

PUBLIC HEARING

before

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

on

THE STATE RESPONSE TO THE MOUNT LAUREL II SUPREME COURT DECISION

Held:
October 18, 1983
Room 346, State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Gerald R. Stockman, Chairman
Senator Leonard T. Connors, Jr.

New Jersey State Library

ALSO PRESENT:

Steven B. Frakt, Senior Research Associate
Office of Legislative Services
Aide, Senate Legislative Oversight Committee

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SENATOR GERALD R. STOCKMAN (Chairman): I think we ought to get started -- since our first speaker is here -- with the second public hearing on Mount Laurel II, the State Development Guide Plan, and what, if any, action the Administration is taking with regard to that plan and its response to the Supreme Court decision in Mount Laurel II.

We heard from a number of witnesses at our first hearing, and testimony seemed to be ample that there is a need for a State planning process that will not only revise the Guide Plan for housing purposes, but will deal with many other important land use issues. We learned that no one seems to be assuming leadership in developing a planning process, or at least that was some of the testimony. Today, we are going to hear as a lead-off witness, Commissioner John Renna, Commissioner of the Department of Community Affairs and, of course, historically the Department of Community Affairs designed the original Guide Plan, so we thought it would be practical and sensible to hear from Commissioner Renna as to what his Department's position is with regard to the Guide Plan, and to this decision. He has been very cooperative with me in agreeing to come in today, and I appreciate that. I look forward to hearing from him this morning as our lead-off witness. John, would you like to come on up?

COMMISSIONER JOHN P. RENNA: Mr. Chairman, members of the Senate Oversight Committee, thank you for inviting me here this morning. This hearing permits us to discuss one of the most nettlesome problems that we face, and to exchange ideas on how best to increase the opportunities for affordable housing for each and every citizen of our State. We are pleased that your Committee has chosen to share in this search for a solution.

In Mount Laurel II the State Supreme Court, stressing the need to provide inexpensive housing in growth areas of the State, declared that every person has a constitutional right to decent and affordable housing. In that same decision, the court recommended that the State Development Guide Plan be revised and used as the basis of a State housing policy. According to the court, the Guide Plan could be used to indicate which municipalities would be required to provide a regional fair share of affordable housing, in addition to the real

purpose for which the Plan was originally prepared, which was to serve as a guide to future public investment.

No one in this room would disagree with the position that every person has a right to decent and affordable housing and that discrimination in any form is unacceptable.

As to the court's proposition that a State Guide Plan can serve well for stimulating the construction of inexpensive housing, however, there are honest and concerned people on both sides of this question. Some people, for instance, believe that the State Development Guide Plan should be revised and used as a guide for municipalities to include low cost housing in their zoning maps. On the other hand, others believe that any solution formulated by the State government is inadequate; and that, at the very least, involvement by local governments is necessary if municipal housing obligations are to be in any way set forth.

While the matter is currently under careful review, for its part the Department has no present plans to revise the State Development Guide Plan for use as a basis for a zoning policy on housing. This is a purpose chosen by the courts for which the State Plan was never intended.

I will say, however, that whatever policy is chosen, I am confident that the policy will be established with the cooperation of local and county governments, as well as the general public. If the Guide Plan is revised, I believe that it should be done through a formal process which ensures participation by county and municipal governments and the people.

At this point, I would like to say something about what the Kean Administration has already done to address this serious problem of affordable housing.

Let me begin by pointing out that the Mount Laurel II decision, and its concern for low and moderate-income housing opportunities, is part of a much broader problem. The high cost of housing not only hurts the low and moderate-income family, but also restricts the housing opportunities of many households above the low and moderate-income level as well. People in these households are often unable to afford homes in growth areas of the State.

It was with this in mind, the perception of the problem as a broad one affecting all income groups, that the Kean Administration undertook numerous steps to improve opportunities for affordable housing.

First among those steps was the establishment of the Office of Housing Advocacy within the Department of Community Affairs. This move effectively placed all housing functions in one Division. Within the last month, this Office conducted two affordable housing conferences and, from the recommendations put forth, we will be providing the Administration with a report which I'm sure will become a part of our overall policy on housing.

Certainly, the affordable housing conferences are not all that the Office of Housing Advocacy is about. The Office, for instance, is responsible for undertaking a series of affordable housing demonstrations designed to explore and document cost saving techniques and approaches to housing development and construction. I might add here that the Department of Community Affairs is already in housing demonstration programs that are very promising. One is in Middle Township, Cape May County, where the Department has put up money out of the Housing Demonstration Program as seed money for a project containing ten units of modular passive solar housing. It is felt that this premanufactured housing will prove to be 25% cheaper than regular housing. Another project that we are looking very closely at is in Glassboro, where we are assisting the Housing Authority in becoming a private entrepreneur in producing modular housing. Beyond these, we have committed demonstration money to Newark and Camden.

In addition to the activities of the Office of Housing Advocacy mentioned above, this Office is also assigned the following responsibilities: (1) to develop model subdivision improvement standards based on sound engineering practices; (2) to undertake a study of the regulatory process and recommend reforms; (3) to establish an affordable housing clearing house which will match municipalities with developers who can meet their particular needs; (4) to recommend innovative housing finance mechanisms; and, (5) to provide leadership in recognizing new housing trends, i.e., shared housing, congregate services, which the Department is already involved with, mobile and manufactured housing, etc.

As you can see, the Kean Administration took a very important step when it created the Office of Housing Advocacy. We demonstrated in concrete terms that we are serious about solving the housing dilemma, that we are not going to try to do it by dreaming up abstract theories, but rather by being practical, by doing things that are going to work and by taking advantage of that great spirit of free enterprise that abounds in our State and guiding it in the proper direction.

But, the Office of Housing Advocacy is only a small part of what the Kean Administration has done to promote affordable housing. We have proposed legislation that will merge the New Jersey Housing Finance Agency and the New Jersey Mortgage Finance Agency. The passage of this legislation would increase our ability to develop a fuller statewide housing strategy and enable us to better adapt to changing Federal housing policy. It will also help the State adjust to modern day housing needs.

As of today, the legislation has passed the Assembly and is in the Senate State Government Committee. I hope that you will forgive me if I take this opportunity to urge you to pass this legislation. As people concerned about housing, I'm sure you'll agree it is very necessary.

Mr. Chairman, members of this Committee, Governor Kean has also done something else which has greatly increased the availability of housing to the people of our State. During his Administration, MFA bonds have been issued twice which preserve the tradition of targeting urban areas, while simultaneously opening up the program to first-time homebuyers statewide. The first bond issue, totaling \$225 million at 11%, was extremely successful and resulted in approximately 4,500 home purchases. The most recent bond issue, a \$148 million one, was announced on September 29 of this year. Projections are that it will result in 3,300 purchases of existing and newly constructed homes. I didn't have this in my prepared statement, but the interest rate will be 10.55% for thirty years.

In addition to the bond issues, the Housing Finance Agency has also held three bond sales since Governor Kean took office, resulting in the construction of 650 new rental units for low-income people.

Moreover, the Governor has been extremely supportive of our Boarding Home Life Safety Improvement Loan Program, the Neighborhood Preservation Program and the Home Improvement Program of the Mortgage Finance Agency.

Despite these efforts, Mr. Chairman, and they are significant, both you and I know that we have a long way to go. The problem of housing is not going to be solved easily. It will only be solved if the Executive Branch, the State Legislature, municipalities, counties, private enterprise and the public work together in the spirit of cooperation.

I have discussed what the Executive Branch and the Legislature have been doing to promote affordable housing, and representatives from municipalities, counties, the public and private enterprise no doubt will discuss what they perceive to be their role.

But, I can't stress enough the importance of cooperation between the Executive Branch and the Legislature. It is important for the Legislature to join with the Executive Branch in taking an active part in solving this problem. For instance, in addition to passing the merger bill, it could look at exempting building materials from sales and use taxes, and establishing a bipartisan committee to study housing.

The bottom line is that we have to work together. We all have a stake in improving the availability of inexpensive housing in our State.

The Supreme Court, as I indicated above, has recommended that the Guide Plan be used to determine which municipalities must accommodate a fair share of the regional need for low and moderate-income housing. I feel it is important, in light of this, to point out however, that the Department never prepared this plan as a means by which low-cost housing would be allocated. In a word, it was not a plan for low-cost housing. Instead, the Department prepared the plan primarily for the purpose of guiding where the State government should make its investment in new capital facilities. Secondary to this, it was intended to be used as a reference point for counties and municipalities in preparing their own master plans.

In closing, Mr. Chairman, let me say that we simply must produce more affordable housing. We must provide people the opportunity to live in decent and inexpensive housing. The social and economic benefits of improvements in this area are enormous and we can do it. But, it is going to require that we respect home rule, elicit the participation of local officials and the public, foster partnership with the private sector, foster cooperation between the Legislature and the Executive Branch, and rededicate ourselves to the overall purpose of solving the housing dilemma. Thank you.

SENATOR STOCKMAN: Thank you for that statement, Commissioner. If you have no objections, I would like to engage for awhile in some give and take discussion on this subject.

COMMISSIONER RENNA: Sure.

SENATOR STOCKMAN: As you know, we communicated with each other a while back on the subject of this State Guide Plan and what the Department's position was in terms of updating it. I don't want to put words in your mouth, but in listening to your statement and following it with you, it strikes me that you have essentially shelved the Guide Plan. That may be a little harsh, but it seems to me that as of October 18, 1983, nine months after that decision and just a little over a year from the deadline for some action on it as set by the Supreme Court, January 1, 1985, you are not inclined to update that Guide Plan. Is that a fair statement?

COMMISSIONER RENNA: Yes, that is a fair statement, Senator, because--

SENATOR STOCKMAN: (interrupting) John, I do not say you are wrong on that, incidentally, but at least I would like to get it straight.

COMMISSIONER RENNA: I would just like to expound on it a little bit. The reason I feel -- at the present time anyway -- that there is no need for us to do any updating on it is because, and you are more aware than I am, being an attorney, there are thirty cases still pending before the courts. There is an awful lot of decision making that has to come out of the judicial area, where the courts must tell us exactly what they are talking about. In other words, until we know what the rules of the game are, until we know what areas we have

to concentrate on, whether they be regional areas, whether they be quotas, whatever their rules are going to be when they finally make decisions on these cases -- until that situation is resolved, there really isn't anywhere we can go at this point in improving the plan.

SENATOR STOCKMAN: Well, John, I have difficulty with that. Let me tell you why, and maybe I have misinterpreted the decision. It is a lengthy decision and it is not that simple in some ways, although it talks about fundamental fairness and fundamental constitutional rights. I thought the court in this decision made it clear there were two ways we were going to go. Either we were going to update and use the Guide Plan as a guide for this housing development, and the development of housing patterns of growth and numbers of houses, or the court itself, on a case-by-case basis, was going to get into the business of land use, and sort of largely become -- I think the word would be a "czar" of sorts in deciding how much housing and where housing was going to go in the Princetons, in the Bedminsters, in the Mount Laurels, and in other places too.

My problem with the decision I think you have reached, and I am open to persuasion, but my problem is, it seems to me it is not a time to wait and see further what the court is going to do before we deal with a Guide Plan. I mean, I think one thing hopefully we could agree on, is that the court has -- some people say with a masterful stroke of genius or, you know, imagination, or whatever, and other people say with a complete disregard for what the plan was originally meant for -- settled on that Guide Plan as the best plan to use, or the instrument to use to see how this growth and development occurs, and they have said, "If you don't update it -- if you guys don't update it," in effect, or us with you, the Legislature and the Executive Branch, the court is going to say, "All right, we are dealing with fundamental constitutional rights that we can't overlook, so we will deal with it. We'll start making land use policy across this State from town to town by three judges," who frankly, in my opinion, and I suspect in yours, are neither designed nor equipped nor intended to have to make those kinds of decisions. Do you think I am wrong in that? You said something about, "Well, we have to hear more from the courts and maybe what we hear will persuade us to go back and get into an updating of that Guide Plan." I don't understand that.

COMMISSIONER RENNA: Well, maybe we're trying to find out which comes first, the chicken or the egg here. In other words, we have a plan now which was never intended to dictate to any municipality the quota or what type of affordable housing, low-income housing they were supposed to put into the growth areas. It was strictly, from my understanding -- of course I wasn't here when it was made -- but from my understanding, the plan was devised strictly as a guide to the State to find out which areas of the State would be for infrastructure, for transportation improvements, and things of that nature. So, it was never intended for housing.

Now, for the courts to say that they are going to use this plan as a guide, they still have to tell us what they are talking about. Are they talking about putting 20% low-income housing in Bedminster in South Jersey, in Cape May? Where are they talking about? Are they talking about it being a regional approach, or are they talking about it being another approach? There are so many unanswered questions they have left. I agree with you, I don't believe anyway that the courts, you know-- From what I am told, the first time this thing started was in 1970, when the courts started to get involved with housing. We are now thirteen years later, and I do not think one house has been built because of a court's decision.

So, that to me is not really the answer to producing housing. I think what I said in here, and what I at least tried to convey, is the fact that the only way -- maybe not the only way -- but, the best way is not confrontation with the courts. The best way is to sit down to negotiate. The Legislature has to be involved. Certainly, you people have to get involved with it if it is going to succeed. The municipalities have to have a say in it if it is going to succeed, so we do not have more confrontation and more litigation on this thing. I think the only way it is going to be done is not strictly with this guide. I think the fact of the matter is, we have to sit down and work together with all of the different areas of government, the Executive Branch, the Legislative Branch, the municipalities, and even the Department of Community Affairs -- sit down and work something out that is going to be acceptable to all, if it can be done. It is not going to be done by having three judges come out, I don't think, and saying, "This has to be done here and this has to be done there."

SENATOR STOCKMAN: But, John, you say you do not want confrontation with the courts, and I agree, but you seem to acknowledge that the courts are about to get into this very business of land use determination and decision making on an ad hoc basis. If we don't do something with the Guide Plan, aren't we guaranteeing confrontation?

COMMISSIONER RENNA: Well, I said from what I know anyway, there are thirty cases. They are going to be heard very shortly; I would say within the next six or seven months. That is long before 1985, which is the deadline they set. When some of these cases are solved, or at least heard, and solutions are being proposed, or at least comments are being made in these various cases, I think we can use these areas to prepare. If at that point the group that I mentioned before decides that this is the best way to go, we are prepared to do whatever we have to. If we have to update that plan at that time, we will do it.

SENATOR STOCKMAN: Let me ask you this, John. You have emphasized -- and I understand it, and I have seen comment on it -- that historically the State Development Guide Plan was not prepared for the specific purpose of meeting some directive of the Supreme Court in the Mount Laurel case, or any case for that matter. It was rather a broad planning instrument intended to try to guide growth and development in the State generally, the infrastructure and housing as well. Surely the court, the seven Supreme Court Justices who heard that case, knew that. I mean, I cannot imagine they were not fully sensitive to, and aware of what the circumstances surrounding the birth of that Guide Plan were, and yet they made the determination that in the context we find ourselves in 1983, that that is the best instrument to at least start from. Weren't they saying to us, or don't they say to us in Mount Laurel, "It is not a perfect document?" As a matter of fact, it is intended to be a living document which we can develop. Isn't it clear that they're saying it's our burden, yours and mine, the Executive and Legislative Branches, to help develop that in a way that will make it a living, viable, ongoing document in the public interest for the citizens of New Jersey as to where we are going in the future?

What I'm getting at is, I don't see why you quarrel with coming to grips with the Guide Plan on the theory that, "Well, the

Guide Plan wasn't specifically intended for that purpose five or six years ago." So what? I mean, the court knew that and said, "Nevertheless, it is our best hope. It is the best thing we have to work with. As a matter of fact, it is the best thing that either the Executive or Legislative Branch has given to us, historically, to work with."

COMMISSIONER RENNA: Okay. I'm just saying, Senator, I think they made that statement, but I think they said, "Absent anything else." They had nothing else to go by, so they went by this one plan. They didn't have anything else to hang their hats on, so they said, "Absent anything else" -- I think those are the words they put in their statement -- "we will use this Guide Plan as a reference." I am not arguing the point that something may not have to be done with the Guide Plan. I am just saying we should at least get the input, or at least get answers to the problems we still have, which they have not even settled in their own minds yet, such as quotas, such as regionalization, such as other things. They haven't even settled those things in their own minds yet, so how can we know what they are thinking about?

SENATOR STOCKMAN: Is there any doubt-- Let me ask it this way. I will try to almost personalize it, not personalize it to you, but personalize it in the context of public discussion, and I think this is good that we are having this public discussion. Is there any doubt in your mind, or in the minds of the people around you in your Department, that the Supreme Court, to a man -- I guess it was then to a man, or to a person -- it will be a person now --

COMMISSIONER RENNA: Yes, don't forget the women.

SENATOR STOCKMAN: --desired and, I won't say longed for, but urged the Executive and Legislative Branches to update and use the Guide Plan in this area? I mean, they didn't talk about, "Well, if you want to, there's a Guide Plan; maybe you can try that and see what you can do with it. If not, you can come up with this program or that." Isn't the thrust of the opinion, if you read it clearly, that they are saying, "This Guide Plan is a sensible instrument to use to come to grips with this very difficult political issue," and that they really urged the Administration and the Legislature to do just that? You may

disagree with me, but that is certainly my interpretation, and I think it is the interpretation of a great many people. I think it is the interpretation, for instance, of the State Bar Association, and I think that is why at our last session the Bar Association submitted a resolution urging that this Guide Plan be updated. I think that is the interpretation of the planning community. The professional planners association, I think, clearly feels and senses -- and we had some very dramatic testimony about the need for updating this Guide Plan. So, don't you agree with me that that is what the Supreme Court at least has urged you to do now?

COMMISSIONER RENNA: Let me answer that before you go on to the next question. Yes, the Supreme Court said that, but they left an opening at the end though, didn't they? They said, "If it is not done by" -- in other words, I think there was still some doubt in their own minds as to whether or not this was a solution, and they said, "If you don't update this plan by January, 1985, we will do it ourselves." So, they did not mandate us to do it; they just recommended it. They did not mandate it, okay? They just said, "We would recommend that this thing be updated, and updated by January 1, 1985. If it is not updated by January, the Plan, for all intents and purposes, will be something we will not even depend on anymore, unless we want to use parts of it ourselves and make our own decisions with the three judges." I think that is what they said too, if I am not mistaken. Again, I am not an attorney, and I am not going to try to read the legal language into it, but based on my own personal interpretation of it, I think that is probably what they were talking about, because they have had just as many problems in trying to find out what to do with this whole issue as we have here, and you have, and everyone else in the Executive Branch has had. They have all had the same problems, I think, and we are trying to come up with a solution. But, I think they left it open by not mandating it. I think if they really wanted this plan to be updated, and if they really felt this was the plan they should be working on in the State of New Jersey, they would have put that language in there. They would have said, "We mandate that the State Development Guide Plan be updated by January 1, 1985." They did not do that. I think they did not do it for the reason that they felt

there might be areas in there which could be worked upon with cooperation among all the different groups I mentioned earlier, instead of forcing it on somebody.

SENATOR STOCKMAN: Well, that is an interesting observation, frankly, and I haven't heard that argument made directly that they didn't specifically mandate it. John, I think, you know, from a legal point of view -- while I am a lawyer, I do not profess to have any great legal expertise in the area of land use and development -- but, I don't think the court could limit, and in effect prohibit the Legislative and Executive Branches from going in a different direction, and if they had mandated a specific direction to the State Development Guide Plan, I think clearly it would have been out of line. But, certainly, and I think you have agreed with me, they seem to suggest that was the way to go. I gather your Department, or the Administration has problems with that. What alternative plans do you have for meeting this deadline? We're talking about January 1, 1985 when the court is going to begin -- according to its own decision -- taking into its own hands, by these three special judges, deciding these land use cases. What alternate mechanism or system does the Administration have in mind, if it has one in mind?

COMMISSIONER RENNA: Well, I am not going to speak for the Administration; I think they should have their own spokesman here. But, speaking for the Department, of course--

SENATOR STOCKMAN: (interrupting) I would love the Governor to tell us. I hope maybe one of these days he might come in.

COMMISSIONER RENNA: Well, okay. I think he has made some statements to the press. But, as far as the Department goes, I think we have set our course here, Senator.

SENATOR STOCKMAN: What is the Department doing on that? In other words, what are you doing?

COMMISSIONER RENNA: On the plan? We're not doing anything on the plan. We are not updating the plan, but we are doing the things I just mentioned. We had two housing conferences, and in these conferences we had engineers, the League of Municipalities, the League of Women Voters, the Mayors' Conference -- we had people from all over the State of New Jersey who are interested in affordable housing. We

had conferences where these people would sit at round tables and give us ideas of what they thought the problems were, and what they thought some of the areas of solutions were. We are doing that right now. Should the court with the cases that are coming up, come up with some sort of answers on some of the cases, there is information that will be presented to us very shortly which we can then present to the Administration, and at least give them what we feel comes from the public, comes from the different areas of the public, like the group I just mentioned to you, to ask the Administration what they think we should be doing about it.

I just think that this requires cooperation, Senator. I do not have any problem with trying to work with you in the Legislature to attempt to work on this Plan, but I have to be given the proper tools, the proper goals, and the proper rules and regulations to play by. Once that is given to me, I will have no problem with updating, or doing whatever we have to do with this Plan, even if it is by 1985.

SENATOR STOCKMAN: But, isn't it your Department that is peculiarly charged with, arguably, coming up with these rules or proposed rules and regulations, and a plan of some sort, whether it is called a Guide Plan or Housing Plan, or whatever to answer these questions? If I understand you, you're saying that you are holding conferences -- I understand that -- and listening to people at these conferences as to what they think about the problem of housing and perhaps planning beyond even housing. But, is it my understanding that you are awaiting some further guidance from the court in some of these thirty pending cases as to what direction to go in?

COMMISSIONER RENNA: Well, as far as the State Guide Plan is concerned I think so, yes. I think as far as the Administration goes, we can give them whatever input we're getting from these groups to let them understand what the public is thinking and what they should be thinking about, and maybe they could come up with something before this date to give us some sort of a guide as to where we're going.

SENATOR STOCKMAN: How many people in the Department of Community Affairs are currently working on a response to Mount Laurel II, if any? Do you have anyone, or any group working on a response to the directive of the court in Mount Laurel II?

COMMISSIONER RENNA: Well, I don't know exactly what you mean. As I said, we have our staff working on these housing conferences.

SENATOR STOCKMAN: What staff are you talking about now, just to give me some idea?

COMMISSIONER RENNA: We have the Housing and Development group.

SENATOR STOCKMAN: How many people are part of that group, John -- roughly? I do not expect you to have the exact number.

COMMISSIONER RENNA: I think a half a dozen.

SENATOR STOCKMAN: On the Housing and Development staff?

COMMISSIONER RENNA: Right.

SENATOR STOCKMAN: Who else?

COMMISSIONER RENNA: We have people in the housing area in the Housing Division itself, which is probably another dozen or so.

SENATOR STOCKMAN: Are any of these people planners?

COMMISSIONER RENNA: Oh, sure they are.

SENATOR STOCKMAN: But, are they working specifically, in any way, on Mount Laurel II?

COMMISSIONER RENNA: Again, you're using the word "specifically," and I don't know what you mean. Are they going to say, "This is what we are going to do for Mount Laurel II?" I mean, we are working on areas which would be incorporated into an eventual solution -- I don't know about solution -- but, eventual help for Mount Laurel.

SENATOR STOCKMAN: Well, let me put it this way.

COMMISSIONER RENNA: (interrupting) For affordable housing, that is what we are talking about.

SENATOR STOCKMAN: All right. Mount Laurel II, I think we will agree, was not a routine, run-of-the-mill happening or judicial decision. It just wasn't one of hundreds of decisions that the courts put out regularly. Most people describe it as a landmark decision, perhaps with implications not only for New Jersey, but for the whole country. So, do you agree with me that it was that kind of a major policy-shaping decision by the Judiciary in New Jersey, talking about fundamental responsibilities of government?

COMMISSIONER RENNA: I would say so, yes.

SENATOR STOCKMAN: So, when I ask you, John, how many people in the Department of Community Affairs are working on a response to the court's holding in Mount Laurel II, maybe I'm not being clear, but I don't know how else to put it, and there may be no one specifically working on it-- Maybe your view is that, "Until the court speaks further, we really cannot come to grips with it, making a decision about the Guide Plan." But, I would think that arguably you would have some people essentially assigned to trying to deal with the implications of that decision, but I may be wrong.

COMMISSIONER RENNA: We are getting information, and I think that is essentially working on the Mount Laurel decision. The people I gave you, the half a dozen in Housing and Development, the dozen or so in the Division of Housing -- these people are constantly working on areas that would be involved in anything that is being done in the Mount Laurel decision.

SENATOR STOCKMAN: But, not specifically on Mount Laurel II?

COMMISSIONER RENNA: No.

SENATOR STOCKMAN: All right. The--

COMMISSIONER RENNA: Excuse me. You have to understand too, I think, Senator, that we are not only talking about the one item that is involved with this whole case when we are talking about the zoning. There are other areas that we have to talk about, or at least look into if we are going to have affordable housing. The land use is one, and you have the zoning, the high cost of construction, the interest rates, the inflation rates, the high cost of land. All of these things are going to be part and parcel of any kind of a decision. That is why I said in the very beginning that you will have to have the cooperation of the municipalities in any decision that is reached on this, because they have to be involved in the use of land, in the acreage, in the cost of land, which will eventually be broken down by the amount of units you can put on a piece of property, and things of that nature. That is all going to be part and parcel of what I think has to be a total response here. It just can't be on the fact that, "Yes, Mount Laurel says you have to put low-cost housing in an area." That just doesn't come by saying it has to be done.

SENATOR STOCKMAN: Commissioner, let me ask you this. Have you discussed -- I would think you had -- this question of Mount Laurel II and what direction the Administration should go with other cabinet members? I'm thinking specifically-- For instance, Joe Rodriguez was here at the last session. Have you had any exchanges with him, either directly or with your top staff, over what the response of your Department should be to Mount Laurel II?

COMMISSIONER RENNA: Well, we talked briefly on it, but there was no in-depth study, no.

SENATOR STOCKMAN: Are you aware that Commissioner Rodriguez -- and I don't think I misquote him -- but, I think he feels that the Guide Plan should be updated. Are you aware of that?

COMMISSIONER RENNA: Yes, I have read some of his testimony.

SENATOR STOCKMAN: Then, I gather your position is that that is just a healthy difference of opinion between two cabinet members on that subject.

COMMISSIONER RENNA: I think Commissioner Rodriguez has a Department that has more calls coming in on that very subject, and I think he is basing his opinion on what he hears from some of the calls he receives from people who cannot afford housing. We are looking at it from the standpoint of planning, because that is what we are involved in. We are not involved in the things he is involved in. I know the comments he made, and he said that it should be updated. I am not going to disagree with what he said; that is what he perceives because that is the information he is getting from the calls he is receiving.

SENATOR STOCKMAN: How about some other commissioners? For instance, Commissioner Hughey will be here to testify, and I have yet to hear his views formally. Do you know whether Commissioner Hughey feels you ought to come to grips with the Guide Plan and update it?

COMMISSIONER RENNA: I haven't spoken to him about it.

SENATOR STOCKMAN: So, you just don't know what his position is?

COMMISSIONER RENNA: No.

SENATOR STOCKMAN: Again, I am not trying to put you on a spot -- I guess I am trying to put you on a spot; I'll be frank with

you. In cabinet sessions, or in other give/take sessions, haven't you gotten from Hughey whether or not he feels this Plan should be updated? I take it your testimony this morning is, you don't know whether he is going to come in here after you and say, "In my opinion, it is incumbent upon the State of New Jersey to update the Guide Plan."

COMMISSIONER RENNA: No, I don't know that. He may very well say that.

SENATOR STOCKMAN: Are there any other cabinet members in the Administration who, to your knowledge, feel that the appropriate route to go with this Guide Plan is to update it?

COMMISSIONER RENNA: Cabinet members?

SENATOR STOCKMAN: Yes.

COMMISSIONER RENNA: I don't really know, because I have not had any contact with any of them who have made that statement to me.

SENATOR STOCKMAN: Is there any healthy dissent within your own Department over whether or not you ought to update the Guide Plan -- or unhealthy dissent?

COMMISSIONER RENNA: There are discussions pro and con, but I think most of it will come right down to the fact that the Plan should be left as it is until such time as we get further instructions or further information from the courts as to what the rules and regulations, and what the ball game is going to be all about. I think the basic total bottom line is that we should hold it, and wait. We could finally, if we did have to do it, Senator -- if we did have to come up with an update or revised plan, or whatever they want to call it at the time we are ready to proceed, we'll get it done. Whatever it takes to get it done, we'll do.

We are all concerned about the bottom line, which is affordable housing. I think whatever has to be done at the right time, with the cooperation of everyone else involved, of course -- we will do what we have to do to see that we comply with whatever requests or whatever comments are made to us.

SENATOR STOCKMAN: Commissioner, can you give me, or can you conceive, or suggest, any specific things that the court might yet lay out or give to you in this area we are talking about, to help you follow through in terms of what you recognize to be your responsibility to this problem of housing?

COMMISSIONER RENNA: Well, one thing they are talking about-- Are they talking about a growth area being a town, or are they talking about a growth area being a region? Can an individual build a project in one town and come up with a low-cost percentage which will include his buildings in another town? Would they say you have to put in 10% for low income, which is 50% of median, and 10% for middle income, which is 80% of median, or will they say you have to put in 30%, or will they say you have to put in 5%? In other words, I think they have some rules that they haven't even told anyone about, but which they are probably thinking about and, from all the comments I read, and from attorneys and builders and land use experts, they're saying that until such time, everybody is on hold. That is what I think I read in yesterday's paper, where they said that everybody is on hold, waiting for the courts to come out and give us the guidelines as to where we're going and how to get there.

SENATOR STOCKMAN: Speaking for myself, you are looking at one legislator who is not "on hold," and I really don't think we can afford to be on hold, Commissioner. In fact, what comes to my mind immediately is, do you think that really it is intended, or that it should be that the courts tell the citizens, the people of New Jersey what percentage of housing should be for the poor in a particular municipality? Do you think that is the way the design of government is meant?

COMMISSIONER RENNA: No, and that is the reason I say it is up to you as legislators to come in and work with us, and work with the towns, to arrive at something before the courts do this. They are going to do it anyway if we don't do it. I mean, if we don't--

SENATOR STOCKMAN: (interrupting) They are going to do it January of 1985.

COMMISSIONER RENNA: But, if we don't work together to get it done -- I'm talking now about the Legislature too. If the Legislature doesn't move on this, in addition to everybody else -- we can't do this alone.

SENATOR STOCKMAN: All right; I agree. I'm beating you around, perhaps arguably, or figuratively a little bit here. Let me say, and I said it at the last session, and at the risk of having to do

some explaining to my colleagues, there have been no great profiles in courage written by the Legislature in this area. I will say that the Senate did, a few years ago, pass a law dealing with the question of allocation of housing units. Whether that was the best answer, or whether a bill that apparently Cary Edwards had at that time that got into the mix is the best answer, or whether there is another answer, I don't know. But, I agree with you; we have to get into the act. That is why these hearings are being held. I am hopeful that they will, if they are given enough attention and seriousness, begin to force all of us, members of the Legislature and of the Executive Branch, to do something. But, I come back to the notion that it strikes me that your position is -- there seems to be a fundamental conflict in it, because I thought you said you are going to wait for the courts to give you these answers, to give you further detail, as to what they expect and where they are going.

COMMISSIONER RENNA: That is what I said, and you asked me what ideas I was talking about, so I gave you a couple of them. I did not say that was the right way for it to go; I just said -- you asked me what ideas I was waiting for, and I told you. I think we still have to get everybody together, and it has to be done by the Legislature, and by the municipalities, and by us, and by the Executive Branch. If we can get this thing together, maybe before 1985, we won't need the court to tell us what to do. We'll do it on our own.

SENATOR STOCKMAN: Commissioner, are you familiar with the proposed bill that was put into the Senate signed by, I believe, eighteen members of the Senate, that would effectively put on the ballot a question which could, if passed, substantially reverse or overrule the Mount Laurel decision? Are you familiar with that legislation?

COMMISSIONER RENNA: Not very. I have heard about it, but I am not that familiar with it.

SENATOR STOCKMAN: Okay. I frankly wondered whether your Department thought that was a sensible route to go in dealing with Mount Laurel. I gather it is not something you have taken a position on.

COMMISSIONER RENNA: I do not know enough about the bill to comment on it.

SENATOR STOCKMAN: Okay. I have been hogging things here, and probably shouldn't. I have a distinguished colleague to my left, whom I am embarrassed to say I did not have enough thoughtfulness to introduce at the beginning of the hearing, but I think everyone knows him, his nameplate is up there. He is Senator Connors from Ocean County, and he has been a faithful attendee, so I suspect he may have some questions or suggestions he would like to make. Len, I'm sorry.

SENATOR CONNORS: Thank you, Senator Stockman. I think in opening this up, Commissioner, and establishing some kind of dialogue, I would like to preface my remarks with an opinion. I do not believe we can put on a piece of paper fair share housing throughout the municipalities in this State, and say that that is going to solve the problem. Let me give you my reasons why. I am very much disturbed. I am a municipal official of twenty-one years, consecutive years, still and presently the Mayor of my municipality. But, one of the things that frightens me in the Mount Laurel decision under Chief Justice Wilentz is that every municipality in the State is required to provide low and moderate-income housing, and it even requires municipalities to subsidize housing by way of real property tax relief. I think that is absolutely abominable, from my point of view, and I think it would go a long way to bring about the destruction of the municipalities where people are not paying their fair share.

Let me give you another point of view. I have been a builder all of my life; I had a career in building. I am now retired from the industry; I have been retired for the last ten years. I was very successful in it. I saw, in the 1940's, the late 1940's and 1950's, where we were building houses for \$9,000 in Ridgewood, New Jersey. All right? That is a pretty nice municipality. I lived up in that area, and we built a development up there of 429 homes in one section, 1,500 in Paramus, and those are real nice sections. They were all affordable housing.

The point I am trying to bring out is that times have changed. Interest rates have changed. I see, from my point of view, that State government over the years has changed also in its attitude toward housing, because bill after bill has been passed through these houses of the Legislature that have just put abominable restrictions on

the builders themselves. I am not complaining about it. I got out in 1973, so I have no squawk about the regulations. Most of them came since that time. But, I'm talking about some of the regulations that have added 10% to 12%, estimated, onto the cost of construction. I think a suggestion that might be very good for the State government, would be to eliminate the sales tax on building materials, if we are really interested in affordable housing. You hit the nail right on the head.

In my view, the Legislature has helped by passing bill after bill which has increased the cost. I can remember not too long ago when I could walk into a building inspector's office, and within fifteen minutes walk out with a building permit for a number of homes, and pay maybe anywhere from \$7.00 to \$15.00 for the permit. Today, the permits are in the hundreds of dollars, and there are all kinds of red tape requiring attorneys and all kinds of other people to assist the builder or developer in getting those types of permits.

I am not against making sure that exclusionary zoning is not a way of life here in New Jersey, but I don't see the Mount Laurel I and the Mount Laurel II decisions, from my point of view, as being the answer. I don't think a State Guide Plan is going to be the answer to affordable housing, because I think we are still going to have high costs.

So, one of my questions in prefacing my remarks to you this morning is, what is affordable housing? What do you think affordable housing is, in terms of dollars? What is an affordable price for a person of moderate or low income?

COMMISSIONER RENNA: That is a very tough question to answer. I think if we are talking about low income, you know, you have to talk about the person who is earning 50% of the median income as an area, and that is not very high. I do not think that if someone is going to be involved in purchasing a home with that kind of an income, you are going to be able to have a house for any more than \$35,000 or \$40,000, if you can get even that high. But, if you talk about the median income now, that is, 80% of the median income, I think at that point \$50,000 and \$60,000 would probably be a price. The average home today-- I guess you know, you've been in the field too, and I have

been in building. I built from 1950 to 1968; then I got out of it and went into government. I should have stayed in building, but then I went into purchasing, and then over to HFA, then into the consulting field of housing, and then back into government here. So, I got out of building, but I built for eighteen years, and I agree with everything you said about the cost of construction in those days.

The cost of a house today, the average cost of a house in our State, is around \$75,000 or \$79,000.

SENATOR CONNORS: That is pretty much the national average of what a home costs. It is my understanding that around \$65,000 is nationally what the average is.

COMMISSIONER RENNA: But, we are a little higher here in our State.

SENATOR CONNORS: I can understand why we would be because, again, it would bear out the regulations that came forth several years back which have added to it -- which would probably add that percentage. They are not found in other areas of the country. What about land costs? Whether you regulate land costs to fifty by a hundred lots, or forty by a hundred lots, there is still a value to land, and you are going to have to meet that market demand. I don't see how the court can say, other than what they have said, that it must be subsidized by the rest of the municipality by cutting real taxes. That frightens the devil out of me, and I really do not like the direction that is going, and I am very open about speaking my mind on it. It certainly would appear to me to be socialistic, at least in that viewpoint, from the standpoint of cutting real property taxes to one individual, as opposed to everyone else in a community. Mind you, I am not against the exclusionary zoning -- or, rather I am for a Guide Plan that would prevent exclusionary zoning.

I think many municipalities require, for example, that they have houses of 1,500 square feet, or even more in some cases. I don't think that is right, in my viewpoint. I think the court could very well -- or the Legislature should, in my opinion -- not the Executive Branch, but the Legislature should say that that is wrong, that type of exclusionary zoning on the one hand. On the other hand, what are we to do? How can we regulate land costs? How can we regulate the cost of

the average house in the United States being \$65,000, and come up with a document or a State Guide Plan that is going to put it down to \$35,000? I don't see how it can be done, unless we look at the broad spectrum of what has caused us to get here, inflation being one thing, regulations being another, land costs being another, exclusionary zoning costs being another, and putting the whole package together. While there are three branches of government, I don't think that is a problem for the courts to come out with, nor do I think it is a problem necessarily which the Executive Branch of the government should come out with, except that it would give some indication and guidance as to what they think.

It is my personal viewpoint that the "Buck stops here in the Legislature." We are the ones who should be doing something about it. That is what our Chairman is all about, and that is why he has called these hearings together.

SENATOR STOCKMAN: I think the real solution is going to be when Senator Connors and I cosponsor a bill in this area to straighten the whole subject out.

SENATOR CONNORS: Well, I'm hopeful that we can.

SENATOR STOCKMAN: That's what we're working on.

COMMISSIONER RENNA: It has to be bipartisan, Senator, if this is going to work at all.

SENATOR CONNORS: Isn't part of the problem, and I don't want to put words in your mouth -- but, isn't part of the problem the fact that we just don't have enough housing stock, of all kinds, in the State?

COMMISSIONER RENNA: That is one of the problems.

SENATOR CONNORS: I mean, there is no question about the fact that people need homes, and yet I've seen as a member of the Senate County and Municipal Government Committee, where bills have been stalled, they have not been allowed to get to the Senate floor for a vote, and they didn't deal specifically with low-cost or moderate-income housing. They dealt with the problem of rent control, for example, of people putting money up, developers putting money up, who want to build apartments that would allow and free up other areas of the State in housing stock. You know, one only has to look, in my

viewpoint, at the automobile industry. When we had a recession in the country and the automobile market was in a slump and was not producing automobiles, the value of used automobiles went skyrocketing. It went sky-high; they retained their value. And, that is what I suggest is another facet of this problem. We just do not have a mix of all kinds of housing. Mind you, as I said before, and I want to emphasize it, I do not believe in exclusionary zoning. I think that is wrong, and I think part of that problem should be rectified in accordance with Mount Laurel II. However, I cannot subscribe to the thought that what we have to do is start to subsidize municipalities' real estate taxes, not based on value, which to me flies in the face of the Constitution.

In discussing this with you, Senator Stockman brought up what your thoughts are on it and what you are doing about it. Do you concur with some of the thoughts I brought out?

COMMISSIONER RENNA: Oh, of course. I think I mentioned it in some of my comments here. There is no question about the fact that you have land costs which are completely out of sight. The answer to that, of course, is if you had to build a house today on one acre and it cost you \$50,000 for that acre, you are not going to build an affordable house. But, if you could put four houses on that acre and make them quarter-acre lots, and you paid \$50,000 for that acre, now it is only about \$10,000 for each lot, and you could then cut your house costs down when you sell them. That is one of the areas.

In the other areas, of course-- If in a zone you have to put up a 2,000 square foot house, if they can cut that down to 1,200, 1,300 or 1,400 square feet instead of 2,000, or cut down from a 1,500 to a 1,200 -- all of these things are cutting down the cost of a house that you could sell a little more affordably, or a lot more affordably than we can today. Manufactured housing, prefabs -- these are the answers to what we are going to have to do in the future. This is not the answer to Mount Laurel, of course, but this is the only way you are going to get an affordable house, as I see it, in the future, and it is not going to be dictated, it is going to have to be with the cooperation of a town, as you just said. You are an elected official in a town. You, as an elected official, are going to have to work with the Legislature, with us, and with everyone else involved, to try to

come up with some of these solutions regarding the areas where you can build a certain size house, and where you can build a smaller size house on that same property, where you can cut down the size of a lot to a different size lot to make the houses more affordable. If we do not get this cooperation, then you are still going to have the same problems you are facing today. Unless we get that done with everyone working together, you know, I do not see a solution, whether the courts come in or don't come in.

If you get a developer who is going to put up a hundred houses -- not very many people put up a hundred houses, but they may put up twenty, thirty, forty houses, and you tell them they are going to have to put up eight or ten of those houses for low and moderate-income families, and they have to cut the price of that house down maybe \$15,000 or \$20,000 and pass it on to the other people, you are going to get into a problem where people are not going to buy the houses at the higher price knowing that the same house is selling next door to them for \$20,000 less. That is going to create a bigger problem. But, that is what we're saying here, and that is the difficult thing we have to try to address. It is not something you can do with a piece of paper, or with a law. It is something where you have to sit down, everyone together, and work on it, in an attempt to see if you can find a solution to it.

SENATOR CONNORS: I agree with you.

SENATOR STOCKMAN: There is one area on which I would like to ask you a couple of questions, Commissioner, if I may, because I know Commissioner Hughey is available also, and we have spent a long time on this give and take. At our last session, we had a suggestion that the State of New Jersey ought to develop a State Planning Commission. It was testimony given by an official from the Regional Plan Association, and it was a rather interesting suggestion. It really dovetailed with some, I thought, rather remarkable testimony, or at least striking testimony, to me, by James Gilbert, who is the former President of the New Jersey Federation of Planning Officials, and who spent almost fifteen years on the Englewood Planning Board. Mr. Gilbert pointed out that it seemed to him that from the point of view of planners, there is no one in State government for them to talk to anymore. I'm quoting,

he says, "There is nobody for our Organization to talk to anymore." He went on to point this out, and it goes to a little bit broader question than housing, to the general concept of State planning, he said, "I would just say parenthetically, that as a businessman, one thing that really strikes me about the lack of comprehensive planning," by the State, "and by comprehensive planning I mean comprehensive, I do not mean just the Mount Laurel decision, and I do not mean just local land use planning -- the thing that strikes me is that we have a State of six million people. That is about the same size as Sweden, but we do not have a comprehensive planning staff. We do not have one full-time comprehensive planner in a State of six million people -- it is just unbelievable -- and in a State where from both sides, both parties, I am constantly hearing about the need to address economic problems and so forth. It strikes me as odd that when you look at a country like Japan, which is giving us fierce competition in every so-called business area, they are strong believers and practitioners in planning, in a real planning process that extends to every part of their country, and to every activity." That testimony was given by a gentleman who described himself as a longtime Republican, an active supporter of Tom Kean. I wanted to ask you--

COMMISSIONER RENNA: (interrupting) I don't think it is accurate, but if that is what he said.

SENATOR STOCKMAN: Well, that is what I wanted to ask you. Is there a planning entity? The Division of State and Regional Planning, I know, has been dissolved and has in some way dovetailed into some other part of your Department, but is there a planning mechanism actively functioning in terms of trying to develop a planning program for the State of New Jersey, and, do you think a State Planning Commission with that responsibility is a healthy proposal?

COMMISSIONER RENNA: Well, I think first of all, the Planning Division, of course, is not here today. If you recall, not this year's budget, but last year the Legislature itself chopped off about \$600,000 from the Planning Division, so you cut the Planning Division down to practically nothing at that point.

SENATOR STOCKMAN: I remember that.

COMMISSIONER RENNA: All we did was cut it down to a little less, because you couldn't really come up with enough money to have a division. The people are still with the Department of Community Affairs in a section called Housing and Development. Whether it is used as planning or development, it is still the same thing. The planners are in that section. So, for a person to make a statement that there is no one -- that is not true. Assistant Commissioner Willis is in charge of that. He is the head of it, and he has the planners working under him. So, if anyone wants any information regarding planning or anything about it in our State, he can simply call my office or Commissioner Willis' office and get the information he desires. Therefore, the statement he made is not completely true. As far as a -- what did he call it?

SENATOR STOCKMAN: Well, the Regional Planning Commission is talking about a State Planning Commission, perhaps in the Governor's office, or as a separate cabinet entity, that would be responsible for developing long-range planning for the State, not only for housing, but for its infrastructure.

COMMISSIONER RENNA: I think we have that, don't we, Senator? We have Gary Stein, who is the Governor's person in charge of planning in the State of New Jersey. That is his title.

SENATOR STOCKMAN: Well, let me ask you about that. I've met Gary Stein, but I don't know him that well. Is it your understanding that he, or people associated with him are generating a plan for the development of the State, both in the area we are talking about, housing and land use generally, and the infrastructure?

COMMISSIONER RENNA: I think that is most of his function, yes. I think most of his function is to set goals for the planning of the State.

SENATOR STOCKMAN: How does he coordinate his activities with your Department?

COMMISSIONER RENNA: We are in constant touch with him. His title is Director, Office of Policy and Planning; that is the title he has, so that is another area this gentleman maybe isn't aware of.

SENATOR STOCKMAN: All right. I know he has been quoted, I guess as the key spokesman for the Governor on the question of the

State Guide Plan-- I believe yesterday he was quoted in a major article in the Star-Ledger as indicating, and perhaps that is part of the basis for your position, but I believe he indicated that he didn't feel the courts mandated -- I guess he didn't use that word, but that seemed to be the inference of what he was saying, that the Guide Plan be updated. Has he been participating with you in reaching this decision not to update the Guide Plan?

COMMISSIONER RENNA: Well, we have been discussing it with him, yes. He is the top man down there.

SENATOR STOCKMAN: Has he, to your knowledge, been discussing it with other cabinet members, such as Commissioner Hughey or Commissioner Rodriguez?

COMMISSIONER RENNA: I would have no way of knowing that; I don't know. I think he would probably have closer contact with me, because housing in the State of New Jersey is basically in the Department of Community Affairs. I think his basic give and take would be with us rather than with anyone else, although I'm sure that if there are areas like Commissioner Rodriguez's or other areas of government where they have some part in this overall phase, I'm sure he probably would be in touch with them.

SENATOR STOCKMAN: Are you aware, Commissioner, of any planning instrument or any document that he is either working on or has developed along these lines for long-range planning for the growth and development of the State of New Jersey?

COMMISSIONER RENNA: Are you talking about housing or anything?

SENATOR STOCKMAN: Both housing and infrastructure, or other development.

COMMISSIONER RENNA: I don't know the exact items, but I'm sure he has; I'm sure he has. The infrastructure bank was developed between the Governor's office, Gary Stein, Ken Biederman and I guess Bob Hughey, so they are all part and parcel of it. That is part of a plan right there, and I'm sure he has other plans. That is his title, Office of Policy and Planning, and most of the policy and planning, and growth in the State, or things in the State will go through Gary Stein's office.

SENATOR STOCKMAN: I guess he is the man we should hear from sooner or later. Thank you very much, Commissioner. I appreciate your coming.

SENATOR CONNORS: Mr. Chairman?

SENATOR STOCKMAN: I'm sorry, Senator Connors. Please go ahead.

SENATOR CONNORS: Really, Senator Stockman, this is directed toward you as Chairman of this Committee. I hope that the Oversight Committee after reviewing this, will make some recommendation to the Legislature -- that after hearing from the cabinet officials and various people from the housing industry about what the problem is, we will come up with some solid recommendations. One thing, it is good to always look back, and you have heard me do that spiel. You have to know where you came from in order to know where you are now and where you are going. I am hopeful we will do this in that spirit, rather than trying to chastise any one branch of government one way or the other. I accept, as a member of the Legislature, at least from my point of view, that the Legislature should be doing this, not the courts and not the Executive Branch of government. Guidance should be put forth for a Guide Plan that is acceptable to the courts, and one which will do something for housing here in New Jersey.

But you know, there is an old saying that when you subsidize something you get more of it, and when you tax something you get less of it. I think we have taxed the housing industry, but not from the standpoint of the dollar tax. From my point of view, having been in the industry, I think we have taxed this industry just terribly with all the rules and regulations that have come down over the years. We have to take a look at those rules and regulations. The Commissioner hit on this. Although the issue here is not zoning per se, that is one facet of it. The issue here is affordable housing. How do we bring housing costs down? If it is subsidization, please do not make it the responsibility of the local municipality to subsidize affordable housing. It is the responsibility of every citizen in this State to see to it that people with moderate or low incomes get a place of shelter. I think that is what our target should be, not to say, "Well, this municipality, because it does have and has had exclusionary

zoning, now we will stick some people in there and force them through real estate taxes to pick up the burden." The burden should be shared by everyone in this State, in my view.

SENATOR STOCKMAN: Len, I agree, and that is why I tend to think we should be concurrently talking about tax reform, particularly property tax reform, when we take up the subject of Mount Laurel II. As to your suggestion that this Committee come up with some specific legislative proposals, I absolutely agree with you. I hope we do. I certainly am going to be talking to you and to other Committee members about doing that. I think it is going to be tough, but I hope we can do it after we hear from some other corners, so to speak, on this tough issue.

As to the fact that it is primarily our responsibility and not the Governor's, I have to say this and, again, I want to be careful in my choice of words because I don't want it to sound critical or too partisan, or whatever. But, I have been in the Legislature for a few years now, and it has come to my awareness, at least in my own experience, that we are people of very limited staff. I have one full-time staff person, who is spread across from "A" to "Z" in terms of responsibilities for me. Now, maybe that is my peculiar problem, but it strikes me that as legislators, while we have some tough decisions to make, we need help. In major legislative action, in major policy setting by legislative action, my experience tells me that rarely -- rarely -- does something substantial come strictly out of the head and shoulders and body of a legislator with other legislators joining in, as opposed to a shared appreciation of recognition by the Administration, by the Governor, who has to sign the bill to make it law. You know, and I know, that nothing in this area is going to become law unless Tom Kean signs it. We don't have the one-sided control of the Legislature to even remotely think about that. So, I concur that it has to be bipartisan, but my point is, I think we need a lot of help, and I candidly admit it. I need a lot of help from the Department of Community Affairs, if I am going to participate as a cosponsor in legislation that is going to have any impact in this area, whether it is in tax reform or land use reform, because I don't think we, you know, with our limited resources -- we have to make the final

tough decision when it gets there, when we are on the floor of the Legislature. But, in terms of shaping and designing, I don't think we can say it ought to come from the Legislature. It has to come jointly, so maybe we are not that much in disagreement. I look forward to taking a shot at doing just that.

SENATOR CONNORS: Getting back to what we were talking about, if in your opinion in the twenty-one months that the Executive has been in the Governor's chair and the Administration has been in the form of Governor Kean, they have done nothing, or done little, the Legislature shares an equal responsibility. In twenty-one months we have done nothing. All right? What I'm saying is, I think there are bills, and I've seen them come across my desk as well as yours, and I've seen you, and you've seen me vote on them, that establish various commissions of the Legislature to study the problem and get down to the nitty-gritty. We could talk about this ad infinitum, with nothing being done. I am hopeful, and I know you share the concerns I do, that we do form some kind of commission. Now, if the Executive Branch of government in the view of some is not doing anything about this, that is one thing. I don't want the courts to do anything about it, because I don't like the decision that has been handed down. I think it is a totally unfair way of treating the problem. I think we have to address the problem from the broad aspects that have been discussed here this morning.

SENATOR STOCKMAN: As shabby a performance, arguably, as our colleagues -- and we have to, I guess, join in -- have done, I will point out, Len, that one thing which was done, was that the Senate did pass a resolution directing this Committee to get into the very subject, as tough as it is, that we are into. At least to me, I'm taking that as a commitment by the Senate of the State of New Jersey to listen to what is happening here figuratively -- if the media finds it of enough significance to report on it -- and to be attentive to any recommendations and proposals we make in this area. I, for one, join with you in saying, "I'm not about a fool's errand as I sit through this hearing today." There are other places I could be; there are other things I could be doing. So, I intend to try to make something come out of these Committee hearings.

COMMISSIONER RENNA: I think you will.

SENATOR CONNORS: Gerry, I give way to your experience. I am brand new, twenty-one months; this is my second Oversight Committee hearing. I do not mean this as a criticism, but I sat through the last Oversight Committee hearing and saw no recommendation come out of it, nothing. All right? I do not want to sit and waste my time, and waste the time of all these other individuals, without doing something about it, and bringing it to the attention of the Legislature.

SENATOR STOCKMAN: Len, if you're talking about the hearings on Hope Creek, you're right. There were no specific recommendations, but my instincts tell me from what followed -- and others will have to make this judgment -- that out of those hearings did come some added sensitivity and concern by the Board of Public Utilities, by the electric power companies and by the Public Advocate on what was developing there, what will develop there. So, I agree that there were no concrete legislative proposals that can be specifically traced to those hearings, but I am hopeful that in this area that will not be true.

Thank you very much, Commissioner.

COMMISSIONER RENNA: Thank you.

SENATOR STOCKMAN: I see you are followed by a more casual, but equally prestigious member of the Administration, Commissioner Hughey. Good morning, Commissioner.

COMMISSIONER HUGHEY: Good morning, Senator.

SENATOR STOCKMAN: I welcome you on behalf of Senator Connors and myself and the Senate Legislative Oversight Committee. I appreciate your cooperation in being willing to come in here and talk to us about this very challenging subject.

COMMISSIONER ROBERT E. HUGHEY: Thank you. We have discussed this in very minute detail, and I'm sure this is just one of many discussions we are going to have on the State Development Guide Plan and Mount Laurel II.

Let me start out with a quick observation. I think something has been done in the last twenty-one months. I don't think anyone is finished doing things, and I think, as I will say when I conclude my conversation with you today, I think it is clear to me that everybody is going to play a role. When I say everybody, I mean the

municipalities, the counties and the regional planning associations we have set up for 201 and 208. I think the State clearly has a role to play, and I think part of that rests with my Department and part of it rests with, not my Department, but probably another, and I think part of it rests with the Legislature. So, I think we have a shared responsibility. I do not look at it as a negative; I think it is an opportunity for the State of New Jersey.

First, I think it is clear to anyone who has read Mount Laurel II, and I have, and Mount Laurel I, that the decision clearly says that the State and DEP do have a role to play. It is a reaffirmation of a doctrine of the court that land use agencies -- and land use agencies include a lot of people -- must provide a realistic opportunity for low and moderate-income housing. I would categorize Mount Laurel II, perhaps because I am a planner by profession, as a planner's decision, as opposed to Mount Laurel I, which I thought was pretty much a lawyer's decision. I think it is a natural and logical progression of the Mount Laurel I decision.

The decision requires something from everybody who is involved in the planning process. It requires something from local government, from county and regional authorities and from all branches of State government. Only the court's role in Mount Laurel II is pretty well specified. The rest of us have to determine our role over the course of, probably, the next year.

Let me concentrate first on DEP's role, first because that is the one I am supposed to know something about, and then merely allude, as I will, to some of the roles I see being played by both the Legislature and the Administration. I should add before defining the role that we have not defined DEP's role by ourselves. Actually, before Mount Laurel II became reality, I set up a group of planners, statewide planners, from local communities and from the academic community, and we meet with them monthly, not just to articulate our role in Mount Laurel II, which, of course, we couldn't predetermine, but to integrate planning that is being done in the Department with the needs of the local communities. It is through them that we have tried to articulate our role as a Department. I think our role relates to something that you just said, Senator, which is that somebody must

provide the staffing required to do intelligent planning in the State of New Jersey, and, in many respects, DEP's role is just that. We provide the staffing, I think to the benefit of local communities, and more and more to the benefit of counties, and to the benefit of the State.

Having done many environmentally-based master plans for communities before I joined the State, I would categorize what we are doing here as providing the layers that really go into constructing environmentally-based master plans. The court in Mount Laurel II made two distinctions. They talked about the need to have low and moderate-income housing, and they also talked about the need to recognize environmental constraints. Planners regard that as a mapping process which we would call a mapping of constraints and a mapping of opportunities, and that is what DEP does. We are, and have been working on a series of tools which I think will lead us to a product that will help local communities and counties to better identify limited growth in conservation areas, consistent with environmental policies of the State of New Jersey.

We have done a number of things in the last year to move that forward, and I think we will be in very good shape within the next year. First, we are providing for the first time the development of good base maps on a statewide basis. That is our GIS system, which is a computerized system for providing data base maps for communities and counties, which may then be available at a number of scales in order to look at both constraints and opportunities -- constraints most properly in this case, watersheds, etc. That mapping process has been a very sophisticated one to develop. The Department now has it available and we are refining it. Of course, we would welcome the Legislature taking a look at it, because I think it has application for a number of things in the State.

Secondly, the State has developed a statewide solid waste management plan. It is not the most comfortable part of any one of my days, but it is a very necessary part of what this State does and what we have to do in the future in order to move forward on solid waste. The availability of potential solid waste disposal sites has to be defined as a contributing factor to both Mount Laurel and other land use decisions.

Third, DEP is preparing a statewide water quality management plan, which will knit together and make clear the implications of very wide water quality plans prepared by DEP and by designated agencies.

Fourth, we are preparing, on a pilot basis, an environmental inventory of key spacial data from major DEP programs on USGS quadrangles. This mapping reduction project is currently using Monmouth County as a pilot project.

Fifth, a State Mapping Advisory Committee should have, and does have now, an operational map and photography index for the Summer of 1983, which was done on time, which increases the availability of spacial data both to the State and to the communities.

Sixth, the Division of Water Resources is preparing an accurate statewide map showing sewage and water supply service areas, and I will get back to that because I think it is one of the roles we share.

Seventh, the Division of Water Resources is implementing the adopted statewide water master plan. Those efforts include a number of feasibility studies being undertaken by NJIT and others to develop yield analysis which will implement the water supply plan moved forward by the Legislature in 1981. It is one of the most aggressive programs in the Northeast.

Eighth, or ninth, or tenth, are all the other base maps that are now being conducted as a part of what the Department does, or will do in the future, including those that are in, but not of the Department. That would include the Pinelands, and would also include, I think probably more important on my day-to-day basis, the Hazardous Waste Sighting Commission.

The Department has, and will continue to work with the Governor, the Legislature and the Congress, talking about infrastructure, and let me dwell on this for just a minute. As a planner, I can tell you that we can do the best base work in the world. We can develop maps that show every constraint, and we can develop maps that show every opportunity in terms of growth or potential growth. But we all know, and it has become a very pop phase this year -- but it is more than pop -- that infrastructure is a necessary ingredient. I think we are going to see, as you get into

your hearings and as I get into my business this year which is to enforce the Clean Water Act, that the things we have been saying for eighteen months, or most properly the things I have been saying with regard to infrastructure, really have to be dealt with. We cannot accept the program that says we can fund seven, to eight, to nine sewage construction projects in this State, leave out in the cold 228 projects, and then expect those communities to develop a proper Guide Plan for themselves or to exercise one developed by the State.

As I start to implement the pacts of the Clean Water Act, and as communities begin to realize that by 1986 they have to have their projects underway, I think both I, and the Legislature in this case, are going to find increased pressure to deal with the problem in some appropriate way, with some basic fairness, and without any partisan efforts.

Within the Department what we have been doing, is taking all the base maps we have developed as a part of our ongoing business, and integrating those base maps to provide the base for the next phase. In addition to that, we have been developing overall strategies on things like ocean dumping, which certainly has to be considered in any planning document, and wetlands protection strategies, both inland wetlands and salt water wetlands. The course of all this is that we identify both developable and undevelopable land.

Under Mount Laurel II, a municipality must take three steps, really, to determine their share of the regional low or moderate-income housing. These are: (1) to identify the relevant region; (2) to determine its present and prospective housing needs; and, (3) to allocate those needs to the municipality. The DEP role in each step varies. First, we have, I think, and I just articulated it, a major role in terms of identifying the relevant region. In its decision, the court suggested that existing statewide growth plans, such as the Coastal Management Program, and the Pinelands Comprehensive Plan, developed by DEP, may help in determining appropriate growth regions.

The next step really involves two components, and I think in some cases we can assist in both of these. First, you have to identify your environmental constraints, and then you have to identify your adequate infrastructure, or your ability to provide adequate

infrastructure, which is going to impact directly on low and moderate-income availability.

The second thing a municipality has to do is determine housing needs, and the third thing is, it must determine its local share of the regional housing need. I think this really is where we are going to have to decide what the State's role is, to the extent that we have really not done much this year. This is where we really haven't done much. But, I think we can, and I think the base data we have been preparing this year is fundamental to being able to take a position, either second or third to the municipality's responsibility.

An offshoot of the planning group I have been meeting with, and I know you are aware of it because you and I visit with the same planners, is that the planners in New Jersey have formed an ad hoc committee to develop a position on Mount Laurel II and to develop some alternatives to the future, which will probably result in some needs for legislation. I would suggest to you, not because I happen to think planners are infallible, but because I think it is a good place to start for the Legislature and probably for this Committee, that you take those alternatives and discuss them as they apply to local communities and counties. Too often, we react to decisions like this at the State level by presuming that we have the intelligence to help local communities more than they sometimes want to be helped. I think what is instructive about this ad hoc committee is that they formed themselves, and they want to be a part of the legislative process. I think if we are going to be successful in implementing Mount Laurel II, that kind of assistance and cooperation is going to be fundamental.

In conclusion, I think DEP plays a role and I think we certainly are not finished playing that role. I think the new office created with Gene Schneider from the County and Municipal Government Study Commission is indicative of our ability to look at planning and to consolidate planning options, and I think the Legislature will play a role before we are through. That role could be varied. Certainly, it will have something to do with infrastructure. It will probably tell or articulate to some extent the State's roles in dealing with a community, and that is not unlike the other management plans we have put into effect in this State.

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Thirdly, I think the Legislature and the Governor both have to address the role of infrastructure development, both water supply and sewage, and the cost of doing that. I would add to that, the cost of doing almost everything I deal with. Good environmental planning costs money. Good land fills cost money. Resource recovery costs money. I don't think that need impact negatively. There is something you always wrestle with in terms of planning if you work for local communities, which we have wrestled with in the State, probably unsuccessfully. Everyone believes there is an inherent conflict between providing low and moderate-income housing and providing housing which is attractive and which has the needed infrastructure. That is not true. What is required is a long-range plan, a good master plan, and a consistent walk forward in terms of realizing that plan.

It has occurred to me in the development of public policy, that that is one of the things we do not do very well. There are very few items in the State, and housing and Mount Laurel II certainly has to be one of them, where we make commitments to the future. I know that this Legislature, just as the Congress, is frequently in a position where they do not want to commit the next Legislature, and the Governor doesn't want to commit the next Governor, but when you get into major issues in the environmental arena, or in the housing arena, or in the toxic and hazardous waste arena, there is an obligation to commit the future, because programs do not begin and end in two years, they do not begin and end in four years, they do not begin and end in eight years. They begin and end in twenty years, maybe.

So, I think we are going to see a lot of action this year. I think there is reason to be very optimistic about that action. I think the kind of things we're doing in terms of integrating planning have already been of benefit to the counties we deal with, and have led to a cooperative spirit. I think they will provide the base for the Legislature and the Governor to make bigger decisions on how do we help with the numbers, and how do we help with the allocation of regional shares, which I must say is not, I don't think, DEP's role, but it will necessarily become a State-supervised role if we do not make progress in the absence of the State.

I do not have a written statement, but that concludes my remarks.

SENATOR STOCKMAN: Thank you very much; you did very well without one. As a matter of fact, you didn't even mention the State Development Guide Plan, and I don't say that critically. We'll get to that, Commissioner. I want to say that listening to you is enlightening. Listening to you is encouraging, and I think your role as Commissioner of the Department of Environmental Protection has been handled well. You come before the Joint Appropriations Committee and I have made that comment to you, and the general reading I get is to that effect. I salute your efforts at coming to grips with what I consider to be one of the shortcomings of State government perhaps, this long-range planning. I agree with you, we do not do it very well, and that comment is not limited to today's Administration, or even yesterday's or the day's before.

You say we are hesitant to commit the future, and I know that is a problem I struggle with in my own mind. It reminds me of Senator Connors' observation about the tremendous, really overinvestment in some ways in one aspect of the infrastructure, that is sewers in his region and what it has done in the way of wrecking some degree of havoc on those communities that have gotten locked into this tremendous investment and now are not using it. So, I would suggest, and I think you would probably agree with me, that often even in an effort not to commit the future, our inaction really is a commission, it is a committing of the future to hectic problems. I drove up Route One to a Chamber of Commerce breakfast at the new Hyatt Regency, a beautiful new hotel on Route One up at Princeton. It took me an extra fifteen minutes in traffic getting up there along Route One this morning, because of no long-range planning. So, I appreciate what you have done in your Department in this direction.

Now, let's talk about the State Development Guide Plan a little bit. Do you have any position or view as to what, if anything, should be done by the State in terms of updating the State Development Guide Plan? You must have anticipated that question.

COMMISSIONER HUGHEY: I guess I did, and I did not avoid it on purpose. I think the State Development Guide Plan is a misnomer in some respects. The State Development Guide Plan is a master plan. It is a construction of base maps, or it should be. I'm not sure the

first one was, although I think it was an effort in that direction. What I am suggesting to you, is that we are already developing that kind of information, where one overlay after another overlay begins to tell you what the potentials are. I think that is what part of the State Development Guide Plan has to be. The second part of that Guide Plan may or may not be choices on directing regional growth or non-growth. What I'm saying to you is, the Guide Plan is first a series of base maps and, secondly, a series of long-range decisions. The first part is going to be provided; we are doing that now. If that map is to be anything but a traffic map -- not disparagingly, but I have called the other one a traffic map from time to time -- then we have to make some long-range determinations on where we want to see development and where we want to make a commitment. I think if you look at just a couple of areas that we share a concern with, such as urban area redevelopment, and you look at the potential for urban area redevelopment, there is a great difference between potential and reality. I would give you as examples, Jersey City and Hoboken, which have made tremendous strides in terms of redevelopment efforts in the last year and a half that I am aware of. With every project that is announced, the thing that is not announced is that the map may look like that should be a growth region. With the old Development Guide Plan or the new one, I think we would logically say we could redevelop, but the infrastructure will not hold the development. The sewer plants do not have the capacity; the water supply is not in place. So, the Guide Plan which I think we can construct in terms of a master plan -- and, I just don't like Guide Plan as words -- but, I think we can construct a master plan. The question is whether we are willing to make it anything more than a map. To make that decision, I think we have to call on both the local communities and the counties, and then we have to call on ourselves and say what kind of commitments we are ready to make.

In terms of housing -- let me directly relate it to housing. I have seen a lot of successful efforts for low and moderate-income housing. I have seen some very successful achievements of moderate-income housing, but when you add in low, I think you understand you have to make a commitment to low-income housing. It is

the one time the Federal government broke ranks with itself. One of the few laws that has ever been passed nationally where one Legislature committed another was the Housing Act, which committed money on a long-term basis for low-income housing. I think we are going to have to address that issue with our Congressional representatives, because right now, that Act is not funded.

So, what I am saying to you is, I look at the Development Guide Plan in two ways. If it is a finished product which results from base maps developed with county input and local input, it will work as a Guide Plan if we make commitments beyond that. If it is a map that simply tries in some way to refurbish the old State Development Guide Plan, then I think it will be used pretty much the way the State Development Guide Plan was, which was not often or, depending on your perspective, not at all. I think as a planner, the only times I looked at the State Development Guide Plan was when something was going to court, so we could discuss it on one side or the other.

So, we need more than a map. I think really that is what the court was saying. I think one of the reasons I stay away from saying just the State Development Guide Plan is that I think the court, in Mount Laurel II, said something besides just the State Development Guide Plan. It said, "The State Development Guide Plan or something of its equivalent and environmental constraints," and I think it started to blend two things that were missing in the first Guide Plan.

SENATOR STOCKMAN: Well, Commissioner Renna acknowledged that the Department of Community Affairs has essentially scrapped, at this point at least, the State Development Guide Plan, as far as updating it. He spoke in terms of awaiting some further guidance or direction, as I understood his testimony -- and we'll have it in time to review more carefully, but I think that is what he said -- waiting for court direction as to where to go. I listened carefully, Commissioner, and maybe I missed something, but is that essentially your position?

COMMISSIONER HUGHEY: No, because I think the court has already decided where we should go. I think the court has said there has to be something like a revised State Development Guide Plan, and I think you can make two choices. One is, you can say the municipalities and counties will develop that, generated on base data provided by my

Department and others in the State, or you can say municipalities, counties and the State will develop the plan based on the kinds of base data that we are putting together. I think the end result is that the State has to play a role, and you are going to have to have a revised map, and I don't think that is so illogical. If we deal with land use issues with the frequency that my Department does, then it would make some sense that we would contribute to the development of an eventual revised plan.

SENATOR STOCKMAN: Have you talked to Commissioner Renna and tried to persuade him that this Guide Plan should be developed and updated?

COMMISSIONER HUGHEY: No. I have probably more than enough to do, and I busy myself preparing the documents I think are required. As you know, I read Mount Laurel II as soon as it came out. I had been meeting with the planners before that, and I made the decision on the eight or nine things that we could begin to gear up to contribute to the development of what I thought was going to be an eventual plan, and I think it is an inescapable conclusion that we will be there.

SENATOR STOCKMAN: As State government is presently structured, would you agree that the Department of Community Affairs with its charge, is probably the most logical department within which to shape an ongoing Guide Plan, without taking away from your responsibilities cooperatively?

COMMISSIONER HUGHEY: I appreciate that. I say that all the time, because I do not want to have that responsibility. I think it is real logical, and if that was not logical, I would pick the Department of Energy, or something else. I think the distinguishing characteristic here is, there are social decisions that have to be made, which DEP gets drawn into occasionally, but which are not places that are our forte. There are environmental and land base decisions that have to be made, and what I am saying to you is, we are preparing the latter, because we think the former will come.

SENATOR STOCKMAN: Have there not been round-table discussions, or give and take discussions with the Administration, or with Commissioner Renna and yourself on whether or not to come to grips with the Guide Plan and update it?

COMMISSIONER HUGHEY: No, we have not had any conversations on the implementation of the Guide Plan, although the Governor is very aware of the things being done within my Department to provide base data.

SENATOR STOCKMAN: Would it be fair to say there is a split of authority or opinion among cabinet members as to where to go with this decision?

COMMISSIONER HUGHEY: Well, there was never any confusion on my part, so I don't know if that is safe to say or not.

SENATOR STOCKMAN: Okay. You are implying there is confusion on the part of others, and I'm sure you did not mean that.

COMMISSIONER HUGHEY: No, no, you're implying that there is confusion. I know where I'm going.

SENATOR STOCKMAN: I am only asking if there is a consensus, but I gather, and it seemed to be Commissioner Renna's position too, that the two of you have not really engaged in joint discussions, let's say, in either a round table or with the Governor's top staff on this question?

COMMISSIONER HUGHEY: No, except, as I said, the Governor and his top staff are aware of the things we have been doing to provide the base data we think is a part of that decision.

SENATOR STOCKMAN: Do you think it is fair to say that the Mount Laurel II decision was a wise and sensible decision? In fact, you used the term, "It was a natural," I guess, "evolution of where we're going with this problem."

COMMISSIONER HUGHEY: Yes. You know, I never try to determine whether the courts are wise or--

SENATOR STOCKMAN: (interrupting) Once they have spoken.

COMMISSIONER HUGHEY: Yes, I think you have to assume they are, or they wouldn't like it. But, I think it is a natural progression. I think when you begin to address Mount Laurel I and you realize that that really did not frame out the considerations, there has to be a Mount Laurel II, and I think the hope of the court, and probably our hope, should be that there is not a requirement for Mount Laurel III.

SENATOR STOCKMAN: But, you do not view Mount Laurel II has judicial overactivism, for instance?

COMMISSIONER HUGHEY: I think Mount Laurel II articulates the position of the court, brings in the variables that were not a part of the first decision, meaning land use variables, and says to everyone at every level, "Look, you have to start to think about this in a different way."

SENATOR STOCKMAN: Are you aware of the Regional Plan Association's proposal that there be a State Planning Commission set up? Have you had any participation in this?

COMMISSIONER HUGHEY: That is relatively new. I have talked to Gene Schneider about that. I think that makes some sense, as long as -- and this is the provincial part of being a Department head -- as long as we don't set up another major organization. I think it is important to have an umbrella group that begins to coordinate all the things that are being done in all departments, but I do not think it is important that they begin to develop a staff which could supplement the departments. I think what they should be doing is consolidating the work of the departments, updating that and being in an overall policy standpoint. I think to the extent that I have watched Gene operate in the past, that is very likely to be the way he will operate in the future. I think that is good; I think it is very constructive, not just for the Administration, but for the Legislature. I know we go through -- you and I have twice now -- Appropriation hearings where we talk about components not in the aggregate. I think we do it every year at the Capital Planning Commission, where we begin to talk about things that are going to be done or not done, and we really do not have that overview. I think that is one of the things that kind of a group could begin to provide.

SENATOR STOCKMAN: Do you see, Commissioner, the subject that is often talked about, that is, tax reform, particularly property tax reform, tied in with Mount Laurel II, or do you see out of Mount Laurel II and its implementations, or its implications, some direct relationship with our present property tax structure in New Jersey?

COMMISSIONER HUGHEY: No, I do not think you can jump to that conclusion from Mount Laurel II. I think the implementation of Mount Laurel II will really determine whether there is an impact that leads to tax reform, maybe totally independent of Mount Laurel II. I think

what I do see is an obligation to rethink our whole structure of infrastructure payment. We really have come to the conclusion, and I think properly so, that it is not going to be paid by the "Tooth Fairy," and, if it isn't, then we better come to grips with how we are going to pay for it and how we are going to make that equitable. There is a possibility now, given the state of sewage construction in New Jersey, that what we may be leading to is just where a community can pay for its improvements, where a developer is willing to step in, that that is where you are going to see compliance with the Clean Water Act, and I don't think that is constructive. I think what we ought to do is have some equitable way for all communities to benefit in some reasonable fashion.

I think we are going to see the same thing with water supply, in terms of updating water supply systems. An urban community, for example, and I go back to Jersey City only because I know all the projects they have planned, really doesn't need anything for free, but they need somebody to stake them to the future. That is an important part of redevelopment, who covers the span of ten years before those new rateables come on line and begin to pay for themselves.

So, property tax will come with the development of rateables. That may not be the most equitable way to do it, but it will come, just as fees for services will come. But, the question is, who spans that period of time which is the start-up time where we now don't do very well, and that is really what I meant about not projecting costs very well.

SENATOR STOCKMAN: Senator Connors?

SENATOR CONNORS: I have no questions. I have to leave, Gerry.

SENATOR STOCKMAN: Okay. Well, I think you have been very informative and helpful, Commissioner. I appreciate your willingness to come in. I thank you, and we hope that out of these hearings, not only this one, but some further ones we intend to have, will come some proposals. Thank you, again.

COMMISSIONER HUGHEY: Thank you, Senator.

SENATOR STOCKMAN: I think what we are going to do-- Since we cannot finish the hearing before lunch, I am really debating. We

have three -- let me just share with you what the agenda is. We have three more witnesses to come before the Committee, and Steve Frakt, my Committee Aide, suggested they are going to be relatively brief. We have Regina Joseph -- is Ms. Joseph here? (affirmative response) We have John Trafford -- is John here? (affirmative response). And, we have Stewart Hutt -- is Mr. Hutt here? (affirmative response) Well, I was thinking we might not finish. Perhaps we ought to take a five minute break, then we will pick up, and maybe with luck we can finish by one o'clock. Let's do it that way.

(RECESS)

AFTER RECESS

SENATOR STOCKMAN: We will try to finish by one o'clock. Ms. Joseph, do you want to come up? Ms. Joseph is a member of the Board of Directors of the New Jersey Public Policy Research Institute, and we're pleased that you are taking your time to share your opinions and views on Mount Laurel II with the Committee.

R E G I N A W A Y N E S J O S E P H: Thank you very much for inviting me, sir. My name is Regina Waynes Joseph. I have been a resident of the State of New Jersey for twenty years. I was raised in Moorestown in Burlington County, and am currently a resident of East Orange in the County of Essex. I am an Associate Director of the Business Employment Foundation, Inc. of Paterson, New Jersey, and a member of the Board of Directors of the New Jersey Public Policy Research Institute, which latter organization I am here to represent.

The New Jersey Public Policy Research Institute, established in 1978, is a volunteer, nonprofit, tax exempt organization. The Institute is concerned with identifying, analyzing and promulgating public policy issues significantly affecting the Black residents of New Jersey. Further, the organization seeks to present these issues for appropriate public discussion, which will hopefully contribute to the

development of strategies that address these issues in ways beneficial to the State's Black population.

The Institute is statewide in focus and attempts to work cooperatively with public policy oriented individuals and organizations throughout New Jersey. Activities of the Institute are managed by a thirty-member Board of Directors. Since 1980, the Institute has published an Annual Report on the status of Blacks in New Jersey, each year covering issues of significant concern, presenting problem areas and recommendations for change. As can be expected, issues covered included employment, minority business development, education, health care and criminal justice. Each report, as stated by Sam Sheppard, one editor, "Is addressed to Black elected and appointed officials, the Governor, his staff and cabinet, State legislators and local leaders. First and foremost, however, it is addressed to the Black citizens of New Jersey."

In 1983, the Board of Directors of the Institute felt it important to focus on one issue of public policy. That issue is the New Jersey Supreme Court's unanimous decision in Southern Burlington County NAACP et al versus the Township of Mount Laurel, commonly known as Mount Laurel II. For the second time, the Supreme Court of this State has declared that no developing community can evade its responsibility to provide affordable housing for low and moderate-income residents. As is stated in the Institute's Fourth Annual Report, the responses to this decision are of major concern to New Jersey's minority residents, many of whom fall within the low and moderate-income group.

I come before you today to offer Black perspectives on this issue, as discussion continues on the decision's implementation. But, first, a recounting of some background, as noted by Richard W. Roper, Vice President of the Institute and Director of the Program for New Jersey Affairs of Princeton University's Woodrow Wilson School, may prove useful.

Access to decent, affordable housing has long been regarded as central to the pursuit of happiness in American society. Indeed, housing is preceded only by employment as an essential element in the consideration of the quality of life in this country. Yet, for many of

the nation's poor, and especially poor minorities, housing opportunities have been severely limited and, in some instances, nonexistent. In some cases, the kind of housing available to those of small means has been a function of market forces. Good housing has been beyond their financial reach. But, in many instances, access to decent housing has been denied as a result of exclusionary practices employed to keep some groups from becoming a part of a community.

Where minorities are concerned, the issue of access, all too often, has been cast in terms of social undesirability. Although New Jersey has had a housing anti-discrimination law as part of its State statutes for some time, these laws have had little meaning outside of central cities. Access to housing in New Jersey suburbs has been limited to only a handful of the State's low and moderate-income residents, even fewer minorities regardless of income, and almost no minorities of low income. As Robert Holmes, a member of the Board of the Institute and Executive Director of the Newark Watershed Development and Conservation Corporation, in his article, "Mount Laurel II: A Black Lawyer's Perspective," states, "The Mount Laurel II opinion does not address race relations per se in New Jersey." He notes that, "The underlying constitutional requirements of substantive due process and equal protection do not refer to fundamental fairness and equal treatment for racial minorities. Rather," he continues, "the protection which is deemed to be essential to the general welfare is afforded to an economic underclass described as low and moderate-income persons.

"It is conceivable that the Mount Laurel II doctrine could enjoy significant success without directly affecting a single Black family. How is this possible? It has been clear in the eight intervening years between the issuance of Mount Laurel I and II that suburban municipalities have strongly resisted compliance." Mr. Holmes is frank as he comments, "To anyone who is at all aware of social relations in America, it is clear that the level of resistance to acceptance of the social integration mandated by the Mount Laurel court will increase as the issue moves from poor, to Black, to Black poor." Mr. Holmes contends that, "Competition for affordable housing in the suburbs will be steep from New Jersey's poor White residents. First,

recent studies reveal that the quest for the American dream of a house in suburbia is alive and well. Second, in reaching for ways to cope with the new law, suburban municipalities will find accepting poor Whites an attractive way to avoid even less desirable results in their effort to win the fair share race."

Finally, given the court's ruling that, "In no growth areas, limited growth, conservation and agriculture, no municipality will have to provide for more than the present need generated within the municipality." White families, who constitute a far greater share of the indigenous poor suburban population than do Black families, will be first in line for affordable units created pursuant to this section of the new law. In our view, it will be incumbent upon the Black community and those who support its interest to move into the forefront of the dialogue surrounding the defense of Mount Laurel II, if poor and moderate-income Blacks are to be affirmatively impacted in this process.

There are several issues of critical concern to Blacks as the debate unfolds. First, the State Development Guide Plan. Allow me to state initially that the State Development Guide Plan is not the issue on which Mount Laurel II focuses. The issue is the construction of housing which is affordable for people. We would not like to see that focus shift. Having said that though, given the weight the court has attributed to the Guide Plan, it is appropriate that it receive more deliberate attention. We recognize that it is in need of updating and refinement if it is to be the effective tool in land management decision making envisioned by the court. A system of State-coordinated regional or statewide local land use planning is a dire need. Creating one would allow for sensible development decision making benefiting everyone in the State. However, in these discussions low-income housing tends to get raised as an afterthought.

Because the push in support of a planning process as the essential focus of Mount Laurel II is supported by environmental, agricultural and planning profession communities, it has already preempted the weak efforts of low and moderate-income housing advocates in the Mount Laurel II debate. The issue that must be addressed is whether those who advance the planning process theme can be enlisted to

further the housing theme as well. It is a challenge that we must accept, since many in the former group have traditionally allied themselves with organizations committed to issues of equal opportunity.

Second, is the construction of low and moderate-income housing economically feasible? It is generally agreed that the construction of moderate-income housing is economically feasible. The consensus regarding low-income housing construction is questionable. The construction of moderate-income housing is possible through the use of incentives that impose limited or no burden on local governments. One such incentive is to modify local density requirements, thereby allowing the construction of more units on a parcel of land than the zoning ordinance stipulates. This incentive is often sufficient to make a project attractive to a developer. Where low-income housing is at issue, this type of subsidy is simply inadequate.

The prevailing view is that low-income housing cannot be built without a deep public subsidy. The court acknowledged this perception in its decision, and suggested that municipalities might be required to offer tax abatements as an incentive. Also suggested, was that municipalities seek State and Federal housing subsidies. We recognize that most Federal and State subsidy programs are being significantly reduced or eliminated. However, the Federal Community Development Block Grant Program, which generally does not provide funds for new housing construction, will permit, with specific authorization from the U.S. Department of Housing and Urban Development, neighborhood-based nonprofit organizations or local development corporations the use of CDBG funds to subsidize new housing construction. We recognize further, however, that in the absence of strong public demand for government support for low-income housing, little will be constructed.

Third, some outside of the Black community feel that successful implementation of the directives in Mount Laurel II may harm Blacks in New Jersey. Two issues have been raised. The first issue is the probably creaming effect of successful implementation of Mount Laurel II. This argument purports that enhanced housing opportunities for Blacks outside of central cities will result in socially and economically motivated Blacks abandoning the cities for the suburbs.

Left behind, will be those individuals least able to contribute to urban revitalization. There are those in America who would propose any argument to ensure the continuation of segregation in this country. To suggest that exercising the option to secure decent, affordable housing outside the city is ill-advised because the city would be the poorer for it is insulting.

The solution to urban decline is certainly not to be found in keeping the poor in declining cities, but rather by making it possible for the poor to maximize opportunities to improve their life condition wherever possible. This argument leads easily into the second, that Mount Laurel II will result in Black dispersal, such that the political clout Blacks now have as a consequence of being concentrated in urban areas will be lost. Dr. Bruce Ransome, Assistant Professor of Political Science at Rutgers, in his article, "Black Population Trends and Their Political Significance," concludes that, "As far as New Jersey is concerned, this is a non-issue." He maintains that, "Black deconcentration can, and probably will have positive political effects. Dispersal will allow Blacks to participate on a broader basis in State and regional politics." This brings me to some final thoughts.

There are those in the Black community who are seriously concerned that the New Jersey Legislature and the Kean Administration have taken no affirmative action to support and enforce the implementation of the Mount Laurel II decision. Does this mean that the Executive and Legislative Branches of New Jersey government support the continuance of a cycle of poverty for New Jersey's poor, particularly New Jersey's Black poor? The Institute has addressed this issue in previous Annual Reports. It is clear that business growth is in the suburbs of New Jersey. It is equally clear that although millions of dollars have been spent researching mass transportation issues, there is no public transportation available from the cities to the suburbs where the jobs are. Secondary wage earners in the suburbs occupy the many entry level positions that unemployed primary wage earners from the cities could fill, but for transportation and a place to live.

How long is it expected that Blacks and other minorities will remain in the inner cities of New Jersey or, like Mrs. Ethel Lawrence of Mount Laurel, in substandard housing in the suburbs? We think not much longer. Mrs. Lawrence pledged herself to fight for the right to live in decent, affordable housing. The New Jersey Supreme Court agreed with her. There are 925,000 Black residents in the State of New Jersey. All wish the opportunity to live in decent, affordable housing and to choose where that may be. We of the Institute encourage the Legislature to move to the forefront in ensuring that their wish become reality. Thank you very much.

SENATOR STOCKMAN: Thank you very much, Ms. Joseph, for some interesting observations on Mount Laurel. I will reread your testimony carefully, because it is very significant. I thank you for the part of the population that I represent in my legislative district, but beyond that, as you point out, a very major part of the population of the State. I don't think we often think of Mount Laurel from that perspective. I think it is good that you shared that peculiar perspective that you and your organization have with this Committee. I am familiar with some arguments about whether Mount Laurel might not really be a negative happening in the quest for equality and full integration and participation in society in New Jersey, so I appreciate your observations. I hope they are talked about and picked up by the media and discussed further after today's hearing.

MS. JOSEPH: Thank you very much.

SENATOR STOCKMAN: Mr. John Trafford, Executive Director of the New Jersey State League of Municipalities. Welcome.

JOHN E. TRAFFORD: Thank you, Senator. I am Jack Trafford, Executive Director of the New Jersey State League of Municipalities. I appreciate the opportunity to appear today. I have a brief prepared statement I would like to present.

My comments today will not apply to the State Development Guide Plan itself, nor to the question of updating it, but rather to the matter of determining low and moderate-housing needs pursuant to the Mount Laurel II mandate. The New Jersey State League of Municipalities shares the concerns which have been expressed at these hearings and elsewhere concerning the lack of any existing current

housing data which can be used to assist municipalities and other litigants in determining their fair share of Mount Laurel housing.

The State Development Guide Plan, while establishing growth regions, does not contain any data relating to existing housing stock, nor does it project any housing needs for the Mount Laurel II type occupant. No statewide housing stock data exists, with the exception of an outdated study conducted by the Department of Community Affairs several years ago. There is pending legislation which would establish a mechanism for established balanced housing plans, Senate Bill 593 and Assembly Bill 1070. These bills, however, which were originally introduced in the late 1970's, if I recall, have never been passed by the Legislature. I would point out parenthetically that the League has supported both measures at various times.

In view of the lack of any current housing statistics, the League became very concerned that litigants in Mount Laurel cases would have no guidelines and would have no alternative but the costly process of trying to define regional needs on an ad hoc individual basis. The result would be duplicative expert testimony in each case and a hodgepodge of random regional designations, with no overall State coordination or consistency of research methodology.

In view of the void, the League, in concert with the New Jersey Builders' Association, has commissioned a four-month \$50,000 study by Dr. George Sternlieb of the Rutgers Center for Urban Policy Analysis. Dr. Sternlieb is a nationally recognized housing expert. The study is expected to be completed within a matter of weeks. The study will, number one, identify regions of the State based essentially on journey to workplace. My understanding is that there will be six such regions designated. Number two, the study will provide an inventory of existing housing stock available to the Mount Laurel II category of occupant. Number three, the study will provide a projection of both current, as well as future housing needs for the Mount Laurel occupant.

While the research is not intended to provide quotas, it should provide an invaluable data base for any determination of regional housing needs. It is my understanding that the courts have been advised that the study is underway, although, obviously, the

courts are in no position to respond to the study prior to its completion or introduction before them in litigation.

I would conclude by saying that the question might be raised, why did the League take it upon itself to assume this study, and why did we do it in concert with the builders? The answer to the first question is, as I have tried to point out in my remarks, because it appeared to us that nobody else was going to do it. Our individual municipalities, which the State League of Municipalities represents, would find themselves in litigation on an individual basis, trying to come up with some kind of expert data with regard to the designation of a region. The reason we joined forces with the Builders' Association, is because between the League of Municipalities representing municipalities and the builders, obviously, representing the builders, you have the vast majority of potential litigants being represented by these two organizations. It was felt that, although obviously the two groups have a bias, the biases would neutralize each other, because they would be appearing in court as adversaries in the litigation.

I have discussed this informally with several lawyers, and they all seem intrigued by the fact that there will be this neutralizing factor. So, I can assure you that the study, even though it is being bought and paid for by the League of Municipalities and by the builders, will not be a biased report. It is being prepared, as I indicated earlier, by an individual with impeccable credentials as a housing researcher. Again, the document should be ready-- We, in fact, Mr. Hutt, myself and other members of both organizations, are meeting later today with Dr. Sternlieb, to review the tentative report. So, it should be ready within a matter of weeks. Thank you.

SENATOR STOCKMAN: Jack, I appreciate your coming in and giving this statement, and talking to us. I will be interested, and I'm sure the Committee will be interested in Dr. Sternlieb's study. I had heard that it was in process, and I expect it will come to our attention, as well as to the public's attention generally, I gather from what you say, in a matter of weeks.

I take it the League has not taken any position on whether or not the Guide Plan should, in fact, be updated in accordance with the Supreme Court decision. Is that a fair statement?

MR. TRAFFORD: We haven't taken a position within the context of Mount Laurel II. I understand that earlier this morning some reference was made to the ad hoc Friends of Planning group. We are an active member of that group. We deplore what appears to be the downgrading -- the bureaucratic downgrading -- of the State planning function, and we are working very, very aggressively in an effort to convince the powers that be, that there should, in fact, be a very viable planning function, planning capacity on the State level in this State. Part of the State's planning capacity, obviously, is the preparation of some kind of a coordinated comprehensive master plan. Now, I would not be candid if I did not indicate we had some problems with the existing Development Guide Plan, but that has to do with the specifics, and not with the concept of such a State plan.

SENATOR STOCKMAN: Do you see a doable venture to update this Guide Plan? I mean, you know, it brings us to this question, and nobody specifically alluded to it, but it certainly seems to be a description of where the struggle lies in part, the so-called notion of home rule, and the fact that local municipalities become very nervous over conversations about planning, planning on a statewide level. Do you think the State Guide Plan is an instrument which could be salable as a basic document to use for the implementation of Mount Laurel II?

MR. TRAFFORD: I have a little bit of difficulty seeing the connection between the Guide Plan per se and a housing plan and meeting the mandates in Mount Laurel. I think even if we were to update the Guide Plan tomorrow, there isn't a housing element, as I understand it, in the Guide Plan. Again, all that would give us would be regions, growth regions and non-growth regions, and so forth, but it would not give us a housing element. I think we have to go a little beyond that, which hopefully we will accomplish through this study.

SENATOR STOCKMAN: Incidentally, S-593, was that Greenberg's bill you were talking about?

MR. TRAFFORD: Senate Bill 593, which Senator Lipman now has, was Marty Greenberg's original bill.

SENATOR STOCKMAN: And, that actually passed in the Senate, I think, didn't it?

MR. TRAFFORD: I think it did.

SENATOR STOCKMAN: But, it failed in the Assembly.

MR. TRAFFORD: The other bill which Assemblyman Kern has, was originally Cary Edwards' bill.

SENATOR STOCKMAN: All right. Well, thank you very much for your statement.

MR. TRAFFORD: Thank you.

SENATOR STOCKMAN: We will look forward to hearing from Dr. Sternlieb. Mr. Stewart Hutt, General Counsel, New Jersey Builders' Association.

S T E W A R T H U T T: Thank you, Senator. I appreciate the opportunity to appear before you today on behalf of the New Jersey Builders' Association. You have heard a lot of testimony today, so I am going to make my brief.

Jack told you what the League of Municipalities and the home builders have been able to do to date. We have not seen the final report. We went into it -- and I think this is important -- on a philosophy. We went into it, two organizations that are natural enemies in litigation -- we went into it with blank checks, to a recognized authority. We do not know what he is going to say or how he is going to say it, but we felt that would be better than having this vacuum, where every builder is going to have to litigate, and every town is going to have to litigate.

We both believed in the credentials of the organization, not just Dr. Sternlieb, and whatever would be, would be. I am a firm believer that in this whole problem, the most important issue is that people know what it is, not so much the numbers. I don't think it is so important what the region is, or what the fair share is, or any of these things, as long as everybody knows what it is. If you know what something is, if you know what the law is, then you can adjust. Half the battles in these litigations are first to try to determine what it is. It is a waste of time, money and energy. The time, money and energy that is wasted on those issues could be better put to producing the housing.

To me, the case is 270 pages, and there is one important footnote. It is the last sentence of the footnote, and it says, "The court recognizes that if the builders cannot make a profit, there is not going to be any building." That part is true. We have heard about

overlays, we have heard about base maps, we have heard about social problems, economic problems, all kinds of problems, but nobody has talked about the fellow who has to put the spade in the ground to produce the house. That fellow is not going to do it if he is going to be harassed to death in litigation, if he is going to have to buck all kinds of municipal officials, if he is going to have to buck trends and come up with theories and ideas. He doesn't have the will, he doesn't have the manpower, he doesn't have the ability.

Most of the builders in this State, as Commissioner Renna pointed out, build twenty or thirty houses a year. I daresay there are less than fifteen builders in the entire State who build more than a hundred units per year. Now, the Mount Laurel decision talks about all kinds of obligations other than the State Development Guide Plan. You have to come up with resale provisions. First, you have to select who is going to get into the house. After they are in, you have to select what kind of restrictions you are going to put in. You have to administer it. There are all kinds of bureaucratic things that have to be done. I am not saying that is wrong, but I'm saying that somebody has to do it. A fellow who is building thirty houses with his partner, his brother-in-law and his son, hasn't got the expertise, hasn't got the knowledge, hasn't got the desire, and he is not going to do it.

So, I see the factor that the Department of Community Affairs should take over, at least those functions that convey uniformity. We shouldn't have to reinvent the wheel on every issue. The Department of Community Affairs, in my opinion, should be staffed. Whether you call it a State Development Guide Plan, or you call it some other plan -- it's a buzz word, the State Development Guide Plan. There has to be some edict coming down saying, "This is where housing is going to be built in this State." Then that issue is solved, whether people like it or they don't like it. That can be changed later on.

That is essentially what the Supreme Court did. They recognized with all these criticisms on the State Development Guide Plan that it is not appropriate for their purpose, but it was the only map around. So, something is better than nothing. The Supreme Court made it quite clear that if this isn't revised, whether you call it the State Development Guide Plan, or you call it some housing allocation

quota, or whatever you want to call it, if there is not some methodology in place, then we are going to go back into this litigation of what is a developing municipality and what isn't a developing municipality, although they softened that technique, to the extent that I heard someone say today that the Supreme Court did not mandate the revision. Well, that is an euphemism. They can't very well mandate the Legislature to pass an act, but they did say, "If you don't do it, this is what we are going to do." So, you can play with those semantics all you want, but they have already laid out the course and said what we are going to do. So, there has to be that.

Now, what we hope is that when this report comes out from Dr. Sternlieb-- It cost \$50,000 from nonprofit organizations. Of course, I always claim that little towns always make profits. But, to me, this report will only be a beginning. There is a lot of technical expertise that has to be done. It seems to me that the best thing that could come out of these hearings is if the State Legislature could find an awareness that this raw data base has to be accumulated from somebody, and if appropriations were made to, for instance, the Department of Community Affairs, or whoever else you think should do it, to be an ongoing resource funnel. Why should a lawyer for a town and a lawyer for a developer get up and start arguing about what is median income in a particular district. That should be a known fact.

The builders have to feel comfortable. Nobody is going to be a pioneer in this thing. They have to feel comfortable that there is going to be an opportunity to make it go. There are builders, I represent one as a matter of fact-- In a private capacity I have a Mount Laurel case going right now with a builder whose financial stability has a great track record, and he is emotionally committed to trying to produce Mount Laurel type housing. Whether it will work or not, nobody really knows. That is what we need the data on. I agree with most of the statements that the low-income part of the spectrum is going to be very, very difficult. The moderate-income part can be done, but only if the subsidizations that everybody is talking about are not done just by the new homebuyer. Let me give you an illustration of what I am talking about.

Take a hundred lot subdivision. Take the rule of thumb that the court talks about, 20% of low and moderate. Now, with all these things they are talking about, the density bonuses, the improvements, and so forth, it is designed that the other eighty people in that development will make up the loss. There is no question that the builder is going to be selling below cost to the other twenty. I submit that if you try to work out the numbers, in practically all, if not all instances, it is almost impossible to make up that spread from the eighty people who are living there to support the twenty who are there. But, if you broaden that spread, at least to the entire municipality-- Take the same illustration, and let's say there are 3,000 homes in that community. Now, if the 3,000 homes in that community help to pick up that loss of the twenty homes, rather than just the other eighty new homebuyers, then it is feasible. How can they do it? It doesn't have to be done by tax abatement or anything like that. It can be done by such things as, for instance, if you have to build an off-track sewer line that cost a half a million dollars, if the municipality would build that infrastructure, that is paid for by all the citizens of that town, that half a million dollars from general taxation. That could do it. You have such things as hookup fees, engineering fees, all kinds of fees, that if they were eliminated -- obviously the tab has to come from somewhere, things do not happen for nothing -- but, that tab is spread over everybody living in that community, rather than just the eighty homebuyers who are going to be the neighbors to the twenty. What happens is, and this is why the builders are very concerned, if you start underwriting those losses on the twenty, you drive the other eighty houses so sky-high that there is no market for them. So now you haven't got either. You don't have the low-income housing, you don't have the moderate-income housing, and you don't have anything but the real expensive housing. So, we don't want it to be counterproductive.

Obviously, you could take my illustration and broaden it to beyond municipalities. I used a municipality as an idea because I think they are the most under our present statutes and, in the methodology of thinking, that is the most workable thing at the moment. But, I see nothing wrong with having a whole region support that at later stages.

The main point I wanted to make though was -- and I give the League a lot of credit for this, the leadership of the League, which I think is more forward-thinking and enlightened than the members -- this problem is not going to go away. My experience is that everybody is putting their heads in the sand saying, "They wish Mount Laurel was never decided, but it is going to go away." It is not going to go away. If the Legislative and Executive Branches do not do something, there is only going to be more litigation, more wasteful expenses, and no housing will be produced. Thank you.

SENATOR STOCKMAN: Thank you very much, Mr. Hutt, for your remarks. I don't think I have any specific questions for you at this time. I appreciate your coming in, and I look forward to Dr. Sternlieb's study and results myself, as I am sure this Committee does. So, thank you for appearing. That will end the hearing for today.

There will be an announcement of the next hearing date and location, but as a practical matter, it is not going to be until after November 8.

(HEARING CONCLUDED)