

**Exclusionary Zoning and the *Mount Laurel* Doctrine:
A Selective, Lightly Annotated Bibliography of Secondary Sources**

[compiled by Paul Axel-Lute, Fall 2011]

Scope and Arrangement

This is a bibliography of secondary sources—i.e. commentary and analysis—only. It includes published books, but not governmental reports or archival materials. Articles in scholarly journals are included, but (with few exceptions) not articles in legal or general newspapers or magazines. With respect to the law journal literature, this bibliography generally includes only “leading” articles—i.e. those by professors and practitioners, and excludes the student-written “notes” and “comments.” For an earlier bibliography that does include governmental reports and has relatively little overlap with the present one, see *Exclusionary Zoning: a Bibliography*, compiled by William M. Forman (N.J. Dep’t of Education, Bureau of Law and Reference, Division of the State Library, 2nd ed., 1985, 17 p, DOCNJ call# HT169.9.E82 F67 1985).

The bibliography is divided into four parts. The first part lists sources published before the *Mount Laurel I* decision, discussing exclusionary zoning and proposals to counter it. The second, and longest, part contains sources specifically about the history of the *Mount Laurel* decisions, their implementation within New Jersey, and their influence in other states. The third part gives sources, both pre- and post-*Mount Laurel*, which focus on *inclusionary* zoning, and the fourth part lists sources focusing on fair share housing allocation. The arrangement within each part is chronological.

Part I. Exclusionary Zoning (Pre-*Mount Laurel* Literature)

Frank A. Aloï, Arthur Abba Goldberg, & James M. White, “Racial and Economic Segregation by Zoning: Death Knell for Home Rule?” 1 U. Tol. L. Rev. 65-108 (January 1969). Posits a “constitutional economic right to suburban housing.”

Lawrence Gene Sager, “Tight Little Islands: Exclusionary Zoning, Equal Protection, and the Indigent,” 21 Stan. L. Rev. 767-800 (April 1969). First use of the phrase “exclusionary zoning” in the sense of zoning that results in excluding low-income residents.

Norman Williams, Jr. & Edward Wacks, "Segregation of Residential Areas Along Economic Lines: Lionshead Lake Revisited," 1969 Wis. L. Rev. 827-847. See especially 838-839, analyzing discriminatory effect of minimum building size requirements.

Norman Marcus, "Exclusionary Zoning: The Need for a Regional Planning Context," 16 N. Y. L. F. 732-740 (1970)

Paul Davidoff & Neil Newton Gold, "Exclusionary Zoning," 1 (no.2-3) Yale Rev. L. & Soc. Action 56-63 (Winter 1970)

Frank Aloï & Arthur Abba Goldberg, "Racial and Economic Exclusionary Zoning: The Beginning of the End?" 1971 Urb. L. Ann. 9-62 (1971)

G. Allen Bass & Robert H. Freilich, "Exclusionary Zoning: Suggested Litigation Approaches," 3 Urb. Law. 344-374 (1971)

Norman Williams, Jr. & Thomas Norman, "Exclusionary Land Use Controls: The Case of North-Eastern New Jersey," 22 Syr. L. Rev. 475-507 (1971)

Robert J. Reinstein, et al., "A Case of Exclusionary Zoning," 46 Temp. L.Q. 7-39 (1972). Based on amicus brief in case in Bucks County, Pennsylvania.

Thomas F. Bergin, "Price-Exclusionary Zoning: A Social Analysis," 47 St. John's L. Rev. 1-37 (Oct. 1972)

W. Harold Bigham & C. Dent Bostick, "Exclusionary Zoning Practices: An Examination of the Current Controversy," 25 Vand. L. Rev. 1111-1150 (Nov. 1972)

Peter Simmons, "Home Rule and Exclusionary Zoning: An Impediment to Low and Moderate Income Housing," 33 Ohio St. L.J. 621-640 (1972)

Roger A. Cunningham, "The Interrelationship between Exclusionary Zoning and Exclusionary Subdivision Control - A Second Look," 6 U. Mich. J.L. Reform 290-326 (Winter 1973)

Leonard S. Rubinowitz, "Exclusionary Zoning: A Wrong in Search of a Remedy," 6 U. Mich. J.L. Reform 625-670 (Spring 1973)

David H. Moskowitz, "Standing of Future Residents in Exclusionary Zoning Cases," 6 Akron L. Rev. 189-214 (Spring 1973)

Richard F. Babcock & Fred P. Bosselman, Exclusionary Zoning : Land Use Regulation and Housing in the 1970s (Praeger, 1973, 210 p.) call# HT 167.B3

Fred M. Geldon, "The Sensuous Market: An Analysis of School Finance and Exclusionary Zoning," 51 J. Urb. L. 343-404 (Feb. 1974). Discusses exclusionary zoning at 380-394.

Frederick C. Mezey, "Beyond Exclusionary Zoning - A Practitioner's View of the New Zoning," 5 Urb. Law. 56-82 (1973)

Fair Housing and Exclusionary Land Use : Historical Overview, Summary of Litigation and a Comment with Research Bibliography (National Committee Against Discrimination in Housing, 1974, 72 p.)

Randall W. Scott, editor, Management & Control of Growth: Issues, Techniques, Problems, Trends (The Urban Land Institute, 1975), Call# HT 167.M36, vol.I, chapters 6 & 7, at pages 439-589, include ten articles on exclusionary land use and proposals to address it.

Michael M. Burns, "Class Struggle in the Suburbs: Exclusionary Zoning Against the Poor," 2 Hastings Const. L. Q. 179-201 (Winter 1975)

Part 2. The *Mount Laurel* Cases, Their Implementation, and Their Influence

Alan Mallach, "Do Lawsuits Build Housing?: The Implications of Exclusionary Zoning Litigation," 6 Rutgers-Cam L.J. 653-688 (1975)

Jerome G. Rose, "Exclusionary Zoning and Managed Growth: Some Unresolved Issues," 6 Rutgers-Cam L.J. 689-726 (1975)

Bruce L. Ackerman, "The Mount Laurel Decision: Expanding the Boundaries of Zoning Reform," 1976 U. Ill. L. Forum 1-73

John M. Payne, "Delegation Doctrine in the Reform of Local Government Law: The Case of Exclusionary Zoning," 29 Rutgers L. Rev. 803-866 (1976)

Mary Sullivan Mann, The Right to Housing: Constitutional Issues and Remedies in Exclusionary Zoning (Praeger, 1976). Call# KF5698 .M33. Includes discussion of *Mount Laurel* at 86-88.

Frederick W. Hall, "The Judicial Role in Land-Use Regulation," 100 N.J.L.J. 505, 514-515 (June 9, 1977). The Arthur T. Vanderbilt Lecture, delivered to Harvard Law School Association of New Jersey, April 20, 1977. Discussion of the *Mount Laurel* decision at 515.

Jerome G. Rose and Robert E. Rothman, editors, After Mount Laurel: the New Suburban Zoning (Center for Urban Policy Research, Rutgers University, 1977). Call# KF5698.A5 A33.

A compilation of two dozen essays analyzing the *Mount Laurel* decision, its implementation, reactions to it, and its implications outside New Jersey.

David H. Moskowitz, Exclusionary Zoning Litigation (Ballinger Publishing, 1977, 399 p.) call# KF 5698.M6. Includes chapters on: choice of litigants, forum, and legal theory; the *Mount Laurel* decision and Pennsylvania cases; determining fair share; and housing plans.

Fair Share Housing: A Conference on New Jersey Issues, sponsored by Dept. of Government Services, Division of Continuing Education, Bureau of Government Research, Rutgers College; in cooperation with New Jersey Association of Counties, New Jersey State League of Municipalities (Bureau of Governmental Research, Rutgers University, 1979, 136 p.) [Alexander Library, call# HD7303.N5F3 1979]

Harold A. McDougall, "The Judicial Struggle against Exclusionary Zoning: The New Jersey Paradigm," 14 Harv. C.R.-C.L. L. Rev. 625-654 (1979)

Brian D. Alton, "State Initiatives for Affordable Housing - Legislative and Judicial," 3 (no.2) Hamline J. Pub. L. 31-38 (Spring 1982).

Olan B. Lowrey, "Exclusionary Zoning: *Mount Laurel* - Seminal or Tempest-in-a-Teapot," 4 W. New Eng. L. Rev. 541-596 (1982).

Herbert M. Franklin, Fundamental Fairness in Zoning: Mount Laurel Reaffirmed (Potomac Institute, May 1983, 37 p.) call# KF5698.F85

"John M. Payne, Starting over - *Mount Laurel II*," 12 Real Est. L. J. 85-96 (1983)

Robert W. Burchell, W. Patrick Beaton & David Listokin, Mount Laurel II: Challenge and Delivery of Low-Cost Housing (Center for Urban Policy Research, Rutgers University, 1983, 430 p.) Call# HD7288.78.U52 N463 1983.

John M. Payne, "Doctrine and Politics in Exclusionary Zoning Litigation," 12 Real Est. L. J. 359-365 (1984)

Stanley C. Van Ness, "On the Public Advocate's Involvement in *Mount Laurel*," 14 Seton Hall L. Rev. 832-850 (1984).

Jerome G. Rose, "New Additions to the Lexicon of Exclusionary Zoning Litigation," 14 Seton Hall L. Rev. 851-888 (1984).

John M. Payne, "Housing Rights and Remedies: A 'Legislative' History of *Mount Laurel II*," 14 Seton Hall L. Rev. 889-943 (1984).

Robert C. Holmes, "A Black Perspective on *Mount Laurel II*: Toward a Black 'Fair Share'," 14 Seton Hall L. Rev. 944-954 (1984).

Gerald S. Meisel, "Guidelines for the Practitioner: The Impact of *Mount Laurel II* on New Jersey Zoning and Planning Procedure and Practice," 14 Seton Hall L. Rev. 955-985 (1984).

G. Alan Tarr & Russell S. Harrison, "Legitimacy and Capacity in State Supreme Court Policymaking: The New Jersey Court and Exclusionary Zoning," 15 Rutgers L. J. 513-572 (Spring 1984)

Robert F. Blomquist, "Solar Energy Development, State Constitutional Interpretation and *Mount Laurel II*: Second-Order Consequences of Innovative Policymaking by the New Jersey Supreme Court," 15 Rutgers L. J. 573-625 (Spring 1984)

Charles A. Licata & Jane Massey Licata, "The Environmental Implications of *Mount Laurel II*," 15 Rutgers L.J. 627-640 (Spring 1984)

Cassandra N. Jones, "Public Land Banking and *Mount Laurel II* - Can There Be a Symbiotic Relationship?" 15 Rutgers L.J. 641-665 (Spring 1984)

Harold McDougall, "*Mount Laurel II* and the Revitalizing City," 15 Rutgers L.J. 667-693 (Spring 1984)

Alan Mallach, "Atlantic City, the Casinos, and the *Mount Laurel II* Decision," 15 Rutgers L.J. 695-766 (Spring 1984)

Barbara Paulus Lampen, "*Mount Laurel II*: Considerations in the Redevelopment of Atlantic City," 15 Rutgers L.J. 767-785 (Spring 1984)

Jerome G. Rose, "The Mount Laurel II Decision: Is It Based on Wishful Thinking?" 7 Policy Studies Review Annual 191-213 (1985) [ISBN 0-88738-008-5]

Richard F. Babcock & Charles L. Siemon, The Zoning Game Revisited (Oelgeschlager, Gunn & Hain, 1985; Lincoln Institute of Land Policy reprint 1990), Chapter 11, "*Mount Laurel II*: Après Nous le Déluge," p.207-233.

Jeffrey R. Surenian, Mount Laurel II and the Fair Housing Act (New Jersey Institute for Continuing Legal Education, 1986, 449 + [75] p). Call# KFN 2260.5.D5 S97. A detailed analytical treatise on *Mount Laurel* law and procedures, including procedures developed by the specialized *Mount Laurel* trial courts. The author had been law secretary to Judge Eugene D. Serpentelli, who handled *Mount Laurel* cases in central New Jersey. In the same binder as the book is an earlier 66-page article by the same author, "*Mount Laurel II*, the Judiciary's Answer to Exclusionary Land Use Practices; The Fair Housing Act, the Legislature's Answer to *Mount Laurel II*."

Douglas W. Kmiec, "Exclusionary Zoning and Purposeful Racial Segregation in Housing: Two Wrongs Deserving Separate Remedies," 18 Urb. Law. 393-422 (Spring 1986). Proposes a Model State Land Use Enabling Statute that would replace the "general welfare" standard for local zoning authority with a "vital and pressing governmental interests" standard.

John M. Payne, "The Myths of Mount Laurel," 117 N.J. L.J. 750-751 (June 5, 1986). An op-ed piece responding to supposed justifications for a proposed constitutional amendment intended to overrule the Mount Laurel doctrine.

John R. Nolon, "A Comparative Analysis of New Jersey's *Mount Laurel* Cases with the *Berenson* Cases in New York," 4 Pace Env'tl. L. Rev. 3-36 (1986), available at : <http://ssrn.com/abstract=1349280>

Alan Mallach, "The Tortured Reality of Suburban Exclusion: Zoning, Economics, and the Future of the *Berenson* Doctrine," 4 Pace Env'tl. L. Rev. 37-130 (1986)

John M. Payne, "Rethinking Fair Share: The Judicial Enforcement of Affordable Housing Policies," 16 Real Est. L.J. 20-44 (1987)

Paula A. Franzese, "Mount Laurel III: The New Jersey Supreme Court's Judicious Retreat," 18 Seton Hall L. Rev. 30-54 (1988).

John M. Payne, "Title VIII and Mount Laurel: Is Affordable Housing Fair Housing?" 6 Yale L. & Policy Rev. 361-374 (1988). An assessment of the *Mount Laurel* movement as an outgrowth of the federal Fair Housing Act.

Rachel Fox, "The Selling Out of *Mount Laurel*: Regional Contribution Agreements in New Jersey's Fair Housing Act," 16 Fordham Urban L. J. 535-572 (1988).

Martha Lamar, Alan Mallach & John M. Payne, "*Mount Laurel* at Work: Affordable Housing in New Jersey, 1983-1988," 41 Rutgers L. Rev. 1197-1278 (1989), reprinted in 1990 Land Use & Env't L. Rev. 231-311.

Mark Alan Hughes & Peter M. VanDoren, "Social Policy through Land Reform: New Jersey's Mount Laurel Controversy," 105 Political Sci. Q. 97-111 (Spring 1990). Argues against the *Mount Laurel* approach for achieving various social goals, and against socioeconomic integration as a goal, but in favor of Regional Contribution Agreements.

Brian W. Blaesser et al., "Advocating Affordable Housing in New Hampshire: The Amicus Curiae Brief of the American Planning Association in Wayne Britton v. Town of Chester," 40 Wash. U. J. Urb. & Contemp. L. 3-48 (1991)

William A. Fischel, "Exclusionary Zoning and Growth Controls: A Comment on the APA's Endorsement of the Mount Laurel Doctrine," 40 Wash. U. J. Urb. & Contemp. L. 65-73 (1991)

Stuart Meck & Charles F. Tucker, "A Response to William A. Fischel," 40 Wash. U. J. Urb. & Contemp. L. 75-79 (1991)

W.T. Bogart, "What Big Teeth You Have: Identifying the Motivations for Exclusionary Zoning," 30 Urban Studies 1669-1681 (Dec. 1993)

Roland Anglin, "Searching for Justice: Court-Inspired Housing Policy as a Mechanism for Social And Economic Mobility," 29 Urban Affairs Q. 432-453 (March 1994)

David L. Kirp, John P. Dwyer and Larry A. Rosenthal, Our Town: Race, Housing, and the Soul of Suburbia (Rutgers University Press, 1995, 267 p.) Call# HD7288.76.U52 M685 1995. A detailed account of the *Mount Laurel* lawsuit and its historical, geographical, and political context.

James C. Clingermayer, "Quasi-judicial Decision Making and Exclusionary Zoning," 31 Urban Affairs Rev. 544-53 (March 1996)

John M. Payne, Norman Williams, "Exclusionary Zoning, and the *Mount Laurel* Doctrine: Making the Theory Fit the Facts," 20 Vermont L. Rev. 665-686 (Spring 1996)

Norman Williams & Anya Yates, "The Background of *Mount Laurel I*," 20 Vermont L. Rev. 687-697 (Spring 1996)

Charles Haar, Suburbs Under Siege: Race, Space, and Audacious Judges (Princeton University Press, 1996, 266 p.) call# KF5740.Z9 H3 1996.

Kristine Nelson Fuge, "Exclusionary Zoning: Keeping People in Their Wrongful Places or a Valid Exercise of Local Control?" 18 Hamline J. Pub. L. & Pol'y 148-168 (1996). Discusses the *Mount Laurel* trilogy at 154-158.

John M. Payne, "Politics, Exclusionary Zoning and Robert Wilentz," 49 Rutgers L. Rev. 689-712 (1997)

Naomi Bailin Wish & Stephen Eisdorfer, "The Impact of *Mount Laurel* Initiatives: An Analysis of the Characteristics of Applicants and Occupants," 27 Seton Hall L. Rev. 1268-1337 (1997)

Cynthia N. McKee, "Resurrecting *Mount Laurel*: Using Title VIII Litigation to Achieve the Ultimate *Mount Laurel* Goal of Integration," 27 Seton Hall L. Rev. 1338-1368 (1997)

John A. Powell, "Injecting a Race Component Into *Mount Laurel*-Style Litigation," 27 Seton Hall L. Rev. 1369-1385 (1997)

Florence Wagman Roisman, "The Role of the State, the Necessity of Race-Conscious Remedies, and Other Lessons from the *Mount Laurel* Study," 27 Seton Hall L. Rev. 1386-1425 (1997)

John Charles Boger, "*Mount Laurel* at 21 Years: Reflections on the Power of Courts and Legislatures to Shape Social Change," 27 Seton Hall L. Rev. 1450-1470 (1997)

David D. Troutt, "Mount Laurel and Urban Possibility: What Social Science Research Might Tell the Narratives of Futility," 27 Seton Hall L. Rev. 1471-1496 (1997)

Patrick Field, Jennifer Gilbert, & Michael Wheeler, "Trading the Poor: Intermunicipal Housing Negotiation in New Jersey," 2 Harv. Negot. L. Rev. 1-34 (1997).

J. Peter Byrne, "Are Suburbs Unconstitutional?" 85 Geo. L. J. 2265-2286 (1997). A comparative review of the books [Our Town](#) and [Suburbs Under Siege](#).

Julie M. Solinski, "Affordable Housing Law in New York, New Jersey, and Connecticut: Lessons for Other States," 8 J. Affordable Hous. & Cmty. Dev. L. 36-80 (1998).

John M. Payne, "General Welfare and Regional Planning: How the Law of Unintended Consequences and the *Mount Laurel* Doctrine Gave New Jersey a Modern State Plan," 73 St. John's L. Rev. 1103-1122 (1999)

Sarah Williams Holtman, "Kant, Ideal Theory, and the Justice of Exclusionary Zoning," 110 Ethics 32-58 (Oct. 1999). Philosophical analysis leading to conclusion that maintaining existing exclusionary zoning ordinances cannot be justified.

John M. Payne, "Reconstructing the Constitutional Theory of *Mount Laurel II*," 3 Wash. U. J. L. & Pol'y 555-582 (2000)

John M. Payne, "Fairly Sharing Affordable Housing Obligations: The *Mount Laurel* Matrix," 22 W. New Eng. L. Rev. 365-380 (2001).

Henry A. Span, "How the Courts Should Fight Exclusionary Zoning," 32 Seton Hall L. Rev. 1-107 (2001)

Peter H. Schuck, "Judging Remedies: Judicial Approaches to Housing Segregation," 37 Harv. C.R.-C.L. L. Rev. 289-362 (summer 2002). Discusses *Mount Laurel* at 309-319, and compares *Mount Laurel* with litigation in Chicago and Yonkers.

Norman Williams, Jr. & John M. Taylor, American Land Planning Law: Land Use and the Police Power (Thomson West, 2003 revised ed.), vol.3, §§68:4 to 68:84 cover the New Jersey background, the *Mount Laurel* cases, and cases in other states.

James L. Mitchell, "Will Empowering Developers to Challenge Exclusionary Zoning Increase Suburban Housing Choice?" 23 J. Policy Analysis & Management 119-134 (winter 2004). Found more diversity of housing achieved over 20 years around Philadelphia than in nearby New Jersey municipalities.

Keith R. Irhlandfeldt, "Exclusionary Land-use Regulations within Suburban Communities: A Review of the Evidence and Policy Prescriptions," 41 Urban Studies 261-83 (Feb. 2004)

William A. Fischel, "An Economic History of Zoning and a Cure for its Exclusionary Effects," 41 Urban Studies 317-340 (Feb. 2004). Suggests home-equity insurance to reduce demand for exclusionary zoning.

James C. Clingermayer, "Heresthetics and Happenstance: Intentional and Unintentional Exclusionary Impacts of the Zoning Decision-making Process," 41 Urban Studies 377-388 (Feb. 2004).

John M. Payne, "The Paradox of Progress: Three Decades of the *Mount Laurel* Doctrine," 5 J. Plan. Hist. 126-147 (May 2006). Discusses the impending shift from "fair share" to "growth share" implementation.

Howard Gillete, Jr., "Planning After *Mount Laurel*: To Gild 'the Ghetto' or Disperse It?" 5 J. Plan. Hist. 148-161 (May 2006). Focuses on the greater Camden region.

Robert Fishman, " 'Variety and Choice:' Another Interpretation of the *Mount Laurel* Decisions," 5 J. Plan. Hist. 162-165 (May 2006). Suggests viewing the Mount Laurel doctrine mainly as deregulation.

Timothy N. Castano & Dale Settin, eds., Mount Laurel II at 25: The Unfinished Agenda of Fair Share Housing (Policy Research Institute for the Region, 2008, 87 p.), [Call # HD7288.76.U52 M68 2008], available at: <http://www.princeton.edu/prior/publicatons/docs/mt.-laurel-complete-final.pdf>

Stephan Schmidt & Kurt Paulsen, "Is Open-Space Preservation a Form of Exclusionary Zoning? The Evolution of Municipal Open-Space Policies in New Jersey," 45 *Urban Affairs Rev.* 92-118 (Sept. 2009)

John M. Payne, "The Affordable Housing Case: Opening Up the Suburbs," in: "You Can Tell It to the Judge," ... and Other True Tales of Law School Lawyering (Frank Askin, ed., 2009) 39-47.

Daniel Meyler, "Is Growth Share Working for New Jersey?," 13 *N.Y.U. J. Legis. & Pub. Pol'y* 219-252 (2010), available at: <http://ssrn.com/abstract=1384164>

Richard H. Chused, "*Mount Laurel*: Hindsight is 20-20," 63 *Rutgers L. Rev.* 813-833 (2011)

Susan J. Kraham, "Right for a Remedy: Observations on the State Constitutional Underpinnings of the *Mount Laurel* Doctrine," 63 *Rutgers L. Rev.* 835-848 (2011)

Alan Mallach, "The *Mount Laurel* Doctrine and the Uncertainties of Social Policy in a Time of Retrenchment," 63 *Rutgers L. Rev.* 849-866 (2011)

David N. Kinsey, "The Growth Share Approach to *Mount Laurel* Housing Obligations: Origins, Hijacking , and Future," 63 *Rutgers L. Rev.* 867-878 (2011)

Stephanie R. Bush-Baskette, Kelly Robinson, & Peter Simmons, "Residential and Social Outcomes for Residents Living in Housing Certified by the New Jersey Council on Affordable Housing," 63 *Rutgers L. Rev.* 879-904 (2011)

Part 3. Inclusionary Zoning

Paul Davidoff & Linda Davidoff, "Opening the Suburbs: Toward Inclusionary Land Use Controls," 22 *Syracuse L. Rev.* 509-536 (1971).

Anthony Downs, Opening Up the Suburbs: An Urban Strategy for America (Yale University Press, 1973, 219 p.) call# HT123 .D64 1973. Primarily political analysis and advocacy. Limits on legitimate exclusion are discussed at 64-67. Specific zoning tactics are mentioned at 163.

Thomas Kleven, "Inclusionary Ordinances: Policy and Legal Issues in Requiring Private Developers to Build Low Cost Housing," 21 *UCLA L. Rev.* 1432-1528 (1974)

Herbert M. Franklin, David Falk, & Arthur J. Levin, In-Zoning: A Guide for Policy-Makers on Inclusionary Land Use Programs (Potomac Institute, 1974, 212 p.) call# KF5698 .F63. Includes

parts on regional housing plans and land banking; has annotated bibliography of primary and secondary sources.

Gregory Mellon Fox & Barbara Rosenfeld Davis, "Density Bonus Zoning to Provide Low and Moderate Cost Housing," 3 *Hastings. Const. L.Q.* 1015-1072 (1976)

Charles E. Daye, "The Race, Class and Housing Conundrum: A Rationale and Proposal for a Legislative Policy of Suburban Inclusion," 9 *N. C. Cent. L. J.* 37-102 (1977). Proposes "The One America Act," a federal act to mandate suburban inclusion.

Robert C. Ellickson, "The Irony of 'Inclusionary' Zoning," 54 *S. Cal. L. Rev.* 1167-1216 (1981). Studying mainly California examples, concludes that inclusionary zoning is a "misguided undertaking ... likely to aggravate the housing crisis..."

David S. King, "Inclusionary Zoning: Unfair Response to the Need for Low Cost Housing," 4 *W. New Eng. L. Rev.* 597-622 (Spring 1982)

C. E. "Ted" Parker, "Inclusionary Zoning - A Proper Police Power Function or a Constitutional Anathema?" 9 *W. St. U. L. Rev.* 175-198 (Spring 1982)

Dwight Merriam, David J. Brower, & Philip D. Tegeler (editors), [Inclusionary Zoning Moves Downtown](#) (Planners Press, 1985, 223 p. call# KF 5698.I53. Includes material on housing trust funds.

Robert A. Johnston, et al., "Selling Zoning: Do Density Bonus Incentives for Moderate-Cost Housing Work?" 36 *Wash. U. J. Urb. & Contemp. L.* 45-62 (1989)

Lawrence Berger, "Inclusionary Zoning Devices as Takings: The Legacy of the Mount Laurel Cases," 70 *Neb. L. Rev.* 186-228 (1991)

Laura M. Padilla, "Reflections on Inclusionary Housing and a Renewed Look at its Viability," 23 *Hofstra L. Rev.* 539-626 (1995).

Andrew G. Dietderich, "An Egalitarian's Market: The Economics of Inclusionary Zoning Reclaimed," 24 *Fordham Urb. L.J.* 23-104 (1996). Disputes the economic theory of Ellickson's 1981 article, and compares three different regimes of inclusionary zoning.

Charles E. Daye, "Whither 'Fair' Housing: Meditations on Wrong Paradigms, Ambivalent Answers, and a Legislative Proposal," 3 *Wash. U. J. L. & Pol'y* 241-294 (2000).

Benjamin Powell & Edward Stringham, " 'The Economics of Inclusionary Zoning Reclaimed': How Effective Are Price Controls?" 33 *Fla. St. U. L. Rev.* 471-500 (Winter 2005)

Part 4. Regional Fair Share Housing Allocation

David Listoken, "Fair-Share Housing Distribution: Will It Open the Suburbs to Apartment Development?" 2 Real Est. L. J. 739-759 (1974). Reviews variations among fair share housing plans implemented or proposed around the country and the initial impact of those plans.

David H. Moskowitz, "Regional Housing Allocation Plans: A Case History of the Delaware Valley Regional Plan," 7 Urb. Law. 292-309 (1975). Sets forth legal bases of regional plan and details of Bucks County plan.

David Listokin, Fair Share Housing Allocation (Center for Urban Policy Research, Rutgers University, 1976, 253 p.) call# HD7293.L57

Jerome G. Rose, "Fair Share Housing Allocation Plans: Which Formula Will Pacify the Contentious Suburbs?" 12 Urb L. Ann. 3-20 (1976)

Stephen David Galowitz, "Interstate Metro-Regional Responses to Exclusionary Zoning," 27 Real Prop. Probate & Trust J. 49-142 (Spring 1992). Suggests that, since effect of exclusionary zoning is strictly metro-regional, interstate compacts and informal interstate cooperation are the most fruitful solutions.

John Charles Boger, "Toward Ending Residential Segregation: A Fair Share Proposal for the Next Reconstruction," 71 N.C. L. Rev. 1573-1618 (June 1993). Proposes a National Fair Share Act.

Justin D. Cummins, "Recasting Fair Share: Toward Effective Housing Law and Principled Social Policy," 14 Law & Ineq. 339-390 (1996)

Thomas A. Brown, "Democratizing the American Dream: The Role of a Regional Housing Legislature in the Production of Affordable Housing," 37 U. Mich. J.L. Reform 599-678 (Winter 2004)