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Memo from NY Dept. of Public
Advocate examining Lou Glass'
fair share plan.
- w/ Mullah "Testimony" criticizing Glass' plan

pgs. 11

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State of New Jersey

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M E M O R A N D U M

TO: Allan Mallach and Mary Brooks

FROM: Carl S. Bisgaier, Deputy Director

DATE: May 21, 1976

RE: Fair Share -- Mount Laurel

I. LOU GLASS' FAIR SHARE PLAN

Lou Glass' fair share plan allocates the DVRPC figures for Burlington County to Mount Laurel. Thus he uses:

- a) Nine County (DVRPC) region for determining Burlington County need;
- b) Burlington County Region for sub-allocation purposes;
- c) "Need" methodology used by DVRPC.

He only sub-allocates the first two categories of need; that is, the \$0-\$5,000 and \$5,000-\$10,000 income ranges and uses this as "low" and "moderate" categories respectively.

His sub-allocation is based on a simple ratio:

<u>Mount Laurel Vacant Developable Land</u>	:	<u>M.L. Fair Share</u>
<u>Burlington County Vacant Developable Land</u>		<u>B.C. Fair Share</u>

His figures for Mount Laurel Vacant Developable Land come from Lee Talbott, township engineer. The Burlington County Vacant Developable Land figures comes from a study done by the Burlington County Planning Board. His Burlington County Fair Share figure comes from D.V.R.P.C.

Once he derives the Mount Laurel Fair Share figures he times development through the year 2000 as follows:

- a) 103 units in the first year;
- b) 17 units in each succeeding year.

The 103 units is derived from a distinct methodology which can be found in the new ordinance and for which we have his working papers.

II. CRITIQUE OF LOU GLASS' FAIR SHARE PLAN

Each component of the analysis should be seperately critiqued.

A. Region: Although the Supreme Court spoke of a 20 mile region around Camden, I think we can accept the DVRPC approach of a nine county "needs" region and a single county sub-allocation region.

B. Need: The "need" methodology is a more difficult issue:

(1) first an analysis is necessary as to who is needy; that is, a definition of the class. I believe we can define the needy class as all those persons who need housing in Mount Laurel but who cannot afford to live there but who could with relaxed zoning, affirmative action and/or subsidies. The bottom line would be a calculation by Abeles of the cost of building housing under existing standards. That would tell us who cannot get in. We would then work back to the 1970 income comparable for a 1970 income ceiling and match this with the DVRPC figures. I think we will be in the DVRPC \$10,000-\$15,000 range.

(2) Next we must come up with an accurate number or percentage of needy people in each category. This necessitates a thorough analysis of the DVRPC methodology.

(3) Next a decision must be made on timing. That is, do we take the DVRPC 1970-1980 or 1985 figures as "immediate" need, sub-allocate that and use a percentage for "future development?" Do we just do the first part and suggest a new analysis in 1980? Do we accept staging through 2000?

(4) A separate analysis must be made of the accuracy and methodology of Glass' "local need" figure. This may necessitate, in part, visual inspection and survey. Glass' was not based on an interior inspection. He relied on the Building Inspector's knowledge.

(5) Critique: Our decisions as to (1) (2) (3) and (4) above will frame our critique of what Glass did; that is, the "need" number he used and the timing.

C. Glass sub-allocation should be the easiest to attack:

(1) We can show that the Burlington County vacant developable land figure and Mount Laurel's are incomparables. They are derived from different methodologies and done in different years. Burlington County did not exclude land developed since 1970 (?) and did not exclude "legally committed" but not yet developed land. They may even have differed as to which flood plains and roads were excluded.

(2) We can show that Talbott's methodology of deriving a "vacant developable land" figure is inappropriate for the purpose for which it was used -- a fair share housing calculation. There was no reason to exclude "legally committed" land since it all could still be used for housing. See use of Larchmont for R-7 zone and new amendments just approved for the Larchmont project. Furthermore, there is no reason to exclude flood plains for purposes of density calculations. Even if all the land is economically unimprovable, it could be used as open space in a cluster or PUD development.

(3) Most important is the argument that, regardless of the calculation, the methodology is absurd. First, it is clearly without precedent. DVRPC didn't even use vacant land at all in its county allocations. Several counties have not used it as a factor. I know of no plan other than Glass' which used it as the only factor. Second, we can show it doesn't make sense practically; that is, we can graphically play out his methodology for other townships in Burlington County and come up with absurd figures for such townships as Woodland and Bass River. A good graphic here would be to do that and compare existing population and percent poor with projections for 2000 using Glass' methodology.

D. Glass' timing mechanism should also be vigorously attacked. We should accept the policy of front-loading the existing need but use our methodology to derive a different figure. Also, timing controls must be realistic, 17 units per year won't make it financially. We might suggest a simple timing mechanism for units (beyond existing need) by using a percentage of future development.

CSB/ap

MALLACH TESTIMONY

I. Criticism of Glass Plan

II. Mallach Plan

III. Other Necessary and Advisable Action

I. Criticism of Glass Plan

1. definition of need - eligibility
 - D V R P C
 - local need

2. methodology - general approach of just using vacant land
 - assuming correctness of methodology
 - misuse of it by him
 - vacant land

3. timing - front loading
 - year/year - one year chunks

Criticism of Glass Plan

I - 1 definition of need

I - 1 - A eligibility

low - 0 to 5

moderate - 5 to 10

- (1) low and moderate must be separately accounted for in fair share
- (2) ceiling is too low - third category should be considered - moderate conventional

\$15 to \$18,000 now or

\$10 to \$12,000 in 1970

I - 1 - B reliance on DVRPC need figures

- (1) compare DURPC present need and prospective need with DCA
- (2) isolate differences and analyze preferability

I - 1 - C Glass evaluation of local need

- (1) use as sole criterion for front load is improper it is as much a function of regional assessment as is prospective need

- (2) technical weaknesses

(a) match of income with unit cost is invalid

(b) substandard housing study based solely on exterior survey & methodology in ordinance & survey is inadequate

(c) doesn't account for overcrowding

(d) que of overlap with units lacking some *or*
● all plumbing

* (e) providing for adequate vacancy for low or moderate

I-2 Criticism of Glass Plan
Fair Share Plan Methodology

A. assuming validity of methodology

- (1) incompatibility of county 1970 land use survey
and 1976 Glass vacant land analysis in Mt. Laurel
- (2) methodology of computing 1976 available vacant land -
vast amount of presently vacant land has been
unnecessarily excluded

B. general attack on methodology

inadequate to use vacant land as the sole criterion in
a fair share plan.

- (1) all respectable plans have included two other factors:
employment, income distribution
- (2) where it is used as one of several factors and where
there are differences in location regionally among
municipalities relevant to growth pressure - vacant
land must be modified to consider this

I-3 Timing of Development

- A. immediate need must be front loaded - it must include a regional
proportion of immediate need and it must be updated from 1970
census (increases in income and housing cost have been different)
and it must include the next several years since development now
would serve them (say through 1980 - cite DURPC)

Criticism of Glass Plan

I-3 (Cont'd) Timing of Development

B. incremental timing -

realities of housing

production requires chunks in 100's and by multi-year -

3 to 5 year is best grouping.

Also need broad flexibility of carry-over to reflect housing production.

Geared into percent development of other housing and *in* realty market need should control timing - 5 year chunks should be no more than floor set for municipal commitment and actual market should control reality of development.

II Mallach Plan

1. Methodology

2. Computation of need and other elements in the Methodology - selection of data

Mallach Plan

II - 1 Methodology

A. Factors

- (1) vacant land as adjusted by location gradient
- (2) employment
- (3) distribution of low and moderate income households

B. Formula

- (1) calculate gross unadjusted allocation
 - (a) arrive at vacant land by multiplying vacant land by location gradient.
 - (b) vacant land and employment divided by 2 equals gross unadjusted allocation.
- (2) $(1)(b) \times \text{NEED}$
- (3) adjust (2) to reallocate for capacity.
- (4) (3) is broken down into income categories - yields gross unadjusted allocation by income categories.
- (5) adjust (4) for income distribution of low and moderate in the county - equals municipal fair share.

II - 2 Computations

- A. Need - see analysis of DVRPC v. DCA
- B. Vacant land - using 1970 Burlington County study.
- C. Employment - VDRPC employment projection for the year 2000
- D. Low and moderate income distribution: 1970 census data

III Necessary and Advisable

1. Master plan for upgrading existing stock and creating new stock.
2. Municipal action to upgrade existing stock.
3. Municipal action to create new stock.
4. Public works program geared to 2 and 3

III - 1

- 2 a. LMA or equivalent, section 8 existing
- b. CD & State funds - home improvements, rehabilitation and site improvement
- c. affirmative neighborhood presentation program (code enforcement, rehabilitation, relocation, revolving fund for home improvements)
- 3 a. municipal attitude - encourage developers
- b. tax abatement in principle
- c. assist non-profit sponsorship
- d. LMA could do new section 8
- e. land banking (CD and own)
- 4 municipal services and improvements - priorities