

ML - State of NJ v. Dennis BAKER

Plainfield

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Brief of Amicus Public
Advocate of the State of NJ

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SUPREME COURT OF NEW JERSEY
DOCKET NO. 14, 745

STATE OF NEW JERSEY, :

Plaintiff-Respondent, :

-vs- :

DENNIS BAKER, :

Defendant-Appellant. :

Civil Action

BRIEF OF AMICUS
PUBLIC ADVOCATE OF THE STATE OF NEW JERSEY

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. ARGUMENT

INTRODUCTION

The fundamental legal issue in this case is the extent to which government may, by regulation, intrude into and, thus, socially engineer the composition of the "American household". This issue is raised by a decision of the elected officials of the City of Plainfield that certain bona fide households may not reside within its borders. Specifically, they have chose to exclude all households containing five or more non-biologically related individuals.* Statistically, this ordinance may affect a relatively small percentage of American households.** However, this fact must not serve to detract from the importance of the legal issues involved since the precedential impact of their resolution by this Court in this context may well emanate far beyond this particular case.

* Amicus is not entirely clear as to the scope of the Plainfield exclusion; that is, the actual nature and extent of the households excluded under the ordinance's express language. See Point III, infra. Confusion in this area of the law is common and indicative of the imprecision attendant to similar regulations, whether in the form of ordinances or restrictive covenants. See, for example, Berger v. State, 71 N.J. 206 (1976).

** This is reflected in empirical data as gathered by the Bureau of the Census. Amicus has attempted, for the Court's benefit, to glean what he could from the census reports. See, Point IV, infra. However, as will be shown, precise data is difficult to obtain. First, it is difficult to assess specifically who has been excluded by the Plainfield ordinance due to its own imprecision. (See Point III infra.) Second, the categories used by the Census in gathering data do not necessarily correspond to whatever it is Plainfield has done.

The determination herein will resolve the extent to which, if at all, a governing body may discriminate between households composed of non-biologically related persons and those composed of biologically related persons.* The resolution of this issue may implicate others of even greater importance; including, the extent to which government may regulate the nature of the user (or resident) and the number of users who may occupy an otherwise lawful dwelling as opposed to regulations addressed to the nature of the use (residence) or the size of the dwelling itself.

This Court may well have resolved the first legal issue (regulation of the nature of the user or resident) in prior decisions.** Application to the facts herein may necessitate only further clarification by this Court within parameters previously established.

The other issues (regulation of the number of users or residents and/or the size of the dwelling) may be addressed in this case and should finally be resolved in conjunction with another matter presently pending for review before this Court.***

* Throughout this brief, for convenience, amicus will use the term "biologically related" to include persons related by blood, marriage, or adoption.

** See Berger v. State, supra; Shepard v. Woodland Tp. Comm. and Planning Bd., 71 N.J. 230 (1976); and Taxpayers' Ass'n of Weymouth Tp., Inc. v. Weymouth Tp., 71 N.J. 249 (1976), app. diss. and cert. den. 340 U.S. 977 (1977). See also DeSimone v. Greater Englewood Housing Corp. No. 1, 56 N.J. 428 (1970); Kirsch Holding Co. v. Bor. of Manasquan, 59 N.J. 241 (1971); and Sente v. Clifton, 66 N.J. 204 (1974).

*** Home Builders' League of So. Jersey v. Berlin Tp., 157 N.J. Super. 586 (Law Div. 1978), certif. ordered June 27, 1978. See also Lionshead Lake, Inc. v. Tp. of Wayne, 10 N.J. 165 (1952), app. diss. 340 U.S. 919 (1953); Sente v. Clifton, supra; Kirsch, supra; and Berger, supra.

The position of amicus, on these issues argued at length infra, is as follows:

1. the Plainfield ordinance violates the New Jersey Constitution and the Municipal Land Use Law and is, therefore, invalid;
2. regulation of households on the basis of biological relatedness, regardless of any numerical lines drawn, violates the New Jersey Constitution and the Municipal Land Use Law and is, therefore, invalid;
3. lawful regulation of the type of persons who comprise a household which may reside in an otherwise lawful residence is limited to ordinances constraining occupancy in such residences to bona fide single-housekeeping units;
4. lawful regulation of the number of persons who comprise a household which may reside in an otherwise lawful residence is limited to ordinances which relate the number of users (or residents) to minimum habitable floor space or available facilities standards, and
5. lawful regulation of the size of a residence must be occupancy based and may not exceed minimal standards of health and safety.

The specific issue raised here, discrimination against households comprised of persons who are biologically unrelated, demands definitive treatment. This is true despite numerous opinions on the subject in New Jersey by this Court and inferior courts.* This need for a definitive statement is particularly illuminated by a question posed below by the municipal court judge to a defense witness. The Court asked:

Do you feel it would be wrong for a municipality to require of people who wish to pursue a religious living in their community

* Plainfield is not the only New Jersey municipality which, subsequent to this Court's decision in Berger, supra, believed it could regulate residential uses by discriminating against non-biologically related individuals. See also, Holy Name Hosp. v. Montroy, 153 N.J. Super. 181 (Law Div. 1977).

to submit its style to an authority, a committee, or commission for passage upon it as to its suitability for the rest of the community. (T151-13-19).

This question, undoubtedly innocently asked, reveals the social matrix in which these legal issues must be resolved. Despite the purported public welfare concerns underlying this type of ordinance,* the reality is that it is a patent attempt to keep out certain types of people as opposed to certain types of uses. Such regulatory techniques have been previously condemned by this Court as zoning to exclude "housing for other, less welcome, segments of the populations." Weymouth, supra, 71 N.J. at 276.

The Supreme Court of the United States, for example, has already witnessed the excess of municipal zeal (when apparently unharnessed) to regulate the type of user (or resident) rather than the unit itself. The Court, in Village of Belle Terre v. Boraas, 416 U.S. 1 (1974), had upheld municipal discrimination against non-biologically related occupants. Less than three years later, the Court was called upon to consider an even greater intrusion into family choice. See, Moore v. City of East Cleveland,

* It should be noted that the only evidence below, regarding some health, safety and general welfare concern, was the statement by a lay witness that the Baker "property looks a bit run down" and the expressed fear, totally unsubstantiated by any fact or documentation, of lower property values. (T93-22-23). No evidence was presented, nor even an attempt made, to relate these facts with the dwelling's occupancy by a non-biologically related family. Furthermore, despite purported overcrowding concerns, Plainfield had not even attempted to enforce its "habitability-floor space" ordinance. In fact the zoning officer did not even know if the Baker family had even violated that ordinance. (T103-12-13 and 16-17). Also, Plainfield has not enacted an ordinance restraining the number of cars or parking spaces by which alleged parking or traffic congestion could be directly and appropriately regulated. (T103-1-6).

431 U.S. 494 (1977). In Moore, the Court reviewed and invalidated an attempt by the City of East Cleveland to "zone" out a family consisting of a grandmother, son and two grandchildren.* The grandmother, like the defendant herein, Dennis Baker, was also subject to criminal sanctions for violating the municipal ordinance. As will be specifically discussed infra, the Court, while invalidating that ordinance, essentially was moved to undercut therein the factual premises for its prior ruling in Belle Terre. Moore, supra, 431 U.S. at 499-500.

Amicus does not argue that the purported zoning objectives of the ordinance below and similar ordinances are invalid. Concerns about overcrowding, parking, traffic and the like are legitimate bases for land use controls, both constitutionally and, in New Jersey, statutorily. Amicus contends only that these concerns cannot serve as a legitimate basis for the type of regulation under review here: discrimination between users (or residents) solely on biological grounds.

Preservation of the bona fide single-housekeeping unit can be accomplished without resorting to "user" regulations. Municipalities can achieve residential harmony without legislating social conformity. This can be accomplished directly by the legitimate exercise of zoning and other related police powers through regulations which are of general

* For a rather explicit example of the racial underpinnings which may be involved in this sort of "land use" technique see McMahon v. Amityville Union Regional School Dist., 386 N.Y.S. 2d 534 (App. Div. N.Y. 1975). The court ruled that eight black children residing in a Saint Christopher Home could not be kept from enrollment in the public school system.

applicability specifically addressing these valid land use concerns. Thus, problems relating to intensity of use, traffic, parking and noise need not, and indeed cannot, be used to justify discrimination between types of bona fide households. Certainly, no factual justification has ever been provided to warrant such discrimination for any of these alleged purposes; nor has any factual justification ever been provided to warrant such discrimination even to preserve the so-called, "average American family".

POINT I

DISCRIMINATION ON THE BASIS OF
BIOLOGICAL RELATEDNESS FOR PURPOSES OF
REGULATING SINGLE-HOUSEKEEPING UNITS
VIOLATES THE CONSTITUTION OF THE
STATE OF NEW JERSEY

Amicus maintains that the New Jersey Constitution and laws and prior precedent of this Court establish the following parameters for municipal regulation of single-family (as well as multi-family) residential units:

1. residential units may be segregated from other uses;
2. different types of residential uses may be segregated;
3. a residential use may be regulated by limiting its occupancy to bona fide single-housekeeping units;
4. a residential use may be further regulated by limiting its occupancy to one and/or more single-housekeeping units (that is, a single-family use is limited to a single-housekeeping unit; a two-family use is one limited to two single-housekeeping units, and so forth);
5. a bona fide single-housekeeping unit is not determined by the biological relationship or number of occupants;
6. a bona fide single-housekeeping unit is determined only by whether the occupants in fact share common facilities (such as a kitchen, dining room, living room, bathrooms, etc.) and are not residing in an otherwise unlawful use (such as a boarding home, motel, dormitory, fraternity or sorority house);
7. the number of occupants in any residential use containing a bona fide single-housekeeping unit can only be regulated by the size of the dwelling;
8. the size of the dwelling can only be regulated consistent with those minimums necessary for the the protection of the public's health, safety and general welfare, and

9. municipal action to control noise, overcrowding, traffic and parking may not be achieved through the regulation of the type or number (unrelated to the size of the dwelling) of occupants in a single-housekeeping unit.

These principles have been articulated by this Court in several decisions involving a variety of different, although related, factual contexts. These cases represent three lines of somewhat overlapping decisions regarding municipal regulation of:

1. a "use" as opposed to a "user";*
2. households comprised of unrelated individuals; ** and
3. the number of occupants and/or the size of the residence.***

The various principles which can be derived from these cases must be brought together for a final resolution of the issue raised herein. Read together, the cases evince a rather consistent line of reasoning adopted by this Court to evaluate the constitutional parameters of land use regulations of this type. That line of reasoning, followed to its logical conclusion, will result in an affirmance, herein, of the Appellate Division decision invalidating the Plainfield ordinance.

* See Collins v. Bd. of Adjust. of Margate City, 3 N.J. 200 (1949); Shepard, supra; Weymouth, supra; Berger, supra; DeSimone, supra; Kirsch, supra; and Sente, supra.

** See Berger, supra, and Kirsch, supra.

*** See Sente, supra; Lionshead Lake, Inc., supra; and Home Builders' League of So. Jersey, supra.

A.

Residential Uses May Be Regulated By Restricting The Identity or Number of The Users (Or Residents) So Long As The Restrictions Bear A Real And Substantial Relationship to Regulation of Land Use, Do Not Exceed Public Need and Are Non-Exclusionary

This Court has consistently recognized that ordinances which purport to regulate residential land use by actually regulating the identity or number of the users (or residents) are subject to a high standard of judicial review and merit close judicial scrutiny:

[O]rdinances which regulate use by regulating the identity of the user are not inherently objectionable so long as the distinctions which they draw are reasonable and the conditions they impose bear a real and substantial relationship to regulation of land use. Shepard v. Woodland Tp. Comm. and Planning Bd., supra, 71 N.J. at 244-45.

This standard has been imposed and utilized by the courts out of a concern that user ordinances may be overbroad and thereby exclude legitimate users.* This concern is at the heart of the public interest in this case as conceived by the Public Advocate and the basis for the Public Advocate's desire to be heard.

Amicus is not asserting that "user" zoning regulations are per se unlawful. Quite to the contrary, under certain circumstances, governmental action directed at the user often may be salutary and has been

* This concern for the overreaching impact of user ordinances has antecedents in Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926). There the Supreme Court in approving classification by use acknowledged that some otherwise lawful (i.e., non-nuisance) uses might be excluded, but stated that it would tolerate a "reasonable margin to insure effective enforcement." Euclid, supra, 272 U.S. at 388. The Court in Euclid was referring to types of industrial uses; here, we are referring to types of residential households or users.

upheld by this Court. See, for example, Kirsch, supra (approving limitation on users to bona fide single-housekeeping units); Sente, supra (approving limitation on number of users based on floor space); DeSimone, supra (approving a use variance for semi-public housing accommodations in light of the user or consumer need for that use); Weymouth, supra (approving a zoning classification for residential uses limited to senior citizens); and Shepard, supra (approving the special exception procedure for residential uses limited to senior citizens). See also Y.W.C.A. v. Bd. of Adjust. of the City of Summit, 141 N.J. Super. 315, 317 (App. Div. 1976) (holding that the lower court's strict distinction between use and user regulatory powers was overly broad).

Much can be gleaned from how this Court has reviewed these governmental intrusions into, or control over, the residential household itself. Despite the unique context of each case, Kirsch (type of household); Sente (size of household); DeSimone (income of household); Weymouth and Shepard (age of household), the Court's treatment is strikingly similar. Most apparent is how carefully the Court, in every case, worked through its analysis of the issue involved before reaching its constitutional determination.

In Kirsch, supra, the Court was constrained to point out, even in the context of the extraordinary facts before it (see 59 N.J. at 245), that the effect of the ordinance was to:

. . . bar one offensive dwelling use, which at the same time results in a prohibition of many which are non-obnoxious. Kirsch, supra, 59 N.J. at 249.

Although the Court spoke to the "offensive dwelling use", it must be noted that its real concern was the impact of the zoning provision on legitimate users. This is made clear by the Court's previous statement regarding the affect of the ordinance's provision:

[T]wo unrelated families of spouses and children* cannot share an adequate** cottage or house for the summer, nor could a small unrelated group of widows, widowers, older spinsters or bachelors -- or even of judges. Kirsch, supra, 59 N.J. at 248.

Accordingly, the Court utilized a very rigorous test in reviewing the validity of this ordinance:

The regulation or proscription must be reasonably calculated to meet the evil and not exceed the public need. Kirsch, supra, 59 N.J. at 251.

Similar caution was indicated by the Court in its review of municipal intrusion into the size of the household in its decision in Sente, supra.

The Court in Sente specifically and directly addressed a municipal user restriction which limited the number of permitted residents in a residential dwelling based on minimum floor space standards.*** The Court, upon determining the legality of regulating the number of residents

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- * Note the reference to a single-housekeeping unit which by its nature might well include a minimum of six individuals and even many more. In fact, the association hypothesized here as a bona fide and permissible household is the very one attacked in this case. The Baker household essentially consisted of two such families. T108-19-22.
- ** Note the reference to adequate size and facilities as the standard for properly limiting the number of occupants.
- *** Essentially the Court in Kirsch recommended the implementation of this kind of user restriction to address some of the alleged concerns of the municipality therein.

by the size of the dwelling, articulated its concerns regarding the potential overbreadth of user restrictions. The Court spoke of the "drastic" impact such ordinances could have on housing opportunities affordable to persons of low and moderate incomes (66 N.J. at 208) and the potential for "walling out" larger, poor families (66 N.J. at 209). Accordingly, the Court, issued a stern warning:

[T]he legal reasonableness of a regulation of this kind might depend upon proof that every person enjoying less than the particular prescribed minimum amount of living space necessarily encounters a real individual health hazard and presents a substantially certain public health problem. Sente, supra, 66 N.J. at 208. (emphasis added)

Furthermore, the Court noted that in light of the ordinance's potential exclusionary effect it would reverse the presumption of validity: "(T)he City should be required to establish that it was not enacted for any such purpose". Sente, supra, 66 N.J. at 209.

Similarly, as previously stated, the Court in Shepard, (supra, 71 N.J. at 244-45), in reviewing "user" ordinances addressed to age, articulated a formidable standard as to their relationship to the land use sought to be regulated. This Court additionally noted, in the companion case to Shepard, that:

[Z]oning ordinances which bear too tenuous a relationship to land use will be stricken as exceeding the powers delegated to municipalities by the enabling act. Weymouth, supra, 71 N.J. at 276.

As such, the Court might well have added that such ordinances would exceed the zoning power as delineated in the Constitution of the State of New Jersey, Art. 4, § 6, par. 2.

Ever mindful of the above, however, the Court has acknowledged and amicus agrees that certain obvious and universally desired goals cannot be accomplished absent regulations which address both the residential use and the residential user. For example, the housing needs of persons of low and moderate incomes may go unmet absent federal and state subsidy programs designed to aid in the production of those units. Such programs exist and limit occupancy to persons qualified under standards relating to household income. The federal and state legislatures have accepted this necessary correlation between use and user; that is, the production of a specific structure for a specific user. In DeSimone, this Court reviewed such governmental efforts and rejected the assertion that a municipal body could not use the variance procedure to facilitate construction of these needed units. DeSimone, supra, 56 N.J. at 442.

A similar issue was presented in Weymouth and Shepard regarding the creation of special zones and the use of the special exception technique for permitting housing which specifically addressed the needs of senior citizens. In both cases, the Court recounted the special needs of this group and the unique relationship between this group of users and the type of use provided. See, for example, the language in Shepard, supra, 71 N.J. at 247, referring to the age limitation in these zoning provisions as "essential to success" and "only one aspect of a comprehensive scheme for land use development" for the elderly.

Thus, judicial review of any particular municipal ordinance seeking to regulate the type of household which may occupy an otherwise permitted residence is firmly rooted in a consistent line of precedent established in several decisions of this Court. These precedents have clearly established that such regulations must:

1. "bear a real and substantial relationship to the regulation of land use." Shepard, supra, 71 N.J. at 244-245;

2. draw "reasonable" distinctions and not prohibit "non-obnoxious" users. Shepard, id., and Kirsch, supra, 59 N.J. at 249;

3. be "reasonably calculated to meet the evil" the existence of which prompted the regulation. Kirsch, supra, 59 N.J. at 248;

4. be necessary; that is, "not exceed the public need" or involve a "real individual health hazard" or a "substantially certain public health problem" which would necessarily be encountered in the absence of the regulation. Kirsch, id., and Sente, supra, 66 N.J. at 208.

One further point regarding user restrictions and their review should be addressed and considered in evaluating Plainfield's regulation of its residential households. In Weymouth, this Court reiterated the New Jersey constitutional principle that the right to decent housing has a preferred status in this State and regulations which have the intent or effect of discriminating against potential residents would therefore be subject to close judicial scrutiny. Weymouth, supra, 71 N.J. at 287. The Court, having previously cited Kirsch for the principle that "zoning may not be used to regulate family life" (71 N.J. at 276), concluded by reiterating its nationally acclaimed doctrine that the municipal zoning power cannot be used by the represented majority to exclude "housing for other, less welcome, segments of the population." In this regard it is interesting to note that the user restrictions in DeSimone, Weymouth and Shepard all involved non-exclusionary municipal action. In each, a housing opportunity was being created in addition to that already present.

This Court has explicitly and repeatedly warned against governmental action which, by design or effect, attempts to keep people out. Yet, this is exactly what Plainfield has chosen to do by prohibiting certain bona fide households from residing in otherwise lawful residences within its borders. This is overt, explicit discrimination; not against types of uses but against people. The households discriminated against by the ordinance under question are not merely "less welcome" in Plainfield, they are forbidden residents within its borders. The ordinance, cannot, and must not, withstand judicial scrutiny.

B.

Discrimination Against Unrelated Individuals In The Regulation Of Residential Use Does Not Bear A Real And Substantial Relationship To The Regulation Of Land Use, Exceeds Public Need And Is Exclusionary

1) Introduction

In 1926, the United States Supreme Court upheld the constitutionality of municipal land use regulations which zoned uses by geographic district. Village of Euclid v. Ambler Realty Co., supra. The Court in Euclid addressed the legitimacy of municipal classification and designation of areas by their use. Specifically, the Court upheld a municipal zoning scheme which separated residential and non-residential uses and, more importantly here, segregated different types of residential uses. The ordinance in Euclid, Ohio, in fact, classified single-family, two-family and multi-family uses separately.*

A plethora of zoning regulations of the "Euclidean" type ensued.** New Jersey followed this lead with the adoption of a Constitutional Amendment authorizing use-district zoning, Art. 4, § 6, par. 2; enabling legislation authorizing municipalities to implement it, N.J.S.A. 40:55-30 et seq.; and municipal ordinances throughout the State doing so. Single-family residential zoning was accordingly upheld by this Court in Collins v. Bd. of Adjust. of Margate City, supra, 3 N.J. at 208 (1949). This was a major victory for municipal governing bodies in New Jersey which

* The zoning was cumulative and inclusive; that is, zone U-1 permitted single-family uses; U-2 permitted the uses in U-1 and two-family uses, and U-3 permitted the uses designated in U-1 and U-2 as well as multi-family uses. Euclid, supra, 272 U.S. at 380.

** Within four years of this decision, virtually every state had enacted zoning enabling legislation and municipal zoning ordinances were in effect in approximately 1,000 communities accounting for two-thirds of the United States population in 1930. Haar, Land Use Planning, 2d ed., p. 173, Little, Brown and Company (1971).

had sought unsuccessfully to isolate single-family uses from other residential types prior to the United States Supreme Court's decision in Euclid. See, for example, Ignacius v Town of Nutley, 99 N.J.L. 389, 125 A. 121 (E.& A. 1924).

Thus, it is now clear that a municipality in New Jersey may zone for residential uses by district and may discriminate within those zones among different types of residential uses. This litigation represents an historic spin-off from these established precepts of municipal zoning law.

Having won the battle of discrimination as to residential use, municipalities began to seek to regulate the residential user. The single-family structure being secure, governing bodies sought to insure that it was occupied by a family of a definite sort: the so-called "average American family", headed by a parent and occupied only by persons related by blood, marriage or adoption. The experience under this type of regulatory technique in other states and in federal courts is presented below. The New Jersey experience and attendant case law has been extensive and has essentially resolved the issue. This decision should be the final statement on the matter.

This Court's most recent decision on this issue was rendered in Berger v. State, supra. The Court reviewed the legality of a dwelling's occupancy by a state approved group home for children. The issue arose due to restrictive covenants and the municipal zoning controls affecting the land on which the dwelling was situated. Both provisions limited the dwelling's use to "single-family residences." The zoning ordinance specified that a "family" could consist only of persons related by blood, marriage or adoption.

The Court resolved the restrictive covenant issue by finding that the relevant covenant language was consistent with occupancy by a single-housekeeping unit and that the group was such a unit. Berger, supra, 71 N.J. at 215-17. The Court resolved the zoning issue by finding that the Department of Institutions and Agencies had reasonably exercised its governmental immunity in establishing the group home in a single-family zone. Berger, supra, 71 N.J. at 220-23. These determinations essentially resolved the controversy before the Court. However, the Court took this opportunity to speak more broadly on the issues presented; beyond the narrow scope of restrictive covenants and governmental immunity, to the issue of municipal zoning power generally in establishing residential zones. Berger, supra, 71 N.J. at 223.

The Court, in dictum in Berger, sought to balance two competing interests: the avoidance of "unreasonably restrictive," "sweepingly excessive" and "legally unreasonable" zoning provisions which delineated the permissible users (or residents) of a residential unit and the exclusion of "uses that may impair the prevailing (family) environment" due to a presumed incompatibility of uses. Berger, supra, 71 N.J. at 223-25. The resolution adopted by the Court was simple and precise:

We believe a satisfactory resolution of this problem would result, were local governments to restrict single family dwellings to a reasonable number of persons who constitute a bona fide single housekeeping unit. . . . [S]uch a requirement . . . would . . . preclude uses closely approximating boarding houses, dormitory and institutional living. Berger, supra, 71 N.J. at 225.

This statement enunciates a constitutional principle regarding permissible municipal classification of residential uses and prohibitions as to their occupants. The following may be drawn from its explicit language: 1) municipalities may lawfully establish a geographic district in which structures are limited to residential uses for a certain type of residential user; that is, "bona fide single-housekeeping units;" and 2) municipalities may prohibit in such designated districts occupancy by other types of residential user; that is, "non-bona fide single-housekeeping units". Non-bona fide single-housekeeping units are exemplified by those which would ordinarily inhabit boarding homes, dormitories and institutional uses (presumably such as fraternities and sororities; perhaps even convents and monasteries).

Couched in traditional substantive due process, equal protection and police power language ("unreasonable", "excessive", "restrictive") this pronouncement in 1976 was essentially a reaffirmance on state constitutional grounds of the basis for the Court's 1971 ruling in Kirsch, supra.^{*} In Kirsch, the Court invalidated zoning provisions limiting a family to persons biologically or legally related as "sweepingly excessive and therefore unreasonable." Kirsch, supra, 59 N.J. at 252.^{**}

*

^{*} The need for reaffirmance (and perhaps, the reason for the Court's utilization of Berger for that purpose) was, as is discussed below, the intervening 1974 United States Supreme Court decision in Belle Terre, supra. The decision in Belle Terre cast some doubt as to whether the Kirsch holding was still good law. See, e.g., the language in Weymouth, supra, 71 N.J. at 276, n. 11, regarding the continued viability of the constitutional underpinnings to Kirsch. The Court cites Kirsch (post Belle Terre) for the statutory principle that "zoning may not be used to regulate family life."

^{**} The Court in Kirsch could have resolved the case on a non-constitutional basis but chose to review the ordinance in accordance with the mandates of substantive due process instead. Kirsch, supra, 59 N.J. at 251. However, specific reference was not made to either the federal or state constitutions.

The outstanding question raised by the language in Berger is whether the Court intended to disaffirm the other principles pronounced in Kirsch which address specifically the parameters for permissible municipal regulations governing the occupancy of residential units; specifically, whether discrimination between biologically and non-biologically related persons in single-housekeeping units is permissible at all. Kirsch was clear that such discrimination was unlawful. See discussion infra.

This issue is now before the Court in this case. Plainfield, despite the Kirsch and Berger precedents, has determined to discriminate against non-biologically related persons; specifically as to the number of such persons who may comprise a household in that city. Biologically related families of any size are considered bona fide households and are welcome. Non-biologically related families are considered bona fide households only if there are four or less members and are not considered bona fide if there are five or more. Amicus contends that this ordinance is totally unsupportable. Before evaluating it, however, the following is an historical review of the New Jersey case law. It is offered as an explication of how this issue has developed in this State.

2) Historical Review of Discrimination Against
Unrelated Individuals in New Jersey Case Law

A municipal ordinance discriminating between biological and non-biological "families" was not reviewed by the New Jersey judiciary until 1961, thirty-five years after the decision in Euclid. Then, in a much disparaged opinion, a New Jersey trial court upheld an ordinance which

limited occupancy in residential units to families comprised solely of individuals who were related by blood, marriage or adoption, and upheld the prohibition of foster children thereunder. City of Newark v. Johnson, 70 N.J.Super. 381 (Law Div. 1961). The Court relied on fears of overcrowding and reduced property values as the accepted rationale for such discrimination.* Johnson, supra, 70 N.J.Super. at 387.

Johnson is the only New Jersey decision to uphold such an ordinance (with the exception of the municipal court and county court decisions below). Although not specifically overruled, it has been discredited in every opinion or article which has cited it. See, e.g., City of Des Plaines v. Trottnier, 216 N.E. 2d 116, 119 (Sup. Ct. Ill. 1966); Kirsch, supra, 59 N.J. at 250. In fact, two years after Johnson, a New Jersey trial court vigorously, if not emotionally, pronounced its adamant refusal to follow Johnson absent a specific mandate from this Court. Marino v. Mayor and Coun. of Norwood, 77 N.J.Super. 587 (Law Div. 1963):

Until compelled to do so by a New Jersey precedent squarely on point, this court will not conclude that persons who have economic or other personal reasons for living together as a bona fide single housekeeping unit and who have no other orientation, commit a zoning violation, with possible penal consequences, just because they are not related. 77 N.J. Super. at 594.

* It should be noted that, as in many cases in this area, the court presumed these "facts" from some intuitive sense of potential dangers. No factual record is referred to or discussed.

Johnson and Marino were followed by a consistent, uninterrupted line of New Jersey authority which rejected and invalidated every attempt by a municipality to discriminate against non-biologically related members of a single-housekeeping unit through zoning provisions comparable to that under review here. The above quoted passage from Marino was, in fact, cited with approval by this Court in rendering its decision in Berger thirteen years later. Berger, supra, 71 N.J. at 225.

The first reported case after Marino occurred in 1970. The Appellate Division reviewed the City of Margate's ordinance which limited occupancy in residential units to related persons and to not more than two unrelated persons. Gabe Collins Realty, Inc. v. City of Margate City, 112 N.J. Super. 341, 342 (App. Div. 1970). The court held that the classification in the Margate ordinance was arbitrary and unreasonable.

The court also specifically addressed the factual concerns which purportedly were the basis for the ordinance. It stated that municipal concerns regarding potential noise and disturbances could be appropriately regulated through the utilization of general "police power" ordinances. The court's treatment of these concerns was subsequently followed in Kirsch and Berger. Significantly, in this regard, the court cited the Illinois Supreme Court's decision in Trottner, supra, which had invalidated, on statutory grounds, an ordinance which limited occupancy to related persons. (This ordinance had been enforced against four unrelated men who were residing together in a single-family residence). Gabe Collins Realty, Inc., supra, 112 N.J. Super. at 347-49.*

* The Court in Trottner had openly criticized the purported "general welfare" concerns asserted by the municipality in support of its ordinance by finding that there was not an inevitable tie between the members "unrelatedness" and alleged problems of transiency, overcrowding, intensity of use, traffic or parking. Trottner, supra, 216 N.E. 2d at 119.

The impact of the decision in Gabe Collins Realty, Inc. is that it both undermined the alleged factual bases (noise and disturbances) for discriminating between biologically and non-biologically related households, and it articulated the constitutional test (overbreadth) subsequently adopted by this Court in Kirsch in reviewing such ordinances.

This Court's opinion in Kirsch soon followed the ruling in Gabe Collins Realty, Inc. In reviewing the municipal ordinances of Belmar and Manasquan which limited occupancy to related persons living as a single-housekeeping unit, the Court thoroughly discussed the legal and factual issues which may arise in this context.

Legally, the Court rejected discrimination on the basis of biological relatedness as violative of substantive due process (not specifying under which Constitution, that of the United States or New Jersey). Kirsch, supra, 59 N.J. at 251. It did so in language, later to be repeated in Berger, which condemned such provisions as "sweepingly excessive" and "legally unreasonable". Kirsch, supra, 59 N.J. at 251-252.

(T)he regulation or proscription must be reasonably calculated to meet the evil and not exceed the public need or substantially affect uses which do not partake of the offensive character of those which cause the problem sought to be ameliorated. Id.

The Court then discussed factually how the alleged purposes underlying these provisions could be appropriately achieved without unconstitutionally discriminating against non-biologically related households.

First, the Court noted that direct prohibition or control of certain potentially incompatible uses could be enacted which might be acceptable. Specific reference was made to the exclusion of college fraternities and sororities in residential zones. Kirsch, supra, 59 N.J. at 253. The Court in Berger, as previously noted, supplemented this list of potentially incompatible uses with a reference to boarding homes, dormitories and institutional living quarters. Berger, supra, 71 N.J. at 225.

Second, the Court specified how municipalities could legitimately deal with offensive behavior such as excessive noise, rowdiness and other similar disturbances.

(O)noxious personal behavior can best be dealt with officially by vigorous and persistent enforcement of general police power ordinances and criminal statutes
Kirsch, supra, 59 N.J. at 253.

Third, the Court directly addressed the problems associated with the number of occupants and how those problems could be avoided or alleviated.

When intensity of use, i.e., overcrowding of dwelling units and facilities, is a factor in that conduct, . . . consideration might quite properly be given to zoning or housing code provisions, which would have to be of general application, limiting the number of occupants in reasonable relation to available sleeping and bathroom facilities or requiring a minimum amount of habitable floor area per occupant. Kirsch, supra, 59 N.J. at 254.

In summary, several important principles were established in Kirsch:

1. classification on the basis of bona fide single-housekeeping users was permissible;
2. classification on the basis of biological relatedness was impermissible;

3. problems associated with noise or rowdiness in residential structures should be dealt with by vigorous enforcement of general police power ordinances;

4. problems associated with the number of occupants should be dealt with by ordinances specifically relating the number of permissible occupants to the size of the unit and/or the types of facilities (number of bathrooms and bedrooms) therein, and

5. ordinances dealing with these problems must be of "general application"; that is, applicable to occupancy in any single-family structure regardless of the biological or non-biological relatedness of the occupants. Thus, the size of the single-housekeeping unit permitted to occupy a given structure would be related to the structure itself and would not be a function of the biological or non-biological relatedness of the members of that single-housekeeping unit.

It is clear that the Plainfield ordinance, under the Kirsch formulation, is unconstitutional and the guilty verdict of the defendant-respondent Baker must be reversed. The only question is whether Kirsch stands as good law; that is, as discussed above, whether the following language in Berger can be read to have diluted it:

We believe a satisfactory resolution of this problem would result, were local governments to restrict single family dwellings to a reasonable number of persons who constitute a bona fide single housekeeping unit. Berger, supra, 71 N.J. at 225.

The Appellate Division below thought not, see 158 N.J.Super. 536 (App. Div. 1978) and neither did the Court in Holy Name Hosp. v. Montroy, supra, 153 N.J.Super. at 186, 188-89. See also Y.W.C.A. v. Bd. of Adjust. of the City of Summit, 134 N.J.Super. 384, 391 (Law Div. 1975), aff'd as mod. 141 N.J.Super. 315 (App. Div. 1976).

The crux of this case then is whether this Court will now re-entertain the notion that discrimination based on biological relatedness is valid. The City of Plainfield has clearly discriminated on that basis by limiting bona fide single-housekeeping units to those which consist of:

1. any number of biologically related persons (including those related by marriage or adoption); and
2. four or less non-biologically related persons.*

These two groups must be permitted occupancy in a single-family structure regardless of whether they are bona fide single-family house-keeping units and regardless of the size of the dwelling. On the other hand, five or more non-biologically related persons may not be permitted occupancy regardless of whether they compose a bona fide single house-keeping unit or not and regardless of whether the dwelling is of sufficient size.

Amicus contends that this standard is absurd and no more rational than those consistently rejected by this Court and inferior courts in New Jersey in the cases reviewed above. The distinction drawn is both factually and legally untenable.

* Amicus will discuss below, in Point III, *infra*, the lack of clarity in the Plainfield ordinance. Under one interpretation it may be read to permit a household containing five unrelated individuals; that is, one containing four persons unrelated to the head of the household.

3) Legal Basis for Plainfield's Ordinance

Plainfield's ordinance limiting the number of unrelated individuals who may occupy a residential unit rests on the simple contention as articulated by their counsel, that: "a line has to be drawn somewhere". (T33-1). Amicus agrees with the general proposition; however, Plainfield's implementation of it through the enactment of this provision is patently unconstitutional.

Although Plainfield concludes that any line drawn may seem irrational and arbitrary on its face, it asserts that limiting bona fide single-housekeeping units of unrelated individuals to four is reasonable because that number exceeds the average family size. The argument is specious, has been previously rejected by this Court and must be finally put to rest in this case.

First, the Court must not disregard the fact that Plainfield is excluding bona fide single-housekeeping units which happen to consist of more than four (4) unrelated individuals.

Second, Plainfield is not limiting the size of bona fide single-housekeeping units composed of related individuals. These households are not being limited to the "average family size" but may grow and encompass as many related persons, no matter how distant, who may desire to live together.

Third, line drawing as to household size is itself unreasonable and per se invalid. Accordingly, the Court need not address the issue of what

is a reasonable or an acceptable line whether it be drawn at zero or ten.*

Plainfield's legal argument in support of its ordinance establishing a ceiling on the number of unrelated individuals is based on a quotation from Berger which has been taken out of context. The Court in Berger

* The absurdity of drawing such lines is reflected in the incredible lack of consistency in the ordinances reviewed by the judiciary. Ironically, the one ordinance which permitted the greatest number (ten) of occupants was held inapplicable to a group home for neglected and abandoned children.

1) ONE: Berger, supra; Kirsch, supra; Johnson, supra; Marino, supra; Trottner, supra; Rademan v. City and Co. of Denver, 526 P. 2d 1325 (Sup. Ct. Colo. 1974); City of White Plains v. Ferraioli, 313 N.E. 2d 756 (Ct. of App. N.Y. 1974); Village of River Forest v. Midwest Bank and Trust Co., 297 N.W. 2d 775 (Ill. App. 1973); Group House of Port Washington, Inc. v. Bd. of Zoning and Appeals of the Town of No. Hempstead, 408 N.Y.S. 2d 377 (Ct. of App. N.Y. 1978).

2) TWO: Belle Terre, supra; Gabe Collins Realty, Inc., supra; Ass'n for Educational Development v. Hayward, 533 S.W. 2d 579 (Sup. Ct. Mo. 1976).

3) THREE: Holy Name Hosp., supra; Timberlake v. Kenkel, 396 F. Supp. 456 (E.D. Wisc. 1974), vac. and remanded without opinion 510 F. 2d 976 (7th Cir. 1975); Hessling v. City of Broomfield, 563 P. 2d 12 (Sup. Ct. Colo. 1977).

4) FOUR: Baker; Palo Alto Tenants' Union v. Morgan, 321 F. Supp. 908 (N.D. Calif. 1970), aff'd 487 F. 2d 883 (9th Cir. 1973), cert. den. 417 U.S. 910 (1974); Little Neck Community Ass'n v. Working Org. for Retarded Children, 383 N.Y.S. 2d 364 (App. Div. N.Y. 1976), app. den. 381 N.Y.S. 2d 1030 (Ct. of App. N.Y. 1976).

5) TEN: State v. Liddle, 520 S.W. 2d 644 (Ct. of App. Mo. 1973).

6) OTHER: Town of Durham v. White Enterprises, Inc., 348 A. 2d 706 (Sup. Ct. N.H. 1975) (structure must contain 300 square feet per unrelated individual. No limit as to related individuals.)

reiterated the Kirsch holding that restrictions of "single-family dwellings"* may be limited to "a reasonable number of persons who constitute a bona fide single housekeeping unit." Berger, supra, 71 N.J. at 225. Plainfield argues that this language supports its assertion that it can limit bona fide single housekeeping units to a reasonable number of occupants. Amicus contends that this interpretation is contrary to Kirsch and a distortion of Berger.

The "reasonable number" language in Berger can only refer to numerical limitations generally imposed on all households by relating the number of occupants to the size of the residence or facilities present. The bona fide of a single-housekeeping unit does not and cannot depend on the number of people who are members of the household. There is simply no reason to think that a household of three unrelated individuals is any more (or less) bona fide than one of seven or more persons.

Berger is clearly consistent with Kirsch with regard to numerical limitations on the number of permissible occupants in a residential unit and the limitation of residential households to "bona fide single-housekeeping units." The citation of Palo Alto Tenants' Union v. Morgan, supra** (relied upon by Plainfield) is not inconsistent with this

* The Court seems to assume that such limitations are applicable only to single-family dwellings. This is usually not the case. Such provisions normally apply to all residential units whether in single-family or multi-family structures. Baker is an example of that.

** The federal court in Palo Alto upheld an ordinance which defined "family" as including four or less unrelated persons living as a single housekeeping unit.

analysis of Berger. The entire discussion in Berger (at that point in the opinion) was clearly supportive of and only concerned with the principle that: "The concept of zoning for a single housekeeping unit is not novel". Berger, *id.* Also cited were Gabe Collins Realty, Inc. and Marino (see Berger, *supra*, 71 N.J. at 225, n. 4) for that proposition in a context which indicates support for the Kirsch reasoning. Palo Alto was cited merely as an example of an ordinance which permitted occupancy "by a limited number of unrelated persons living together as a single-housekeeping unit." Berger, *supra*, 71 N.J. at 225. Two other cases and a textual reference were also cited as examples. They were not cited by the Court as authority for drawing a line at four unrelated individuals. In fact, Oliver v. Zoning Comm'n of the Town of Chester, 31 Conn. Super. 197, 326 A. 2d 841, 843 (C. P. Middlesex Cty. 1974), also cited, involved support for a single-family use by 10 to 11 unrelated persons, 8 to 9 of whom would be employable retarded adults.

This Court in Kirsch, as detailed above, made it clear that the intensity of residential occupancy could be regulated only by relating the number of occupants to minimum floor space standards. These standards are of "general application" to bona fide single-housekeeping units which are composed of biologically or non-biologically related individuals. No basis can be found in any New Jersey decision to uphold an arbitrary limitation on the number of persons who may compose a bona fide single-housekeeping unit, whether they be biologically related or not. Furthermore, Kirsch addressed every factual basis allegedly justifying the the regulation of the number of unrelated individuals occupying a residential dwelling and found those concerns were directly and more appropriately "cured" by the utilization of three techniques previously discussed:

1. zoning for bona fide single-housekeeping units with the preclusion of incompatible uses;
2. utilization and vigorous implementation of general police powers, and
3. limitation on the intensity of residential occupancy pursuant to generally applicable floor space or similar standards.

4) Alleged Factual Basis for Plainfield's Ordinance

No factual basis was presented by Plainfield below nor by Mantoloking in Berger which could possibly warrant the Court to dilute its holding in Kirsch. Kirsch reviewed the possible municipal concerns sought to be addressed by such ordinances and found that they did not merit discrimination against bona fide single-housekeeping units composed of non-biologically related persons. The explicit teaching in Kirsch is that the regulation of the number of persons in such households in a manner unrelated to house size is irrational. The simple reason is that no legitimate social purpose is achieved by such a regulation which cannot be achieved by a regulation of general applicability; that is, one which does not discriminate between biologically and non-biologically related households. By utilizing a standard of general applicability such as that recommended in Kirsch (occupancy limits based on floor space minimums or available facilities), the anomalous result of excluding bona fide non-biologically related households greater than four unrelated persons while permitting similarly sized biologically related households will not occur.

The alleged purposes usually articulated in support of discrimination against single housekeeping units composed of unrelated individuals are:

the prevention of overcrowding, noise, rowdiness, traffic congestion, parking problems, undue burden on schools, decline in property values, and the desirability of zoning for the "typical American family". Amicus has attempted to explore the factual record of the cases (both state and federal) on this subject and has not found any factual support for the argument that a necessary, inevitable or even probable link exists between these alleged concerns and the presence of a bona fide non-biologically related single-housekeeping unit of any size.

The major precedent which seemingly contradicts this consistent line of authority in New Jersey is the United States Supreme Court's decision in Belle Terre. Amicus contends that that Court, as evidenced by its subsequent decision in Moore, supra, is narrowing its decision in Belle Terre by essentially limiting it to its facts and is moving toward the adoption of an analysis of such regulations as provided by this Court in Kirsch. In any event, a close review of the "factual" basis for this decision supports the Kirsch factual analysis

The factual basis given for the Belle Terre holding is found in two paragraphs:

The regimes of boarding houses, fraternity houses, and the like present urban problems. More people occupy a given space; more cars rather continuously pass by; more cars are parked; noise travels with crowds. A quiet place where yards are wide; people few, and motor vehicles restricted are legitimate guidelines in a land-use project addressed to family needs. Belle Terre, supra, 416 U.S. at 9.*

* This Court has stated its "total and complete accord with this reasoning." Berger, supra, 71 N.J. at 223. However, in so stating, it did adhere to its previously pronounced principles that these objectives can be appropriately accomplished by zoning for bona fide single-housekeeping units and vigorous enforcement of other police power ordinances.

Amicus does not take exception, per se, to this statement. However, its relationship to bona fide households of unrelated individuals is totally unsupported in the Belle Terre record.* The trial court, which had upheld the ordinance, in fact, specifically found that no proof existed to justify such factual assertions regarding the impact of bona fide non-biologically related single-housekeeping units.**

District Court Judge Dooling had specifically rejected those unsubstantiated claims, but he upheld the ordinance relying on his belief (factually unsupported) that the protection of the "traditional American family" was a valid zoning objective. Belle Terre, supra, 476 F. 2d at 810. The Second Circuit Court of Appeals rejected that reasoning. Citing this Court's decision in Kirsch and the Illinois Supreme Court's decision in Trottner, supra, the Second Circuit specifically stated that the goal of preserving the traditional American family was not a valid zoning objective:

* The most that can be said in support of the Court's assertion in this regard is that it may have been thinking in terms of "use" restrictions relating to those it specifically cited (boarding homes, fraternity homes) and not to unrelated households per se.

** "If some or all of these hypothesized objectives were supportable, some form of such ordinance might conceivably be upheld as a valid exercise of state police power. Upon the record before us, however, we fail to find a vestige of any such support. To theorize that groups of unrelated members would have more occupants per house than would traditional family groups, or that they would price the latter out of the market or produce greater parking, noise or traffic problems, would be rank speculation, unsupported either by evidence or by facts that could be judicially noticed. We are here constrained to adhere to Judge Dooling's observation that "Such a restricted zoning district might well be all but impossible to justify if it had to be strictly justified by its service of such familiar zoning objectives as safety, adequate light and air, preservation of the lands from over-intensive use, avoiding crowding of the population, reduction of traffic congestion and facilitation of adequate transportation, water, sewerage, school, park and other public services". Village of Belle Terre v. Boraas, 476 F. 2d 806, 816 (2d Cir. 1973).

Such social preferences, while permissible in a private club, have no relevance to public health, safety and general welfare. Belle Terre, supra, 476 F. 2d at 815.

The court, again citing Kirsch, noted that even if such occupancy did create the problems raised hypothetically by Belle Terre, they could be appropriately dealt with by enforcement of general police power regulations. Belle Terre, supra, 476 F. 2d at 817. The court also articulated, rather prophetically, a broader concern:

The effect of the Belle Terre ordinance would be to exclude from the community, without any rational basis, unmarried groups seeking to live together, whether they be three college students, three single nurses, three priests, or three single judges. Although local communities are given wide latitude in achieving legitimate zoning needs, they cannot under the mask of zoning ordinances impose social preferences of this character upon their fellow citizens. To permit such action would be to invite, upon similar guise, zoning laws that would restrict occupants to those having no more than two children per family, those employed within a given radius, those earning a minimum income, or those passing muster after interview by a community "Admissions Committee." While such selective exclusion may be practiced by private institutions, it cannot be tolerated on the part of a governmental body such as Belle Terre, which is bound to serve the public. Belle Terre, supra, 476 F. 2d at 816. (Emphasis added).

The emphasized portions of the above quotation anticipate the zoning restriction later invalidated in Moore, supra, and the very question asked by the municipal court judge below, cited at page 3 of this brief.

Amicus is not citing these passages in order to "re-argue" the lower court Belle Terre decision. The sole point here is to demonstrate that there was no record to support the Belle Terre holding. The factual concerns expressed by Justice Douglas were simply not present. In fact, as revealed by its subsequent decision in Moore, supra, the United States Supreme Court has itself, reconsidered the same "facts" in a similar context. In Moore, the Court took a much harder look at the same factual protestations (thist time given in support of limiting occupancy in a household to certain blood relatives).

When thus examined, this ordinance cannot survive. The city seeks to justify it as a means of preventing overcrowding, minimizing traffic and parking congestion, and avoiding an undue financial burden on East Cleveland's school system. Although these are legitimate goals, the ordinance before us serves them marginally, at best. For example, the ordinance permits any family consisting only of a husband, wife, and unmarried children to live together, even if the family contains a half dozen licensed drivers, each with his or her own car. At the same time it forbids an adult brother and sister to share a household, even if both faithfully use public transportation. The ordinance would permit a grandmother to live with a single dependent son and children, even if his school-age children number a dozen; yet it forces Mrs. Moore to find another dwelling for her grandson John, simply because of the presence of his uncle and cousin in the same household. We need not labor the point. Section 1341.08 has but a tenuous relation to alleviation of the conditions mentioned by the city. Moore, supra, 431 U.S. at 499-500. (Emphasis added).

One also "need not labor the point" that the same could have been said of the Belle Terre ordinance and its relationship to alleged conditions.

Of course, Belle Terre exists, and the Court in Moore was constrained to distinguish it in order to reach its holding. It did so on the narrowest of grounds, that "(t)he ordinance there affected only unrelated individuals." Moore, supra, 431 U.S. at 498. The Court does not explain why that fact matters (other than than it is a convenient basis for distinguishing the case).

Justice Stevens concurrence in Moore (his opinion created the majority) sheds greater light on the direction of the Supreme Court in this regard.* In his opinion, Justice Stevens carefully reviewed the state law on this issue; something totally ignored by the Court in rendering its decision in Belle Terre. In reviewing these cases, Justice Stevens disparaged zoning on biological grounds and cited with approval the decisions in Kirsch, Trottner and Ferraioli, all cases which, contrary to Belle Terre, invalidated or refused to apply a biologically-based test. Moore, supra, 431 U.S. at 515-19. Most importantly, Justice Stevens reinterpreted Belle Terre as "consistent with this line of state authority" Moore, supra, 431 U.S. at 520, n. 15. He viewed the decision in Belle Terre as a means of insuring bona fide single-housekeeping units in "family" zones and of prohibiting incompatible uses such as fraternities and sororities therein. Moore, supra, 431 U.S. at 516 n. 7. Thus, it is possible, if not likely, that Belle Terre may be interpreted as a "use" case and that the factual underpinning for that distinction will be an "implicit" finding that the residence therein was being used as a fraternity house or dormitory. Amicus does not support that factual view as to that particular residence but merely

* This concurrence was cited with approval below, 158 N.J.Super. at 542.

sees it as the only logical way in which the decision in Belle Terre can be reconciled with the Court's holding in Moore.*

Justice Stevens concurrence in Moore also addressed the alternative means for addressing any legitimate zoning concerns (if they exist) such as overcrowding and traffic. He specifically cited the utilization of floor space minimums and the prohibition of on-street parking to alleviate overcrowded conditions and traffic problems. Moore, supra, 431 U.S. at 520, n. 16. Criticizing ordinances which address these concerns through zoning provisions like Plainfield's, Justice Stevens cited the language in another New Jersey case, the lower court decision in Kirsch, Larson v. Mayor and Coun. of the Bor. of Spring Lake Hgts., 99 N.J.Super. 365, 375 (Law Div. 1968):

To attack these problems through use of a restrictive definition of family is, as one court noted, like "burn(ing) the house to roast the pig." Moore, id.**

In light of the factual record before the Court in Belle Terre and the subsequent analysis of it provided by Justice Stevens in Moore, it can hardly be said that Belle Terre can be read to undermine Kirsch, even if Belle Terre could be controlling as to the New Jersey Constitutional principles. In fact, it must be noted that while Kirsch was reaffirmed by this Court (despite Belle Terre), the United States Supreme Court has itself been narrowing the impact of its decision in that case. See Moore

* Academic criticism of Belle Terre was immediate. See, e.g., Note, "Village of Belle Terre v. Boraas: 'A Sanctuary for People'", 9 U. of San Fran. L. Rev. 391, 401 (Fall 1974): "The decision, however, was not at all clear in indicating the basis on which the ruling rested.

** See also Note, "'Burning the House to Roast the Pig': Unrelated Individuals and Single Family Zoning's Blood Relation Criterion", 58 Cornell L. Rev. 138 (Nov. 1972).

and Berger. The record below certainly does not provide the factual basis for reversal of this trend.

The transcript of the proceedings below does not contain any evidence supporting the Plainfield ordinance on any health, safety or general welfare grounds. The only "evidence" regarding the impact of the Baker's use is the testimony of a lay person (neighbor) that "the property looks a bit run down." (T93-22-23) However, no attempt was made to ascertain, let alone prove: when that condition occurred; whether it grew worse when the Baker household moved in, or whether the condition of the property was such as to impact detrimentally on the neighborhood.

Plainfield did not provide any other "facts" as to the conditions its ordinance sought to regulate. What is perhaps even more significant (especially in light of this Court's and the Supreme Court's discussions in this regard) Plainfield did not promulgate or enforce ordinances which could be specifically directed at overcrowding, parking or traffic problems. According to the testimony of its zoning officer the city does have an ordinance regulating occupancy pursuant to minimum floor space standards, but it was not enforced. In fact, the zoning officer did not even know if the Baker household was in violation of it. T103-12-13, 16-17.* Plainfield does not place any restraint on cars. T103-1-6. Thus, no attempt has ever been made by Plainfield to regulate these "problems" through normal police power ordinances. Given these facts, Plainfield can hardly contend that there is a public necessity for this ordinance. Plainfield simply

* The United States Supreme Court in Moore noted that East Cleveland had a specific ordinance to prohibit overcrowding. Moore, supra, 431 U.S. at 500, n. 7. This was also true of Manasquan in Kirsch. See Larson, supra, 99 N.J.Super. at 374, n. 1.

cannot prevail here solely on some legal argument that "all lines are arbitrary". Absent a factual basis in support of their ordinance, there can be no legal support for the type of line drawn. Legal argument (and factual) can only be found for a line of general applicability limiting household size to the size of the residence and available facilities.

Kirsch, itself, provides the definitive statement on the potential factual implications of residential occupancy by non-traditional households. The legal standards established by this Court were done in complete recognition of these problems. In Kirsch, the Court was presented with a record which documented the problems created by the occupancy of a single-family dwelling by a transient household of young unrelated adults. The Court noted that "one result is an almost continuous overcrowding of the . . . facilities available".

Unquestionably, and regrettably, excessive noise at all hours, wild parties, intoxication, acts of immorality, lewd and lascivious conduct and traffic and parking congestion often accompany these group rentals, making life not only unpleasant but practicably unbearable to neighbors, vacationers and permanent residents and have a general adverse effect on the whole municipality. Kirsch, supra, 59 N.J. at 245.

The Court went on to state that these conditions actually amounted to a public and private nuisance; Kirsch, id., a condition which would have justified governmental action even before Euclid, supra. Regardless, even under those facts, the Court refused to permit regulations which discriminate on the basis of biological relatedness. Certainly, Plainfield has not established facts sufficient to alter that judgment.

The basic legal standards enunciated in Kirsch are in tact. Plain-field must be ordered to apply them if it truly desires to regulate the purported evils of overcrowding, parking, traffic and the like. It should do so directly and not by artificially drawing lines which arbitrarily intrude into the composition of bona fide households.

POINT II

THE PLAINFIELD ORDINANCE VIOLATES THE MUNICIPAL LAND USE LAW

This case raises serious constitutional questions which amicus believes should not be left unanswered.* Precedent exists for deciding the constitutional issues rather than relying on a statutory basis for the Court's holding. See Kirsch and Berger. However, a decision (only if favorable to Baker) could ignore the State Constitution and solely rest on a statutory interpretation of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., which provides the statutory basis for the exercise of the municipal zoning power under the State Constitution. See N.J.S.A. 40:55D-65.

This Court's decision in Kirsch, supra, 59 N.J. at 250-251, and Weymouth, supra, 71 N.J. at 276, n. 11, provide ample precedent for a determination on statutory grounds. Amicus' arguments will not be repeated. Three additional points, however, are relevant:

First, the Legislature, in adopting the new Municipal Land Use Law, did not enact any provision to disturb this Court's ruling in Kirsch and

* The history of the Illinois experience in this context is indicative of why a constitutional holding is preferable. In Trottner, supra, the Illinois Supreme Court invalidated a municipal ordinance which discriminated against non-biologically related households on statutory grounds. The Illinois legislature, within one year adopted specific enabling legislation authorizing such zoning ordinances. No Illinois case has been reported which considers that statute on constitutional grounds. Ill. Rev. Stat. 1967, c. 24, par. 11-13-1(a). See Village of River Forest v. Midwest Bank & Trust Co., supra. If the Court would reach the same conclusion even if specific statutory authorization existed for the Plainfield ordinance, a constitutional holding is particularly preferable. A constitutional confrontation with specific legislation, as opposed to a particular municipal ordinance, would thus be avoided.

has chosen not to take any action in response to the decision in Berger.

Second, the Legislature, has acted to clarify its position in other areas:

1. N.J.S.A. 40:55D-65(b) specifically relates to floor space standards;
2. N.J.S.A. 50:55D-65(g) specifically addresses senior citizen zoning;
3. N.J.S.A. 40:55D-66(b) specifically addresses discrimination between public and private, non-profit elementary and secondary schools;
4. N.J.S.A. 40:55D-66(c) specifically addresses discrimination between children who are biologically related and those in foster care facilities, and
5. P.L. 1978, c. 159 specifically addresses discrimination against structures used for the developmentally disabled.

Third, the New Jersey Relocation Laws and Regulations adopted thereunder may provide some guidance to the Court.* N.J.S.A. 52:31B-1 et seq. establishes the basis for relocation assistance in New Jersey. It states, in relevant part, that relocation assistance shall be provided to any person or family displaced by a unit of local government "on account of a program of law enforcement." N.J.S.A. 52:31B-4(a). See also N.J.S.A. 20:4-1 et seq. and, specifically, N.J.S.A. 20:4-2 (referring to displacement "by building code enforcement").

Regulations adopted pursuant to these laws have implemented them to specifically include displacement resulting from municipal "zoning code enforcement" or "building code enforcement" as programs of "law enforce-

* Apparently, no issue was made below of the relocation implications of Plainfield's enforcement of this ordinance. It is clear, however, that displacement pursuant to the ordinance would require assistance be provided. See infra.

ment". N.J.A.C. 5:11-1.7; Regulations of Relocation Asst. Law of 1967 5:11-1,007; 5:11-1010; 5:11-1017. Additionally, they have defined "family" to include an entire household regardless of the biological or non-biological relatedness of its members. Thus, N.J.A.C. 5:11-1.7 defines the term "family" as "two or more individuals who by blood, marriage, adoption or mutual consent live together as a family unit." See also, Regulations to Relocation Assistance Law of 1967, 5:11-1,017. State policy, then, for relocation purposes, is to include in the concept of "family" those who live together in a single housekeeping unit by "mutual consent".

POINT III

THE PLAINFIELD ORDINANCE
DOES NOT CLEARLY DEFINE
THE CLASSIFICATION DRAWN

The Plainfield Ordinance appears clear, on its face, as to the nature of those households which may reside within its borders. However, as in most examples of ordinances of this type, beneath this veneer of clarity are obvious analytical difficulties. Amicus' purpose herein is not to create greater confusion than may already exist as to the scope of the ordinance. The purpose of this Point is merely to reveal its imprecision. The Court may draw legal and factual implications from the fact that the ordinance is not clearly drafted.

Legally, this Court mandated in Kirsch (and reiterated in Sente, Weymouth, Shepard and, in dictum, in Berger) that a land use ordinance which discriminates as to who may use or occupy an otherwise lawful residence must be: clear, precise, necessary, narrowly drawn to meet a legitimate underlying public purpose and not overbroad. Amicus suggests that the sole criterion, in this context, which meets that test is the concept of a "bona fide housekeeping unit". Plainfield's attempt to comply with these standards by drawing an artificial, if not arbitrary, line in defining a family comprised of unrelated individuals has failed, as will any such line.

Factual implications may also be drawn from the imprecision of the Plainfield ordinance. As will be shown below, we do not know precisely to whom this provision applies. The governing body of Plainfield clearly desires, for whatever purpose, to exclude certain households from the

municipality. The problem is that it has not been clear as to who may come in and who must stay out. Thus, potential householders, homeowners and landowners are not clearly advised as to lawful occupancy in Plainfield even though they may be subject to penal sanctions for failure to comply. Furthermore, the lack of clarity reflects a failure to diligently address the purported underlying public concerns. The ordinance is not narrowly drawn to meet them and, in fact, is patently overbroad. Furthermore, a careful review of the charts below will reveal that certain households permitted residency under the ordinance would be excluded upon the birth of a child or the addition of any other biologically related person. This clearly violates the Moore holding, supra.

The Plainfield ordinance defines the term "family"* as follows:

One (1) or more persons occupying a dwelling unit as a single non-profit housekeeping unit. More than four (4) persons exclusive of domestic servants, not related by blood, marriage, or adoption, shall not be considered to constitute a family. Section 17.3-1 (a)(17).

First, on its face, the ordinance is overbroad, potentially excluding the same "benign" households which concerned this Court in Kirsch. In fact, the Baker-type household (essentially two families of related individuals living together in a single household) was specifically cited by this Court in Kirsch as a legitimate household which might be arbitrarily

* Semantic difficulties abound in this area of the law. "Family" as used in this context by Plainfield is similar in scope to the census definition of "household". See infra. It essentially means those persons permitted occupancy in a single-housekeeping unit (whether the structure is "single-family" or "multi-family").

excluded by such a provision. Kirsch, supra, 59 N.J. at 248. In fact, as mentioned in Kirsch, even unrelated elderly persons or judges would be excluded. Significantly, all households of five or more unrelated persons are excluded even if they comprise a bona fide single-housekeeping unit. Furthermore, all households of four or less persons are included even if they do not comprise a bona fide single-housekeeping unit. Regardless, Plainfield's "line" unquestionably excludes households which cannot lawfully be excluded. These households are as entitled to residency within its borders as is any other bona fide single-housekeeping unit.

Second, regardless of its patent discrimination against bona fide single-housekeeping units, the ordinance is confusing as to the specific line which is in fact drawn. Amicus will attempt to outline below: 1) those households clearly included; 2) those households clearly excluded; and 3) those households which are not clearly included or excluded.

The ordinance, as previously stated, is clear that all households containing four or less individuals are permitted residency regardless of the bona fides of the single-housekeeping unit. The confusion arises as to the treatment of households containing five (5) or more individuals. Amicus contends that the only households, clearly permitted residency, which contain five or more individuals, are those containing five or more persons all of whom are unrelated to a sixth person who is the head of the household.

The concept of "head of the household" is not explicit in the Plainfield ordinance but may be implicit. The census data, for example, enumerates "non-related individuals" by determining the number of persons in the household who are not related to the head.* Thus, a five person

* See Point IV, infra.

household composed of individuals all of whom are unrelated to each other would be, for census purposes, a household containing four unrelated persons (that is, four persons unrelated to the head).

The Plainfield ordinance states that a family shall not include "more than four (4) persons . . . not related by blood, etc." This definition may be read two ways; that is, a household may not include:

- a. more than four persons biologically unrelated to each other or
- b. more than four persons biologically unrelated to the head.

Very different impacts will result depending upon which definition is intended.*

* For example, consider two households structured as follows (letters represent individuals; use of the same letter represents biologically related individuals in the household):

1. A B C D E
2. A A A B B
3. A A A A A B

1. This household contains five persons: all are biologically unrelated to each other. Thus, under the first definition it would be excluded. However, assuming "A" is the head, the household contains only four (4) persons unrelated to the head and would be included under the second definition.
2. This household contains five persons: three persons biologically related to each other and two persons biologically related to each other; however, the three are biologically unrelated to the two. It is difficult to evaluate this household under the first definition. Does it contain five or more persons biologically unrelated to each other? Amicus contends that this question cannot be answered. However, the household would be included under a definition tying individuals to a head. Whoever is considered as the head, this household does not contain more than four persons biologically unrelated to the head.

(footnote continued on page 48)

The following charrts are indicative of the confusion. In order to minimize this exposition, amicus will assume that the ordinance is intended to be read to exclude only households containing five or more persons biologically unrelated to the head; that is, the second definition given above.*

In the following examples each letter designates a single individual. Two or more letters which are the same indicate that those two or more individuals in the household are related by blood, marriage and/or adoption. The designation "?" represents an unclear situation as to the household's exclusion or permitted residency under the express language of the Plain-field ordinance.

Five Person Households

Under this definition all such households would be included, since the most diverse (A B C D E) would contain only four persons biologically

(footnote continued from page 47)

3. This household contains six persons: five are biologically related to each other, one is biologically unrelated to the other five. Does it contain five or more persons biologically unrelated to each other? Amicus contends that cannot be answered. Also, depending upon who is the head, the household may or may not be included even under the second definition. Thus, if one of the "A"s is the head, it would be included since only one person is present who is biologically unrelated to the head. If "B" is the head, it is excluded, since five or more persons are present who are biologically unrelated to the head.

* Defining it as "five or more persons biologically unrelated to each other" would result in similar confusion. The fact that the ordinance is not even clear as to which definition is intended compounds the problem almost geometrically. The problems would not be solved by opting for one definition over the other. They would just be lessened.

unrelated to the head. A fortiori, all other five person households would be included.*

Six Person Households

1. A A A A A A - Included
2. A A A A A B - ?
3. A A A A B B - Included
4. A A A A B C - ?
5. A A A B B B - Included
6. A A A B B C - ?
7. A A A B C D - ?
8. A A B B C C - Included
9. A A B B C D - ?
10. A A B C D E - ?
11. A B C D E F - Excluded

The status of households 2, 4, 6, 7, 9 and 10 would depend on who is the designated head. All are potentially excluded or included even though the actual composition of the households would not change. Households 1, 3, 5 and 8 are included regardless of who is the designated head.

* Under the other definition, the only five person household clearly included would be one containing all persons who are biologically related. The legality of five other potential households would be unknown since it is unclear whether the ordinance would be interpreted to include them in the concept of a family containing five or more biologically unrelated individuals. The most diverse (7) would clearly be excluded since it contains five persons unrelated to each other. Thus:

1. A A A A A - Included
2. A A A A B)
3. A A A B B)
4. A A A B C) ?
5. A A B B C)
6. A A B C D)
7. A B C D E - Excluded

Household 11 is excluded under any set of circumstances (whether bona fide or not).*

Seven Person Households

1. A A A A A A A - Included
2. A A A A A A B -
3. A A A A A B B) ?
4. A A A A A B C)
5. A A A A B B B - Included
6. A A A A B B C)
7. A A A A B C D)
8. A A A B B B C) ?
9. A A A B B C C)
10. A A A B B C D)
11. A A A B C D E)
12. A A B B C C D - Excluded
13. A A B B C D E - Excluded
14. A A B C D E F - Excluded
15. A B C D E F G - Excluded

The status of households 2-4 and 6-11 would depend on who is the designated head. All are potentially excluded or included even though the actual composition of the households would not change. Households 1 and 5 are included regardless of who is the designated head. Households 12-15 are excluded under any set of circumstances (whether bona fide or not).**

Thus, under either definition the ordinance is hopelessly unclear. Innumerable varieties of households, some or all of which might be bona fide under the Kirsch - Berger test, may or may not be excluded from residency in Plainfield. This is in stark contrast to the precise formulation set forth as the constitutional standard by this Court.

* Under the other definition, the only six person household clearly included would be one containing all persons who are biologically related. The status of all other six person households would either be unknown or they would be clearly excluded.

** Under the other definition, the only seven person household clearly included would be one containing all persons who are biologically related. The status of all other seven person households would either be unknown or they would be clearly excluded.

POINT IV

CENSUS DATA RELATING TO HOUSEHOLDS AND FAMILIES

Specific data isolating the classifications of households comparable to that done by Plainfield is impossible to obtain for several reasons. First, the Plainfield ordinance is unclear as to the classifications it has delineated. See Point III, supra. Second, the Bureau of the Census has not used comparable data. Such information might be obtainable from the census data bank by specific request; however, the incredible variety of household choice exhibited in this region and nation mandates that the Bureau use more generalized classifications. The following, therefore, is the best available data relevant to the issues herein. It is offered to provide the Court with an idea as to the number of households implicated by ordinances of the type under consideration.

The Bureau of the Census, for its own purposes, uses the following definitions* (copies of all tables used are in the Appendix to this brief):

1. "household": "all the persons occupying a housing unit" (separate living quarters "in which the occupants do not live and eat with any other persons in the structure . . ."). May consist of a single individual, two or more unrelated individuals and/or one or more "families".
2. "head of household": "the person who is regarded as the head by the members of a household". All households, by definition, have one head.
3. "family": "the head of the household and all (one or more) other persons living in the same household who are related to the head by blood, marriage, or adoption." A household may, therefore, be composed of one or more families or one (that is, a head living alone or with one or more persons not related to him or her by blood, marriage, or adoption).

* All census definitions are taken from App. 14-15, "Newark, New Jersey Standard Metropolitan Statistical Area, Annual Housing Survey: 1974. Series H-170-74-10. U.S. Department of Commerce, Bureau of the Census. (Hereinafter referred to as "Newark SMSA Census"). These definitions are consistent with those used in other volumes.

4. "nonrelative": "any person in the household who is not related to the head by blood, marriage, or adoption." (May include roomers, boarders, lodgers, partners, resident employees, wards, and foster children).

1. U.S. Average Population Per Household and Family: 1940-1978.*

	1940	1950	1960	1970	1975	1976	1977	1978
Av. Household Pop:	3.67	3.37	3.33	3.14	2.94	2.89	2.86	2.81
Av. Family Pop:	3.76	3.54	3.67	3.58	3.42	3.39	3.37	3.33

2. U.S. Size of Households and Families: 1960-1976.**

a) U.S. Size of Households (in thousands): 1960-1976.

	1960		1970		1975		1976	
	#	%	#	%	#	%	#	%
Total HHs	52,799	100.0	63,401	100.0	71,120	100.0	72,867	100.0
One-four persons	40,866	77.4	50,023	78.9	59,172	83.2	61,281	84.1
five or more persons	11,933	22.6	13,378	21.1	11,948	16.8	11,586	15.9

* Source: Table 2, page 3 "Households and Families by Type: March 1978 (Advance Report)". Population Characteristics, Current Population Reports. Series P-20, No. 327 (Issued August 1978). U.S. Department of Commerce, Bureau of the Census. (Hereinafter referred to as "1978 Population Characteristics").

** Source: Table A, page 2, Table 1, pp. 11 and 16 of "Households and Family Characteristics, Current Population Reports". Series P-20, No. 311 (Issued August 1977). U.S. Department of Commerce, Bureau of the Census.

b. U.S. Size of Families (in thousands): 1976.

	#	%
Total Families	56,245*	100.0
One to Four Person Families	44,808	79.7
Five or more Person Families	11,436	20.3

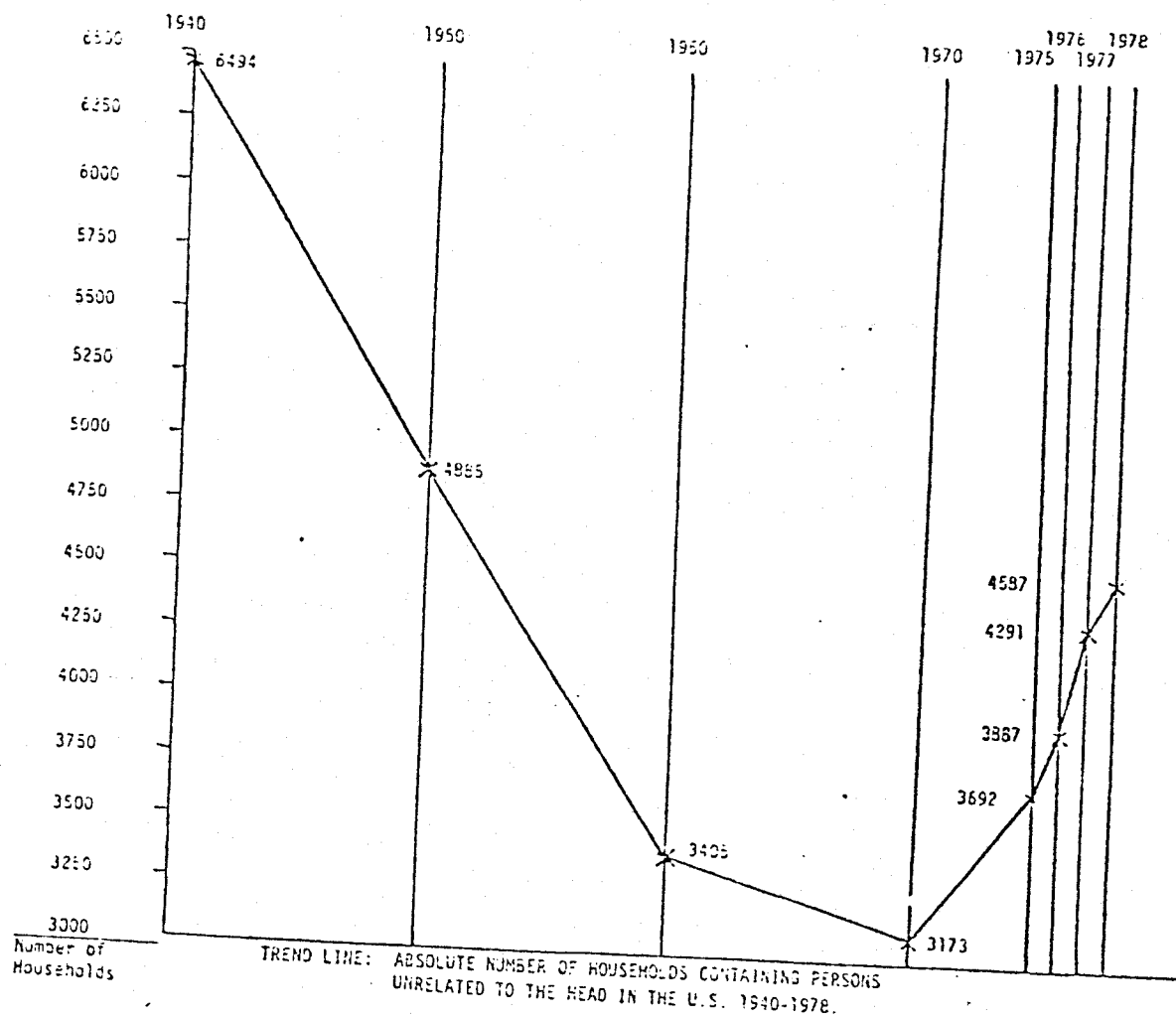
3. U.S. Household Units by Type (in thousands): 1940-1978**

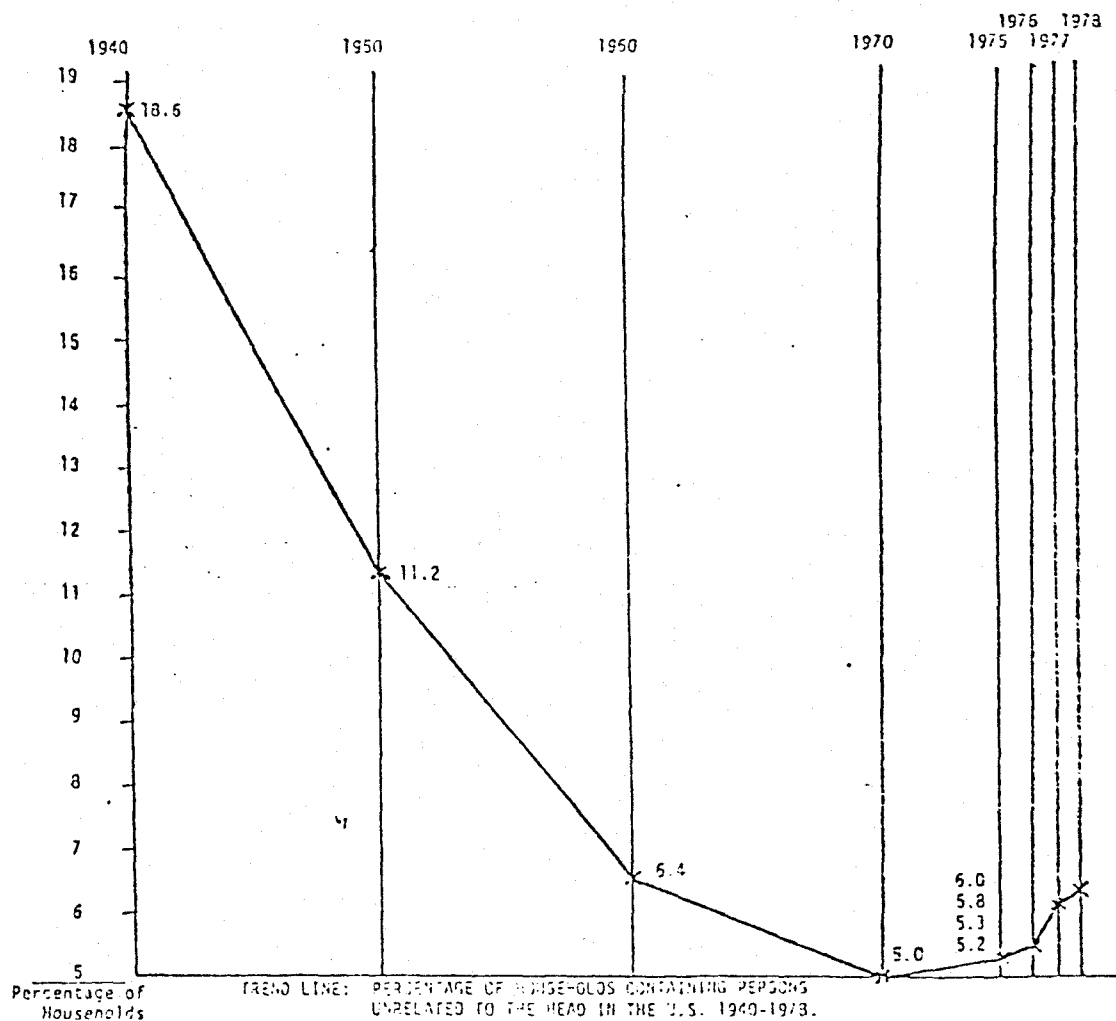
	1940	1950	1960	1970	1975	1976	1977	1978
Total HH's	34,949	43,554	52,799	63,401	71,120	72,867	74,142	76,030
Total w/non-related members	6,494	4,885	3,405	3,173	3,692	3,887	4,291	4,587
%	18.6	11.2	6.4	5.0	5.2	5.3	5.8	6.0

The following charts represent a graphic portrayal of the trends detailed in the foregoing table.

* This column contains a statistical error of 1.

** "1978 Population Characteristics", supra, Table 6, pages 6-7. Compilation of households composed of non-related individuals obtained by adding totals for secondary individuals and secondary families - both categories of persons unrelated by blood, marriage, or adoption to the head.





4. Newark SMSA Data: 1974*

a. Newark SMSA Households by Number of Persons: 1974**

Total # of HH's	Four or Less Persons		Five or More Persons	
	#	%	#	%
538,200***	477,700	81.9	105,600	18.1

Assuming a very conservative average of 5.5 persons per household containing five (5) or more persons in the Newark SMSA, the total number of persons in such households in 1974 was 580,800.

* All of the following data are taken from the "Newark SMSA Census", supra. This includes Union County and Plainfield, New Jersey. See p. XIII. The latest available data for the SMSA was compiled in 1974.

** Table 1 of Part A, p. A-01.

*** There is a statistical error of 100 in the columns.

b. Newark SMSA Households By Race Containing Other Relatives (not spouse, child or child's family) or Nonrelatives: 1974*

	Total	None		Relatives, no Nonrelatives		Relatives and Nonrelatives		Nonrelatives No Relatives	
		#	%	#	%	#	%	#	%
Total	583,200**	518,200	88.9	48,300	8.3	1,200	0.2	15,600	2.7
White	470,000	424,900	90.4	34,100	7.3	500	0.1	10,700	2.3
Black	113,200**	93,300	82.4	14,200	12.5	700	0.6	4,900	4.3

This comparative data by race reveals that in the Newark SMSA in 1974 a far greater percentage of black households, as opposed to white households, contained persons who were either nonrelatives and/or "other" relatives (that is, relatives other than a spouse, child or immediate member of a child's family).

* Table 1 of Part A, p. A-02; Table 4 of Part A, p. A-11. The "white" figures were derived by subtracting the "black" data from the "total".

** columns contain a statistical error of 100.

c. Newark SMSA Households By Income Containing Nonrelatives By
Income: 1974*

	Total	\$0-9,999	\$10,000+
Total Households	583,200**	205,800	377,200
# With Nonrelatives	16,800	8,600	8,200
% With Nonrelatives	2.9	4.2	2.2

This comparative data by income reveals that in the Newark SMSA in 1974 a far greater percentage of lower-income households than upper income-households contained members who were not related to the head by blood, marriage, or adoption. Interestingly, despite the fact that the number of upper-income households exceeded lower-income households by 171,400, there were still 400 more lower-income households with nonrelatives than in upper income households.

This data, presents three inescapable conclusion that ordinances of the type under consideration impact:

1. on a substantial number of household;
2. on minority households more than non-minority households; and
3. on lower-income households more than upper-income households.

* Table 1 of Part C, pp. C-01 and C-02. Compilation of data given for owner- and renter-occupied units.

** This column contains a statistical error of 200.

CONCLUSION

For the foregoing reasons, amicus respectfully requests this Court to declare Plainfield's zoning provision, Section 17.3-1(a)(17) unconstitutional, illegal and void to the extent that it discriminates against bona fide single-housekeeping units comprised of unrelated individuals and to reverse the conviction of the defendant Dennis Baker thereunder.

Respectfully submitted,

STANLEY C. VAN NESS
PUBLIC ADVOCATE

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Date:

On the Brief:

Carl S. Bisgaier, Director, Division of Public Interest Advocacy
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Population Characteristics

U.S. Department of Commerce
BUREAU OF THE CENSUS

Series P-20 No. 327
Issued August 1978

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Households and Families by Type: March 1978 (Advance Report)

CHANGE IN THE NUMBER AND SIZE OF HOUSEHOLDS

According to the results of the March Current Population Survey, there were 76.0 million households in 1978. Thus far during the 1970's, the number of households has increased by 12.6 million. In the 1960's, the increase was 10.9 million households (tables 1 and 6).

Three of every four households in 1978 were family households. Since 1970, these households have increased by 11 percent and account for 44 percent of the increase in the total number of households. The other one-fourth of all households were not maintained by a family and have increased by 60 percent, accounting for more than half (56 percent) of the total increase in the number of households over the 8-year period.

Family households maintained by a woman with no husband present comprised only 11 percent of all households in 1978, but they have increased by 46 percent since 1970. By comparison, married-couple households accounted for 62 percent of all households in 1978, and they have increased by only 6 percent during this decade.

Persons living alone account for the vast majority (88 percent) of nonfamily households (households not maintained by a family). The disproportionate increase in the number of such households in recent years has contributed substantially to the decline in average household size from 3.14 persons in 1970 to 2.81 persons in 1978 (table 2). Other factors contributing to the decline in household size include a period of relatively low birth rates which reduced the average number of children in households, and a

comparatively high level of separation and divorce which often had the effect of splitting one larger household into two smaller ones.

HOUSEHOLDS OF MARRIED AND UNMARRIED PERSONS

The proportion of households that were maintained by single (never-married) persons increased sharply between 1970 and 1978 (from 7 percent to 11 percent). This change is apparently related to an increasing tendency for young men and women to either marry at later ages, or perhaps not marry at all. During this period, the proportion of 20-to-24-year-old men and women who were single increased by comparable amounts (from 55 percent to 66 percent for men, and from 36 percent to 48 percent for women). Most of these men and women will probably marry eventually, but the fact that a corresponding increase occurred since 1970 among those 25 to 29 years and 30 to 34 years old suggests that more and more young adults are pursuing alternatives to marriage for longer periods of time (tables 3 and 4).

The marked increase in young adult singles has been partially responsible for the rapid growth of nonfamily households. Nonfamily households maintained by men have increased more than any other type during the 1970's; almost half (48 percent) of these men had never been married.

The proportion of households maintained by a married couple actually declined from 70 percent in 1970 to 62 percent in 1978. During the same period, the proportion of households maintained by a divorced or separated person increased from 8 percent to 12 percent.

HOUSEHOLDS BY TYPE: 1978 AND 1970
(Numbers in thousands)

Type of household	1978		1970		Change, 1970 to 1978	
	Number	Percent	Number	Percent	Number	Percent
Total households.....	76,030	100.0	63,401	100.0	12,629	19.9
Family households.....	56,958	74.9	51,456	81.2	5,502	10.7
Maintained by a--						
Married couple.....	47,357	62.3	44,728	70.5	2,629	5.9
Man, no wife present.....	1,564	2.1	1,228	1.9	336	27.4
Woman, no husband present.....	8,037	10.6	5,500	8.7	2,537	46.1
Nonfamily households.....	19,071	25.1	11,945	18.8	7,126	59.7
Maintained by a--						
Man.....	7,811	10.3	4,063	6.4	3,748	92.2
Woman.....	11,261	14.8	7,882	12.4	3,379	42.9

Table 2. AVERAGE POPULATION PER HOUSEHOLD AND FAMILY: 1940 TO 1978

Year	Average population per household			Average population per family		
	All ages	Under 18 years	18 years and over	All ages	Under 18 years	18 years and over
1978.....	2.81	0.83	1.98	3.33	1.10	2.23
1977.....	2.86	0.87	1.99	3.37	1.13	2.24
1976.....	2.89	0.89	2.00	3.39	1.15	2.23
1975.....	2.94	0.93	2.01	3.42	1.18	2.23
1974.....	2.97	0.96	2.00	3.44	1.21	2.23
1973.....	3.01	1.00	2.02	3.48	1.25	2.23
1972.....	3.06	1.03	2.03	3.53	1.29	2.25
1971.....	3.11	1.07	2.04	3.57	1.32	2.25
1970.....	3.14	1.09	2.05	3.58	1.34	2.25
1969.....	3.16	1.11	2.05	3.60	1.36	2.24
1968.....	3.20	1.14	2.06	3.63	1.38	2.25
1967.....	3.26	1.17	2.08	3.67	1.41	2.27
1966.....	3.27	1.19	2.08	3.69	1.42	2.27
1965.....	3.29	1.21	2.09	3.70	1.44	2.26
1964.....	3.33	1.23	2.10	3.70	1.44	2.25
1963.....	3.33	1.22	2.10	3.68	1.43	2.25
1962.....	3.31	1.21	2.10	3.67	1.42	2.25
1961.....	3.34	1.22	2.13	3.70	1.42	2.27
1960.....	3.33	1.21	2.12	3.67	1.41	2.26
1955.....	3.33	1.14	2.19	3.59	1.30	2.29
1950.....	3.37	1.06	2.31	3.54	1.17	2.37
1940.....	3.67	1.14	2.53	3.76	1.24	2.52

Table 6. HOUSEHOLD AND FAMILY UNITS BY TYPE: 1940 TO 1978

(Numbers in thousands)

Unit	March 1978		March 1977	March 1976	March 1975	March 1974	March 1973	March 1972	March 1971	March 1970
	Number	Percent								
HOUSEHOLDS										
Total.....	76,030	100.0	74,142	72,867	71,120	69,859	68,251	66,676	64,778	63,401
Primary families.....	56,958	74.9	56,472	56,056	55,563	54,917	54,264	53,163	52,102	51,456
Husband-wife.....	47,357	62.3	47,471	47,297	46,951	46,787	46,297	45,724	44,928	44,728
Male head, no wife present.....	1,564	2.1	1,461	1,424	1,485	1,421	1,432	1,331	1,254	1,228
Female head, no husband present..	8,037	10.6	7,540	7,335	7,127	6,709	6,535	6,108	5,920	5,500
Primary individuals.....	19,071	25.1	17,669	16,811	15,557	14,942	13,986	13,513	12,676	11,945
Male.....	7,811	10.3	6,971	6,548	5,912	5,654	5,129	4,839	4,403	4,063
Female.....	11,261	14.8	10,698	10,263	9,645	9,288	8,858	8,674	8,273	7,882
Living alone ¹	16,715	22.0	15,532	14,933	13,939	13,368	12,635	12,189	11,446	10,851
FAMILIES										
Total.....	57,215	100.0	56,710	56,245	55,712	55,053	54,373	53,296	52,227	51,586
Husband-wife.....	47,385	82.8	47,497	47,318	46,971	46,812	46,314	45,752	44,964	44,755
Male head, no wife present.....	1,594	2.8	1,500	1,444	1,499	1,438	1,453	1,353	1,262	1,239
Female head, no husband present....	8,236	14.4	7,713	7,482	7,242	6,804	6,607	6,191	6,001	5,591
SECONDARY FAMILIES										
Total.....	257	100.0	238	189	149	137	109	133	125	130
Husband-wife.....	28	10.9	26	22	20	25	17	28	36	27
Male head, no wife present.....	30	11.7	39	20	14	17	21	22	8	11
Female head, no husband present....	199	77.4	173	147	115	95	72	83	81	91
SUBFAMILIES										
Total.....	1,093	100.0	1,176	1,190	1,349	1,178	1,250	1,253	1,238	1,150
Husband-wife.....	536	49.0	505	547	576	512	626	649	711	617
Male head, no wife present.....	81	7.4	52	52	69	63	52	66	59	48
Female head, no husband present....	476	43.5	619	591	705	602	573	539	468	484
MARRIED COUPLES										
Total.....	47,920	100.0	48,002	47,866	47,547	47,324	46,939	46,400	45,675	45,373
With own household.....	47,357	98.8	47,471	47,297	46,951	46,787	46,297	45,724	44,928	44,728
Without own household.....	563	1.2	531	569	596	537	642	676	747	645
Percent without own household....	1.2	...	1.1	1.2	1.3	1.1	1.4	1.5	1.6	1.4
UNRELATED INDIVIDUALS										
Total.....	23,402	100.0	21,722	20,509	19,100	18,587	17,111	16,598	15,844	14,988
Male.....	10,168	43.4	9,203	8,513	8,000	7,713	6,852	6,591	6,165	5,693
Female.....	13,233	56.5	12,519	11,996	11,101	10,874	10,259	10,007	9,679	9,296
SECONDARY INDIVIDUALS										
Total.....	4,330	100.0	4,053	3,698	3,543	3,646	3,125	3,085	3,168	3,043
Male.....	2,358	54.4	2,231	1,965	2,037	2,059	1,722	1,752	1,762	1,631
Female.....	1,973	45.6	1,821	1,733	1,456	1,586	1,403	1,333	1,406	1,412

...Not applicable.

¹One-person households.

HOUSEHOLDS AND FAMILY UNITS BY TYPE: 1940 TO 1978—Continued

(Numbers in thousands)

Unit	March 1969	March 1968	March 1967	March 1966	March 1965	March 1960	April 1955	March 1950	April 1947	April 1940
HOUSEHOLDS										
Total.....	62,214	60,813	59,236	58,406	57,436	52,799	47,874	43,554	39,107	34,949
Primary families.....	50,729	50,012	49,086	48,399	47,838	44,905	41,732	38,838	34,964	31,491
Husband-wife.....	44,086	43,507	42,743	42,263	41,689	39,254	36,251	34,075	30,612	26,571
Male head, no wife present.....	1,221	1,195	1,190	1,163	1,167	1,228	1,328	1,169	1,129	1,510
Female head, no husband present..	5,422	5,310	5,153	4,973	4,982	4,422	4,153	3,594	3,223	3,410
Primary individuals.....	11,485	10,801	10,150	10,007	9,593	7,895	6,142	4,716	4,143	3,458
Male.....	3,890	3,638	3,419	3,299	3,277	2,716	2,059	1,668	1,388	1,599
Female.....	7,595	7,143	6,731	6,708	6,321	5,179	4,083	3,048	2,755	1,859
Living alone ¹	10,401	9,802	9,200	9,093	8,631	6,896	5,221	3,954	2,894	2,684
FAMILIES										
Total.....	50,823	50,111	49,214	48,509	47,956	45,111	41,951	39,303	35,794	32,166
Husband-wife.....	44,110	43,530	42,805	42,312	41,749	39,329	36,378	34,440	31,211	26,971
Male head, no wife present.....	1,232	1,211	1,203	1,178	1,181	1,275	1,339	1,184	1,186	1,579
Female head, no husband present....	5,481	5,370	5,206	5,019	5,026	4,507	4,234	3,679	3,397	3,616
SECONDARY FAMILIES										
Total.....	94	99	128	110	118	207	219	465	830	675
Husband-wife.....	24	23	62	49	60	75	127	365	599	400
Male head, no wife present.....	11	16	13	15	14	47	11	15	57	69
Female head, no husband present....	59	60	53	46	44	85	81	85	174	206
SUBFAMILIES										
Total.....	1,168	1,225	1,292	1,383	1,293	1,514	1,973	2,402	3,123	2,062
Husband-wife.....	603	661	679	721	729	871	1,178	1,651	2,332	1,546
Male head, no wife present.....	66	80	91	92	72	115	69	113	83	52
Female head, no husband present....	499	484	522	570	492	528	726	638	708	464
MARRIED COUPLES										
Total.....	44,713	44,191	43,484	43,033	42,478	40,200	37,556	36,091	33,543	28,517
With own household.....	44,086	43,507	42,743	42,263	41,689	39,254	36,251	34,075	30,612	26,571
Without own household.....	627	684	741	770	789	946	1,305	2,016	2,931	1,946
Percent without own household....	1.4	1.5	1.7	1.8	1.9	2.4	3.5	5.6	8.7	6.8
UNRELATED INDIVIDUALS										
Total.....	14,154	13,425	12,725	12,558	12,333	11,092	9,891	9,136	8,491	9,277
Male.....	5,305	4,952	4,705	4,649	4,709	4,462	4,187	4,209	3,852	4,942
Female.....	8,849	8,473	8,020	7,909	7,624	6,630	5,704	4,927	4,639	4,335
SECONDARY INDIVIDUALS										
Total.....	2,669	2,624	2,575	2,551	2,735	3,198	3,749	4,420	4,348	5,819
Male.....	1,415	1,294	1,286	1,350	1,432	1,746	2,128	2,541	2,464	3,343
Female.....	1,254	1,330	1,289	1,201	1,303	1,451	1,621	1,879	1,884	2,476

... Not applicable.

¹One-person households.

Population
Characteristics

U.S. Department of Commerce
BUREAU OF THE CENSUS

Series P-20, No. 311
Issued August 1977

Household
and Family
Characteristics:
March 1976

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Table A. Households by Size: 1960 to 1976

(Numbers in thousands)

Size of household	1976	1975	1974	1973	1972	1971	1970	1969	1968
All households...	72,867	71,120	69,859	68,251	66,676	64,778	63,401	62,214	60,813
Percent.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1 person.....	20.6	19.6	19.1	18.5	18.3	17.7	17.0	16.7	16.1
2 persons.....	30.6	30.6	30.8	30.2	29.2	29.2	28.8	29.0	28.6
3 persons.....	17.2	17.4	17.1	17.3	17.3	17.1	17.3	17.3	17.4
4 persons.....	15.7	15.6	15.6	15.7	16.0	15.5	15.8	15.7	15.8
5 persons.....	8.6	9.0	9.3	9.4	9.6	10.3	10.4	10.3	10.4
6 persons.....	4.1	4.3	4.4	4.8	5.1	5.3	5.6	5.7	6.0
7 or more persons.....	3.2	3.5	3.8	4.1	4.5	5.0	5.1	5.3	5.7

Size of household	1967	1966	1965	1964	1963	1962	1961	1960
All households.....	59,236	58,406	57,436	56,149	55,270	54,764	53,557	52,799
Percent.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1 person.....	15.5	15.6	15.0	13.9	13.6	13.6	13.3	13.1
2 persons.....	28.3	28.6	28.1	27.8	27.6	28.2	28.4	27.8
3 persons.....	17.6	17.1	17.9	17.9	18.1	18.4	18.3	18.9
4 persons.....	16.1	16.2	16.1	17.0	17.1	17.1	17.5	17.6
5 persons.....	10.6	10.7	11.0	11.3	11.3	11.0	11.3	11.5
6 persons.....	5.9	5.9	5.8	6.0	6.3	6.1	5.8	5.7
7 or more persons.....	6.0	5.9	6.1	6.1	6.0	5.5	5.5	5.4

The only other size category which accounts for a larger share of all households in 1976 than in 1960 is the two-person household which has increased slightly from 27.8 to 30.6 percent of the total. Thus, one- and two-person households now constitute more than half of all households in the country.

At the other end of the size spectrum, we find that households with six or more members are even less common today than was the case at the beginning of the 1960's. Whereas 11 of every 100 households had at least six members in 1960, there were only about 7 such units per 100 households in 1976.

The trend toward smaller households results from the interplay of a variety of factors. Low fertility, postponement of marriage, the formation of new, small households by those born during the baby boom, the ability of young singles and the elderly to finance and maintain their own households, and marital dissolution are all likely contributors to the proliferation of American households consisting of only one or two persons.

CHANGES IN THE MIX OF HOUSEHOLD TYPES

Despite such factors as the recent increase in the rate of marital dissolution and the increasing tendency for young adults to establish their own nonfamily households, the husband-wife household continues to be the dominant living arrangement in the United States. Nationwide, about two of every three households (65 percent) were maintained by a married couple in 1976 (table B). The husband-wife household, however, accounted for a smaller overall share of American households in 1976 than in 1970, when they represented 71 percent of the total.

The reduction in the proportion of all households that were maintained by a married couple did not result from an actual decline in their total number. Rather, it has largely been a function of the relatively more rapid increases in other household types. There was an increase of 9.5 million households between 1970 and 1976. About seven of every ten of these additional households consisted either of persons living alone or with nonrelatives only

Table 1. CHARACTERISTICS OF FAMILIES BY TYPE AND RACE AND SPANISH ORIGIN OF HEAD, BY FARM AND NONFARM RESIDENCE: MARCH 1976

(Numbers in thousands. This report excludes inmates of institutions. It includes 914,000 members of the Armed Forces in 1976 who were living off post or with their families on post but excludes all other members of the Armed Forces. For meaning of symbols, see text)

SUBJECT	UNITED STATES				NONFARM				FARM			
	TOTAL	HUSBAND-WIFE FAMILIES	FAMILIES WITH MALE HEAD, NO WIFE PRESENT	FAMILIES WITH FEMALE HEAD, NO HUSBAND PRESENT	TOTAL	HUSBAND-WIFE FAMILIES	FAMILIES WITH MALE HEAD, NO WIFE PRESENT	FAMILIES WITH FEMALE HEAD, NO HUSBAND PRESENT	TOTAL	HUSBAND-WIFE FAMILIES	FAMILIES WITH MALE HEAD, NO WIFE PRESENT	FAMILIES WITH FEMALE HEAD, NO HUSBAND PRESENT
NUMBER												
ALL FAMILIES												
METROPOLITAN-NONMETROPOLITAN RESIDENCE												
ALL FAMILIES	56 245	47 318	1 444	7 482	54 045	45 290	1 368	7 387	2 200	2 028	77	95
IN SMSA'S	37 801	31 264	1 035	5 503	37 366	30 883	1 014	5 489	416	381	21	14
CENTRAL CITIES	15 812	12 090	512	2 210	15 812	12 090	512	2 210	416	381	21	14
RING	21 989	19 174	522	2 293	21 573	18 793	501	2 279	20	15	6	6
SMSA'S OF 3,000,000 OR MORE	9 579	7 623	338	1 617	9 559	7 609	333	1 617	20	15	6	6
CENTRAL CITIES	4 422	3 198	145	1 030	4 422	3 198	139	1 030	20	15	5	2
RING	5 157	4 425	194	587	5 136	4 411	139	587	65	78	5	2
SMSA'S OF 1,000,000 TO 3,000,000	11 867	9 834	319	1 714	11 782	9 756	314	1 712	85	78	5	2
CENTRAL CITIES	3 802	2 875	112	815	3 802	2 875	112	815	85	78	5	2
RING	8 064	6 959	206	899	7 980	6 880	202	898	179	163	8	8
SMSA'S OF 250,000 TO 1,000,000	11 603	9 793	267	1 543	11 424	9 629	259	1 535	179	163	8	8
CENTRAL CITIES	5 043	3 939	136	968	5 043	3 939	124	967	179	163	8	8
RING	6 560	5 854	131	575	6 381	5 690	124	567	132	124	3	5
SMSA'S OF LESS THAN 250,000	4 753	4 018	111	629	4 621	3 889	108	624	132	124	3	5
CENTRAL CITIES	2 545	2 077	71	397	2 545	2 077	71	397	132	124	3	5
RING	2 208	1 941	40	232	2 076	1 812	37	227	132	124	3	5
NOT IN SMSA'S	18 443	16 055	410	1 979	16 659	14 407	354	1 898	1 784	1 648	56	81
SIZE OF FAMILY												
ALL FAMILIES	56 245	47 318	1 444	7 482	54 045	45 290	1 368	7 387	2 200	2 028	77	95
2 PERSONS	21 280	17 037	690	3 354	20 445	16 297	844	3 303	835	737	46	51
3 PERSONS	12 252	9 658	336	2 058	11 805	9 462	309	2 034	447	397	27	24
4 PERSONS	11 276	10 122	120	1 033	10 852	9 710	120	1 022	424	413	11	11
5 PERSONS	6 171	5 488	58	425	5 934	5 452	57	424	237	235	1	2
6 PERSONS	2 969	2 649	19	302	2 850	2 538	15	296	119	110	3	6
7 OR MORE PERSONS	2 296	1 965	22	310	2 159	1 829	22	308	137	136	2	2
TOTAL PERSONS	190 630	163 070	3 980	23 580	182 956	155 862	3 791	23 303	7 674	7 207	189	277
AVERAGE PER FAMILY	3.39	3.45	2.76	3.15	3.39	3.44	2.77	3.15	3.49	3.55	2.46	2.93
MEMBERS UNDER 18												
ALL FAMILIES	56 245	47 318	1 444	7 482	54 045	45 290	1 368	7 387	2 200	2 028	77	95
NO MEMBERS UNDER 18	24 868	21 614	890	2 363	23 747	20 610	832	2 304	1 121	1 004	58	59
1 MEMBER UNDER 18	11 556	9 120	322	2 114	11 162	8 758	309	2 096	394	362	13	18
2 MEMBERS UNDER 18	10 578	8 909	137	1 532	10 252	8 594	135	1 523	326	315	2	9
3 MEMBERS UNDER 18	5 400	4 554	57	789	5 229	4 385	55	788	171	168	2	1
4 MEMBERS UNDER 18	2 258	1 919	28	311	2 177	1 841	28	308	81	78	1	4
5 MEMBERS UNDER 18	914	714	3	193	849	654	6	189	65	60	1	1
6 OR MORE MEMBERS UNDER 18	670	489	3	178	629	447	3	176	41	41	1	1
TOTAL MEMBERS UNDER 18	64 924	53 366	924	10 635	62 532	51 076	894	10 562	2 393	2 290	29	73
AVERAGE PER FAMILY	1.15	1.13	0.64	1.42	1.16	1.13	0.65	1.43	1.09	1.13	0.38	0.78
MEMBERS 18 TO 64												
ALL FAMILIES	56 245	47 318	1 444	7 482	54 045	45 290	1 368	7 387	2 200	2 028	77	95
NO MEMBERS 18 TO 64	4 283	3 844	94	350	4 066	3 655	77	333	222	189	17	17
1 MEMBER 18 TO 64	7 989	2 812	628	4 549	7 758	2 655	594	4 509	231	157	33	40
2 MEMBERS 18 TO 64	34 217	31 745	546	1 926	32 961	30 543	522	1 897	1 255	1 202	24	29
3 MEMBERS 18 TO 64	7 055	6 386	147	522	6 708	6 049	144	514	346	336	3	7
4 MEMBERS 18 TO 64	2 162	2 036	23	103	2 046	1 922	23	102	116	114	1	1
5 OR MORE MEMBERS 18 TO 64	534	495	7	32	505	467	7	32	29	29	1	1
TOTAL MEMBERS 18 TO 64	110 894	97 348	2 450	11 097	106 420	93 101	2 358	10 961	4 474	4 246	91	136
AVERAGE PER FAMILY	1.97	2.06	1.70	1.48	1.97	2.06	1.72	1.48	2.03	2.09	1.19	1.43
MEMBERS 65 AND OVER												
ALL FAMILIES	56 245	47 318	1 444	7 482	54 045	45 290	1 368	7 387	2 200	2 028	77	95
NO MEMBERS 65 AND OVER	46 301	39 336	648	5 967	44 637	37 787	923	5 928	1 664	1 599	25	40
1 MEMBER 65 AND OVER	5 124	3 553	393	1 174	4 861	3 354	362	1 133	263	193	31	39
2 MEMBERS 65 AND OVER	4 703	4 291	96	316	4 405	4 065	78	302	257	226	13	14
3 OR MORE MEMBERS 65 AND OVER	116	84	8	25	101	74	5	23	15	10	3	1
TOTAL MEMBERS 65 AND OVER	14 811	12 357	605	1 848	14 004	11 685	538	1 780	807	671	68	68
AVERAGE PER FAMILY	0.26	0.26	0.42	0.25	0.26	0.26	0.39	0.24	0.37	0.33	0.89	0.72
OWN CHILDREN UNDER 18												
ALL FAMILIES	56 245	47 318	1 444	7 482	54 045	45 290	1 368	7 387	2 200	2 028	77	95
NO OWN CHILDREN UNDER 18	26 067	22 208	998	2 861	24 899	21 175	934	2 790	1 165	1 033	64	71
WITH OWN CHILDREN UNDER 18	30 177	25 110	446	4 621	29 146	24 115	433	4 597	1 035	995	13	24
1 OWN CHILD UNDER 18	11 100	8 928	270	1 902	10 723	8 577	260	1 886	378	350	10	16
2 OWN CHILDREN UNDER 18	10 279	8 752	110	1 407	9 964	8 452	108	1 404	314	310	1	3
3 OWN CHILDREN UNDER 18	5 243	4 463	46	740	5 079	4 300	40	739	164	163	1	1
4 OWN CHILDREN UNDER 18	2 156	1 875	20	271	2 064	1 794	20	271	82	82	1	4
5 OWN CHILDREN UNDER 18	821	654	5	162	760	599	4	159	61	56	1	1
6 OR MORE OWN CHILDREN UNDER 18	568	427	2	139	535	394	2	139	33	33	1	1
TOTAL OWN CHILDREN UNDER 18	61 677	51 586	710	9 431	59 437	49 392	690	9 355	2 260	2 195	20	46
AVERAGE PER FAMILY	1.10	1.09	0.49	1.26	1.10	1.09	0.50	1.27	1.03	1.03	0.26	0.48
AVERAGE PER FAMILY WITH CHILDREN	2.04	2.05	1.59	2.03	2.04	2.05	1.59	2.03	2.14	2.21	(8)	(8)

SEE FOOTNOTES AT END OF TABLE.

NONFARM RESIDENCE: MARCH 1976—Continued

This report excludes inmates of institutions. It includes 914,000 members of the Armed Forces in 1976 who were living off post or with their families on post but excludes all other members of the Armed Forces. For meaning of symbols, see text.

	UNITED STATES				NONFARM				FARM			
	TOTAL	HUSBAND- WIFE FAMILIES	FAMILIES WITH MALE HEAD, NO WIFE PRESENT	FAMILIES WITH FEMALE HEAD, NO HUSBAND PRESENT	TOTAL	HUSBAND- WIFE FAMILIES	FAMILIES WITH MALE HEAD, NO WIFE PRESENT	FAMILIES WITH FEMALE HEAD, NO HUSBAND PRESENT	TOTAL	HUSBAND- WIFE FAMILIES	FAMILIES WITH MALE HEAD, NO WIFE PRESENT	FAMILIES WITH FEMALE HEAD, NO HUSBAND PRESENT
FAMILIES OF SPANISH ORIGIN—CON.												
ALL CHILDREN UNDER 6												
ALL FAMILIES	2 499	1 896	81	522	2 470	1 869	79	522	30	27	2	
WITH OWN CHILDREN UNDER 6	1 535	1 123	74	333	1 515	1 105	72	338	20	18	2	
1 OWN CHILD UNDER 6	964	773	8	183	955	754	8	183	10	10		
2 OWN CHILDREN UNDER 6	599	477	5	117	595	477	5	117	3	3		
3 OWN CHILDREN UNDER 6	277	225	1	50	274	223	1	50	3	3		
4 OR MORE OWN CHILDREN UNDER 6	67	52	2	13	67	51	2	13	1	1		
TOTAL OWN CHILDREN UNDER 6	21	18		3	18	15		3	3	3		
AVERAGE PER FAMILY	1 397	1 124	12	261	1 375	1 102	12	261	22	22		
AVERAGE PER FAMILY WITH CHILDREN	0.56	0.59	0.14	0.50	0.55	0.59	0.15	0.50	(B)	(B)		
AVERAGE PER FAMILY WITH CHILDREN	1.45	1.45	(B)	1.43	1.44	1.44	(B)	1.43	(B)	(B)		
OWN CHILDREN UNDER 3												
ALL FAMILIES	2 499	1 896	81	522	2 470	1 859	79	522	30	27	2	
WITH OWN CHILDREN UNDER 3	1 919	1 415	77	427	1 895	1 393	75	427	24	22		
1 OWN CHILD UNDER 3	581	432	4	95	575	476	4	95	6	6		
2 OWN CHILDREN UNDER 3	483	399	4	80	477	394	4	80	6	6		
3 OR MORE OWN CHILDREN UNDER 3	93	77		15	93	77		15	6	6		
TOTAL OWN CHILDREN UNDER 3	5	5		5	5	5		5	6	6		
AVERAGE PER FAMILY	684	569	4	111	679	554	4	111	5	5		
AVERAGE PER FAMILY WITH CHILDREN	0.27	0.30	0.05	0.21	0.28	0.30	0.05	0.21	(B)	(B)		
AVERAGE PER FAMILY WITH CHILDREN	1.18	1.10	(B)	1.16	1.18	1.19	(B)	1.16	(B)	(B)		
PERCENT DISTRIBUTION												
ALL FAMILIES												
METROPOLITAN-NONMETROPOLITAN												
RESIDENCE												
ALL FAMILIES	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
SMSA'S	67.2	65.1	71.6	73.6	69.2	68.2	74.1	74.3	18.9	18.8	27.4	14.9
CENTRAL CITIES	23.1	25.6	35.5	42.9	26.7	36.6	30.9	30.9	0.9	0.7	7.5	14.9
RING	32.1	40.5	30.2	30.7	39.9	41.5	24.3	24.3	18.9	18.8	27.4	14.9
SMSA'S OF 3,000,000 OR MORE	17.0	16.1	23.4	21.6	17.7	15.8	14.2	13.9	0.9	0.7	7.5	14.9
RING	7.9	6.8	13.4	13.8	8.2	7.1	14.2	13.9	0.9	0.7	7.5	14.9
SMSA'S OF 1,000,000 TO 3,000,000	9.2	9.4	10.0	7.8	9.5	9.7	10.1	7.9	0.9	0.7	7.5	14.9
CENTRAL CITIES	21.1	20.8	22.1	22.9	21.8	22.9	22.9	23.2	3.9	3.9	6.2	1.7
RING	6.8	6.1	7.6	10.9	7.0	6.3	14.7	11.0	3.9	3.9	6.2	1.7
SMSA'S OF 250,000 TO 1,000,000	14.3	14.7	14.3	12.0	14.8	15.2	14.7	12.2	3.9	3.9	6.2	1.7
CENTRAL CITIES	20.6	20.7	18.5	20.6	21.1	21.3	19.0	20.8	6.1	6.1	9.8	8.3
RING	9.0	8.3	9.1	12.9	9.3	8.7	9.1	13.1	6.1	6.1	9.8	8.3
SMSA'S OF LESS THAN 250,000	11.7	12.4	7.7	8.4	11.8	12.6	7.9	8.4	6.0	6.1	9.8	8.3
CENTRAL CITIES	8.5	8.4	4.9	5.3	4.7	4.6	5.2	5.4	6.1	6.1	9.8	8.3
RING	4.5	4.4	2.8	3.1	3.8	4.0	2.7	3.1	6.0	6.1	9.8	8.3
SMSA'S	3.9	4.1	2.4	2.4	3.0	3.1	2.7	3.1	6.0	6.1	9.8	8.3
OF FAMILY	32.8	33.9	28.4	26.4	31.8	25.9	25.7	81.1	61.2	38.6	50.0	50.0
ALL FAMILIES												
SMSA'S	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
CENTRAL CITIES	37.8	36.0	43.8	37.8	38.0	41.7	44.7	37.9	35.4	35.0	54.2	54.2
RING	21.8	20.8	23.2	27.5	20.9	22.6	27.5	19.3	19.6	19.6	24.9	24.9
SMSA'S	20.0	21.4	8.3	13.8	20.1	21.4	13.8	19.3	20.4	20.4	11.7	11.7
SMSA'S OF 3,000,000 OR MORE	11.0	12.0	4.0	5.7	11.0	12.0	4.0	5.4	11.6	11.6	6.0	6.0
RING	5.3	5.6	1.3	4.0	5.3	5.6	1.1	4.0	5.4	5.4	1.6	1.6
SMSA'S OF 1,000,000 TO 3,000,000	4.1	4.2	1.5	4.1	4.0	4.2	4.2	6.2	6.7	6.7	1.6	1.6
CENTRAL CITIES	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
RING	44.2	45.7	61.6	31.6	43.9	45.5	31.2	51.0	49.5	49.5	62.3	62.3
SMSA'S OF 3,000,000 OR MORE	20.5	19.3	22.3	28.3	20.7	22.5	28.4	17.9	17.9	17.9	19.3	19.3
RING	18.3	18.8	9.5	20.5	19.0	20.6	10.7	14.8	15.5	15.5	9.3	9.3
SMSA'S OF 1,000,000 TO 3,000,000	9.6	9.6	3.9	10.6	9.7	9.7	4.2	7.8	8.3	8.3	1.5	1.5
CENTRAL CITIES	4.0	4.1	2.0	4.2	4.0	4.0	2.6	3.7	3.8	3.8	3.6	3.6
RING	1.6	1.5	0.5	2.6	1.6	1.4	2.6	3.0	3.0	3.0	4.0	4.0
SMSA'S OF LESS THAN 250,000	1.2	1.0	0.2	2.4	1.2	0.2	2.4	1.9	2.0	2.0	1.5	1.5
CENTRAL CITIES	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
RING	7.6	8.1	6.5	4.7	8.1	5.7	4.5	10.1	9.3	9.3	17.9	17.9
SMSA'S OF 3,000,000 OR MORE	14.2	5.9	37.8	14.4	5.9	38.2	61.0	10.5	7.8	7.8	42.2	42.2
RING	60.8	67.1	70.0	61.0	57.4	61.0	25.7	57.1	59.3	59.3	30.7	30.7
SMSA'S OF 1,000,000 TO 3,000,000	12.5	13.5	10.2	12.4	13.4	10.6	1.4	5.3	16.6	16.6	7.6	7.6
CENTRAL CITIES	3.8	4.3	1.6	1.9	3.8	4.2	1.4	5.3	5.6	5.6	1.5	1.5
RING	1.0	1.0	0.5	0.4	1.0	0.5	0.4	1.3	1.4	1.4		

NOTES AT END OF TABLE.

HOUSING SURVEY: 1974

Housing
Characteristics For
Selected Metropolitan Areas

LIBRARY
DEPT. OF PUBLIC ADVOCATE

NEWARK, N.J.
Standard Metropolitan Statistical Area

4 1977

NEWARK, N.J. STATISTICAL AREA TOTAL	TOTAL		STANDARD METROPOLITAN STATISTICAL AREA NEWARK, N.J. TOTAL	
	1974	1970	1974	1970
ALL YEAR-ROUND HOUSING UNITS	609 800	602 000	608 000	598 900
VACANT YEAR-ROUND	1 700	3 000	33 500	35 300
ALL YEAR-ROUND HOUSING UNITS	608 000	598 900	87 300	81 500
TENURE, RACE, AND VACANCY STATUS			105 200	106 700
OCCUPIED	583 200	584 000	111 100	115 800
OWNER OCCUPIED	322 300	311 600	112 700	111 000
PERCENT OF ALL OCCUPIED	55.3	53.4	158 200	148 700
WHITE	289 700	285 300	5.2	5.2
NEGRO	31 300	25 400	322 300	311 600
RENTER OCCUPIED	260 900	272 400	900	1 100
WHITE	176 600	194 500	4 500	4 700
NEGRO	81 900	75 800	26 100	24 500
VACANT YEAR-ROUND	24 800	14 900	56 100	54 600
FOR SALE ONLY	2 700	1 500	89 000	88 400
HOMEOWNER VACANCY RATE	0.8	0.5	145 700	138 200
FOR RENT	10 400	8 200	6.3	6.3
RENTAL VACANCY RATE	3.8	2.9	260 900	272 400
RENTED OR SOLD, NOT OCCUPIED	6 100	1 800	29 900	32 200
HELD FOR OCCASIONAL USE	800	1 300	76 500	73 900
OTHER VACANT	4 800	2 100	73 500	78 300
PLUMBING FACILITIES			51 600	58 200
ALL YEAR-ROUND HOUSING UNITS	608 000	598 900	20 500	21 100
WITH ALL PLUMBING FACILITIES	599 200	584 900	9 000	8 800
LACKING SOME OR ALL PLUMBING	8 800	14 000	3.8	3.9
FACILITIES				
OWNER OCCUPIED	322 300	311 600		
WITH ALL PLUMBING FACILITIES	321 600	309 300		
LACKING SOME OR ALL PLUMBING	800	2 200		
FACILITIES				
RENTER OCCUPIED	260 900	272 400		
WITH ALL PLUMBING FACILITIES	253 900	262 200		
LACKING SOME OR ALL PLUMBING	7 000	10 300		
FACILITIES				
COMPLETE BATHROOMS				
ALL YEAR-ROUND HOUSING UNITS	608 000	598 900		
1 1/2	396 600	475 700		
2 OR MORE	81 700	104 500		
NONE OR ALSO USED BY ANOTHER	116 500	18 700		
HOUSEHOLD				
OWNER OCCUPIED	13 200	311 500		
1 1/2	322 300	214 000		
2 OR MORE	139 800	94 300		
NONE OR ALSO USED BY ANOTHER	74 100	3 300		
HOUSEHOLD	107 000	272 400		
RENTER OCCUPIED	1 400	249 800		
1 1/2	260 900	8 900		
2 OR MORE	237 500	13 700		
NONE OR ALSO USED BY ANOTHER	6 300			
HOUSEHOLD	6 600			
COMPLETE KITCHEN FACILITIES	10 500			
ALL YEAR-ROUND HOUSING UNITS	608 000	598 900		
EXCLUSIVE USE OF HOUSEHOLD	599 900	588 200		
USED BY ANOTHER HOUSEHOLD	2 200	10 700		
COMPLETE KITCHEN FACILITIES	5 900			
OWNER OCCUPIED	322 300	311 600		
EXCLUSIVE USE OF HOUSEHOLD	322 200	310 800		
USED BY ANOTHER HOUSEHOLD	100	800		
COMPLETE KITCHEN FACILITIES				
RENTER OCCUPIED	260 900	272 400		
EXCLUSIVE USE OF HOUSEHOLD	254 700	264 200		
USED BY ANOTHER HOUSEHOLD	1 900	8 200		
COMPLETE KITCHEN FACILITIES	4 200			

STANDARD METROPOLITAN STATISTICAL AREA NEWARK, N.J.		TOTAL	
TOTAL		1974	1970
ALL OCCUPIED HOUSING UNITS--CON.			
OWN CHILDREN UNDER 18 YEARS OLD BY AGE GROUP--CONTINUED			
RENTER OCCUPIED.			
NO OWN CHILDREN UNDER 18 YEARS		260 900	272 400
WITH OWN CHILDREN UNDER 18 YEARS		171 400	173 600
UNDER 6 YEARS ONLY		89 400	98 900
1.		28 400	33 500
2.		19 500	19 800
3 OR MORE		7 000	10 400
6 TO 17 YEARS ONLY		1 800	3 300
1.		42 200	42 000
2.		19 900	19 300
3 OR MORE		11 900	12 600
BOTH AGE GROUPS.		10 500	10 200
1.		18 800	23 300
2.		5 700	6 200
3 OR MORE		13 100	17 100
PRESENCE OF SUBFAMILIES			
OWNER OCCUPIED			
NO SUBFAMILIES		322 300	NA
WITH 1 SUBFAMILY		313 200	NA
SUBFAMILY HEAD UNDER 30 YEARS		9 000	NA
SUBFAMILY HEAD 30 TO 64 YEARS		3 500	NA
SUBFAMILY HEAD 65 YEARS AND OVER		4 600	NA
WITH 2 SUBFAMILIES OR MORE		800	NA
RENTER OCCUPIED.		100	NA
NO SUBFAMILIES		260 900	NA
WITH 1 SUBFAMILY		258 500	NA
SUBFAMILY HEAD UNDER 30 YEARS		2 300	NA
SUBFAMILY HEAD 30 TO 64 YEARS		1 500	NA
SUBFAMILY HEAD 65 YEARS AND OVER		800	NA
WITH 2 SUBFAMILIES OR MORE		-	NA
PRESENCE OF OTHER RELATIVES OR NONRELATIVES			
OWNER OCCUPIED			
NO OTHER RELATIVES OR NONRELATIVES		322 300	NA
WITH OTHER RELATIVES AND NONRELATIVES		286 600	NA
WITH OTHER RELATIVES, NO NONRELATIVES		500	NA
WITH NONRELATIVES, NO OTHER RELATIVES		30 100	NA
RENTER OCCUPIED.		5 200	NA
NO OTHER RELATIVES OR NONRELATIVES		260 900	NA
WITH OTHER RELATIVES AND NONRELATIVES		231 600	NA
WITH OTHER RELATIVES, NO NONRELATIVES		700	NA
WITH NONRELATIVES, NO OTHER RELATIVES		18 200	NA
INCOME ¹		10 400	NA
OWNER OCCUPIED			
LESS THAN \$2,000		322 300	311 600
\$2,000 TO \$2,999		3 600	13 900
\$3,000 TO \$3,999		5 400	7 300
\$4,000 TO \$4,999		8 700	7 200
\$5,000 TO \$5,999		8 600	7 400
\$6,000 TO \$6,999		10 300	8 400
\$7,000 TO \$7,999		7 900	9 900
\$8,000 TO \$8,999		23 300	42 400
\$9,000 TO \$9,999		65 800	87 900
\$10,000 TO \$14,999		109 100	88 600
\$15,000 TO \$24,999		79 600	38 700
\$25,000 OR MORE		17500	13400
MEDIAN			
RENTER OCCUPIED.			
LESS THAN \$2,000		260 900	272 400
\$2,000 TO \$2,999		9 600	34 000
\$3,000 TO \$3,999		20 900	17 400
\$4,000 TO \$4,999		16 400	18 300
\$5,000 TO \$5,999		17 000	18 100
\$6,000 TO \$6,999		14 600	19 600
\$7,000 TO \$7,999		14 900	19 300
\$8,000 TO \$8,999		44 700	55 200
\$9,000 TO \$9,999		63 200	56 800
\$10,000 TO \$14,999		49 000	27 900
\$15,000 TO \$24,999		10 500	5 800
\$25,000 OR MORE		9500	7500
MEDIAN			

TABLE 4. CHARACTERISTICS OF OWNER AND RENTER OCCUPIED HOUSING UNITS WITH NEGRO HEAD OF HOUSEHOLD:
1974 AND 1970--CONTINUED

DATA BASED ON SAMPLE, SEE TEXT, FOR MINIMUM BASE FOR DERIVED FIGURES (PERCENT, MEDIAN, ETC.) AND MEANING OF SYMBOLS, SEE TEXT)

STANDARD METROPOLITAN STATISTICAL AREA NEWARK, N.J. TOTAL	TOTAL		STANDARD METROPOLITAN STATISTICAL AREA NEWARK, N.J. TOTAL	TOTAL	
	1974	1970		1974	1970
OWN CHILDREN UNDER 18 YEARS OLD BY AGE GROUP					
OWNER OCCUPIED	31 300	25 400	INCOME ¹ --CONTINUED		
NO OWN CHILDREN UNDER 18 YEARS	13 400	12 000	RENTER OCCUPIED		
WITH OWN CHILDREN UNDER 18 YEARS	17 900	13 400	LESS THAN \$3,000	81 900	75 800
UNDER 6 YEARS ONLY	2 000	1 500	\$3,000 TO \$3,999	13 000	18 600
1.	1 600	900	\$4,000 TO \$4,999	7 000	7 300
2.	200	500	\$5,000 TO \$5,999	7 500	7 200
3 OR MORE	100	100	\$6,000 TO \$6,999	5 500	7 100
6 TO 17 YEARS ONLY	10 500	8 100	\$7,000 TO \$7,999	6 100	6 400
1.	4 200	3 100	\$8,000 TO \$8,999	16 600	14 300
2.	2 700	2 500	\$9,000 TO \$9,999	15 700	11 000
3 OR MORE	3 700	2 600	\$10,000 TO \$14,999	10 400	3 900
BOTH AGE GROUPS	5 400	3 700	\$15,000 OR MORE	7300	5700
2.	2 100	1 000	VALUE		
3 OR MORE	3 300	2 800	SPECIFIED OWNER OCCUPIED ²		
RENTER OCCUPIED	81 900	75 800	LESS THAN \$5,000	16 200	12 400
NO OWN CHILDREN UNDER 18 YEARS	44 700	37 600	\$5,000 TO \$7,499	200	200
WITH OWN CHILDREN UNDER 18 YEARS	37 200	38 200	\$7,500 TO \$9,999	-	300
UNDER 6 YEARS ONLY	9 000	10 900	\$10,000 TO \$14,999	500	2 000
1.	5 300	5 900	\$15,000 TO \$19,999	1 100	4 100
2.	2 900	3 200	\$20,000 TO \$24,999	1 300	3 000
3 OR MORE	700	1 700	\$25,000 TO \$34,999	6 700	2 200
6 TO 17 YEARS ONLY	18 300	16 100	\$35,000 OR MORE	6 200	600
1.	7 800	6 400	MEDIAN	32500	19500
2.	4 200	4 400	VALUE-INCOME RATIO		
3 OR MORE	6 300	5 400	SPECIFIED OWNER OCCUPIED ²		
BOTH AGE GROUPS	9 900	11 200	LESS THAN 1.5	16 200	12 400
2.	2 900	2 200	1.5 TO 1.9	5 000	3 900
3 OR MORE	7 000	9 000	2.0 TO 2.4	3 700	2 600
PRESENCE OF SUBFAMILIES			2.5 TO 2.9	2 400	1 800
OWNER OCCUPIED	31 300	NA	3.0 TO 3.9	1 600	1 000
NO SUBFAMILIES	30 000	NA	4.0 OR MORE	1 200	1 200
WITH 1 SUBFAMILY	1 300	NA	NOT COMPUTED	2 300	1 900
SUBFAMILY HEAD UNDER 30 YEARS	700	NA	GROSS RENT		
SUBFAMILY HEAD 30 TO 64 YEARS	400	NA	SPECIFIED RENTER OCCUPIED ³		
SUBFAMILY HEAD 65 YEARS AND OVER	200	NA	LESS THAN \$50	81 900	75 700
WITH 2 SUBFAMILIES OR MORE	-	NA	\$50 TO \$69	4 000	2 700
RENTER OCCUPIED	81 900	NA	\$70 TO \$79	3 700	4 900
NO SUBFAMILIES	80 800	NA	\$80 TO \$99	1 300	2 800
WITH 1 SUBFAMILY	1 100	NA	\$100 TO \$119	3 500	10 100
SUBFAMILY HEAD UNDER 30 YEARS	800	NA	\$120 TO \$149	4 600	15 300
SUBFAMILY HEAD 30 TO 64 YEARS	300	NA	\$150 TO \$199	13 100	24 800
SUBFAMILY HEAD 65 YEARS AND OVER	-	NA	\$200 TO \$299	31 300	12 600
WITH 2 SUBFAMILIES OR MORE	-	NA	\$300 OR MORE	18 100	1 700
PRESENCE OF OTHER RELATIVES OR NONRELATIVES			NO CASH RENT	800	100
OWNER OCCUPIED	31 300	NA	MEDIAN	1 500	700
NO OTHER RELATIVES OR NONRELATIVES	23 700	NA	NONSUBSIDIZED RENTER OCCUPIED ⁴		
WITH OTHER RELATIVES AND NONRELATIVES	400	NA	LESS THAN \$50	67 100	NA
WITH OTHER RELATIVES, NO NONRELATIVES	5 700	NA	\$50 TO \$59	100	NA
WITH NONRELATIVES, NO OTHER RELATIVES	1 600	NA	\$70 TO \$79	700	NA
RENTER OCCUPIED	81 900	NA	\$80 TO \$99	600	NA
NO OTHER RELATIVES OR NONRELATIVES	69 600	NA	\$100 TO \$119	2 200	NA
WITH OTHER RELATIVES AND NONRELATIVES	300	NA	\$120 TO \$149	3 900	NA
WITH OTHER RELATIVES, NO NONRELATIVES	8 700	NA	\$150 TO \$199	10 800	NA
WITH NONRELATIVES, NO OTHER RELATIVES	3 300	NA	\$200 TO \$299	30 400	NA
INCOME ¹			\$300 OR MORE	17 600	NA
OWNER OCCUPIED	31 300	25 400	NO CASH RENT	800	NA
LESS THAN \$3,000	400	2 800	MEDIAN	175	NA
\$3,000 TO \$3,999	1 000	1 000	GROSS RENT AS PERCENTAGE OF INCOME		
\$4,000 TO \$4,999	1 300	1 100	SPECIFIED RENTER OCCUPIED ³		
\$5,000 TO \$5,999	1 000	1 200	LESS THAN 10 PERCENT	81 900	75 700
\$6,000 TO \$6,999	800	1 500	10 TO 14 PERCENT	3 100	3 800
\$7,000 TO \$9,999	3 700	5 100	15 TO 19 PERCENT	11 200	10 400
\$10,000 TO \$14,999	8 100	7 000	20 TO 24 PERCENT	11 600	12 300
\$15,000 OR MORE	14 900	5 600	25 TO 29 PERCENT	13 400	10 300
MEDIAN	14600	10000	30 TO 34 PERCENT	15 500	12 900
			35 PERCENT OR MORE	25 200	23 400
			NOT COMPUTED	1 800	2 700

¹INCOME OF FAMILIES AND PRIMARY INDIVIDUALS IN 12 MONTHS PRECEDING DATE OF ENUMERATION; SEE TEXT. ²LIMITED TO 1-FAMILY HOMES ON LESS THAN 10 ACRES AND NO BUSINESS ON PROPERTY. ³EXCLUDES 1-FAMILY HOMES ON 10 ACRES OR MORE. ⁴EXCLUDES 1-FAMILY HOMES ON 10 ACRES OR MORE, HOUSING UNITS IN PUBLIC HOUSING PROJECTS, AND HOUSING UNITS WITH GOVERNMENT RENT SUBSIDIES.

TABLE 1. INCOME OF FAMILIES AND PRIMARY INDIVIDUALS IN OWNER AND RENTER OCCUPIED HOUSING UNITS: 1974
(DATA BASED ON SAMPLE, SEE TEXT. FOR MINIMUM BASE FOR DERIVED FIGURES (PERCENT, MEDIAN, ETC.) AND MEANING OF SYMBOLS, SEE TEXT)

DATA BASED ON SAMPLE, SEE TEXT, FOR MINIMUM REQUIREMENTS, MEDIAN, ETC., AND MEDIAN									
	TOTAL	LESS THAN \$3,000	\$3,000 TO \$4,999	\$5,000 TO \$9,999	\$10,000 TO \$14,999	\$15,000 TO \$24,999	\$25,000 OR MORE	MEDIAN (DOLLARS)	
OWNER OCCUPIED HOUSING UNITS	322 300	9 000	17 300	14 100	23 300	65 800	109 100	79 600	17500
RENTER OCCUPIED HOUSING UNITS	322 300	9 000	17 300	14 100	23 300	65 800	109 100	79 600	17500
ROOMS									
1 ROOM OR LESS	3 500	700	1 000	1 400	200	1 200	500	500	6600
2 ROOMS	28 100	900	2 800	3 200	3 500	6 800	7 800	1 100	12000
3 ROOMS	56 100	2 000	6 000	3 900	8 400	12 900	19 200	5 600	13800
4 ROOMS	89 000	3 300	4 000	4 600	5 500	21 700	34 300	15 700	16500
5 ROOMS OR MORE	145 700	2 100	3 600	5 100	7 800	23 200	47 300	56 600	21600
MEDIAN	6.3	5.8	5.3	5.6	5.8	6.0	6.3	6.5	...
PERSONS									
1 PERSON	28 500	4 800	7 200	4 500	4 600	8 500	2 200	700	6000
2 PERSONS	82 200	2 000	6 100	7 600	9 300	18 500	24 400	14 200	14300
3 PERSONS	64 000	800	1 600	2 200	3 500	15 500	25 100	15 300	18300
4 PERSONS	69 100	800	1 000	1 400	2 800	13 000	25 300	20 600	20300
5 PERSONS	44 800	600	1 000	1 400	1 600	7 300	15 600	17 200	21700
6 PERSONS OR MORE	33 700	-	400	900	1 500	7 000	12 600	11 300	20400
MEDIAN	3.3	1.4	1.7	2.1	2.3	3.1	3.6	4.0	...
UNITS WITH SUBFAMILIES	9 100	-	100	500	800	1 700	3 500	2 500	19100
UNITS WITH NONRELATIVES	5 700	-	800	500	400	1 900	700	1 400	13100
PLUMBING FACILITIES BY PERSONS PER ROOM									
WITH ALL PLUMBING FACILITIES	321 600	8 700	17 300	18 100	23 300	65 700	108 800	79 600	17500
1.00 OR LESS	310 800	8 700	16 800	17 500	22 600	62 900	104 200	78 600	17600
1.01 TO 1.50	9 400	-	500	700	500	2 000	4 300	1 300	17200
1.51 OR MORE	1 400	-	-	-	100	700	300	300	...
LACKING SOME OR ALL PLUMBING FACILITIES	800	300	-	-	-	100	400	-	...
1.00 OR LESS	800	300	-	-	-	100	400	-	...
1.01 TO 1.50	-	-	-	-	-	-	-	-	...
1.51 OR MORE	-	-	-	-	-	-	-	-	...
BEDROOMS									
NONE AND 1	12 900	1 400	2 400	1 600	1 800	2 500	2 200	1 000	8600
2	72 500	2 800	7 600	6 900	7 100	18 700	22 800	6 500	13200
3 OR MORE	237 000	4 800	7 300	9 600	14 400	44 600	84 100	72 100	19300
COMPLETE BATHROOMS									
1	139 800	4 800	13 100	11 100	14 800	35 200	45 600	15 200	13700
1 AND ONE-HALF	74 100	1 800	1 600	3 100	3 700	16 700	31 600	15 600	18200
2 OR MORE	107 000	2 100	2 400	3 800	4 900	13 600	31 500	48 800	23500
NONE OR ALSO USED BY ANOTHER HOUSEHOLD	1 400	300	300	100	-	300	500	-	...
COMPLETE KITCHEN FACILITIES									
FOR EXCLUSIVE USE OF HOUSEHOLD	322 200	9 000	17 300	18 100	23 300	65 700	109 100	79 600	17500
ALSO USED BY ANOTHER HOUSEHOLD	100	-	-	-	-	100	-	-	...
NO COMPLETE KITCHEN FACILITIES	-	-	-	-	-	-	-	-	...
YEAR HEAD MOVED INTO UNIT									
1973 OR LATER	27 600	500	600	400	1 100	6 000	11 000	8 000	19700
APRIL 1970 TO 1972	44 900	400	1 100	1 700	2 400	8 700	12 500	12 100	19400
1965 TO MARCH 1970	66 200	1 100	2 300	3 400	3 900	14 400	25 800	15 400	18100
1960 TO 1964	52 800	1 200	1 500	2 100	3 400	10 300	17 500	16 800	19500
1950 TO 1959	77 300	2 000	3 200	4 200	5 900	15 100	25 100	21 900	18300
1949 OR EARLIER	53 400	3 800	8 600	6 300	6 700	11 300	11 300	5 400	10600
HOUSEHOLD COMPOSITION BY AGE OF HEAD									
2-OR-MORE-PERSON HOUSEHOLDS	293 800	4 200	10 100	13 600	18 700	61 400	107 000	78 900	18600
MALE HEAD, WIFE PRESENT, NO NONRELATIVES	255 500	3 100	7 000	10 000	13 900	51 200	96 700	73 700	19400
UNDER 25 YEARS	1 500	100	-	-	-	500	900	-	...
25 TO 29 YEARS	13 500	-	-	200	800	3 600	6 800	2 000	18100
30 TO 34 YEARS	24 300	-	500	100	100	6 300	12 300	4 900	19100
35 TO 44 YEARS	57 400	300	400	900	2 500	11 200	23 600	18 600	20700
45 TO 64 YEARS	128 600	2 000	1 800	3 900	5 500	22 700	47 400	45 500	21000
65 YEARS AND OVER	30 000	800	4 300	4 800	4 900	6 800	5 700	2 700	10200
OTHER MALE HEAD	12 400	100	700	500	600	2 800	4 000	3 600	18600
UNDER 65 YEARS	9 400	-	300	400	500	1 700	3 400	3 100	20300
65 YEARS AND OVER	3 000	100	400	100	100	1 000	700	500	...
FEMALE HEAD	25 900	900	2 500	3 100	4 200	7 400	6 200	1 600	11500
UNDER 65 YEARS	18 600	800	1 500	2 200	2 800	5 600	4 600	1 200	11900
65 YEARS AND OVER	7 300	100	1 000	900	1 400	1 800	1 600	400	10400
1-PERSON HOUSEHOLDS	28 500	4 800	7 200	4 500	4 600	8 500	2 200	700	6000
UNDER 65 YEARS	11 700	1 700	900	1 600	2 400	2 600	1 500	500	9000
65 YEARS AND OVER	16 800	3 100	6 300	2 900	2 200	1 900	300	200	4700
OWN CHILDREN UNDER 18 YEARS OLD BY AGE GROUP									
NO OWN CHILDREN UNDER 18 YEARS	168 400	7 100	14 700	13 900	17 400	33 300	47 700	34 400	14700
WITH OWN CHILDREN UNDER 18 YEARS	153 900	1 900	2 600	4 200	5 900	32 500	61 500	45 200	19800
UNDER 6 YEARS ONLY	21 000	100	-	200	500	5 700	11 100	3 300	18500
1	11 400	100	-	-	100	3 700	5 800	1 600	18000
2	8 500	-	-	200	400	1 800	4 800	1 300	18300
3 OR MORE	1 200	-	-	-	-	300	500	400	...
6 TO 17 YEARS ONLY	99 000	1 700	1 800	2 700	3 800	18 300	36 000	34 700	20900
1	38 700	600	500	1 100	1 200	7 600	13 700	13 900	21000
2	33 000	800	600	1 300	1 400	5 200	12 300	11 400	20900
3 OR MORE	27 200	300	600	400	1 200	5 400	10 000	9 300	20700
BOTH AGE GROUPS	33 900	100	800	1 200	1 600	8 600	14 400	7 200	18200
1	11 200	-	-	500	800	2 800	5 500	1 700	17700
2 OR MORE	22 600	100	800	700	800	5 800	9 000	5 500	18500

TABLE 1. INCOME OF FAMILIES AND PRIMARY INDIVIDUALS IN OWNER AND RENTER OCCUPIED HOUSING UNITS: 1974--CONTINUED
(DATA BASED ON SAMPLE, SEE TEXT. FOR MINIMUM BASE FOR DERIVED FIGURES (PERCENT, MEDIAN, ETC.) AND MEANING OF SYMBOLS, SEE TEXT)

STANDARD METROPOLITAN STATISTICAL AREA NEWARK, N.J. TOTAL	TOTAL	LESS THAN \$3,000	\$3,000 TO \$4,999	\$5,000 TO \$6,999	\$7,000 TO \$9,999	\$10,000 TO \$14,999	\$15,000 TO \$24,999	\$25,000 OR MORE	MEDIAN (DOLLARS)
SPECIFIED OWNER OCCUPIED ¹	261 500	6 900	10 600	12 200	17 000	50 600	90 800	73 400	18700
VALUE									
LESS THAN \$5,000	100	-	-	-	-	-	100	-	...
\$5,000 TO \$9,999	200	-	100	-	100	-	-	-	...
\$10,000 TO \$14,999	1 100	100	-	100	200	300	400	-	...
\$15,000 TO \$19,999	4 800	300	500	500	500	1 300	1 300	400	12100
\$20,000 TO \$24,999	6 500	100	1 100	-	500	2 400	1 500	800	13100
\$25,000 TO \$34,999	45 200	2 100	2 900	3 000	5 200	12 300	15 200	4 600	13800
\$35,000 OR MORE	203 400	4 300	6 000	8 600	10 400	34 400	72 200	67 600	20300
MEDIAN	35000+	35000+	35000+	35000+	35000+	35000+	35000+	35000+	...
VALUE-INCOME RATIO									
LESS THAN 1.5	37 900	-	-	-	100	900	6 800	30 100	25000+
1.5 TO 1.9	40 900	-	100	100	200	2 600	15 500	22 300	25000+
2.0 TO 2.4	48 600	-	-	-	900	6 500	30 100	11 100	20600
2.5 TO 2.9	38 700	-	-	300	700	9 500	18 400	9 900	19300
3.0 TO 3.9	38 200	-	300	300	3 700	16 600	17 400	-	19500
4.0 OR MORE	56 700	6 500	10 200	11 500	11 300	14 500	2 600	-	7000
NOT COMPUTED	400	-	-	-	-	-	-	-	...
OWNER OCCUPIED HOUSING UNITS	322 300	9 000	17 300	18 100	23 300	65 800	109 100	79 600	17500
YEAR STRUCTURE BUILT									
APRIL 1970 OR LATER	9 100	-	300	500	-	1 800	3 400	3 100	20700
1965 TO MARCH 1970	20 300	500	300	1 100	900	2 800	7 900	6 800	20800
1950 TO 1964	26 700	800	400	600	2 000	4 000	8 500	10 400	21500
1940 TO 1949	74 800	1 800	2 000	2 600	3 800	13 600	28 800	22 200	19700
1930 TO 1939	41 200	800	2 200	2 400	3 500	9 400	14 800	8 100	16500
1939 OR EARLIER	150 400	5 100	12 200	11 000	13 100	34 200	45 800	29 100	15000
HEATING EQUIPMENT									
WARM-AIR FURNACE	94 700	2 600	3 300	4 700	5 900	17 500	32 300	28 400	19100
STEAM OR HOT WATER	220 000	6 000	13 200	12 600	16 900	45 600	75 200	50 600	17100
BUILT-IN ELECTRIC UNITS	3 800	100	400	300	-	1 500	800	700	13600
FLOOR, WALL, OR PIPELESS FURNACE	2 000	-	100	300	100	900	500	-	...
OTHER MEANS	1 700	300	300	300	400	300	200	-	...
NONE	100	-	-	-	-	-	100	-	...
SOURCE OF WATER									
PUBLIC SYSTEM OR PRIVATE COMPANY	301 700	8 300	16 600	16 900	21 900	61 300	102 100	74 500	17500
INDIVIDUAL WELL	20 500	600	700	1 200	1 400	4 500	7 000	5 000	17500
OTHER	100	-	-	-	-	-	-	100	...
SEWAGE DISPOSAL									
PUBLIC SEWER	278 600	8 100	15 700	16 000	20 700	55 100	93 900	68 000	17400
SEPTIC TANK OR CESSPOOL	43 700	900	1 600	2 100	2 600	9 700	15 200	11 600	18200
OTHER	-	-	-	-	-	-	-	-	-
SELECTED CHARACTERISTICS									
WITH AIR CONDITIONING	208 200	5 000	7 600	8 800	13 600	40 800	73 000	59 400	18900
ROOM UNIT(S)	165 500	3 800	6 600	7 900	11 300	35 500	60 300	40 600	17900
CENTRAL SYSTEM	42 700	1 200	900	900	2 300	5 300	12 700	19 400	23400
WITH BASEMENT	296 700	8 300	16 200	17 400	21 900	61 300	97 900	73 600	17400
OWNED SECOND HOME	23 100	200	800	800	1 100	3 900	7 600	8 900	21500
AUTOMOBILES AVAILABLE:									
1	113 300	4 200	8 000	9 500	11 900	31 600	34 500	13 600	13600
2 OR MORE	185 400	1 400	2 600	3 900	7 100	31 700	73 400	65 300	21300
RENTER OCCUPIED HOUSING UNITS	260 900	30 500	33 400	29 500	44 700	63 200	49 000	10 500	9500
ROOMS									
1 AND 2 ROOMS	29 900	6 200	6 700	4 100	6 200	4 700	1 700	300	6000
3 ROOMS	76 500	12 200	10 000	8 000	12 700	16 800	14 600	2 200	8900
4 ROOMS	73 500	6 700	8 100	8 300	12 300	20 800	14 600	2 700	10300
5 ROOMS	51 600	3 000	6 300	6 200	8 900	13 700	11 000	2 400	10500
6 ROOMS OR MORE	29 400	2 500	2 300	2 800	4 700	7 200	7 200	2 800	11700
MEDIAN	3.8	3.2	3.5	3.8	3.8	4.0	4.1	4.5	...
PERSONS									
1 PERSON	77 200	18 800	14 100	8 800	14 700	12 200	7 200	1 300	6300
2 PERSONS	85 800	6 900	7 300	10 700	13 800	22 300	20 700	4 200	11000
3 PERSONS	44 100	3 300	4 800	3 400	5 900	14 000	10 200	2 600	11700
4 PERSONS	26 800	1 100	4 300	2 000	4 600	7 900	5 900	1 000	11600
5 PERSONS	14 800	500	1 900	1 200	3 500	4 300	3 000	300	10300
6 PERSONS OR MORE	12 300	-	900	3 400	2 500	2 400	2 100	1 000	9200
MEDIAN	2.1	1.3	1.8	2.0	2.0	2.4	2.3	2.4	...
UNITS WITH SUBFAMILIES	2 300	-	-	300	700	400	700	300	...
UNITS WITH NONRELATIVES	11 100	1 100	1 800	1 300	2 700	2 300	1 500	400	8600
PLUMBING FACILITIES BY PERSONS PER ROOM									
WITH ALL PLUMBING FACILITIES	253 900	28 800	32 100	28 500	43 400	61 800	48 800	10 500	9600
1.00 OR LESS	235 700	28 500	30 200	24 300	38 600	58 100	46 400	10 500	9700
1.01 TO 1.50	13 700	100	1 400	3 400	3 500	3 300	1 900	-	8600
1.51 OR MORE	3 500	100	400	900	1 200	400	400	-	7500
LACKING SOME OR ALL PLUMBING FACILITIES	7 000	1 800	1 200	1 000	1 400	1 400	300	-	6000
1.00 OR LESS	6 700	1 800	1 200	700	1 400	1 400	300	-	6000
1.01 TO 1.50	-	-	-	-	-	-	-	-	...
1.51 OR MORE	300	-	-	300	-	-	-	-	...
BEDROOMS									
NONE AND 1	123 500	19 100	18 400	14 600	20 700	25 600	21 400	3 700	8400
2	92 900	8 500	9 600	9 100	16 400	26 600	18 700	3 900	10500
3 OR MORE	44 500	2 900	5 300	5 800	7 600	11 000	8 900	2 900	10300

¹LIMITED TO 1-FAMILY HOMES ON LESS THAN 10 ACRES AND NO BUSINESS ON PROPERTY.