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General

11-Feb-1980

Deposition upon oral examination
of Mary E. Brooks - re: how
average household size is identified.

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CH000058S

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

MORRIS COUNTY FAIR HOUSING COUNCIL,
MORRIS COUNTY BRANCH OF THE NATIONAL
ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE and STANLEY C.
VAN NESS, PUBLIC ADVOCATE OF THE
STATE OF NEW JERSEY,

Plaintiffs,

DEPOSITION UPON
ORAL EXAMINATION
OF
MARY E. BROOKS.

-vs-

BOONTON TOWNSHIP, CHATHAM TOWNSHIP,
CHESTER TOWNSHIP, DENVILLE TOWNSHIP,
EAST HANOVER TOWNSHIP, FLORHAM PARK
BOROUGH, HANOVER TOWNSHIP, HARDING
TOWNSHIP, JEFFERSON TOWNSHIP,
KINNELON BOROUGH, LINCOLN PARK BOROUGH,
MADISON BOROUGH, MENDHAM BOROUGH,
MENDHAM TOWNSHIP, MONTVILLE TOWNSHIP,
MORRIS TOWNSHIP, MORRIS PLAINS BOROUGH,
MOUNTAIN LAKES BOROUGH, MT. OLIVE
TOWNSHIP, PARSIPPANY-TROY HILLS
TOWNSHIP, PASSAIC TOWNSHIP, PEQUANNOCK
TOWNSHIP, RANDOLPH TOWNSHIP, RIVERDALE
BOROUGH, ROCKAWAY TOWNSHIP, ROXBURY
TOWNSHIP and WASHINGTON TOWNSHIP,

Defendants. - - -

B E F O R E:

VICTOR SELVAGGI, JR., a Notary Public and
Certified Shorthand Reporter of the State of New Jersey,
at the MORRIS TOWNSHIP MUNICIPAL BUILDING, Woodland
Avenue, Morris Township, New Jersey, on Monday, February
11, 1980, commencing at 10 a.m.

KNARR - RICHARDS, ASSOCIATES
CERTIFIED SHORTHAND REPORTERS

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**MESSRS. MC CARTER & ENGLISH
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Attorneys for the Defendant Chester Township.**

**VICTOR SELVAGGI, JR.
Certified Shorthand Reporter**

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I N D E X

WITNESS

DIRECT

MARY E. BROOKS
By Mr. Pantel

2

1 M A R Y E. B R O O K S, previously sworn, recalled;

2 DIRECT EXAMINATION BY MR. PANTEL:

3 Q Miss Brooks, as you know my name is
4 Glenn Pantel. I'm with the firm of Shanley & Fisher
5 and we represent Harding Township in this matter. You
6 have already been sworn and I'll remind you again that
7 you are still under oath and have promised to tell the
8 truth in this matter to the best of your ability.

9 In your December 14, 1979 population report,
10 at Page 1 you indicate that the DCA employs a population
11 projection to 1990 and then identifies average house-
12 hold size for 1990. How do they identify this average
13 household size for 1990?

14 A I'm sorry,
15 that's not in the December 14 report, is it?

16 Q Yes, December 14, 1979 report at Page

17 A Would you repeat the question?

18 MR. PANTEL: Could you read the ques-
19 tion back, please.

20 (The Reporter reads back the last
21 question.)

22 THE WITNESS: In the very earliest
23 depositions we discussed these projections.
24 It's contained in one of the New Jersey DCA's
25 discussions of their household size projections
as contained in one of their background

1 working papers identified as prospective
2 housing needs.

3 Q Is that prospective housing needs
4 report identified in footnote 13 at Page 5 of the May,
5 1978 housing allocation report prepared by the DCA?

6 A Yes.

7 Q Are you personally familiar with how
8 the average household size was identified for 1990?

9 A To give you very much detail on that I would
10 have to go back and review the working paper.

11 Q All right. Was their method of
12 calculating average household size valid in your
13 opinion?

14 A They, as I recall,
15 assumed that the household size remains consistent
16 after a certain date and I feel that that assumption
17 is a conservative one and that it is possible that
18 on that basis, primarily that the New Jersey DCA
19 estimate of household size would be conservative.

20 Q When you say conservative, do you mean
21 it would be too low or too high?

22 A It results in a lower population projection
23 than might otherwise be the case for household size
24 projection -- I'm sorry, number of household projections.

25 Q We were just discussing the average
household size projection for 1990. Do you think that

1 when you say that that figure is conservative, do you
2 mean that the average household size projection for
3 1990 is too low or possibly too high?

4 A Possibly too high.

5 Q In your adjustment to the DCA report
6 you give credit to a municipality for assisted housing
7 units provided since 1969. Why did you not give credit
8 for changes in zoning ordinances since 1969 which would
9 allow for additional construction of least cost housing?

10 A As I've indicated before in the prior ques-
11 tions, in order to meet the housing needs identified in
12 the housing allocation plan, the units must be provided.

13 Q Did you undertake to determine the
14 amount of housing units within the region which had
15 been rehabilitated since 1969 so that they could be
16 suitable for low and moderate income households?

17 A No.

18 Q Do you think that there were any?

19 A It's possible.

20 Q And if they had been identified, could
21 that not reduce the net regional need for low cost
22 housing as reflected in your figures?

23 A The figures would have to be looked at very
24 carefully, but it is possible, yes.

25 Q Why didn't you look at rehabilitated

units?

A

There are several reasons.

The way in which I would have looked at them probably would have been through the provision of housing assistance funds made available for rehabilitation and I would have to check that, although I believe that that is not contained in the information that was collected by New Jersey DCA. In addition to that, to a large extent, the rehabilitation of the units are rehabilitated for households that remain in that unit.

Q Is that true if the unit is vacant

prior to rehabilitation?

A

I would say so.

Q Isn't it true that rehabilitated units

are vacant prior to rehabilitation because they are inhabitable prior to rehabilitation?

A Often rehabilitated units are indeed occupied most often.

Q With respect to the July, 1975 Series

2 DLI projections used by DCA in its May, 1978 fair share report, you stated that this is one of four DLI population projection series and it depends on a continuation of present level of State growth.

How far back in time does this present level of State growth go?

A

As I've indicated

on previous questions, the period was 1970 to 1974.

Q I believe you indicated at Page 2 of

Brooks - direct
 that report that the Series 2 assumptions were the most
 consistent with the recent direction and rate of growth
 for New Jersey. Do you agree with this belief
 apparently held by the DCA?

MR. BISGAIER: Read that question back.

(The Reporter reads back the last
 question.)

MR. BISGAIER: Miss Brooks has stated
 a number of times that that was the most, an
 example population projection given at the
 time it was used and she testified again on
 a number of times on more recent population
 projections as well as the 208 population
 projection that was used for the water
 facilities plan. I think this question is
 redundant and she already answered it.

MR. PANTEL: I don't believe she has.
 It's just simply a matter of a yes or no
 answer, so could you please answer the
 question?

THE WITNESS: Well, I can simply say
 that as Mr. Bisgaier stated, it is, indeed,
 the case and those statements are still true.
 I will add to that that you should recognize
 the DCA indicated that the Series 2 was the

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1 most consistent with the recent direction and
2 rate of growth for New Jersey in comparison
3 to the other three series that they were
4 evaluating.

5 Q My question is do you agree with that
6 DCA belief, yes or no? A Relative to

7 those other three, yes.

8 Q All right. Does DCA still adhere to
9 this belief? A I don't know.

10 Q Do you believe that the assumptions
11 underlying the DCA population projections of 1975 are
12 valid today?

13 MR. BISGAIER: She already testified
14 to that. You really don't know the answer
15 based on the prior testimony?

16 MR. PANTEL: I don't believe she
17 directly responded to that question in her
18 prior testimony.

19 THE WITNESS: In the reports that I've
20 prepared, they are my evaluations of DCA
21 population projections and unless you want
22 me to reiterate what is in those reports, I
23 have nothing else to add.

24 Q Do you believe that the assumptions
25 are valid today, the assumptions being the assumptions

1 underlying the July, 1975 Series 2 DLI population
2 projection?

3 MR. BISGAIER: Didn't you just say
4 you have nothing to add other than what is
5 in your report?

6 THE WITNESS: Yes.

7 Q Which report?

8 A I believe the second report I submitted is
9 the evaluation of the New Jersey DCA plan. For your
10 own clarification, I should add I guess that a popula-
11 tion projection is made at a point of time and as I've
12 indicated, the assumptions were valid at that point in
13 time. I believe we discussed the alternative population
14 projections a number of times.

15 Q Without regard to the alternative
16 population projections, just looking at the population
17 projection which is actually used by DCA and by your-
18 self, do you think that events subsequent to 1975 when
19 that population projection was issued have indicated in
20 your mind whether or not that population projection was
21 valid and was indeed correct?

22 A Well, as I understand your question, as I've
23 indicated before at that time, yes.

24 Q Have you compared that July, 1975
25 Series 2 population projection with actual population

1 counts taken subsequent to that projection to see if it
2 was accurate? A No.

3 Q Do you think that such a check or
4 study could be performed? A If the
5 projections were done on a frequent enough basis it
6 could, yes.

7 Q Do you think such a check or study
8 could be performed to ascertain the validity of the
9 July, '75 Series 2 population projection?

10 A Isn't that exactly the same question you just
11 asked me?

12 Q Yes, but I wasn't sure in light of
13 your response to it, I didn't understand if you under-
14 stood the question. A I did under-
15 stand the question and I said the projections were done
16 in a time interval that was appropriate to that check,
17 yes.

18 Q Why didn't you do such a check?

19 A It wasn't necessary for -- I didn't believe
20 it was necessary.

21 Q Why not? A I should
22 clarify that in the, I believe I would have to check
23 this to remember accurately, the ODEA series there is
24 such a comparison performed of that and I did certainly
25 obviously review those.

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1 Q After your review, what was your
2 opinion of the population projections which we were
3 discussing?

4 MR. BISGAIER: She already testified
5 that she believes that the 208 population
6 projection is being used for the water
7 facilities review. I don't know why we have
8 to go over that again. What more are you
9 going to ascertain from her in terms of her
10 opinion on that?

11 MR. PANTEL: There is a question of
12 really how much more appropriate. There is a
13 question of the extent of the validity of
14 the Series 2 projections used by DCA and I'm
15 trying to find out Miss Brooks' opinion as
16 to the validity of those figures and you
17 keep just saying well, she already said that
18 the 208 population projections would have
19 been more appropriate to use, but I don't
20 think that answers my question about her
21 opinions concerning the population projection
22 which actually was used. She made a couple
23 statements about that in her reports and I'm
24 trying to flesh out those comments.

25 Q The question was after reviewing those

1 comparisons, what was your opinion concerning the
2 validity of the DLI 1975 Series 2 projection?

3 A I don't really have anything to add to what
4 I've already said. As I've indicated before, the 208
5 projections appear more realistic at this time and I
6 made evaluations of the Series 2 projections at the
7 time as is true with any projection when checked
8 against the actual data, they don't always match.

9 Q What was the extent of the discrepancy?

10 A I don't remember.

11 Q How significant was the discrepancy
12 in your mind? A I don't remember.

13 Q Did you take any notes with respect
14 to this comparison and this discrepancy?

15 A Not that I recall. The data is there, it's
16 charted out in each of the reports.

17 Q In your December 14, 1979 report on
18 population projections, you stated that figures for
19 assisted housing units since 1969 were not shown in the
20 accompanying tables or in the accompanying housing
21 allocation figures in order to facilitate comparisons.
22 What comparisons would that facilitate?

23 A Could you refer me to the page?

24 Q Yes, Page 2, the third paragraph with
25 the dot next to it. A It only refers

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2 to the fact that in this present report of December 14th
3 I did not make those adjustments. They were made in the
4 other report. It seemed to me that a comparison of the
5 impact of the different population projections was more
6 straight forward and would be simpler to understand if
7 I did not incorporate that in this evaluation.

8 Q Did you calculate the adjusted housing
9 allocations for these different population projections
10 just as you did for the original DCA report?

11 A No. As I explained in this report on Pages
12 3 and 4 there were certain assumptions that had to be
13 made in order to facilitate the comparison in this
14 report that permitted me not to go through the detailed
15 jurisdiction by jurisdiction calculations.

16 Q What is your understanding of the
17 purpose for the population projections used in the 208
18 reports?

19 MR. BISGAIER: She already testified
20 to that.

21 MR. PANTEL: She has not testified as
22 to what her understanding of the purpose for
23 those projections were.

24 MR. BISGAIER: I'm sure she testified
25 that the basis of them is the basis of the
creation for the water facilities and sewer

1 facilities.

2 THE WITNESS: To answer very simply,
3 the regulations that govern the 208 as well
4 as other required plans for environmental
5 protection have a set of requirements attached
6 to them and include in those requirements an
7 assessment of the impact on water quality,
8 based on a variety of factors of which
9 population changes is one.

10 Q Are these population projections
11 linked in any way to the construction of new water and
12 sewerage facilities which would make those population
13 projections appropriate? A In the 208
14 plan specifically they are not. However, as I recall,
15 this may not be precisely accurate, recently the
16 Department of Environmental Protection Agency combined
17 requirements for the, I think it's the 303 E and the
18 208 which would facilitate that comparison.

19 Q Are the 208 population projections
20 consistent with good water quality management for
21 northeastern New Jersey even if no new sewerage and
22 water quality facilities were to be built?

23 MR. BISGAIER: What was that question?

24 THE WITNESS: I don't understand the
25 question.

1 Q Are the Section 208 population
2 projection figures consistent with good water quality
3 management for northeastern New Jersey assuming that
4 no new sewerage and water quality facilities are to
5 be built? A I don't fully understand
6 the question. I guess I have to say I don't know. As
7 I've indicated, it's my understanding that EPA does
8 ask for some consistency between those two plans that
9 I've identified earlier.

10 Q What don't you understand about the
11 question?

12 MR. BISGAIER: I don't understand the
13 question either. Is this population growth
14 appropriate if there is no water and sewer
15 construction built to accommodate the
16 population?

17 Q My question is would the 208 popula-
18 tion projection be consistent with good water quality
19 management assuming that no new facilities would be
20 built and that existing water and sewerage facilities
21 would have to handle the projected population?

22 A I have to answer your question by saying that
23 is not the intent of the population projections and
24 population projections are not normally done on that
25 basis.

1 Q What is your understanding of the
2 consideration given in formulating the 208 projection
3 figures to particular septic, sewerage and drinking
4 water problems currently experienced in Harding Township?

5 A In making the population projections for the
6 208 plan?

7 Q Yes.

8 MR. BISGAIER: Are you familiar with
9 the fact that 208 does not at present
10 constitute, does not cover non public
11 facilities?

12 MR. PANTEL: Well, it still projects
13 certain population.

14 MR. BISGAIER: To be accommodated by
15 the capacity of the public systems. I don't
16 know that that is necessarily the thrust of
17 your question.

18 THE WITNESS: You need to repeat the
19 question.

20 MR. PANTEL: Could you read back the
21 question.

22 (The Reporter reads back the last
23 question.)

24 THE WITNESS: My understanding of the
25 208 requirements, that consideration would

1 not have been necessary.

2 Q Is that because the 208 projections
3 are based on the assumption that public sewerage and
4 water facilities would be used to serve the projected
5 population? A Would you repeat the

6 question?

7 MR. PANTEL: Read it back, please.

8 (The Reporter reads back the last
9 question.)

10 THE WITNESS: It's my understanding
11 that the population projections, this may
12 not answer your question, it is my under-
13 standing the population projections are not
14 based on that assumption. The mandate given
15 an agency for the 208 plans is related to
16 public facilities.

17 Q How so? A I don't know
18 how to answer that.

19 Q Why was it not necessary to consider
20 these problems which are particularly unique or which
21 are being experienced by Harding Township, that is, the
22 drinking water and sewerage and septic problems in
23 formulating the 208 projections?

24 A As I indicated earlier, the population
25 projections are formed on another basis.

1 Q And that basis being?

2 A The kinds of considerations that are made
3 in population projections such as survival rate of
4 the present population, migration patterns, other
5 factors that go into the normal population projection.

6 Q Okay. Should a planner consider the
7 cost of necessary sewerage and water treatment
8 facilities in formulating population projections for
9 a 208 plan? A Not in my opinion.

10 Q Why not? A I don't
11 see the relevance.

12 Q Have you considered those costs?

13 A For what purpose?

14 Q In determining the possible validity
15 or invalidity of the 208 figures?

16 A No.

17 Q Apart from costs, should a planner
18 consider the technological feasibility of requisite
19 water and sewerage treatment plants in order to sustain
20 population projected in a 208 plan?

21 A May I ask a question? I don't care whether
22 it's on the record or off the record.

23 MR. BISGAIER: Go ahead.

24 THE WITNESS: I need to know whether
25 there is a distinction of the question you

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are asking within the regulations of the 208 plans or something other than that.

Q The question pertained to the 208 plan.

The question was that apart from costs, should a planner also consider the technological feasibility of requisite water and sewerage treatment plants to sustain a population projected in a 208 plan?

A I have not reviewed all the requirements for the 208 plans recently enough to answer that question accurately.

Q Would it be wise to consider the technological feasibility apart from any legal requirement to do so?

A I find the use of the word wise strange. I don't believe that consideration is necessary in making population projections.

Q In your December 14, 1979 population projection report, you stated that the April, 1979 ODEA

series by the DLI was an improvement over earlier population projections because it is premised on population change as a "function of natural increase and migration", that is, it links migration patterns and economic variables, therefore it is called a demographic economic link models. What economic variables

are considered? A I believe I listed those specifically in particular depositions. As I

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recall, they were such factors as employment, --

MR. BISGAIER: If you are comfortable, would you answer the question.

THE WITNESS: I answered it already.

MR. BISGAIER: Just say you were relying on the prior answer.

Q You have indicated in response to the last question you will rely on your previous answers given in depositions?

A Yes.

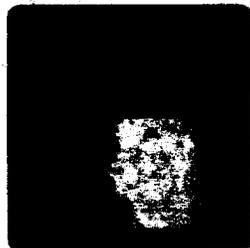
Q What migration patterns are considered in this April, 1979 ODEA projection?

A Again, as I recall, it's the movement of population within an area or among areas.

Q Could you describe that movement with more particularity as it pertains to Morris County or Harding Township?

A As I recall, in

the series they divide the population into three categories, those households -- population below age 65, population over 65 and the military. They evaluate migration patterns for population under 65, as I understand it based on patterns, past patterns. I don't know how much more specific you want. They use a different model for population over 65 in the assumption that their migration patterns are not as significant as the migration patterns of the population under 65.



1 Q What is the nature of these migration
2 patterns? Where are populations moving in northeastern
3 New Jersey?

4 MR. BISGAIER: Is that a question that
5 refers specifically to the ODEA report?

6 MR. PANTEL: It refers to the migra-
7 tion patterns considered by the ODEA in their
8 projections. She described the persons by
9 category which are --

10 MR. BISGAIER: Doesn't the report
11 speak for itself?

12 MR. PANTEL: I wasn't furnished with
13 it.

14 MR. BISGAIER: If you can answer the
15 question.

16 THE WITNESS: I don't know the answer
17 to the question.

18 Q All right. What is your opinion as to
19 where populations are moving in northeastern New Jersey?

20 A I have evaluated data on the population
21 movements. I don't recall now anything specific.

22 Q Has Harding Township's population
23 increased since 1970?

24 MR. BISGAIER: The problem with this
25 kind of question, it goes back to a report

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that Miss Brooks filed and data that was collected in April of last year which indicated Harding Township's population and building permit data for Harding Township. I would just say that those reports essentially speak for themselves and if you want her to take the time to answer all these questions and review all that material, that's fine.

MR. PANTEL: This won't take more than a minute.

THE WITNESS: I thought I had that information.

Q I'm not sure.

A Then I don't know.

Q Your answer to the question then is you don't know if Harding Township's population has increased since 1970?

MR. BISGAIER: The answer to the question was that it may be contained in any number of reports that have been supplied to her and she doesn't have that information in front of her right now.

Q Do you know if for a fact you calculated whether Harding Township's population has increased or decreased since 1970 or if you had not

1 personally calculated it, if you had reviewed any such
2 data? A No, I'm not certain. I am
3 certain that I looked at the increase in building
4 permits during that period.

5 Q Okay. How would the migration patterns
6 and economic variables in the ODEA April, 1979 projec-
7 tion be linked? A How were they

8 linked?

9 Q Yes.

10 MR. BISGAIER: Off the record.

11 (There is a discussion off the record.)

12 Q What mathematical method was used to
13 link the migration patterns and economic variables in
14 this ODEA projection? A The method
15 is described in the ODEA report. I don't have anything
16 to add other than how I've described it in previous
17 depositions.

18 MR. BISGAIER: Have you produced a
19 copy of that report?

20 THE WITNESS: Yes.

21 Q What do you mean by produced?

22 A I had it available here and it was reviewed
23 by one or more attorneys.

24 Q We would like to have that available
25 for copying so that it can be kept in our possession.

1 A It is a public document.

2 Q Are you personally familiar with the
3 mathematical method used to link the migration patterns
4 and economic variables in that ODEA projection?

5 A No.

6 Q Are you familiar or do you have any
7 expertise in statistical computations like regression
8 analysis which are used often times in population
9 projections?

A I've performed such
10 analysis and I don't do it customarily.

11 Q Do you have an opinion concerning the
12 relative soundness of the mathematical methodologies
13 used in the three population projections discussed in
14 your December, 1979 report on population projections?

A As I've stated before and as I think you
16 recall, the 208 in the ODEA series are based on the
17 same population projections, so the method employed is
18 identical in the mathematical sense. While the method
19 employed in the earlier Series 2 projections is a
20 different one, they are valid population projection
21 methods commonly employed.

22 Q What is the difference in the mathe-
23 matical method used in those two sets of projections,
24 the two sets being the 208 and the DCA which you say
25 use the same mathematical methodology and the other

1 set being the ODEA model? A You have
2 that mixed up.

3 Q What are the two sets?

4 A Series 2 is one set of population projections.
5 The 208 population projections are the ones developed
6 by DLI and is the same as used in the ODEA model.

7 Q Okay. A There are
8 different assumptions that occur after that.

9 Q Now, what is the difference in
10 methodology then between the Series 2 on the one hand
11 and the 208 and ODEA on the other hand?

12 A Well, I would have to go back and review
13 those reports to give you a very specific answer. As
14 I've indicated before, the Series 2 is basically a
15 projection based on a time period of 1970 to 1974 an
16 assumption of a continuation of trends. The alternative
17 model uses a different series of assumptions and does
18 actually go through such processes as a cohort survival
19 projection and some other methods commonly employed in
20 population projections, but to give you a very precise
21 answer I would have to go back and review the reports.

22 Q Did you review them at the time of
23 your preparation of your December report with the
24 idea in mind of comparing the soundness of the dif-
25 ferent mathematical methods used in the projections?

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A No.

Q Why not?

A I reviewed the documents covering the population projections and I had found reason to believe that they were not employing a fairly standard population projection. I may have then decided that that might have been necessary. I didn't see that it was necessary when I reviewed it.

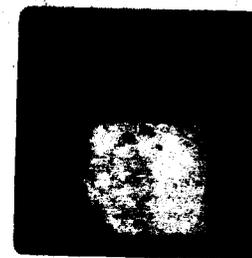
Q Is it your opinion that the mathematical method used in those projections mentioned in your 1979 report are all equally valid?

A Equally valid is sort of an irrelevant quality to put on an evaluation. The methods are different methods and they are valid. They make different assumptions, they come up with different results. Neither of them is an invalid population projection method.

Q Concerning this April, 1979 population projection in the ODEA series, you mentioned that population changes seen as a function of natural increases in population as well as migration. What do you mean by natural increases?

A That's quite literally the way the population increases automatically with births and deaths.

Q What is the current natural increase



1 in New Jersey? A I don't know.

2 Q For the United States?

3 A I don't know.

4 Q For Harding Township?

5 A I don't know.

6 Q For Morris County?

7 A I don't know.

8 Q What has the rate been for the last
9 five years? A I don't know.

10 Q Do you know for the last 10 or 20
11 years? A No.

12 Q Do you have any idea what the natural
13 increase in population is expected to be in the future?

14 A Not without looking that up, no.

15 Q What is the effect of trends toward
16 later and fewer marriages on natural increases in
17 population? A The existence of that
18 trend shifts the projected population that is estimated
19 within any particular cohort of the population to a
20 later period.

21 Q Will a trend toward later marriages
22 and fewer marriages decrease natural increases in
23 population? A Not necessarily.

24 Q Why not? A Because
25 it refers to the fact that individuals may decide to

1 get married at a later point in their life. It does
2 not necessarily mean that they decide not to have
3 children, which is how the population is increased.

4 Q Would a trend toward fewer marriages
5 decrease natural increases in population in the future?

6 A It could.

7 Q Why wouldn't it?

8 A People decide to have children out of wedlock.

9 Q Do you think that natural increase
10 of populations will be greater or larger in the future?

11 A Excuse me, would you repeat the question?

12 Q I think you already answered it anyway.

13 Do you think that in the future natural
14 increases in population will be greater or larger than
15 they are now?

16 MISS HARRISON: Greater or smaller?

17 Q Excuse me, greater or smaller than
18 they are now? A To answer that

19 question I guess you need to understand something about
20 population projection. The increase in population is
21 based on the rate of survival at childbirth. It is
22 also based on the increase of the number of women in
23 what is considered a child producing rate. After the
24 baby, there comes a period of time some 20 years after
25 that when there is a large number of women in child

1 bearing ages greater than has been the case, let's say
2 five or 10 years prior to that, so those two items are
3 what influence largely the increase in population. It
4 appears to be the case that the rate of, let's say
5 children per family is decreasing, however the popula-
6 tion is, in fact, still on the increase.

7 Q How could that be?

8 A That's what I just indicated, that there are
9 more people producing children than there were earlier.
10 They may or may not be producing less children per
11 person.

12 Q Do you think that the woman's libera-
13 tion movement and increased employment by women and
14 increased emphasis of women upon careers will have any
15 effect on natural increases in population?

16 A My personal opinion is no. In terms of
17 whether or not I studied that, I don't know.

18 Q Have you studied that?

19 A No. In fact, it's the opposite of that.

20 Q How many New Jersey counties are
21 included within the tri-state planning region?

22 A Nine, I think.

23 Q Do you know what counties are included
24 in the tri-state planning region and is not in Region
25 11 in this case? A Monmouth County.

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Q What reason was there not to adopt tri-state's nine county region as the appropriate region in this case?

A By New Jersey

DCA?

Q By New Jersey DCA and yourself.

Excuse me, let's break that down. First, why did New Jersey DCA not adopt the nine county tri-state region as the appropriate region in this case?

A New Jersey DCA discusses that at length in one of it's working papers in background for the New Jersey DCA allocation plan.

Q What is your understanding why New Jersey DCA did not adopt this tri-state region?

A I don't recall, other than the prior testimony I've given to that in the earlier depositions.

Q Did you specifically answer the question in prior depositions as to whether or not or as to why the DCA did not use tri-state's planning area and remember, you are under oath?

A I don't appreciate the nasty remark, but other than that, I don't recall if we discussed the specific reasons that New Jersey DCA did not employ tri-state's region. I do recall discussing the fact that that was one of the regions that the New Jersey DCA evaluated and identified in its own region and we

1 discussed that same fact in these more recent deposi-
2 tions.

3 MR. BISGAIER: In any event, the
4 document speaks for itself. Miss Brooks
5 does not have any knowledge beyond what
6 the documents state.

7 MR. PANTEL: What document is that?

8 MR. BISGAIER: The working paper on
9 regions which went into the DCA report. If
10 you want to test her knowledge on that, I
11 think she should be given the opportunity
12 to read the document which would result in
13 a delay on taking a deposition in this.

14 Q Do you think the DCA could have
15 adopted tri-state's nine county region as the region
16 in this case? A They could have.

17 Q Do you think that would have been
18 valid? A As I've already indicated
19 a number of times, at this point I adopted the Region
20 11 for making the adjustments in the New Jersey DCA
21 Report. I have indicated before that I thought the
22 tri-state region was an alternative region to Region
23 11 for consideration.

24 Q By an alternative, what do you mean?
25 A An acceptable alternative.

1 Q Why didn't you personally adopt it
2 if it were an acceptable alternative?

3 A We have also discussed this in prior deposi-
4 tions. In making adjustments to the New Jersey DCA
5 allocation report which was the basis for my considera-
6 tion of the region, I felt it was the making -- the
7 adjustments was facilitated by retaining the regions
8 defined by New Jersey DCA.

9 Q For purposes of availability of data,
10 for example? A No, that would not
11 be an example.

12 Q What would be an example?

13 A An example of what?

14 Q An example of why you decided to, an
15 example of a reason as to why you decided to accept
16 DCA's region if data availability is not one of those
17 reasons? A One of the reasons

18 for accepting the region?

19 Q Yes. A The way in
20 which I've answered this in the past, which is the
21 position I still hold, is that a more acceptable region
22 is one that extends beyond the State of New Jersey and
23 for purposes of adjusting the New Jersey DCA Housing
24 Allocation Report and in dealing with the responsi-
25 bilities of a state agency, I felt it was adequate to

1 adopt the definition of the region as they utilized
2 them in their allocation report.

3 Q Why would it be better to go beyond
4 New Jersey? A I've discussed this

5 before. I feel that those counties identified in
6 Region 11 are part of a larger region.

7 Q Would it be appropriate for Harding
8 Township's housing region to go beyond New Jersey?

9 A I believe so.

10 Q What do you base that opinion on?

11 A That Morris County is, indeed, part of a
12 region that extends beyond what is defined as Region 11.

13 Q What areas outside New Jersey would
14 you include for Harding Township's housing region?

15 A We discussed that earlier this morning. Two
16 alternatives, tri-state regional planning region or
17 the New York-New Jersey consolidated statistical area.

18 Q The tri-state region includes parts
19 of Connecticut, does it not? A Yes, it

20 does.

21 Q And if you had your druthers, you
22 would include those outlying counties in Connecticut
23 as well as the tri-state New York counties as well as
24 New York City then in the housing region for Harding
25 Township's? A Those are incorporated

1 in the tri-state regional planning commission, yes.

2 Q You would incorporate those in Harding
3 Township's region if you could?

4 A If I were to utilize that region, yes.

5 Q And if you had your druthers, you
6 would prefer to use that region rather than Region 11?

7 A I think there are considerations that under
8 the circumstances that make it prudent to consider
9 Region 11 and we are dealing with a state agency and
10 the state agency prepared housing allocation plan.

11 Q Are you familiar with the definition

12 of housing region in the Mt. Laurel and Oakwood at
13 Madison opinions?

14 A Generally. I've
15 not reviewed it for sometime.

16 Q When you determined as to what region
17 you would use in this case, did you review the Mt.
18 Laurel and Oakwood at Madison opinions definitions of
19 housing region in this type of zoning case?

20 A An evaluation of the region as defined I
21 believe in Mt. Laurel and subsequently I'm not sure
22 if I'm recalling this accurately, discussed in an
23 executive order was taken in consideration by New
24 Jersey DCA in its delineation of regions.

25 Q Did you personally review the Mt.
Laurel and Oakwood at Madison opinions definition of

1 region?

2
3 MR. BISGAIER: It's already been
4 answered.

5 THE WITNESS: Not more so than it was
6 done in the New Jersey DCA allocation.

7 Q Have you ever seen the definition of
8 region as used in the Mt. Laurel and in the Oakwood at
9 Madison opinions?

10 MR. BISGAIER: She already testified
11 now twice that she reviewed those opinions
12 at sometime in the past. What do you mean
13 by seen? She's read them.

14 Q Have you read those opinions?

15 A Yes.

16 Q If zoning were as you would like it
17 to be or as you advocate it to be in this lawsuit,
18 would Harding Township draw a substantial portion of
19 its population from the tri-state counties in
20 Connecticut?

21 A Your question has
22 so many assumptions in it that you probably aren't
23 going to like my answer. The best way I can answer
24 this is that the reports that I've prepared and the
25 testimony I've given in relationship to Harding
Township, an identification of an allocation for
meeting housing needs of low and moderate income

1 persons was that housing made available. In my opinion,
2 it's conceivable that that population would be drawn
3 from a region as large as the tri-state regional
4 planning commission's region.

5 Q If the zoning in effect were consistent
6 with the zoning advocated by the Public Advocate in
7 this case, would a substantial part of Harding Township's
8 population be drawn from north Bergen County towns like
9 Oradel and Westwood and Riverdale, Montvale?

10 A I don't know what you mean by substantial.
11 It is conceivable to me that there would be population
12 movement between Bergen County and Morris County as
13 there is now.

14 Q I didn't ask about Bergen County and
15 Morris County. I asked about movement between Harding
16 Township and that is Harding Township drawing a
17 substantial part of its population from north Bergen
18 County near the New York border, the border of New York
19 State toward Sussex County. A My answer

20 ~~does not~~ does not change.

21 Q How far is Harding Township from the
22 northern most portions of Bergen County?

23 A I don't know.

24 Q How can you offer an opinion concerning
25 the possibility of Harding Township drawing the

1 population from the north part of Bergen County if you
2 don't know how far Harding Township is from those
3 areas?

4 A I have reviewed planning
5 data and other information for the tri-state regional
6 planning commission as a course of the work that I'm
7 engaged in normally and it is evident to me that there
8 are population shifts among that region, among county
9 and jurisdictions within that region and based upon
10 that knowledge I believe that's conceivable.

11 Q What document did you review?

12 A I'm talking about information that is
13 generally available in the region and my ability to
14 be very specific about it is not very great at this
15 point. Tri-state regional planning commission does
16 prepare a variety of reports about population movement
17 in a region and have done so in the past.

18 Q Are you familiar with the transportation
19 system within the eight county Region 11?

20 A Not specifically, no.

21 MR. BISGAIER: My objection to that
22 line of questioning is that if you are going
23 to ask her questions about that, she should
24 have the opportunity to review the data that
25 is available regarding that.

Q Did you review or study the transporta-

1 tion system within the eight county region when you
2 decided upon that region as the appropriate region in
3 this case? A Not directly, no.

4 Q What do you mean by not directly?

5 A I did look at commuter patterns.

6 Q What commuter pattern data did you

7 review? A Material that's available
8 from tri-state regional planning commission.

9 Q Did you study the existence of employ-
10 ment centers within this region, within this eight
11 county region to determine the appropriateness of
12 adopting it? A No.

13 Q Did you study employment centers in
14 any given municipality? A No.

15 Q Did you review this commuter data
16 from the prospective of how it had any bearing on any
17 given municipality? A No.

18 Q Did you review this commuter data to
19 see if what portion of any specific municipality's
20 employees worked in any given areas outside the town
21 in a particular municipality like Harding Township
22 for example?

23 MR. BISGAIER: For what purpose?

24 Q For the purpose of determining the
25 appropriateness of the region?

1 A For a particular township?

2 Q Yes. A No.

3 Q Did you, in determining the appropri-
4 ateness of this region, did you focus at all upon a
5 particular municipality like Harding Township? Did
6 you focus upon any data specific to Harding Township?

7 A No.

8 MISS HARRISON: Off the record.

9 (There is a discussion off the record.)

10 Q You mentioned that you reviewed tri-
11 state commuter data in evaluating this region. Do you
12 have any recollection what tri-state documentation you
13 did review? A I guess there are two
14 answers to that question. I did provide early on in
15 the depositions a complete list of documents used in
16 the preparation of these reports. They may or may not
17 be listed in that listing if they were not used directly
18 for the preparation of this report. Tri-state has
19 prepared what I think are called technical, interim
20 technical reports. I'm not sure if that's right, and
21 they are public and widely available and they come out
22 periodically. As I recall there were a set of those
23 reports prepared by tri-state regional planning
24 commission.

25 Q How current was the data contained in

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those reports?

A As I recall it was

based on 1970 data.

Q Was there anything more current than

the 1970 data?

A I don't know.

Q How was that data organized? How

was it presented?

A I really cannot

at this point recall all of the reports I looked at and
I do review tri-state regional planning reports as a
course of work I do outside this court case.

Q Did it include --

A Let me finish my answer.

Q Yes, excuse me.

A As I recall, the information is presented in
tabular form, generally by county and they do frequently
and in most of their reports include mapped data by
zones that they have developed, plus some narrative
description of the information.

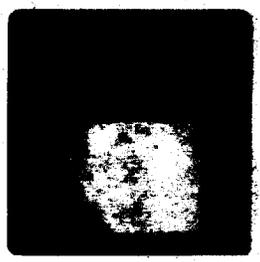
Q Did it include any information
specific to Harding Township as to commuter patterns
within, to or from Harding Township?

A Not that I recall.

Q Did it have commuter information to
or from any other specific municipalities?

A Not that I recall. In Morris County?

Q Yes, within Morris County.



1 A Not that I recall.

2 Q Within any other municipality within
3 the Region 11? A I believe they did

4 collect information relative to commuter patterns to
5 certain central business districts.

6 Q Did you consider the location of
7 educational or cultural facilities in determining the
8 appropriateness of the region?

9 A No.

10 Q Did you consider the location of
11 communities service facilities like hospitals and
12 Government supplied recreation centers and the like in
13 determining the appropriateness of the region for any
14 municipality and for Harding Township?

15 A No.

16 Q Would it be correct and fair to say
17 that in then deciding to adopt Region 11, you just
18 looked at the geographical boundary of Region 11 as
19 determined by the DCA and decided that it was not
20 unreasonable and therefore adopted it?

21 MR. BISGAIER: She already testified
22 that she reviewed a DCA working paper on
23 regions as well.

24 Q Apart from reviewing DCA paper on
25 regions and apart from looking at the physical boundaries

1 of the region and apart from looking at this tri-state
2 commuter data, did you do anything else in deciding
3 that this was the appropriate region for this case?

4 A I would like to go off the record and ask
5 him something.

6 Q Sure. Off the record.

7 (There is a discussion off the record.)

8 MR. PANTEL: Could you read back that
9 last question, please.

10 (The Reporter reads back the last
11 question.)

12 THE WITNESS: I did look at other
13 regions identified by various public agencies
14 available in various public reports,
15 including various census areas defined by
16 the census.

17 Q In New Jersey?

18 A Yes.

19 Q Covering Morris County?

20 A Yes.

21 Q Now, what were these other regions that
22 you looked at which covered Morris County and therefore
23 also covered Harding Township?

24 A I looked at the regions identified by New
25 Jersey DCA in its working paper and they discussed

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1 alternative regions used by various agencies. I
2 actually went back and looked at those regions. I
3 don't recall what each of them are.

4 In addition to that, the census defines for
5 instance standard metropolitan statistical areas, two
6 others which for some reason today I can't think of
7 the names, of statistical areas that are generally
8 larger than SMSA's which have applicability to a region
9 within Morris County. I looked at those as well.

10 Q Could you find out what those two
11 other regions were and get that information to me through
12 Mr. Bisgaier? A Yes. I may not be

13 recalling these correctly because I haven't looked at
14 it for a long time and I have a problem identifying
15 what those regions are.

16 Q Those were two regions which are
17 larger than Region 11 which you can't recall now and
18 which you will be able to get to me?

19 MR. BISGAIER: She has already
20 identified one as the consolidated statistical
21 area as the metropolitan New York region.

22 Q What organization or group is
23 responsible for promulgating that region?

24 A The United States Census.

25 Q Does that region include Harding

1 Township? A Yes.

2 Q Does it include all of Morris County?

3 A Yes.

4 Q Does it include all of Region 11?

5 A Yes.

6 Q What else does it include?

7 A I don't recall.

8 Q Does it include New York City?

9 A I believe so.

10 Q Does it include any of Connecticut?

11 A I don't recall. I don't think so. I'm sorry,
12 I know it does not.

13 Q Does it include any municipalities in
14 New York State outside of New York City on Long Island
15 or in the counties north of New York City?

16 A I believe so.

17 Q Now, apart from that region, that
18 consolidated statistical New York Metropolitan area,
19 you mentioned you looked at certain SMSA's in New
20 Jersey. I presume you looked at the Newark SMSA. Is
21 that correct? A That's correct.

22 Q What other SMSA's did you look at?

23 A Jersey City SMSA and the Paterson, Clifton,
24 Passaic or whichever order those three are in, their
25 SMSA.

1 Q And you looked at the SMSA's, you
2 looked at that consolidated statistical metropolitan
3 area and you looked at one other region which is
4 larger than Region 11 which you can't recall now and
5 you looked at the regions in DCA's working paper on
6 regions. Is that correct?

7 A That's correct.

8 Q Any others besides that?

9 A Not that I recall.

10 Q Can you recall any of the alternative
11 regions mentioned in DCA's working paper on regions?

12 A Tri-state regional planning commission's
13 region, I believe they look at the regional planning
14 association's region, they look at the regions identified
15 by the Department of Environmental Protection and
16 several other regions either employed or discussed in
17 various state documents.

18 Q What is the region advocated by the
19 regional planning association?

20 A It's larger even than the tri-state regional
21 planning commission's region. I don't recall what
22 additional counties.

23 Q Is it confined to New Jersey?

24 A No.

25 Q What areas does it include outside

1 New Jersey? A Portions of New York.

2 Q Including the City, New York City?

3 A I think so.

4 Q What is the regional planning

5 association? A It's a private planning
6 organization.

7 Q What is its purpose?

8 A It develops plans and provides evaluations
9 of various development and planning issues for its
10 region constituents.

11 Q Who is it funded by?

12 A I believe by various -- they are not really
13 called member organizations, but it's largely supported
14 by business interests and other private sources of
15 funding. I'm not sure of that.

16 Q What is the purpose of the region

17 which would be set forth by the regional planning
18 association? In what context would they set forth a
19 region? A I am not certain that

20 they identified a region as a delineation of the area
21 in which they are particularly funded.

22 Q Do you know for what purpose, though,
23 that they would decide upon a particular region?

24 A No. I'm sure they did it for planning
25 purposes and they do undertake various, the development

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of various plans and evaluation of planning issues and they evidently decided on a region that they thought was appropriate.

Q Can you be more specific than that?

A No, I can't.

Q And then you don't really know the exact purpose and nature of the project for which the regional planning association would have adopted a region?

A They probably did not have a specific project in mind. I mean, I don't know how else to answer it. It is my understanding they delineated a region they felt was appropriate to engage, they felt appropriate for the planning studies and evaluations that they undertook.

Q What was the EPA's region?

A As I recall it's the same as employed in the 208 plan.

Q Do you know if the DCA working paper on regions has any other regions apart from these three, the EPA, the regional planning association and tri-state?

A I indicated they do look at a number of other regions and identified it or discussed it in the other reports.

Q What is the official name of this working paper on regions?

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MR. BISGAIER: You have already been supplied with a copy of it.

THE WITNESS: It's the allocation regions.

Q Is that in Footnote 13?

A Yes, on Page 5 of the report.

Q Footnote 13, Page 5 of the May, 1978 housing allocation report by DCA.

When you looked at these regions, these alternative regions, the consolidated statistical metropolitan region and all the others which we have just gone through, did you consider the purposes for which the various planning and Government agencies had adopted those regions? A To some extent, yes.

Q Do you think that the region which should be adopted in a case like this should be a unique region? A Not necessarily.

Q Do you think that the criteria which define a region which should be adopted in a case like this are the same as the criteria in any of these other regions which we have discussed?

A They should be or that they are.

Q That they are?

A If I understand the question correctly, the

1 reports speak for themselves. New Jersey DCA identified
 2 the considerations used in making or delineating its
 3 region as to most of those other reports.

4 Q Do you think that towns in the
 5 southern part of Morris County might draw substantial
 6 portions of their population from areas in Hunterdon
 7 County? Do you think that towns in the southwestern
 8 portion of Morris County might draw a substantial
 9 portion of their population from areas within Hunterdon
 10 County or Warren County?

A Again, I
 11 don't know what you mean by substantial. It's
 12 conceivable. I doubt that it would be substantial.

13 Q Why do you doubt that it would be
 14 substantial? A It seems unlikely to
 15 me any single township would have a substantial amount
 16 of its population drawn from any other single entity.

17 Q Do you think that populations within
 18 the western portion of Morris County would come from
 19 areas within Hunterdon and Warren Counties?

A My answer is the same.

21 Q You answered before that it is
 22 unlikely for a particular municipality, it is unlikely
 23 that a substantial portion of its population would be
 24 drawn from any given area, but do you think that it's
 25 possible for western Morris County to have a substantial

1 portion of its population drawn from areas not in
 2 Region 11? A Again, I don't know
 3 what you mean by substantial. I think it's perfectly
 4 reasonable to assume populations would be drawn from
 5 areas outside Region 11.

6 Q In determining the appropriateness of
 7 this region, didn't you have to consider what the word
 8 substantial meant in the same context that I've just
 9 used it? A No.

10 Q Did you have to consider in determining
 11 this region whether particular counties would draw
 12 substantial and particular municipalities would draw
 13 substantial numbers of persons from different areas?

14 Let me clarify that. In determining the
 15 appropriateness of this region, did you have to
 16 determine whether particular municipalities would, if
 17 the zoning were such as it is advocated by the Public
 18 Advocate, whether these municipalities would draw
 19 substantial numbers of their population from areas in
 20 given counties in New Jersey?

21 A I don't know why you keep using the word
 22 substantial which you have not identified and I can't
 23 identify. I did consider and I do think it has been
 24 considered the movement of population within a region
 25 that we have already discussed that. Yes, I do think

1 it was considered and I think it is appropriate.

2 Q I show you a map of New Jersey which
3 is included at Page 5 of your April, 1979 preliminary
4 report on demographic characteristics of New Jersey.
5 If we took a municipality along the Morris and Somerset
6 County border in Morris County at the far western
7 portion of that border near Hunterdon County, can you
8 see that point on the map? A Yes.

9 Q Would a municipality and community
10 located in that area draw a substantial portion of its
11 population from areas in bordering Warren and Hunterdon
12 Counties? A As a hypothetical ques-
13 tion, it could. I have the same objection to the use
14 of the word substantial.

15 Q Is the word substantial as I've been
16 using it included within the Mt. Laurel and Oakwood at
17 Madison definition of region?

18 A I don't recall.

19 Q Can you say that it is not the case
20 that a municipality in a location that I've just
21 charted on this map would draw a substantial portion
22 of its population from Warren and Hunterdon Counties?

23 A Could you repeat the question?

24 MR. PANTEL: Can you read back the
25 question, please.

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(The Reporter reads back the last question.)

THE WITNESS: If I understand that correctly, no, I cannot say that.

Q In determining Region 11, obviously it was decided that a municipality specific region would not be used. Is there a problem with such a region in that towns on the border of the region do not have included within that region areas from bordering counties from which they, as bordering municipalities, might draw substantial numbers of population?

For example, as we just discussed an area on the border of Morris and Hunterdon Counties might draw a substantial portion of its population from Hunterdon County, but Hunterdon County is not included in Region 11. My question to you is do you see it as a problem of non municipalities specific regions that they have this characteristic?

A I don't think I understand your question, but I don't think I have a problem with that.

Q What don't you understand about my question?

A It went on too long.

MR. BISGAIER: Off the record.

(There is a discussion off the record.)

(A lunch recess is taken.)

1 Q You recall, Miss Brooks, that
2 immediately before we broke for lunch I had asked a
3 question which you hadn't responded to because you
4 couldn't understand the question or because you
5 couldn't fully understand the question. I'm asking
6 now about the nature of a housing region which is not
7 specific to a given municipality. I believe that in
8 such a region you will have municipalities which, of
9 course, will be on the border of the region.

10 Where such municipalities are on the border
11 of a region and thus are adjacent to areas not included
12 within the region, isn't it the case, for example, in
13 this instance along the border of Somerset and Morris
14 Counties, that municipalities located there and within
15 Region 11, but on this border will draw populations
16 from areas not included within the region?

17 A You are asking me that hypothetically whether
18 or not they would possibly draw population?

19 Q Yes. A That could be
20 possible, yes.

21 Q Could they possibly draw a substantial
22 number of persons from outside the region?

23 A In this particular instance?

24 Q Yes, in light of employment and
25 transportation facilities.

1 A I think that's unlikely.

2 Q Unlikely in this instance. Do you
3 think that it is the nature of a non municipality
4 specific region that there will be municipalities
5 located along the border will draw a population from
6 areas not included within the region?

7 A You just asked me that question, didn't you?

8 Q No. A Then I don't
9 understand the question.

10 Q In a region which is not defined with
11 reference to a specific municipality, is it within the
12 nature of that region that municipalities along the
13 border of the region will be drawing population from
14 areas not included within the region?

15 A What do you mean by in the nature of region?

16 Q Inherent in the definition of the
17 region which has the same region for all towns within
18 it, including towns on the very border of the region,
19 that the towns on the border by virtue of the nature
20 of the region not being specific to any given munic-
21 ipality, that those towns will be drawing population
22 from areas outside the region.

23 My question is that part of the nature of a
24 non municipality specific region, that is a region not
25 defined with reference to a specific municipality, --

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MR. BISGAIER: Are you now asking for her to compare what may be in the nature of the kind of region that Region 11 is as opposed to something you are hypothesizing, which is something called a municipal specific region?

MR. PANTEL: I'm not asking her to compare the two. I'm asking for her to elucidate on the nature of a region such as Region 11 which is not defined with reference to a specific municipality. What I want to know is it inherent in such a region there will be towns on such a border which will be drawing population from areas outside the region.

MR. BISGAIER: I thought she answered that question.

THE WITNESS: I think I did, too. I don't know that the definition of a region excludes that possibility. I don't see anything inherent in the definition of a region that would, so I may not understand your question. It would not, to the extent that that's the case, it could be the case for any municipality in the region.

1 Q Let's take two different types of
 2 regions if you would, please. One region, call it
 3 Region A is defined with reference to a specific
 4 municipality. For example, the region from within
 5 which that municipality would draw its population and
 6 presumably the region, the municipality will be some-
 7 where near the center of that region.

8 MR. BISGAIER: Is that your assumption
 9 or are you asking Miss Brooks if that's her
 10 assumption?

11 MR. PANTEL: I'm setting that forth
 12 as a premise that the region will be some-
 13 where near the center of the region at
 14 least in light of say you have a reasonable
 15 radial transportation network, you have a
 16 region defined with reference to a specific
 17 municipality where the municipality falls
 18 somewhere near the center of the region.

19 THE WITNESS: You are setting that up
 20 as a hypothetical?

21 Q Yes. For example, a commuter shed
 22 region where you have a region defined by saying all
 23 municipalities, all areas within a 30 minute commute
 24 of a municipality would comprise the region. Take
 25 that as Region 1 or Region A.

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1 The other type of region is a region such as
2 Region 11 where it is not defined with reference to any
3 specific municipality. So you have municipalities in
4 the center of the region which have the very same region
5 as those municipalities on the border of the region
6 which would not be the case for a commuter shed region
7 because the commuter shed region, every municipality
8 would have, theoretically would have a different region
9 to a certain extent. Is it more likely that with a
10 commuter shed region you will get, there is less likeli-
11 hood that the region, that the municipality will be
12 drawing population from outside the region than with
13 the Region 11 type region not defined with reference
14 to a specific municipality? A No, I
15 don't believe so.

16 Q Why not?

17 MR. BISGAIER: I think she's answered
18 the question.

19 MR. PANTEL: I don't think she answered
20 why.

21 MR. BISGAIER: I know she hasn't answered
22 why. What I don't think is clear is what is
23 being compared here. You can go ahead with
24 this, but I'm just saying I don't think you
25 have clarified really what you are comparing.

1 Q Do you know what a commuter shed
2 region is? Does that connote a specific concept to you?

3 A Yes.

4 Q Is the concept that it connotes that
5 of the area from within which persons residing within
6 a municipality can commute to areas outside the
7 municipality in a given time or distance? Is that the
8 concept it connotes? A That's

9 possible, yes. It's a possibility, yes.

10 Q For purposes of my questions which
11 I've just asked and for future questions where I use
12 the term commuter shed, would you please think of it
13 along those lines? A All right.

14 MR. BISGAIER: Are you using a specific
15 time frame for commutation purposes?

16 MR. PANTEL: No, at this point I'm not.
17 I'm just discussing the concept of a commuter
18 shed region, that is, we are comparing on
19 one hand a commuter shed region and on the
20 other hand we are comparing a region such as
21 Region 11 which is obviously not a commuter
22 shed region and is not defined with reference
23 to specific municipalities, but is rather
24 a region set forth in DCA and in your reports.

25 Q With a region such as Region 11 you

1 have stated that it is not more likely that that region,
2 that towns on the border of that region would draw
3 populations from outside the region than would be the
4 case for commuter shed municipality specific region.
5 My question to you now is why is that the case?

6 A The patterns of migration or the reasons
7 that people select housing in a particular jurisdiction
8 are not always based on a standard of commutation.
9 Individuals or households select housing units for a
10 variety of reasons. In addition, a person may select
11 a unit in an individual municipality because they would
12 be, for instance, closer to their place of employment,
13 although it may not be within what you have defined as
14 a commuter shed region. In addition to that, I don't
15 know if I'm going to be able to describe this very well,
16 the limitations of a region defined as you have as a
17 commuter shed are based at least in part on the fact
18 that some of the jurisdictions in that commuter shed
19 region, according to your definition, would have yet
20 an even extended commuter shed and if you will follow
21 through your assumptions, that population would be
22 drawn within a commuter shed, then it would be drawn
23 for that jurisdiction within your original commuter
24 shed from an extended commuter shed. Do you understand
25 that? A Yes.

1 Q Would that be true if you just define
2 the commuter shed for a specific municipality and
3 defined it with reference to a fixed time of commute
4 from that specific municipality to areas outside the
5 municipality, given that definition that one, the
6 commuter shed have to be finite rather than extended
7 and I believe by extended, you mean infinite, in
8 effect?

9 A There are two questions
10 in that question to answer, what I believe is your
11 question, yes, that would be the case. What I just
12 stated I do believe would be the case.

13 Q By extended you, in effect, meant
14 infinite. Is that true, because the region would
15 continuously be expanded by reference to areas and
16 towns included on the edge of the region and taking
17 the commuter shed for those municipalities and going
18 forward like that?

19 A No. I'm not sure
20 of what you mean by that, but I think one could define
21 a region that showed a logical relationship among
22 commuter shed regions and it doesn't seem to me to make
23 very much sense to say that adopting a notion of
24 commuter shed means it would go on indefinitely.

25 Q What is the definition that you used
in using the word region? Can you state a definition?

A I don't quite know what you mean by that. In

1 the reports I've outlined as I recall considerations
2 that I think are important in defining a region for a
3 housing allocation plan.

4 Q Did you define the region as the area
5 from within which a municipality would, in the absence
6 of any so-called exclusionary zoning, draw its popula-
7 tion and in light of employment and transportation
8 facilities, is that how you defined the region?

9 A I did not put forth a definition.

10 Q Do you accept that definition?

11 A I'm sorry, could you repeat it?

12 MR. PANTEL: Read back the last ques-
13 tion, please.

14 (The Reporter reads back the last
15 question.)

16 THE WITNESS: I did not use that
17 definition exactly or precisely. I believe
18 it is incorporated in the considerations that
19 I have outlined in the report. I think they
20 are consistent.

21 Q Do you know how large this region is
22 in terms of square miles?

23 MR. BISGAIER: She can look it up.
24 She doesn't know off the top of her head.
25 Are you asking her if she knows off the top

1 of her head or can she find out the
2 information for you?

3 Q Did you consider how large the region
4 was in area in determining as to whether or not it was
5 an appropriate region? A Well, I was
6 aware of how large it was.

7 Q Do you think that was a relevant
8 factor in deciding whether or not this region was the
9 correct region to be used in this case?

10 A The mere size of it?

11 Q Was the mere size relevant?

12 A Not specifically, no.

13 Q Was it relevant at all to your
14 consideration as to whether or not to use this region?

15 MR. BISGAIER: You are asking some-
16 thing different from the questions which
17 have already been elicited. Her belief that
18 the region is smaller than what she might
19 think would be more appropriate.

20 Q I'm asking whether or not the size of
21 the region is a relevant factor to be considered in
22 determining whether it's the appropriate region to be
23 used in this case? A I guess I

24 don't have another answer. It seems to me like the
25 same question. I don't think the size in itself is a

1 consideration, no.

2 Q Okay. Are you aware of the commute
3 times from Harding Township to municipalities outside
4 Harding Township? A To any municipality
5 outside Harding Township?

6 Q Yes. A No.

7 Q Are you aware of any commute times
8 from municipalities outside of Harding Township to jobs
9 within Harding Township? A I am sure
10 you are asking me did I study that.

11 Q Did you study that in determining
12 whether or not this is the appropriate region?

13 A No.

14 Q Have you reviewed Harding Township's
15 Master Plan as part of your effort to determine whether
16 or not Region 11 is the appropriate region?

17 A No.

18 Q Why not? A I didn't
19 think it was relevant.

20 Q Did you review the master plan for
21 Morris County in determining whether Region 11 is the
22 appropriate region in this case?

23 A I have reviewed the master plan for Morris
24 County. I did not, to my knowledge, review it in
25 determining whether or not this was an appropriate

1 region.

2 Q Why not? A I don't
3 think it was appropriate.

4 Q Why didn't you think it was appropriate
5 to review Harding Township's or Morris County's Master
6 Plan?

7 MR. BISGAIER: For what purpose?

8 Q For the purpose of determining whether
9 Region 11 is the appropriate region.

10 A I have outlined in the report the factors
11 that I thought were important in delineating a region
12 and I did not see what information the Morris County
13 Master Plan would give me that would contribute to that
14 or beyond what information I already had.

15 Q Did you review the Harding Township
16 Master Plan for any other reason?

17 A No.

18 Q Have you ever seen a copy of it?

19 A No.

20 Q You mentioned that you had reviewed
21 the Morris County Plan. Is that correct?

22 A Yes.

23 Q For what purpose?

24 A General information.

25 Q Have you reviewed tri-state's regional

1 development guide plan? A Yes.

2 Q Have you reviewed it for the purpose
3 of determining the appropriateness of Region 11?

4 A I don't recall.

5 Q Did you review it for any other
6 purpose? A I reviewed it for
7 several purposes.

8 Q For any purposes in connection with
9 this lawsuit? A That's what I
10 don't recall. I may have looked at it when I was
11 evaluating or looking at the tri-state regional
12 planning commission region and I just don't remember.

13 Q Do you think the Morris County Master
14 Plan would be relevant in the consideration of where
15 to locate low and moderate income housing in Morris
16 County? A I guess so.

17 Q Did you review the Morris County Master
18 Plan in an appraisal of whether fair share figures for
19 the different municipalities were reasonable or in
20 accordance with sound planning?

21 A I did review the master plan for general
22 information. I didn't review it with respect to
23 particular jurisdictions.

24 Q Did you, yes or no, review it with
25 the purpose of seeing if your fair share figures were

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1 valid or reasonable or figures which you would want to
2 adhere to?

3 MR. BISGAIER: Do you want only a yes
4 or no? She has testified to that part of
5 knowledge she has. If you are asking yes or
6 no, that's okay. She may not be able to
7 respond that way.

8 Q You may answer yes or no with an
9 explanation if you would, please.

10 A I guess I don't know how to answer it. I
11 said I didn't review it for that specific purpose.

12 Q Did you review it prior to or after
13 the compilation of your fair share figures for Harding
14 Township?

15 A Both, I believe.

16 Q Do you think that your fair share
17 figures and the distribution of the low cost housing
18 which you propose is consistent with the planning
19 advocated in the Morris County Master Plan?

20 A Generally, yes. I also should add I suppose
21 that as I indicated before that New Jersey DCA did
22 make assessments and incorporated considerations, for
23 instance, the State Development Guide in its housing
24 allocation plan.

25 Q You say generally, yes. Is there any
way which you think your fair share figures in the

1 scheme of distribution proposed by you are inconsistent
2 with the Morris County Master Plan?

3 A Not specifically, no.

4 Q Do you think that the distribution
5 of low cost housing which you propose would be in
6 accordance with a planning policy that calls for the
7 location of low cost housing in relatively developed
8 cities or a large town center where existing facilities
9 for eventual services are already provided?

10 A If that's a question, I missed the question
11 part of it.

12 MR. PANTEL: Could you read it back,
13 please.

14 (The Reporter reads back the last
15 question.)

16 THE WITNESS: Yes.

17 Q How is it consistent with that
18 planning policy?

19 A The housing
20 allocation plan set forth by New Jersey DCA, which
21 is the one I adjusted, does take into account such
22 factors as the existing housing needs, development
23 limits, the State Development Guide and other factors
24 in the allocation of the units, in that I believe are
not inconsistent with that policy.

25 Q I would like to refer you to DB-5 for

1 Identification. Could you please give me a copy. Those
2 are your work sheets.

3 For Harding Township, you note that the
4 present 1970 housing need was 27 units for low and
5 moderate income housing. The allocation of 1970 needs,
6 which I believe is from other municipalities, was 228
7 units. Do you agree that those are the two figures
8 which you have stated for Harding Township?

9 A Yes.

10 Q To the extent that you allocate to
11 Harding Township 228 units for 1970 housing needs from
12 other municipalities, is this proposal consistent with
13 the planning policy calling for development of low and
14 moderate income housing in developed urban centers
15 where facilities for essential services are already
16 provided?

17 MR. BISGAIER: You have, I believe,
18 just for the record, improperly characterized
19 what those numbers reflect. The smaller
20 number reflects what was considered to be an
21 in place housing need. The latter number
22 reflects a regional allocation of regional
23 present needs.

24 Q And is it true that that regional
25 allocation for present needs stem from needs arising

1 from municipalities other than Harding Township?

2 A Yes, that's correct.

3 MR. BISGAIER: As well as her conten-
4 tion.

5 Q Does the 228 figure include needs
6 within Harding Township? A Yes.

7 Q How much of that 228 comes from needs
8 from within Harding Township?

9 A I would assume not more than the 27.

10 Q Fine. So there are then 201 units of
11 low and moderate income housing which you allocate to
12 Harding Township as part of a 1970 existing regional
13 need, none of which need arises within Harding Township,
14 that is, none of those 201 units arise within, that is,
15 the need for none of those 201 units arises within
16 Harding Township. My question is, is that planning
17 proposal consistent with the planning policy which
18 would call for the location of low and moderate income
19 housing in centralized areas and larger towns which
20 have existing facilities to provide essential services?

21 A I'm a little bit confused because each time
22 you talk about the policy you change your words or make
23 it stronger or weaker, I'm not sure which. The alloca-
24 tion of units among jurisdictions in my mind is not
25 inconsistent with a policy that might prescribe develop-

1 ment patterns, at least as you initially described them.
2 Unless, of course, you are going to define that policy
3 indicating that units for low and moderate income
4 households are to be provided exclusively in the older
5 centralized developed areas, however you phrased it,
6 jurisdictions.

7 Q Are you aware of the extent of commer-
8 cial development within Harding Township?

9 A No.

10 Q Are you aware of the extent of
11 educational and recreational and cultural facilities
12 within Harding Township? A No.

13 MR. BISGAIER: You are asking off the
14 top of her head. We have covered employment
15 data and she has access --

16 MR. PANTEL: Her answers are fine.

17 Q What is your view as to the planning
18 soundness of the dispersion of low and moderate income
19 housing?

20 MR. BISGAIER: Clarify what you mean
21 by dispersion.

22 Q Do you believe that low and moderate
23 income housing units should be developed in relatively
24 uniform distribution across Region 11?

25 MR. BISGAIER: Could you define what

1 you mean by uniform distribution? If you are
2 asking her if she believes distribution in
3 the housing allocation plan is reasonable,
4 that's one thing. If you are asking her a
5 different question, I think you should clarify
6 what you mean.

7 Q Do you think that the distribution
8 proposed in your housing allocation plan and DCA's
9 housing allocation plan for Region 11 is reasonable?

10 A The distribution?

11 Q Yes. A I think the
12 distribution as set forth by New Jersey DCA in its
13 plan and as I adjusted that is reasonable, yes.

14 Q Does that distribution attempt to take
15 advantage of lower priced land which might make it more
16 feasible to develop low and moderate income housing?

17 A Not to my knowledge.

18 Q Why didn't you attempt to formulate a
19 form which would, among other things, take advantage
20 of lower priced land? A In the allocation
21 of the units?

22 Q Yes. A I don't think
23 that's appropriate.

24 Q Why not? A The identi-
25 fication of unique opportunities or ways to provide

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1 incentives for providing low and moderate income housing
2 is perhaps an important factor. I do not believe it's
3 a consideration to be made in the allocation of the
4 units.

5 Q Even assuming that certain of your
6 so-called incentive plans or other types of housing
7 programs described in your December report were or
8 could be adopted, would it be more likely that the
9 housing could actually be built or could be built at a
10 lower cost if the cost of land were lower?

11 A I would think so.

12 Q Do you know if the U. S. Bureau of
13 the Census formulates population projections?

14 A I believe they do.

15 Q Did you consider using any population
16 projections formulated by the Bureau of the Census?

17 A I did not.

18 Q Why not? A The population
19 projections that were being considered were developed
20 by the State agencies and were specific to the State
21 and/or counties and I thought that was sufficient in
22 evaluating alternatives. I at that point saw no need
23 to go to a Federal agency for comparison.

24 In addition to that, in some of the reports
25 they do indicate comparisons that have been made in

1 checking the validity of the projections.

2 Q Do you have any reason to doubt the
3 accuracy of the U. S. Bureau of the Census population
4 estimates of existing population of municipalities and
5 counties within Region 11?

6 A Not specifically, no.

7 Q What do you mean not specifically?

8 A Not for any specific municipality or county
9 in Region 11, no.

10 Q You then have no reason to doubt their
11 validity for Harding Township?

12 MR. BISGAIER: Can you read back that
13 prior question.

14 (The Reporter reads back the prior
15 question.)

16 Q Do you? A No.

17 Q Do you know what these population
18 projections or estimates are? A No.

19 Q Do you know if the U. S. Bureau of
20 the Census breaks down population estimates or
21 projections by income groups within the population?

22 A No, I don't.

23 Q Are you familiar with a group called
24 the National Planning Association?

25 A No.

1 Q Are you familiar with a population
2 projection promulgated by the National Planning
3 Association? A No.

4 Q If the population for Region 11
5 declined as a whole between 1970 and 1990, could there
6 still be a prospective 1970 to 1990 housing need
7 component in your methodology?

8 A If I understand the question correctly, yes.

9 Q Is there anything you don't understand
10 about the question? I want to make sure that we are
11 talking about the same thing.

12 A I assume you mean that aggregated --

13 Q My question is if the population for
14 Region 11 as a whole, if the net population for Region
15 11 decreased from 1970 to 1990, could there be a
16 prospective housing need from 1970 to 1990 for Region
17 11 as you have used prospective housing need in your
18 methodology?

19 MR. BISGAIER: Are you limiting your
20 question to population decrease as opposed
21 to household number decrease?

22 Q Just population decrease.

23 A Well, certainly, it would be in one way.
24 Yes, there still would be.

25 Q Is it true that you calculate

1 prospective housing need by taking the population,
2 projected population increase for the region between
3 1970 and 1990 as one step in the process? I'll go
4 through this step by step instead of asking one long
5 question.

6 So in calculating prospective housing needs,
7 isn't it true that you take into account population
8 increase in the region from 1970 to 1990?

9 A Yes.

10 Q And then isn't it true that you
11 multiply that prospective population increase by the
12 percent of the population believed to be in the low and
13 moderate income household, which I believe is 39.4%.

14 Is that correct? A Yes. Although I
15 may have to back up on it, yes.

16 Q Fine. And then the prospective
17 housing need is then the 39.4% times the population
18 divided by the average household size for low and
19 moderate income persons. Is that the case?

20 A No. In the New Jersey DCA plan this uses
21 a population projection which is the number of people.
22 They then determine from that the number of households.

23 Q Okay. A They then take
24 of that number of households the proportion that would
25 be low and moderate income.

1 Q Which is 39.4%?

2 A In my adjustment.

3 Q In your adjustment?

4 A Yes.

5 Q If the population for Region 11
6 decreased between 1970 and 1990, how could there be
7 a prospective housing need if the prospective housing
8 need is based upon a projected population increase
9 from which one extrapolates projected low and moderate
10 income household increase from which one ultimately
11 arrives at prospective housing need?

12 A Two answers to that. One, I guess there is
13 just one answer. I'm sorry, I guess I will have to
14 take back what I said. I think there again it would
15 not be.

16 Q So if the region's population decreased
17 as a whole from 1970 to 1990, under your methodology
18 there could be no prospective housing need for the
19 region for 1970 to 1990. Is that correct?

20 A You mean if the population actually went
21 below what it is in 1970?

22 Q Yes. If the population decreased
23 from 1970 to 1990. If the region's 1990 population
24 were less than the region's 1970 population, isn't it
25 true there could be no prospective housing need

1 component in your methodology?

2 A I think that's correct.

3 Q Is there any reason for you to doubt
4 the accuracy of that statement?

5 A I don't think so.

6 Q Why do you just not think so? Wouldn't
7 that be apparently clear from the simple discussion of
8 the arithmetic that we have just used?

9 A It seems so, yes.

10 Q So even if the region's population
11 decreased between the years 1970 and 1990 and Morris
12 County's population increased from 1970 to 1990, isn't
13 it still true that there would be no prospective
14 housing need as you have used the term between the
15 years 1970 and 1990 because the region's population on
16 a whole decreased between those two years?

17 A It seems to be the case, yes.

18 Q Are you familiar with the U. S. Bureau
19 of the Census estimate of the population of these eight
20 counties in Region 11 for the year as of July 1, 1977?

21 A I don't think so.

22 Q If I told you that the U. S. Bureau
23 of the Census had estimated that the population of the
24 region was less in 1977 than it was in 1970, would that
25 surprise you? Would that cause you any reason to doubt

1 the validity of the projections between 1970 and 1990?

2 A Whose projections?

3 Q DCA's projections would show a
4 projected increase and these other projections would
5 show increases. A I would take a look
6 at them. I don't know that it would automatically
7 make me think they were inaccurate.

8 Q If the region's population had
9 decreased by as much as 5% between 1970 and 1977,
10 would that tend to lead you to question the validity
11 of projections which show an increase in the region
12 for 1970 to 1990? A It seems like the
13 same question to me. As I indicated, I would take a
14 look at the data.

15 Q Do you try to stay current with
16 projected population increases for this region and
17 with current estimates of population for this region?

18 A Not outside what I've done for this case, no.

19 Q So if the region's population decreased
20 between the years 1970 and 1990, your allocation for
21 Harding Township would be reduced from 2,014, which is
22 your final allocation, final adjusted allocation, to
23 228, which is your allocation of 1970 needs. Isn't
24 that correct? You may refer to DB-5 to help you
25 answer that question. A Yes.

1 Q In your December 14, 1979 report on
2 different housing projections, you include in that
3 report certain figures on average household size for
4 Morris County in the appendix to that report. I refer
5 you to Page 8 and 9 and 10 of that appendix.

6 Are the 1990 household size figures there
7 projections done in the population projections named
8 at the bottom of those three pages, 8, 9 and 10 of
9 that report? A No.

10 Q Where did those household size
11 projections come from? A These are the
12 ones used by New Jersey DCA in their housing allocation
13 plan.

14 Q Do you know why Morris County's
15 household size is larger than any other county's?

16 A No.

17 Q Do you know how they calculated those
18 1990 household size projections?

19 A We discussed that and it's described in one
20 of the working papers. I believe it's a projection.

21 Q The same tables in the appendix show
22 the different low and moderate, the different percent
23 of low and moderate income families residing within
24 each of the eight counties in the region. For Morris
25 County the figure is 25.7%. Why did you use the

1 figure of the State's average figure of 39.4%?

2 A In my adjustments?

3 Q In your adjustment rather than using
4 figures unique to the particular counties.

5 A I've answered this question something short
6 of 10 times already. As I've indicated, I used a
7 Statewide figure because I felt it was more representa-
8 tive of the low and moderate income population that
9 does, in fact, exist and I don't think it was appropriate
10 to use a county by county percentage. for purposes of
11 population projections.

12 Q Would you be in favor of planning
13 policies which would tend to more evenly distribute
14 low and moderate income families throughout New Jersey
15 than they are now distributed?

16 A Making opportunities available for them, yes.

17 Q Does making opportunities available
18 include construction of housing?

19 A Yes, it does.

20 Q I would like to refer you now to your
21 December 14, 1979 report on programs to increase
22 housing in suburban municipalities for the lower income
23 persons. You indicate that the programs described
24 within this report were relatively successful. I
25 believe you used that word in your introduction, those

1 words, relatively successful in your introduction to
2 the report.

3 How did you define what relatively successful
4 means? A I define that, but I would
5 like to know what you are referring to in the report.
6 I see it here.

7 Q On the first page, third paragraph.

8 A There was no precise definition. It generally
9 meant that there had been some progress in the program
10 and that the municipality itself felt that the program
11 had been, at least to some extent, successful.

12 Q Did that in any way indicate to you
13 that the program would be relatively successful in
14 Harding Township? A I think that

15 indicates that, yes, to some extent.

16 Q What features of Harding Township did
17 you study that led you to that conclusion?

18 A I did not.

19 Q You did not?

20 A Study any particular features of Harding
21 Township except other than what is presented in the
22 reports.

23 Q On Page 4 of the report you use the
24 term sweat equity. I don't believe that it is defined
25 within the report. Would you mind defining that term

1 for me? A It is defined in the full
2 report in the glossary. Sweat equity generally refers
3 the opportunity for households to substitute their
4 own labor in the construction or maintenance of a unit
5 for either portions of the rent or a down payment in
6 the potential purchase of that home.

7 Q On Page 4 of the report in discussing
8 mortgage assistance programs, the last paragraph on
9 that page you make a statement that there is no
10 construction necessary, there are no time lags and
11 administration is minimal. Why is no construction
12 necessary? A In this particular

13 instance I believe the reference is to the program
14 actually providing the financial assistance. It's not
15 the program itself that carries on out of the
16 construction or rehabilitation or whatever.

17 Q At Page 12 of this report in the
18 second paragraph in describing programs for the
19 acquisition and disposition of property to provide
20 lower cost housing, you state that in acquisition
21 and the disposition program a public agency or
22 community group will acquire units at below market
23 prices and rent or sell them to lower income households.
24 How can a public agency or community group acquire
25 units at below market price?

1 A As I recall, it's most often the units may,
2 for instance, be on a tax delinquent property or I'm
3 going to say vacant, although I'm not really sure about
4 that and in such an example like a homestead program
5 where for instance in order to encourage the use of
6 the units or rehabilitation of the units, they would
7 be sold or made available at a minimum cost so that the
8 persons will take advantage of that housing stock.

9 Q But in a homestead program where units
10 are sold at nominal costs, that doesn't mean that the
11 unit was acquired below market cost. My question isn't
12 how to dispose of things at less than market costs. My
13 question is how an agency or community group can acquire
14 units at less than market cost. You indicated at a
15 tax delinquent sale. Was that part of your answer?

16 A Yes.

17 Q Is there any other way a community or
18 public agency could acquire units at less than market
19 cost?

20 A As I recall there were, and
21 I'm sorry that I can't remember specific programs.
22 I'll have to say I don't know the answer.

23 Q In the sale of a property which is
24 delinquent on the payment of taxes, wouldn't that
25 property be held at a public sale? Won't the sale of
that property held at a public sale in which the public

1 can bid on it so that the property will generally be
2 sold at a fair market price which price will make some
3 discount for the fact that there are tax arrearages
4 on the property? A Sometimes that
5 occurs.

6 Q When would it not occur? How can a
7 property be disposed of at and picked up by somebody
8 at less than market value just because there are tax
9 arrearages on it? A It happens
10 frequently when somebody does not want to continue to
11 hold the property.

12 Q Wouldn't the property then be bid for
13 sale? A Not always.

14 Q Why not? A The home-
15 steading program is a good example. I mean, if some-
16 body wants to come up and pay a dollar for the unit,
17 which is the case in homesteading programs, that's
18 made available to them.

19 Q In discussing one comment before, I
20 go on to the next question. You stated earlier that
21 sweat equity was defined in the glossary of the full
22 report. There is no such glossary included in the
23 report which you submitted, is there?

24 A No.

25 Q By full report you meant the report

1 that the Suburban Action Institute or the handbook that
2 the Suburban Action Institute will eventually be
3 distributing? A Yes.

4 MR. BISGAIER: You mean for the
5 Department of Housing and Urban Development?

6 MR. PANTEL: Yes.

7 Q In discussing exclusionary land use
8 programs on Page 16 of this report, you indicate that
9 this program works well in more developed cities where
10 distribution of housing opportunities may be of concern.

11 What do you mean by the distribution of
12 housing opportunities? Does that refer to distribution
13 within a community or distribution between communities?

14 A In that particular instance distribution
15 within.

16 Q Are you concerned with the location
17 of low and moderate income housing within a community
18 as part of your position in this lawsuit?

19 A I do think that's an appropriate concern.
20 It has not been a part of the report or anything that
21 I've prepared for this case.

22 Q Why is the distribution of low and
23 moderate income housing within a community a matter of
24 concern? A I think the distribution

25 of housing altogether is a matter of concern in the

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jurisdiction.

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Q How should low and moderate income housing be distributed within a community?

A I don't know if this is going to answer your question because I'm not quite sure how you are using the word distribute. The planning principals that apply to good location of residential units apply as well to housing for low and moderate income households.

Q Do you believe a low and moderate income family has a right to live within a community it so chooses?

A Yes.

Q Do you believe a low and moderate income family has a right to live not only within any community in which it so chooses, but anywhere within that community where it so chooses?

A Yes.

Q Do you believe that they have that right to live anywhere within the community regardless of their income and free market forces which would dictate the value of real estate within that community?

A Yes.

Q Does good planning require that low and moderate income families be given the right to live anywhere within a municipality regardless of their financial resources and regardless of free market

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1 forces dictating values of real estate?

2 A I don't think planning dictates the rights
3 of low and moderate income people. I think that is
4 their right. I do think good planning should make it
5 possible for them to exercise that right.

6 Q What is the basis of that right?

7 MR. BISGAIER: I assume you are
8 asking for a nonlegal opinion or are you
9 asking for a legal opinion?

10 MR. PANTEL: I'm asking for her opinion
11 as to what the basis of that right is. I
12 know it's certainly relevant to the questioning
13 that we have been having here as to what the
14 basis of that right is. I think it's
15 relevant to the lawsuit and I don't really
16 know if I'm asking for a legal opinion
17 because I don't know what she believes the
18 basis of that right is.

19 Q I would appreciate if you could answer
20 the question. A I think any household

21 has the privilege to live where they want to live.
22 The right to me seems to be a basic sense of human
23 dignity and the value of people. Whether or not that
24 right is guaranteed by the laws in this country, I do,
25 in fact, think this is the case.

1 Q You do, in fact, think this is the
2 case? A Yes, I do.

3 Q And does your belief that low and
4 moderate income families have such a right affect in
5 any way your planning and your allocation plan as
6 proposed in this case?

7 THE WITNESS: Could you repeat the
8 question?

9 (The Reporter reads back the last
10 question.)

11 THE WITNESS: It doesn't affect, no.

12 Q Does it indicate to you that the
13 planning and the allocation plan that you have formu-
14 lated in this case is that much more valid because
15 people have such a right? A Much more
16 valid than that?

17 Q That much more valid than it would be
18 if they didn't have such a right?

19 A I believe it adds to the validity, yes.

20 Q On Page 23 of this December report
21 on programs to increase housing, you discuss a program
22 called land banking and state that this will reduce
23 land costs.

24 How will land banking reduce land costs?

25 A It can reduce them in basically two different

1 ways. It can reduce them I suppose on paper in that it
2 can resell. A land banking program can make available
3 land at a reduced price or below market price or below
4 what it was paid for originally for the purposes of
5 providing low and moderate income housing or, in fact,
6 for some other purpose.

7 Q Would that be with subsidy?

8 A Yes. In addition to that, some of the --
9 in fact, one of the major reasons that land banking
10 originated was to hold land for public purposes so
11 that the land could be purchased at a lower price and
12 held for development and it would be used at a later
13 time where you actually save on what would otherwise
14 occur in the increase in the cost of the land.

15 Q If that's the case, you decrease land
16 cost by virtue of having the foresight to buy the land
17 at a lower market price and the value of the land
18 appreciating and at the time you develop, you are able
19 to build at a lower cost because you bought the land
20 at a lower cost? A That's correct.

21 Q In part of that thinking, don't you
22 have to consider the cost of owning and holding the
23 raw land? A Yes, you do.

24 Q Does the cost of owning and holding
25 the land include the loss of interest which one might

1 otherwise earn if his money were invested in interest
2 bearing investment?

3 not usual.

A It could. It's

4 Q Is it usual to calculate the opportunity
5 cost of money in holding raw land?

6 A Generally the land banking programs are
7 carried out by public agency for a public purpose, so
8 that kind of an evaluation very quickly is not made
9 if one is speculating on the land or tends to use it
10 for speculative purposes.

11 Q Have you ever calculated for any
12 specific project the real reduction in land cost as a
13 result of any land banking program?

14 A No.

15 Q On Page 25 of your report you discuss
16 cost write down program and you mention four different
17 types of programs at Page 26 of the report in the
18 first and second full paragraph at that page. Are
19 these four programs alternatives, different types of
20 government subsidies, the four types of programs
21 being a write down to the price of land, a write down
22 to the interest rate for financing, a write down to
23 construction costs and a write down to what you refer
24 to as infrastructure costs? Do each of these programs
25 involve government subsidies?

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A As the report indicates, most of the write down programs that are operating use community development block grant programs for that purpose and that is Federal money.

Q In 1970 census, according to your April, 1979 demographic report, I believe that there were 10 buildings of three or more units in Harding Township and in your September 10, 1979 report on demographics, you indicated a total absence of any rental property within Harding Township. Is the only way that those two figures could be consistent would be that either the units referred to in the 1970 Census were destroyed or that they are not rental properties?

A I believe so.

Q Do you have any reason to believe that the units, that the buildings in Harding Township with three or more units were either destroyed after 1970 or are not rental properties?

A Could you identify for me what you are referring to in the report?

Q The September 10, 1979 report at Page 11, number and percent of apartment rents reported in July, 1979, by Quintile for Harding is indicated that the total sample is zero.

In the April report of 1979 you have data in

1 that report showing the number of housing units in
2 particular municipalities, showing structures in
3 municipalities with more than three units contained
4 within each. That's on Page 53. That report indicates
5 that Harding Township had 10 such structures with three
6 or more units in 1970, yet in 1979 you indicate that
7 Harding Township has no rental property.

8 A No, you are reading the page incorrectly.

9 Q What does Page 11 mean?

10 A The September report, that does not indicate
11 the zero that it indicates. No information recorded
12 for the purposes of this analysis.

13 Q Okay. What was the information source
14 for the chart on Page 11 of the September 10, 1979
15 report?

16 A It indicates the source on
17 the bottom of the page. It's also the source we have
18 discussed before in all those reports you just Xeroxed.

19 Q Do you know if there are any rental
20 units in Harding Township?

A I can check.

21 Q In preparing this report, did you check
22 to see if there were any rental units in Harding
23 Township in preparing the September 10, 1979 report?

24 A I used information that I believe made such
25 a check, yes.

Q Then you believe that there are no

1 such rentals, that there are no rental units in Harding
2 Township? A No, that's not what I
3 said. I said this indicates that, as you will recall,
4 the rental units were listed by jurisdiction and based
5 on a set of information and some phone calls. The
6 apartment rents were obtained and in some instances
7 that information was not obtained or not available and
8 what this page indicates is whether or not there are
9 units in Harding, it doesn't indicate. It does indicate
10 that the information was not available.

11 Q Why wouldn't it be available for
12 apartments or rental properties existing within the

13 Township? A Maybe nobody answered the
14 telephone. I mean, I don't know.

15 Q Do you know for a fact whether or not
16 there are rental units within Harding Township?

17 A Not other than what the study indicates.

18 Q As of 1979, specifically as of July,
19 1979, did you believe that there were any rental units
20 within Harding Township? A Ask me the

21 question again.

22 Q As of July, 1979, did you believe
23 that there are rental units within Harding Township?

24 A I don't know.

25 Q I just have a few more questions about--

1 A I'm sorry, I should clarify my answer. I
2 answered your question specific to the date 1979.

3 Q As of today do you believe that there
4 are any rental units within Harding Township?

5 A That's the same question -- same answer.

6 Q At any time in your preparation of
7 reports in this case, did you believe that there were
8 any rental units within Harding Township?

9 MR. BISGAIER: She would have to refer
10 to the census data, 1970 census data which
11 would indicate units for rent in the Township
12 which she did review at the time. It's quite
13 awhile ago. If you want that information,
14 it may very well have been sent to you. I
15 believe it was. If not, the census speaks
16 for itself and Miss Brooks could inform you
17 of that.

18 THE WITNESS: I was answering your
19 question particularly for that date.

20 Q At Page 35 of your December 14, 1970
21 report on housing programs, you mention at Page 35
22 different recruiting programs for low and moderate
23 income families. You mentioned that those programs
24 would be useful to provide for low income and also more
25 housing for minority households. What is the relevance

1 of the fact that a household might be of a minority
2 racial status?

3 MR. BISGAIER: The relevance to what?

4 Q What is the relevance to determining
5 the appropriateness of any of these programs for use by
6 any municipality to see whether or not the program
7 could be useful to recruit minority households?

8 A I'm not sure I understand your question, but
9 in this country we don't discriminate supposedly
10 against minorities along with other categories of the
11 population and that, in fact, not being the case, many
12 of the programs engage in what we refer to as counseling
13 rather than recruiting to make available opportunities
14 that do exist and to inform individuals of their rights.
15 Excuse me, you are correct, recruiting is used on Page
16 35.

17 MR. PANTEL: Off the record.

18 (There is a discussion off the record.)

19 Q This report of December 14, 1979, is
20 entitled Programs To Increase Housing.

21 A I don't want to be picky, but the recruiting
22 is in reference to encouraging landlords and homeowners
23 to participate in the programs. It's not in reference
24 to households, to inform them of their rights or
25 opportunities.

1 Q This report is entitled Programs To
2 Increase Housing in suburban municipalities for lower
3 income persons. Yet at Page 35 of the report you
4 mention activities to provide units for minority
5 households. Why would one mention or focus upon a
6 minority household if the purpose of the program is
7 not to increase the household for minorities, but to
8 increase the households for lower income?

9 A The purpose of programs that actually provide
10 housing are generally to provide housing for lower
11 income persons. It is my opinion that efforts should
12 be made to insure that the availability of units to
13 low and moderate income households do not discriminate
14 against minorities, female heads of households and others.
15 Consistent with that, the fact that market does generally
16 discriminate. I think it's necessary to tie those
17 assurances to the provisions of lower and moderate
18 income housing.

19 Q Have you calculated the cost of any
20 of these programs included in your December 14, 1979
21 report?

22 A I have not calculated. The
23 cost of some of the particular programs were made
24 available to us.

25 Q Have you reviewed the relative cost
of these different programs?

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MR. BISGAIER: To what?

THE WITNESS: You mean comparing one program in this report to another program or the category of programs?

Q Comparing the cost of the different types of programs to each other.

A As represented in the different chapters here?

Q Yes. A No.

Q Do you think that the cost of the program is a relevant factor in determining their feasibility? A Only if one has a limited amount of money.

Q Do you know of any governing or private body that has an unlimited amount of money?

A No.

Q I presume therefore that the cost is relevant since there are no entities with unlimited funds? A Yes.

Q Assuming that there is a problem, shall we say with zoning ordinances within Morris County or Region 11, why wouldn't it be sufficient just to change the zoning ordinances to alleviate any housing needs? A The provision of housing for low and moderate income persons involves many steps. The availability of zoning is only one of

1 those steps.

2 Q So in your opinion then this lawsuit
3 involves more than the amendment of zoning ordinances?

4 A This may not answer your question. I think
5 that providing low and moderate income housing is
6 facilitated by more than the amendment of zoning.

7 Q In light of your reports, would you
8 be satisfied if the municipalities changed their zoning
9 ordinances to allow for the construction of all types
10 of housing, both owner and rental units and did nothing
11 else?

12 A It would make me happier
13 than I am today, but it wouldn't make me happier, no.

14 Q What more should they do?

15 A As I've indicated in prior testimony, I
16 think they should do everything that is possible to do
17 to provide low and moderate income housing.

18 Q What is least cost housing?

19 A Least cost housing has been defined, I
20 believe in the cases. I'm not going to be able to
21 recall that precise definition.

22 Q Is least cost housing subsidized
23 housing?

24 A Not necessarily.

25 Q Is least cost housing the cheapest
housing that could be built consistent with so-called
minimum health and safety factors by a private

1 developer in the absence of a subsidy?

2 A I believe so.

3 Q Is there a difference between least
4 cost housing and low and moderate income housing in a
5 town like Harding Township?

6 A There could be.

7 Q Why would there be a difference?

8 A Well, it depends on how one defines low and
9 moderate income housing.

10 Q You stated in your April 26, 1979
11 report that a figure of \$13,089 per year would be a
12 more appropriate level of moderate income for 1970
13 rather than the \$8500 or so used by DCA. Is that
14 correct?

A I believe so.

15 Q Do you know what that figure of
16 \$13,000 would be in 1980 dollars?

17 A No, I don't.

18 Q Are you aware of what inflation levels
19 have been in the past 10 years?

20 A Generally.

21 Q Has inflation roughly halved the value
22 of the dollar in the last 10 years?

23 A It sounds possible.

24 Q So would that \$13,000 figure in 1970
25 be approximately \$26,000 in 1980 dollars?

1 A I don't know.

2 Q Why don't you know if the value of
3 the dollar has approximately halved since 1970?

4 A I haven't looked at information that would
5 indicate that to me sufficiently to give you an answer.

6 Q Assuming that the value of the dollar
7 has halved on the consumer price index or the wholesale
8 price index since 1970, would that figure be approxi-
9 mately \$26,000 for 1980 as a level of moderate income?

10 A Not necessarily. I mean, if you calculated
11 the way you just calculated it, yes. The figure that
12 you have identified represents income break for a
13 proportion of the population. I don't know that would
14 be for 1980.

15 Q Do you know/^{what}a low or moderate income
16 family would earn today in order to qualify as low or
17 moderate income under your criteria?

18 MR. BISGAIER: You know, I think you
19 may be confusing two things. A point of
20 clarification.

21 MR. PANTEL: I've said earned.

22 MR. BISGAIER: There is a difference
23 between a Quintile breakdown and what income
24 levels are established by a mere Quintile
25 breakdown and what the Federal subsidy programs

1 establish as low and very low income. Those
2 are published figures for the Newark SMSA
3 every year and readily obtainable. I think
4 you are asking a different question than what
5 the income levels are that are established
6 by HUD.

7 Q Throughout this lawsuit and in your
8 reports you refer to lower income persons and low and
9 moderate income. In 1980 dollars, what is low income
10 as you use it in your reports?

11 A I would define it in 1980 the way I defined
12 it in the reports. I don't have the data available
13 to tell you what that figure is.

14 Q Would you define it with reference to
15 a specific income level or would you define it with
16 reference to a certain percentile of the population
17 and then look at the income for that percent of the
18 population?

19 In other words, would you say low and moderate
20 income is, for example, \$17,000 or would you say low
21 and moderate means the bottom for the percent of the
22 population and then look and see what income is earned
23 by the bottom 40%? A As I've indicated
24 in the reports, I showed two different ways of looking
25 at low and moderate income. That's not exactly

1 accurate, but one alternative I pointed to was, for
2 instance, the Section 8 housing assistance program
3 which is based on a figure of 80% of the median
4 family income for the SMSA. If that were used, that
5 would be a particular dollar figure. At the same time
6 I have indicated that I thought in reference to least
7 cost housing that it was reasonable to assume it could
8 be the bottom 60% of the population.

9 Q Well, what figure do you adopt? Have
10 you made a decision as to what the figure in 1980
11 dollars should be for low and moderate income?

12 A I have not.

13 Q Did you make a decision as to what low
14 or moderate income should be in any year with any
15 dollar reference for any given year?

16 A As I've indicated in the reports, I criticized
17 the limits set by New Jersey DCA and indicated the two
18 alternatives that I just mentioned.

19 Q If that \$13,000 figure which you
20 suggested for use in 1970 could be transmitted into
21 1980 dollars, would you be satisfied with that figure
22 as an appropriate level for moderate income?

23 A I believe so.

24 Q Would you be satisfied with that
25 figure as a level for moderate income even if it were

1 around \$26,000 which could very well be the case in
2 light of what inflation has been over the past 10
3 years?

4 MR. BISGAIER: She already stated
5 she would accept whatever the figure would
6 be.

7 Q Do you take issue with counsel's
8 statement? A I do not.

9 (A short recess is taken.)

10 MISS HARRISON: I'm Roslyn Harrison
11 from the firm of McCarter & English, attorneys
12 for Chester Township. We are interested in
13 questioning this witness and request an
14 opportunity to do so as soon as possible.

15 MR. MAC DONALD: My name is James
16 MacDonald. I'm appearing for the law firm
17 of Young, Dorsey & Fisher, attorneys for the
18 Township of Hanover and we would also like
19 the opportunity to depose Miss Brooks at the
20 earliest possible time. Thank you.

21
22 BY MR. PANTEL:

23 Q Are the programs delineated in your
24 December 14, 1979 report, DB-4 necessary to meet low
25 and moderate income housing needs in Region 11?

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A

I don't know.

Q

Have you considered whether or not they are necessary?
they are necessary?
they are desirable. I don't know if they are necessary.

A

No. I believe

Q

You mentioned at an earlier deposition that you are currently taking a course I believe at the New School?

A

Yes.

Q

On self help housing. You mentioned that that involves a tenant taking over rental property. I was just wondering if you could briefly elucidate upon the nature of the tenant taking over the property.

A

There are several alternative management schemes so to speak that have been tried and used for tenant ownership and management of buildings. While extra legal mechanisms have been used, most of these are the ones that are discussed in this course and are legal.

Q

Do you condone the use of the extra legal mechanisms?

MR. BISGAIER: That's irrelevant and I'll instruct you not to answer it.

Q

Do you know if mobile homes are eligible for Section 8 rental assistance?

A

I believe they are.

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1 Q Do you know if they are eligible for
2 any purchase assistance programs?

3 A I don't.

4 Q You don't know or --

5 A I don't know.

6 MR. BISGAIER: For your information,
7 they are.

8 Q Do you know of any fair share plan
9 that uses the same criteria as the DCA plan?

10 A These are questions we discussed before. As
11 I've indicated in the reports, the criteria that New
12 Jersey DCA uses in its housing allocation are common
13 ones. I do not know of a housing allocation report
14 that is designed precisely to the New Jersey DCA uses.

15 Q In your April, 1979 report on
16 demographic statistics, on Page 38 it includes median
17 housing values based on owner occupancy. I believe
18 at your earlier deposition you stated that these
19 figures were taken from the U. S. Census which bases
20 median housing value upon the opinion of the owner
21 surveyed.

22 A It's my belief that in
23 the taking of a census they ask the owner of the unit
24 to estimate the market value of the unit.

25 Q Is it your opinion that the owners
would have sufficient expertise or familiarity with

1 the market in order to place a value on their home?

2 A They may not have expertise. I believe most
3 people can give a reasonable estimate about what they
4 could sell their home for.

5 Q You then in your September report I
6 believe compare the median housing value figure with
7 average sales prices. Have you done such a comparison
8 in order to show the change in property values since
9 1970 and '79? It was in your September 10, 1979
10 report.

11 A I would appreciate a
12 reference.

13 Q At Page 1 of that report, the third
14 full paragraph you indicate that a comparison of the
15 average price for the units for this period, that is,
16 the '77 to '78 period, to the median value of homes as
17 reported in the 1970 census illustrates the obvious,
18 that the price of homes in Morris County is increasing
19 sharply. So you had done such a comparison, have you
20 not?

21 A Yes.

22 Q Now, for Harding Township you indicate
23 that the median housing value in 1970 was merely over
24 \$50,000. Is that correct? That's at Page 38 of the
25 April, 1979 demographic report.

26 A Yes.

27 Q How can you compare a figure which is

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1 simply characterized as only over \$50,000 with the 1977
2 to '78 average sales price of \$144,200 according to
3 your figures?

4 A The census does not
5 report median housing value over the category of
6 \$50,000.

7 Q So you have no way of knowing what the
8 median housing value was in Harding Township in 1970
9 other than that it was over \$50,000?

10 A That's correct.

11 Q So is it possible that the median
12 housing --

13 A I'm sorry, according to
14 the information presented in this report, that is correct.

15 Q Do you have any other information which
16 shows what the average housing value was in Harding
17 Township in 1970 or any period prior to 1977?

18 A No, but it could be obtained.

19 Q So you don't know then as of now if
20 housing values have declined in Harding Township since
21 1970, do you?

22 A That's correct.

23 Q Do you have any reason to believe that
24 they have increased or decreased or have stayed the same?

25 A No.

Q Have you ever been to Harding Township?

A I believe so.

Q When were you there?

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1 A The same answer as before, driving around
2 with Mr. Bisgaier and Mr. Mallach.

3 Q How much time did you spend in Harding
4 Township? A I don't know.

5 Q Are you familiar with the roads
6 within Harding Township? A No.

7 MR. BISGAIER: Do you mean off the
8 top of her head or can she read a map?

9 Q Do you consider the roadways of Harding
10 Township in your studies and do you have current
11 knowledge as to the roadway system within and near
12 Harding Township?

13 MR. BISGAIER: As to the latter part
14 of that question, I ask again do you mean
15 off the top of her head or could that
16 information be supplied to you.

17 MR. PANTEL: I don't mean off the
18 top of her head. I mean as a result of the
19 studies, did she have such knowledge.
20 Obviously it can be supplied to me. That's
21 not my question. My question is as a result
22 of her studies does she have such knowledge.

23 MR. BISGAIER: Essentially now off the
24 top of her head?

25 MR. PANTEL: As a result of her studies.

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THE WITNESS: I have looked at the road patterns throughout the county. I cannot recall off the top of my head the answer to your question.

Q Do you know what State parks are in Harding Township? A No.

Q Do you know if there are any State parks in Harding Township? A I don't recall.

Q Do you know if there are any national parks in Harding Township? A I don't recall.

Q Are there any wildlife preserves in Harding Township? A I don't recall.

Q Do you know what streams are in Harding Township? A No.

Q Do you know of any historical landmarks in Harding Township? A No.

Q Do you know of any bus or train lines in Harding Township? A I don't know.

Q Were you at Harding Township at day or night? A During the day.

Q Do you know if Harding Township is an urban township? A What do you mean by urban?

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1 Q Do you know if it has sufficiently
 2 high levels of development so that you would characterize
 3 it as urban? A I don't think so.

4 Q Could you characterize it as suburban?
 5 A I believe so.

6 Q Could you characterize it as rural?
 7 A Not that I recall.

8 Q Do you characterize parts of it as
 9 rural? A I don't recall.

10 Q Do you know what Harding Township uses
 11 for water supply? A No.

12 Q Do you know what the nature of the
 13 septic and sewerage system is in Harding Township?

14 A No.

15 Q Are any of these factors which I've
 16 just asked if you have knowledge of with respect to
 17 Harding Township relevant in determining what a fair
 18 share allocation should be for a municipality?

19 A I don't believe so.

20 Q Why are they irrelevant?

21 A This has been discussed in a number of
 22 different ways. I've indicated in both reports and
 23 testimony the factors that I believe are important
 24 in the preparation of housing allocation plans. There
 25 are a variety of considerations made in the allocation

1 of the units, such as the vacant land and other
2 criteria in the reports and I believe those are
3 sufficient.

4 Q How relevant is vacant land if one is
5 unaware of the water supply or sewerage disposal system?

6 A I don't quite know how to answer the question
7 how relevant. I think it is still relevant.

8 Q Wouldn't its relevance be greatly
9 diminished if one doesn't consider the fact that there
10 could be extreme difficulty in obtaining water supply
11 or in effecting safe disposal of sewerage so that at
12 first glance what might seem like a relatively high
13 figure might, indeed, or should indeed be very low
14 because of other natural constraints like water supply
15 and sewerage disposal?

16 THE WITNESS: I'm sorry, could you
17 repeat the question?

18 (The Reporter reads back the last
19 question.)

20 THE WITNESS: I don't believe the
21 relevance is diminished, no.

22 Q Why wouldn't it be diminished?

23 A As I've already indicated, the housing
24 allocation report does take into consideration vacant
25 land. In addition to that, there are factors such as

1 the availability of water and sewer that can, indeed,
2 alter overtime.

3 Q You mentioned earlier it was the
4 subject of discussion at an earlier deposition that you
5 had compared '77 to '78 sales prices with 1976 income
6 figures for the Newark SMSA in your September 10, 1979
7 report. Do you recall that exchange?

8 A I do.

9 Q I don't intend to go through that
10 entire exchange again. At the time Mr. Vecchio asked
11 you why you didn't make some adjustment or why didn't
12 you compare '76 sales prices for Morris County with
13 1976 income and I believe that your answer and the
14 record will reflect whether my recollection is correct
15 or not, but I believe your answer was that you didn't
16 think the difference was significant.

17 My question to you now is what would be a
18 significant difference between the level of housing
19 prices in 1975 to 1976, that is, July '75 to '76 as
20 compared to the period from, or excuse me, what would
21 be significant in the change of the level of prices
22 from July, '76 to July, '77 as compared with the figures
23 that you took from July, '77 to July, '78? What change
24 in level of prices for those two periods would be
25 significant? A I'm not sure you under-

1 stood my initial answer, although I'm not sure I under-
2 stand your question. When I stated that I did not
3 think it was significant, I do not think it was
4 significant for the purposes of this comparison which
5 in using the Quintile breaks and illustrating their
6 relative ability of availability of housing within
7 those Quintile breaks, I did not think it was signifi-
8 cant.

9 Q Do you know what the change in housing
10 prices was between July, '76 to July, '77 and July,
11 '77 to '78? A No.

12 Q Do you know what happened to income
13 as a result of inflation during those periods?

14 A No.

15 Q Do you know what the difference in
16 income would be for the Newark SMSA which you used and
17 for Region 11 as a whole in 1976?

18 A No.

19 Q If there were very significant
20 differences between Newark SMSA income and Region 11
21 income or between housing prices in the two periods,
22 wouldn't it be true that a comparison between prices
23 and income over those periods as you have done would
24 be relatively meaningless unless the changes in the
25 relative figures were also shown?

1 A I think the information here illustrates
2 exactly what it illustrates. If the figures as you
3 have indicated would change, then the evaluation would
4 change. I don't think it makes these figures meaningless.
5 They are presented exactly as they exist. There is no
6 attempt to indicate that the data represents other than
7 what is indicated.

8 Q I don't question that the data indicates
9 exactly what it is, but I do question what the signifi-
10 cance would be in comparing '76 income with '77 to '78
11 prices if '76 income had so increased by 1977 to '78
12 so that people in '77 to '78 were earning such high
13 levels of income that those prices during that period
14 were below compared to current '77 to '78 income.

15 A If that's the case, that's what the data
16 would show.

17 Q But by comparing income from one year
18 and prices from another year, aren't you, in fact,
19 comparing apples and oranges because don't people make
20 decisions on whether they could afford a house by what
21 they are making this year in income as compared to
22 what they made last year?

23 A People do make decisions based on their
24 income. I believe the comparison shown in this report
25 does present a comparison that is perfectly valid for

1 showing the relative availability of housing by income
2 breaks. It does indeed compare two different periods
3 of time and there is no indication that it shouldn't
4 do that. As I've indicated, if 1977 income breaks
5 showed something substantially different, the data
6 would reflect that. I do not believe that that would
7 be significant.

8 Q Even in light of your consideration
9 of later population projections, you still abide by
10 the fair share figure of 2,014 for Harding Township as
11 calculated in your August 30, 1979 report?

12 A I have not adjusted that based on any other
13 population figures.

14 Q In response to an earlier question by
15 Mr. Vecchio you indicated that the construction of
16 100,000 new least cost units in the Meadowlands would
17 not reduce any municipality's allocation under your plan.
18 Why wouldn't it result in any reduction? Isn't it
19 true that it could result in reduction of regional need
20 for least cost housing?

21 THE WITNESS: Could you repeat the
22 question, please.

23 (The Reporter reads back the last
24 question.)

25 THE WITNESS: It is true that the

1 provision of least cost housing, when it
2 occurs, meets supposedly the housing need
3 represented by low, moderate income persons.
4 It is not customary to incorporate in the
5 housing allocation plan prospective develop-
6 ment, so it would not alter the allocation
7 as you see.

8 Q You adjusted your figures for the
9 particular municipalities by reducing the allocation
10 by the amount of assisted units provided since 1969.
11 Isn't that correct? A Yes.

12 Q Have you similarly reduced the regional
13 need for housing which is allocated among Morris County
14 municipalities and Harding Township to the extent that
15 other municipalities have exceeded their development
16 limits and similarly reduced that regional need by
17 municipally assisted units provided in those munici-
18 palities since 1969?

19 MR. BISGAIER: Is your question
20 assuming that a given municipality has
21 provided housing greater than its fair
22 share under the allocation plan?

23 MR. PANTEL: No. My question is there
24 are certain municipalities which apparently
25 have met their development limits under your

1 criteria and as a result those municipalities
2 give off housing needs which have to be
3 allocated to other municipalities like
4 Harding Township and under your plan. As
5 a result of that we saw for example that
6 there were 221 low cost units allocated to
7 Harding Township in 1970 present housing
8 needs. That 221 figure unit resulted from
9 the needs of municipalities outside Harding
10 Township. My question is did you later
11 adjust that figure or the figures on which
12 that figure is based by municipally assisted
13 housing units provided in other municipalities
14 after 1976 so that the redistribution of those
15 units to towns like Harding Township could be
16 reduced?

17 THE WITNESS: No, the adjustment I
18 made is exactly as is indicated in the report.
19 For those jurisdictions where there was
20 reported the provision of assistance units,
21 I reduced the allocation for those individual
22 jurisdictions.

23 Q Did you do that only for the defendants
24 in this lawsuit? A I did them as indicated
25 in the report for the jurisdictions in Morris County.

1 Q So you did it for all jurisdictions
2 in Morris County regardless of whether or not they
3 were a defendant in this lawsuit?

4 A That's correct.

5 Q Did you do it for any municipalities
6 outside Morris County? A I did not.

7 Q Now, if you had done it for munici-
8 palities outside of Morris County, isn't it true that
9 the resulting allocation to a town like Harding Township
10 could have been less if municipalities outside of
11 Morris County had indeed provided municipally assisted
12 units since 1969? A We discussed this

13 very question at length with the prior attorney. As
14 I indicated, the housing allocation report prepared by
15 New Jersey DCA covers the period 1970 to 1990. The
16 adjustment that I made based on the provisions of
17 assisted housing units was based on information avail-
18 able since 1970. If New Jersey DCA wishes to adjust
19 the housing allocation report based on the increased
20 availability of low and moderate income housing, they
21 may do so in the future. That adjustment on the
22 provisions of units since 1970 is not an appropriate
23 calculation to form, given the current status of the
24 report.

25 Q Is it significant to you that the

plan promulgated by the DCA is a plan promulgated by a State planning agency? Does that add to the weight of authority or validity of that housing allocation plan?

A Relative to what?

Q Relative to if it had been prepared by a private planning agency or prepared by a student or by a professor or by a private planner, by anybody other than the Department of Community Affairs for New Jersey or prepared by anybody other than governmental planning agencies.

A As I've indicated before, I think it's important that the report be adopted by or promulgated by an agency that has authority over the jurisdiction.

Q Why?

A Because hopefully it's a plan that will be implemented by the jurisdiction within that plan.

Q Have you studied the economic feasibility of building least cost housing or low and moderate income housing in Harding Township?

A No.

Q In your April, 1979 demographic report, at Page 35 you indicate that Harding Township did not have more jobs than housing, that is, its change in jobs from the period of 1972 to 1977 was less than the number of residential permits issued from 1970 to '77.

1 What is the significance of this fact?

2 A Again, this is a table that we discussed at
3 length on precisely this fact. It indicates exactly
4 what the data shows, that there were a greater number
5 of residential permits issued during the period 1970
6 to 1977 and changing jobs, 1972 to 1977.

7 Q What was your purpose in preparing
8 that chart? A I was interested in
9 identifying those jurisdictions where the changing jobs
10 was larger than the residential permits issued.

11 Q What was your reason for that interest?

12 A It was of interest to me that jurisdictions
13 might increase in employment opportunities to a larger
14 extent than the growth in residential units.

15 Q If it had done so, what would you
16 conclude from that? A I don't know
17 what you mean by conclude. It indicates to me that
18 employment opportunities may be increasing faster in
19 the jurisdiction than the housing opportunities.

20 Q And if it hasn't done so, what would
21 you conclude from that other than the fact of what the
22 numbers say for themselves? A I would
23 conclude just that, that the employment opportunities
24 were not increasing at a rate faster than housing
25 opportunities.

1 Q Have you ever been convicted of a
2 crime? A No.

3 Q You have indicated that for Harding
4 Township the fair share figure is 2,014 units to meet
5 1970 to 1990 needs, including present 1970 needs. Do
6 you have any idea as to what effect on the population
7 of Harding Township this allocation would result in?

8 A What do you mean by effect on the population?

9 Q How much it would increase the
10 population of Harding Township?

11 A If the units were provided, it would increase
12 the population by the number of people that lived in
13 those units.

14 Q I'm not going to go through all the
15 arithmetic, but if you used the average household size
16 of around three per household, indeed the figure for
17 Morris County is supposedly 2.83 according to your
18 December 14, 1979 report, you are talking about 6,000,
19 call it 5500 new persons within the Township. Is that
20 correct? A If your arithmetic is

21 correct, yes.

22 Q In 1970 the population of Harding
23 Township was 3,249 according to the United States
24 Census. So even using 1970 population figures, you
25 can see that this could result in at least a doubling

1 and perhaps a tripling of Harding Township's population.

2 Do you agree with that? A Over the 20
3 year period?

4 Q Yes. A That's possible.

5 Q Of course, it's now a 10 year period,
6 since this is 1980 and none of these 2,014 units have
7 yet been allocated. A You also didn't

8 cite to me a 1980 population.

9 Q That is correct. Do you have any
10 idea as to what impact the allocation of these units
11 would have on the character of the community of

12 Harding Township? A Not specifically, no.

13 Q Do you have any idea as to what affect
14 this allocation would have upon the Great Swamp
15 National Wildlife Refuge?

16 A Not specifically, no.

17 Q Do you have any idea as to what affect
18 the allocation of these units would have upon the
19 woodlands within Harding Township?

20 A Not specifically, no.

21 Q I also ask you if you have any idea
22 as to what affect this allocation would have upon the
23 wildlife habitats, upon the schools and upon any of the
24 community facilities within Harding Township?

25 A Not specifically, no.

1 Q You have answered several questions
2 in a row by not specifically, no. What do you mean by
3 not specifically? Do you have a general idea as to
4 the nature of this impact? A No, I've
5 not studied it, so I don't know.

6 MR. BISGAIER: Let's take a break now.

7 MR. PANTEL: Sure. Miss Brooks has
8 indicated that she has to take a train out
9 to New York so that she can stay no longer.
10 She cannot be subject to more depositions
11 today. I have not yet completed my ques-
12 tioning of Miss Brooks and I do hope that
13 we are able to schedule another day so that
14 she can be deposed by myself and by other
15 defense counsel in this case.

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

MORRIS COUNTY FAIR HOUSING COUNCIL, :
ET ALS, :

Plaintiffs, :

-vs-

CERTIFICATE

BOONTON TOWNSHIP, ET ALS, :

Defendants. :

I, VICTOR SELVAGGI, JR., a Certified Shorthand
Reporter and Notary Public of the State of New Jersey
certify that the foregoing is a true and accurate
transcript of the deposition of MARY E. BROOKS who was
first duly sworn by me at the place and on the date
hereinbefore set forth.

I further certify that I am neither attorney
nor counsel for, nor related to or employed by, any of
the parties to this action in which this deposition was
taken and further that I am not a relative or employee
in this case, nor am I financially interested in this
action.

Victor Selvaggi Jr.

A Notary Public of the State of New Jersey

Dated: 2/24/80

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

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