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General
Morris Cty v. Boonton

no date
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Deposition of P. David Zimmerman
re: transportation costs and
commuteability of residential locations

pgs = 74

CH000055S

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MORRIS COUNTY
DOCKET NO. L-6001-78 P.W

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MORRIS COUNTY FAIR HOUSING, :
COUNCIL, :
Plaintiffs, : CIVIL ACTION
-v- : DEPOSITION OF:
BOONTON TOWNSHIP, ET AL, : P. DAVID ZIMMERMAN
Defendants. :

T R A N S C R I P T of the stenographic notes of
the Proceedings in the above-entitled matter, taken by and
before JO-ANN KANNON, a Shorthand Reporter and Notary
Public of the State of New Jersey, held at the Offices of
MESSRS. VOGEL, CHAIT, & ROETTGER, Morristown, New Jersey,
on Monday, December 3, 1979, commencing at 10:00 A.M.

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

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Attorney for the Plaintiff

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I N D E X

WITNESS

PAGE

P. DAVID ZIMMERMAN

Direct Examination by Mr. Bisgaier

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1 P . D A V I D Z I M M E R M A N, sworn.

2 DIRECT EXAMINATION BY MR. BISGAIER:

3 Q Mr. Zimmerman, you understand you're still under
4 oath?

5 A That's correct.

6 Q Would you prefer to be resworn?

7 A No.

8 Q Could you describe, as best you can, what you
9 perceive of the relationship between one's place of work and
10 one's residence from a planning point of view?

11 A I have identified in my report that the place of work
12 is a prime determinant in housing choice while there are
13 other factors. There are other factors such as cultural
14 and psychological and social items. A second or a break-
15 down of place of work in housing choice can be made which
16 would place those with higher incomes have exhibited, I
17 think, in the past more flexibility and more mobility regard-
18 ing housing choice than families and jobs of lower incomes.

19 Q Why is that?

20 A Basically for several reasons. One is that people of
21 higher incomes have the money available to exercise what-
22 ever housing choice they want and they have the income to
23 spend for additional transportation costs which might result
24 if they were to locate further from the jobs than lower
25 income families.

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1 Q Do you believe that proximity to the job is as
2 important a factor for the residential location, for the
3 choice of residential location, for lower income persons as
4 it is for higher income persons?

5 A I would say that it may be in fact more important.
6 The budget constraints that lower income people have, unfor-
7 tunately, to work with and the higher job mobility in terms
8 of changing from one job to another seems to dictate that
9 it's in their interest and it has been observed that they do
10 locate closer to jobs than middle or upper middle or more
11 affluent incomes.

12 Q Would you say then that, in your view, you'd be
13 a proponent of locating residential opportunities for lower-
14 income employees in a closer proximity -- as close proximity
15 to place of employment as possible?

16 MR. VOGEL: Would you read that back,
17 please?

18 (Whereupon the above question was read
19 back.)

20 A I would say yes with the caveat. I am basically a
21 proponent of society affording the opportunity for all peoples
22 to live wherever they chose and within that context I think
23 there are a lot of good reasons for lower income people to
24 locate closer to their jobs.

25 Q What would you consider to be a reasonable commuta-

1 tion distance for lower income persons?

2 A I don't feel qualified to answer that at this point.

3 Q If I don't distinguish between lower-income per-
4 sons, if I say what would you say would be a reasonable commu-
5 tation distance? Would you be able to answer that?

6 A I would say a rule of thumb figure of about an hour.

7 Q Okay. Do you -- when you're saying "about an
8 hour", you're talking generally and what you are able to do
9 right now is articulate what a reasonable commutation would
10 be if the question was defined to deal with lower income
11 persons; is that right?

12 A Right. That is one of the ~~items~~ I may have indicated
13 to you during the last session we are in the process of
14 looking at to determine the reasonable commutation distance
15 for several income job categories.

16 Q Okay. To what extent do you think the availabili-
17 ty of affordable housing plays a part in residential housing
18 choice for lower income persons as opposed to upper-income
19 persons?

20 A Well, that's difficult to answer because if you, for
21 a moment, say that -- ask the question in terms of anybody
22 there is a constraint upon the availability of housing for
23 anyone's housing choice.

24 I might prefer to have a one-acre single family resi-
25 dence in the middle of Manhattan, but that's not quite avail-

1 able so that there are constraints in everyone's housing
2 choice be it upper-middle or higher income.

3 Q Do you believe that the location of lower income
4 persons within a region is more affected or more impacted
5 upon by the location of affordable housing than the location
6 of jobs?

7 A I think the two major determinants in the location of
8 living -- living dwelling units for low and moderate income
9 families is the location of the job and what I have labelled
10 as cultural, social, or psychological needs and desires.

11 Q What role does the location of affordable housing
12 play vis-a-vis the location of job opportunities?

13 A I think that within a regional context, that is look-
14 ing at the regions such as the four counties that I have
15 identified or even looking at Morris County, that is a very
16 minor item. I think if you -- there are, for example, there
17 may be particular areas within the region or particular
18 communities which do not have the balanced housing stock
19 which would inhibit people of one type or another from living
20 in that community.

21 Q Like which?

22 A Well, I think if you went down to Monmouth County, for
23 example, --

24 Q Which in Morris County?

25 A I'm not prepared to answer anything in Morris County.

1 Q Which in the region?

2 A If you went to say Essex Fells, for example, which is
3 in Essex County --

4 Q Could you think of any other examples besides --

5 MR. VOGEL: Wait a minute. Was that the
6 end of your answer?

7 THE WITNESS: No. I was going to indicate
8 that would be a community that did not have a
9 balanced housing stock in my opinion.

10 Q Which of any other community could you identify
11 by name? Any others?

12 MR. VOGEL: I object to this question
13 because Mr. Zimmerman is a maxi-trial witness
14 and I thought that the focus of the maxi-trial
15 is upon first of all a definition of the region;
16 secondly, the overall housing needs of the region,
17 and the focus upon individual communities within
18 the region is really an issue reserved for the
19 mini-trial.

20 Q Can you answer the question to the best of your
21 ability?

22 MR. VOGEL: What is the question?

23 MR. BISGAIER: I was trying to ascertain
24 which communities he felt did not afford an oppor-
25 tunity for affordable housing for lower income

1 persons.

2 MR. VOGEL: I'm going to direct him not to
3 answer that as a maxi-trial witness.

4 MR. BISGAIER: Off the record.

5 (Whereupon a discussion was held off the
6 record.)

7 Q It's your position then within this region that
8 you've identified which is the four-county region that the
9 location of affordable housing for lower income persons is
10 a minor factor as to where they are presently residing?

11 A That's correct.

12 Q Could you explain that to me why you believe
13 it's a minor factor?

14 A I think that it's a minor factor in two regards.
15 First, it -- my information is that there is a reasonable
16 relationship between the location of lower income jobs and
17 the residence of low and moderate income people such that
18 one does not find significant numbers of people being forced
19 to commute long distances in the low and moderate income
20 category.

21 I think that that is indicative of the fact that there
22 are affordable housing for low and moderate income families
23 in close proximity to low and moderate income jobs.

24 Q On page 3, line 2 of paragraph -- paragraph 2,
25 line 2 of your expert report Z-1, you referred to "proximity

1 to jobs as the paramount factor in housing choice and you
2 say this is based on expert opinions and consumer surveys."

3 Could you identify any -- the particular expert opinions
4 you were referring to or the particular consumer surveys you
5 were referring to?

6 A They don't come to mind at this point.

7 Q In terms of the location of jobs within this
8 region, is it your opinion that for lower income persons
9 that affordable housing should match the number of jobs that
10 are created?

11 A Yes, I think so.

12 Q In terms of job -- residential location is it
13 your opinion that for a job created in Morris County it is
14 acceptable for affordable housing for lower income persons
15 to be located in Essex County or Newark in particular? That's
16 a sufficient proximity to the job?

17 A It may be or it may not be. I think we would have to
18 know where in Essex County the house is and where in Morris
19 County the job is.

20 Q Mount Olive and Newark.

21 A That hypothetical situation may be the extreme in dis-
22 tance from job to work. And if that were the case, then
23 there may have to be an examination to see why that is the
24 case whether it's a function of unavailability of affordable
25 housing in Mount Olive or a function of priority on the

1 part of the consumer to live in Newark as opposed to living
2 in western Morris County.

3 Q As a planner, do you think it's reasonable to
4 have that proximity to the job that's reflected in the pro-
5 vision of the employment opportunity in Mount Olive and a
6 residential opportunity in Newark?

7 A Well --

8 MR. VOGEL: I don't understand the
9 question. Would you try to rephrase it?

10 Q As a planner, I'm asking do you think it would
11 be reasonable to provide, if you could so articulate, the
12 residential opportunities for lower income employees who
13 were working in Mount Olive to provide those residential
14 opportunities in Newark?

15 A Well, it depends on --

16 MR. VOGEL: Just let me clarify that.
17 Are you talking about for lower-income jobs that
18 exist in Mount Olive or for lower-income jobs
19 that exist in Newark?

20 MR. BISGAIER: For lower-income jobs that
21 exist in Mount Olive.

22 MR. VOGEL: As an example?

23 MR. BISGAIER: Right.

24 A It depends on the goals that one is trying to imple-
25 ment. If one's goal is minimizing the friction between work

1 and home, minimizing the cost of transportation, then that
2 -- then you would conclude that having the job closest to
3 home would be the optimum situation, but as I indicated,
4 work and housing is one factor albeit the major factor but
5 there are other factors that enter into a housing choice
6 situation.

7 Q What is your position on it?

8 A My opinion is that the opportunity should be availa-
9 ble for that low and moderate income family to chose to
10 live in Newark or to chose to live in Mount Olive as they
11 see best.

12 Q Do you have an opinion as to whether a municipi-
13 pality which generates an employment opportunity should,
14 from a planning point of view, generate to the extent
15 possible a residential opportunity for the employees?

16 MR. VOGEL: I am going to object on the
17 grounds again that the focus of the question
18 seems to be upon individual municipalities
19 rather than the issues of maxi-trial and that
20 is region and housing needs within the region.

21 These questions are directed to mini-
22 trial -- should be directed to mini-trial witness-
23 es, but I will not direct the witness not to
24 answer this question.

25 A In general I would certainly say yes.

1 Q What is covered employment?

2 A Jobs that are covered by an employment insurance in
3 the State of New Jersey.

4 Q Do you have any knowledge as to what -- would be
5 a reasonable rule of thumb as to what percentage those jobs
6 in covered employment are of the total jobs?

7 A Not at this point.

8 Q Do you have any knowledge or any rule of thumb
9 that you use as to what percentage of covered jobs or total
10 jobs would be in the job categories reflected by low or
11 moderate income employees?

12 A I may have indicated in our earlier session that we
13 are in the process of gathering this information from the
14 State Department of Labor and I'm not prepared at this point
15 to answer that.

16 Q Do you have any knowledge or could you use a rule
17 of thumb in ascertaining as to what percentage of households
18 would involve heads which are nonemployed?

19 A I don't follow the question. If there are households
20 for which their heads are not employed it certainly would not
21 be -- it would not fall under the category of covered employ-
22 ment.

23 Q Okay. Some of those may be in employment that's
24 not covered; is that correct?

25 A It may be employment not covered, it may be a pension,

1 social security, welfare, other transfer payments.

2 Q You do not have any notion as to what percentage
3 of the total households would be involved in -- would not
4 be involved in employment either covered or not covered?

5 A This is part of -- no, I don't have this information
6 at this time.

7 Q Okay. Do you know whether there's any indication
8 that the percentage of households of elderly retired individ-
9 uals is increasing or decreasing?

10 MR. VOGEL: Where?

11 MR. BISGAIER: In Morris County?

12 A I don't have that information at this point.

13 Q Would you have it for any geographical location?

14 A I'm not prepared to tell you -- give you a statistic
15 at this point.

16 MR. VOGEL: Off the record.

17 (Whereupon a discussion was held off the
18 record.)

19 Q Did you ever sub-allocate the need that you have
20 ascertained in any of your studies to municipalities in
21 Morris County?

22 A No.

23 Q Did you intend to do so?

24 A Yes.

25 Q That's to be part of your subsequent report?

1 A No.

2 Q For what purpose did you intend to do that?

3 A A municipality has been exploring with me the possi-
4 bility of my being the expert planning housing witness in
5 their mini-trial effort.

6 Q So, other than for the mini-trial, you do not
7 see as part of your maxi-trial testimony or any report that
8 you intend to do to sub-allocate housing needs to the individ-
9 ual municipalities in Morris County?

10 A That's correct.

11 MR. VOGEL: I'll just note my continuing
12 objection in that line of questioning.

13 A That's correct.

14 Q As a maxi-trial witness, will it be part of your
15 testimony or part of any report that you do to express an
16 opinion as to the reasonableness of any sub-allocation number
17 for a Morris County municipality?

18 MR. VOGEL: I will object. Go ahead, you
19 can answer.

20 A I don't anticipate being called upon to express an
21 opinion in that regard.

22 MR. VOGEL: Off the record.

23 (Whereupon a discussion was held off the
24 record.)

25 Q Do you know if there's any intention by anyone

1 to utilize your fair share plan or fair share methodology or
2 any of the analysis that you have done for the maxi-trial in
3 the mini-trials for the purposes of ascertaining fair share
4 numbers for any particular municipalities?

5 A Well, I've indicated earlier that that activity which
6 you've described may come to pass. I'm in the discussion
7 stage now.

8 Q With one particular municipality?

9 A Right.

10 Q I take it you do not know of any other situation
11 other than that one where your methodology and planning might
12 be used for mini-trial in terms of ascertaining a fair share
13 number?

14 A It seems highly unlikely that other than this one
15 municipality that I'll be involved in ascertaining fair share
16 numbers for municipalities.

17 Q Why do you think it would be unlikely? I'm kind
18 of curious as to why you don't perceive your fair share method-
19 ology or planning regarding fair share would be utilized on
20 a mini-trial basis?

21 A Each of the municipalities have contracted for their
22 own experts to examine the issues and I don't know at this
23 point whether they will be in contact with me or not regard-
24 ing the allocation of housing to their particular municipality.

25 They may but they may not.

1 Q What particular factors -- I mean specifically
2 what kind of facts did you use to justify whether or not
3 you add or not to add a particular county to the housing
4 allocation region that you derived as the most appropriate
5 for Morris County?

6 A I think I've answered that already.

7 Q Would you refresh my recollection?

8 A The definition of region was based upon several factors.
9 One of which was the analysis of commutation to work to
10 journey to work in the -- contained in the 1970 Census and
11 a second factor was the identification of Morris, Union,
12 Essex and Somerset as a labor market region. The third
13 factor was the fact that Morris, Essex and Union have for
14 several decades existed as a standard metropolitan statisti-
15 cal area identified by the U.S. Bureau of Census and that
16 designation in 1980 will include Somerset County. And the
17 opinion that I have that this is a fair housing region with-
18 in which people can substitute housing choices from one
19 area to the other.

20 Q How do we know that's true? What factors would
21 show that it is a fair housing region?

22 A Well --

23 Q Statistically what would I look to to show me
24 that?

25 A One is my own familiarity with northern New Jersey

1 which has been generated by working for a variety -- working
2 in a variety of planning environments and gathering experi-
3 ence concerning location of jobs and housing choices, as
4 well as experience with housing consumers, social, cultural,
5 psychological needs and desires.

6 Also, the 1970 Census does indicate the residence of
7 persons in 19 -- for the five years previous to the census
8 such that we can identify in 1970 where people lived in 1965
9 thereby gaining an understanding as to whether people who
10 live in Morris County come from the metropolitan -- the SMSA
11 or out of state or another county in the state.

12 The examination of those facts has led me to conclude
13 that the four-county region is the reasonable region for
14 Morris County.

15 Q The examination of those facts have been reduced
16 in a written analysis by you regarding prior residence?

17 A That? No, not regarding prior residence.

18 Q What would you glean from those facts which
19 would indicate to you which county should be within the same
20 region?

21 A Well, basically the examination of those facts was
22 done to test the region as was identified by the census in
23 the housing -- in the labor market rather than to generate
24 per se the region.

25 Q Well, what -- is there a percentage of persons

1 who if they lived outside of this region in the prior five-
2 year period would have indicated to you that the region is
3 improper? If it had been 50 percent would that have indica-
4 ted to you that the region was too small?

5 A Well, obviously if it had been 50 percent, it would
6 cause me to examine the region. I don't recall at this
7 point what the cutoff percentages were.

8 Q Why would you look at that data at all?

9 A It seemed relevant to me.

10 Q Why is someone's prior place of residence rele-
11 vant to your determination as to what an appropriate region
12 is?

13 A Well, I indicated it was appropriate in testing whether
14 the region that had been designated was in fact the function-
15 ing housing market region.

16 Q How does it do that?

17 A One of the criteria for a functioning housing market
18 region is the ability for housing units to be substitutable
19 and I think if we found that significant numbers of people
20 moved from Middlesex County to Morris County, it would indi-
21 cate that maybe Middlesex County should be included in the
22 region.

23 However, that was not the case. Also, I think the
24 State Department of Community Affairs identified four criteria
25 for the designation of their region and I would submit that

1 my region or the region identified in my report says all
2 those criteria, in my opinion in a more reasonable way.
3 Also, the courts have identified region, discussed region,
4 and again, in my opinion, the region identified in my
5 report is entirely with all of those courts' decisions and
6 I feel more reasonable, closer to the spirit intent of those
7 decisions than the DCA region or any other region.

8 Q What specific housing cases are you referring to?

9 A I would say the Mount Laurel decision, the Madison
10 Township decision, both by the Appellate Division and Supreme
11 Court Decision --

12 Q Which Appellate decision are you talking about?

13 A Judge Furman's decision.

14 Q Trial court?

15 A I'm sorry. Trial court, yes. Those are the two cases
16 I mentioned in the report. Also, I mentioned the Montgomery
17 Township decision.

18 Q What decision is that? Do you have a better
19 citation for that? Who the plaintiff or defendant was?

20 A No, it should be in the report. I will apologize if
21 it's not there.

22 Q As a planner, are you comfortable with the analy-
23 sis of the notion of the region as contained in those decisions?

24 A Yes.

25 Q On Page 28 of Z-1, you also referred to housing

1 cases. The first sentence of paragraph 2, do you recall
2 what cases you were referring to?

3 A I'm sorry, page 28?

4 Q Yes.

5 A I see where you're referring.

6 Q Do you recall what cases you were referring to
7 there? The same ones?

8 A As best I recall, yes.

9 Q On page 13, you have a table 2 -- page 13 of Z-1
10 and where you list the 21 counties in New Jersey and you
11 also have a category called "elsewhere" which identifies
12 some 12 thousand or more individuals or employees who are
13 commuting.

14 Could you better identify the geographical location
15 identified by that?

16 A As I recall, that is out of state.

17 Q Do you recall if it's predominantly in New York
18 City? Central business district of New York City?

19 A I don't recall specifically.

20 MR. VOGEL: He answered the question. He
21 said it was "out of state". It could be New York,
22 anywhere, Pennsylvania, Connecticut --

23 Q Do you have any knowledge as to what the commuta-
24 tion patterns are for workers residing in Morris County as to
25 place of employment in the central business district of New

1 York City as to what the number would be or the percentage?

2 A I don't have those figures in front of me.

3 Q How substantial would those figures have to be
4 to encourage you to include New York City within the region
5 that you have ascertained?

6 A My understanding of the courts' decisions regarding
7 definition of region is that jobs -- out of state factors
8 are excluded.

9 Q Solely as the planner now not as the courts'
10 decisions, do you think it would be appropriate to include
11 New York City within Morris County region as you've defined
12 it?

13 A No, I do not.

14 Q Regardless of what the relationship would be
15 between residence in Morris County and place of employment
16 in New York City?

17 MR. VOGEL: I'm going to object to the
18 "regardless" portion of the question because Mr.
19 Zimmerman has already testified that statistics
20 wouldn't matter if 50 percent of the workers came
21 to New York City. He has already indicated that
22 they would be a factor taken into account because
23 based on the statistics -- if you want to ask the
24 question based on existing statistics, fine. But
25 don't give him a hypothetical question based upon

1 facts that don't exist.

2 Q Well, are there any circumstances under which
3 you would, as a planner, believe that New York City should
4 be included within the region as you have defined it for
5 Morris County?

6 MR. VOGEL: Existing facts you are taking
7 about?

8 MR. BISGAIER: Yes.

9 A Well, I indicated earlier I don't know what the
10 specific percentage or number of workers residing in Morris
11 County and working in Manhattan are. I have no -- there's
12 no question in my mind that those figures are not anywhere
13 near a statistic which would lead me to include that in
14 determining the housing market.

15 Q You don't believe they would be comparable to
16 say figures that you have here for Somerset County?

17 A They may be.

18 Q They may be comparable to the ones you have for
19 Union County as well?

20 A I don't know. I think -- I was going to offer some-
21 thing but I decided not to.

22 Q I'm not clear now as to how you call the shots
23 here as to which counties to include and which counties to
24 exclude and my question is that: if a county was statistically
25 comparable in terms of commutation patterns with Middlesex

1 -- I'm sorry, Somerset or Union or Essex regarding Morris
2 County, why would you not include it, as a planner?

3 A Well, commutation to work is one factor. It's an
4 important factor.

5 The decision that was made regarding the four counties
6 of which Morris County is part, in my opinion, is entirely
7 reasonable because even compared with the resident labor
8 force statistics of each of the DCA's regions, that is the
9 four-county region that I've identified, falls right in the
10 middle and therefore is certainly a reasonable region.

11 Q I understand that and I'm not probing now the
12 reasonableness of your -- the notion of having this four-
13 county region. I'm trying to understand what factors if
14 they were presented to you would encourage you to include
15 another county in the region and what I'm asking you is: if
16 a county had the same or even greater relationship to Morris
17 County vis-a-vis commutation factors the three counties have
18 as you have identified as part of the region, why would you
19 not include that county in as part of your region?

20 A Well, commutation factor is important, but as I indi-
21 cated, it's not the sole criteria. I think we're talking
22 about a housing market and I have to be convinced that the
23 county including "x" community in the Morris County region
24 will be consistent with the housing -- will be consistent
25 with housing market criteria.

1 Q Could you specify for me what specific kind of
2 data you would look to other than commutation patterns in
3 order to reach that conclusion?

4 A There were three areas of data that I looked at. One
5 was the opinion of others in the sense of the census in the
6 labor market. Second was the choices that people did make
7 regarding their housing as evidenced in the census by their
8 residency prior to five years earlier and third is an opinion
9 by myself as I think I can make as a housing and planning
10 expert regarding the housing market and the fact that "x"
11 community traditionally and for the present may not have any
12 relationship to Morris County in that people would be expect-
13 ed to migrate from "x" community to Morris County.

14 Q So, the actual -- other than the opinions of
15 others, the actual data that you used in ascertaining whether
16 or not to include a county or not to include it would be
17 the prior residence State would be found in the statistics
18 as compared to residence of 1965, as compared to 1970, as the
19 commutation pattern which you derived from the 1970 Census;
20 is that correct?

21 A Well, I would say that that's -- that would be statis-
22 tical data. I think there is softer data that I've indica-
23 ted in part that I've relied upon and there are a multitude
24 of factors that the regional scientists used to distinguish
25 the regions such as newspaper circulations and telephone

1 calls and things like that.

2 Q Have you reviewed any of that?

3 A I would submit that I have a general knowledge of
4 some of these criteria.

5 Q Could you tell me what that is?

6 A Well, take newspaper circulations for an example. I
7 think the four-county region is generally served by a news-
8 paper in Newark.

9 Q Called?

10 A Star Ledger. However, each individual area has its
11 own newspaper and I don't think that they are significant --
12 any significant overlaps between the local newspapers such
13 as the Daily Record or the Herald in Passaic County or the
14 paper out of New Brunswick --

15 Q The Star Ledger represents -- it overlaps
16 regional newspapers?

17 A That covers all of northern New Jersey.

18 Q When you say "all of northern New Jersey",
19 define it?

20 A Maybe all of New Jersey.

21 Q What predominantly, to your knowledge, would be
22 the county served by the Star Ledger? Do you have any idea?

23 A I will say the Star Ledger, as best I can ascertain,
24 is available and read from Ocean County north.

25 Q And you referred to I think telephone surveys as

1 another part of your soft data? What were you referring to
2 there?

3 A Well, I referred to telephone calls, that is social,
4 business calls that normally are made over the telephone.

5 Q What is that data that you are referring to?
6 Where have you seen that or evaluated it?

7 A I don't recall the specific item.

8 Q Would you recall what it conveyed to you -- that
9 information?

10 A No.

11 Q Are there ^{other} ~~than~~ the newspaper circulation and
12 the telephone surveys or calls, what other information,
13 factual data, other than commutation and prior residence
14 would you rely on?

15 A As I recall I think that's it.

16 Q Why do you believe it would not be reasonable
17 for Morris County to be its own region?

18 A I think earlier -- at an earlier session, I indicated
19 that Morris County is a housing region and that they are
20 hierarchies of the housing regions. Morris County is a
21 housing region onto itself.

22 Q Why didn't you use it as your region for fair
23 share planning purposes?

24 A It was my opinion that the criteria enunciated in the
25 court decisions would better -- be better served with the

1 four-county region as opposed to solely Morris County region.

2 Q Do you recall what it was in the court decisions
3 that indicated to you that it would be inappropriate to use
4 Morris County as its own region for those purposes?

5 A As best I recall, one example was the use by a defen-
6 dant I think of Monmouth County as a region and as I recall
7 the Judge didn't feel that was appropriate.

8 I think also that the court indicates that the defini-
9 tion of a region should include a sending area which in
10 some respects Morris County would have but not to the scale
11 of an urban community such as exists in eastern Essex County
12 would have.

13 Q When you refer to the "sending areas" or sending
14 municipalities in the eastern part of Essex County, what
15 does that refer to? What is a sending area?

16 A It is an area which has large numbers of low and
17 moderate income families or households.

18 Q Why is the designation of the region an import-
19 ant function in the decision -- an important function in
20 the decision to house --

21 MR. VOGEL: You are asking him legally?

22 MR. BISGAIER: No.

23 MR. VOGEL: As a planner.

24 A It seems to be the first step in arriving at calcula-
25 tions and figures for ultimately determining the fair share

1 allocation.

2 Q Basically, it's the area from which you'll ascer-
3 tain housing needs which must be allocated within that same
4 area; right?

5 A That I would say was the policy, in my opinion, it
6 was basically what everyone was doing.

7 Q It's essentially what you did in Z-1?

8 A That's correct.

9 Q When you referred before to this notion of a
10 hierarchy of the regions, what were you referring to there?

11 A Again, going back to the concept that we are essential-
12 ly dealing with a housing region, most moves by people --
13 changes in residence by people in Morris County are substitu-
14 tions of one housing unit in Morris County for another.

15 Q That is your understanding of the facts?

16 A Absolutely.

17 Q What's that based upon?

18 A Census information.

19 Q Census information, you believe, will reflect
20 that most people in Morris County who have moved within the
21 county as opposed to into the county from another residence?

22 A Absolutely.

23 MR. VOGEL: Can we get a period of time
24 that we are talking about just to clarify that?

25 Q What were you referring to?

1 A I was referring to data that was from the 1970 Census.

2 Q And that would reflect 1965 residences and 1970
3 residences?

4 A Yes.

5 Q On page 8, table I, you have on data, could you
6 set forth what your source of that data is?

7 A This data is journey to work information as tabulated
8 by the Bureau of Census and obtained from the State Depart-
9 ment of Labor and Industry.

10 Q And do you know for what date this is?

11 A That would be 1970.

12 Q Has it been updated or is it a 1970 data?

13 A To the best of my recollection this is 1970 data.

14 MR. VOGEL: Let us just take a short
15 break.

16 (Whereupon a short recess was taken.)

17 Q You refer in your report to the notion that one
18 county may be in more than one region.

19 Do you know of any -- first of all, how would that
20 warrant a determination of fair share housing allocations?
21 Could you try to work that out at all?

22 A I think the reference I made in my report was that DCA
23 did, in my opinion, try to come up with regions whereby one
24 county was located in one region and this was presented in
25 narrative and map form.

1 However, a sending county may actually lie in two
2 regions.

3 Q Why?

4 A Because there are people that work in that sending
5 region and live essentially over the landscape.

6 Q Okay. Have you determined what the impact of
7 fair share planning process would be with having the same
8 county in two separate regions?

9 A I haven't made that calculation.

10 Q Do you know of any fair share plans which have
11 one municipality or an entire county in two different
12 regions for fair share planning purposes?

13 A I don't know of any group other than the State DCA
14 who have defined several regions which would result in not
15 coming up with one county in several regions.

16 If you're involved in litigation in Bergen County,
17 then you're basically concerned with what is the sending and
18 receiving region of which Bergen County is a part.

19 Q What would be the receiving region? I thought
20 for Bergen County would be -- what?

21 A Well, Bergen County would be the receiving region.

22 Q What would be the sending region?

23 A Hudson County might be the sending region.

24 Q Essex County?

25 A I haven't worked that out but I don't know.

1 Q You don't know?

2 A But Hudson County may be the sending for Bergen. But
3 there may be a case whereby a county is the sending county
4 for two counties.

5 Q It's your position I take it that the eight-
6 county region used by the Department of Community Affairs
7 is unreasonable?

8 A Absolutely.

9 Q Absolutely unreasonable?

10 A Yes.

11 Q What specific facts do you have which would
12 indicate to you that any particular county in that region
13 should not be contained within this region appropriately
14 in the region?

15 A Any one of the criteria that I have previously enumer-
16 ated I think could be utilized to demonstrate that there is
17 no housing market relationship between several of the
18 counties incorporated in the eight-county DCA region.

19 Q Is it possible that although there may not be
20 a statistical relationship between any given two counties
21 that there may, however, would be a statistical relation-
22 ship between those two counties and the region which would
23 justify including them in the same region?

24 A No.

25 Q Do you have a rule of thumb you use or do you

1 know for what the average household size would be for a
2 single family detached unit?

3 A Single family?

4 Q Detached --

5 A Detached?

6 Q Is there a rule of thumb?

7 A Four persons per household.

8 Q Approximately four per household?

9 A Yeah.

10 Q What about for multi-family residential units?

11 A As you are aware, there are quite a variety of multi-
12 family from hi-rise to townhouse, garden apartments -- you
13 take your choice and you come up with --

14 Q Take garden apartments?

15 A Depending upon the number of bedrooms, I would say it
16 varies from about, as best I recall, 1.9 to 2.8, something
17 in that range.

18 Q What would be the range for townhouses?

19 A Again, the determinant is the number of apartments.

20 Q Number of bedrooms?

21 A I mean that yes and I would say it could run from 2.2
22 to 3.5.

23 Q And what would be the source of this ---these
24 rules of thumb that you are --

25 A There have been studies done which I have analyzed --

1 types of housing units and the characteristics of those
2 units including household size.

3 These have been done by Rutgers Center Urban Poly
4 Research and they have been confirmed by other national
5 studies.

6 Q Could you identify the names of such studies?

7 A There was an early study done by Sternlieb -- I forget
8 the book -- it's something municipal costs for multi-family
9 housing. There have been subsequent publications from the
10 Center. I think the most recent is by James Hughes "Methods
11 for Housing Analysis" which contains those data.

12 Q And do you believe those studies are authoritative?

13 A Yes.

14 Q The decline which has been occurring in the
15 average household size, do you believe that that will be
16 reflected by a need for smaller units? In other words, do
17 you believe that the average household size say for a single
18 family detached house that's standing today in Morris County,
19 is apt to change or that the decline in average household
20 size or the increase in households that are smaller will be
21 accommodated to the construction or the provision of smaller
22 housing units such as you might find in garden apartments or
23 townshouses?

24 A Well, I think I could best answer that by saying, in
25 my opinion, there should be a balanced housing supply which

1 would include the full range of housing including town-
2 houses, apartments, smaller single family homes.

3 Q I appreciate that's your position. But there
4 is presently in Morris County a certain housing stock that
5 is reflected by an average household size today of whatever
6 it is in Morris County.

7 Do you believe that the decline in the average house-
8 hold size or the increase in households with smaller numbers
9 of people in it will be accommodated by the increase in
10 smaller housing types than presently exists?

11 A I would have to answer that question in two parts.
12 In part, we are in the process of trying to determine the
13 answer to that question as part of your work in this suit
14 and I do not have a definite answer at this point. In gen-
15 eral, I am of the opinion that the variety of housing types
16 do have to be provided.

17 Q Let me ask you this. If a municipality main-
18 tained its current housing stock or maintained the same type
19 of housing in terms of size of number of bedrooms and the
20 type of housing, would you anticipate that the average house-
21 hold size in that municipality would essentially stay the
22 same?

23 A I think we have been over this. Didn't we deal with
24 that at the last session?

25 MR. VOGEL: First, I am going to object

1 and just ask you to rephrase the question to
2 deal with the region and not individual municipi-
3 palities but, he can answer it.

4 A If a municipality -- if the housing stock municipality
5 does not change in terms of the type significantly then I
6 would expect the household size similarly not to change.

7 Q So, in other words, if there is a decrease in
8 the household size in a municipality that presently house
9 single family detached housing stock or if there is to be
10 an increase in the household size in the municipality which
11 presently has largely a garden apartment multi-family housing
12 stock, the increase in the -- the decrease in it normally
13 would be -- primarily is accounted for the increase in multi-
14 family dwellings such as multi-family apartments and the
15 increase in the latter would be by a rule of much larger
16 multi-family type units or single family detached units.
17 It's essentially the notion that we're talking about; cor-
18 rect?

19 A Well, I think that scenario is reasonable, although
20 that may not be exactly what's happening. I think you would
21 have to take a look at what's happening. For example, you
22 could have a municipality which has mostly single family
23 detached homes and the population is getting on in years
24 and the household size would, therefore, be declining but
25 the household stock really hasn't changed.

1 Q But the average presumably if there is a housing
2 opportunity for the elderly, they would perhaps find that.
3 In that house which has a three-four bedroom that would
4 presumably be occupied by a family which could use that
5 space?

6 A I think that's a reasonable scenario.

7 Q In doing your analysis of what an appropriate
8 fair share plan should be for Morris County, you are now
9 utilizing the population projection for the counties of
10 New Jersey which could be found in the labor and industry
11 ODEA projections of 1979; is that correct?

12 A Yes, that's correct.

13 Q It's your opinion that is a reasonable popula-
14 tion projection?

15 A Yes.

16 Q Are you familiar with how that population projec-
17 tion was done? Just yes or no?

18 A At one time I was.

19 Q So you evaluated their methodology?

20 A Yes.

21 Q And as you see it, it's reasonable?

22 A Yes.

23 Q And the Department of Labor and Industry did
24 several projections in 1979; is that not correct? And they
25 selected one as the preferred methodology?

1 A You mean several methods or several --

2 Q Several methodologies which resulted in differ-
3 ent projections and they have selected one as the preferred
4 methodology?

5 A Yes, that's my understanding.

6 Q Is it your opinion that the other methodologies
7 that they utilized were unreasonable?

8 A I haven't evaluated the other techniques as to whether
9 they are reasonable or not.

10 Q Have you evaluated any other population projec-
11 tions for Morris County or any of its component municipalities
12 as to whether or not the methodology and the projection is
13 reasonable?

14 A I'm aware of other projections. I have not evaluated
15 them to the extent that I have evaluated the DCA projection
16 and the labor and industry projection.

17 I sought to utilize a State agency or regional agency
18 rather than say the population projections of the component
19 County Planning Board because it would be, I think, a fair,
20 more reasonable set of data.

21 Q Why?

22 A Conceivably, the individual counties may use different
23 methods to project the population. There may be factors
24 which I may not be aware of that may influence their projec-
25 tions. Whereas the State projections are uniform for each

1 county throughout the State and if they're wrong they are
2 wrong all over and we wouldn't have a situation where Morris
3 County is right and Somerset County is wrong and try to deal
4 with that. I think it's --

5 Q Have you evaluated the projection in the method-
6 ology used by the Morris County Planning Board in their
7 planning?

8 A Yes, I have.

9 Q And is it your opinion that that is unreasonable
10 projection?

11 A I really don't remember what my conclusion was as to
12 whether it was reasonable or unreasonable.

13 Q Would that also be true of projections done by
14 the Regional Planning Association?

15 A That's correct.

16 Q You don't recall whether you believed it's as
17 reasonable or unreasonable?

18 A I've looked at the figures. I had the figures and,
19 however, I didn't come to any conclusion as to whether they
20 are reasonable or unreasonable.

21 Q Is that also true of Tri-State and the Port
22 Authority projections?

23 A That's correct.

24 Q Have you reviewed if there are any projections
25 with regard to the 208 Planning that's being done in Morris

1 County or the region?

2 A Yes, I'm aware of those figures.

3 Q Are they consistent with the ODEA projections?

4 A At this point, I don't recall.

5 Q Do you recall that you believe the 208 Planning
6 projections are -- population projections were reasonable
7 or not?

8 A I don't recall.

9 Q What factors would indicate to you that a partic-
10 ular planning projection is or is not reasonable?

11 A One factor would be when it was done and the criteria
12 upon which the projection was made.

13 Q Anything else?

14 A I think those would be the major determinants.

15 Q Would you be influenced by how, in fact, how
16 accurate in fact the planning projection appeared to be as
17 time went on?

18 A I think that would be a factor and I think it's a
19 minor factor.

20 Q Well, would the accuracy of a particular planning
21 projection be a minor factor as to whether to use it --
22 continue to use it or not?

23 A. I would say the accuracy of the projection was an
24 affirmation of the method and would cause you to utilize that
25 method two years later to make population projections for the

1 next five years or ten years or whatever you are working on.

2 Q What kind of range in accuracy would you find
3 acceptable? To encourage you to continue utilizing a popu-
4 lation projection?

5 A I can't say at this point.

6 Q Have you tested the ODES projection to determine
7 whether it appears to be relatively accurate or not in terms
8 of what is actually happening in Morris County or any other
9 counties in the region?

10 A I haven't utilized this figure in any Morris County
11 municipality.

12 Q Well -- the ODEA model does not give municipal
13 projections, does it? Isn't it just the county population
14 projections?

15 A The information I have from the State Department of
16 Labor and Industry has municipal figures.

17 Q Do you have that information in your office
18 today?

19 A I presume so.

20 Q Would you be able to produce that after your
21 luncheon break?

22 A That's what I plan to do.

23 MR. BISGAIER: Off the record.

24 (Whereupon a discussion was held off the
25 record.)

1 Q When you utilized a population projection, do
2 you accept a certain range reliability in terms of future
3 population growth or do you accept the number as kind of
4 given to what the population would be?

5 A It depends on what the future time frame you're work-
6 ing on. If you are dealing with the near term future, I
7 think one can utilize a figure. As we move further into
8 the future, a range seems more plausible.

9 Q How far into the future would you go utilizing
10 the specific number given as projection as opposed to look-
11 ing for a range?

12 A I think planners have traditionally used 20 years,
13 25 years as an upper limb to population projections which
14 would put us to the year 2000 approximately.

15 Q You would be comfortable I take it with a popu-
16 lation projection through the year 2000 without -- in terms
17 of its reliability without looking for a particular range?

18 A I would say at the year 2000 they range -- the range
19 is a plausible way to deal with future population. It
20 depends on the purposes that you have -- that you are trying
21 to satisfy.

22 Q For your purpose here, I am referring to the
23 purposes of doing housing allocation plans and I would like
24 to know whether you would consider utilization of a 1980 or
25 1985 projection as reliable and you would not look for a

1 range in utilizing such projections? Essentially, your
2 speculation would be that that projection was relatively
3 accurate?

4 A Middle ground. I said that 20 years in the future
5 would be appropriate to present a range as may be five years
6 we could deal with a specific number, so dealing with ten
7 years or 15 years is kind of in the middle. It depends on
8 the purpose and the confidence that you have in the figure
9 that you are using as to whether a range is appropriate or
10 a specific number.

11 Q Well, are you sufficiently confident with the
12 ODEA that you utilized in Z-1 that you are willing to rely
13 upon the projection it has for 1980 and 1985 as accurate as
14 opposed to looking for a range?

15 A Well, certainly I would be confident with that figure
16 for 1980, 1985, I think.

17 Q What about 1990?

18 A I would deal with that in the same sense of confidence
19 that DCA deals with their own figure and they come up with
20 one figure for 1990 and generate housing allocation as a
21 result of that figure and what I sought to do in my report
22 was duplicate that effort but using another population figure.

23 Now, if DCA presented their figures in terms of a
24 range, I might be so moved to look upon population in the
25 same vane, although as I indicated we're in the middle ground

1 where a range might be appropriate and might not be.

2 Q Are you sufficiently comfortable with the ODEA
3 model as a planner regardless of what DCA planners may have
4 done? But you, personally, as a planner, are you expressly
5 comfortable with the ODEA model that for the year 1990 you
6 would find and be willing to rely upon the population projec-
7 tion they give for that year and trying to propose -- to
8 establish a reasonable range in terms of regional growth?

9 A I would, at this point, for the purposes of generating
10 a housing allocation figure be comfortable with that number.

11 Q When you do rely upon a range -- have you ever
12 in using population projections relied upon a range as
13 opposed to utilizing the specific number? In any of your
14 planning work?

15 A Yes.

16 Q What would be examples of that?

17 A I don't recall specific examples.

18 Q When you do utilize a range, how do you do that?
19 What kind of a range do you use?

20 A I would identify the outer -- the upper and lower
21 limits of a future population, for example, and indicate the
22 basis for those limits. For example, one might say that
23 changes in the economy might have an impact upon population
24 or the construction of a highway projected 15 years in the
25 future might have an influence on the growth of an area.

1 So, there are hosts of variables that could change
2 the figures indicating a range would be consistent with that.

3 Q Once you had established that range, how would
4 you then utilize it?

5 A Well, I assume that we are projecting population for
6 some purpose?

7 Q Fair share?

8 A Other than just academic exercise?

9 Q Right.

10 A That rights in coordination with projecting a fair
11 share housing allocation would then be plugged into the
12 formula to generate specific numbers.

13 Q Basically it would give you a range of high and
14 low to terms of potential needs?

15 A That's correct. It doesn't inhibit one from indicating
16 what, based upon his or her experience, what they felt was
17 the reasonable figure within that range.

18 Q It's just a more conservative way of doing it?
19 I take it it means you're not looking into a particular
20 figure and there's a margin of acceptability or a margin to
21 take care of changed circumstances?

22 A That's correct.

23 Q In terms of your prior employment and present
24 work that you're doing, could you set forth as accurately as
25 possible the governmental institutes for which you had done

1 work? What that work was?

2 A At the present time or in the whole range of my experi-
3 ence?

4 Q Do you have a resume which would reflect that?

5 A Yes, I do.

6 Q Do you know if that has already been produced
7 or could you produce one after lunch?

8 A Yes, I could do that.

9 Q Have you also been employed by non-governmental
10 clients?

11 A Yes, I have.

12 Q Are you presently employed by non-governmental
13 clients?

14 A Yes.

15 Q Which are they?

16 A Well, there's a number of governmental clients --
17 non-governmental clients at the present time --

18 Q Yes?

19 A Lewis Brownell, Cramer and Brownell Associates --

20 MR. VOGEL: Brownell and Cramer.

21 A Mohawk Investment Service -- Mohawk Investment Incor-
22 porated, Synthatron Incorporated --

23 Q How do you spell that?

24 A S-y-n-t-h-a-t-r-o-n, Dover Diesel, Potter Coffee Ser-
25 vices; Rochford --

1 Q Pardon me?

2 A R-o-c-h-f-o-r-d; Morristown Memorial Hospital; Max
3 Raskin; Brittany Kambry Citizens; Chester Boro Citizens
4 Group; Loyola L-o-y-o-l-a. There are a couple of others,
5 but I think that's the main -- yes, I think that's 90 percent
6 of them at the present time.

7 Q Do any of these relate to analyses regarding the
8 location or placement of residential, commercial, or indus-
9 trial facilities essentially or are any of these clients
10 relating to the Hearing for purposes of land use analysis of
11 any sort?

12 A That is essentially what I've been hired as an expert
13 professional planner to present expert testimony at either
14 planning board, zoning board of adjustment or in litigation.

15 Q In all of these cases?

16 A Yes.

17 Q Do you have the names of the specific cases that
18 you're working for these clients on?

19 A Well, if you want to go through each one, I can indi-
20 cate where it is, you know, in terms of the planning board,
21 zoning board of adjustment or court litigation. If that's
22 what you're after or will you give me the list and I will
23 tell you which one is court litigation --

24 Q Let me ask you this. Do you have anywhere a
25 list of your major clients or your clients in totality which

1 would indicate those in which you have represented in liti-
2 gation, what the nature of the litigation was?

3 A No.

4 MR. VOGEL: Is this public and private?

5 MR. BISGAIER: Yes.

6 MR. VOGEL: Because the last question only
7 related to his private clients and he has exten-
8 sive public clients.

9 A No, I have no such list.

10 MR. VOGEL: You could give me a list of, a
11 fairly comprehensive list of your public clients?

12 THE WITNESS: Well, I could do that now,
13 but that's not what he's after.

14 MR. VOGEL: The report has all of your
15 present private clients. I think the report is
16 deficient without his public clients.

17 Q For purposes of your -- Z-1 how do you define
18 low income? How do you define moderate income?

19 A As I recall, we define it the same way the State DCA
20 defined it.

21 Q Do you know why you did that?

22 A At the time the report was put together, we had not
23 analyzed that component of the DCA report.

24 Q Have you by now?

25 A No.

1 Q What standards would you use to determine whether
2 a particular definition of low income for fair share planning
3 purposes was reasonable or not?

4 A I don't know. I haven't given it much thought.

5 Q The same answer for moderate income?

6 A That's correct.

7 Q Well, what do you perceive as the purpose of a
8 housing allocation plan vis-a-vis low and moderate income
9 persons?

10 A Well, again I thought we had answered that at the
11 earlier session. To reiterate, in my opinion, housing allo-
12 cation plan seeks to identify the housing need of low and
13 moderate income households and identify means to address that
14 need.

15 Q And why, specifically, is there a focus on low
16 and moderate income households?

17 A Well, one obvious reason is that this is the mandate
18 of the Mount Laurel court decision which indicates as I under-
19 stand it, that every developing municipality in New Jersey
20 has a presumptive obligation to provide for their fair share.

21 Q Is there a planning need to focus on those
22 groups for fair share purposes as opposed to any other group?

23 A Well, I have indicated that there are two principles
24 which influence my planning, zoning relations. One is that
25 there should be a balanced housing supply and, two, is that

1 there should be an opportunity for people to live where they
2 so chose.

3 Q Just for a moment, could you define what you
4 mean by "a balanced housing supply"? What are you referring
5 to?

6 A I think that within an area there should be a variety
7 of housing types available.

8 Q What variety of housing types specifically regard-
9 ing whether it's single family, garden townhouses?

10 A That's correct.

11 Q When you talk about --

12 A That may also include housing for the elderly or
13 which would be a type of housing or subsidized housing for
14 low and moderate income families.

15 Q It's both a focus on housing type that deter-
16 mines the nature of the units as to whether it's a single
17 family, a detached garden townhouse apartment and it's also
18 focused on who can afford the units whether there is in
19 terms of affordability of housing for different income
20 groups?

21 A That's correct.

22 Q Do you have a rule of thumb in terms of propos-
23 als that are acceptable to you in terms of single family
24 garden townhouses?

25 A No.

1 Q What about in terms of income groups would have
2 been afforded an opportunity?

3 A No.

4 Q The very least you'd say there should be a pro-
5 vision of opportunities for present and prospective employ-
6 ees? I guess we can establish that?

7 A That's correct.

8 Q And I take it, you would also say there were
9 provisional opportunities reflecting the present and prospec-
10 tive future housing needs -- present and prospective housing
11 needs for low and moderate income persons?

12 A Yes.

13 Q Concerning then as to that housing need, it
14 would be relatively significant as how you would define low
15 and moderate housing incomes; is that correct?

16 A That would be a component in the housing allocation
17 plan.

18 Q In terms of your own concerns as a planner, if
19 you were in terms of doing housing allocation plans or making
20 recommendations to municipalities, how would you generally
21 seek to categorize or define that lower-income class -- the
22 low and moderate income class that you'd want to give speci-
23 fic attention to in the housing allocation plan?

24 A At this point in my analysis I have utilized the method
25 employed by DCA to arrive at the criteria for low and moder-

1 ate income housing based upon income.

2 Q The present location of lower-income persons
3 within any of the municipalities or the counties in the
4 State is a function is it not of where affordable housing
5 exists for those income groups and to some extent where jobs
6 are that they might benefit from; is that not correct?

7 A I think it's primarily a function of location of jobs
8 and other factors which I have indicated earlier might
9 include historical, social, psychological factors as well
10 as the availability of housing.

11 Q Would you -- would you anticipate that the
12 future location of lower-income persons would be primarily
13 a function of where employment opportunities are located in
14 the future?

15 A That's correct.

16 Q To what extent would the location of low and
17 moderate income persons be the function of zoning controls?
18 In terms of past patterns now I'm talking about.

19 A I think relatively little.

20 Q Do you know what the percentage of lower -- low
21 and moderate income households is in the four-county region
22 that you particularly -- in the State of New Jersey for
23 that matter as of 1970?

24 Let me ask you a different question. Is there any
25 reason to anticipate that the percentage of households which

1 are in the low or moderate income categories would increase
2 or decrease over the next ten or 20 years?

3 A In the region or in the nation?

4 Q Well, let's start with Morris County?

5 A I would anticipate that the percentage of low and
6 moderate income households in Morris County in the next ten
7 to 15 years would decline slightly.

8 Q Why is that?

9 A I think Morris County is an area which on the whole has
10 increasing job opportunities and as such the numbers of jobs
11 and the composition of those jobs would lead me to believe
12 that the low and moderate income families or households would
13 slightly decline because the jobs that are locating in this
14 area are not traditional low and moderate income jobs.

15 Q Do you anticipate that the percentage will
16 increase or decrease in any of the other counties in the
17 region that you have ascertained?

18 A I think looking at the wider areas, that is the four-
19 county region, there will not be any major change in the
20 composition of the low and moderate income families.

21 Q For the whole region?

22 A For the whole region.

23 Q It's essentially anticipated anticipated staying
24 the same?

25 A That's right.

1 Q The overall percentage?

2 A That's correct.

3 Q But the percentage in Morris County per se you
4 say would slightly decline?

5 A That's correct.

6 Q What about the percentage of Somerset County?

7 A I don't know at this point.

8 Q What about the percentage in Essex County?

9 A Same answer.

10 Q The percentage in Union County?

11 A Same answer.

12 Q Is there any reason why it would be more appro-
13 priate to locate a higher percentage of low and moderate
14 income households in Essex County as opposed to Morris
15 County?

16 A Yes.

17 Q What is that?

18 A You mean why is that?

19 Q Why is that?

20 A Because that's where the low and moderate income
21 people are now living and have at the present time jobs,
22 social, cultural and other historical ties and relationships.
23 They from the best I can gather from reading reports, analy-
24 zing public policy, it appears to me to be that's where low
25 and moderate income housing units are being encouraged and

1 are being sought.

2 Q So your assessment is that low and moderate
3 income households would prefer to stay essentially in the
4 community in which they are now located and that future low
5 and moderate households should be encouraged to be located
6 there too.

7 MR. VOGEL: If that was an intent as a
8 summary of his last answer, I absolutely object.
9 Is this a new question or --

10 MR. BISGAIER: It was a question.

11 MR. VOGEL: Well, you started out, so it
12 was your opinion that --

13 Q Is it your opinion that future low and moderate
14 income households should be located in areas where there is
15 now a greater percentage of lower -- low and moderate income
16 households?

17 MR. VOGEL: I'm going to object because in
18 part his last answer was based upon existing
19 governmental policies. He hasn't set those
20 policies.

21 Those are the factors that are going to
22 militate toward what he concluded. You've asked
23 him a question "should" which is different and a
24 question of projecting which is likely to occur.

25 Those are the reasons I object to the last

1 question and ask that you rephrase it.

2 Are you waiting for an answer?

3 MR. BISGAIER: No.

4 Q Is it your position that there will be a greater
5 percentage of lower income jobs vis-a-vis total jobs in
6 Essex County as opposed to Morris County in the foreseeable
7 future?

8 A Yes.

9 Q What's that based on?

10 A The analysis to date of covered employment figures
11 which indicate that there are more low and moderate income
12 jobs in the urban core area than in suburban areas.

13 Q I'm talking about prospective jobs. Is it your
14 present opinion that the jobs to be generated say since
15 1970 through 1980 and from 1980 to 1990 that a greater per-
16 centage of those jobs generated in Essex County will be for
17 lower-income persons than those jobs generated in Morris
18 County?

19 A That's a difficult question to answer.

20 Q Can you answer it?

21 A To some extent. My analysis indicates that there is
22 a net loss of jobs in urban core communities, yet there is
23 still in those communities large amounts of jobs and many of
24 those jobs are held by or many of those are low and moderate
25 income jobs. Portions of Essex County are experiencing job

1 growth.

2 However, the employment opportunities at that location
3 -- at those locations are for more heterogenous type of
4 job wage skill and similarly in Morris County the job growth
5 is more heterogenous and I would say weighted in the area of
6 middle-income jobs.

7 Q Do you know if, from the point of view of an
8 absolute number or the point of view of a percentage between
9 1970 and 1980 and 1990, lower and moderate income jobs will
10 be greater in Essex County than Morris County?

11 MR. VOGEL: I object because at best it
12 could be a projection.

13 MR. BISGAIER: I'm asking if he has any
14 opinion or facts to substantiate --

15 MR. VOGEL: It's different than do you
16 know. Ask him his opinion, okay?

17 MR. BISGAIER: Okay.

18 A The answer I think could be divided into several cate-
19 gories. One I have indicated earlier, I am in the process
20 of ascertaining the type and wage of jobs in 1977 through
21 covered employment data for the counties in municipalities,
22 in the four-county region that I have identified and we have
23 to date not completed that. It may be completed soon.

24 My opinion regarding future jobs is based upon a series
25 of publications reports from Tri-State, Port Authority,

1 information from the Center on Urban Policy, research at
2 Rutgers University that indicates there's general loss of
3 jobs in urban core communities. There is still a substan-
4 tial amount of low and moderate income jobs in those communi-
5 ties and will be for the foreseeable future and that the
6 type of jobs developing in suburban areas may lie in north-
7 eastern New Jersey suburban communities as for a hetero-
8 genous and mostly middle-income type jobs.

9 Q That's the best answer you can give to that
10 question now?

11 A At this time.

12 Q As to the studies and reports specifically, what
13 are you referring to? What are your sources of data right
14 now?

15 A The Port Authority published a "People and Jobs"; the
16 Tri-State published material -- I think it's quoted here
17 "Regional Development Guide 1977 - 2000"; Sternlieb has pub-
18 lished a book "Revitalizing the Northeast"; there are other
19 publications which don't come to me at this time.

20 Q Do you consider those publications authoritative?

21 A Well, I don't know what you mean by "authoritative"?

22 Q Would you rely upon them as a planner?

23 A Yes, I think I would.

24 Q Is there any planning reason why within a partic-
25 ular region you've utilized any particular municipality

1 should have a greater percentage of prospective -- I'm
2 sorry, a greater percentage of low and moderate income house-
3 holds than any other municipality?

4 MR. VOGEL: Would you read that question
5 back, please?

6 (Whereupon the preceding question was
7 read back.)

8 "QUESTION: Is there any planning reason
9 why within a particular region you've utilized
10 any particular municipality should have a
11 greater percentage of prospective -- I'm sorry,
12 a greater percentage of low and moderate income
13 households than any other municipality?"

14 MR. VOGEL: I object to the question.

15 MR. BISGAIER: I'm just curious as to why?

16 MR. VOGEL: I object to the question on
17 the same basis as to earlier questions. It tends
18 to get into the issue what is the obligation of
19 each individual municipality as distinguished
20 from the overall obligation of the region and I
21 would appreciate if you would withdraw it or ask
22 some other question.

23 MR. BISGAIER: I'm asking the question not
24 to focus on municipalities if that's what your
25 problem is because my particular sub-geographical

1 area of the region whether it be the county --
2 I'm not trying to focus on any particular town-
3 ship here whether it be a county or municipality
4 or a couple of municipalities.

5 Q Is there any reason why within a given region
6 as you have defined region any such sub-geographical area
7 should have a greater percentage of low and moderate income
8 households than any other?

9 MR. VOGEL: Why is that relevant to the
10 overall? I don't care if you're unhappy with
11 the objection. To save a lot of time, I'm going
12 to direct him not to answer it. It's not one
13 of the issues of the maxi-trial. It's very, very
14 much of an issue that is going to be disputed
15 and litigated in the mini-trials.

16 I direct him not to answer.

17 MR. BISGAIER: Don't direct him not to
18 answer. It goes to the credibility of the ques-
19 tion how you define a region from the point of
20 view of competitive households or competitive
21 housing types.

22 I want to pursue whether in fact he's hold-
23 ing to that or not that within the region the
24 region as defined from the point of view of where
25 housing is in competition as it's defined. I

1 want to know what would be the reason or is there
2 a reason for any particular area of the region
3 to have a higher percentage of low and moderate
4 income households than any other.

5 It's patently relevant if not directly
6 relevant. I'm not interfering here. It's exact-
7 ly a point in terms of what is his testimony.
8 If he is willing to divert from that. I want to
9 know where he is going?

10 MR. VOGEL: To the extent of where the
11 legality is as to how he has defined the reason
12 and the factors he has taken into account in
13 defining a region, I withdraw my objection.

14 MR. BISGAIER: That's all I'm asking him.

15 A From a planning perspective, there may very well be
16 reasonable or they may very well be reasons why low and
17 moderate income households should be provided in one area in
18 greater proportion than another.

19 Q What would those reasons be?

20 MR. VOGEL: What does this have to do with
21 defining a region? I don't see the relationship?

22 Ask him if this has anything to do with
23 defining a region so he can see there's some
24 relationship in the witness's mind.

25 MR. BISGAIER: Off the record.

1 (Whereupon a discussion was held off the
2 record.)

3 Q Why would a particular sub-geographical area,
4 say Essex County, have a greater percentage of lower -- low
5 and moderate income households than any other sub-geographi-
6 cal area? Why could Newark have more than any other muni-
7 cipality?

8 A I understand the question. For two reasons. One is
9 location of jobs and the other is what I have classified as
10 historical, social, cultural, psychological reasons.

11 Q Could you articulate what those social, psycho-
12 logical and historical reasons are? What are the social
13 reasons?

14 A Within any community, within any neighborhood, or
15 even within the household itself there exists a series of
16 relationships to the rest of the world so to speak and which
17 encompasses friends, relatives, shopping, church, house of
18 worship, schools, education, affiliations and organizations,
19 all of which are a part of decisions as to where to live and
20 just as I indicated earlier, that most people in Morris
21 County move within the county, most people in low and middle
22 income neighborhoods in Newark or Jersey City move and
23 change their residences within a limited geographic area.

24 Q Is that by choice?

25 A Part of the reason I think by choice, part of their

1 choice is to maintain those social, cultural, historic and
2 psychological relationships.

3 Q Is there any reason from a planning point of
4 view to foster the continued difference between the percent-
5 age of low and moderate income people in one sub-area of a
6 region as opposed to another?

7 MR. VOGEL: You mean other than the answer
8 that Mr. Zimmerman just gave? He just gave you
9 the reasons?

10 Q Is there any reason other than that to continue --

11 MR. VOGEL: In governmental policies?

12 A Well, I've indicated that the planning goal that I
13 would advocate in this situation is freedom of housing choice.
14 That is not to the best of my knowledge the public policy
15 that is being employed by the State and federal government
16 and that most housing that is being built for low and moder-
17 ate income families is being built where they currently
18 locate -- where they currently reside.

19 MR. BISGAIER: We will take a luncheon
20 break now. Would you want to come back at one
21 o'clock?

22 MR. VOGEL: Why don't you go for 1:15?

23 MR. BISGAIER: Okay. 1:15 then.

24 (Whereupon a luncheon recess was taken.)

25 CONTINUED DIRECT EXAMINATION BY MR. BISGAIER:

1 Q This is regarding the request that you produce
2 basically your work product on this case that you've utili-
3 zed in doing your expert report which you anticipate utilizing
4 for your testimony including drafts of your earlier drafts of
5 your Z-1 and notes that you might have taken, intra-office
6 memoranda as well as documents on which you intend to rely.
7 It is basically what you produced here? Did you respond to
8 that request?

9 A That's correct.

10 MR. VOGEL: I'd like the record to note
11 that there are two piles of material -- three
12 piles of material that range from about eight
13 inches high to a foot high maintaining books,
14 pamphlets, notes, papers, etc.

15 Q We had specifically asked amongst other things
16 for your notes and reports regarding the Port Authority and
17 Tri-State estimates regarding household sizes. Would you
18 be able to locate those for us?

19 A Sure. You have the professional qualification state-
20 ment? Or is that buried here?

21 Q Did you bring with you your notes or associate
22 memoranda on your conversations with people of the Port
23 Authority that you indicated that you had that kind of docu-
24 mentation? It would be in here if you have it?

25 A Hopefully it would be in here. Let me just take a

1 minute to look through and see if I could find that one
2 page from Tri-State.

3 It appears that the data sheet published or produced
4 by the Tri-State transportation committee is not contained
5 in the materials I brought to the deposition hearing.

6 Q And you will --

7 A And I'll supply that vis-a-vis a letter to Mr. Vogel
8 who in turn will supply it to the Public Advocate.

9 Q Now have you included in this all of your work
10 product on this case whether it is in draft form or notes?

11 A To the best of my knowledge, yes.

12 Q Could you indicate for us, Mr. Zimmerman, with
13 regard to your clients and your involvement in prior litiga-
14 tion, presently your involvement in litigation those -- to
15 the best you can, the cases, names, or places where you are
16 doing that kind of work? This doesn't have to be on the
17 record. You can write it down to us off the record.

18 Will you be able to do that for us?

19 A I can do it on the record for you.

20 Q Fine. Why don't you do that.

21 A Max Raskin vs. Rockaway Township -- do you want all
22 litigation that I'm involved in?

23 Q Yes.

24 MR. VOGEL: How about just variance cases
25 and planning board applications and zoning change

1 Q That's Brownell?

2 A Brownell.

3 Q And Mohawk?

4 A Mohawk was to build an office building in a residential
5 zone.

6 Q And Synthatron?

7 A That was the case in Parsippany-Troy Hills local
8 Board of Adjustment to a use variance for an existing light
9 industry in a light industry zone.

10 Next?

11 Q Dover Diesel?

12 A Dover Diesel is a use variance undersized lot in
13 Roxbury Township.

14 Q Potter Coffee Service?

15 A Use variance for a retail industrial zone, Rockaway
16 Township.

17 Q You're seeking to have a retail use in an indus-
18 trial zone?

19 A That's correct.

20 Q And you have Rockford?

21 A Rochford R-o-c-h -- an undersized lot case in Morris
22 Township.

23 Q Would you be a little more specific?

24 A A proposal to build a residential single family
25 dwelling on a lot that is less than the minimum lot size.

1 Q Raskin?

2 A Max Raskin -- there are two cases. One involves Rocka-
3 way Township. He is contesting the designation of property
4 for single family housing. He wants to put up townhouses..

5 Q And this is where?

6 A Rockaway Township.

7 Q You said two cases?

8 A Yes. One is in Morristown. It's as the designation
9 of property as a residential and we think it should be busi-
10 ness.

11 Q And Brittany-Kambry?

12 A Kambry citizens. They are in opposition -- this is a
13 Montville Township and they are in opposition to a shopping
14 center developer who seeks to infringe upon the buffers and
15 side yard -- and yards to build a larger shopping center
16 than would be permitted.

17 Q Relt Management Company?

18 A Relt Management Company is a litigation involving a
19 zone change where the applicant or my client is objecting to
20 the change of the zoning of his property or the change of
21 the property in Little Falls.

22 Q What is the change that's being objected to?

23 A It's being changed from hi-rise apartments to hotel
24 commercial.

25 Q What town is that in?

1 A Little Falls.

2 Q You have Chester Boro citizens' group?

3 A Obviously Chester Boro. They are seeking a change of
4 zone from residential to specialized commercial.

5 Q This citizens' group is seeking a change?

6 A Yes.

7 Q For what purpose?

8 A They feel that the houses they live in are no longer
9 suitable for single family residential dwellings.

10 Q Loyola retreat?

11 A That is a feasibility study to review and make recom-
12 mendations concerning a portion of their property that may
13 be developable for housing as opposed to what's currently
14 zoned for now.

15 Q Where is that?

16 A In Morris Township.

17 Q What's it zoned now for?

18 A Office space government use zone.

19 Q And what are they seeking?

20 A Well, we haven't finalized that but it would be single
21 family housing anywhere from 15 to 30 thousand square foot
22 lots.

23 Q Are any of these matters --

24 MR. VOGEL: What about the doctor --

25 A This is a Morristown doctor who lives in a residence

1 and has his office in the residence and he is seeking to move
2 out and have the building used entirely for offices.

3 Q In any of these cases, did you give testimony?

4 A No, I don't think so.

5 Q In any of those cases, did you produce an expert
6 report which was either filed with the Planning Board, Zoning
7 Board or any other governmental agency or opposing council?

8 A No. I don't produce expert reports as a rule unless
9 I can help it.

10 Q What are you doing on those cases? Are you
11 anticipating giving testimony?

12 A Right.

13 Q Could you give me, to the best of your recollec-
14 tion, a list of those cases where you have given testimony?

15 MR. VOGEL: That would be just voluminous.

16 MR. BISGAIER: At the trial level?

17 MR. VOGEL: You mean in court?

18 A Well, frankly, I'm just not prepared to give you a
19 list. That would be -- at this time it would be superficial
20 to the best of my recollection and I would assume I'd miss
21 half the cases I have been involved in.

22 MR. VOGEL: For the record, Mr. Zimmerman
23 just gave you the list off the top of his head
24 of his current, not including the present one,
25 that he's on and he's been a planning consultant

1 for quite some time and that list would be
2 enormous of all the cases he's given testimony
3 on. Everyone of those cases he just gave you,
4 he's going to give testimony on.

5 THE WITNESS: Plus published work.

6 MR. VOGEL: Plus testimony for the town.

7 Q How difficult would it be say for the past three
8 to five years?

9 A Well, it's not a matter of difficulty, it's a matter
10 of time and, you know, preparation for this as I'm not being
11 reimbursed so I would find it difficult to put together the
12 three, four hours it would take to do this. I would have to
13 go through all my files.

14 Q To the best of your recollection now, if you can
15 remember, fine. If you can't in those cases in which you've
16 given testimony in court in last say five years?

17 MR. BISGAIER: Off the record.

18 (Whereupon a discussion was held off the
19 record.)

20 Q Where you have testified in court?

21 A You want a rundown like a brief 25 words or less?

22 Q No, just the names of the case and what side you
23 were on, who you represented, very briefly? What we already
24 have.

25 A The latest one is Kenneth Duda, D-u-d-a, vs. Mine Hill

1 Township; the municipality rezoned his property to residen-
2 tial from commercial and I appeared on behalf of Kenneth
3 Duda; Montgomery Township, this is a current case. The muni-
4 cipality zoned property, single family residential, and the
5 client seeks to erect multi-family housing.

6 Q What's the name of the client?

7 A It's -- let me write that down, maybe it will come to
8 me before this afternoon is over.

9 Q What county?

10 A Monmouth County.

11 Standard Roofing vs. Trenton. It is a current case.
12 The municipality declared property blighted, sought to con-
13 demn it through the urban renewal process and the applicant,
14 the Standard Roofing, is my client and is contesting that
15 planning board finding.

16 Leisure Technology vs. County of Monmouth, the county
17 condemned property owned by Leisure Technology, did not take
18 into consideration in the compensation paid the reasonable
19 probability of rezoning the property.

20 Wildlife Preserves Incorporated vs. Parsippany-Troy
21 Hills, the Wildlife Preserves Incorporated is in opposition
22 to industrial zoning of a portion of its property.

23 Colt, C-o-l-t, vs. Ocean Township. The client is in
24 opposition to rezoning of property to office research labora-
25 tory use from highway commercial use. That's a current case.

1 Caputo vs. Chester Township. The applicant or client
2 Caputo sought to have the single family zoning designation
3 of his property declared unreasonable and that was a case
4 that was about two years ago -- a year ago, something like
5 that.

6 MR. BISGAIER: Caputo was your client?

7 A Right.

8 Q How do you spell that?

9 A C-a-p-u-t-o.

10 Aldo and Joe -- let me just take a brief look at my
11 appointment book here. The Montgomery case, Montgomery Town-
12 ship, the client was Dunn, D-u-n-n.

13 I think that's frankly the best I can do at this point
14 and other cases will require examination of my files.

15 Q Your resume doesn't specifically refer to speci-
16 fic publications of yours. Do you have copies of your
17 publications in your office?

18 A I don't have any publications.

19 Q What about planning reports or planning studies
20 which have been for or produced or published?

21 A There aren't any.

22 Q You have never done a master plan?

23 A I'm in the process of doing one, a master plan. There
24 aren't any done.

25 Q You never did any publications or reports author-

1 ized --

2 A I usually do not.

3 Q And you don't recall any specific one that you
4 did?

5 A One in particular -- there may be one or two but they
6 don't come to mind.

7 MR. BISGAIER: Off the record.

8 (Whereupon a discussion was held off the
9 record.)

10 MR. BISGAIER: We'll do another deposition
11 hearing on the 20th in the morning.

12 MR. VOGEL: Nine o'clock in the morning?

13 MR. BISGAIER: Yes.

14 Q The books that you've produced here are what?
15 The publications that are not yours whether they are books
16 or reports?

17 A They're books that I referred to and that if I -- if
18 there were citations in my report they may refer to the
19 books here.

20 MR. BISGAIER: We will now take a look at
21 these. We are finished for the day.

22 (Whereupon the deposition was completed at
23 2:20 P.M.)

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C E R T I F I C A T E

I, JO-ANN KANNON
a Shorthand Reporter of the State of New Jersey,
do hereby state that the foregoing is a true
and accurate transcript of my stenographic notes
of the within proceedings, to the best of my ability.


