

1 Q So in effect unless the developer had an inten-
2 tion to engage in a "zoning battle" with the township he
3 would have to follow the specifications set forth by the
4 township for development, is that right?

5 A Sure. He must meet the requirements of the ordinance.

6 Q So as a planner when one is analyzing whether or
7 not to put in an apartment zone or not put in an apartment
8 zone and when one is analyzing what the nature of the
9 apartment zone is, isn't one also analyzing the type of
10 person who will be able to afford the apartment built
11 in that zone?

12 A Not really. Let's take Berlin Borough, for example.
13 We just recommended an apartment ordinance to them. This
14 was done a year ago, I think, and it is my recollection
15 we had a density of about 18 units per acre. If you want
16 to build 18 units per acre you can build subsidized units
17 or non-subsidized units.

18 Q Do you know what was approved in Berlin Borough?

19 A No, I don't.

20 Q You don't know if that proposal was ever approved?

21 A It was approved by the Planning Board but whether it
22 ever got adopted I don't know.

23 Q You testified in analyzing Mount Laurel Township
24 one has to see how the region relates to Mount Laurel, is
25 that right? A Yes.

1 Q Is it also significant how Mount Laurel should
2 relate to the region?

3 A Yes.

4 Q And analyzing how Mount Laurel should relate to
5 the region, what does that analysis consist of?

6 A My impression of Mount Laurel and its function in the
7 region is by and large as a dormitory.

8 Q A bedroom community?

9 A A bedroom community.

10 Q With approximately 4,000 acres in an industrial
11 state?

12 A I don't think that the 4,000 acre industrial land
13 zone is realistic, number one. And number two it would
14 have been largely chopped up in the planned unit develop-
15 ment, had they been approved.

16 Q Why is it presently still zoned in that manner
17 if it is unrealistic?

18 A One of the things we are now doing under our planning
19 contract is reanalyzing the comprehensive plan and the
20 zoning ordinance and reanalyzing the need for a new planned
21 unit development ordinance. We are analyzing the need for
22 apartment districts. We are analyzing the need for many
23 things. So as I had earlier stated, this is a continuing
24 process and we are continuing to look at the plan and I
25 suspect there will be some changes.

1 Q That is interesting. In other words you are
2 presently in the process of re-evaluating all of Mount
3 Laurel ordinances and codes and you are capable now --

4 A No, sir. The zoning ordinance and the comprehensive
5 plan.

6 Q Just the zoning ordinance and the comprehensive
7 plan?

8 A And the capital improvement program.

9 Q So if part of the analysis should be part of the
10 subsidized housing you are presently capable of forming
11 the analysis how to introduce them in Mount Laurel Township?

12 A You keep talking about subsidized housing. I keep
13 talking about in terms of density. That is the way I think.
14 It is up to the builder-developer, it is his responsibility
15 to decide whether subsidized or not subsidized.

16 Q Density is not the only factor in cost, is that
17 correct?

18 A It is a major factor.

19 Q It is a major factor? Isn't availability of
20 land also a major factor in a particular zone?

21 A Yes.

22 Q So if the entire township, 22 square miles was
23 zoned 12 to the acre, that would have a tremendous difference
24 than if 10 acres was so zoned?

25 A If you zoned it for 12, as you say, land values would

1 drop extensively so you would have cheaper land cost
2 because there would be so much competition to change the
3 land so that you change the entire value of the land.

4 Q So you would have cheaper land and greater
5 density?

6 A Cheaper land and greater density.

7 Q Would that facilitate the building of subsidized
8 housing?

9 A It could.

10 Q Suppose instead of doing that we just carved off
11 a small area of the township, a very small area and use
12 my characterization of a very small area around say that
13 will be 12 to the acre density, what would that do to the
14 cost of that land?

15 A That would be extremely valuable land in Mount Laurel.
16 Now, as long as it was competitive with land zoned 12 units
17 per acre everywhere else, but you see there is no magic to
18 living in Mount Laurel so if a developer can buy the same
19 tract of land at half the price in Voorhees Township and
20 he is trying to hit the same market, he will buy the 12
21 acres of the small piece in Voorhees Township or wherever.

22 Q Do you know of any land in Moorestown zoned 12
23 to the acre?

24 A I am not familiar with the Moorestown Zoning Ordinance.

25 Q Maple Shade? A No.

1 Q Cherry Hill?

2 A I don't know their ordinance. I only know the
3 ordinances I have been involved in.

4 Q I asked you how you could possibly relate Mount
5 Laurel to the area if you don't know what they are zoned
6 for?

7 A If you think as part of the planning process to
8 prepare a master plan that the planner must analyze every
9 district and every county in the region I am afraid that
10 the cost of planning would be so prohibitive that none of
11 the towns could afford to do it. You look at the land
12 use map. You have the DVRPC maps. You know the land is
13 available. The same sources that you have been using,
14 I am sure.

15 Q If I told you there was not too much land in
16 this area, hypothetically, not too much land in the area
17 zoned 12 to the acre, and I indicated to you another
18 hypothetical that Mount Laurel zoned a small area 12 to
19 the acre, what would be the effect of the cost of the land?

20 A It would increase.

21 Q I show you Exhibit P-11, the master plan of
22 Mount Laurel Township.

23 I would prefer to use the exhibit rather than your
24 own. I am sure they are the same.

25 Will you describe the map you are looking at in P-11?

1 A The land use plan in Mount Laurel Township.

2 Q Was that a projection for land use control in
3 Mount Laurel Township?

4 A Well, not controls, really. It is a projection for
5 future land use and development.

6 Q Does it specify density?

7 A It refers to them, modern urban; suburban; rural;
8 public semi-public and open spaces; commercial and
9 industrial.

10 Q Does it contain recommendations for density?

11 A Yes.

12 Q What is the recommendation for density in the
13 moderate urban zone?

14 A Maximum growth density would be 12 dwelling units per
15 acre.

16 Q Could you find the moderate urban zone on that
17 map, please?

18 A Moderate urban zone well, it is shown in several
19 locations.

20 Q Would you point to the several locations, please?

21 A There is a color version of the plan. Do you have it?

22 Q I have my colored version.

23 A There is a reproduction, a colored version also.

24 There are three different areas shown in the western portion
25 of the township and one larger area shown in the eastern

1 portion of the township.

2 Q Do you have any idea how much acreage is zoned
3 in those areas?

4 A No, I don't.

5 Q Would you relate the percentage of acreage zoned
6 in rural?

7 A Rural is yellow on here. Obviously the larger portion.
8 It coincides.

9 Q I am not asking what the areas coincide to. I'm
10 just asking whether you can relate it in terms of size to
11 that area designated in red which is moderate urban?

12 A Much larger.

13 Q The area which is related as suburban. Can you
14 relate that to the size?

15 A That is about equal to the rural in acreage I would
16 say.

17 Q Would you say that the vast proportion of land
18 zoned for residential according to this plan would be in
19 the suburban and rural area?

20 A Yes.

21 Q Can you relate to the Court what the proposed
22 density is in the rural area?

23 A One and a half units per acre. Excuse me. One unit
24 per one and a half acres.

25 Q Directing your attention to page 81 of the

1 master plan. Now that shows, does it not, a range of
2 density within the suburban area?

3 A Yes.

4 Q What is the maximum permitted?

5 A Three dwelling units per acre.

6 Q What is the minimum?

7 A 1.5.

8 Q Directing your attention to the rural area,
9 what is the maximum permitted in the rural area?

10 A Point 75.

11 Q Point 75 dwelling units to the acre?

12 I direct your attention to the minimum in the rural
13 area, what is that?

14 A Point three.

15 Q Point three dwelling units per acre?

16 I direct your attention again to that map, the map
17 of the land use Mount Laurel now is presently zoned
18 provides 20,000 square foot lots?

19 A That is correct.

20 Q In the R-3 zone?

21 And in that remaining portion of the R-1 zone, 9,375
22 square foot lots?

23 A Correct.

24 Q What would be the effect in terms of density in
25 adopting this proposed land use plan in terms of density?

1 A I would have to figure this out by multiplying all
2 of it.

3 Q Well, 20,000 square foot are two to the acre net?

4 A A little less, yes.

5 Q What would point three to the acre be, less or
6 more?

7 A It would be much less, of course.

8 Q Point 75 to the acre?

9 A Much less.

10 Q And 1.5?

11 A Well, less.

12 Q Much less.

13 So in other words in the proposed zoning map or
14 density control according to the master plan Mount Laurel
15 will become much less dense than presently zoned for, is
16 that not correct?

17 A No, I think the problem we have here is that at
18 the time this plan was prepared they are assuming a planned
19 unit development ordinance which they don't have any longer
20 so that they have got to rethink the whole plan or a new
21 planned unit development ordinance. I think if you are
22 now comparing two maps, that we are dependent upon a third
23 element, which is no longer part of their control.

24 Q Well, to be honest now, Mr. Shepherd, in the
25 R-3 zone there was very little acreage taken up by the

1 planned unit development, is that correct?

2 A Not too much, that is correct.

3 Q So we are talking --

4 A That is the area where we have our major development
5 limitations.

6 Q So we are talking then in terms of development
7 of the R-3 zone in terms of this map and that map?

8 A Yes.

9 Q According to the two density controls in the
10 present map and the one proposed there, is it not correct
11 to say there can be a substantial decline in permitted
12 density in the area?

13 A Yes, but you still have the big industrial 4,000 acres
14 and this map shows using some of that industrial area in
15 residential development which is where the 12 units per
16 acre came into some extent and the planned unit development
17 came in.

18 Q The area zoned industrial, can you tell in what
19 category that area will be zoned according to this plan?

20 A Some of it will be zoned industrial. Some will be
21 moderate urban and some will be suburban.

22 Q How much would you say would be moderate urban?

23 A I can't guess acreage from a map of this scale. I
24 wouldn't be accurate so I am not prepared to answer the
25 question.

1 Q Do you have the existing land use map with you
2 from which you computed the availability of land in the
3 R-1 zone?

4 A No, I don't.

5 Q Do you have your computations with you?

6 A Yes.

7 Q Can I see those?

8 A Yes.

9 Q I direct your attention to a series of pie
10 diagrams contained in the Master Plan Report of 1969,
11 Exhibit P-11. Would you explain to the Court what that
12 pie diagram shows?

13 A Land use 1958, land use 1968, zoning 1968.

14 Q Now, in zoning 1968 in land use, what percentage
15 of the land in Mount Laurel Township is used in residential?

16 A 15.7% according to these pie diagrams.

17 Q And in zoning in Mount Laurel Township according
18 to 1968, what percentage of land in Mount Laurel Township
19 is zoned R-1 and R-2.

20 A 20%.

21 Q What would be the difference then between land
22 use in 1968 and zoning in 1968, just comparing the total
23 residential, comparing it to the R-1 and the R-2 zone?
24 What percentage differences?

25 A Well there is no R-1D shown in here to start with.

1 Q Forgetting the R-1D for the moment.

2 A So you have lost some acreage there for the moment
3 but not --

4 Q Forget that for the moment.

5 A The other thing --

6 Q I am asking you a direct question.

7 A I will answer it the only way I can. They have
8 taken out roads and streets as a separate category and
9 I don't know how much of those roads go to residential
10 and how many don't so you are adding apples and oranges
11 here.

12 Q I have 7.4 % for roads and streets.

13 A That doesn't relate streets to anything else added
14 to what, residential?

15 Q Residential.

16 A Again you are adding apples and oranges. 23.1%.

17 Q Please subtract the residential land use at
18 that point in 1968. What is the remaining per cent?

19 A 5½%.

20 Q I asked you to go to the board and address
21 yourself to Exhibit P-50. Does that exhibit contain or
22 indicate developments which are in existence now but
23 were not in existence in 1958?

24 A Is this '50? I didn't prepare the maps so I can't
25 testify as to what it shows or doesn't show.

1 Q Can you indicate for the purpose of the Court
2 the areas in the R-3 zone which have developments in them?

3 A You are asking me to say that this is a land use map?
4 It is not. It is a zoning map.

5 Q I am asking you to indicate on the map areas
6 in the R-3 zone which have developments in them.

7 A How can you? It doesn't show.

8 Q Don't you know? There are street names on the
9 map.

10 A I would have to look at an existing land use map.
11 This is nothing but a zoning map.

12 Q Does it show Rambelwood on the green? Does it
13 show Rancocas Woods? Does it show Canterbury on the
14 green? Does it show Countryside Farms? Laurel Knoll?
15 Laurel Woods? Rambelwood Farms?

16 A It is a zoning map.

17 Q Could you indicate on the map where Rambelwood
18 on the green is?

19 A No.

20 Q Can you indicate where Countryside Farms is?

21 A No.

22 Q Can you indicate where Rancocas Woods is?

23 A No. I didn't prepare the map. I had nothing to do
24 with it.

25 Q Have you ever been to Mount Laurel Township in

1 the daytime?

2 A Many, many times, yes.

3 Q Assuming for the moment that this map actually
4 indicates the existing developments in the township, do
5 you see any interior streets in the R-3 zone that would
6 indicate to a planner in fact there might be a residential
7 development in that zone?

8 A No, it is not shown. It is a zoning map.

9 Q But doesn't it show streets and can't you tell
10 from streets like for example if this is an accurate
11 reflection of all the streets, are there any residential
12 units here?

13 A No.

14 Q Here? A No.

15 Q Where in the R-3 zone would be the residential
16 units if this is an accurate representation?

17 A The R-3 zone is where you have the development
18 limitations so the kind you get there are on-site septic
19 systems and you don't get big subdivisions. You get a
20 scattering of houses, three houses here, five houses there.

21 Q So in 1968 it is safe to say in the R-3 zone
22 there was very little development?

23 A That is correct.

24 Q So it is virtually safe to say all of the develop-
25 ment was in the R-1 and R-2 zone?

1 A That is where the utilities are. That is where they
2 are supposed to be.

3 Q Would you address yourself to the land use,
4 to the percentage you gave to the difference between land
5 use in(1968 and zoning in 1968, assuming all of the roads
6 in Mount Laurel Township were in the R-1 and R-2 zone?
7 You indicated that there would be seven per cent that are
8 not being used, is that correct, as residential?

9 A If I take whose ever figures these are, not knowing
10 how they arrived at them and add the figures you asked me
11 to add which do not relate to each other you get a 7%
12 difference, that is correct.

13 Q Now would you say there is a substantial number
14 of roads in other areas other than the R-1 and R-2 for
15 example in the industrial area and in the vast area of
16 the township that is R-3?

17 A The question again?

18 Q Would you say that there is vast area of roads
19 in the area of the township other than R-1 and R-2, for
20 example roads in industrial area and a very large area of
21 R-3?

22 A The major roads that go through the township, of
23 course is the Turnpike. That takes a lot of land.

24 Q That is not in the R-1 and R-2 zone?

25 A And should not be attributed to R-1 or R-2 zone.

1 Q And I295, that should not be attributed to R-1
2 or R-2?

3 A Correct.

4 Q And Union Mill Road, which runs all the way
5 through Mount Laurel should not be attributed to it?

6 A No, that is a major road.

7 Q Haven't we come to a rather small percentage of
8 land available in R-1 and R-2 zone, assuming that is
9 available for use in 1968?

10 A According to our figures there were 928 acres
11 available in R-1.

12 Q Did you project what the development potential
13 was for that area under the new plan that is recommended
14 in the master plan?

15 A Are you talking about the 12 units per acre?

16 Q Yes, the new master plan proposal for land use.
17 I take it that the areas which are now vacant in R-1 at
18 9,375 square feet would be included in either the moderate
19 urban, suburban or rural areas on the new map if you
20 compute where in the new proposed map where the 9,375 lots
21 would be?

22 A Totally based on zoning?

23 Q The zoning map as it exists today.

24 A Yes.

25 Q You cannot relate the vacant areas in the zoning

1 map and the one that is proposed, can you? Or can you?

2 A There is no proposed zoning map.

3 Q The proposed density requirement contained in
4 the new plan?

5 A Right.

6 Q How would that change your projection of numbers
7 of units that may be constructed?

8 A I guess the hypothetical question you are asking me
9 is if a revised zone, if they revised the zoning ordinance
10 to meet this comprehensive land use plan in 1968 would
11 they be?

12 Q Right.

13 A I don't know. I never figured it out.

14 Q It would be substantially less, this is 9,375
15 feet and the maximum there is 3 to the acre, I believe?

16 A Sure.

17 Q Does industrial location relate to roads and
18 access to major highways?

19 A Yes.

20 Q And in light of the circulation and existing
21 roads in Mount Laurel Township would you say it is a sort
22 of a hot spot for industrial location?

23 A No.

24 Q You say it is not?

25 A I would say it is not a hot spot to use your term for

1 industrial location.

2 Q How far is Exit 4 of the Turnpike from
3 Philadelphia, do you know?

4 A About a 30 minute drive.

5 Q And from New York City?

6 A Hour and a half.

7 Q From the Tacony-Palmyra Bridge?

8 A I never go that way if I can help it.

9 Q And the new State Route 90 which will come in
10 from the Delair Bridge and end around Exit 4?

11 A Half an hour.

12 Q Would you say this is a fairly unique road
13 configuration with an interstate highway, with an exit
14 from the Turnpike --

15 A Extremely unique.

16 Q -- New Jersey Turnpike?

17 A Yes.

18 Q And a state road coming from a bridge that
19 connects to another state?

20 A Yes.

21 Q And Route 38 that connects to a bridge going
22 into Philadelphia, Route 70 connecting with a bridge in
23 Philadelphia, would you say that is fairly unique?

24 A An excellent way, no question about it.

25 Q I295 a major north-south connection, New Jersey

1 Turnpike, a major north-south connection --

2 A Yes.

3 THE COURT: Are you making a summation? He
4 said it is a very unique system. How many times do
5 you want him to say it?

6 Q Wouldn't this be a prize place for an industrial
7 plant to locate?

8 A I don't know what you are using by the word development.
9 If you are talking about shopping, yes. If you are talking
10 about some kind of industries that are related to truck
11 transportation, yes. If you are talking about the type of
12 industry that have these very large assembly lines and
13 take a lot of people -- no.

14 Q I am not talking about that. Let's take a truck
15 transportation in these industries that you would be
16 talking about which I characterize as industries. Those
17 plants that you would characterize as industries. What
18 per cent of the employees would you say would be in the
19 blue collar category?

20 A I would say it would have to be very low out there
21 because of the transportation problem, i.e., lack of
22 transportation.

23 Q That is not a function if you build a Holiday Inn
24 here, you still have to have the same number of persons?

25 A You are using a Holiday Inn as an industry?

1 Q That would be located in the industrial zone of
2 Mount Laurel Township, would it not?

3 A Yes.

4 Q Do you know how many motels and hotels exist in
5 Mount Laurel?

6 A Not offhand.

7 Q Does a Holiday Inn exist in Mount Laurel?

8 A Yes.

9 Q What percentage of the employees in the Holiday
10 Inn would you characterize as executives?

11 A I have no idea what their employment level is or
12 percentage-wise.

13 Q What industries in Mount Laurel do you have an
14 idea of as far as employment goes?

15 A Offhand I can't give you any specific figures right
16 now.

17 Q If you can't give any specific figures, on
18 what basis can you testify?

19 A We have all that information in the office. We have
20 gone through all of this just like you are asking me what
21 lot sizes are in the R-3 zone in Moorestown.

22 Q Would you say there has been a great increase in
23 Burlington County in manufacturing blue collar industry
24 in the last 20 years?

25 A Yes.

1 Q And in the manufacturing industry do you have a
2 great deal of blue collar workers?

3 A Yes.

4 Q If there has been a great increase in Burlington
5 County in the last 20 years in manufacturing, blue collar
6 workers, are you testifying that they should still be
7 housed or they should be housed in the City of Philadelphia?

8 MR. ROGERS: I object to that question.

9 THE COURT: I think he can answer it.

10 A I don't believe I said that. What I said was that
11 they would have to get to their place of employment in
12 some way other than the automobile.

13 Q What percentage of persons earning \$4,000.00 or
14 between 4 and \$8,000.00 own automobiles? Do you have any
15 idea?

16 A I would say a fairly high percentage.

17 Q If a great percentage of persons earning 4 to
18 \$8,000.00 a year own automobiles, what would be the
19 problem in getting transportation to work?

20 A Because, to live in Mount Laurel and to work in
21 Philadelphia and to go there by automobile and park your
22 car has got to cost you a couple of hundred dollars a
23 month and if you are a blue collar worker or a lower
24 skill worker you cannot afford that \$200.00 a month
25 it costs you to travel back and forth to your job.

1 Q Also you would not be able to afford to live in
2 the city of Camden and commute out to Mount Laurel?

3 A No.

4 Q So if in fact there are this calibre of employ-
5 ment developing in Mount Laurel it would be of significant
6 interest to the employee to live nearby?

7 A Always is.

8 Q Where in Mount Laurel is somebody earning \$4,000,
9 where can he live?

10 A I don't know.

11 Q I direct your attention to plaintiff's Exhibit
12 P-8. These are requests for admissions by plaintiff and
13 I am referring on page 2 to admissions or request 1 Sub 13,
14 ordinance in 1967-8 adopted 6-19-67, permit nonresidents
15 of police force because of failure of any residents to
16 apply for the exam.

17 I also show you now plaintiff's Exhibit C as admitted
18 by the parties and it indicates township employees in
19 Mount Laurel and it gives their addresses and also indicates
20 what their job is.

21 I refer you to those employees designated police.
22 These two categories and those employees designated as
23 public works, which is these two categories. You, in
24 reviewing these addresses, can you indicate whether they
25 live in the new developments in Mount Laurel Township as

1 opposed to the rural or undeveloped township or whether
2 they in fact live in Mount Laurel Township at all?

3 A I don't know if you are giving me post office boxes
4 or addresses. Church Road, Moorestown. I don't know.

5 I really think that I was put on here and qualified
6 in planning and not where the policemen live.

7 Q Do you think it would be of significant help to
8 the policeman if he might have the opportunity to live in
9 the township where he is working?

10 A Yes.

11 Q And somebody working in the public works
12 department in the township?

13 A Well, I don't think everybody has to live in exactly
14 the place where they work.

15 Q I am not saying that at all.

16 A And we have to think about the region a little bit.

17 Q That is not the question at all. I asked you
18 in light of the cost of transportation --

19 A In proximity.

20 Q Can you indicate in Mount Laurel Township where
21 he might live?

22 A I see a lot of Moorestown addresses here.

23 Q For the purpose of the record I will admit that
24 Moorestown addresses are Mount Laurel. Mount Laurel does
25 not have a post office address so that a Moorestown address

1 might be in Mount Laurel.

2 Q Can you give us the street address?

3 A Here is one Church Road, Moorestown.

4 Q Go on.

5 A Schoolhouse Lane, Moorestown.

6 Q Do you know where those are?

7 A No.

8 Q Keep going.

9 A Here is one Mount Laurel Road, no address. That
10 should be in Mount Laurel.

11 Q Do all of the developments have street addresses
12 by number?

13 A As far as I know they do.

14 Q Can you find any?

15 A In the developments?

16 Q They would have street addresses with a number,
17 right?

18 A Yes.

19 Q Do you find any there that you recognize as
20 being in a new development?

21 A Here is Rancocas Woods.

22 Q Could you say who is in Rancocas Woods?

23 A Donald Apperman.

24 Q I ask you now to address yourself to the town
25 council of Mount Laurel.

1 THE COURT: Is there any particular reason why
2 you are asking this witness questions concerning
3 matters that are already in evidence? What are you
4 trying to establish by a planner, that you have not
5 already established?

6 MR. BISGAIER: I feel that we have established it.

7 THE COURT: I think you have.

8 MR. BISGAIER: Thank you.

9 THE COURT: How important it is is something
10 else but you have established it. I don't think you
11 ought to just keep pressing it and pressing it until
12 it becomes boring. You make me feel like I am an
13 idiot. That I don't understand what you are doing.
14 Like most lawyers when I am sitting without a jury
15 they try to impress me and they keep repeating it
16 and I feel like an idiot. They think that the judge
17 is so stupid he doesn't understand what he is getting
18 at but I do. I catch on.

19 MR. BISGAIER: I apologize to the Court.

20 Q You testified that you worked or you assisted
21 in the city of Camden urban renewal area?

22 A Yes..

23 Q What urban renewal area was that?

24 A The one right across from the Ben Franklin Bridge.
25 Something number two. It is the second project they had

1 next to the high-rise building there.

2 Q Northgate number two?

3 A Northgate number two.

4 Q You also testified to the general condition of
5 housing in the city of Camden?

6 A I testified to it?

7 Q Can you testify to it?

8 A Some very bad. Some very good.

9 Q What is the percentage of good housing?

10 A What do you mean by very good?

11 Q You used the characterization.

12 A The whole range of housing ranges from single family
13 to townhouses to row houses to high-rise apartments.

14 Q What percentage would you say --

15 A I never made an over-all planning study of the city
16 of Camden so I don't know. They have got some real luxury
17 apartments in the city of Camden and you have got some
18 real slums.

19 Q Can you name a real luxury apartment?

20 A You have got one right across the bridge, Northgate
21 one. It's got a real good location.

22 Q You characterize that as a luxury apartment?

23 A I don't know what the rents are.

24 Q If you don't know what the rents are how can you
25 characterize it as a luxury apartment?

1 A The ones on the creek out there by 130, I forget the
2 name of those. I think they are supposed to be luxury
3 apartments. You have high-rise --

4 Q Are you sure those apartments that you just
5 mentioned are in the city of Camden?

6 A I think they are. I am not sure. But again it is all
7 that area. It is Camden as far as I am concerned. It
8 may cross a boundary but I am not -- I don't think
9 boundaries are that much to be concerned about. It is an
10 artificial line.

11 Q It is an important line, however, in terms of
12 tax ratables, is it not, under the present tax laws?

13 A Yes, under the present tax laws, yes.

14 Q Are you familiar with the trends in terms of
15 population, movement, racial movement of population over
16 the last 20 years in this region?

17 A No. That is such a broad question I don't know how
18 anybody can answer it.

19 Q Can you relate to the Court what the population
20 trends have been in the last 20 years in the region?

21 A There has been an exodus from the major center city
22 to the suburbs.

23 Q Exodus of whom?

24 A People.

25 Q What income?

1 A Upper level of income.

2 Q What race of people?

3 A Presumably white.

4 Q From a planning point of view would you say
5 this would be sound planning?

6 I will give you a hypothetical. Let's take a region,
7 would it be sound planning in a region to have in one area
8 of the region a substantial proportion of the poor and
9 members of minority groups and in the other area of the
10 region a substantial portion of the upper income persons
11 and whites? Is that a planning consideration?

12 A Of course it is not desirable. It is an economic
13 factor.

14 Q But is it a planning consideration?

15 A It goes back to what I said a while ago, the cost
16 of transportation and the cost of living in the suburbs,
17 the extra costs.

18 Q What effect does the cost of living in the
19 suburbs have?

20 A Primarily transportation but you have to take into
21 account all things. How do you keep an acre and a half
22 cleared and the mowing of the lawn? There are costs in
23 the suburbs that you don't have in the cities.

24 Q Is that related to the price of the home?

25 A Yes.

1 Q So if the price of a home was substantially less
2 and the fact that the renter was not responsible for the
3 maintenance, in other words it was a subsidized unit, the
4 cost would be substantially decreased?

5 A It won't change the cost of it. It will change who
6 pays for it but it still costs the same.

7 Q How much he pays?

8 A Yes, but it still costs the same.

9 Q Mr. Shepherd, as a planner, you don't feel or
10 do you feel a responsibility to deal with this disparity
11 in the region, to relate land use controls if possible
12 to changing that disparity?

13 A Oh, I have already testified that we have done that
14 in all of these comprehensive planning jobs. We do create
15 areas for higher density and that is exactly what you are
16 talking about.

17 Q You do create areas for higher density? Is
18 that what you said?

19 A Yes.

20 Q Would you say that one consideration in the
21 development of plans for a municipality -- or correct me
22 if I am wrong -- didn't you say some major consideration
23 in terms of planning for municipalities are transportation
24 resources that are available, roads and also the nature of
25 the land? A Yes.

1 Q Would you say another one would be the desires
2 of a municipality itself, the goals of the municipal
3 officials? Is that another?

4 A Sure, in the final analysis the people that must
5 adopt the ordinance and the plans must make those deter-
6 minations, yes.

7 Q Would you say then regardless of what the
8 planner suggests, in the final analysis that plan is
9 going to be controlled by the goals of the municipality?

10 A I wouldn't say regardless. I think there are a good
11 many ways that the planner can make his point known and
12 understood and accepted. We don't say "Here it is. Do
13 what you want to with it."

14 We try to persuade where necessary.

15 Q Right. Have you ever suggested to Mount Laurel
16 Township that they do anything with regard to the construc-
17 tion of subsidized housing?

18 A I would have to say nothing directly.

19 Q How do you mean nothing directly?

20 A Well, we haven't said "Here is what you ought to do."

21 Q What have you said?

22 A We have shown them what programs are available to
23 them. We have analyzed the housing, what we think of
24 the housing needs, and made recommendations along those
25 lines. We have kept them informed as to what is available

1 to them. As far as saying "This site should be a public
2 housing site," no, we have not done that.

3 Q But you have familiarized the township with the
4 various programs that are available?

5 A Yes.

6 Q Do you know if the townships have been
7 familiarized for the various programs that have been
8 available for several years?

9 A I think it has been a continuing point of discussion
10 with them.

11 Q Well, they have had a planner.

12 A We have been there for 2½ years now.

13 Q They have had a planner in the past, haven't
14 they?

15 A Yes.

16 Q How long has Mount Laurel had a municipal
17 planner or consultant by yourself?

18 A Dr. Sussna was there before we were there and I
19 don't know how long he was planner for them. I am not
20 sure. He prepared the comprehensive plan so it must have
21 been 2 years at least or more.

22 Q Is he familiar with the various subsidized
23 housing programs?

24 A Yes, I presume.

25 Q Have you ever recommended to the Township of

1 Mount Laurel any specific proposal for subsidized housing?

2 A No. Our original contract with Mount Laurel was to
3 specifically analyze the Larchmont Planned Unit Development
4 application. We did that. We were then hired later to do
5 the same thing with Birchfield, which we then did. And
6 we are now under a continuing planning program contract
7 for a year and a half, so we are just getting into these
8 things now. Prior to that we had specific assignments.
9 We now have much more freer rein to get into different
10 kinds of studies which we are doing now.

11 Q Are you familiar with the Hartford Road area
12 of Mount Laurel known as Springville?

13 A Yes.

14 Q Have you read Mr. Sussna's report with regard to
15 that area which is also an exhibit in this case?

16 A Yes.

17 Q What did that report say about the area?

18 A Well, he gives housing statistics.

19 Q You are referring to the master plan. That is
20 not the report I was referring to.

21 The report is in plaintiff's exhibit P-8, Exhibit E,
22 in that report, "Springville Preliminary Report No. 1,
23 Existing Conditions, Property Ownership Characteristics
24 and Federal Programs." Have you ever read that report?

25 A I have seen it, yes.

1 Q What percentage of the homes in the area does
2 it characterize as substandard or unsound?

3 A 48%.

4 Q Do you know if that report was based solely on
5 observations from the street as opposed to actually going
6 into the home?

7 A I don't know what his methodology is.

8 Q If I may have it for one second?

9 A I presume he did a sample survey though.

10 Q Will you read the first sentence under housing
11 conditions?

12 A "Housing quality --

13 Q No, "Housing Conditions," the first sentence
14 under "housing quality," right.

15 A "The field survey also noted exterior housing
16 conditions. No attempt was made to secure a status report
17 of interior conditions."

18 Q Thank you. Do you know of anything that the
19 Township of Mount Laurel has attempted to do in order to
20 rehouse its own residents in standard dwellings?

21 A The township has tried to do --

22 Q What the township has tried to do?

23 A You mean in backing the developer?

24 Q I am not suggesting anything of the sort.

25 I am saying has the township taken any affirmative action

1 in an attempt to rehouse these persons who live along
2 Hartford Road in standard dwellings? Do you know of any
3 specifically?

4 A Of any specifically, no.

5 Q Should proper planning include the needs of
6 the people in a township who are located in substandard
7 conditions?

8 A Certainly, proper planning would include trying to
9 eliminate any substandard housing, yes.

10 Q There is a difference between what I asked you,
11 Mr. Shepherd, and what you answered. I didn't say has the
12 township done anything or is proper planning a process of
13 eliminating substandard conditions. I asked if proper
14 planning or the function of proper planning is rehousing
15 persons living in substandard housing into standard housing?

16 A If you are going to eliminate substandard housing you
17 have got to put them in standard housing, step 2 follows
18 step 1.

19 Q Excuse me. When substandard housing has been
20 eliminated do you find the person living in substandard
21 housing in fact being rehoused in standard living
22 conditions?

23 A Every federal program I know of provides that you
24 offer them a standard alternate facility. What happens
25 in all practicality is that some of them disappear and

1 find their own housing.

2 Q Are you familiar with the New Jersey Relocation
3 Assistance Law? A Yes.

4 Q And according to that law any program of code
5 enforcement which, is it true, according to that law that
6 any program of code enforcement which results in relocation
7 of a person requires the township to have a relocation
8 facility within the township?

9 A The agency that is involved.

10 Q So that in fact if Mount Laurel does not have
11 presently standard housing for persons who are living in
12 substandard housing the relocation assistance law would
13 prohibit them from dislocating persons who live in sub-
14 standard housing, is that correct?

15 A If they cannot afford the housing offered to them,
16 that is correct. I don't know what their incomes are.

17 Q Assuming for the moment that some of these
18 persons are persons who are on welfare or persons known
19 as the working poor who are earning substantially under
20 the eligibility requirements for the federal program 235,
21 236 supplement public housing, do you know of any housing
22 in Mount Laurel that they might be able to afford?

23 A Any standard housing? I don't know of any offhand
24 but I would guess that it is limited.

25 Q So in other words these persons now living in

1 substandard housing conditions in Mount Laurel Township
2 cannot effectively upgrade their housing conditions
3 because if they condemned any house in which a person
4 was living the relocation assistance law would prevent
5 them from dislocating a person, is that not correct?

6 A Substantially, yes.

7 Q So the township itself is put in the position
8 where unless it could provide housing, standard housing
9 units, or unless there were provided standard housing
10 units within the township for persons of this income
11 level the township can and will do nothing to force persons
12 to move from housing which is unsafe for human habitation,
13 is that correct?

14 MR. POWELL: I object. He wants to put a
15 hypothetical using the words "can" or "might," but
16 I would object to the words "will," or "shall."

17 THE COURT: Yes, I don't like that question
18 either. I will sustain the objection to the form
19 of that question.

20 MR. BISGAIER: Thank you, your Honor. I have
21 no further questions.

22 THE COURT: All right.

23 REDIRECT EXAMINATION

24 BY MR. ROGERS:

25 Q Mr. Shepherd, would it be reasonable planning to

1 zone the entire township one density, presumably 12 units
2 when it was only partially served by utilities?

3 A It would be a disaster in that case.

4 Q And the purpose, the avowed purpose of holding
5 down the price of land, wouldn't make it any more reason-
6 able or proper, would it?

7 A No, it wouldn't.

8 Q With the same good highway configuration in
9 Mount Laurel Township which Mr. Bisgaier I believe I can
10 say this fairly stated leads to industrial development,
11 might not that also lead to high density residential
12 development such as was proposed by the planned unit
13 development?

14 A I think it is probably more apt to lead to a higher
15 use such as that or a hotel or motel like the Holiday Inn
16 than it is to the typical kind of industry, yes.

17 MR. ROGERS: No further questions.

18 MR. BISGAIER: I have one more question of
19 this witness.

20 RECROSS EXAMINATION

21 BY MR. BISGAIER:

22 Q When you say, Mr. Shepherd, if you zoned the
23 R-3 area not now properly serviced with utilities 12 to
24 the acre that would be invalid? What is that based on?

25 A It is based on the fact that there are nine, well in

1 that area alone there are 9,000 acres left in the township
2 and 12 times 9,000 is about 100,000 some odd people that
3 you are suggesting move into Mount Laurel and I don't
4 think that the town can handle that kind of population
5 or should try to handle that kind of population.

6 Q With specific regard to the problems of water
7 and sewer, however, couldn't the township simply say as
8 it has in fact done regardless of the density and regardless
9 of the development it will not be approved until water and
10 sewer are provided and proper utilities are provided for
11 the site?

12 A Yes.

13 Q What I am saying, in other words, is the density
14 is not a necessary correlation between density that would
15 be permitted and actual granting approval for a development
16 plan.

17 A Well, there is if you start spotting your utilities
18 in six sections of the township, you never can tie them
19 all together. It should progress from central locations
20 out. One of the worst things you can do in planning is
21 just to spot developments here and there and everywhere.

22 Q I show you plaintiff's Exhibit P-49 which shows
23 the configuration of planned unit developments throughout
24 Mount Laurel Township. How would you characterize this
25 configuration in terms of spreading the development out?

1 A I think both Larchmont, that is adjacent to the
2 existing development, and utilities, as is Birchfield there,
3 an extension.

4 Q Do you know what the capacity is of the Rancocas
5 Woods Water Company?

6 A It is certainly not enough for Larchmont.

7 Q They had to put in a whole new utility system?

8 A Sure. But you try to concentrate the development
9 around the utility system.

10 Q Isn't it true in Larchmont's case since planned
11 unit development could have existed anywhere in the township,
12 the function of where they are located is really where the
13 developer happened to own the land?

14 A I wouldn't agree at all. One of the reasons that
15 lawyers and planners and engineers and everybody else
16 reviewing these applications was to see if they fit into
17 any kind of intelligent pattern of development.

18 Q Is not part of the Larchmont planned unit
19 development in the area of Hartford Road?

20 A Yes, and that was projected over a 20 year period of
21 development.

22 Q Do you know when this was projected for
23 development, this particular area?

24 A I don't know offhand but I think it was the latter
25 part.

1 MR. BISGAIER: That's all.

2 THE COURT: That's all.

3 MR. ROGERS: Move the exhibits marked for
4 identification into evidence.

5 MR. BISGAIER: No objection.

6 THE COURT: Mark them in evidence, 3 and 4.

7 (Exhibit previously marked D-3 for id. received and
8 marked D-3 in evidence.)

9 (Exhibit previously marked D-4 for id. received and
10 marked D-4 in evidence.)

11 THE COURT: You rest?

12 MR. ROGERS: Defense rests.

13 MR. BISGAIER: We have two witnesses.

14 THE COURT: Call them.

15 MR. BISGAIER: Call Yale Rabin to the stand.

16 Y A L E R A B I N, having been previously sworn,
17 resumed and testified further as follows:

18 REDIRECT EXAMINATION

19 BY MR. BISGAIER:

20 Q You have already been sworn, Mr. Rabin.

21 I show you P-76 for identification. Can you describe
22 for the Court what that is?

23 A Yes. This is a composite zoning map of Burlington
24 County, which shows by colors in the various generalized
25 zones the uses for which land is zoned throughout the county.

Rabin-redirect

1 Now, the categories are divided and identified as follows:
2 the darkest orange color indicates areas zoned for residential
3 use with minimum lot size between zero and five-thousand square
4 feet.

5 The next dark color, the colors actually look the same
6 but the next one is colored exactly the same, it includes lots
7 in the category of five- to ten-thousand square feet, so that
8 all lots under ten-thousand square feet are colored in the
9 deepest orange. The lighter orange color indicates lot size
10 zoning between ten- and twenty-thousand square feet.

11 The areas colored in yellow are lot sizes of twenty- to
12 forty-thousand square feet. And everything which is left white
13 are residential zones over forty-thousand square feet. The
14 red areas are commercial and the purple areas are industrial
15 zones and the green is conservation or state forest areas.

16 Q. Mr. Rabin, is Mount Laurel identified on the
17 composite zoning map?

18 A. Yes, there is a black line which surrounds the Mount
19 Laurel area.

20 MR. ROGERS: If your Honor, please, I would like
21 to know where the figures were derived from, more infor-
22 mation about how it was compiled.

23 THE COURT: That is on cross-examination, if you
24 want.

25 MR. BISGAIER: The authenticity of the map was

Rabin-redirect

1 stipulated to in the stipulations submitted.

2 THE COURT: He is talking about the figures, I
3 think, not the map itself.

4 Q. Can you testify, Mr. Rabin, from where these
5 figures were derived?

6 A. In this case the categories were determined by the
7 agency preparing the map, not by me. That is the legend of
8 division by size of lots with part of the characteristics of
9 this generalized land use map.

10 MR. BISGAIER: The stipulation I think reflects the
11 map was prepared by the Burlington County Planning Board.

12 THE COURT: That map was?

13 MR. BISGAIER: Yes.

14 THE COURT: The colors, too?

15 MR. BISGAIER: No, that was prepared by us.

16 THE COURT: That is the important part, you know,
17 the colors.

18 MR. BISGAIER: Yes.

19 Q. Can you testify, Mr. Rabin, with regard to
20 Mount Laurel Township as it compares to the area which is
21 photographed in the aerial photographs as to its relative
22 exclusivity or inclusivity in terms of zoning categories?

23 A. Well, it is clear from this that in the closed-in area
24 that Mount Laurel has the larger percentage land zoned in the
25 twenty-thousand and over category.

Rabin-redirect

1 THE COURT: Does it have over twenty-thousand?

2 THE WITNESS: No, it doesn't.

3 THE COURT: Then, why do you say over?

4 THE WITNESS: That is what is represented by
5 yellow on the map here which is just in Mount Laurel's
6 case twenty thousand.

7 THE COURT: Well, hasn't that been established?
8 I mean, you had a zoning map a little while ago that
9 indicated a white area.

10 MR. BISGAIER: Your Honor, the only reason we
11 are asking that this exhibit be considered is because
12 apparently the defendants are relying somewhat exten-
13 sively on the relative exclusivity or inclusivity of
14 Mount Laurel zoning as to the county. I believe that
15 Mr. Norman testified that he related Mount Laurel Town-
16 ship as to the percentage of the entire county.

17 THE COURT: All right, I understand that.

18 MR. BISGAIER: The purpose of this map is to put
19 it into the context with the various land uses are
20 located with regard to land use potential.

21 THE COURT: I think it has been established that
22 the greater portions of Mount Laurel is twenty-thousand
23 zone three, a long time ago.

24 MR. BISGAIER: All that I am trying to do now is
25 to relate that zone comparable to the rest of the county.

Rabin-redirect

1 THE COURT: Yes, that is as to the county. How
2 about the region? You haven't done that, have you? You
3 were arguing about region and now you are going to
4 county. You are jumping from one to the other.

5 MR. BISGAIER: The only part of the region that
6 would be reflected on this map would be as analyzed in
7 the aerals, and one would have to relate the 1970
8 aerial to this zoning map to see where development has
9 actually proceeded.

10 THE COURT: I think it has been established. The
11 greater portion of present Mount Laurel is zoned in the
12 zone R-3. There is no question about that. I don't
13 know who colored your map and why or where he got his
14 information to color it from. I am assuming that it is
15 a correct coloring. I don't know.

16 MR. BISGAIER: Colored by numbered code.

17 THE COURT: Numbered by whom? That is what I
18 mean. That is important, you know.

19 MR. BISGAIER: The map was, prior to its being
20 colored, is coded with numbers with areas and those
21 numbers relate to the legends which show what the
22 density is and what was done.

23 THE COURT: Assuming it is properly colored?

24 MR. BISGAIER: We have no further questions of
25 this witness other than to move this exhibit into

Rabin-cross

1 evidence.

2 MR. POWELL: I have one question.

3 CROSS-EXAMINATION BY MR. POWELL:

4 Q. The white area represents lower density zoning
5 than the yellow?

6 A. Yes. Anything that is white is residential and is
7 zoned over forty thousand.

8 Q. Over forty thousand?

9 A. Over forty thousand.

10 MR. POWELL: That is all I wanted to establish.

11 MR. BISGAIER: We would move--

12 MR. ROGERS: I would like an opportunity to
13 examine it.

14 MR. BISGAIER: You certainly may.

15 THE COURT: Nobody is preventing you from doing
16 it. But you can't do it sitting down. Do you want to walk
17 over to it? Unless you want us to move the map over to
18 you.

19 What did you find, Mr. Rogers?

20 MR. ROGERS: As close as I can determine, I can
21 find inaccuracies in the various townships that I
22 represent, your Honor.

23 THE COURT: Then I think we better hold it up
24 until we can better map it. According to the true facts.

25 If there is any question about the coloring, before

1 I will permit it to go in, I want to be sure that it is
2 correct.

3 MR. BISGAIER: I hope that the record will reflect
4 that the question that Mr. Rogers is directing himself
5 to is whether the Burlington County area is correctly
6 identified. The district. Not that the plaintiff did
7 it.

8 MR. ROGERS: That is correct. They designated by
9 county because the districts are as far as my townships
10 are concerned are wrong.

11 MR. BISGAIER: I apologize for that but it was
12 stipulated to I thought and there would be no problem
13 as to the authenticity or accuracy in reflecting the
14 information.

15 THE COURT: I don't say that you did it deliber-
16 ately. But I don't want anything to go in here unless
17 it is absolutely true.

18 MR. BISGAIER: I understand that.

19 THE COURT: The coloring is an important matter
20 here.

21 MR. BISGAIER: Right. I don't know what to do
22 about it.

23 THE COURT: I don't know what we will do but we
24 will come back this afternoon, I can see that and between
25 now and then, maybe we can work something out.

Rabin-cross
Abeles-direct

1 MR. BISGAIER: The gentleman from the Burlington
2 County Planning Board prepared the map and I had hoped
3 to avoid having him come up here.

4 THE COURT: See if you can work it out with
5 Mr. Rogers between now and 1:30.

6 Any questions, Mr. Rogers?

7 MR. ROGERS: No, sir.

8 THE COURT: Next witness.

9 (Witness excused)

10 MR. BISGAIER: Mr. Peter Abeles to the stand.

11 P E T E R A B E L E S, having been previously sworn, resumed
12 and testified further as follows:

13 DIRECT EXAMINATION BY MR. BISGAIER:

14 Q. Mr. Abeles, I would like to cite a hypothetical
15 case to you in terms of costing a job, a house, a one-family
16 home. The house cost between \$23,000 and \$24,000 to construct
17 and that would be the cost of it in terms to the buyer. The
18 house was built non-union. The job would only include an oven--

19 THE COURT: That is a stove?

20 MR. BISGAIER: A stove.

21 THE COURT: I think that's what he said. It is
22 a little more than oven burners on it, too, you know.

23 Q. Included in it is a stove and nothing more in
24 terms of amenities, just the house and stove, \$23,000 non-
25 union wage construction. Can you project from that what the

Abeles-direct

1 cost of that house would be if it went under the Federal 235
2 Program?

3 A. I can estimate it. If you built it at the prevailing
4 wage and if labor was approximately 40% of the component house,
5 the basic price of the house would increase by approximately
6 10%. Since the bottom line was \$23,024, say \$25,500, there-
7 fore, you add about \$2350, you would also have to add a
8 refrigerator and if it is a house I imagine about 11 cubic
9 feet, that is \$120, kitchen cabinets, that is another \$150 and
10 a medicine cabinet, that is another \$50, in order to make the
11 house eligible for an assistance program. All tolled you would
12 have to add about \$3,000 to the bottom line making it between
13 \$26,000 to \$27,000.

14 Q. If the house cost \$26,000 or \$27,000, can it
15 receive a mortgage under 235 Program? Can it be a house which
16 is built under 235?

17 A. Not under the present mortgage limits for 235.

18 MR. BISGAIER: Thank you, I have no further
19 questions.

20 MR. POWELL: I have a question.

21 CROSS-EXAMINATION BY MR. POWELL:

22 Q. If I may, are you basing this on the fact that
23 under the 235 Program you have to pay prevailing wage at least
24 partially as opposed to non-union labor?

25 A. That is correct.

Abeles-cross

1 Q. Are you aware of the fact that many of the
2 builders in South Jersey and particularly this region use
3 non-union labor?

4 A. Yes.

5 Q. Also the utilities that the FHA would require?

6 A. Other amenities.

7 Q. I beg your pardon. Amenities. Refrigerator,
8 kitchen cabinets, and the like. Is it true then if this is
9 the case that in this area of New Jersey private builders could
10 better supply low-cost single housing to the market than any-
11 one who would build under a Federal 235 Program?

12 A. It is not true.

13 Q. Why not?

14 A. Because if you built, if this hypothetical house costing
15 let's assume the lowest number \$23,000, better yet let's
16 assume a man doesn't make a profit on it and he builds it, he
17 builds a house and gives it away, breaks even, which would be
18 about \$20,000, the house at \$20,000 to the house per consumer
19 at the conventional interest rate plus conventional payments
20 of taxes would be about double what the \$26,000 or \$28,000
21 house would be if it was under 235 with payment in lieu of
22 taxes.

23 Q. Except aren't you talking about terms in lieu of
24 what they could pay for the mortgage?

25 A. In terms of what?

Abeles-cross

1 Q. In terms of putting him in a house.

2 A. It is not at all reasonable to equate the purchase price
3 of the house to what people can afford. You must take what
4 the monthly costs are because in my experience in housing I
5 have not heard of a case where a moderate income family or
6 even fairly wealthy family paid for the house with cash.
7 What you really have got to look at is what does it cost a
8 family on a monthly basis and what part of that cost of
9 shelter is related to what they have available to all other
10 expenses. So getting back to your question which was the
11 conventionally-built house by non-union labor assuming that
12 even the builder took nothing out of it for his efforts, the
13 answer would be that that house would probably cost the family
14 in the neighborhood of \$200 per month which means you are
15 talking about a family with a net income of something in the
16 neighborhood of \$800, if somebody could build a house and was
17 willing to put up a house for this price, which is rather
18 unlikely. The point I am making, the reason I am dwelling on
19 it is it is not only the cost of the house which is set, you
20 must have the 1% interest rate and the other things involved.
21 So to clarify for the court it is not just a price, it is how
22 you market it to the consumer.

23 THE COURT: What's the difference? As I under-
24 stand it, if you have a house built under government
25 subsidy, you must use union labor. That's true, isn't it?

Abeles-cross

1 THE WITNESS: You must use union labor if you are
2 building more than four houses at any one time under
3 the Davis-Bacon Act.

4 THE COURT: What is the difference in the cost of
5 the house between union and non-union labor?

6 THE WITNESS: In the New Jersey area the differ-
7 ence for the identical house built to the same
8 specifications I would estimate, your Honor, is between
9 10 to 15%, that is the union house would cost 10 to 15%
10 more on the bottom line than the non-union house.

11 MR. POWELL: I have no further questions.

12 MR. ROGERS: I have no questions.

13 MR. BISGAIER: That's all.

14 (Witness excused)

15 THE COURT: See you at ten after twelve. Suppose
16 we iron out this map.

17 You rest now?

18 MR. BISGAIER: Yes.

19 THE COURT: You rest?

20 MR. ROGERS: Yes.

21 THE COURT: Iron out the map question and we'll
22 come back at 1:30 and we'll decide then our further
23 procedure, if any.

24 I don't intend to decide this case today, frankly
25 but I would like to hear you and one of the counsel,

1 just one, make up your minds who the one will be.

2 (Whereupon the court recessed for lunch.)

3 (After recess)

4 THE COURT: All right, what have you decided?

5 MR. ROGERS: Your Honor, I have no objection to
6 the admission.

7 THE COURT: P-76 in evidence.

8 (Map received and marked P-76 in evidence)

9 THE COURT: All right, all parties rest. I under-
10 stand. I will hear you now, Mr. Bisgaier.

11 (Whereupon Mr. Bisgaier summed up on behalf of the plaintiffs)

12 (Whereupon Mr. Powell summed up on behalf of the defendants)

13 THE COURT: All right, gentlemen, I would like
14 you, Mr. Bisgaier, within the next two weeks, to prepare
15 a short memorandum. I know that I have a lot of material
16 from you now, based, however, upon the facts as they
17 developed in this trial. Most of the statements in the
18 briefs would have to be generalized because there was
19 no way of knowing what would be developed at the time
20 of trial. Now that we have had our trial, and we have
21 had the witnesses testify, I would like from you within
22 next two weeks a brief outlining the relief you seek and
23 the evidence which you feel warrants that relief.

24 Now at the end of two weeks if you will serve it
25 upon your adversary, I am going to give them two weeks

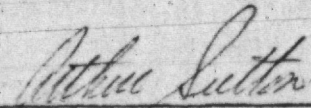
1 to file with me an answer.

2 I hope by the time I get both briefs I will be
3 further enlightened than I am at this minute.

4 (Whereupon court adjourned at 2:45 p.m.)
5

6 CERTIFICATE

7 I certify that the foregoing is a true and accurate
8 transcript of the testimony and proceedings in the afore-
9 mentioned matter.

10 
11 ARTHUR SUTTON, CSR
12

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14 Dated: *August 25, 1972*
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