

AMG

1-10-84

Transcript of Non-jury
Trial Proceeding of 1-5-84

Pgs. 113
P: # 3308

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SUPERIOR COURT OF NEW JERSEY
SOMERSET COUNTY - LAW DIVISION
Docket No. L-23277-80 P.W.

A. M. G. REALTY COMPANY
and SKYTOPLAND,

Plaintiff,

vs.

TOWNSHIP OF WARREN,

Defendant.

consolidated with

TIMBER PROPERTIES,

Plaintiff,

vs.

TOWNSHIP OF WARREN,

Defendant.

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: Transcript
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: Non-jury
: Trial
: Proceeding

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: L-67820-80 P.W.

B E F O R E :

HONORABLE EUGENE D. SERPENTELLI, J.S.C.

Ocean County Courthouse
Toms River, New Jersey
January 5, 1984

DAYETTE J. ZAMPOLIN, C.S.R.
Official Court Reporter
Ocean County Courthouse
Toms River, New Jersey

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

2 MC DONOUGH, MURRAY & KORN, ESQS.,
3 BY: JOSEPH E. MURRAY, ESQ.,
For Plaintiff, A. M. G.

4 RAYMOND E. TROMBADORE, ESQ.,
For Plaintiff, Timber Properties.

5 KUNZMAN, COLEY, YOSPIN & BERNSTEIN, ESQS.,
6 BY: JOHN E. COLEY, JR., ESQ.,
For Defendant, Township of Warren.

7 LEIB, KRAUS and GRIPIN, ESQS.,
8 BY: ROBERT H. KRAUS, ESQ.,
For Intervenors, Facey, Kraus & Tuchen.

9 JOHN T. LYNCH, ESQ.,
10 For Intervenor, Bojczuk.

11 J. ALBERT MASTRO, ESQ.,
For Sewerage Authority.

12 HANDELMAN & JACOBS, ESQS.,
13 BY: EUGENE W. JACOBS, ESQ.,
14 For Planning Board.

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PENGAD CO., BAYONNE, N.J. 07002 - FORM 2046

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Richard Thomas Coppola

By Mr. Murray

16, 86

By Mr. Trombadore

67

By Mr. Mastro

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By Mr. Jacobs

83

By Mr. Coley

85

EXHIBITSDESCRIPTIONIN EVIDENCE

P-A-1 Map

4

J-1 Caton report

9

J-2 Lerman report

9

J-3 Burchell report

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P-T-2 Moskowitz report

11

P-A-5 Coppola report

12

D-T-3 Gross report

13

P-A-6 Krauser, Welsh, Sorich & Cirz
report

13

P-T-3 Olenik report

14

J-4 Composite drawing

20

J-5 SDGP map

32

J-6 Map

36

J-7 Map

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J-8 Map

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1 (11:30 a.m.)

2 MR. MURRAY: We have this missing
3 exhibit, if you want to mark it.

4 (P-A-1 marked in evidence.)

5 THE COURT: Yes, sir. Gentlemen, I'm
6 sorry, one more thing. You want to approach
7 the bench?

8 (Off-the-record discussion at sidebar.)

9 THE COURT: All right, Mr. Trombadore.

10 MR. TROMBADORE: May it please the Court,
11 for the record, I would like to indicate that
12 after we convened Monday morning and after Mr.
13 Coppola was sworn as a witness and we began to
14 take his testimony, the Court did invite
15 counsel in this case into chambers to determine
16 whether there might be areas of agreement that
17 could conserve some time. Since then, since
18 Monday morning, we have spent considerable time
19 in conference amongst ourselves with the expert
20 witnesses in this case and considerable time
21 with the Court itself in exploring those issues
22 where we felt we might reach a consensus.

23 A considerable part of that time was
24 spent on looking at the issue of region, the various
25 definitions of region, which
were submitted to the Court in the expert

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reports of the witnesses involved in this case as well as reports by other expert witnesses and other planners.

A lot of effort then was put into determining whether there might be a common approach to a definition of region which this Court might ultimately accept, and we are prepared starting this morning to offer testimony from the expert witnesses who have worked together for a day and a half which we feel will establish that consensus and will permit this Court to make a finding or at least to accept our consensus with respect to the issue of region.

Having done that, we then address the question of fair share and we feel that if the Court is satisfied with what we have defined as region and with what the witnesses will offer as their theory for that region, the Court then will be permitted to hear further consensus testimony with respect to fair share housing for low and moderate income people as it applies to Warren Township. And there again, we would hope that this Court would accept what we feel we have arrived at by way of consensus amongst the parties.

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1 MR. TROMBADORE: That's correct, your
2 Honor.

3 THE COURT: The Caton and Lerman reports.

4 MR. TROMBADORE: Yes, there are two
5 other reports which have been received by this
6 Court in connection with other litigation, one
7 is a report by Philip Caton which -- who was
8 appointed as a master in another case which
9 this Court heard, the Branchburg case. Another
10 by Carla Lerman and I believe we do have copies
11 of those reports here, and rather than take
12 the Court's copies, I would offer the Caton
13 copy which happens to be my only copy, but we
14 can perhaps duplicate it, which we would offer
15 as a joint exhibit, and I believe that we do
16 have a copy of the Lerman report.

17 MR. JACOBS: That's the Branchburg one?

18 MR. TROMBADORE: This is Branchburg, yes,
19 referring to Caton. Do you have Lerman?

20 THE WITNESS: Yes, I do. This is Mr.
21 Moskowitz' copy on loan to me.

22 MR. TROMBADORE: Well, we'll copy that,
23 as well. And so we would offer these as joint
24 exhibits, and I'm not sure what numbers we
25 would want to -- except J --

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THE COURT: We'll give them a J number.

MR. TROMBADORE: And mark Caton as J-1 and Lerman as J-2.

THE COURT: Just a second. Off the record.

(Off-the-record discussion.)

THE COURT: Suppose you put a sticker on these, Dayette? Okay. J-1 in evidence will be a report of Philip Caton, C-A-T-O-N, and that's P-H-I-L-I-P, dated November, 1983, entitled Branchburg Township Fair Share Housing Report. And J-2 will be the report of Carla, C-A-R-L-A Lerman, L-E-R-M-A-N, dated also November, 1983, entitled Fair Share Allocation Report, filed in the matter of Urbean League v. the Borough of Carteret.

(J-1 and 2 marked in evidence.)

MR. TROMBADORE: Your Honor, I would also offer as J-3 a report prepared by the Center for Urban Policy at Rutgers University. It is a report which was authored by Mr. Burchell and others on his staff. This report was reviewed by the planners in this case, and they do make reference to this report, and I think your Honor will hear testimony from

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1 them concerning the recommendations contained
2 in the report. The report is one which deals
3 with the first issue that I have described;
4 that is, the determination of region, and we
5 would ask that that be marked as a joint
6 exhibit, J-3.

7 THE COURT: All right. In the absence
8 of an objection, we'll mark in evidence a
9 report entitled Mount Laurel II, Challenge and
10 Delivery of Low Cost Housing, prepared by the
11 Center for Urban Policy Research. I've been
12 looking, it doesn't appear to bear a date, but
13 it's the fall of 1983. Perhaps released a
14 little bit later than that. Consisting of 430
15 pages.

16 MR. COLEY: Your Honor, are we going to
17 put in all of our expert reports at this time?

18 THE COURT: I think. Why don't we get
19 those two.

20 (J-3 marked in evidence.)

21 THE COURT: You gentlemen want me to
22 start the copying process on this?

23 MR. TROMBADORE: That would help, yes.

24 THE COURT: Everyone has copies of the
25 adversarial reports, so we don't have to copy

1 those.

2 MR. TROMBADORE: And your Honor, while
3 they are attending to that, I would offer as
4 Exhibit P-T-2, a report prepared by Harvey S.
5 Moskowitz, it was previously submitted to
6 counsel and submitted to the Court in the course
7 of pre-trial conferences. This report is dated
8 November 7th, 1983, and it is offered in
9 evidence based upon the consensus reached
10 amongst the parties that all of the experts
11 would have access to the reports of their
12 brother planners. And so I would offer this
13 as P-T-2.

14 THE COURT: All right. The absence of
15 an objection, P-T-2 in evidence.

16 (P-T-2 marked in evidence.)

17 (There is an off-the-record discussion.)

18 MR. TROMBADORE: And just because I'm
19 on my feet at this point, I would offer as
20 P-A-5 for the plaintiff A. M. G., Skytop,
21 a two-part report prepared by Mr. Coppola.
22 We referred to this report on Tuesday. The
23 first part is a bound volume dated June of
24 1983, captioned Warren Township, Somerset
25 County, New Jersey, Meeting Its Housing

1 Obligations, An Assessment, prepared by
2 Richard Thomas Coppola. It is supplemented by
3 another bound document captioned Updated
4 Housing Analysis, Warren Township, Somerset
5 County, New Jersey, November, 1983, prepared
6 by Richard Thomas Coppola and Associates.

7 THE COURT: All right. One exhibit,
8 P-A-5.

9 (P-A-5 marked in evidence.)

10 MR. COLEY: Your Honor, do you have the
11 Court's copies of the two Chadwick reports?

12 THE COURT: Sure.

13 MR. TROMBADORE: I have them, your
14 Honor. And these would constitute, and I would
15 offer them as D-T-13, offered on behalf of the
16 township, but really by consensus of the
17 parties. It again constitutes a two-part
18 report prepared by the planner for Warren
19 Township. The first part consists of some 19
20 pages -- 20 pages with attachments, actually
21 22 pages with attachments, and is dated
22 November, 1983. It's captioned Warren Township
23 Housing Study, prepared for Township of Warren
24 by E. Eugene Cross Associates, and it is
25 supplemented by a later report dated December

1 of 1983, also prepared by E. Eugene Cross
2 Associates.

3 THE COURT: All right. That's D-T-12.

4 MR. TROMBADORE: No, 13.

5 (D-T-13 marked in evidence.)

6 MR. TROMBADORE: Your Honor, I would
7 offer as P-A-6 a two-part report prepared for
8 the plaintiff A. M. G., Skytop by Krauser,
9 Welsh, Sorich & Cirz, the first part dated
10 August 18th, 1983, and the second part carrying
11 a date of November 22nd, 1983 on the face sheet.
12 This is a report which is captioned Market
13 Survey Local Condominium Market; and the
14 second part of it is Preliminary Analysis of
15 Proposed Greenwood Meadows Development. It
16 deals with --

17 THE COURT: All right.

18 THE CLERK: That's in evidence?

19 THE COURT: P-A-6 in evidence.

20 MR. TROMBADORE: In evidence. Yes.

21 (P-A-6 marked in evidence.)

22 MR. TROMBADORE: And the last exhibit
23 that I would offer would be an engineering
24 feasibility report prepared for the plaintiff
25 Timber Properties by Thomas Olenik dated

1 November 17th, 1983, which I would offer as
2 P-T-3. I might say that this was a report
3 prepared for a number of units which we will
4 not be offering, but it does contain background
5 information which I think is useful to the Court.

6 THE COURT: All right. P-T-3.

7 (P-T-3 marked in evidence.)

8 MR. TROMBADORE: Your Honor, I had no
9 other exhibits to offer.

10 With respect to P-T-3 which has just
11 been marked, I might say, we are not going to
12 rely on that. I marked it because it's been
13 submitted to the parties and to the Court. It
14 is not relevant at this point, because it
15 relates to the proposal which was considered
16 as an appropriate builder's remedy which has
17 now been modified, and the same thing I think
18 might be said with respect to P-T-1 which was
19 a site plan based on a specific number of units
20 which we will no longer be pursuing, but having
21 been marked, I'd simply suggest we leave them
22 where they are.

23 THE COURT: Mr. Coley?

24 MR. COLEY: Yes, your Honor. The P-T-3
25 that Mr. Trombadore just put in on behalf of

1 Timber Properties, I wouldn't want to have
2 that in any way considered as consented to
3 by the township, because that's going to be a
4 site plan type of a question, if there's
5 drainage information or whatever, I guess it
6 will be in the record and Mr. Trombadore said
7 he isn't going to rely on it. I just want it
8 noted that the township has not actually
9 consented to the engineering report as we have
10 to the other items that are in evidence.

11 THE COURT: All right. All right. Are
12 we ready to proceed and at least get a half
13 hour in before the Assignment Judge takes me
14 away?

15 MR. MASTRO: Your Honor, may I simply
16 say something on behalf of defendants in
17 regard to comments made by Mr. Trombadore?

18 THE COURT: Sure.

19 MR. MASTRO: I want to clarify that
20 indeed during the past two days, all counsel
21 have conferred, addressing some very difficult
22 problems, and out of that process, significant
23 results I believe were obtained, and some
24 innovative thinking also was germinated. That's
25 not to say that there has been any accord

1 reached as to the many issues that the Court
2 has to address. There has been a consensus
3 as to an approach to region. Certainly, these
4 are difficult problems, and indeed, we may vary
5 in the ultimate process from what the Supreme
6 Court had to say in Mount Laurel II in regard
7 to region; however, there are many issues that
8 have to be finely tuned and there is no
9 consensus, and perhaps there shouldn't be. We
10 are not in accord as to formulas. Perhaps we
11 shouldn't be, because one of the cases indi-
12 cated it may not be very -- too good to become
13 too formulaic, that there may be many
14 approaches to many of these problems and all
15 certainly legitimate.

16 I wanted to express and -- that particu-
17 lar concept to the Court so that there won't
18 be any confusion in that regard.

19 THE COURT: All right. Ready to pro-
20 ceed?

21 MR. MURRAY: Yes, sir.

22 RICHARD THOMAS COPPOLA, having been previously sworn,
23 resumes.

24 CONTINUED DIRECT EXAMINATION

25 BY MR. MURRAY:

1 Q Mr. Coppola, during the last two days,
2 there has been reference to those two days by Mr.
3 Trombadore concerning discussions with the Court
4 involving the planners. Were you among the planners
5 who participated in those discussions?

6 A Yes, I was.

7 Q And I would now like to direct some
8 questions to you in that capacity as a planner to the
9 various issues that are involved in this case.

10 A Among the primary issues as I understand it is
11 a determination of region. Have you in your capacity
12 as a planner undertaken a study of the -- the issue of
13 region as it applies to this case?

14 A Yes. The question of region is a threshold
15 issue in terms of a planner's work under the terms of
16 the Mount Laurel II decision. Page 80 of that
17 decision discusses three separate issues to be
18 resolved in determining a growth municipality's fair
19 share of regional housing need.

20 Q Would you identify those three issues?

21 A The first, of course, is the identification of
22 a relevant housing region, and the second thereafter,
23 is a determination of the region's present and
24 prospective housing need, and the third issue is an
25 allocation of the determined housing need to the

1 municipalities within the defined region.

2 Q Now, have you undertaken analysis of
3 those three issues, and if so, would you discuss the
4 first of those three issues; that is, the identifica-
5 tion of the relevant housing region?

6 A The question of region I think has been a
7 stumbling block in terms of the planning work that
8 has been accomplished by a number of consultants
9 throughout the State since the January, 1973 Supreme
10 Court decision.

11 The decision on Page 92 reiterates --

12 Q Which decision is that?

13 A I'm talking now about the Mount Laurel II
14 decision on Page 92 reiterates a previous concurrence
15 by the Court with Judge Furman's definition of region,
16 although slightly modified in the Oakwood v. Madison
17 case, and on Page 92 of the Mount Laurel II decision,
18 there is a quote which reads, "That general area which
19 constitutes more or less the housing market area of
20 which the subject municipality is a part and from
21 which the prospective population of the municipality
22 would be drawn in the absence of exclusionary zoning."

23 The decision continues, that is, the Mount
24 Laurel II decision, on the very same Page 92 by indi-
25 cating that a trial court can vary the definition

1 premised upon special circumstances, and then goes on
2 to suggest that the trial court, and therefore, every
3 planner who is reading the decision and acting under
4 it, consider the regional area factors for the
5 definition of region which were mentioned by Judge
6 Pashman in his concurring opinion in Mount Laurel I.

7 Q Do you have those factors?

8 A Yes, there are four in number and they include:
9 number one, the area included in the interdependent
10 residential housing marking. Number two, the area
11 encompassed by significant patterns of commutation.
12 Three, the areas served by major public services and
13 facilities. And fourth, the area in which the
14 housing problem can be solved.

15 It is the last factor that -- that had the
16 effect of broadening the size of a region and
17 bringing it to what might be called a metropolitan
18 level of definition; that is, an area that has within
19 it both urban and older built-up areas in the state
20 where the problems occur, and then a continuum to
21 ~~suburban~~ through to x-urban areas where are vacant
22 developable lands in adequate amount to solve the
23 problems; that is, to redistribute the housing units
24 that have to be constructed.

25 Q In Mr. Trombadore's statements, there

1 was an indication that you, along with the other
2 planners, as well as the attorneys and the courts --
3 and the Court, has reviewed certain concepts of region
4 as indicated in other planning reports such as the
5 Caton report, Lerman report and the Rutgers report.
6 Do you have with you today a chart indicating the
7 nature of the regions as depicted in those reports,
8 together with the nature of the region as may have
9 been depicted in the reports of the experts in this
10 particular case?

11 A. Yes, I do.

12 THE COURT: Shall we mark that? Joint
13 exhibit?

14 MR. MURRAY: Yes, your Honor.

15 THE COURT: J-4.

16 (J-4 marked in evidence.)

17 THE COURT: Does it have a date on it?
18 Is that dated?

19 THE WITNESS: No, your Honor, it is not.

20 THE COURT: Okay. J-4 in evidence is a
21 -- what might be called a composite of the
22 regional configurations based upon six reports,
23 the Cross Associates report, Caton report,
24 Rutgers report, Lerman, Coppola and Moskowitz
25 report, all of which now are in evidence; and

1 this composite was prepared by Mr. Oross'
2 office.

3 BY MR. MURRAY:

4 Q. Mr. Coppola, would you indicate by
5 reference to that exhibit the locations of the regions
6 and give an indication what each region covers with
7 respect to the particular expert?

8 A. There are essentially out of the six, three
9 regions which have been devised for Warren Township
10 based upon a commuting pattern of employed residents
11 as to where they live and where they work. They
12 include the Oross Associates region, the Moskowitz
13 region and the Coppola region.

14 The three other regions that are mapped include
15 what might be considered metropolitan regions. They
16 are the Lerman, the Caton and the Rutgers. Of the
17 three, the Rutgers attempts to marry the two consi-
18 derations of commuting patterns and some other
19 measures of similarity and dissimilarity between
20 neighboring counties.

21 The point, however, may be illustrated by the
22 Caton map shown on the display. Actually, the Caton
23 region shown on the display is an eight county region
24 which was originally formulated by Mr. Caton in
25 regards to his efforts on behalf of the Mount Laurel II

1 issue raised in Mahwah Township. And now, although
2 not shown on the map, Mr. Caton has increased the size
3 of the region by adding to the eight counties a ninth
4 county, specifically, Hunterdon County. And the basic
5 rationale is that in devising a housing region for
6 Warren Township as I'm pointing to it on the map, it
7 evidently occurred to Mr. Caton that because of the
8 synergistic relationships between the place of work
9 and the place of residence of the residents and
10 employees of Warren Township, that there is an inter-
11 face with Hunterdon County. So it was added.

12 The point I'm trying to make is that there is
13 no one region that I think adequately answers all of
14 the issues raised by the State Supreme Court.

15 In other words, there is no one region that is
16 going to answer the question of the relationship
17 between places of work and places of residence and
18 also be extensive enough to include a metropolitan
19 consideration; namely, a spectrum of urban-suburban
20 and x-urban areas.

21 Q Do you have an approach that would
22 resolve that particular dilemma as you refer to it?

23 A I think the approach would be to have two
24 separate regions for purposes of calculation of an
25 ultimate fair share allocation number for a

1 municipality.

2 One region would be geared to the computation
3 of prospective housing need and this --

4 Q And what do you mean by prospective
5 housing need?

6 A. Prospective housing need, according to the
7 decision as I understand it, is the future housing
8 that will have to be constructed within a defined
9 region which is compatible and will serve to house
10 the residents of the new jobs anticipated in that
11 very same region. The Mount Laurel II decision is
12 clear on preferring that relationship in terms of the
13 future housing that is to be constructed, and there-
14 after, the fair share of that housing that will be
15 allocated to any particular municipality.

16 Since that relationship is so clearly
17 stipulated in the Mount Laurel II decision, the
18 commuter shed, if you will, approach has I think very
19 understandable and clear merit; specifically, it is a
20 measure of the municipalities that surround a
21 municipality within a specified time travel distance
22 which therefore documents the relationship of place
23 of residence versus place of work for that munic-
24 pality.

25 The Cross Associates region that was devised as

1 part of Warren Township's effort by Mr. Chadwick is a
2 45 minute commute region, and the methodology used to
3 define the limits of that region was an actual
4 sampling of the time it took to travel in a vehicle
5 from Warren Township to the surrounding land areas.

6 The Moskowitz region is a 30 -- 30 minute
7 commute region, but it is done by measuring a map and
8 assigning speed limits or expected speeds for various
9 classes of roads.

10 My - the Coppola - region is also a 30 minute
11 commuting pattern devised exactly the same way as Mr.
12 Moskowitz', with the exception that Mr. Moskowitz
13 assumed the completion of Interstate 78 from the west
14 to the east into Union County, and my calculation did
15 not. But they are relatively minor differences among
16 the three.

17 I think a resolution of the definition of a
18 commuting region should be based upon the travel
19 patterns of the residents of the state; basically,
20 the time they first of all desire to travel to and
21 from work, and then also the reality of what they
22 are actually spending in terms of time to make that
23 commute one way.

24 I mentioned that both Mr. Moskowitz and myself
25 have defined the limits of the commuting region on the

1 basis of a measurement of a map based upon the various
2 classes of roads.

3 Q Have you given any categories for the
4 classes of roads with respect to your commuter shed?

5 A Yes. We have assigned for interstate highways
6 an expected speed limit of 50 miles per hour. For
7 state and federal numbered highways, 40 miles per
8 hour. And for county roads, 30 miles per hour. These
9 are less than -- in many cases, than the posted speed
10 limits; but one must remember that there are lost time
11 in terms of access to and from the highway, and not
12 everybody goes at the speed limit, and some people
13 don't even exceed it.

14 Q Has Mr. Moskowitz applied the same
15 highway speed limits in his report?

16 A Yes. I believe they can be found in Mr.
17 Moskowitz' report that's submitted, in an appendix,
18 likewise in my report, it's Appendix B of the housing
19 report.

20 I might add that in going through the Rutgers
21 report which has been submitted in evidence I think as
22 J-3, there is discussion in some detail of the
23 commuting patterns, and what is shown is a map of a
24 1951 effort by the -- I think it was Aspo which
25 assigned different speed limits. But in comparing

1 them and recognizing that the roads are somewhat
2 different than they were in 1951 and that we have
3 passed 23 years since then, the difference between I
4 believe it was the 50 miles an hour for the interstate
5 highways and I believe in the report it's 36 miles per
6 hour, is not unreasonable, and it's a similar upping
7 of the three classes of roads. So there is significant
8 precedent in the planning literature for the commuter
9 shed approach to defining a region in regards to
10 housing market. And in fact, as I was starting to
11 say, the census data for 1980 for most municipalities
12 throughout the State of New Jersey substantiates the
13 idea that people do strive to limit their time of
14 travel. In fact, they apparently desire to limit their
15 time of travel to less than a half an hour one way to
16 work, and thereafter, from work to home.

17 For Warren Township, as an example, 59.5 percent
18 of the employed residents in the township in 1980
19 spent less than 30 minutes, one-way travel, to and
20 from work; however, an additional 24.5 percent didn't
21 make the half hour limit and spent between 30 and 44
22 minutes.

23 To put another way, 84 percent of the employed
24 residents in Warren Township in 1980 spent less than
25 45 minutes traveling between home and work.

1 Q What is the source of that data?

2 A The United States Census, 1980.

3 THE COURT: Mr. Coppola, somewhere in
4 the reports there's an indication that the
5 statewide average is 24 or 25 minutes. Is that
6 -- is that right?

7 THE WITNESS: I believe it is. Yes, your
8 Honor.

9 THE COURT: How would you -- how would
10 you relate that then to -- why should we not
11 use the average of 24, 25 minutes?

12 THE WITNESS: Well, in fact, it has been
13 used by both Mr. Moskowitz and myself. It is
14 something I think to be sought after, but I
15 think it's a comfortable time for travel
16 between place of work and home.

17 On the other hand, we are a mobile
18 population and it -- the next class of break-
19 down in the census data has although not the
20 majority of people, I'm talking now the 30 to
21 44 minute breakout, it's not the majority of
22 employed residents, but it is a significant
23 number, and from a purest viewpoint, I think
24 there is a legitimate argument for the 45
25 minute boundary line, because that includes

1 in the case of the township before the Court
2 now, it includes 84 percent of the township
3 residents in Warren, and I just might add --

4 Q. You're referring now to what document?

5 A. I'm referring now to Appendix A of my updated
6 housing report, dated November, 1983, which has the
7 census breakdown for Warren Township.

8 What I was saying is that you pick up 84
9 percent between -- or under 45 minutes travel time,
10 9.3 percent, an additional 9.3 percent travels more
11 than an hour. That's 60 minutes or more, that's
12 really unaccountable for. We don't know whether
13 people are flying out of the state, how frequently
14 they travel, whether they are salesmen or whatever
15 else, that no matter where they live, they'd be
16 traveling.

17 So, if you reduce, deduct that 9.3 percent,
18 you're dealing with something in the neighborhood of
19 a 91 percent and you've accounted for 84 percent under
20 45 minutes, I think that's a compelling statistic.

21 And I -- I could tell the Court although I don't have
22 all the figures in front of me that I have performed
23 this analysis with the commuter shed approach for a
24 number of municipalities throughout the state, and a
25 -- a similar pattern emerges in terms of these

1 statistics.

2 THE COURT: I might mention, the
3 Supreme Court as I recall in the Oakwood case,
4 indicated in a footnote that a 60 minute
5 commute even would not be considered unreason-
6 able by the Court, and it would appear to me
7 that an average doesn't necessarily denote
8 that it's reasonable. It merely denotes that
9 that's a statistical average, the 24 minutes.
10 Would you agree generally with that concept?

11 THE WITNESS: Yes, I would, your Honor.

12 BY MR. MURRAY:

13 Q Therefore, for the prospective need
14 region, the commuter shed of -- in the manner as you
15 have described it is the basis for the approach taken
16 by you at this time?

17 A I think it is a finite region. I think it is
18 tailor-made to the particular municipality that's the
19 subject of the calculation and the obligation under
20 Mount Laurel II, and I think it is in full keeping
21 with the edicts of Mount Laurel II, to relate housing
22 to places of employment.

23 Q Now, as to the present need, would you
24 first indicate to me what you mean by present need?

25 A Yes. Present need under my understanding of

1 the Mount Laurel II decision is essentially a
2 distribution of existing housing need within the
3 state in its broadest term from areas of the state
4 which are either heavily built up or have in any case
5 a disproportionate share of dilapidated and/or over-
6 crowded housing.

7 The Court is mindful as were the prior decisions
8 of the Supreme Court, Mount Laurel I and Oakwood at
9 Madison, that some towns, some cities particularly,
10 possibly because of past exclusionary practices of
11 zoning throughout the state have an overabundance of
12 deteriorated housing or an overabundance of units
13 which are not large enough to house the families
14 residing within them, and that in order to share the
15 burden, some measure, some calculation should be
16 undertaken to make certain that any one city or area
17 or municipality is not overburdened with the
18 construction of housing to satisfy the existing
19 present need, and so what the Court is asking for is
20 an identification of that present need, and where
21 appropriate, a distribution of the surplus present
22 need, if you will.

23 In other words, that need which is beyond that
24 which is carefully attributed to that city, in most
25 cases outward, from -- as an example, the northeastern

1 portion of the state, in a fan-like way in most
2 instances, to the west and south.

3 Q Have you prepared an exhibit depicting
4 the present need region as compared to the prospective
5 need region?

6 A Yes, I have. And if I can, Mr. Murray, let me
7 just make one other comment.

8 The problem with making the commuter shed
9 region and utilizing it for the identification and
10 thereafter allocation of surplus present need is that
11 in many instances, the commuter shed regions are not
12 metropolitan regions. In other words, by very
13 definition, they don't always include both, as Mr.
14 Moskowitz has indicated, sending and receiving
15 districts.

16 In other words, built-up urban areas which
17 have a surplus need and also the other end of the
18 spectrum in terms of land use, the more undeveloped
19 portions of the state which can provide in the
20 spectrum room for this -- these units to be allocated.

21 So, it's important to come up with a second
22 region for the purpose of computation of present need.

23 THE COURT: Mr. Coppola, let me interrupt
24 you for a minute.

25 Let's put up and mark as a joint exhibit

1 the SDGP map. That's it I think.

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. If there is no
4 objection, we'll mark a map without necessarily
5 conceding its complete validity, the State
6 Development Guide Plan. This was prepared for
7 the Court by the Bureau of Planning to be
8 utilized in Mount Laurel litigation, and we'll
9 mark that as J-5.

10 (J-5 marked in evidence.)

11 THE COURT: Could we set that up on the
12 easel for a minute?

13 THE WITNESS: (Indicating)

14 THE COURT: That map, Mr. Coppola, I
15 think you've had an opportunity to see it,
16 contains a series of red dots which are
17 designated as urban aid municipalities.

18 Do you have knowledge as to what that
19 represents?

20 THE WITNESS: Well, in terms of my
21 prior testimony, your Honor, those dots
22 represent some of the major urban centers in
23 the State of New Jersey, and indeed are -- are
24 those which can be expected to have the
25 greatest amount of surplus present need in

1 requiring redistribution under the terms of
2 the Supreme Court decision.

3 THE COURT: And by surplus, I take it
4 you mean that a need that they cannot be
5 reasonably expected to accommodate through any
6 present devices, or for that matter in the
7 future.

8 THE WITNESS: That's correct, your Honor.

9 THE COURT: Now, with relation to the
10 composite J-4, Mr. Oross' composite, and the
11 regions that you and Oross Associates and Mr.
12 Moskowitz have developed on a commuter shed
13 basis, how would those regions reach out to
14 that cluster? Red dots, see, we see in the
15 upper northeast section of our state?

16 THE WITNESS: I have prepared, your
17 Honor, a larger version of the map that was
18 drafted in rough form yesterday among Mr.
19 Moskowitz, Mr. Chadwick and myself, and I
20 didn't --

21 THE COURT: I don't think -- that's
22 going to the present regions?

23 THE WITNESS: Yes, sir.

24 THE COURT: Perhaps my question wasn't --

25 THE WITNESS: I beg your pardon?

1 THE COURT: If you used your commuter
2 shed approach, to what extent would we exclude
3 those urban aid areas that are grouped, there
4 might be a dozen of them in the northeast
5 section, in Essex and Passaic, Hudson County.

6 THE WITNESS: Well, starting with my
7 30 minute commute, the only one of the urban
8 aid municipalities that's included in -- in
9 my commuter shed region is New Brunswick in
10 Middlesex County.

11 THE COURT: Most southerly of the urban
12 aids, all the way down to Monmouth County,
13 that would be from Middlesex up, that's the
14 most southerly of the urban aid communities?

15 THE WITNESS: Yes, that's correct, your
16 Honor.

17 THE COURT: All right. And above that,
18 if just by rough count it looks as though there
19 is perhaps a dozen and a half, perhaps 16 to
20 18.

21 MR. TROMBADORE: 16 --17, because you
22 go to the western boundary.

23 THE COURT: Okay. So you would get one
24 out of the 17 urban aid communities by your
25 region, roughly.

1 THE WITNESS: That's correct, your
2 Honor.

3 THE COURT: And Mr. Moskowitz?

4 THE WITNESS: Mr. Moskowitz, because he
5 assumed the completion of 78 would pick up a
6 number of others. He would pick up the City of
7 Newark and also Plainfield. I might also add,
8 your Honor, that I had Plainfield included in
9 mine, as well.

10 THE COURT: All right. So you have two
11 out of the 17.

12 THE WITNESS: I have two. Mr. Moskowitz
13 picks up Newark, and I think that's a difference,
14 although a major one, it is a difference of one;
15 but it's a major significant difference.

16 THE COURT: All right. And how about the
17 Cross report?

18 THE WITNESS: The Cross has Plainfield,
19 has New Brunswick, and also picks up Perth
20 Amboy.

21 THE COURT: But not Newark.

22 THE WITNESS: But not Newark.

23 THE COURT: All right.

24 BY MR. MURRAY:

25 Q Mr. Coppola, you referred to 78. What do

1 you mean by 78?

2 A. Interstate 78, the interstate highway, proceeding
3 in an easterly direction from Warren Township.

4 Q That's the same 78 you referred to in
5 the opening portion of your testimony with respect to
6 the exhibits showing Warren Township.

7 A. Yes, it is, Mr. Murray.

8 Q Now, have you prepared an exhibit indi-
9 cating the present need regions which were offered by
10 yourself as a second form of region within the concept
11 of region under Mount Laurel?

12 A. Yes.

13 MR. MURRAY: I guess we should have this --

14 THE COURT: Yes. Let's mark this J-6,
15 and I think this is going to be our break point.

16 (J-6 marked in evidence.)

17 THE COURT: All right. J-6 is a map
18 entitled Metropolitan Regions For "Present"
19 Need Calculations.

20 THE WITNESS: Undated.

21 THE COURT: Undated, showing six
22 regional configurations.

23 All right. Gentlemen, I have a meeting
24 with the Assignment Judge and which I cannot be
25 late for. I think we're going to have to break

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at this point. We have now duplicated the Lerman and Caton reports, and to the extent you need them, my law clerk will give them to you.

All right. See you at 1:30.

(Luncheon recess is held in this matter from 12:30 p.m. to 1:50 p.m.)

A F T E R N O O N S E S S I O N

1
2 RICHARD THOMAS COPPOLA, having been previously sworn,
3 resumes.

4 CONTINUED DIRECT EXAMINATION

5 BY MR. MURRAY:

6 Q Mr. Coppola, with reference to the last
7 exhibit that was marked J-6, would you indicate what
8 that exhibit depicts with respect to the present need
9 regions?

10 A This display represents the State of New Jersey
11 broken up into six metropolitan regions, by and large,
12 including within each region, relatively large urban
13 areas or relatively speaking, densely populated areas
14 compared to the surrounding land areas, and the
15 purpose of this display, which is entitled Metropolitan
16 Regions For "Present" Need Calculations is the second
17 level of regions in terms of the necessary computations
18 for fair share to a municipality.

19 Q Now, in taking those regions -- we have
20 Region I, Sussex and Warren, and Region II, within
21 what region now would be the Warren Township community?

22 A Within Region II, which consists of Passaic,
23 Bergen, Morris, Essex, Hudson, Hunterdon, Somerset,
24 Union and Middlesex Counties, and which is the
25 identical region utilized by Mr. Caton in his analysis

1 regarding Warren Township.

2 Q With respect to --

3 A Branchburg, excuse me.

4 Q With Mr. Caton's region, you referred in
5 your testimony previously that he expanded it to
6 include Hunterdon. How do you know he did that? It
7 isn't shown on this exhibit.

8 A Well, I'm familiar with both of Mr. Caton's
9 reports, the initial report that I read, I think was
10 done during the summer months of '83 regarding Mahwah,
11 and the Branchburg report which is dated November,
12 1983, included the addition of Hunterdon County, and
13 I saw the reports.

14 Q Does Region II incorporate any of the --
15 what has been previously referred to, red dot areas of
16 the State Development Guide Plan?

17 A It includes all 17 of the urban municipalities
18 shown on the State Development Guide Plan concepts
19 map exhibit, including as far south as New Brunswick,
20 Perth Amboy, Plainfield in Union County, Elizabeth.
21 Then across the county line to Newark, picking up
22 East Orange, Orange and a few other urban aid
23 municipalities in Essex County, and then proceeding
24 across the line into Passaic County and picking up
25 Passaic City and Paterson, and then moving out into

1 Hudson County and picking up Bayonne, Jersey City,
2 Hoboken. In an aggregate there are 17 there, all
3 included in that relatively large northeastern
4 metropolitan region.

5 Q Now, there is a Region III and a
6 Region IV which are -- Region III being on the
7 westerly side of the state, and Region IV on the
8 easterly side. Would you give me your reasoning for
9 the demarcation line between those two?

10 A The demarcation line, the north-south demarca-
11 tion line separating Mercer and Burlington, dubbed as
12 Region III, versus Monmouth and Ocean, dubbed as
13 Region IV, was primarily the basis of the Pinelands
14 and agricultural nondevelopment of the central portion
15 of this southern portion of the state. And then
16 recognition that the development and the location of
17 the major populated areas in all four of the counties,
18 essentially hug the water to the west, the Delaware
19 River; and to the east, the Atlantic Ocean.

20 I might mention that an attempt was made, and
21 this was done in concert with Mr. Chadwick and Mr.
22 Moskowitz to come up with a fixed regional plan for
23 the computation of present housing need, and as a
24 result of that, there are certain areas of judgment
25 that are incorporated.

1 We looked, for instance, as a starting -- at a
2 starting point, since this is a case involving Warren
3 Township, we looked at the various -- the three
4 metropolitan regions which appear on J-4, specifically,
5 the Caton region, either the eight or nine county
6 version, the Rutgers, four county region and the
7 Lerman south metro region. The problems in terms of
8 latching on to one or the other to some extent are
9 simply the leftover counties and how to aggregate them.
10 So it's really -- it was a process of benefiting from
11 all the work that has been done and is before the
12 Court now, including I might add the fair share al --
13 fair share allocation analysis that was prepared by
14 the Department of Community Affairs in '68, and is now
15 defunct as an official document, certainly, looking at
16 all that information and trying to come up with a
17 reasonably -- hopefully very rational approach for the
18 identification of areas.

19 Starting with Region I, Sussex and Warren,
20 the only urban aid municipality is Phillipsburg in the
21 southern portion, but there is similarity in terms of
22 the development pattern, number one. There are some
23 village concentrations of relatively high populations.
24 And more importantly, in relationship to the lands to
25 the east, it is a quantum leap to go that far out of

1 the concentration of the densely populated portions
2 of the northeastern portion of the state. And it
3 appears reasonable to try to come up with a dividing
4 line between or among the northern county munici-
5 palities.

6 THE COURT: Mr. Coppola, just interrupt-
7 ing at that point, looking at the SDGP map
8 which has been marked in evidence, with respect
9 to Region I, what would you estimate to be
10 the available growth area in any event in that
11 -- in that region as related to nongrowth?

12 THE WITNESS: As a percentage, your
13 Honor?

14 THE COURT: Yes.

15 THE WITNESS: I'll say it was something
16 in the neighborhood of 5 percent.

17 THE COURT: So that in reality, there
18 isn't a great deal of area there to accommodate
19 any growth in any event.

20 THE WITNESS: That's correct, your
21 Honor.

22 Moving away from Region II, I've
23 started addressing Regions III and IV, the
24 Mercer-Burlington, Monmouth-Ocean regions
25 respectively. The axis of orientation in these

1 regions between Mercer and Burlington, the --
2 it is assumed to be the focal point of Trenton,
3 but there is absolute recognition that
4 Burlington is a difficult county to put into
5 any region, because effectively, at the Mount
6 Holly point, which is roughly the center axis
7 of the New Jersey Turnpike through Burlington
8 County in a northeast, southwest direction,
9 the orientation shifts.

10 In other words, north of Mount Holly,
11 the orientation is definitely in my opinion
12 towards the City of Trenton. South of that
13 point, it is equally definite in my mind that
14 the orientation is towards the City of Camden
15 across the county line.

16 We chose to put it with Mercer because
17 of the axis orientation around the Delaware
18 River, but also as I mentioned earlier, it
19 was a question of looking at the entire state
20 and trying to come up with the most rational
21 apportionment and aggregation of the various
22 counties. Monmouth and Ocean was certainly
23 easier in our mind because of the orientation
24 north-south, and the fact that there -- also
25 there's only two urban and municipalities at

1 least indicated on the map and that may have
2 to be updated, the two I think that are shown
3 on the State Development Guide Plan concept
4 map are Asbury Park and I would guess it is --

5 THE COURT: Freehold?

6 THE WITNESS: Long Branch.

7 Moving down to the Regions V and VI,
8 there was one swing county involved and that's
9 Cumberland County, which effectively spans a
10 great distance along the Delaware Bay on the
11 southern end of the state, but the map
12 proposes Camden, Gloucester and Salem in a
13 sub-region. The -- again, the focal point of
14 interaction is towards Camden and Philadelphia,
15 but there is the Turnpike and Interstate 295
16 and 130 going down parallel to the Delaware
17 River, towards the bridge to Delaware itself.

18 Cape May and Atlantic and Cumberland
19 were grouped together. Again, in the case of
20 these three counties, that is, Cumberland,
21 Atlantic and Cape May in Region Six, there are
22 shown to be three urban aid municipalities. I
23 believe they are Bridgeton, Millville and
24 Vineland, but in fact there is very little
25 land that is designated for growth in a State

1 Development Guide Plan, and of course, the same
2 can be said for Monmouth and Ocean, with the
3 exception of some land area around the north-
4 eastern portion of Monmouth County.

5 The attempt, again, and in summary, was
6 to come up with a regional pattern that would
7 address the problem identified in the Mount
8 Laurel II decision of distributing in some
9 rational fashion and in some fair way the
10 present dwelling units needed to be constructed
11 to satisfy existing dilapidated or overcrowded
12 units within a metropolitan area.

13 So the focal point of all of the
14 regions I think clearly is Region II, and it
15 is coterminus with Mr. Caton's nine county
16 region.

17 Q If we took --

18 THE COURT: Mr. -- excuse me. On a
19 percentage basis, Mr. Coppola, I don't like to
20 ask you to have to estimate these things with-
21 out ever having studied them, maybe -- maybe you
22 have, your Region II area, what percentage of
23 the state growth or State Development Guide
24 Plan growth area would you just roughly
25 estimate is contained in that region as a

1 percentage of the whole?

2 THE WITNESS: I would say, your Honor,
3 at least 50 percent, although we could get the
4 precise figure from the State Development
5 Guide Plan, and if you'd like, I will.

6 THE COURT: Well, that's close enough.
7 Even looking at it visually, that would be your
8 guess.

9 THE WITNESS: Yes, sir.

10 THE COURT: And are you aware of the
11 approximate percentage of total growth area in
12 the state as it related to nongrowth? How much
13 of the state is classified for growth as
14 opposed to nongrowth, or limited growth? If
15 not, maybe we can --

16 THE WITNESS: I think I can answer that,
17 your Honor.

18 THE COURT: You want to pass that up?

19 THE WITNESS: Your Honor, I'm sorry to
20 ~~take~~ take this time, but I can give a precise figure.
21 I have the State Development Guide Plan document
22 in my hand.

23 All right. Within the state, your Honor,
24 I'm reading now from Page 169 of the Guide Plan,
25 the total land area in the state is stated to be

1 4,797,268 acres, and of that, 1,520,900 acres
2 is designated to be assigned to the growth
3 area category. Roughly, your Honor, it's 30
4 percent; more particularly, it's 31.7 percent
5 according to those figures.

6 THE COURT: And at least 50 percent of
7 that 31 percent approximation, and perhaps Mr.
8 Moskowitz and Mr. Chadwick would want to look
9 at that and address themselves to it as well,
10 is --

11 THE WITNESS: Is actually -- sorry,
12 your Honor.

13 THE COURT: Go ahead. You want to --

14 THE WITNESS: Well, I could be very
15 specific if you just give me a moment.

16 My calculation for the nine county
17 Region II as identified on the exhibit, your
18 Honor, is 753,077 acres which represents 49.5
19 percent of the total acreage in the state
20 designated in the State Development Guide Plan
21 as growth, and the information, your Honor,
22 was taken from Page 170 of the May, 1983
23 Development Guide Plan document.

24 THE COURT: So the largest region,
25 Region II, contains half of the growth area as

1 designated, and I would assume that we -- we
2 could almost take judicial knowledge that that
3 is probably the area of greatest population
4 concentration of the state?

5 THE WITNESS: I would certainly agree
6 with that, your Honor.

7 THE COURT: And it contains 17 of the
8 urban aid municipalities which are also listed,
9 and I was about to put the total of those on.

10 Page 65 -- no, it's in that area.

11 THE WITNESS: Your Honor, I am --

12 THE COURT: Page 46.

13 THE WITNESS: Okay. I -- I'm not sure,
14 your Honor, but I see the information to
15 compute acreage, but --

16 THE COURT: No, there are 30 urban aid
17 municipalities in the State of New Jersey
18 according to the State Development Guide Plan
19 on Page 46.

20 THE WITNESS: Yes, 46.

21 THE COURT: And 17 of those would be
22 within that region. Now, would you refer to
23 Page 94, the SDGP?

24 THE WITNESS: Yes, your Honor.

25 THE COURT: And that shows population

1 projections realized to the year 2000, and I
2 believe we've been working on a 1990 basis,
3 but for this purpose, it would satisfy my
4 question.

5 It shows an approximate population of
6 9 million. Could we compute the population of
7 that Region II based on those projections?

8 THE WITNESS: Yes, your Honor. It's
9 projected, your Honor, to reach a level of
10 5,752,100 people by the year 2000.

11 THE COURT: Which is what percentage of
12 9 million?

13 THE WITNESS: Which is 63.4 percent of
14 the total year 2000 population projected for
15 the state of 9,066,462 people.

16 THE COURT: So your largest region
17 encompasses 50 percent of the growth area, 60
18 percent of the projected population, and over
19 50 percent of the urban aid municipalities.

20 THE WITNESS: Exactly, your Honor.

21 THE COURT: All right. Thank you.

22 Mr. Murray?

23 BY MR. MURRAY:

24 Q The prospective need region of Warren
25 now, of course, is much smaller than the present need

1 region?

2 A. That's correct.

3 Q. To your knowledge is there any calcula-
4 tion being prepared as to the scope of that prospec-
5 tive need region to be superimposed, for example, over
6 the present need Region II or has that been done?

7 A. It has been done and it -- the deviation from
8 the 30 minute commute region I think I can identify at
9 least in broad terms. I have a small legal size sheet
10 which indicates the 45 minute travel time, assuming
11 Interstate 78 is completed.

12 Q. Does that sheet that you have also
13 depict Region II, or can we do that by reference to
14 the sheet you have and the --

15 A. Well, it does --

16 Q. -- the exhibit?

17 A. It does, Mr. Murray, depict Region II to the
18 extent that the county boundaries are indicated on the
19 base map.

20 THE COURT: Why don't we -- why don't we
21 mark one of the reductions, or whatever it is,
22 of the larger map which depicts the regions,
23 it's entitled Present Need Regions, and it
24 shows the same regions that are shown on J-4
25 in evidence.

1 THE CLERK: It's J-6.

2 THE COURT: No. I'm sorry. J-6 in
3 evidence. And we'll mark this as J-7.

4 MR. TROMBADORE: Yes, please.

5 MR. COLEY: Your Honor, can we mark it
6 -- take off the pencil notation towards the
7 bottom?

8 THE COURT: You mean the names on there?

9 MR. COLEY: I'm just kidding.

10 THE COURT: Yeah. It has an authorship
11 claim on it, a Master of Coppola and I could
12 concede that perhaps something having to do
13 with Coppola, but Master, I don't know quite
14 how his name got on there. We'll white it out
15 somehow. One of the principal issues in this
16 case is whether this proposed approach is going
17 to be called the Coppola, Moskowitz, Chadwick;
18 or Chadwick, Moskowitz, Coppola; or Moskowitz,
19 Chadwick, Coppola. I've been thinking about
20 that and I think we should call it CMC because
21 no one will know who's first, and the only one
22 that would stand out is Moskowitz, so he really
23 couldn't complain about being in the middle.

24 THE WITNESS: That's why I'd like to
25 object, your Honor.

1 MR. MOSKOWITZ: We suggested the
2 Serpentelli approach.

3 (Off-the-record discussion.)

4 THE COURT: All right. J-7 in evidence
5 is a map entitled New Jersey Division of State
6 and Regional Planning, 1976, and then on it
7 also contains Clarke and Caton, 1983.

8 (J-7 marked in evidence.)

9 THE COURT: And then did you want to
10 mark the 45 committee -- minute commute map?

11 MR. MURRAY: I will in a moment, your
12 Honor. I think the witness is finishing it up.

13 THE COURT: Okay.

14 BY MR. MURRAY:

15 Q Now, the exhibit that you've just given
16 to me, Mr. Coppola, contains some markings. What are
17 those markings? And I guess we should refer to this
18 at this time as J-8 for identification or is it J-9?

19 THE COURT: You want to put it in
20 evidence? Is there any problem?

21 MR. MURRAY: I don't know if there's a
22 problem.

23 MR. TROMBADORE: J-8.

24 THE COURT: It would be J-8. If there's
25 no problem, put it in evidence. Let's mark it

1 first. J-8 in evidence.

2 MR. TROMBADORE: Can we call that
3 commuter shed map?

4 (J-8 marked in evidence.)

5 THE COURT: J-8 then in evidence is a
6 45 minute commuter shed map.

7 BY MR. MURRAY:

8 Q With reference to this exhibit, J-8,
9 would you indicate what it depicts?

10 A First of all, in a red lined marker, it indi-
11 cates the 45 minute commuting distance for Warren
12 Township, measured from the center of the township and
13 utilizing the speeds for the various classes of roads
14 that I testified to earlier today.

15 Q And the blue line?

16 A Blue line in a hatched marking indicates the
17 present need Region II.

18 Q So what we have is the present need
19 region which is larger than the prospective need
20 region?

21 A That's correct.

22 Q Because of that difference in size, does
23 that create any problems with respect to your analysis
24 of the -- we have a dual region concept now. Does
25 that present any particular problems for the

1 determination of region at all, or is this consistent
2 with what you feel to be fair when we get to the
3 fair share allocation from those two regions?

4 A. I think it is fair and I think by utilizing
5 the dual region approach for purposes of computations,
6 I think that the planning goals that are in the Mount
7 Laurel decision I think are more accurately reflected
8 in terms of regional definition for the prospective
9 need using the commuter shed and the surplus present
10 need, if you will, utilizing the metropolitan
11 Region No. II.

12 Q. And I think that we understand the
13 prospective need region, that is going to be
14 different, municipality to municipality, within the
15 same Region II. Their prospective need region is
16 going to differ within each municipality?

17 A. That's correct. And it may deserve just a
18 little highlighting.

19 Specifically, there has to be a separate
20 quantification and allocation of the prospective need
21 to each municipality for which the analysis is
22 completed. And additionally, any single analysis for
23 particular municipality at the center of its 45 minute
24 commuter shed will have only a number attached to it
25 and need not, and in many instances, depending upon

1 the methodology, will not have a number attached to
2 any other municipality within that commuter shed.

3 Q It's possible at this time that it
4 would be appropriate to get into the use of these
5 regions and the fair share allocation -- have you
6 undertaken a fair share determination and allocation
7 of the housing needs both in the prospective and
8 present need regions?

9 THE COURT: Before we -- before we get
10 to fair share, let me ask just two additional
11 questions, I think one you've answered, perhaps
12 not directly, but certainly indirectly.

13 Why is it that you chose to opt for the
14 Caton approach to Region No. II as opposed to
15 Lerman approach let's say to a south metro
16 region?

17 THE WITNESS: Referring to J-4, your
18 Honor, the Lerman approach I think was a -- a
19 very good attempt to try to combine the
20 competing forces in the needs of the Mount
21 Laurel II decision in terms of regional
22 definition. It attempted to essentially
23 bifurcate the major concentrations of urban
24 land areas along the eastern coast of the
25 northern part of the state and allocate one to

1 what's dubbed -- or one group to the southern
2 metro area and another group to the northern
3 metro area; however, in utilizing a dual
4 regional approach, the commuting relationship
5 of the south metro area became less important,
6 because, of course, we would have a separate
7 commuter shed for every municipality.

8 With that, we then look at this south
9 metro area only in terms of distribution of
10 surplus present need. And on that basis, it
11 appeared better to try to get a broader
12 relationship of more municipalities in terms
13 of that distribution.

14 Two other points. In taking the south
15 metro area by Mrs. Lerman, we had problems both
16 north and south of that metro area for present
17 need region mapping. South, we had the
18 question of Burlington, possibly ending up with
19 Ocean, which did not make much sense, or putting
20 Burlington down with Gloucester, and leaving
21 Ocean on its own. Or in turn putting Ocean
22 with the south metro area which I think
23 violates some of the findings of Mrs. Lerman
24 in regards to her analysis.

25 Northward, we would still have Sussex

1 and Warren, possibly, but we would then be left
2 with Morris, fragmented from Somerset. I can't
3 say that it's -- it's a perfect remedy, but the
4 Caton nine county area for all the reasons that
5 I think the Court has discerned in terms of
6 concentration of growth area, concentration of
7 population and concentration of the major urban
8 areas of the state appear to be a -- a more
9 forthright effort to meet the requirements of
10 the Mount Laurel II decision in regards to the
11 redistribution of present need.

12 THE COURT: Am I accurate -- my reading
13 of the Lerman report indicates that she, indeed,
14 recognized the interrelationship of the entire
15 northern 13 counties, and that, in fact, with
16 respect to present need, there was a necessity
17 to distribute out of the core areas of Hudson
18 and Newark and so forth, that need to both the
19 north and the south, and that's why she broke
20 a north -- north and south metro region out of
21 a single region, so to speak.

22 THE WITNESS: Yes.

23 THE COURT: All right. The second -- the
24 second question, and you might want to stay
25 there, that is, how does the 45 minute commute

1 which Mr. Chadwick developed based upon actual
2 travel time compare to the 45 minute commute
3 based upon speeds? How much more land area or
4 less land area is affected? I'm not asking
5 you town by town, but just approximately, if
6 you can -- do we take in large percentages of
7 additional counties or...

8 THE WITNESS: Yes, your Honor, we do.
9 We certainly take in Newark and Elizabeth and
10 East Orange. And we proceed northward to
11 include Boonton Borough, and we proceed west,
12 even across the Hunterdon County line into
13 Warren County and we -- well, basically, that's
14 the -- that's the difference. So it is broader,
15 particularly, to the north, east and west with
16 relatively minor differences to the south,
17 again because of the fact that you're -- you're
18 dealing with a north-south oriented traffic
19 circulation system in that portion of the state
20 until you get to the north where it goes east
21 and west.

22 THE COURT: So when we get to the issue
23 of median income figures, if median income
24 figures are to be calculated consistent with a
25 region that is approximately the commuter shed,

1 we will have a broader median income base by
2 virtue of using your 45 minute commute based on
3 speeds?

4 THE WITNESS: Yes.

5 THE COURT: All right. Finally, you've
6 touched upon the question of overlap in the
7 development of commuter sheds so that a given
8 town might twice fall within a commuter shed --
9 or more than twice commuter shed area. I'm
10 not sure that you addressed yourself to the
11 question of whether there will as a result be
12 double counting in creation of double fair
13 shares, whether we will substantially increase
14 the total fair share or decrease the total fair
15 share of the region.

16 THE WITNESS: Well, as a preface to my
17 answer, your Honor, I must obviously state that
18 I have not done the analysis for every growth
19 municipality in the state. So I can give you
20 my -- the anticipated result, were such an
21 analysis or composite series of analyses to be
22 undertaken.

23 First of all, however, there's never any
24 double assignment to any one municipality
25 because the very nature of the exercise would

1 be to come up with a prospective need number
2 for a commuter shed region, whether that be
3 based upon population projections converted to
4 households or employment projections converted
5 to households. But the allocation of the number
6 -- of a number is only to the given municipality.

7 What this necessitates, therefore, is an
8 independent prospective need analysis for every
9 growth municipality. It's not a laborious task
10 once a formula were agreed upon.

11 I have done this on my 30 minute
12 commuting region for upwards of 20 munici-
13 palities. And it's a rather simple question
14 of plugging in the numbers, assuming an agreed
15 upon methodology.

16 It is very true that a given municipality
17 will fall within a number of commuter sheds,
18 but no number will be assigned to it unless
19 it is being performed for its commuter shed.

20 Now, the ultimate question you asked,
21 your Honor, was: If you were to add up all
22 the numbers as a result of all these various
23 analyses, would the individual numbers for each
24 municipality add up to a hundred percent on a
25 statewide scale? And the answer to that is I

1 don't know. I would doubt that it's going to
2 be precisely a hundred percent, and the reason
3 I would doubt that is because when you're
4 dealing with a commuter shed, the question is:
5 Do you go -- if you go 50 percent into a
6 municipality, if you're 40 percent, you drop
7 the municipality. If you're 52 percent, you
8 add on the municipality. So, clearly, there's
9 going to be some aberration in terms of the sum
10 versus the -- the sum of the individual parts
11 versus the total.

12 On the other hand, your Honor, I think
13 that it will be a more accurate approach for
14 a given municipality for which the analysis is
15 being performed as opposed to, for instance,
16 coming up with a nine county region and assuming
17 all municipalities are in that region not only
18 for the present, but for the prospective need;
19 because as you move away from the center or the
20 series of centers of a large region, you are
21 going to end up towards the edge where the
22 municipality really has no relationship to
23 other municipalities in terms of the computa-
24 tion.

25 As an example, if we were to use what

1 has been dubbed -- or let me change that.

2 If we were to use the Caton nine county
3 region for prospective need, we would be
4 dealing with a projection for Clinton which is
5 a growth area based upon what's projected to
6 happen both in West Milford in Passaic County
7 and in Northvale in Bergen County. And I think
8 the numbers there become suspect, regardless of
9 whether they add up to a hundred percent or not.
10 I'm not -- in my mind, that's less important
11 for the following reasons: It's important, I
12 think, to have a projection based upon the
13 dynamics of a particular municipality in terms
14 of the relationship of employment opportunities
15 to housing opportunities.

16 Number two, if the numbers are off by
17 relatively small magnitudes, I don't think it
18 affects what's going to happen in the near
19 future.

20 To put another way, statewide, I believe
21 Mr. Moskowitz in a discussion with me - and he
22 can verify it on the stand - indicated that the
23 most active year for housing construction
24 during the last 20 years was something like
25 1968, which had something in the neighborhood

1 of 65,000 total dwelling units constructed
2 that year throughout the state. 50 percent
3 or approximately 50 percent of which were
4 single family homes and approximately 50
5 percent were multiple family dwellings. That
6 number fluctuates down to 20,000 or less.

7 If all of the projected housing that is
8 earmarked for construction based upon some of
9 the population or employment models were -- had
10 to be constructed by the year 1990, we would
11 have to build approximately 65,000 units a
12 year in order to get the 20 percent low and
13 moderate.

14 Additionally, we might assume that if
15 all that -- if all of those units were to be
16 multiple family, that that 65,000 total then
17 per year would have to be multiple family
18 housing, and that if any single family housing
19 was built, in addition, it would simply up that
20 number even more.

21 I think that's an unrealistic market
22 expectation.

23 So that essentially, since this effort
24 has to be updated every six years by every
25 municipality at a minimum, there is going to be

1 a certain degree of phasing, and whether the
2 number for a municipality is 800 or 950, I
3 question whether in the long run that has any
4 import at all. And I think there can be less
5 fundamental arguments in terms of the allocation
6 process if the prospective housing region is
7 one that is uniquely tuned to the municipality
8 at hand.

9 THE COURT: I'm looking for the figure,
10 but as I recall, Mr. Caton projected a
11 prospective housing need alone for this
12 Branchburg region of some 97,000 units, lower
13 income. That's 1980-1990. You may want to
14 look at Page 24. If I read that correctly.

15 MR. TROMBADORE: Would your Honor repeat
16 that, please?

17 THE COURT: 97,000 units.

18 MR. TROMBADORE: 97,000.

19 MR. MASTRO: Lower income?

20 MR. TROMBADORE: That's the nine county
21 region?

22 THE COURT: Yes.

23 THE WITNESS: I think, your Honor, I
24 have a feeling that that might be, going back
25 to Page 22 --

1 THE COURT: Page 24.

2 THE WITNESS: I'm on Page 22, where I
3 think it came from. That might -- is that the
4 present, the year 2000 present need figure?

5 THE COURT: Well, I'm a little bit
6 confused by it myself. I think that figure
7 on 22 appears to be present. All right? And
8 he appears to come up with a present need
9 figure of some 33,000 or 34,000 units, 33,
10 plus. And --

11 THE WITNESS: That right -- that's
12 33,450 by 1990 for present need.

13 THE COURT: And it would appear from
14 Page 24 that he's coming up with a prospective
15 need of 97,000.

16 THE WITNESS: Yes, it would appear.

17 THE COURT: So just taking those figures,
18 we're talking about 130,000 units roughly. And
19 in order to build that by 1990, we'd have to
20 build something like --

21 MR. TROMBADORE: 65,000 a year -- well,
22 more.

23 THE COURT: 650,000 units, if 20 percent
24 of them would be low and moderate.

25 THE WITNESS: And if we figured a ten

1 year build-out which would, of course, bring us
2 to 92, that's a sizable number per year.

3 MR. TROMBADORE: 65,000 a year.

4 THE COURT: So that would be 65,000 a
5 year, and so as a practical matter, you're
6 saying we would have to attain the 1968 record
7 level high, or whatever that year was, in order
8 to accomplish that.

9 THE WITNESS: I correct myself, your
10 Honor, it was 1964.

11 THE COURT: All right.

12 THE WITNESS: Or a total of 68,078
13 dwelling units were authorized by building
14 permit.

15 THE COURT: Do you have more current
16 figures there as to what's happened since?

17 THE WITNESS: Yes, your Honor. The --
18 the next peak was 1972 at 65,539. The latest
19 figure, your Honor, that I have on the sheet
20 are 1980 and '81 at 22,257 and 21,293,
21 respectively.

22 THE COURT: Fundamentally, you're saying
23 that if there is some deficiency, we're worrying
24 about an unattainable figure in any event,
25 based upon everything that has happened at

1 recent date.

2 THE WITNESS: Yes, your Honor, I think
3 that's clear.

4 THE COURT: All right.

5 Before we go to fair share, perhaps it
6 might be best for the purposes of the record
7 if counsel have -- any other counsel have any
8 other questions concerning region, you want to
9 address that? Would that be an appropriate
10 procedure?

11 MR. TROMBADORE: I think it might be
12 appropriate, your Honor, and I have just one
13 or two questions of Mr. Coppola.

14 VOIR DIRE EXAMINATION

15 BY MR. TROMBADORE:

16 Q. When you were first asked to meet with
17 Mr. Chadwick and Mr. Moskowitz, you were asked to
18 compare your own reports with respect to region, is
19 that correct?

20 A. Yes. In the context of the other information
21 available, as well, Mr. Trombadore.

22 Q. And all three of you had prepared and
23 submitted reports together with diagrams, exhibits
24 based on a 30 minute commuter shed?

25 A. Both Mr. Moskowitz and myself used the 30 minute

1 commuter shed. Mr. Chadwick used a 45 minute commuter
2 shed, but the computation for the outbounds was
3 different.

4 Q. And so there was some agreement then
5 at least as to methodology in your initial attempts
6 to arrive at a definition of region for Warren
7 Township?

8 A. Yes, sir.

9 Q. But you came up with different results
10 because of some slightly different approach in terms
11 of either how you measured the commuter shed or what
12 the commuter shed itself should be?

13 A. Yes, sir. And also, of course, the internal
14 methodologies of projections of households, and then
15 the allocation of those households to Warren Township.

16 Q. Now, as I understand it, the next thing
17 you were asked to do was to compare the results which
18 flowed from the determinations which each of you made
19 with respect to commuter shed. In other words, what
20 kinds of figures did that produce in terms of fair
21 share allocation. You did that as well?

22 A. Yes, we did.

23 Q. And in addition, you then looked at the
24 reports which had been submitted to the Court and which
25 were generally available to other people, the reports

1 prepared by Rutgers, by Lerman and by Caton?

2 A. Correct.

3 Q. And those were not commuter shed region
4 determinations, were they?

5 A. Certainly, the Caton and Lerman were not. The
6 Rutgers started out being a commuter shed approach
7 and then was modified according to the information in
8 the publication, but you're -- I think I would agree
9 with you, Mr. Trombadore, that if I were going to
10 classify the Caton, Rutgers and Lerman regions, I
11 would say they were not pure commuter sheds, certainly.
12 They were more of a metropolitan approach.

13 Q. In terms of end product, each of those,
14 let's call them outside experts, Lerman, Caton,
15 Rutgers, produced fixed regions so that like your
16 exhibit which is presently on the board, J-6, you
17 would have fixed regions on a map and you could point
18 to any five hundred and seventy-some municipalities
19 and say, municipality X is in Region III or I or VI?

20 A. Yes.

21 Q. And those regions were used by those
22 experts for the purpose of determining fair share
23 allocation, both as to present excess need and
24 prospective need?

25 A. That's correct.

1 Q And just so that I understand what
2 evolved from your discussion then with Mr. Chadwick
3 and Mr. Moskowitz, was a recognition that while it was
4 desirable to have fixed regions because you don't have
5 to make five hundred and seventy-some determinations,
6 it was not a perfect approach in terms of developing
7 prospective need, because it had no realistic
8 relationship to commuter shed?

9 A In fact, it was determined to be very imperfect
10 for the determination of prospective need.

11 Q Let me ask you this just conceptually,
12 because I understand what that has produced here in
13 terms of your testimony, you're saying essentially
14 then that in applying the instructions of Mount Laurel
15 II, you would create two regions for each municipality
16 or city -- or community?

17 A Yes. Effectively.

18 Q Would you have any difficulty with
19 saying that you in effect have one region, a fixed
20 region, but then for purposes of determining prospec-
21 tive need, you would create a separate formula or
22 methodology based on a commuter shed area. It's a
23 difference in terminology now, Mr. Coppola.

24 A Well, it may not be just that. Let me just
25 point out to you -- let me -- let me put this to you,

1 Mr. Trombadore: That is -- that would lead me to
2 believe that the commuter shed of any municipality
3 within let's say Region II on --

4 Q J-6 --

5 A -- J-6, would be within Region II.

6 Q Oh, no, I'm not suggesting that as part
7 of my question.

8 A Okay. Well, then from a semantic viewpoint --

9 Q I'm saying that --

10 A I have no problem, but frankly, I have no
11 problem with whatever terminology anybody comes up
12 with, but it seems to me in looking at the directions
13 of Mount Laurel II and as reference to Mount Laurel I
14 in Mr. -- in Judge Pashman's concurring opinion, we
15 really are talking about breaking out two land areas,
16 two regions which in aggregate were to be the overall
17 region that is called forth by the Court.

18 In other words, within the directives of the
19 Court, there are conflicts, and I think it's very very
20 improbable if not impossible to come up with a fixed
21 region unto itself that's going to answer all of those
22 directives.

23 The best that can happen is a compromise, and
24 you end up compromising both questions. So, however
25 you call it. But it seems to me they're two -- they're

1 two regional areas for the purposes of computation.

2 Q All right. But you -- but if in fact it
3 were to be said that we do have one region, a fixed
4 region or set of regions, which is a determination
5 designed to produce allocation of present need, excess
6 present need, and in addition, have a methodology
7 which is dependent upon commuter shed areas, you would
8 have no problem with that conceptually. That's what
9 you're doing, essentially?

10 THE COURT: I think -- I think what Mr.
11 Trombadore might be getting at, number one, the
12 Supreme Court has never suggested that there
13 will be two regions for a municipality. That's
14 not to say that they've said it couldn't happen.
15 They didn't discuss it in those terms.

16 You've previously testified that the
17 Rutgers approach really constitutes something
18 of a marrying of the -- I think that was the
19 term you used, of the concepts of commuter shed
20 and metropolitan region, and would it be fair
21 to say that fundamentally, that's what you've
22 done here, you've married the two concepts?

23 THE WITNESS: Yes.

24 THE COURT: And that one could as
25 easily say that you're using a metropolitan

1 region, and then adjusting the prospective fair
2 share by using a commuter shed as part of a
3 single methodology?

4 THE WITNESS: Yes.

5 THE COURT: So, theoretically, we're
6 really not.

7 THE WITNESS: You could also reverse it.
8 You could say that the region is the commuter
9 shed region and the adjustment is for the
10 present need calculations.

11 THE COURT: All right. Okay. So that --

12 THE WITNESS: I think I would frankly
13 feel more comfortable with that.

14 THE COURT: But in reality, we're talking
15 much more about methodology and calculation in
16 terms of the need and that the concept of two
17 regions is just a -- an element or a criteria
18 of that calculation. Is that --

19 THE WITNESS: Yes, your Honor.

20 THE COURT: Correct?

21 THE WITNESS: I have no problem with that.

22 THE COURT: Is that what you're getting
23 at?

24 MR. TROMBADORE: Yes, it is, your Honor,
25 and I would suggest that it isn't only because

1 the Court does not talk about two regions, it
2 is because laymen might have some difficulty,
3 perhaps even some lawyers might have some
4 difficulty understanding the notion of two
5 regions for one community.

6 THE COURT: Even some judges.

7 MR. TROMBADORE: Some judges.

8 BY MR. TROMBADORE:

9 Q Just two other questions, Mr. Coppola,
10 you indicated --

11 THE COURT: Even Appellate Division
12 judges.

13 Q You indicated that the commuter shed
14 region which you developed was based on a 45 minute
15 commute, and that that 45 minute commute anticipated
16 the completion of Interstate 78. I want to be clear
17 on that.

18 A Yes.

19 Q If the map did not -- I'm sorry. Let
20 me restate that. If Interstate 78 were not completed
21 to the east from Warren Township to the east, from
22 Warren Township to the east, would that change the
23 boundary of the 45 minute commute?

24 THE COURT: What was that question?

25 Q It would change the boundary of the

1 water -- of the commuter shed?

2 A. I would think it probably would. Yes. I don't
3 know to what -- may I take a look at that map?

4 Q. (Indicating)

5 A. I would have to say, Mr. Trombadore, that it
6 would probably only marginally at most change it,
7 because you come up, of course, to the water, number
8 one. And number two, I have the benefit of looking at
9 my 30 minute commute region which was done the same
10 way, except that a 30 minute outbound time limit and
11 the Moskowitz region which was 30 minute also, but
12 assumed the completion of 78. So I really don't know
13 if there would be any change there.

14 Q. The eastern boundary of the commuter
15 shed as you have set it out on the exhibit includes
16 Newark, does it not?

17 A. Yes, it does.

18 Q. And does it include Jersey City?

19 A. No, it does not.

20 Q. All right. And would I be correct that
21 if, in fact, Interstate 78 were not completed, you
22 would not, in fact, include Newark in that commuter
23 shed?

24 A. Possibly not, but I can only tell you that Mr.
25 Moskowitz in his region, which was a 30 minute commute,

1 assumed the construction of 78.

2 Q That's correct.

3 A Did include Newark. So I don't know what -- I
4 really don't recall. Mr. Chadwick, who oversaw the
5 formulation of this 45 minute region, might be better
6 able to answer that.

7 Q Well, the reason I raise that is because
8 I anticipate that Mr. Chadwick will produce an exhibit
9 which does not show Newark as included in the commuter
10 shed based on the noncompletion of Interstate 78.

11 I just want to be clear that yours is predicated
12 on that assumption, that Interstate 78 is completed.

13 A It says it right on J-8.

14 Q You have indicated in your direct
15 testimony that this boundary of the commuter shed area
16 or region would intersect or cross county lines, and
17 in many cases would run through --

18 THE COURT: Go ahead.

19 Q -- municipal lines.

20 A I'm sorry.

21 Q You indicated that when you draw your
22 boundary for a commuter shed area, that boundary would
23 not be coterminus with boundaries of either counties
24 or municipalities. You would be cutting through a
25 municipality, cutting through a county.

1 Now, in that situation, you said I think that
2 if we find that we include a certain percentage of a
3 municipality, we might include it. If we have less
4 than that, we might exclude it. There is a methodology
5 that deals with that, is there not? In terms of
6 whether you include or exclude that portion of the
7 municipality or the county?

8 A. Yes. The way -- in terms of the commuter shed?

9 Q. Yes.

10 A. The way I have it in my Appendix B to the report
11 which I believe was also utilized by Mr. Moskowitz was
12 that if only a part of a municipality was within the
13 specified minutes driving time, it was included in
14 the region if more than half fell within the driving
15 time, but was excluded if less than half fell within
16 it. And the measurement proceeds from the center of
17 the subject municipality.

18 Q. What do you do then with respect to
19 county? If you are traversing a portion of a county
20 with that boundary, do you use the same methodology?
21 You do not, do you? You include whatever is there.

22 A. It has nothing to do with counties, the commuter
23 shed.

24 Q. All right. One of the questions raised
25 by the Court with respect to allocation and

1 determination of median income --

2 A. Well, that's -- I think that's a different
3 question.

4 Q. All right, but that's my question.

5 A. All right.

6 Q. For purposes of the commuter shed.

7 A. But it has nothing to do with the region per se
8 then.

9 Q. But it's retained -- it would still be
10 retained for purposes of the computation?

11 THE COURT: Of median income, is that
12 what you're saying?

13 Q. Of median income?

14 A. Yeah. Let me just clarify my own mind in terms
15 of the outbounds of the 45 minute commuting regions,
16 it's just a question in terms of municipalities.

17 Q. Okay.

18 A. Now, in terms of after the allocation and at the
19 time of construction somebody obviously asks a question,
20 what are our income limits? How much can we sell these
21 units for? And the municipality asks, what do we have
22 to make sure that the developer develops them at --

23 Q. Excuse me. I think we understand now
24 your position.

25 I simply wanted to be sure based on your

1 statement on direct that you would exclude portion
2 of a municipality that you are not suggesting you
3 would exclude any part of a county in the determina-
4 tion of median income, and you've said not. I'm
5 satisfied with that.

6 A. Well, I haven't answered the question about
7 how you'd compute median income, but that might be a
8 little later in the testimony.

9 Q. But that's part of your testimony on
10 fair share, so that we'll reach that.

11 I have no other questions of Mr. Coppola.

12 THE COURT: Mr. Coley?

13 MR. COLEY: No. I have no questions,
14 your Honor.

15 THE COURT: Mr. Mastro?

16 MR. MASTRO: Your Honor, I have just a
17 couple questions on conceptual understanding of
18 the dual region approach.

19 VOIR DIRE EXAMINATION

20 BY MR. MASTRO:

21 Q. Mr. Coppola, aren't you saying that the
22 dual regional approach encompasses a present region
23 and prospective region that are clearly different, but
24 not inconsistent, aren't you saying that?

25 A. Very much so. I think they are, taken together,

1 however you dub them, totally consistent with the
2 directives of the Mount Laurel II decision.

3 Q In other words, if we take a look at all
4 the problems that Mount Laurel theory attempted to
5 address, to catalog a few, dilapidated housing, senior
6 citizens and lower income categories, retired people,
7 young people, incapacitated people, can't work,
8 structurally unemployed people, poor, both employed or
9 unemployed, concept that people who work would like to
10 be within reach of the job to which they're commuting,
11 the imbalance between cities and suburbs and the lower
12 income people, the problem of the future lower income
13 households, the State Development Guide Plan, the
14 growth area in there, and the attempt to channel all
15 of the prospective lower income households into that
16 growth area, aren't we saying then that you can't
17 possibly address all those issues with either a
18 commuter shed region or a fixed region as indicated
19 on J-6?

20 A That's not a yes or no question. Your Honor --

21 THE COURT: That's the type of question
22 you always ask in a medical malpractice case,
23 but you want to get the guy to say, yeah, he
24 did it.

25 THE WITNESS: I can shorten it, and

1 MR. JACOBS: I agree.

2 BY MR. MASTRO:

3 Q Aren't we saying that the two regions
4 address different factors? For example, the commuter
5 shed addresses prospective, which is job oriented and
6 SDGP oriented, you agree with that?

7 A Well, it is job oriented. The S -- the State
8 Development Guide Plan aspect of it comes in on it
9 during the allocation, but --

10 Q During the implementation process, we
11 have to channel lower income households of the
12 prospective need into the growth areas.

13 A No. During the allocation process, the growth
14 areas come into play. That's when they particularly
15 come into play.

16 THE COURT: I think the --

17 A Maybe I'm --

18 THE COURT: The point that Mr. Mastro is
19 getting at is that is it fair to say that
20 within the opinion itself there are conflicting
21 goals, conflicting in the sense that they call
22 for us to gravitate towards a different
23 regional approach?

24 THE WITNESS: For present versus
25 prospective, yes.

1 MR. MASTRO: That's what I'm...

2 THE COURT: And that what you're trying
3 to do by this approach is to resolve the
4 conflict with all those goals that Mr. Mastro
5 listed in his original question.

6 THE WITNESS: Yes.

7 THE COURT: Is that it?

8 MR. MASTRO: Thank you, Judge.

9 THE COURT: You know, when I had a good
10 question I wanted to ask, and yours was so
11 stellar.

12 MR. JACOBS: I was going to say the same
13 thing. I'll be brief.

14 VOIR DIRE EXAMINATION

15 BY MR. JACOBS:

16 Q In speaking with you, I know you're
17 fairly familiar with it, the housing market area as
18 we refer to in the Madison case, and Mount Laurel II,
19 in the Courts' discussing that area, in terms of the
20 housing market area, is it your opinion that the
21 housing market of Warren Township is drawn substan-
22 tially from the commuter shed area you're proposing?

23 A. Yes.

24 Q Okay. I thought that would get a pretty
25 quick answer.

1 So that this area -- this area again is more or
2 less, and that's the terms used in Mount Laurel II,
3 the housing market area of Warren Township?

4 A. Yes.

5 THE COURT: You're referring to what
6 page?

7 MR. JACOBS: I'm referring specifically
8 to page -- Mount Laurel II, 256.

9 THE COURT: All right.

10 MR. JACOBS: The answer is yes.

11 THE COURT: Okay.

12 I suppose it would be fair to say that
13 the third way to describe these two regions is
14 to say that you really have a region and a sub-
15 region within it. Would that be a third,
16 because every commuter shed is going to be a
17 part of a larger region, is that right?

18 THE WITNESS: That's correct, the only
19 problem I can see with that, your Honor, and --

20 THE COURT: I can see a variation.

21 THE WITNESS: If you come towards the
22 line of let's say I and II, you're going to have
23 a commuter shed overlapping the six regions.

24 THE COURT: Okay. I was leading to that.

25 And what happens in that sense? Will

1 that cause any problem with respect to this?

2 THE WITNESS: None at all.

3 THE COURT: Why not?

4 THE WITNESS: Because there are separate
5 computations for separate purposes under the
6 Mount Laurel II decision.

7 THE COURT: Okay. So the goals that Mr.
8 Mastro was talking about will be met just as
9 well, even though a commuter shed overlaps two
10 of the metro regions if we want to call it that?

11 THE WITNESS: I sincerely think so.

12 THE COURT: All right.

13 MR. COLEY: Your Honor, could I have just
14 one question?

15 THE COURT: Sure.

16 MR. COLEY: Two questions?

17 VOIR DIRE EXAMINATION

18 BY MR. COLEY:

19 Q Mr. Coppola, you're satisfied for the
20 purposes of this case that Region II accurately
21 represents a way to determine present existing need?

22 A. Yes.

23 Q And you're also able to accept the
24 45 minute commuter -- commuter shed that is set forth
25 in exhibit --

1 A. P-8.

2 Q. P-8? Right? And that's an accurate
3 way to set the prospective need for Warren Township?

4 A. Yes, I think it is a reasonable way to do it,
5 and I think it is specific to -- to Warren Township in
6 this case.

7 THE COURT: Just for the record, I think
8 the commuter shed is J-8. All right. Go ahead.

9 Q. It's J-8, yes, your Honor.

10 THE COURT: Yes.

11 MR. COLEY: I have no other questions.

12 THE COURT: Gentlemen, Intervenor, do
13 you wish to be heard on this point at all?

14 MR. KRAUS: No.

15 MR. LYNCH: No thank you, your Honor.

16 THE COURT: All right. Suppose we take
17 a recess at this point, and then we'll come back
18 on the issue of fair share.

19 (Recess is held from 3:05 p.m. to 3:30
20 p.m.)

21 RICHARD THOMAS COPPOLA, having been previously sworn,
22 resumes.

23 CONTINUED DIRECT EXAMINATION

24 BY MR. MURRAY:

25 Q. Mr. Coppola, in the overall Mount Laurel

1 obligation concept and its application to a given
2 community, would the determination of fair share now
3 be the next step in the analysis that we have here
4 today, and if so, would you indicate in general what
5 that encompasses? And then we'll go into detail.

6 A. Well, it encompasses ordinarily three calcula-
7 tions, one, a projection, an allocation of prospective
8 housing need to the municipality. Two, a calculation
9 and allocation of surplus present housing need to the
10 municipality. And third, the indigenous need which
11 is operative to every municipality, whether they are
12 growth or nongrowth under the State Development Guide
13 Plan.

14 Q. And have you determined a calculation of
15 the prospective housing need for the region as you
16 have defined it previously?

17 A. Yes, I have.

18 Q. And would you indicate the method or
19 methodology in doing that?

20 A. My region was, as I mentioned earlier, a 30
21 minute commute region and --

22 Q. Now, the region that you're referring to
23 now would be the region that you set up in the report
24 previously submitted, the November, 1983 report?

25 A. That's correct. My approach was to project

1 employment growth within the defined region from '82
2 to 1990. That projection was a straight line
3 projection carrying forth the employment growth within
4 the region within the years 1972 and 1981. 1972 and
5 '81 were chosen because 1981 is the most recent year
6 for which the data is available, and 1972 is the
7 earliest year in which the definition of covered jobs
8 is consistent with current years.

9 Q. What is the source of that data for the
10 1972 and 1981 growth?

11 A. It's private sector jobs covered by the New
12 Jersey Unemployment Compensation Program.

13 Q. All right.

14 A. And once that projection was made to the year
15 1990, the total number of jobs was converted to total
16 number of households that would be added to the region,
17 the prospective households. The conversion factor
18 that I used was 0.759, which means that for every new
19 private sector job, 0.759 new households would be
20 created. This is the aggregate figure for the State
21 of New Jersey for the ratio of jobs to covered
22 employees. And what it essentially means is that for
23 every household, you have more than one, some fraction
24 greater than one employed person.

25 Q. All right. In applying that formula,

1 what did you project?

2 A. The projection for total need, this includes
3 low and moderate, and includes higher income housing,
4 as well, for 1990, within the defined region was
5 90,742 dwelling units. That, I might add, includes
6 an additional 4 percent for vacancy and housing loss,
7 which was a standard that is ordinarily applied. So
8 we ended up with a total need anticipated new housing
9 within the region of some 90,742 units.

10 The next step in my analysis was to allocate
11 that regional need and I developed a matrix of three
12 independent factors, one of which was the percent of
13 growth area in Warren Township versus the growth area
14 in defined region. And that turned out to be 4.93
15 percent for Warren Township.

16 Q Again, you're using the region that was
17 set forth in your --

18 A. It's a 30 minute commuting region, correct.
19 That which is mapped on J-4 under my name.

20 The next factor in the matrix was the employ-
21 ment in Warren Township in 1981 as a percent share of
22 the existing employment in 1981 throughout the
23 defined region and the percentage factor for Warren
24 Township in that regard was 0.75 percent.

25 And third and finally was the percentage of

1 employment growth experienced in Warren Township
2 between the years 1972 and 1981 as a percentage of
3 employment growth in a defined region. That factor
4 for Warren Township was 1.06 percent.

5 I then took those three factors and weighted
6 them in four separate ways; one, considered all three
7 factors equal. So I added up the percentages, divided
8 by three and the weighted factor, therefore, for
9 Warren Township was 2.25 percent.

10 I then took each of the factors and in one
11 instance assigned factor one of 50 percent weighting,
12 and factors two and three, 25 percent each; and then
13 did it again, but assigned 50 percent weighting for
14 factor two; and one and three, 25 percent each. And
15 then finally again, 50 percent weighting for factor
16 three; and one and two, 25 percent each. In order to
17 project a range of prospective need. And the range
18 was between 1.87 percent as a multiplier upwards to
19 2.92 percent. The 2.92 percent which is the highest
20 assigned a 50 percent weighting to factor one, which
21 is the percentage of growth area in Warren Township
22 versus the percent of growth area throughout the
23 region as mapped by the State Development Guide Plan.

24 The next step in the process was to take the
25 projected total regional housing need of 90,742 units

1 and break it down to low and moderate income units,
2 and at the same time apply the weighted fair share
3 percentages against the numbers. And in that way, it
4 is possible to come up under this methodology with a
5 range of low, moderate income obligation numbers for
6 Warren Township.

7 Q As a result of that computation and
8 breakdown, did you obtain a final figure?

9 A Yes. First of all, the -- the breakdown of
10 low and moderate out of the total 90,742 was -- I
11 used the statewide figure of 39.5 percent of all
12 units in the state being either, and low and moderate
13 income units.

14 In other words, it's 15.9 percent moderate and
15 23.6 percent low. So 39.5 percent of 90,742 units
16 turns out to be 35,843 units, which is the projected
17 need for low and moderate income housing units within
18 the 30 minute commute region by 1990.

19 Then by taking that 35,843 unit number and
20 applying the various weighted factors against it, a
21 range of obligation to Warren Township is determined
22 to be between 670 dwelling units and 1,046 dwelling
23 units. Evenly weighted, it's 807 dwelling units.

24 Q When you say evenly weighted, is that
25 the average of these two figures?

1 A. That would be the figure derived from weighting
2 each of the three factors evenly.

3 Q. All right. And that last figure was
4 what?

5 A. Was 1,046.

6 THE COURT: No.

7 THE WITNESS: I'm sorry. I beg your
8 pardon. 870. Thank you.

9 The next step in the process or next
10 step is the question of indigenous, and I'll
11 make the point that indigenous and present in
12 some methodologies overlap, and in other
13 methodologies such as mine, are handled
14 separately. The reason that they are handled
15 sometimes in aggregate is because they are the
16 same -- they represent the same measurement of
17 -- of housing unit.

18 To put another way, they are all
19 physically deteriorated housing units, or
20 those which are overcrowded; however, that is
21 quantified, and some point in this testimony
22 I will indicate the variations on methodology
23 utilized by some of the experts who have
24 submitted reports to the Court or have been
25 used, such as Caton and Lerman in the proceedings

1 before this Court.

2 But the difference between the
3 indigenous label versus surplus present as used
4 in my report is that the indigenous is a
5 localized quantification for every municipality
6 throughout the state, and in terms of Warren
7 Township, I took from the U.S. Census, 1980
8 data, different series as indicated on Page --
9 housing -- 4, Plate 2 of the November, 1983
10 report, Units With No Kitchen Facilities,
11 Units With No Bath Or Half Bath Only, and
12 Overcrowded Units. And the total number of
13 units, therefore, is 43.

14 And I should also say that -- let me
15 just proceed.

16 Q. That 43 doesn't have a range, it's a
17 fixed figure?

18 A. It's a fixed figure. I'm not providing for any
19 overlap. Other methodologies have included a number
20 of other line items in the census, such as overcrowded
21 with adequate plumbing, overcrowded with inadequate
22 plumbing, inadequate plumbing with no overcrowding,
23 inadequate heating, lack of kitchen, and then there's
24 various deductions and compensation factors utilized.

25 In fact, that's -- I'm reading now the

1 methodology used by Mr. Caton, and then he has a 50
2 percent deduction for above moderate income households,
3 plus needed vacancies and 60 percent deduction for
4 lower income households.

5 Suffice it to say that the methodologies that
6 I reviewed and up within a very very similar range of
7 magnitude in terms of the indigenous for a municipality
8 such as Warren Township.

9 The next question is the present, and the
10 reason I introduced this commentary with indigenous --

11 THE COURT: Excuse me. Before you get
12 on to present --

13 THE WITNESS: Yes, your Honor. Right.

14 THE COURT: Your calculation of
15 indigenous does not include a calculation based
16 upon financial need, is that correct?

17 THE WITNESS: That's correct.

18 THE COURT: And it could be argued,
19 couldn't it, that there are people who don't
20 live in dilapidated housing or overcrowded
21 housing, but would fit in the Court's defini-
22 tion of a low and moderate income person.

23 THE WITNESS: That's true, your Honor,
24 and I spent some time in the report discussing
25 it as a possible contention.

1 I, in looking at the decision and going
2 backwards, and I might add, your Honor, that
3 I'm representing a developer here, I had sub-
4 mitted a report earlier which had a financial
5 need component, and it ended up with a larger
6 number for Warren Township. In my learning
7 experience, and it continues in this effort,
8 in going back and scrutinizing the decision,
9 it appears to me that the Court was somewhat
10 specific, and I don't have the exact page
11 reference, as to what was meant by present
12 need, and the reference was to physically
13 deficient units and overcrowding. I think it
14 was more in the discussion of Mount Laurel
15 itself, the town, that there was explicit
16 reference to their methodology which included
17 a component of calculation for financial need.

18 I have found that that number can be
19 in blunt words off the boards. It can be a
20 number of significant magnitude beyond, I
21 think, a -- a meaningful relationship to what
22 might be the prospective need, as an example.
23 And then there's a question of double counting.
24 There is a question of empty nesters, retirees,
25 widows, widowers. There's a question of the

1 source of the data, what people are actually
2 reporting as their income.

3 Then there's a question of what's income
4 versus what's coming out of the bank in
5 different forms.

6 I am troubled with that possible
7 component, and you are right, your Honor, when
8 you note that in the November, 1983 analysis,
9 I did not include it at all.

10 THE COURT: And Mr. Moskowitz has
11 apparently attributed 338 people in financial
12 need, and Mr. Chadwick has apparently
13 attributed 313, if my chart is correct, and
14 presumably eliminated the overlap by saying,
15 well, a certain percentage of those people that
16 overcrowded are obviously also financially in
17 need, whatever that percentage is.

18 Why wouldn't it be more accurate to say
19 that people in financial need represent a
20 better measurement than just those in over-
21 crowded or dilapidated? I mean, why are the
22 figures so far off? And can -- can one say
23 with certainty that in Warren Township, for
24 example, there aren't 313 people in financial
25 need? We probably could say with more

1 certainty that there are X amount of people in
2 dilapidated or overcrowded housing. I could
3 understand that's a more ascertainable measure,
4 but why is it not ascertainable, or why is it
5 questioned as to financial?

6 THE WITNESS: Well, you're getting people
7 reporting what they earned. That's the source
8 of the data that I know that is available.

9 I think people are less apt to indicate
10 a higher income, just by human nature. I may
11 be wrong.

12 THE COURT: Or for other reasons.

13 THE WITNESS: Yes. Or for very very
14 pronounced reasons, but I find a lot -- I spent
15 some time in the report on Page 3 in a para-
16 graph talking about some of the problems that
17 I have with it.

18 I found it better to be straightforward
19 on the dilapidated, not try to say, well, you
20 know, some of the units that are measured for
21 plumbing also have -- are overcrowded. It's --
22 I'm not saying this is the only way to go, and
23 as a matter of fact the thrust of my testimony
24 was going to be that there are a lot of reason-
25 able ways of approaching it.

1 THE COURT: But you would -- would it be
2 your inclination that it's a truer measure that
3 in fact while statistically the 313 might be
4 called upon based upon mathematical calculation,
5 that really, poor people or low income people
6 would demonstrate that by living in housing
7 that's not adequate? Is that what you're
8 saying?

9 THE WITNESS: I think there is going
10 to be a tremendous overlap, yes.

11 THE COURT: And that the relationship
12 between overcrowded housing and their true
13 economic condition is much more accurate than
14 simply accepting figures they give us? Is that
15 what you're -- is that your bottom line?

16 THE WITNESS: I think the bottom line,
17 your Honor, is that the financial component in
18 that quantification troubles me for two reasons:
19 First of all, the reliability of the data; and
20 secondly, I think predictable reasons for the
21 inflated numbers, and I think they are inflated
22 relative to other quantifications that come out
23 of this overall fair share process.

24 THE COURT: And why are they -- I mean,
25 the town didn't want to inflate them. Why

1 would they be inflated?

2 THE WITNESS: Well, if you're talking
3 about, for instance, people that are showing
4 relatively low incomes, we don't know, for
5 instance, whether they're retirees living on
6 pensions, but they own their units outright,
7 they have money put away, but it is not income-
8 producing money. There are a sizable, I think,
9 number of empty nesters, and as I said,
10 retirees, widows and widowers in the state.
11 They're going to show up in the statistics.

12 THE COURT: We took the Ocean County as
13 an example which has a -- one of the highest
14 senior citizen populations in the State of New
15 Jersey, and the housing by common knowledge is
16 rather nice. We would find a rather high
17 percentage of low or moderate income people, is
18 that what you're saying?

19 THE WITNESS: I ran the numbers for a
20 client under the old format in Middletown Town-
21 ship, which has I think a lesser percentage of
22 retirees, but there are some along the shore
23 corridor, and the number was astounding, I
24 believe it was in the neighborhood just for the
25 financial component of 1400. That was one of

1 the exercises which caused me to rethink this
2 process, and again, I was representing a
3 developer in that regard; but the numbers are
4 no good if they're not reasonable.

5 THE COURT: Okay. I'm satisfied with
6 at least your justification. Okay.

7 I think you were going then on to the
8 question of present.

9 Q. Present?

10 A. Yeah. The present is also an indigenous need
11 component, but it's a -- it's a residual component.
12 It's a -- the difference between the indigenous need
13 assigned to let's say an urban city, the difference
14 between what that urban city can be reasonably expected
15 to accommodate in terms of new housing construction or
16 in terms of remodeling, or rebuilding the housing,
17 versus the amount that should be acknowledged to move
18 out of the city into the areas and that's what I dis-
19 cussed in regards to the metropolitan regions,
20 Region II on the six region map.

21 So they're both indigenous. It's a question of
22 the particular -- the present is a question of the
23 surplus residual that is more appropriate to be -- or
24 is inappropriate and unfair to be assigned to that
25 built-up area.

1 My particular methodology was basically that --
2 and let me just read -- paraphrase the decision in
3 that. The decision pointed out that a municipality's
4 "present" lower income housing need comprised of
5 dilapidated and overcrowded units may be more than
6 its fair share obligation. And in such a case, the
7 Court suggests that municipalities located within
8 growth areas are obligated to provide housing units in
9 addition to their indigenous need in order to satisfy
10 the surplus present housing needed in their region
11 that cannot be fairly satisfied within those
12 municipalities currently overburdened by a dispro-
13 portionate number of such units.

14 What I did was, within my 30 minute commute
15 region, is identify the numbers of indigenous housing
16 need obligation for every member of municipality. And
17 that's shown on Plate 7 of the analysis. And that
18 plate also tabulates the total number of housing units
19 within each municipality, and in turn, each munici-
20 pality's percentage of the total housing units within
21 a defined region. And what I said is that it's the
22 percentage ratio of total housing units in the
23 municipality versus total number of housing units in
24 the region that becomes a municipality's fair share
25 multiplier.

1 The basic premise is that a municipality's
2 fair share of indigenous housing need should not be
3 more than its current share of the total housing
4 stocked within a defined region.

5 So, if a municipality has 10 percent of the
6 total housing stock in the region, but it had 12
7 percent of the indigenous; that is, the dilapidated
8 housing stock in the region, that differential of 2
9 percent was thrown out into the pot to be distributed
10 to the remaining municipalities in the region. My
11 distribution of that number of units, and I might say
12 that in the 30 minute commuting region for Warren
13 Township, there were 12 municipalities that had a
14 surplus of present housing need, and the total surplus
15 for the region was 3,859 dwelling units. Interestingly,
16 81 percent of that total were located within Plain-
17 field and New Brunswick. And my approach, quite
18 simply, was to use the same weighted factors for the
19 allocation of prospective need and apply those against
20 the 3,859 dwelling units of surplus present need and
21 distribute those out. That, I thought was reasonable,
22 given the nature of the region and the fact that
23 considering all those municipalities that were
24 contributing surplus present need, Warren Township
25 was roughly in the center, naturally, of that

1 distribution.

2 The number, therefore, of obligation of surplus
3 present housing needs of Warren Township, again, indi-
4 cated in a range, was between 72 and 87.

5 THE COURT: Now, as I read --

6 THE WITNESS: I beg your pardon, may I
7 correct that, your Honor?

8 THE COURT: Yes, sir.

9 THE WITNESS: 72 and 113.

10 THE COURT: Right. Okay. That was my
11 first question.

12 Now, as I read the reports of Mr.
13 Moskowitz and Mr. Chadwick, they did not make
14 this excess calculation. Is that right?

15 THE WITNESS: That's correct.

16 THE COURT: Okay. Mr. Caton did it --
17 he did it differently, did he, or did he not?
18 Do I understand his as being a -- a calculation
19 of a maximum density per acreage for munici-
20 palities which he could identify as having
21 excess, and then distributing whatever addi-
22 tional need that existed out to the -- those
23 that could take it?

24 THE WITNESS: Yes. And he did it using
25 the same weight -- the allocation was the same

1 weighted factor he used to distribute prospec-
2 tive.

3 THE COURT: And is his distribution --
4 is his distribution as opposed from identifying
5 what has to be distributed? Is it any
6 different in methodology than yours?

7 THE WITNESS: No.

8 THE COURT: All right. So the only
9 difference is that he's identified the excess
10 by a different formula; that is, rather than go
11 through actually identifying town by town
12 based upon a -- their percentage in relation
13 to the region, he has used a percentage of
14 land coverage so to speak?

15 THE WITNESS: Yes. Essentially, a
16 saturation model in terms of what the appro-
17 priate density for the development would be.

18 THE COURT: Would you anticipate -- I
19 don't know whether you worked these numbers,
20 would you anticipate that utilizing his
21 approach, you would come up with anything
22 substantially different than utilizing yours?

23 THE WITNESS: I think I have his --
24 utilizing his.

25 THE COURT: Of course, he was using a

1 different region now.

2 THE WITNESS: If I -- if I understand the
3 question, your Honor, if I were to use his nine
4 county region and use my methodology --

5 THE COURT: Instead of using his
6 methodology for -- for identifying the surplus.

7 THE WITNESS: Right.

8 THE COURT: Would there be much of a
9 difference in number?

10 THE WITNESS: Yes.

11 THE COURT: And why?

12 THE WITNESS: I had -- I've run the
13 total surplus present need within the eight
14 county region which was Mr. Caton's earlier
15 region utilized in Mahwah, and I don't believe
16 there would be any significant difference in
17 terms of adding Hunterdon.

18 THE COURT: Okay.

19 THE WITNESS: The total surplus present
20 need in the eight county region according to my
21 calculations is 44,972 units. If I were to
22 take -- your Honor, I apologize to you, I'm
23 mixing apples and oranges here.

24 THE COURT: That's all right. And I
25 think maybe I confused you.

1 The only differential in your two
2 approaches is the identification of what he's
3 in excess, essentially.

4 In other words, he uses this percentage
5 of coverage or land density, and you use a
6 percentage of -- with respect to the region,
7 over and above the -- or over and above the
8 indigenous percentage. Frankly, it struck me
9 that there wouldn't -- it wouldn't amount to
10 much of a difference, but you indicate now
11 that it would.

12 THE WITNESS: Well, I'm looking at the
13 wrong figures, your Honor.

14 THE COURT: Yes.

15 THE WITNESS: I'm looking at a calcula-
16 tion which I did, which essentially was his --
17 his approach for the nine county region for
18 Warren Township.

19 THE COURT: Do you have his excess
20 number?

21 THE WITNESS: His excess number would be
22 396.

23 THE COURT: For the total region?

24 THE WITNESS: His bottom line number
25 would be 865.

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THE COURT: You're looking at -- are you looking at your own numbers?

THE WITNESS: This was the calculation that I prepared yesterday, which for Warren Township took the -- I had prospective for nine county -- the nine county region.

THE COURT: Well, that's prospective.

THE WITNESS: And then I had surplus present for eight county region, which was 396.

THE COURT: 396 units?

THE WITNESS: Yes, but the prospective dropped down to 426.

THE COURT: Now, you're talking about Warren's share?

THE WITNESS: Yes.

THE COURT: Warren's share?

THE WITNESS: Yes.

THE COURT: And your excess, at the high side, is 113; the low side, 72.

THE WITNESS: That's correct, your Honor.

THE COURT: And would you ex -- would you then identify that differential to the method in which he has developed the excess?

THE WITNESS: Yes.

1 THE COURT: Is that the reason for the
2 difference?

3 THE WITNESS: Okay, your Honor, I have
4 my notes here.

5 THE COURT: Okay.

6 THE WITNESS: Mr. Caton comes up with a
7 projected present need within his region of
8 32,718 for the year 1990.

9 THE COURT: Has anybody found that page?
10 I'm looking for it.

11 THE WITNESS: It's Page 20 -- it's Page
12 2 -- or 1.

13 MR. TROMBADORE: Page 1.

14 THE WITNESS: It's Page 1.

15 MR. COLEY: In the Mahwah report then,
16 right?

17 MR. TROMBADORE: You're looking at the
18 Mahwah report?

19 THE WITNESS: No. Branchburg report.
20 That's the nine county.

21 MR. MOSKOWITZ: Page 333 -- Page 133.

22 THE WITNESS: Page 1, it's the regional
23 need for lower income housing, 3, 1990, as
24 follows: Present need low income 23,557.
25 Moderate income, 9,161; total, 32,718.

1 THE COURT: That's not the excess, is it?

2 MR. MOSKOWITZ: Total -- on Page 33,

3 your Honor, is where he summarizes it for...

4 THE COURT: Here it is, reallocation,

5 137 units. See it? 15 percent? So he agrees

6 with you. Pretty much.

7 THE WITNESS: It's nice to know, your

8 Honor, thank you.

9 THE COURT: On the high side. 30 --

10 what page, 33? He says, reallocation, 15

11 percent. That's the -- that's basically the

12 Newark core area and those areas generating the

13 excess, and he comes up with a number of 137,

14 even though he's used a -- a different identi-

15 fication number. And so while there's a

16 difference between your low of 72, you have

17 113 as your high. So you're somewhere in the

18 90's as an average, and he's 137.

19 MR. TROMBADORE: For Branchburg.

20 THE COURT: For Branchburg. Yes.

21 MR. TROMBADORE: Yes.

22 THE COURT: What I was getting at is

23 how significant the difference in methodology

24 in terms of identifying the excess will impact

25 upon that number. That doesn't apparently

1 impact --

2 THE WITNESS: I don't think it would,
3 your Honor. We did run the numbers a number of
4 different ways. I have a number here based
5 upon his approach for total indigenous and
6 present need of 229 for Warren Township.

7 THE COURT: Well, that 229 is present.

8 THE WITNESS: And indigenous.

9 THE COURT: It's not the -- yeah, but
10 it's not the surplus.

11 THE WITNESS: Okay.

12 THE COURT: He -- he -- well, surplus
13 may be in that 229. 137 is the surplus portion
14 of it -- of the 229, I assume.

15 THE WITNESS: I apologize to the Court
16 for being a little --

17 THE COURT: Well, no.

18 THE WITNESS: It's a little difficult
19 for me to explain his methodology entirely.

20 THE COURT: This whole process of
21 putting this math together in such a short time,
22 I think all three consultants here are to be
23 commended for it. And these questions were not
24 anticipated, as well. So don't worry about it.

25 How much longer will we be with Mr.

1 Coppola? I -- I've got to be in Forsgate to
2 chair a meeting at 5:30. So...

3 MR. MURRAY: We would have to get
4 through the witness on the new region and the
5 present need region and the new prospective
6 need region.

7 Do you want to go into that now, or do
8 you -- would you like to start tomorrow on that?

9 THE COURT: It might be best to give him
10 some time. Start on that tomorrow.

11 I take it that his testimony will be the
12 longest of the three consultants, since he's
13 laid the groundwork. Is there going to be any
14 difficulty in completing them, as long as I
15 keep my mouth shut, to some extent?

16 MR. TROMBADORE: I would hope, your
17 Honor, we could complete their testimony
18 tomorrow.

19 THE COURT: And get to the stipulations
20 with respect to the remedy.

21 MR. TROMBADORE: That's correct.

22 THE COURT: All right. Judge Skillman
23 has been inquiring, so I just want to fill him
24 in.

25 MR. JACOBS: By that I take it that if

1 we act expeditiously with respect to the
2 experts, they will be released for Monday,
3 is that correct?

4 THE COURT: Oh, sure. And we may all
5 be released for Monday.

6 MR. JACOBS: Right.

7 THE COURT: Now, in terms of timing,
8 I have a motion for a new trial that's going
9 to take me five minutes at 9 o'clock, and
10 they've been told to be here promptly at 9.
11 So right after that.

12 MR. JACOBS: I can, I take it, if it
13 takes you five minutes --

14 THE COURT: The motion has been decided.
15 Okay, gentlemen, thank you.

16 MR. JACOBS: Thank you, your Honor.

17 THE COURT: If you'd like to leave all
18 of your material here, we'll leave the exhibits
19 in place and if you want them to be locked up,
20 we'll put them in the jury room.

21 (Court adjourned in this matter at

22 4:10 p.m.)
23
24
25

C E R T I F I C A T E

I certify the foregoing to be a true and accurate transcript of proceedings in the above-entitled cause.

Dayette J. Zampolin
DAYETTE J. ZAMPOLIN, C.S.R.

DATE: January 10, 1984

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