't guarantee that there
24 wasn't.

25

MR. CITTADINO: Off the record.

1 (Thereupon, an off the record
2 discussion is held.)

3 (Back on the record.)

4 Q Well, let's get off that for a second.
5 I'm curious about one other thing here with respect to your
6 report. The dates that we have here at which a result is
7 reported, specifically, 1976 and 1982.

8 Do you have any interim data -- did you, in the
9 course of printing out whatever you were printing out --

10 A Did I print out 1980?

11 Q Did you print out 1980? In other words,
12 we get a point here -- well, a point in time in 1976 and a
13 point in time in 1980, and I am going to draw a graph here.
14 Do you know what happens between 1982 and 1976? Did you
15 get a result for any of those specific time periods?

16 A No. I can elaborate on that.

17 Q Go ahead.

18 A First, the graph you just drew somewhat realistically
19 draws it up and down. It is a limitation on the current
20 methodology. I can't, without independent projections of
21 the aggregate unemployment rate in the intervening years,
22 which to my knowledge -- well, without such projections and
23 such projections would not probably be very accurate, if I
24 did plot such a curve, it wouldn't go up and down. It would
25 be a straight line, a generally straight line between the

1 two points. I didn't plot out intermediate points or
2 compute intermediate points. It would not have been hard
3 to do so.

4 Q But, wouldn't the plotting out of
5 intermediate points have enabled your results to be more
6 directly comparable from results from other sources, you
7 know, that of 1975, 1980 or 1974 in some cases?

8 A Yes, had I, with a large enough budget, that would
9 have been an interesting thing to do.

10 Q Would it have been? You indicated it
11 wouldn't have been too hard to do. I would like an indication
12 how hard it would have been. How much more money would you
13 have needed to do that?

14 A I don't know. I suppose I could have done it with
15 at the time I could have probably done it with a couple more
16 hours of my time and a trivial amount of computer time. To
17 do it now would require I go back and re-enter myself,
18 relearn exactly how the programs are working. So it might
19 require some more of my time. There is something I'd want
20 to think about. It's conceivable, after I thought about
21 it in my methodology, I could compute intermediate dates
22 by simply extrapolating. I don't think I could do that.
23 I don't think I could. The question is whether I have got to
24 go back to the basic programs or whether I could start with
25 the two end points and make intermediate projections, which

1 are the same that would have come out from the basic
2 methodology. My instinct right at the moment, without
3 having thought about it, is I can't, because of my
4 industry disaggregation, which gets re-aggregated up for
5 the numbers I report. But, I'm not certain.

6 Q Is it true, then, that you could have,
7 at the time you were engaged in coming to this result,
8 with relatively little effort, obtained interim figures
9 for 1980?

10 A Yes.

11 Q It wouldn't have been very hard to do?

12 A No.

13 Q But, you didn't do it?

14 A I didn't.

15 Q But, you indicate that you have an opinion
16 or a feeling or some turn of mind that indicates to you
17 that you think it would be close to a straight line between
18 those two points?

19 A My first instinct is yes. But, I'm not at all
20 certain that that's true after I thought about it.

21 Q Do you know whether the Johns Manville
22 Properties employment projection, which you reviewed,
23 purported to take into account the new employment generators
24 in the area, such as A.T.&T. and/or others?

25 A No, I don't recall. May I step back?

1 Q Well, I'm not sure what that means, but
2 go ahead.

3 A With regard to whether a straight line
4 interpolation of my two end points would work.

5 Q Yes.

6 A It's now clear to me that it would not work with my
7 methodology two because the National Demographic
8 Projections that I relied on are not linear over time and
9 that would certainly mean that my thing could not be
10 linearly interpreted.

11 Q How about methodology 1?

12 A It is more likely that could, but I'm not certain.

13 Q How would you characterize your feeling that
14 the end result would be a straight line or nearly a
15 straight line? Is it a suspicion, is it a hope?

16 A Conjecture.

17 Q Whim, conjecture or a theory, how would you
18 characterize it, if you can choose a word?

19 A Conjecture, I guess, is a term often used in the
20 economics profession to describe such things. You somehow
21 think are more likely than random to be true, but you
22 just haven't gotten around to proving yet.

23 Q There is such a thing as an economic cost
24 of commuting, isn't there?

25 A Yes. Again, if you mean that in a very specific

1 context, I'd want to hear the definition. If you said that
2 phrase, I could think of ways of defining it.

3 Q I see. What about here again as an
4 economist, a general question. Is there a rule of thumb
5 that you are aware of, that is generally accepted among
6 economists applicable to the percentage of income, which is
7 desirable, applicable to housing of one particular income
8 level or of different particular income levels?

9 In other words, here again as an example, for
10 people earning \$10,000 a year, is there a particular
11 percentage of their income, which you are aware of, which
12 is considered to be the bench mark, if you will, which is
13 available for use as in-housing, and, you know, does it
14 change with changes in income level or does it remain
15 constant, if you know?

16 A It's not uncommon in the economics and housing
17 literatures to refer to such rules of thumb. I think
18 careful research would show that different people's rules
19 of thumb vary somewhat, but that in general, over most
20 income groups below twenty thousand, people tend to use
21 rules of thumb of twenty to twenty-five percent.

22 Q I see. And does that change appreciably
23 for over twenty thousand?

24 A I'm not sure that I have just seen the rule of thumb
25 applied very much to folks over twenty thousand. Leave it

1 at that.

2 Q Go ahead.

3 A I was going to ruminate, but it's not relevant to the
4 question.

5 MR. CITTADINO: I don't think I have
6 anything else.

7 MR. HILL: I have a couple of questions
8

9 QUESTIONING BY MR. HILL:

10 Q I was interested, Mr. Ohls, in comparing
11 your projections to a set of other projections we have.
12 I have a document, which I'd like marked, which is just a
13 summary. It's practically the same summary that appears
14 in the back of the Bernards Township Fair Share Housing
15 Analysis. It was prepared by Richard Reading. All I'm
16 interested in is Somerset County.

17 MR. RICKERSON: What about this one,
18 is it prepared by Reading, as well?

19 MR. HILL: It is prepared by
20 Reading, as well. You can check the numbers.
21 They are the same, except we put Mathematica's
22 numbers down and he left out his own
23 projections, but I put them in in one place
24 in pen so that Mr. Ohls can get a feel as to
25 what other, specifically looking in Somerset

1 County, what other organizations have
2 projected.

3 Could you mark that as PJO-7?

4 MR. RICKERSON: This is a portion of
5 another document or was?

6 MR. HILL: No, it's just something
7 he prepared for our use in this deposition.
8 It's really a restatement of appendix from
9 Table 6 of the Bernards Township Fair Share
10 Housing Allocation and to it we have added
11 the Mathematica projections just to see where
12 their numbers fall.

13 (Thereupon, a document entitled
14 Exhibit 1, Employment Estimates and
15 Projections, Total Counties, is received and
16 marked PJO-7 for identification.)

17 Q Now, Mr. Ohls, you don't have to accept
18 those. I'm just looking at Somerset County because it's
19 an area that we all agree forms a part of Bernards Township
20 housing region.

21 If you'll look at your projections, you'll note that
22 the County Planning Board estimated employment for Somerset
23 County as of 1975 at 81,000; the Port Authority of New
24 York and New Jersey estimated it at 86,000, you have a
25 similar, Richard Reading estimated at 85,358. Using his

1 analysis, which you state you've read, I note that your
2 first estimate is for 1976 and using two methodologies,
3 you get 74,587 and 76,967, approximately ten thousand
4 below the Port Authority estimate and the Reading estimate
5 for the year before, 1975.

6 Are you familiar with the estimates prepared by the
7 Regional Plan Association?

8 A I know of their existence, but I haven't reviewed
9 their methodology.

10 Q Have you reviewed the methodology of the
11 Rutgers study entitled Modeling State Growth? You mentioned
12 that in your report.

13 A Somewhat greater detail. I haven't looked at it.
14 I haven't recently looked at it in great detail.

15 Q Well, can you tell me whether you generally
16 approve of it as a reasonable method?

17 A It's a reasonable method, yes.

18 Q Are you aware of the methodologies of the
19 Port Authority of New York and New Jersey?

20 A No.

21 Q Have you looked at them?

22 A I --

23 Q At their estimates?

24 A I looked once at a planning document produced by
25 them and I'm not sure whether that's the one referenced here

1 or not. Nor, I'm afraid, do I remember the name of the
2 document I used.

3 Q You know, do you not, that they run or
4 own all the bridges between New York and New Jersey and the
5 airports surrounding metropolitan New York, including Newark
6 Airport?

7 A Yes.

8 Q And you are aware that they have some
9 interest as to the growth of this region?

10 A Sure.

11 Q Are you aware of the County, Somerset County
12 Planning Board's methodologies in calculating for the County
13 its own employment?

14 A No, I have never seen that document.

15 Q Carrying on the equation, your next
16 projection is for 1982 and you project employment of
17 87,925 or 88,201 for the year 1982. Those numbers are
18 considerably below all the estimates by the Regional Plan
19 Association, Rutgers University, the Port Authority, the
20 Somerset County Planning Board and our own consultant on this
21 matter, Richard Reading, by some again ten thousand jobs.
22 Can you explain this difference?

23 A No. I mean, I think it's worth noting that it's
24 changed as we are looking at, since my first year and my
25 second year are both lower, the discrepancy are estimated

1 changes while noticeably they are not as great. But, no.
2 Well, I mean, I don't know why the difference arises, no.
3 I mean, as I have indicated in my report, you use different
4 methodologies, you get different results.

5 Q Are you looking at just changes? Doesn't
6 every job in Somerset County in the housing region signify
7 in the JORD model or in the Richard Reading model, doesn't
8 each job have some effect on housing?

9 A In the -- I mean, I was hired to estimate changes
10 in employment and in the Allen methodology for computing
11 changes in population, the answer to your question is no.
12 The Allen methodology is based on changes in employment.

13 Q Well, you also prepared a prospectus in
14 which you tried to define fair share, and I believe from
15 your prospectus a municipality's fair share consisted of
16 its fair share of the job growth that would be occurring in
17 the future, plus its present share. Is that correct?

18 A I would have to review my original proposal.

19 Q Well, just broadly. Wouldn't Bernards
20 Township or Princeton's fair share of the regional housing
21 need for some point in the future, 1982, for instance, be
22 calculated by determining its present fair share and its
23 future fair share for the period under study?

24 A As I say, what's fair is just not -- there's nothing
25 in my economics training that lets me tell you what's fair.

1 Now, there are two ways --

2 Q I guess we law students are the only ones
3 that learn.

4 A That's right. There are two. There are value
5 judgments underlined what is fair. One value judgment
6 you can make is look, bygones are bygones. Municipalities
7 may or may not have been doing bad things in the past.
8 We have got to start where we are and make sure things get
9 distributed fairly. That's one possible judgment.

10 Another possible judgment is, you know, look,
11 bygones aren't bygones. Even if we are not going to
12 ignore what's happened in the past, we are going to start
13 from scratch. If there are a thousand jobs, we are going
14 to distribute them in the way we think they ought to be
15 distributed now. Now, either of those judgments, I mean,
16 would be, in my view, reasonable. If you are interested
17 in my political judgment about which I have very little
18 expertise, itself, given political realities, the judgment
19 likely to be made by political processes in determining
20 fair share is likely to start from where we are at rather
21 than redefine residential patterns.

22 Anyway, my basic point is you can start from where
23 you are at or start from one. What the Allen report does
24 is start from where we are at.

25 Q Are you familiar with a document released by

1 the State of New Jersey in December entitled Statewide
2 Housing Allocation Plan for New Jersey?

3 A No, I have been wanting to review that, but haven't.

4 Q Was it my understanding of your previous
5 testimony that you stated that your projections did not
6 include specifically a projection for employment by
7 A.T.&T. at the Basking Ridge facility and the Bedminster
8 Township facility because that employment would not be
9 reflected by the statistics that were available to you?

10 A What I said was that my data don't include -- my
11 data do not reflect that employment. At least assuming
12 that the dates that were read out before are correct. My
13 data do reflect -- essentially, my data look at past trends
14 up to a point in time early Spring, 1975, and my numbers
15 are based in trends that were observable up to that time.
16 Now, among those trends is surely the movement, one of the
17 forces I mentioned in my paper. The movement of firms like
18 A.T.&T. into regions, into the region we are talking about.
19 So in that sense, my forecast of new job growth incorporate
20 the notion that firms like A.T.&T. will move out. They
21 don't take into account the movement of that specific firm
22 to that specific place.

23 Q Well, in order to prepare a reasonable and
24 proper growth projection, would it be relevant if I told
25 you that the City of New York was gonna move lock, stock and

1 barrel with all its eight million people and relocate into
2 Somerset County? Would that be relevant?

3 A That certainly would be.

4 Q Even if it wasn't reflected in your
5 statistics, but you knew that it was going to happen?

6 A Right.

7 Q Would it be relevant if I told you that
8 primary employment of amounting to some seven thousand
9 jobs was going to relocate into Bernards and immediately
10 adjacent to Bernards along with its secondary impact, if
11 any?

12 A First of all, it would clearly be relevant if I
13 was at the -- working at the local, at the municipality
14 level. I mean, that's just got to be relevant. It
15 completely washes out. It's with enough time to incorporate
16 that detail, it would be worth incorporating at the level
17 of disaggregation I'm working at. Though, in my judgment,
18 it's not. That's borderline. I mean, you see, whether
19 something is relevant or not depends on the level of detail
20 that you are working at and the resources you have available
21 for the study. You can always do better by spending more
22 time trying to find nuances.

23 Q Is it borderline even given your low
24 multiplier of family of 2.8 instead of three? We are
25 talking about forty-six thousand, employment that would
support a population of forty-six thousand persons. Is

1 forty-six thousand borderline for Somerset County for when
2 the entire projected growth is only -- your entire
3 projected growth from 1976 to 1982 is eight thousand
4 new jobs. Is sixteen thousand that you can point at
5 borderline?

6 A Well, first of all, again, as we said before, the
7 sixteen thousand, those secondary -- that secondary
8 employment isn't all in Somerset County. It's where the
9 folks are living.

10 Q Right.

11 A Not where they are working.

12 Q Is seven thousand borderline when we
13 talking about an entire projection of eight thousand?

14 A Okay. I mean, if I had time to do more detail,
15 I would have.

16 Q So that you would admit that your projections
17 could have been more accurate had you included some factor
18 for major new employment in the counties that you studied
19 that you knew about?

20 A They could have been somewhat more accurate had I
21 had time to do that. In my judgment, from the point of
22 view of the overall analysis, including the multi-county
23 region, that effect would not have been a large one. I mean
24 A.T.&T.'s gain is some other county's loss.

25 Q New York's loss?

1 A Given A.T.&T. is moving from New York and going to
2 some suburban environment, Bernards Township's gain is
3 some other township's loss given the decision to move by
4 A.T.&T. They have got to move some place. It happens that
5 there's a portobation of the data for one township, which
6 is very large, to some extent that's counterbalanced by the
7 fact that in my trends, I show the jobs moving out of New
8 York City and into the suburbs.

9 Q But, they didn't have to move into your
10 region.

11 A That's true, but they showed some jobs moving into
12 the region as a whole, but what I'm saying is that it
13 happened that a big lump of them moved into one segment
14 of the region. It is not as if all of those jobs are no
15 place in the analysis; rather, given the kind of trend
16 analysis that I'm doing, they get allocated around the
17 region rather than lumped into a specific place.

18 Q Well, Somerset is one of six counties.
19 But, you have admitted that, have you not, that had you
20 factored in the knowledge of seven thousand new jobs in
21 Somerset County, that you would have had a result that's
22 fifty percent different?

23 A I don't recall saying fifty percent. I would
24 probably have had a result for Somerset County that was
25 higher. I might well have had a result for adjacent

1 counties that were lower.

2 Q All right. But, in what magnitude would
3 your result of Somerset County have been different?

4 A I don't know.

5 Q Assuming that it's seven thousand plus
6 whatever secondary impacts you want to attribute to it?

7 A It's not clear. I just have to think about that.

8 Q The projections that you have made aren't
9 really usable for JORD purposes, are they, because JORD
10 is defined by municipalities and you have given Bernards
11 Township data by county?

12 A Well, I mean, as always in social sciences, one
13 goes with what one has. They aren't the most appropriate
14 numbers you can conceive of for using in the JORD format.
15 On the other hand, they are better than no numbers. I mean,
16 if you could do it disaggregated, as I said before, you
17 would do it disaggregatedly. If you can't, I think it's
18 reasonable to use them in the absence of a better data set.

19 Q Well, we are all looking at crystal balls
20 in this field. You are estimating who is going to be
21 living in certain counties by 1982.

22 A Working.

23 Q Working in certain counties by 1982. You
24 made the conclusion in your contract that you thought that
25 your approach might be more sophisticated than Mr. Reading's

1 approach, which he, in his purport, compares with every
2 other approach that he could find. Is it your belief that
3 your projections will turn out to be more accurate than --

4 A Than those others?

5 Q Than those others?

6 A Yes, at least in terms of job growth. I mean,
7 we have already talked about a possibility that my data
8 set in absolute numbers is systematically somewhat lower
9 than the others.

10 Q Is it possible your data set is, in fact,
11 ten thousand jobs off?

12 A It is conceivable, but as I say in the report,
13 it's the changes that we are for the most part talking
14 about, and at the moment, I would bet on my changes. I mean,
15 I wouldn't be confident I'd win the bet, but I'd win my
16 changes.

17 Q Well, if you look at the array of numbers,
18 everybody seems to be in step. I mean, all numbers are
19 comparable except that the County Planning Board's
20 numbers are perhaps more optimistic in terms of job growth
21 than any other set of numbers.

22 Wouldn't it be fair to say that you are saying that
23 everybody is out of step but you?

24 A Well, I think one thing that should be noted is that
25 as I said, I haven't reviewed most of these methodologies

1 with any care. I know the Modeling State Growth Book is
2 based on a data set that if I am not mistaken, began in the
3 late fifties and stopped in '71 or '72.

4 Q Is it straight line?

5 A I think not, if I were guessing, but that data
6 set has a lot of years of very rapid job growth in it.
7 I mean, it's an extrapolation technique. It's not straight.
8 It's a variant. My second technique is a variant of it,
9 and I would guess that that may play a part.

10 Q How much accuracy do you think, in your
11 opinion, is there in this game? What are the chances that
12 everybody will be more than twenty-five percent off all
13 projections?

14 A First, I think that depends on what happens to
15 zoning. A point made earlier. I mean, if there was --
16 do I think that? Well, to some degree the answer will be
17 affected by changes in the political climate.

18 Q Whether people like us win our lawsuits?

19 A That's right. To answer your question directly,
20 I think there is several -- it is quite possible that we
21 will all be off. Between us we have a broad range. Somehow
22 that increases the possibility -- probability that one
23 of us may catch it. But, I was attempting to be careful
24 in my report to point out that economics is far from being
25 an exact science.

Q Well, you say you are confident in your

1 methodology insofar as it predicts a rate of change, but
2 not so confident, tell me if that's a fair characterization,
3 in the absolute numbers?

4 A There are degrees of confidence. I think my
5 numbers may be a few thousand low. If they are, I don't
6 think that affects my estimate of changes, which are the
7 estimates I report, substantially, and I think I have some
8 confidence in both estimates.

9 Q Well, your absolute numbers are based on,
10 are they not -- you are the person who brings these numbers
11 before us?

12 A Right.

13 Q They are based in part upon sampling
14 techniques conducted by Government agencies?

15 A Right.

16 Q And they are the statistics that you are
17 using are even secondary statistics to the Department of
18 Commerce insofar as they are acquired by Social Security?

19 A Well, the Social Security Department is in the
20 Department of Commerce, if I'm not mistaken. But, more
21 generally, I mean, any -- I mean that's true, they are
22 based on secondary sources. So, too, are much of the
23 Department of Labor and Industry data.

24 Q And doesn't this volume entitled County
25 Business Patterns establish that one of their sources of

1 data are surveys conducted by the Social Security
2 Administration or the Social and Economics Statistics
3 Administration?

4 A Right.

5 Q And so to a large extent, the accuracy of
6 their projections may be based on their surveying, the
7 accuracy of their surveying techniques?

8 A That's true, but so is it true of virtually any
9 economic information that you ever read in the papers, which
10 are, to a large extent, based on surveying techniques of
11 one sort or another.

12 Q Do you know anything about the sampling
13 procedures at all used by the Social Security Administration
14 or whoever compiles the county --

15 A As I said before, I am not familiar with the
16 methodology they used.

17 Q I am just asking you standard questions on
18 surveying techniques. How well was the population or the
19 sample covered, do you know?

20 A It is not standard practice, I think, every time
21 you use Government data published in a major data source
22 to review all of the techniques under line. Let me use
23 as an example the GNP data, which economists use everyday.
24 I think you'd find that the economists using it have not
25 examined all of the many sampling frames needed to compile

1 various aspects of the GNP data. Similarly, I didn't
2 examine in great detail, I didn't examine in detail at all,
3 the sampling techniques used here; though, I mean, my
4 understanding, which I'm fairly certain is correct, is that
5 the bulk of the data are available from the Social Security
6 reporting system. There, too, may be some inaccuracies;
7 the fact it is reported in connection with the Government
8 program doesn't establish the complete accuracy of it.

9 Q But, you are not prepared, either you
10 or your organization, to stand behind the sampling techniques
11 used by whatever Government agency compiled these numbers,
12 are you?

13 A In my professional judgment, it's reasonable to
14 rely on standard Government statistical publications.

15 Q Most of Mathematica's work and most of
16 their contracts is for Government agencies, isn't it?

17 A That's right.

18 Q And in that work it's reasonable to rely
19 on Government statistics, is it not?

20 A Well, as you may be aware, frequently we work in
21 areas where statistics aren't available and much of our
22 data are generated by our own survey work. When data is
23 available, we use it. I mean, we at least -- you sometimes
24 use available data and you sometimes collect your own.
25 Which you do depends to some extent on what data is available

1 and to some extent on the resources you have available
2 to you. Those are probably the two major factors.

3 Q Well, other than the Lorenc case, have
4 you ever testified in any Court with regard to economic
5 projections?

6 A No.

7 Q And you will testify in this case that the
8 accuracy, if anything, of your projections depends upon the
9 accuracy of sampling work conducted by others and the
10 accuracy of data conveyed to you by another organization;
11 namely, the Center on Urban Policy studies at Rutgers?

12 A Right.

13 Q And not on your own knowledge or your own
14 review of the documents involved?

15 A Well, I mean, in my professional judgment, I used
16 reasonable procedures in choosing my data sources,
17 procedures which are viewed as reasonable within the
18 profession. As I said, no one can testify unless he has
19 collected and keypunched every piece of data, that they
20 are accurate. Indeed, if he has, probably there are still
21 some inaccuracies in there. I can testify I have used
22 what, in my judgment, are reasonably reliable data sources.

23 Q You say that, however, you admit that the
24 five other authorities who've tried to make similar
25 projections for Somerset County, while their data is maybe

1 one or two percent off, but your data differs by ten
2 percent to all of theirs?

3 A Okay. But, I have also said --

4 Q More than ten percent.

5 A I have also said that that discrepancy is not
6 likely to be significant in the results I report because
7 the results are based on changes not absolute levels.

8 Q Couldn't that discrepancy be due to just
9 plain error in transmitting information to you by the
10 Center for Urban Policy Studies or just plain error by
11 some minor department of the Government in compiling the
12 statistics and getting them to you? They are not
13 Bureau statistics and they are not the kind of statistics
14 that the Government places great statistical reliance on.

15 A Because -- you mean why are they not?

16 Q They are not Census statistics, are they?

17 A No, they are not Census statistics.

18 Q And they are not Census related?

19 A First of all, this document says that some of
20 the surveys on which County Business Patterns data are
21 based were conducted by the census. The document is the
22 1973 County Business Patterns. Also, the County Business
23 Patterns, as a publication, is put out by the Bureau of the
24 Census, within the Department of Commerce.

25 Q Have you read any documents evaluating the

1 quality of Federal statistics or publications of the
2 President's Commission on the Evaluation of the Quality
3 of Federal Statistics?

4 A I think I have skimmed similar documents. I am
5 aware that Federal statistics are not the best, are not
6 perfect. In general, they are the best we've got.

7 Q You are aware, are you not, that their
8 quality differs greatly among departments?

9 A Right.

10 Q Are you aware that the Census Department
11 is supposed to have the best statistics according to the
12 President's Commission?

13 A On average, they are more likely to be reliable than
14 most. Best is a strong word. I wouldn't guarantee there
15 aren't other agencies that have equally good statistics.
16 In general, the Bureau of Census is a relatively reliable
17 source.

18 Q Wouldn't it be equally fair to say in
19 general that the Social Security Administration is not too
20 reliable a source?

21 A I haven't looked in detail at that, at the Social
22 Security Administration as a data source.

23 Q Yet, you chose in your report to reject
24 methodologies employed by a number of other planning and
25 State agencies in favor of relying on a publication called

1 County Business Patterns, yet you are testifying now that
2 you didn't bother to check to see whether the source you
3 were using was deemed by the President's Commission on
4 the Quality of the Federal Statistics to be a reasonably
5 accurate one?

6 A Well, I mean, as I say, the publication according
7 to the cover sheet on the document is put out by the
8 Bureau of Census, within the Department of Commerce.
9 That seemed -- also, I had conversations with the person
10 in the Department of Labor and Industry in the State of
11 New Jersey who is responsible for their projection work and
12 is mentioned in the New Jersey report that I quoted in my
13 report, and we talked about some of the issues with him.
14 He warned me that there were potential problems with the
15 Social Security data. He also warned me that there were
16 some serious potential problems in the New Jersey State
17 data, and at one point I recall putting the question to him
18 well, you know, look, given the resource constraints I have
19 and what I'm trying to do, it looks to me like it is
20 reasonable to use the County Business Patterns data. His
21 reply was, "Yes."

22 Q Who was he?

23 A I'd have to check my files. It might be Gary King,
24 but I'm not sure.

25 Q I think the name is in the report.

1 A That's true. I guess I mentioned it.

2 Q Would you agree that the County Business
3 Patterns is a secondary analysis as prepared by the Social
4 Security and Economic Statistic Administration; that it's
5 a secondary analysis by them?

6 A Well, in the passage you quote, you pointed out to
7 me earlier with regard to their survey methods, the Bureau
8 of the Census is mentioned as the organization conducting
9 some of the surveys on which this is based. So to that
10 extent, it's census data. As I say, most of it, it is
11 my understanding, most of this data comes from reporting
12 with the Social Security system and to the extent that's
13 true, it's my definition not directly collected by the
14 Bureau of the Census.

15 Q Did you shop around for data sources in
16 order to find the lowest numbers, the lowest projections
17 that you could?

18 A No. As I told you earlier, I became aware that mine
19 were lower than the Department of Labor and Industry numbers
20 only after I had begun to do computer runs on mine.

21 Q Did Allen and Agle suggest to you where you
22 might look or suggest to you County Business Patterns as a
23 profitable area through which you could --

24 A No, in fact, the first meeting where I mentioned
25 that data source, they were obviously surprised, had

1 apparently only been aware of the Covered Employment
2 Trends.

3 Q Do you know to what extent the County
4 Business Patterns projections are based on survey samples
5 rather than complete analysis?

6 A You mean complete tabulations of program data?

7 Q Complete tabulations of program data,
8 right.

9 A No, I think I might point out that the error, the
10 major source of error, I expect, is unlikely to be what's
11 known in the jargon as sampling error from incomplete
12 surveys. In both surveys and in program data there are
13 substantial amounts of reporting error. Either because
14 you don't get to everybody you wanted to get to or
15 because they either inadvertently or advertently gave you
16 the wrong information. I think that's probably the major
17 kinds of errors that are likely to be a problem, not the
18 sampling, the strictly sampling error because of the
19 fact it was a survey instead of a one hundred percent
20 tabulation.

21 MR. HILL: I guess I have no
22 further questions.

23 MR. CITTADINO: Thanks very much.

24 MR. RICKERSON: I just want to ask a
25 couple of questions. I don't want to prolong

1 this at all. Do you have the map prepared
2 by Mr. Reading?

3 MR. CITTADINO: Yes.

4
5 CROSS-EXAMINATION BY MR. RICKERSON:

6 Q There's just one thing I want to clarify
7 on this map, Dr. Ohls, and unfortunately, Mr. Reading isn't
8 here, now.

9 On this map identified as PJO-4 for identification,
10 there's a circle, which Mr. Cittadino says is ten miles
11 from the center of Bernards Township and I don't know how
12 he defines that.

13 MR. CITTADINO: The same way Mr.
14 Allen defined it.

15 Q Assume that's correct, is that what he
16 said?

17 A Right.

18 Q To your understanding, what does this
19 ten-mile line represent under the Allen analysis?

20 A It represents the region such that if a person
21 worked in -- if a thousand people worked in Bernards
22 Township, half of them or five hundred would live within
23 that radius. The other half would live farther away.

24 Q Okay. Now, there's also in very light pencil
25 marked another circle whose radius appears to be about

- 1 twice the radius of the black ten-mile circle.
- 2 A Yes.
- 3 Q Now, so if that is the case, that would be
4 the reason used by Mr. Allen in which the other fifty
5 percent or very nearly fifty percent would reside. Is
6 that right?
- 7 A The bulk of the remaining fifty percent, not all
8 of it.
- 9 Q Not all of it. Okay. Now, since this is
10 traced so lightly, I will try to identify some of the
11 townships and municipalities that is included in that outer
12 penciled in ring. It includes about a third of Newark.
13 Is that right?
- 14 A Yes.
- 15 Q And half of Elizabeth?
- 16 A Right.
- 17 Q Most of Linden?
- 18 A Right.
- 19 Q And Woodbridge coming down into Middlesex
20 County?
- 21 A Do you see the line there?
- 22 Q I don't see the line. At least a portion
23 of Woodbridge?
- 24 A A portion of Woodbridge. Probably most of it.
- 25 Q And now what would appear to be all of

1 New Brunswick and a portion of the adjacent North Brunswick
2 and East Brunswick. Is that right?

3 A Right.

4 Q And then Somerset County, all of Somerset
5 County except the farthest reaches of southern Montgomery
6 Township?

7 A Right.

8 Q And Hunterdon County. It would include
9 Flemington and beyond Clinton?

10 A Right.

11 Q Small portions of Warren and Sussex County
12 and Morristown and Morris County and portions of ~~Rocky~~
13 in Jefferson Township?

14 A Right.

15 Q Now, the other question I have is that we
16 referred repeatedly today to what's been identified as
17 A-8, the memorandum to Mr. Agle, dated April 26, 1976.

18 A Right.

19 Q This memorandum just is what again, it's
20 just a proposed estimate of what you might do?

21 A It was essentially a proposal or some preliminary
22 thoughts given to him to outline the kind of research we
23 might be able to do for him.

24 Q And the document identified as PJO-3 for
25 identification, the contract agreement with McCarter and

1 English, that was the final -- well, why don't you explain
2 what it was?

3 A I don't see that document.

4 Q Now, is that correct?

5 A Yes, that is the contract drawn up in August
6 between McCarter and English and M.P.R. to formalize the
7 rate.

8 Q And does the contract agreement identified
9 as PJO-3 for identification constitute the entire contract
10 between Mathematica and McCarter and English? What I'm
11 getting at, does that define the scope of work, which
12 you were to perform, or does the earlier memorandum?

13 A No, it is this contract, which defined the scope
14 of work.

15 Q Not the memorandum, A-8?

16 A That's correct.

17 MR. RICKERSON: That's all the
18 questions I have at this time.

19

20 REDIRECT EXAMINATION BY MR. HILL:

21 Q It's my understanding, Mr. Ohls, that
22 you will furnish us with a copy of two written documents,
23 which you furnished to Bernards Township. Will you send
24 them through McCarter and English?

25 A Yes.

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MR. HILL: And it's my understanding that you will forward them onto us?

MR. RICKERSON: Yes.

MR. HILL: The second thing is I just want to say for the record that we will object to the admission at the trial of Mr. Ohls' report. We think that it's a secondary analysis and it's based on hearsay and Mr. Ohls has admitted that data referred to comes from sampling procedures that he knows nothing about and that most of the data was given to him by another organization; namely, the Center for Urban Policy Research by two persons who claim to have obtained unpublished projections for 1975 and 1976.

THE WITNESS: '74 and '75.

MR. HILL: I'm sorry. '74 and '75. That clearly we think this is a secondary analysis and subject to the hearsay objection and that we are entitled to have the interviewers who conducted the survey produced, the surveys on which this data is based, produced as witnesses, since a survey is actually a sample. Since

1 sampling techniques were used to
2 approximate the entire universe, we don't
3 know anything about the sample and we think
4 that the possibility for error is very
5 great.

6 On the record, we would like to
7 suggest that in a number of Federal cases
8 involving surveys and secondary analyses,
9 mostly in the field of anti-trust litigation,
10 it's become the practice to have a pretrial
11 hearing on the admissibility of this kind
12 of statistical evidence; that we invite our
13 opponents to request such a hearing, if they
14 intend to introduce this kind of secondary
15 analyses obtained over the telephone from
16 third persons who claim to have access to
17 unpublished Government reports, and that
18 we think Mr. Ohls has clearly admitted that
19 his sampling procedures and that his
20 methodology that the data is subject to
21 numerous errors, which cumulatively may make
22 a significant difference in this case.

23 Q Mr. Ohls, do you want to say something?

24 A The data were not obtained over the telephone.

25 Q Can you explain how the data was obtained?

1 A The data were obtained -- the Rutgers data were
2 obtained in written form from Rutgers in the form of
3 computer printouts.

4 MR. HILL: All right. That's all.

5 (Thereupon, the deposition was
6 concluded.)

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C E R T I F I C A T E

I, **JEANNETTE JOHNSON,**

a Notary Public and Shorthand Reporter of the State of New Jersey, do hereby certify that prior to the commencement of the examination of the witness, James Ohls was duly sworn by me to testify the truth, the whole truth and nothing but the truth.

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

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



Notary Public of the State of New Jersey