

AMG

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Transcript of proceeding
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AM0001165

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY
DOCKET NO. L-23277-80 P.W.

AMG REALTY COMPANY and
SKYTOP LAND CORP.,

Plaintiffs,

vs.

TOWNSHIP OF WARREN,

Defendant.

Consolidated with:

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY
DOCKET NO. L-67820-80 P.W.

TIMBER PROPERTIES,

Plaintiff,

vs.

TOWNSHIP OF WARREN,

Defendant.

Civil Action

VOLUME II

AFTERNOON SESSION

Toms River, New Jersey

January 6, 1984

B E F O R E:

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

GLORIA MATHEY, CSR
Official Court Reporter

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1 H A R V E Y S. M O S K O W I T Z, having been
2 previously sworn, resumes the stand, testifies
3 further as follows:

4 CONTINUED DIRECT EXAMINATION BY MR. TROMBADORE:

5 Q Mr. Moskowitz, prior to lunch, you were
6 asked a question by the Court concerning weighting
7 factors, and you said you needed the luncheon hour to
8 consider it. Have you considered it?

9 A Yes, I have.

10 THE COURT: That was a weighty question.

11 A (Cont'd) In my opinion, I would not weight the
12 factors. I would treat the factors equally, Your Honor.

13 The question was whether to weight the question
14 of existing employment and future employment, and I
15 would. My initial feeling is that they should be
16 weighted equally.

17 THE COURT: Would you use both of them?

18 THE WITNESS: Yes. One, the problem you
19 have in not using both of them is, a municipality
20 may decide in some way not to -- to stop any
21 kind of industrial development, and consequently,
22 that would have an impossible impact on its
23 prospective share. So I would say that one is
24 an indication of what it had and accomplished in
25 the past, and the other is an indication what it

1 proposes to do in the future.

2 THE COURT: Just so we're clear, you used
3 in your approach employment growth.

4 THE WITNESS: That's correct.

5 THE COURT: But you didn't use present
6 percentage of employment?

7 THE WITNESS: I did not initially, but I
8 think in our discussion, I think I would use that.

9 THE COURT: So basically we're talking
10 about two factors, equally weighted, one of
11 employment, existing percentage of employment,
12 in the region, and then, secondly, existing
13 percentage or, rather, percentage of employment
14 growth.

15 THE WITNESS: That's correct, sir.

16 BY MR. TROMBADORE:

17 Q Are you familiar with the term expect to
18 reside or ETR?

19 A Only -- the answer is yes.

20 Q Is the concept of ETR a viable alternative
21 to the commuter shed approach of prospective need?

22
23 A I can't answer the question. I don't know
24 anything about ETR. I know the phrase; I know the term.
25 I don't know what goes into it and how it's computed, and

1 I can't answer any other questions about ETR. I simply
2 don't know.

3 Q Now, we've had some discussion here with
4 respect to the methodology to be utilized in computing
5 median income, for instance.

6 In that computation where we are talking
7 about land area of a given county that might be
8 contained within a region, would we, in fact, utilize
9 land area or would we use population?

10 A Neither. I would recommend that you use households.
11 You're talking about household income, and the way to
12 do it, the computation method is to take the number of
13 households in a particular county times the household
14 income figure, and you do it for all of the counties
15 that are totaled. In other words, if you have a commuter
16 shed which might include two or three counties entirely,
17 in order to properly weight each of the counties, you
18 have to multiply the number of households times the
19 average household income, add that up -- add that up --
20 strike that "add that up."

21 Then you take the households in municipalities
22 outside the county and multiply those out as well, or
23 you can actually just add those in, because they're not
24 -- they're separate. You total up the number of
25 households, you total up the total household income, and

1 then divide by the number of households to get you an
2 average household income.

3 MR. MASTRO: You mean family income or
4 household income?

5 THE WITNESS: If you're using family income,
6 it would be family -- I think the information --
7 you can either get the information from a family
8 income or a household income. I prefer family.

9 I have -- Your Honor, I have a publication
10 entitled -- a New Jersey newsletter, entitled
11 Population and Census from the State Data Center,
12 and this is April, 1983, and I brought it in to
13 show the Court how this data is presented, and
14 Table I shows household family and per capita
15 income from 1979, which was then reported in a
16 1980 census, and 1969, which was then reported
17 in a 1970 census. It will be coming out every
18 tenth year, and the way to upgrade it is to take
19 the consumer price index for each year and apply
20 it to that figure. Then you'll be able to get
21 a current household or median family income figure.

22 THE COURT: It shows both median household
23 income and median family income.

24 THE WITNESS: That's correct.

25 MR. TROMBADORE: Your Honor, could we mark

1 the exhibit as J-10?

2 THE COURT: Didn't I see a copy of this
3 somewhere, rather than mark the whole book?
4 I didn't.

5 THE WITNESS: I don't think so, Your Honor.

6 THE COURT: Okay.

7 THE WITNESS: Can I get the book back?

8 THE COURT: Oh, no. Once you give it
9 to me...

10 We'll run a copy of this page and mark it.

11 THE WITNESS: That would be good.

12 THE COURT: You're going to need this for
13 further testimony?

14 MR. TROMBADORE: No.

15 THE WITNESS: No.

16 THE COURT: Let's run it and that will be
17 marked J-10.

18 THE WITNESS: I might add --

19 THE COURT: Make it a dozen copies, Harold.

20 Let me make it clear now. When we're
21 talking about those counties which are going to
22 be hit only partially by the commuter shed, how
23 are we going to be identifying the family or
24 household range for that area?

25 THE WITNESS: You're going to have to do it

1 by municipality, and that, again, that information
2 is available by the -- from the census. It's
3 the same information which they aggregated the
4 county information. So if it's in error, they've
5 -- it's a uniform error and you just pick it up
6 for each of the number of households for each
7 of the municipalities. You must multiply it
8 out; otherwise, consider it a county with fifty
9 thousand households with a median family income
10 of, argument sake, forty thousand dollars, and
11 a county with a hundred thousand households with
12 a median family income of twenty thousand dollars.
13 If you afforded them equal weight, it would come
14 out -- it would be a complete distortion. What
15 you're trying to do is properly weight by number
16 of households. You have to go down to the
17 basic unit.

18 THE COURT: So that if the commuter shed
19 just took in a portion of a county, which, by
20 coincidence, had its -- all of its urban and
21 towns inside the commuter shed, that would not
22 inaccurately weight the average, or, conversely,
23 if they were all outside of it, that wouldn't
24 inaccurately weight the --

25 THE WITNESS: No. It would, in fact, weight

1 the average by being in or outside that commuter
2 shed, and that's what -- I think you're talking
3 about another -- rather than accuracy, that
4 would be the only way to accurately assess it.
5 Whether or not you should include it or not, or
6 expand the commuter shed, is something else
7 again.

8 But keep in mind, we picked that up in
9 our present need allocation. What you're now
10 talking about is future need. The question of
11 median family income relates to future need.

12 THE COURT: No. The question --

13 THE WITNESS: No. I'm sorry. You're
14 right. It also relates as to present in terms
15 of determining eligibility requirements, yes.

16 THE COURT: That's what I'm concerned
17 with. You say that it would not skewer the
18 eligibility -- or, affordability, I guess, is
19 the question -- figures by taking -- for example,
20 let's take Middlesex County and we only pick up
21 New Brunswick, which, I'm just presuming, might
22 be lower than the county average in terms of
23 household --

24 THE WITNESS: Yes, it is. It is.

25 THE COURT: And when we do that, we're

1 getting a distorted picture, at least as to the
2 overall level in Middlesex County.

3 THE WITNESS: If we pick them up, you
4 say we get a distortion - it would probably tend
5 to weigh it down.

6 THE COURT: As to Middlesex, at least,
7 that figure is lower in New Brunswick than it is
8 in the rest of Middlesex, let's say.

9 THE WITNESS: It might -- there might be
10 an impact. I don't think it's going to affect
11 it that much in terms of the total number of
12 units, either one way or the other.

13 BY MR. TROMBADORE:

14 Q Well, now, the actual computation of
15 median income for a forty-five-minute commuter shed
16 for Warren Township has not yet been performed, has it?

17 A It has not.

18 Q You have not had sufficient time to
19 review the commuter shed which was marked here as J-8?

20 A I have not.

21 Q In order to do that computation.

22 A Correct.

23 Q And you would propose to do that between
24 now and the time that these parties return to this
25 Court for approval of not only that computation, but a

1 variety of other proposals which would constitute part
2 of both the builder's remedy and the general remedy in
3 this case?

4 A Correct.

5 Q Such as the allocation of the low and
6 moderate, as between the low and the moderate.

7 A Yes.

8 Q What percentage should be low and what
9 percentage should be moderate.

10 A Correct.

11 Q And in addition, once you've computed
12 median income, you could also submit both to this Court
13 or to any master appointed by this Court such other
14 things as what constitutes a housing cost, what factors
15 comprise allowable housing cost.

16 A Well, we have that. The Public Advocate, in
17 which we're using in Warren Township.

18 Q I'm saying, we haven't done it in this
19 case to this point.

20 A We have not.

21 Q But we would do that at a subsequent time
22 as part of a further presentation.

23 A I think there are details that have to be wrapped
24 up, and those are some of the details.

25 Q Including a percentage of median income

1 that might be spendable on housing costs?

2 A Yes.

3 Q Those factors you would propose together
4 with the other experts in this case to review and to
5 report on at a subsequent time?

6 A If so requested.

7 Q Now, you also are somewhat familiar with
8 certain proposals that have been discussed among the
9 parties that are not specifically related to region and
10 fair share of low and moderate income housing, such as
11 mandatory set aside, such as density, have you not?

12 A Yes.

13 Q And if I were to tell you that one of the
14 proposals for builder's remedy in this case, at least
15 as to the plaintiffs in this case, is to call for a
16 mandatory set aside at twenty percent, one every five
17 units to be allocated to low and moderate income as
18 subsequently defined, would you recommend approval of
19 that percentage of set aside?

20 A Yes. I think the figure twenty percent represents,
21 at least from my investigation, a valid achievable
22 percentage figure.

23 Q Just one or two other questions -- oh, by
24 the way, in that regard, have you had some actual
25 experience in terms of creating and submitting to clients

1 of yours, municipal clients of yours, standards and
2 proposals for such matters?

3 A Yes, I have.

4 Q Would you be specific?

5 A Morris Township, which has been sued by the
6 Public Advocate and by a builder as part of a builder's
7 remedy. We prepared, we designated areas for low and
8 moderate income based on a housing study as to the
9 fair share, indigenous share. We rezoned areas which --
10 sufficient to accommodate multiple-family housing, which
11 twenty percent would be lower income housing, and the
12 number equaling the -- slightly more than the figure
13 we came up with in terms of our housing study, and we
14 also adopted an amendment to the zoning ordinance and
15 subdivision ordinance which eliminates cost-generating
16 features from the ordinance as it pertains to the low
17 and moderate income housing zones, or what we call the --
18 just the housing, the two housing zones that we proposed,
19 eliminates the standards and incorporates standards
20 recommended by experts who claim that these standards
21 will allow affordable housing.

22 As a result of the adoption, the plaintiff
23 requesting a builder's remedy has indicated they will
24 eliminate the suit, or drop the suit. They have a
25 problem with one -- one of the clauses in the ordinance

1 dealing with percentage of income to be used for housing.
2 In other words, we included twenty-five percent. They
3 want thirty percent, and we support their position of
4 thirty percent. We think, for a variety of reasons --
5 but, unfortunately, we're also trying to satisfy the
6 Public Advocate, and the Public Advocate has insisted
7 on twenty-five percent, so --

8 Q So that's a remaining issue in that case?

9 A Correct.

10 Q But the point is, you've had prior
11 experience on these very issues?

12 A Yes.

13 Q Now, the issues of builder's remedy will
14 be issues on which you, together with the attorney
15 for -- I'm sorry.-- the planner for AMG and Skytop,
16 Mr. Coppola, and the planner for the township would
17 work jointly. I would assume you would resume the
18 elements of such a remedy prior to coming back to this
19 Court and reporting.

20 A The answer is yes. Whatever help we can, and
21 if so requested, we would be glad to do so.

22 Part of it -- I mean, the developer, the plaintiff,
23 has to play a major role in terms of the form of
24 submission and the cost, et cetera. We don't have that
25 information available.

1 Q The reason I asked that question,
2 Mr. Moskowitz, is that the developer has a particular
3 interest to satisfy in terms of his builder's remedy,
4 but part of the determination that must be made by
5 this Court is that the public interest is satisfied.

6 Who, in your judgment, would fill that
7 role in the preparation of proposals for the Court in
8 a case such as this? I'll be more specific and ask
9 whether, in your opinion, you feel it would be helpful
10 for a master to be appointed in this case at this
11 point in time?

12 A Yeah. I think the one major advantage of a
13 master is that he, presumably, has no ax to grind. He
14 is appointed. He remains neutral. He is appointed by
15 the Court. He answers to the Court. He doesn't
16 represent the plaintiff, nor does he represent the
17 defendant, the municipality. If anything, he comes to
18 the table with clean hands, in a sense that he is -- he
19 is not beholden to anyone in that respect.

20 However, I must say this, that this is the first
21 time that I've had an opportunity to work in the matter
22 directed by the Court, namely, to sit down with
23 Mr. Coppola and Mr. Chadwick and to come up with answers
24 to questions raised by the Court, and I think that has
25 worked out rather well. I don't feel that -- I think

1 Mr. Chadwick, as representative of the community, has
2 put his position forth fully, and where Mr. Coppola and
3 I agreed to it, we were ready to recommend it. So if
4 we're asked to do that, I would say I think we can do
5 a fair and equitable job representing the public
6 interest, but also representing our clients. It's going
7 to be easier if you got an independent expert in,
8 frankly.

9 Q You like the troika, but you don't mind Big Brother.

10 A I never looked at it that way, Mr. Trombadore.

11 THE COURT: He's liable to be Big Brother.

12 Q Just one or two other questions,
13 Mr. Moskowitz.

14 Having reviewed the Warren Township
15 ordinance and the two specific amendments to that
16 ordinance, which were responses first to Mount Laurel I
17 and then to Mount Laurel II, and having now reached
18 a consensus with respect to what Warren Township's fair
19 share of low and moderate income housing is, do you have
20 an opinion as to whether or not the Warren Township
21 zoning ordinance satisfies that obligation?

22 A Based on the ordinance amendments that I read
23 and based on the report that I submitted, I do not
24 believe, in my opinion, it does not as it presently
25 exists.

1 Q Let's look at those amendments specifically.

2 The most recent is Ordinance 83-20, which
3 -- and I don't want to paraphrase it, but I think the
4 essence of 83-20 is to call simply for a mandatory
5 thirty percent set aside. In your opinion --

6 MR. COLEY: Judge, maybe I can save some
7 time. We'll stipulate that 90 -- rather, 79-3,
8 82-19, and 83-20 do not satisfy the Mount Laurel --

9 MR. TROMBADORE: Could I clarify that,
10 Your Honor, whether the township would agree
11 that, since 82-19 and 83-20 were attempts which
12 fell short, that they serve no purpose at all
13 and should be stricken in their entirety?

14 MR. COLEY: The township will develop a
15 new ordinance. We'll take those completely out,
16 strike them like they don't exist.

17 THE COURT: All right. The two amendments,
18 not the basic zoning ordinance, the two amendments
19 will be deemed void, you're stipulating, and the
20 basic ordinance will remain effective except for
21 Mount Laurel purposes. To the extent it conflicts
22 with Mount Laurel, the township indicates it
23 will amend them. Does that --

24 MR. TROMBADORE: That satisfies me, and
25 I have no other questions of Mr. Moskowitz.

1 MR. JACOBS: I have no questions.

2 MR. COLEY: I have no questions.

3 MR. MASTRO: Judge, I don't have a
4 question --

5 THE COURT: I do. Go ahead.

6 MR. MASTRO: -- but something puzzles me
7 about Dr. Moskowitz' report. More of a comment
8 than a question. He indicated -- I'm reading
9 from his cover page -- "The original of this
10 report was signed and sealed in accordance with
11 R.S. 12- -- 12:4-1."

12 THE WITNESS: Yes.

13 MR. MASTRO: And I took the time to
14 inquire into that statute, which deals with
15 removing obstructions from rivers and creeks.
16 The conclusion I drew, that either Mr. Moskowitz
17 was wandering through the rivers and streams of
18 New Jersey writing this report, or a subtle
19 suggestion that we're all up the creek on this.

20 THE WITNESS: Maybe Moskowitz is up the
21 creek. I haven't reviewed that.

22 THE COURT: Would you like to withdraw
23 your stipulation as to his qualifications?

24 THE WITNESS: I thought it dealt with the
25 plaintiffs' licensing law, which requires all

1 documents to be signed, but I think I'll have
2 to check that.

3 THE COURT: I wonder if that could be
4 an administrative code citation.

5 MR. MASTRO: It says R.S.

6 THE COURT: Does it?

7 MR. MASTRO: Perhaps it's 21 --

8 MR. MURRAY: Title 15 covers professionals.

9 THE COURT: Is this your licensing
10 provisions?

11 THE WITNESS: Yes.

12 THE COURT: That wouldn't be Title 15.

13 THE WITNESS: I think it was Title 12.

14 I thought you were going to ask me why my
15 license was number twelve.

16 THE COURT: Mr. Moskowitz, I do have two
17 more questions, I think. I'll try to stay with
18 those. I know we're trying to get done.

19 Number one, I remain -- the language of
20 a conclusion in the present need of a financial
21 aspect. Do I understand it to be your position
22 that philosophically you agree that it should be
23 included, but that practically it can't be
24 satisfied?

25 THE WITNESS: Correct.

1 THE COURT: So that if we were to really
2 strictly follow the mandates of the Court and
3 calculate a precise number based upon appropriate
4 methodology, and putting aside the practicalities,
5 you'd include it?

6 THE WITNESS: Yes.

7 THE COURT: Okay.

8 With respect to vacant developable land,
9 if it were verifiable, wouldn't that be a very
10 important criteria?

11 THE WITNESS: I would add -- yes, it would
12 be if it were current and up-to-date, but I
13 would add one further caveat - I would think it
14 would be vacant developable land in growth area.

15 THE COURT: Yes, of course.

16 THE WITNESS: And not just total.

17 THE COURT: I agree. But your reason for
18 exclusion of vacant developable land is that
19 you are satisfied and, I take it, the other
20 consultants involved here are satisfied, that
21 the data is so out of date that it's simply not
22 sufficiently verifiable -- or, sufficiently
23 reliable that you would want to use it.

24 THE WITNESS: That's quite it, Your Honor.

25 MR. MASTRO: Judge, I don't think this

1 question was asked, if I may in passing.

2 THE COURT: Go ahead.

3 CROSS-EXAMINATION BY MR. MASTRO:

4 Q Mr. -- Mr. Moskowitz -- Dr. Moskowitz,
5 Mr. Coppola indicated that a fair share of 900 units
6 allocated to Warren Township was reasonable in his
7 opinion.

8 A Right.

9 Q Would you concur, sir?

10 A Yes, I did and I do.

11 MR. MASTRO: All right. Thank you.

12 THE COURT: All right.

13 Anything else?

14 Thank you, Doctor. And I'm sorry for not
15 calling you doctor.

16 THE WITNESS: No. No. Thank you, sir.

17 MR. KRAUS: Your Honor, I think we have
18 agreed upon - most of counsel - that my questioning
19 of Mr. Coppola and Mr. Moskowitz will come when
20 Mr. Chadwick is finished and before the parties
21 attempt to put in their builder's remedy
22 stipulation. So just for the purposes of
23 scheduling...

24 THE COURT: All right. I guess no one's
25 leaving, in any event.

1 I have marked in evidence the exhibit
2 to which Mr. -- Dr. Moskowitz -- now you got
3 me doing it.

4 THE WITNESS: It's all right.

5 THE COURT: -- referred to as Table I,
6 taken from a document entitled Population and
7 Census, issued 29 April, 1983, the State Data
8 Center, State of New Jersey, Office of
9 Demographic and Economic Analysis, in the
10 Department of Labor. The length of title is
11 supposed to give it significance. And I have
12 made copies available for all counsel.

13 MR. MASTRO: What exhibit is that?

14 THE COURT: J-9.

15 THE CLERK: Ten, sir.

16 MR. MASTRO: Ten.

17 THE COURT: Ten?

18 (Off record discussion.)

19 THE COURT: All right. I stand corrected.
20 Marked in evidence as J-9 -- J-10.

21 MR. COLEY: The Township of Warren calls
22 John Chadwick.

23 J O H N T. C H A D W I C K, I V, having been
24 duly sworn, testifies as follows:

25 DIRECT EXAMINATION BY MR. COLEY:

1 Q Mr. Chadwick, the Court has accepted you
2 as an expert already.

3 Have you heard the testimony of Mr. Coppola
4 and Dr. Moskowitz?

5 A Yes.

6 Q Now, you made a report that was marked
7 DT-1. It was dated November and December, two separate
8 reports, November and December, 1983; correct?

9 A Yes.

10 Q Relative to region. As you established
11 the same in those reports, how did you determine your
12 region?

13 A It's based upon a forty-five-minute commute and
14 travel trip. Employees of our office physically drove
15 from the approximate geographic center of Warren
16 Township in various routes, a north, east, south, and
17 westerly direction, to determine the approximate
18 boundaries of that forty-five-minute travel distance
19 time. That is shown on --

20 MR. TROMBADORE: J-4.

21 THE WITNESS: J-4.

22 Q Would you stay by the exhibit? The rest
23 of my questions will have to do with J-4 exhibit.

24 There's three commuter shed regions set
25 forth there by yourself, Mr. Coppola, and Dr. Moskowitz;

1 correct?

2 A Yes.

3 Q How do those commuter sheds compare?

4 A The commuter sheds, as testified by the prior
5 experts, differ in their approach.

6 The commuter shed labeled by Mr. Moskowitz and
7 the commuter shed labeled Coppola are based on a
8 measured traveled distance. Mr. Moskowitz, including
9 78, is a facility from which someone could drive in
10 comparison to ours - I described the methodology for
11 which. The geography in terms of comparison is
12 fundamental. The region drawn by myself does not
13 include the City of Newark in the most easterly direction.
14 Mr. Moskowitz's does. Mr. Coppola's does not. In
15 addition, we include substantial portions of the built-up
16 areas of Middlesex County. We being OROSS Associates,
17 and Mr. Coppola's and Mr. Moskowitz's is basically
18 drawn along the Raritan River, leaving those communities
19 out as well as the Townships of Woodbridge, Carteret,
20 Linden, and Rahway, along the Arthur Kill.

21 The westerly boundaries, roughly approximate;
22 the northerly boundaries are again roughly approximate.
23 The southerly boundaries of the area shown by myself
24 are -- include, for example, the Township of Montgomery,
25 where Mr. Coppola's does not. Mr. Moskowitz's does. So

1 they are roughly equivalent with the exception of the
2 easterly extent of that region and give or take some
3 smaller municipalities to a northerly extent.

4 Q And the other three regions, the Caton
5 and the Rutgers and Lerman regions are not primarily
6 based upon commuter shed regions; they are established
7 by other manners; correct?

8 A That's correct.

9 Q Now, you're familiar with J-6, which was
10 an exhibit prepared by yourself, that mapped out a
11 thirty -- or, a forty-five-minute commuter shed based
12 on the speeds that were set forth in the testimony of
13 Mr. Coppola.

14 THE COURT: What are you talking about,
15 sir?

16 MR. COLEY: It's J-6, Your Honor.

17 MR. KRAUS: It's not J-6.

18 THE COURT: It's not J-6. Are you talking
19 about this map?

20 MR. COLEY: Is it J-8?

21 MR. TROMBADORE: That is J-8.

22 MR. COLEY: Commuter shed map. I'm sorry.
23 That's J-8.

24 THE COURT: That is J-8.

25 Q That's the forty-five-minute commuter shed,

1 mapped out by yourself?

2 A Yes, on which have been transposed blue markings,
3 I believe testified to by Mr. Coppola, that it
4 represents Region Two on J-6, and the boundaries of
5 that region shown on J-8 are a pure measurement using
6 the thirty, forty, and fifty minute travel speeds along
7 local roads, state highways, and interstates
8 respectively.

9 And, in addition, there is a large display map
10 which is the N.J.D.O.T. highway map, on which is
11 located in a -- I believe this is a purple color, showing
12 the forty -- the region shown in the reports, D-1 and
13 D-2 of myself, as well as their markings, numbered one
14 through thirteen, that are the measured distances of
15 travel.

16 Using those travel speeds on those respective
17 road classifications, that would form the boundaries of
18 the forty-five-minute measured travel region as shown
19 on J-8.

20 Q Sir, is that comparable to the J-8 map,
21 the items you just discussed?

22 A Yes.

23 MR. COLEY: I won't bother marking the
24 larger map, Your Honor. I don't see any reason to.
25 It's comparable to J-8.

1 Q Does J-8 include Route 78 as completed?

2 A Yes.

3 Q Now, you've heard a lot of comments by
4 Dr. Moskowitz and Mr. Coppola relative to the two-region
5 concept, of the single-region concept, modified for
6 prospective need. Do you accept those or do you accept
7 that model?

8 A The concept of using two-statistical basis to
9 compute the overall housing obligation under the Mount
10 Laurel II directives, I accept. In my judgment, the
11 existing need is a computation of a physical substandard
12 condition within housing, and that the future need is
13 a projection of jobs, which is a different component
14 to that need and, therefore, the base, by its very
15 nature, would be different.

16 In essence, however, you have a single computation
17 which seems to be the most difficult concept to explain -
18 is the fact that you have two boundary lines drawn on
19 a map and everyone trying to use the term region. It
20 doesn't mean that you can't have two overlaying
21 statistical districts dealing with two completely
22 different components --

23 Q So you found that --

24 A -- to form the whole.

25 Q So you found that a reasonable approach to

1 the Mount Laurel II objectives.

2 A Yes, I do. From, I guess, the light-year
3 experience, from the November completion date of the
4 original reports to - what are we? - January 4th,
5 January 5th? A great deal of thought has gone into
6 what the components are in determining this housing
7 region, and I would accept that dual approach.

8 Q That is thought in discussions between
9 yourself and the other two experts in the case; right?

10 A Yes.

11 Q You determined fair share in the reports
12 I have referred to as November and December, '83, DT-1.
13 What was your fair share and how did you determine it?

14 A The fair share calculation contained in D-1 is
15 based upon a physical and financial need for the
16 existing housing need component and an employment factor
17 for the prospective housing need component.

18 The area for computation is based on, again, a
19 forty-five-minute travel distance, which is shown on
20 J-6, and the comparison document, and the fundamental
21 component used for calculation and projection has been
22 a jobs/household relationship or employment.

23 Q And --

24 A No factor such as vacant land, ratables, or other
25 factors mentioned were used for projection purposes.

1 Q And what did your projections determine
2 as Warren Township's fair share in household?

3 A Five hundred and twenty-nine units.

4 Q And that is both prospective and present
5 existing need?

6 A Correct.

7 Q Now, you've heard --

8 THE COURT: Just for the record, it was
9 divided three hundred thirteen units for present
10 indigenous, and two hundred and -- well, I
11 rounded it off some -- two hundred and sixteen,
12 I guess, point five for prospective; two hundred
13 and sixteen and three hundred and thirteen.

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: That picks up one more.

16 BY MR. COLEY:

17 Q Mr. Chadwick, did you utilize the Caton,
18 I believe it was, the Mahwah Caton model, as it relates
19 to Warren Township; in other words, plugging Warren
20 Township's figures into the Caton model?

21 A Yes.

22 Q And what figure did you come up with on
23 that calculation?

24 A The chart, J-2, is part of a study that was
25 prepared, and it's basically summarized in D-2 in evidence,

1 report, which shows a calculation for Warren Township
2 utilizing the formula for -- or, the estimate of total
3 housing need in applying our formula, being, our
4 formula, the Chadwick proposed methodology set forth
5 in D-1 to the Rutgers' region, the Lerman formula to
6 the Lerman --

7 THE COURT: Region.

8 A (Cont'd) -- region for Warren Township; the
9 Caton formula for the Mahwah region for Warren Township;
10 OROSS Associates studies listed as number four in that
11 chart; the Coppola and Moskowitz study, and the figures
12 shown on that chart are the figures taken from their
13 reports as existing in our office -- I don't remember
14 the precise dates. There's been some adjustments on
15 some of those codes on some of those files, and it
16 shows a low of total housing need of two hundred and
17 twenty-seven, the Rutgers' study, to a high of thirty-
18 three hundred and fifty-six on the upper range of the
19 Moskowitz' study.

20 MR. COLEY: Your Honor, I would like to
21 mark that as DT-14. Since it's been testified
22 to, we really should mark it, and maybe it could
23 be called -- well, it's entitled Profile of
24 Housing Need Estimates for Warren Township, and
25 it's a comparison of Rutgers, Lerman, Caton, OROSS

1 Associates, Coppola and Moskowitz.

2 (The above-referred to chart entitled
3 Profile of Housing Need Estimates for Warren
4 Township was received and marked into evidence
5 as DT-14.)

6 BY MR. COLEY:

7 Q Based upon all your comparisons, your
8 discussions with the other two experts, and all your
9 study in this matter, Mr. Chadwick, did you find the
10 900 figure that's been discussed by the other two
11 witnesses to be a reasonable figure for Warren Township's
12 fair share, both prospective and present?

13 A Yes, I do, with the qualification of the variables,
14 I think explained at some length by Mr. Moskowitz and
15 also commented on by Mr. Coppola, the variables in terms
16 of the statistical base projection technique. I'll
17 give you a for instance.

18 There is a rounding to the one thousandth to
19 the ten thousandth decimals using the Caton report.
20 That difference in decimals amounts to twenty-five units.
21 So you are dealing with some minute statistics,
22 projecting numbers that has quite a range of variable --
23 the possibility of a variable number, but the 900
24 estimate, I think it's range may be statistically as
25 low as 800 or, conversely, higher.

1 Q So you find it fair and equitable and you
2 can live with it?

3 A Yes.

4 Q Do you have any other comments that you
5 may feel to be of benefit to the Court and the parties
6 relative to the testimony you've heard by the other
7 two witnesses, Dr. Moskowitz and Mr. Coppola?

8 THE COURT: Other than, "please let me
9 go home," or something like that.

10 THE WITNESS: Where is that?

11 (Off record discussion.)

12 A Minor things, in terms of the projection for
13 prospective need, in my opinion vacant land is not a
14 component. I think it's a planning consideration. I
15 do not think it's a component as part of a projection
16 technique.

17 THE COURT: Even if it were verifiable?

18 THE WITNESS: Even if it were verifiable.
19 I think what it was -- and, for instance, New
20 Jersey -- and I think that's what we're doing,
21 we're planning a change of growth of housing in
22 New Jersey as a result of this Court decision
23 throughout the extent of the state. Some areas
24 are highly impacted by rail line or have
25 availability through railroad transportation,

1 major highways. There are other areas that are
2 part of growth areas that have little or no
3 transportation facilities within their bounds
4 and are unlikely to have any in a projected period,
5 yet their statistics in terms of growth would be
6 highly skewed if you labeled one as a growth
7 area and it would have none of those facilities.

8 To accommodate what would be a
9 statistically very large housing obligation, it
10 would be totally impossible or totally
11 disruptive to what the basic planning of the
12 community would be. I think the jobs is a
13 reflection of, one, availability of utilities,
14 transportation facilities and highways. Very
15 few instances we find major job concentrations
16 located outside of reasonable and quick access
17 to those major facilities. So consequently, the
18 job component, in my judgment, relating to a
19 planning analysis is the most reasonable and
20 reflective component in determining growth
21 trends and where things will locate major job
22 centers, high density population in relationship
23 -- need to those facilities.

24 MR. COLEY: I have no other questions,
25 Your Honor.

1 THE COURT: Any other questions from
2 counsel other than the intervenors?

3 MR. MASTRO: I have one question,
4 Mr. Chadwick.

5 CROSS-EXAMINATION BY MR. MASTRO:

6 Q Do you agree with Dr. Moskowitz, as to
7 prospective share there is an inescapable symbiotic
8 relationship between housing and jobs that, of necessity,
9 can only be resolved through a commuter shed approach
10 rather than a fixed region approach?

11 A Absolutely.

12 THE COURT: Anything further?

13 All right. Do we want to now at this
14 point give the intervenors an opportunity to
15 question?

16 MR. KRAUS: Mr. Coppola.

17 THE COURT: You want Mr. Coppola?

18 MR. COLEY: Your Honor, I would think it
19 might be better to have Mr. Coppola and
20 Mr. Moskowitz examined first, and let me put --
21 or, let the expert now on the stand, Mr. Chadwick,
22 come back, because I have a feeling that may be
23 almost like a rebuttal type of a discussion. If
24 there's any problem -- I don't think there would
25 be.

1 MR. TROMBADORE: No.

2 MR. KRAUS: I'm not attempting to put my
3 whole case on. I just want to take advantage
4 of the fact that they're here, and ask them a
5 few questions I have while they're here, so I
6 don't have to bring them back.

7 MR. COLEY: I think it might follow in
8 sequence, to put those witnesses on and -- I
9 don't think you have any problem, do you?

10 MR. KRAUS: No.

11 THE COURT: Well, it won't take very long,
12 will it?

13 MR. KRAUS: Nope.

14 THE COURT: All right. Off the record.

15 (Off record discussion.)

16 R I C H A R D T H O M A S C O P P O L A, having
17 been previously sworn, resumes the stand and
18 testifies further as follows:

19 DIRECT EXAMINATION BY MR. KRAUS:

20 Q All right, Mr. Coppola. You made a study
21 and it related to the land use changes which are
22 reflected in Ordinance 82-19. I acknowledge that, as
23 of a few minutes ago, the township stipulated that that
24 ordinance is invalid, but since you have made the study,
25 I would like to ask you a few questions while you're here.

1 When you began your testimony a few days
2 ago, on direct examination by Mr. Murray you started
3 to refer to Exhibit PA-3, and in particular you
4 identified the location of Route 78 - that's about where
5 we were - and I think, had you continued that line of
6 testimony, you would have covered some of the points
7 that I'd like to address now.

8 I will represent to you that the
9 intervenors, Facey and Bojczuk, collectively have, by
10 ownership or control, interest in approximately forty
11 acres here at Site B. Now, would you direct your
12 attention to Site B, and for the purpose of the record,
13 locate it on the town map in terms of direction, north,
14 east, south, and west.

15 A Site B is in the eastern corner, northeastern
16 corner of Warren Township, bordering I-78 and Hillcrest
17 Road, situated at the northwest corner of that
18 interchange.

19 Q Now, did you prepare a blowup of Site B
20 on another chart?

21 A Yes. Actually, more particularly, and just so
22 the record's clear, the June, 1983 study entitled
23 Warren Township Meeting its Housing Obligation and
24 Assessment, the gray-covered booklet -- I know it's
25 been introduced.

1 Q PA-5.

2 A PA-5. In one of the rear sections of that
3 submission there is a section entitled Description of
4 Tracts Proposed for Rezoning by Warren Township. That
5 includes a photograph of PA-3 and later includes a
6 photograph of what I'm now referring to in display
7 board form, Proposed Rezoning Tract B, and it includes
8 on it an indication of the site location superimposed
9 on a portion of the tax map sheets of Warren Township,
10 which indicate roadway locations as well as lot
11 locations. Superimposed on that is information
12 regarding the slope of the site and existing land use
13 and physical characteristics of the site.

14 Additionally on the display there is a listing
15 of the property ownership with an identification of
16 the owners' names by lot and block as discerned from a
17 tax map information, keeping in mind that these displays
18 were prepared in May of 1983, actually prior to the
19 adoption of the ordinance, but at the time that they
20 were proposed.

21 MR. KRAUS: Okay. Your Honor, I would
22 propose to have this exhibit marked, even though
23 it is a part of PA-5.

24 THE COURT: As an intervenors' exhibit?

25 MR. KRAUS: Yes.

1 THE COURT: All right. This is plaintiff
2 Facey. Let's call it PF-1.

3 (The above-referred to map was received
4 and marked in evidence as PF-1.)

5 THE COURT: All right. Marked in evidence
6 is PF-1, which is a proposed rezoning map of
7 Tract B, dated May of 1983.

8 MR. KRAUS: While we're marking exhibits,
9 I have an aerial photograph that I would like to
10 have marked as Exhibit PF-2 for identification.

11 (The above-referred to aerial photograph
12 was marked PF-2 for identification.)

13 MR. COLEY: Your Honor, I have no
14 objection to PF-2 -- it's a 1975 photograph --
15 for what it shows. I have no objection to it.
16 It's not a very current photograph.

17 THE COURT: All right.

18 MR. KRAUS: No problem. I think you can
19 acknowledge or stipulate that there's been no
20 development at this interchange since 1975.

21 MR. COLEY: I'm not sure if anything has
22 been built in that location or not, Bob, so...

23 MR. KRAUS: Okay. Fine.

24 BY MR. KRAUS:

25 Q Mr. Coppola, I'd like to show you an aerial

1 photograph. Admitted, it was taken by Air Photos
2 Services Company on July 23, 1975. And ask you if,
3 from your observation of the site, that that aerial
4 photograph reasonably depicts the location that you
5 have identified on your exhibit number PF-1 as the
6 tract of land that was proposed to be rezoned?

7 A Yes. This is the location in Warren Township
8 where Tract B is located.

9 Q All right.

10 Now, you have in your report described
11 the tract, and would you verbalize it for the record?

12 A Yes.

13 Q If you'd like to make reference to the
14 photograph or this chart, PF-1, please feel free to do
15 so.

16 A All right. With your permission, I'd just like
17 to put the information that I'm about to present in
18 the context for which it was prepared.

19 Q Okay.

20 A And basically, that was on behalf of my client,
21 AMG Realty and Skytop Land Corporation, to review the
22 proposed rezoning of the seven subject parcels, and I
23 concluded that they were -- that the rezoning, as
24 proposed, was not going to satisfy the Mount Laurel II
25 requirements of Warren Township.

1 To put it another way, my analysis did not
2 entail a critique of or an assessment of alternate land
3 uses that might be appropriate on the tract, or whether,
4 indeed, the current zoning was appropriate or
5 inappropriate. I did not act as I would if I were the
6 planner for the township, since the township, indeed,
7 does have a planner in the person of Mr. Chadwick.

8 With that in mind, and as shown on a series of
9 fold-out, eleven by seventeen sheets in the June, 1983
10 document, under the heading Tract B, the tract in its
11 location, the current zoning and the proposed zoning,
12 1977 master plan designation, the amended master plan
13 designation, approximate size of the tract and the
14 number of lots, description of the tract, adjoining
15 land uses, access roadways, sewer service, and
16 development constraints, were individually assessed and
17 indicated in tabular form on page one of the series of
18 tables, which is -- which is labeled Description of
19 Tracts Proposed for Rezoning by Warren Township.
20 Essentially, what it shows is the location of Tract B
21 on Hillcrest Road at the intersection of I-78 in the
22 northeastern portion of Warren near Berkeley Heights,
23 the Watchung borders. It shows that in 1977 the master
24 plan designated the tract residential and density of
25 two-dwelling units per acre for frontage along Hillcrest

1 Road. The bulk of the area was designated, quote,
2 environmentally critical/rural conservation, end quote.
3 An additional portion was designated conservation/
4 steep slopes.

5 As far as the amended master plan designation,
6 the recommendation was to designate the tract for
7 median density, environmentally critical single-family
8 development, again at two-dwelling units per acre,
9 but there was provision for a clustering modification
10 which would allow the individual lot sizes to go as
11 little as ten thousand square feet for the single-family
12 homes with commensurately larger lots near I-78 and
13 Warren Way.

14 The size of the tract in aggregate was fifty-two
15 acres and contained twenty-one lots with thirteen
16 different owners. And as I mentioned, on the photograph
17 and the display board in evidence, the particular
18 owners under lot and block designations are indicated.

19 The tract is generally wooded and undeveloped
20 with extensive areas with slopes in excess of fifteen
21 percent. These are also shown on the photograph and
22 display board. Existing single-family development of
23 nine homes situated along Hillcrest Road were evident,
24 and the lots are long and narrow and one, parenthetically,
25 appears to be landlocked. Adjoining land uses are

1 single-family residential construction to the east
2 north on Hillcrest and to the west, and, of course, the
3 I-78 interchange adjoins the site to the south.

4 As far as access to and from the property, it
5 is from Hillcrest Road, which is designated on the
6 township master plan as a secondary arterial roadway;
7 there is a roadway adjacent to the site -- I'm sorry --
8 the roadway adjacent to the site is on a hill. And
9 access, I felt in preparation, appeared to be somewhat
10 difficult because of the hill and the proximity itself
11 to the traffic flow to and from the I-78 interchange.

12 As far as sewer service, each of the nine
13 existing residences are served by sewers, and the sewer
14 line is situated within Hillcrest Road. There is an
15 unused sewer allocation reserve to the subject tract
16 to service Lots 35, 36, 37, 38, and 43, as identified
17 on the display and photograph.

18 So in summary, the development constraints appear
19 to be access limitations, particularly as one approaches
20 the access ramp intersections with Hillcrest Road;
21 steep slopes on the property; multiplicity of landowners,
22 which was identified only because of a possible use
23 of the property for Mount Laurel II obligations; and
24 general lack of infrastructure in the area.

25 Q All right.

1 Now, recognizing the limitations of your
2 report to the extent that you prepared it for its
3 specific purpose, and recognizing now that as of today
4 there has been a stipulation that Ordinance 82-19 is
5 invalid and will be stricken, so that the proposal
6 which you discussed, two units per acre, with the
7 ability to put two units -- a unit on ten thousand
8 square feet, provided the average is twenty thousand
9 square feet, my question is this: Do you have an
10 opinion as to whether the site is a suitable site for
11 Mount Laurel housing in the context of the testimony
12 previously given by you and Mr. Moskowitz, Mr. Chadwick?

13 A I really don't have an opinion at this time.
14 I did not study the site in that context. It was a
15 limited scope of study, as I mentioned.

16 Q All right.

17 What further investigation would you have
18 to make to formulate that opinion?

19 A I think any consideration of the land use on
20 this property, as will be the case, really, for the
21 other potentially developable properties in the township,
22 has to be done at two levels. One, of course, is a
23 site specific investigation, which, I think, the
24 beginnings of which are here on this chart, in at least
25 abbreviated form, and, secondly, of course, would be the

1 township planner and attorney and engineer in concert
2 with the officials of the municipality coming up with
3 a comprehensive approach to the provision and eventual
4 delivery of the required number of affordable units
5 under the Mount Laurel II edict and any directive
6 of this Court.

7 MR. KRAUS: Okay. I have no further
8 questions.

9 MR. COLEY: I only have one question, Your
10 Honor.

11 CROSS-EXAMINATION BY MR. COLEY:

12 Q Mr. Coppola, on PF-1, you have certain
13 slopes designated on your map. Towards the top it says
14 fifteen percent slope. The next slope that you have
15 designated is a seventeen percent slope, which is
16 close to a six nineteen circle, which is probably the
17 lot designation, and then a six percent slope; is that
18 correct?

19 A That's correct.

20 MR. COLEY: I have no other questions.

21 MR. KRAUS: I have a question.

22 REDIRECT EXAMINATION BY MR. KRAUS:

23 Q What's the source of that information?

24 A U.S.G.S. data.

25 MR. KRAUS: Okay.

1 THE COURT: All right. Thank you, sir.
2 You may step down.

3 Let's just take a ten-minute recess, so
4 we can try to get this done in time.

5 (Recess taken.)

6
7 THE COURT: All right.

8 We had additional questions of Mr. Coppola?

9 MR. LYNCH: Yes. If Your Honor please,
10 I'd like to ask a couple.

11 R I C H A R D T H O M A S C O P P O L A, having
12 been previously sworn, resumes the stand and
13 testifies further as follows:

14 CROSS-EXAMINATION BY MR. LYNCH:

15 Q Mr. Coppola, I recognize from your answer
16 to Mr. Kraus's questions that you have not formed an
17 opinion as to the suitability of Site B described in
18 your report for Mount Laurel housing. However, it's
19 my belief - and correct me if I'm wrong - that if the
20 Court orders Mount Laurel relief to be granted in
21 Warren Township, that at some point the township fathers,
22 together with the master who may be appointed by the
23 Court, subject to the Court's jurisdiction, will have
24 to sit down and analyze tracts to allocate Mount Laurel
25 housing in Warren Township. Is that basically correct?

1 A I believe it would be the outcome, yes.

2 Q And when looking at one or more tracts
3 to determine where Mount Laurel housing might well be
4 put, wouldn't it be fair to assume that there will be
5 negative and positive aspects of the various sites of
6 land that are under consideration?

7 A I would think so.

8 Q And without reference to Tract B, would
9 you tell us, in your opinion, whether you would feel
10 that some of the aspects that you referred to before
11 in your prior testimony would be positive aspects for
12 Mount Laurel type housing or negative aspects? And I
13 refer to items such as steep slope. Would that be a
14 positive consideration for placement of Mount Laurel
15 housing?

16 A I think it very much depends upon the type of
17 development, regardless of whether it's Mount Laurel
18 type housing, conventional housing, or nonresidential
19 development. I think the steep slopes is a problem.

20 Q And how about difficulties with access,
21 would that be a positive or negative?

22 A Again, depends upon the expected volumes of
23 traffic and the aggregation of the individual lots and,
24 to a larger tract, to the extent that that would afford
25 the optimum location for an access to and from the site

1 via Hillcrest Avenue, all these would have to be
2 considered and they can't be considered in the abstract.

3 Q You mentioned the question of ownership.
4 Let me ask you first, would you consider a tract of
5 fifty some-odd acres to be a large tract or a small
6 tract or a medium tract for consideration of meeting a
7 Mount Laurel obligation?

8 A I would say it would be a medium-size tract.

9 Q And given that situation, would the fact
10 of multiplicity of owners, some of whom live in their
11 own single-family residences, would that be a positive
12 or a negative influence on using that tract in the
13 short run for Mount Laurel housing?

14 A I think if they are, as I understand them,
15 individual ownerships with existing houses situated
16 thereon, that's going to be a negative situation unless
17 the zoning is such that, let's say, two adjacent
18 parcels could be amass to achieve the necessary
19 densities for the type of -- or size, I should say,
20 of land area to support that type of housing. But that
21 would be a relatively incremental addition to the
22 Mount Laurel number of housing units, I would guess.

23 Q You could still have the problem of some
24 owner who says, "I've lived here all my life and I want
25 to live the rest of my days and I don't care about the

1 town --

2 A I think it becomes a question of economy there.
3 If they could live some place else better, I think
4 there would probably be incentive for the sale. I think
5 all these things have to be looked at, and I'm not
6 prepared, really, to comment about them specific to
7 this tract, and they have to be looked at in the context
8 for whatever zoning is being considered.

9 Q But certainly, if you had a choice
10 between a tract which had one owner rather than one
11 that had twenty owners, you'd certainly, at least on
12 that issue, rather have the one-owner tract, would you
13 not?

14 A If it was in -- if I had the option and
15 everything else was equal, yes.

16 Q And how about Route 78 bordering the
17 tract for proposed housing development, is that a
18 negative or a positive influence in your judgment?

19 A I think it's a factor that has to be considered,
20 but we're also recognizing, as you pointed out, that
21 there are people living there that may decide they want
22 to live there the rest of their lives, and that might
23 be a problem for aggregation for a sized tract. So I
24 think implicit in the existing land use pattern in our
25 discussion is the fact that at least some people would

1 not look at it as a negative situation for residential
2 construction.

3 Again, and just to embellish the point a little
4 further, I think you have to take a specific look at
5 the site in terms of the relative elevations of the
6 highway versus the contours of the land in terms of,
7 you know, natural noise abatement situations that may
8 be evident on the landscape now, and I think you also
9 have to consider the -- specifically the existing
10 vegetation which covers the site if that's a -- if
11 that avoids the problems that would ordinarily be
12 associated with the highway. I would not be willing
13 to say in any unilateral fashion that it is either
14 appropriate or inappropriate to put housing near a
15 highway. It exists successfully in some instances;
16 in other instances it would be inappropriate. But I
17 think it is an issue that has to be addressed, certainly.

18 Q All things being equal, if we had two
19 identical sites, one being adjacent to I-78 and one
20 being in the interior township road location, which
21 would be more appropriate for Mount Laurel housing?

22 A I don't think either would have a more or less
23 appropriate standing just on that factor alone.

24 MR. LYNCH: All right. I have no further
25 questions.

1 CROSS-EXAMINATION BY MR. JACOBS:

2 Q And I would assume, then, that when you're
3 making your determination as a planner for the
4 municipality, you would not only look to the internals
5 of the site, considerations concerning the internals,
6 but also the approximate area, would you not?

7 A Oh, certainly.

8 Q You would want to know how the other
9 area's developed, contained the characteristics, or
10 if the other area's much more virgin, which would
11 pose something of this nature, and that's also a
12 consideration you have to throw into the mix?

13 A Sure. And the number is not a relevant situation
14 either, because you may have to go -- at least let me
15 say it more positively from my own experience. There
16 are situations where you are forced as a planner to
17 consider properties that are not as appropriate as
18 other properties within the municipality, but you need
19 to figure ways of making it work under Mount Laurel or
20 whatever other reason, because you don't have any other
21 options.

22 Q All right.

23 A In other words, it becomes the best of a less
24 than an optimum situation.

25 THE COURT: Anything further?

1 All right. You can step down.

2 THE WITNESS: Thank you, Your Honor.

3 MR. KRAUS: Mr. Moskowitz.

4 H A R V E Y S. M O S K O W I T Z, having been
5 previously sworn, resumes the stand, testifies.
6 further as follows:

7 THE COURT: The witness has been previously
8 sworn.

9 CROSS-EXAMINATION BY MR. KRAUS:

10 Q Mr. Moskowitz, did you prepare a study
11 of the property located at the northwest interchange
12 of Route 78 and Hillcrest Road in April of 1982?

13 A Yes, I did.

14 Q And would you tell us what the purpose
15 of that study was at that time?

16 A I was retained by Hillcrest -- by Lanid
17 Corporation and/or a subsidiary of theirs under the
18 title of Hillcrest. I think they call themselves
19 Hillcrest Development, whose purpose -- who had
20 acquired or who had acquired options on that property
21 and had hoped to develop the property for office
22 development.

23 Q Now, by the nature of the order which
24 permitted us to intervene, we're not in a position to
25 make a request for specific zoning here, so I'd like to

1 make sure we set that point aside, and let's just focus
2 on the existing zoning and the conclusion that you
3 reached from your investigation. All right?

4 A All right.

5 Q Do you have a recollection of the utility
6 service to this property?

7 A Yes. The property was serviced by utilities.

8 Q Talking about sewer and water?

9 A That is correct.

10 Q All right.

11 And do you have a recollection as to the
12 surrounding land uses?

13 A I pointed out that the nature of the property
14 was such that it was -- that it was characterized by
15 long, narrow lots. Directly to the east was farm
16 structures. The area immediately to the north, of
17 course, was the Interstate 78. To the west were large
18 single-family homes separated both by heavy growth
19 and topography from the subject property.

20 Q You previously marked for identification
21 a photograph, PF-2. Would you examine that photograph?

22 A Yes. Yes, I have seen that.

23 Q All right.

24 Does that visually depict the site as you
25 recall it in April of 1982?

1 A Unfortunately I've never had this perspective
2 from the air, but as I recall, that generally describes
3 the property.

4 MR. KRAUS: All right.

5 Your Honor, I'd like to offer the
6 photograph in evidence for its limited purpose.

7 MR. COLEY: Is that the one you put in
8 before, Bob?

9 MR. KRAUS: I had it marked for
10 identification.

11 MR. COLEY: I have no problem with putting
12 it in evidence, with the caveat I mentioned
13 before. It's a '75 photograph, so whatever is
14 depicted on there is '75, not today.

15 (Whereupon, PF-2 for identification was
16 received and marked in evidence.)

17 THE COURT: All right. PF-2 is in evidence.

18 BY MR. KRAUS:

19 Q Did you review the master plan and the
20 recommendations set forth in the master plan that was
21 in existence in the Township of Warren?

22 A Yes, I did.

23 Q And do you recall whether it made any
24 recommendations for this location?

25 A As I recall, one of the recommendations the master

1 plan made was the ability to use the interchanges and
2 I-78 for economic employment-generating purposes, yes.

3 Q And do you recall whether -- do you
4 recall now how many interchanges there are for Route 78
5 within the Township of Warren?

6 A There are three.

7 Q And do you recall what the master plan
8 contemplated for the other two?

9 A Well, the point I made in my report was that
10 the other two were recommended for development for
11 office research, for higher density development -- high
12 intensity development. This is the only one of the
13 three that had been retained in the -- in essentially
14 the half-acre zone.

15 Q Now, that ordinance, 82-19, has been
16 invalidated by stipulation. We're back in the situation
17 where this property is in a rural residential zone,
18 calls for single-family housing.

19 Do you have an opinion as to the
20 suitability of the property located on Site B or a
21 portion of the property located on Site B on - I think
22 it's PA-6 or, alternatively, PF-1, the two charts in
23 front of you?

24 A As to the suitability of that zoning?

25 Q Yeah.

1 A Appropriateness of the zoning?

2 Q Right.

3 A The reason I took the case initially from Lanid,
4 Hillcrest Development, was that I felt that the zoning
5 as it existed on the property was inappropriate; that
6 it was much more appropriate and better suited for the
7 proposed use, namely, for office development.

8 My reasons were, one, its proximity to I-78 in
9 terms of the negative impact of I-78 on the subject
10 property in terms of noise, traffic, dust, and the
11 usual negatives, if you will, related to an interstate.
12 From a positive point of view, the fact that it is at
13 an interchange allows the development of higher
14 intensity uses to take advantage of the fact that most
15 of the traffic generated by the use could use the
16 interstate to get to and from the specific use. So that
17 from a positive point of view, the highway suggested
18 a higher intensity development, and certainly the
19 community itself recognized that by the way it zoned
20 and planned for the other interchanges and I-78.

21 The third, I thought it was in keeping with the
22 master plan, which suggested I-78 as a source to be
23 considered in locating other than residential development
24 at the site -- along the road, rather.

25 Q Would it also have any balancing effect on

1 land uses within the township?

2 A Well, the point that was made in the master plan
3 that, I think, was 1.8 percent of the community was
4 zoned or used for office and research use, and this was
5 an opportunity to increase that, both the ratables and
6 the employment base, at that time anyway.

7 Q All right.

8 Now, recognizing that the purpose of your
9 study in 1982 was different than what we're involved
10 with in this lawsuit at this point, do you have an
11 opinion today as to the suitability of this site for
12 Mount Laurel housing as we have contemplated it in
13 your prior testimony?

14 A I didn't investigate it for higher intensity --
15 higher density development, which is essentially what
16 you're talking about for Mount Laurel. So I -- the
17 only possible -- I'll only go so far as to say that,
18 since an office building does generate considerably
19 more traffic than single-family development, at least
20 from a traffic point of view, and possibly from a
21 development in terms of coverage, it would not be
22 inconsistent to have higher density housing there.

23 From a positive point of view, there's just a
24 number of factors that I'm not aware of, and I'd have
25 to do additional studies before I could positively come

1 out and say, yes, it is suitable for Mount Laurel or
2 high density housing.

3 Q All right.

4 But your conclusion then, and I assume
5 your conclusion now, is that it is not suitable for
6 single-family residential development?

7 A I felt the zoning at the time was inappropriate
8 for the property and it should have been rezoned for
9 office development.

10 MR. KRAUS: Okay. I have no further
11 questions.

12 MR. COLEY: I have no questions, Your
13 Honor.

14 CROSS-EXAMINATION BY MR. JACOBS:

15 Q Don't you consider it also, as I mentioned,
16 also the surrounding area, the impact it would have on
17 -- I mean, part of planning is impact on people, too;
18 right?

19 A Absolutely.

20 Q Okay.

21 Does that go into the mix? Did it go
22 into your mix in this case?

23 A Yes.

24 Q It did?

25 A Yes. I would not have recommended office use --

1 in fact, from a positive point of view, I felt that the
2 location of an office with care and consideration for
3 the surrounding residences would be positive, that it
4 would shield some of the negative impacts of the
5 highway from that surrounding residential -- obviously,
6 if it's improperly developed or improperly planned or
7 implemented, yes, it could have a serious impact on the
8 residences. But I think you can handle that through
9 site plan review and through your controls on the
10 development.

11 Q But there's nothing offensive about
12 leaving it the way it is zoned now, though.

13 A Offensive?

14 Q Yeah. In terms of planning standards.

15 A I think it's --

16 Q I mean, if you saw this developed now
17 with homes on every one of these tracts -- for example,
18 you drove by or you sort of were asked to examine it,
19 it wouldn't offend any of the planning precepts, would
20 it?

21 A Yes.

22 Q It would?

23 A In my opinion, I think the problems of
24 interchanged development relate to -- I mean, from a
25 negative point of view, heavy traffic, noise, dust, and

1 from a positive point of view, I think it's a waste of
2 resources. Everybody complains about traffic. I think
3 if you can keep that traffic away from local roads or
4 even arterials and get as much of it as possible onto
5 the interstate system, I think that represents a more
6 implementation of good planning.

7 Q Well, try and convey that to the
8 neighbors.

9 A There's no question. I know what the problems
10 are because I live through them all the time. I had
11 a meeting last night where the question was an office
12 building and traffic, and I know exactly what the
13 problem is.

14 Q So finally, then, in carrying your
15 opinion to some conclusion, that it's been a mistake
16 to, in the past, zone the other three corners here
17 residential.

18 A On this particular -- in this particular
19 interchange?

20 Q Yeah.

21 A I don't think it's -- no. I just -- I'm just
22 concentrating on this particular parcel, and I think
23 it is a mistake to zone this for single-family, large
24 lot development.

25 MR. JACOBS: All right. Okay.

1 THE COURT: Thank you. You can step down.

2 Is it really necessary to call

3 Mr. Chadwick? I assume that at such time as --

4 MR. COLEY: I'm not going to call him,

5 Your Honor.

6 THE COURT: -- sufficient time we'll hear
7 from him.

8 MR. COLEY: If you're asking me if I'm
9 going to call him, I'm not calling him.

10 THE COURT: Well, Mr. Kraus, any point
11 in calling him?

12 MR. KRAUS: No. I recognize that there's
13 another day coming, but I wanted to take
14 advantage of the present.

15 THE COURT: You'll preserve Mr. Moskowitz'
16 and Mr. Coppola's presence.

17 MR. KRAUS: Yes.

18 THE COURT: All right.

19 MR. COLEY: Your Honor, could we approach
20 the bench just for --

21 MR. JACOBS: Every time we approach the
22 bench it always turns out to be two hours.

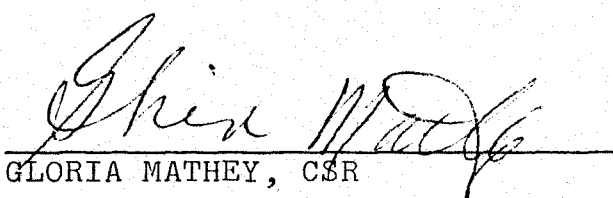
23 THE COURT: It turned out to be two days
24 one time.

25 (Side bar discussion held off the record.)

* * * *

C E R T I F I C A T E

I, GLORIA MATHEY, a Certified Shorthand
Reporter of the State of New Jersey, do hereby certify
that the foregoing is a true and accurate partial
transcript of my stenographic notes taken in the
within matter, at the time and place aforesaid.


GLORIA MATHEY, CSR

DATED: 1/9/84

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 Oross report?

18 THE WITNESS: The Oross 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

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

4 All right. See you at 1:30.

5 (Luncheon recess is held in this matter
6 from 12:30 p.m. to 1:50 p.m.)
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A F T E R N O O N S E S S I O N

RICHARD THOMAS COPPOLA, having been previously sworn,
resumes.

CONTINUED DIRECT EXAMINATION

BY MR. MURRAY:

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

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

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

A Within Region II, which consists of Passaic,
Bergen, Morris, Essex, Hudson, Hunterdon, Somerset,
Union and Middlesex Counties, and which is the
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 municipi-
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 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 and 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 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 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 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 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 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 simply say without answering the -- every one
2 separately and not intending to say that by
3 coming up with a -- a methodology that
4 encompasses two calculations, one for prospec-
5 tive and one for present, you're going to answer
6 all the ills that have been identified in Mount
7 Laurel II, I do feel that in terms of the
8 regional aspects of the question, the dual
9 methodology does, I think, address more
10 particularly the -- the goals of Mount Laurel
11 II in terms of region.

12 When we get into the question of
13 compatibility with the State Guide Plan and
14 those types of questions, that's going to depend
15 upon two things; first of all, the methodology
16 of allocation of computation of the numbers
17 based upon the determined regions, and then
18 maybe most importantly I think has been the
19 case in all the Mount Laurel litigations, what
20 in fact happens in the real world when everybody
21 leaves the courtroom and construction occurs or
22 doesn't occur.

23 I hope that was responsive.

24 THE COURT: It was such a lovely question,
25 too.

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 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, Intervenors, 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 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.

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

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

7 THE COURT: Well, that's prospective.

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

10 THE COURT: 396 units?

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

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

15 THE WITNESS: Yes.

16 THE COURT: Warren's share?

17 THE WITNESS: Yes.

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

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

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

25 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, C.S.R.

DATE: January 10, 1984