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1987

PUBLIC MEETING

before

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

ASSEMBLY BILL 3587

(Requires Council on Affordable Housing to reduce its municipal need estimates by 50% of the estimate it has presently adopted)

January 23, 1987  
Middletown Township Town Hall  
Middletown Township, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman J. Edward Kline, Chairman  
Assemblyman C. Richard Kamin

New Jersey State Library

ALSO PRESENT:

Assemblywoman Joann H. Smith, District 13  
Assemblyman John T. Hendrickson, Jr., District 9

Walter R. Kennedy  
Office of Legislative Services  
Aide, Assembly Municipal Government Committee

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Hearing Recorded and Transcribed by  
Office of Legislative Services  
Public Information Office  
Hearing Unit  
State House Annex  
CN 068  
Trenton, New Jersey 08625



**New Jersey State Legislature**

**ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE**

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**MEMORANDUM**

January 16, 1987

**TO: MEMBERS OF THE ASSEMBLY MUNICIPAL GOVERNMENT  
COMMITTEE**

**FROM: ASSEMBLYMAN J. EDWARD KLINE, CHAIRMAN**

**SUBJECT: COMMITTEE MEETING JANUARY 23, 1987**

(Address comments and questions to Walter Kennedy or John White Committee Aides)

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The Assembly Municipal Government Committee will meet Friday January 23, 1987 at 7:00 p.m. in Middletown Town Hall, 1 Kings Highway Middletown, Monmouth county. The bill to be considered at this meeting is as follows:

A-3587      Requires Council on Affordable Housing to reduce its  
Azzolina      municipal need estimates by 50% of the estimate it has presently  
                 adopted.

**Directions to meeting:**

Exit 114 on Garden State Parkway - Redhill Road to Kings Highway - close to Route 35.

ASSEMBLY, No. 3587

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STATE OF NEW JERSEY

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INTRODUCED DECEMBER 18, 1986

By Assemblymen AZZOLINA, BENNETT, Assemblywoman Smith, Assemblymen Palaia, Singer, Hendrickson, Kline, Assemblywoman Cooper, Assemblymen Zecker, Miller, Kavanaugh, Penn, Frelinghuysen, Zimmer, Rafferty, Felice, Assemblywoman Randall, Assemblymen Genova, Shusted, Moran, Albohn, Kamin, Rooney, Assemblywoman Crecco, Assemblymen Kelly, Shinn, Kern, Assemblywoman Ogden, Assemblymen Littell, Schuber, Marsella and Zangari

AN ACT concerning housing and supplementing P. L. 1985, c. 222  
(C. 52:27D-301 et al.).

1    *BE IT ENACTED by the Senate and General Assembly of the State*  
2    *of New Jersey:*

1    1. The Legislature hereby finds and declares that:

2    a. It is the intention of the Legislature that in providing oppor-  
3    tunities to satisfy the Statewide need for low and moderate income  
4    housing, that these opportunities shall be actually distributed, to  
5    the extent feasible, in a uniform manner Statewide;

6    b. It is the intention of the Legislature that any criteria and  
7    guidelines developed by the Council on Affordable Housing pur-  
8    suant to the "Fair Housing Act," P. L. 1985, c. 222 (C. 52:27D-301  
9    et al.) should be reasonably accurate reflections of the actual possi-  
10   bility of meeting the Statewide need for low and moderate income  
11   housing, and realistic in light of recent residential building trends  
12   in this State;

13   c. Over the past five years, the total number of residential dwell-  
14   ing units of all types actually built Statewide has averaged less  
15   than 30,000 per year; it, therefore, can be reasonably expected

**Matter printed in italics thus is new matter.**

16 that, at most, 30,000 units per year, or 180,000 residential units  
 17 of all types will be constructed over the six year 1987-1993 period;

18 d. The proportion of low and moderate income families in New  
 19 Jersey is projected to remain constant until at least 1990 at 39.4%.

20 e. Opportunities for approximately 40% of the total projected  
 21 construction of residential units, or 72,000 residential units, should  
 22 be planned for to fulfill the housing needs of low and moderate  
 23 income persons; and

24 f. On August 4, 1986 the Council of Affordable Housing created  
 25 pursuant to the "Fair Housing Act," P. L. 1985, c. 222 (C.  
 26 52:27D-301 et al.), adopted criteria and guidelines regarding the  
 27 Statewide need for low and moderate income housing through the  
 28 issuance of rules and regulations resulting in a total Statewide  
 29 estimate of 145,707 for low and moderate income housing need  
 30 between 1987 and 1993. These rules and regulations result in a  
 31 total Statewide estimate for low and moderate income housing  
 32 need in an amount grossly disproportionate to the State's realistic  
 33 capacity to produce housing to fulfill that need. The actual provi-  
 34 sion and Statewide distribution of such low and moderate income  
 35 housing is likely to depend upon the vicissitudes of local housing  
 36 markets rather than to the comprehensive Statewide planning man-  
 37 date of the Fair Housing Act.

1 2. The Council on Affordable Housing shall adopt criteria, guide-  
 2 lines, rules or regulations which reduce each of its proposed mu-  
 3 nicipal need estimates by 50% in order to provide guidelines for  
 4 a total Statewide estimate of need of 72,854 residential units afford-  
 5 able to low and moderate income persons for 1987-1993.

1 3. This act shall take effect immediately.

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### STATEMENT

Pursuant to section 7 of the "Fair Housing Act," P. L. 1985, c. 222 (C. 52:27D-307 (b) and (c)), the Council on Affordable Housing is required to promulgate criteria and guidelines regarding the Statewide and municipal need for low and moderate income housing through the issuance of rules and regulations. It is the clear intent of the "Fair Housing Act" to establish a *Statewide* planning mechanism and to address the *Statewide* need for low and moderate income housing. A major purpose of the Fair Housing Act was to replace the inherently invidious municipality by municipality provision of low and moderate housing dependent on the profitability of a builder with a rationally distributed, fair, uniform, Statewide planning response.

According to figures released in August, 1985 by the State Department of Labor, Office of Demographic and Economic Analysis, building permits have, on average, authorized the production of just under 30,000 residential units per year in the 1980-84 period.

These figures are consistent with testimony regarding actual building, not merely permits, by the New Jersey Builders' Association at the Senate State Government, Federal and Interstate Relations and Veterans' Affairs Committee public hearing on the Fair Housing Act on August 2, 1984. The New Jersey Builders' Association representative testified, "There is no way that you are going to produce a half a million houses in this State between now and 1990—build them and sell them. Our usual housing production in this State, even in good times, is only approximately 30,000 units a year of any type throughout the State. In bad years we were down as low—a couple of years ago it was 18,000 units a year."

It, therefore, can be realistically expected that, at most, 30,000 units per year, or 180,000 residential units will be constructed over the 1987-1993 period (six years  $\times$  30,000 housing units = 180,000 units in six years).

If *every* market-rate housing unit were used to subsidize low and moderate income housing using the "builders' remedy," only 20% of the projected maximum housing units construction or 36,000 low and moderate units, for the period would be set aside for low and moderate income households (180,000 units in six years  $\times$  20% = 36,000 low and moderate units in six years).

In *So. Burlington Cty. N. A. A. C. P. v. Mount Laurel Twp.* ("Mount Laurel II"), 92 N. J. 158, 221 n. 8 (1983), the court cited a Department of Community Affairs report which noted that in 1970, the proportion of low and moderate income families in New Jersey was 39.4%, which the court acknowledged was properly projected to remain constant at least until 1990.

The Fair Housing Act gives municipalities methods to provide low and moderate income housing in addition to the "builders' remedy." It is therefore rational to assume that a *maximum* of 40%, or 72,000 units, of the total housing to be built realistically could be Mount Laurel housing. (180,000 units in six years  $\times$  40% = 72,000 low and moderate units in six years.) Admittedly, the projected housing units construction from 1987-1993 (180,000 units in six years) as well as this 40% projection are extremely optimistic; this realistic approximation of 72,000 low and moderate units must therefore be considered a limit.

If the Council on Affordable Housing promulgates criteria and guidelines regarding the Statewide need for low and moderate income housing through the issuance of rules and regulations resulting in a total Statewide estimate for low and moderate income housing need between 1987 and 1993 in an amount grossly disproportionate to the State's capacity to produce housing to fulfill that need, the actual construction and sale of that housing would reach a result opposed to the intent of the Fair Housing Act, which sought to distribute that need among many of the State's municipalities in a uniform manner according to the Statewide distribution of need.

Specifically, if the council's figures are not realistic in terms of the actual level of housing that can be reasonably expected to be built in the 1987-93 period, the inevitable result will be overbuilding of low and moderate income housing in some municipalities and underbuilding in others. This would result in an uneven and irregular provision of low and moderate income housing Statewide.

This result would be unfair both to those needing low and moderate income housing, and to those municipalities providing more than their fair share, alike.

By establishing a housing need figure which is realistically attainable, this bill will therefore further the distribution goals which the "Fair Housing Act" was designed to achieve.

It is the intention of the sponsor in introducing this legislation to remedy this problem. This bill would limit the projected estimate of need for low and moderate income housing over the 1987-93 period to a level which is realistic in terms of actual residential building activity in this State.

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#### LOCAL PLANNING AND ZONING

Establishes a realistic maximum low and moderate income housing need guideline under the "Fair Housing Act."

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**ASSEMBLYMAN J. EDWARD KLINE (Chairman):** Good evening. I would like to call this meeting to order. This is a special meeting of the Assembly Municipal Government Committee. At this time, if no one minds, I would like us to stand for the salute to the flag, led by Assemblywoman Joann Smith from this district. (Audience and Committee recite the Pledge of Allegiance.)

I would like to welcome everyone here this evening, because I think it is a great night to be out riding around, enjoying the scenery that you have all experienced. I know myself, I drove up from Atlantic City. It was a nice ride, and it is a nice evening to be out. (Assemblyman Kline making reference to the snow and cold.) Walt, would you like to do the roll call, please? (Walter Kennedy, Staff Aide, calls the roll.)

This is a special Committee meeting we are having tonight. It will be on the Joe Azzolina bill -- A-3587 -- which requires a Council on Affordable Housing to reduce its municipal need estimates by 50% of the estimate it has presently adopted. Our first speaker this evening will be Assemblyman Azzolina on Assembly Bill 3587. Joe, would you like to step forward and make your presentation, please?

**A S S E M B L Y M A N J O S E P H A Z Z O L I N A:** Thank you. Mr. Chairman, ladies and gentlemen, good evening. I am Assemblyman Joseph Azzolina, and I would like to thank each of you for braving the elements to attend this official meeting of the Assembly Municipal Government Committee.

I would especially like to thank the members of the Committee who have traveled across the State to visit Middletown and this Thirteenth Legislative District. We welcome you, and appreciate your willingness to hear the opinions of our residents. I would like to state -- as Assemblyman Kline said -- he came from the Atlantic City area. John Hendrickson came from south of Toms River, a municipality

of 1400 people. That's more than a Mount Laurel obligation, isn't it?

ASSEMBLYMAN HENDRICKSON: Joe, I told you it's a megalopolis now.

ASSEMBLYMAN AZZOLINA: It's more than that, right. Okay. Richard Kamin came from Morris County, so he traveled from way up north. We have the breadth and width of the State of New Jersey here. Joann Smith, my colleague in the Assembly, came from Old Bridge.

Each of these representatives has observed the impact of Mount Laurel housing obligations on their own districts, and I would like to add to their awareness of this statewide problem through discussion of the adverse impact to Monmouth and Middlesex Counties.

Last month, more than 1000 Middletown residents turned out at two public hearings conducted by the Township Planning Board on its plan to meet the Council on Affordable Housing's housing allocations. They were outraged that the Housing Council had ordered the Township to make way for the construction of 1850 low- and moderate-income housing units. I don't blame the residents for being so upset.

In my district, which I share with Joann Smith, Old Bridge and Hazlet have also been hard hit by the Council's housing allocation figures. The Council is placing outrageous housing demands on Middletown, Old Bridge, Hazlet, and other developing communities throughout the State.

Monmouth County and Ocean County municipalities are being especially hard hit by the Council's housing allocation figures. Before this issue goes any further, the Legislature must step in and set some reasonable limits on housing allocations. The legislation Senator Gagliano and I, along with Assemblywoman Joann Smith, introduced in December, 1986, is in no way an attempt to get municipalities off the hook in meeting their fair share housing obligations. We recognize

that developing communities have a constitutional obligation to provide for a fair share of the region's affordable housing needs.

But, we must be realistic and practical. As a case in point, there is no way Middletown is going to be able to get developers to build 1850 low- and moderate-income housing units within the next six years unless, of course, you force local taxpayers to subsidize the construction. That approach is both unrealistic and unfair. And, if all of the development did take place, what impact would it have on a community such as Middletown? Roads would be clogged, water and sewer systems would be overburdened, and schools would be overcrowded.

We want to see the development of more low- and moderate-income housing units, but it must be orderly and carefully planned. That's why we propose cutting the Council's housing allocation figures in half, through Assembly Bill 3587. The construction of 72,000 new low- and moderate-income housing units statewide by 1993, would go a long way toward meeting the demand for affordable housing -- instead of the 145,000, which can't possibly be built -- and it could be achieved without destroying the character of communities or overburdening school systems and municipal services. And, perhaps most importantly, it should keep the Mount Laurel issue from being dragged through the courts again.

Numerous municipalities are currently considering legal action against the Council on Affordable Housing. This is just what the Fair Housing Act was designed to avoid. For years, municipalities have engaged in costly and lengthy legal battles challenging the Mount Laurel mandate. While the courts wrestled with this issue, families in need of low- and moderate-income housing patiently waited for affordable housing to be constructed.

We want to avoid any more delays in the construction of low- and moderate-income housing units by setting realistic

housing goals, not pie-in-the-sky promises as the Council has set.

Assembly Bill 3587 represents the realism absent from this process thus far. With its passage, a balance will be achieved which will provide for needed housing without the radical and detrimental impacts of artificially high quotas.

The purpose of moving this and the other two pieces of legislation is, hopefully, to change the law and change what the Housing Council has done so far. However, the Housing Council can make all of these changes without legislation, probably. By moving this legislation in a Committee and up for a vote in either house, or both houses, and then to the Governor's desk-- If the Housing Council moves along and does what it is supposed to do, then it won't make any difference if legislation is passed. However, we must proceed as expeditiously as possible to pass this legislation, release it from Committee, get it up for a vote, and move it into the other house. This is not a Republican/Democratic issue. This is an issue that affects all of the people. In no other state do they have this problem, with an Affordable Housing Council and the courts telling the municipalities what they must do.

So, if the Affordable Housing Council can't do the job that it was organized to perform -- it is a creature of the Legislature -- then we in the Legislature must tell them what has to be done, because they have been acting in an arbitrary, arrogant manner. There are other speakers here tonight who will talk about other aspects.

I have several speakers here who I would like to introduce as witnesses along with myself, so next I will call on Senator Gagliano to discuss some more of this legislation in detail. With your consent, Mr. Chairman -- if there are no questions from the panel -- I would like to call on Senator Gagliano to come up here with me at this point. I will have several others after the Senator.

ASSEMBLYMAN KLINE: Okay. I think we will hear the testimony, and then we will go to questions, if that is okay with the other members of the Committee. Our next speaker, then, will be Senator Tom Gagliano from the Twelfth District. Senator, good evening.

SENATOR S. THOMAS GAGLIANO: Good evening, Mr. Chairman and members of the Committee. I also want to thank you for braving the elements tonight and coming out to listen to the testimony and the feelings of the people, especially here in the Middletown area in Monmouth County. I think the attitudes of the people, generally, are similar across the State, that what is happening here is that we have a tremendous requirement -- sometimes called a mandate -- as established by the Council on Affordable Housing, which, realistically, cannot be accommodated by the State of New Jersey, or the municipalities which make up this State.

I have introduced S-2874, which is identical to Assemblyman Azzolina's bill. The cosponsors with me are Senator John Dorsey -- who is here tonight -- Senator Haines, Senator Cardinale, Senator DiFrancesco, Senator Brown, Senator Bassano, Senator Ewing, and Senator Dumont. Each of us -- and there are others who are impacted -- have districts-- We have municipalities which have tremendous responsibilities under the aegis, or under the requirement of the Fair Housing Council and the Fair Housing Act, which, frankly, were not expected, and which we feel are totally unreasonable.

I believe this is one of the most important issues that we face in the Legislature, and one of the most important issues that we will face for a long time to come. The issue here -- as Assemblyman Azzolina has said -- is not whether or not we shall have affordable housing, but how we will provide that housing and what impact it will have upon the municipalities and the people of those municipalities in this State. In my bill, and in Assemblyman Azzolina's bill, the

statement, I think, pretty much says it all. But, what we are trying to do is create a situation where we will cut in half the requirement that has been set forth by the so-called mandate of the Fair Housing Council.

For example, in a Township like Middletown, I believe the number is close to 1900 units of low- and moderate-income housing. In order for Middletown to meet that mandate -- as it is now being called by the Council on Affordable Housing -- basically, we have to create a tremendous amount of housing, because if you do it on the basis of set asides, as they are called, you must multiply that number by five. So, if we are close to, for example, 2000 units -- let's round it off at 2000 -- if we are close to that, we have to multiply it times five, in order to have the builders make enough profit so that they can put their money into the low- and moderate-income housing.

So, multiplying that times five will bring us upwards of 9000 units of new housing for this Township alone. I am using Middletown as an example because I think the Middletown situation is one of the most terrible situations we have seen in terms of the design -- or the mandate, whatever you want to call it -- of the Council on Affordable Housing. You see, under the original Mount Laurel decision -- not the original, Mount Laurel II -- the Supreme Court of New Jersey, under Chief Justice Wilentz, who wrote the opinion, was saying, well, we have a requirement of 260,000 low- and moderate-income housing units in this State. That number was gotten as a result of some studies that were made. Then, the Council on Affordable Housing -- when we created that -- came up with a number of 145,000. They, as far as I am concerned, came up with that number based on their own calculations, but not necessarily in any rational or reasonable way.

What we are saying here is, the number should not be more than 50% of that number, or approximately 72,854. Now, for Middletown, that would have the effect of cutting the

number down to about 900, which Middletown, a Township of probably 65,000 or 70,000 persons, could take on and handle reasonably. Considering the transportation problems it has -- sewer, water, and all the rest of it -- it could probably assimilate that number of houses over a period of time. But, I don't think anyone in his right mind thinks that Middletown can assimilate 9000 or 10,000 new homes and 1900 low- and moderate-income units.

In the statement, we have given the reader the opportunity to see how we calculated this. What we're saying is, if every market rate housing unit were used to subsidize low- and moderate-income housing using the builders' remedy or set aside, only 20% of the projected maximum housing units construction, or 36,000 low- and moderate-income units for the period, would be set aside for low- and moderate-income housing. That would be 180,000 units in six years times 20%, or 36,000 low and moderate units in six years.

In the Mount Laurel case, the court cited a Department of Community Affairs report which noted that in 1970, the proportion of low- and moderate-income families in New Jersey was approximately 40%. The Fair Housing Act gives municipalities methods to provide low- and moderate-income housing in addition to the builders' remedy, and we feel it is rational to assume that a maximum of 40%, or about 72,000 units of the total housing to be built, realistically could be Mount Laurel housing.

So, what we are saying here is, we think that cutting it in half would be reasonable, or 72,000. If there is a better way or another way of doing it, we would be happy to discuss it if the Committee feels that amendments are in order.

As part of my discussion tonight, I want to refer the Committee to the Fair Housing Act which was adopted by the Legislature, specifically section 23(e), a part of that which says that municipalities may phase -- now, you have to follow



this, because it is a little bit complicated -- may phase the construction of low- and moderate-income housing over a period of years. We specifically put this into the statute so that municipalities would not be under such a tremendous burden. In that we said, in part: "Any municipality which has a fair share obligation to provide between 1500 and 1999 low- and moderate-income units in inclusionary developments, shall be entitled to consideration of a phase-in schedule for the issuance of final approvals in inclusionary developments of at least 15 years from the effective date of this act."

Now, I believe the legislative intent was that where municipalities have a fairly large number-- And, by the way, if you had over a 2000 requirement, you would have over 20 years to provide for it, and if you had between 1000 and 1499, you would have 10 years to provide for it. I think what we were saying in the legislation was, if you turn up with a big number, you must have time to accommodate that number in order to assimilate it properly, and not cause a tremendous problem for the infrastructure and all of the other parts of the municipality.

So, providing, for example, Middletown with 15 years, apparently would make sense. Now, following that a bit, the Housing Council is requiring that the plans submitted by Middletown, and all other towns, be plans which would be appropriate for basically six years. What we're saying-- What I am saying to you is, the legislation intended that a municipality the size of Middletown have two and a half times that amount of time in order to accommodate the requirements; whereas the Housing Council wants this done in six years. They have required that plans be filed within a certain period of time -- and the plans have been filed by, probably, 95% of the municipalities-- Where those plans have been filed, and where the numbers are as large as they are for Middletown-- Middletown should have 15 years to provide this mandate.

I'm saying that what we must do is get the attention of the Housing Council -- that is, the attention of the Legislature, and tell the Legislature, "Let's cut those numbers in half, in order that the municipality may absorb that within a reasonable period of time" -- if you are talking six years. If you are talking 15 years, that is an entirely different issue.

So, the rationale of our legislation -- Assemblyman Azzolina's and mine -- is to bring those numbers down to where they are realistic. I feel that the intent of the Legislature was there. I don't feel, in any sense of the word, that we are being arbitrary. I think what we are doing is really protecting the municipalities of this State from overdevelopment, which all of us would feel very badly about in the years to come.

I heartedly endorse this legislation, and I am here to answer any questions. I guess I have been involved with Mount Laurel development and housing for the past 10 or 15 years, and I am somewhat familiar with the issues. If you would like to go back to any of that later on, I will be here.

ASSEMBLYMAN KLINE: Very good. Thank you.

SENATOR GAGLIANO: Thank you.

ASSEMBLYMAN KLINE: Assemblyman Azzolina, do you have anyone else to testify on your behalf?

ASSEMBLYMAN AZZOLINA: Yes, Senator Dorsey, who came from way up north, Morris County.

ASSEMBLYMAN KLINE: Okay. Senator John Dorsey, from the Twenty-fifth District.

**S E N A T O R   J O H N   H.   D O R S E Y:** Thank you very much, Mr. Chairman and members of the Committee. First, let me begin by congratulating you, not only for coming out on a Friday night, but for coming out into the field rather than simply sitting in Trenton, and for giving those who are directly affected by this Mount Laurel problem an opportunity to be heard.

Secondly, I want to congratulate Assemblyman Azzolina, because he -- not only on behalf of his district, but I would say on behalf of all of us in the Legislature -- has rather carefully followed the Mount Laurel proceedings for the last year as they have evolved. He is a sponsor not only of this particular piece of legislation, but he is also a sponsor in the Assembly, with me in the Senate, of a constitutional amendment, the purpose of which is to take the courts out of the Mount Laurel process. It is my understanding that this Committee has already released two of his bills for consideration by the Assembly, to attempt to straighten out some of the proceedings that are now occurring by COAH, one of them being very important, to extend the period of time by which municipalities may file their preliminary housing drafts.

Senator Gagliano is rather modest this evening in describing his involvement in this matter. He and I have both been involved from the beginning, when our Supreme Court, instead of restraining itself to its principal function in life of interpreting the law, decided that it should become the new ship Enterprise and discover new horizons, and create new rights and problems for every municipality and, indeed, every county in the State.

Senator Gagliano served as the Minority Leader in 1985, when the Fair Housing Act was under consideration. Those of us on the minority side in the Senate found it very difficult initially to accept the Fair Housing Act, because, as initially drawn by Senator Lipman and Senator Lynch, it sought to do nothing more than totally institutionalize the Mount Laurel decision as written by the Chief Justice.

Senator Gagliano was instrumental in placing into that law what we hoped would prevent the reoccurrence of what I am afraid we are finding is its chief contribution, where certain sections in that law would provide for certain modifications, certain waivers, certain adjustments, so that the process could

become a realistic process. I don't think any of us here today want to do away with the concept of affordable housing. I think we have come to acknowledge its value. What we do seek to do is create housing in a realistic way, not simply create litigation. We opposed the original decision, and we opposed the original form of the Fair Housing Act, because it was initially set up as a process not simply for the needy, but for the greedy and, in this particular instance, the builders, to maximize density throughout the municipalities in our State, without any fair consideration to the other necessities, the infrastructure, etc., which must be provided if it is to be done in a rational way.

Now, one can be arbitrary. We have found the court arbitrary and, unfortunately -- it is my understanding -- we find COAH to be arbitrary, particularly in terms of Monmouth County. Why that should be so, I don't know, but it can't go on because as long as COAH remains arbitrary, we will not get compliance with the law. In order to have compliance, we must have a reasonable and realistic basis upon which the Housing Council proceeds.

Now, this bill by Assemblyman Azzolina strikes at the very heart of the entire process, because the entire process must be based upon a realistic estimate of how many housing units will, in fact, be built in the next six years. Our enormous problem with the court when it was essentially administering this process, was that the court was totally unrealistic. It was listening to the paid professional planners and the builders, who simply sought to maximize profit, and we were getting very unrealistic allocations at that point in time.

This bill is essential because, as I said, it strikes at the heart of the entire matter. If we can get the Housing Council to accept a realistic number of units that will be built in this State, and from which would then follow a

realistic number in terms of the units that should be low and moderate, I think we can have a system that works. But, unfortunately, they have decided -- I understand, and I hope this is only preliminarily -- to adopt a number, as Senator Gagliano has described and as is set forth clearly and analytically in the statement to this bill, that is unrealistic.

I urge you, gentlemen, to consider Assemblyman Azzolina's bill very seriously. I urge you to release it from Committee, and to do whatever is within your respective powers to move it in the Assembly, so that it is sent to the Senate with a sense of urgency, so that perhaps we can move the majority members to achieve a realistic position in connection with the proceedings of COAH, which are now ongoing.

Thank you very much.

ASSEMBLYMAN KLINE: Thank you, Senator. Assemblyman Azzolina, any other speakers?

ASSEMBLYMAN AZZOLINA: Yes, I would like to call on the Mayor of Middletown, Mayor Maher, to speak for the Township Committee.

ASSEMBLYMAN KLINE: Okay. Mayor, welcome to Middletown.

MAYOR JAMES F. MAHER, JR.: And the same to you.

ASSEMBLYWOMAN SMITH: He's been here before. You're sitting in his chair.

ASSEMBLYMAN KLINE: I'm in the hot seat for a change. Do you like this? (laughter)

MAYOR MAHER: First of all, I want to thank the Committee for holding the meeting here in Middletown. I want to thank Joe Azzolina for introducing this bill.

I have been on the Township Committee since January 1, 1982. In those early years, we used to have little discussions about Mount Laurel as though it were something far off in the distance, and it was. Through '82, '83, and into '84, I guess,

we used to get reviews by Peter Carton as to what was happening and what we could expect down the road. I guess in late '84 and into '85-- Then things really started to happen.

We met with the master -- I guess his name was Kaden -- appointed by Judge Serpentelli, and he came in and talked to us. Either we found out that night, or we found out shortly before then, that our quota was 1500. We thought that was atrocious, horrendous, that we would never be able to live with it. We talked to him about credits; we talked to him about areas that should not be included. Richard Kramer, who was our planner at the time, came up with a zero figure that would be our obligation. As a matter of fact, it was less than that. It was a negative figure. He presented that to the planner.

Negotiations started, and the planner assured us that if we acted in good faith and did what we were supposed to do, we would be given fair and reasonable treatment by the court.

Shortly after that, the Affordable Housing Council came into existence, and everybody -- to a man, or a woman, everybody -- told us, "Get away from the court. Get out of the courts and get before the Affordable Housing Council. There is no way you will get a higher figure. It will be a substantially reduced figure." Now, of course, these weren't all people who were in positions where you knew for gospel that that was exactly what was going to happen. But they were good, dedicated people, experienced people familiar with the problem, and familiar with some of the things that were going on in the court.

We couldn't believe it when our new figure -- our new quota -- was 1850. Here was an opportunity, if they really wanted to build affordable housing-- Here was an opportunity for them to come down with a reduced figure. Any businessman knows when you want to create interest, when you want to get something done, when you want a positive response, you give

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something in the way of an inducement or an incentive. In that way, you get the person to act in the manner that you expect him to act. But, the Affordable Housing Council came up with a figure of 1850, and that was preposterous.

Now, in 1985, I was in on all of the discussions. In 1986, the Township Committee was pretty much left out of the discussions. It was all done by the Planning Board. They did all of the action. We didn't hear about it until the rest of the town heard about it. We usually read about it in the paper, or shortly before it was in the paper. That is when things really happened -- in 1986 -- and, in an effort to comply -- probably they were meeting deadlines -- things were done in a hasty fashion. When you do things in a hasty fashion, usually you make mistakes. I am not blaming the Planning Board or anybody else, but this whole thing has been absolutely incredible -- the communications between the Housing Council and the Planning Board and the Township Committee.

I honestly feel that Joe Azzolina's bill is a partial solution to our problem. But I think we should still continue to get the credits and the adjustments under the guidelines that are provided, because if we just chop everything in half, everybody is treated exactly the same. We feel that Middletown did more than the average town in this State to provide affordable housing. We have done it through the Rehabilitation Program -- about 1200 or 1300 units -- and just before they set the barrier mark, where -- I think it was 1980 -- nothing before that would be included, we built about 500 or 600 senior citizen housing units in this town. And we get credit for nothing.

So, what I am saying is, I think Joe Azzolina's bill is a good bill, but we should also get those adjustments for what we did that most other towns did not do.

Mr. Azzolina said that Mr. Dowd is going to be the next speaker. I want to say about Mr. Dowd that he was



delegated by this Township Committee to go posthaste -- to go immediately -- to do whatever is necessary to fight this affordable housing quota we have. I want to compliment Mr. Dowd on the action he has taken to date. I know he is going to be with us in this battle. He is going to be leading the battle for us from a legal viewpoint.

We hope that all you men up there -- and Joann Smith -- that all of you will see the wisdom of adopting this bill, because it is a good bill. It makes some sense, and it also is in line with my argument that the way to get things done is to create an incentive. The way to create an incentive here is to reduce that in half, put that deadline back to July of 1988, and I think you will start to get some action. I think people will be more receptive, and I think we will get the job done.

Thank you very much.

ASSEMBLYMAN KLINE: Thank you, Mayor.

ASSEMBLYMAN AZZOLINA: This Committee, in a prior session as you know, has released from Committee the bill to go back to 1988 -- to postpone action until 1988 and, also, to give consideration to the past historical efforts of the community. So, they have done that.

MAYOR MAHER: Oh, good.

ASSEMBLYMAN AZZOLINA: Now we have to try to promote it to get it passed in the Legislature.

MAYOR MAHER: Joe, I want to congratulate you.

ASSEMBLYMAN AZZOLINA: Thank you very much. Next I would like to call on Bill Dowd, who is a former Assemblyman. He has previously introduced a constitutional amendment to keep the courts out of this housing program. He is also now Township Attorney for Middletown, so he has a lot of expertise in the affordable housing area.

W I L L I A M F. D O W D: Thank you, Joe. Mr. Chairman, members of the Committee, if I may begin on a personal note, I know that the weather is not all that great, and I certainly

join in the Mayor's welcoming you. I'm sure everyone here is pleased that you traveled such a distance under such circumstances to hear a town in distress, because that is what Middletown really is, through no fault of its own.

As Joe has indicated, my own involvement with Mount Laurel is extensive. When I was in the Legislature in 1979, I had the support of 41 colleagues in the Assembly. That was at a time when my party was not in the majority, so stop and think a minute about that. That was before Mount Laurel II. That was for a constitutional amendment which would have stripped the court of its ability to issue Mount Laurel II.

Joe now has pending a constitutional amendment -- which I realize is not before you at the moment, at least not in the context of this meeting -- which would go a long way toward eliminating the necessity for the Housing Council. In my opinion, the experience that Middletown has had over the past several months, and the experience it is likely to have over the next several months, epitomizes an argument that many of us have been making about Mount Laurel, which is that it hurts the poor the most.

How anyone thinks that a theory imposed upon the people of New Jersey by an ivory tower elite, namely the judiciary -- and I say that with all respect as a lawyer -- that that theory, which, by the way, strikes me as almost identical to the housing policy of the City of Moscow-- The only difference is that in America -- in New Jersey rather, excuse me -- there are people who make a profit off of Mount Laurel, and presumably in Moscow there are not. But, the parallel is striking. An unelected elite decides where the housing will be built, what style, and how many units, and it helps no one because the waiting lists for housing in Moscow are many years long. Yes, the parallels, indeed, are very striking.

I think it underscores the difficulty when an unelected elite such as the judiciary imposes a policy on the State, and the Legislature acquiesces. That is exactly what previous Legislatures did. They acquiesced, because when they created the Housing Council all they really did was shift the enforcement mechanisms from the judiciary into another unelected elite, a bureaucratic maze which proceeds to issue, as it has done in this case, a wide range of regulations, most of which cannot be understood by batteries of lawyers -- I know that I have been studying for the past 30 days, and I am only barely beginning to understand them -- and practices which wind up hitting a town like Middletown, which has a long history of providing a wide range of housing for all economic groups -- hitting a town like Middletown perhaps the hardest of any town in the State of New Jersey, or if not, certainly among the hardest.

There is no question but that this policy -- which encourages the flow of development dollars away from the urban areas, where they are needed, into the rural and suburban areas, where they are not wanted, and where future infrastructure dollars have to follow -- is ridiculous; is laughable. It ought to be reversed. Assemblyman Azzolina's bills are, in my opinion, just a step in the right direction. If the Legislature cannot get its act together and bring itself -- both houses -- to enact this kind of remedial legislation, which really provides what a television commercial referred to some years ago as "only temporary relief," then we are lost, because then we will have completely acquiesced in a policy which says that even though our cities are starving and crying for development money of all kinds, especially housing money, we continue to deem it to be the policy of New Jersey that this development money is going to be pushed out into the suburbs and the rural areas, where there is no infrastructure, where the infrastructure has to be built, and where the burden is

going to be carried not by the bureaucrats in Trenton who make the decisions, but by the people of Middletown and many towns similarly situated. In the meanwhile, back in the cities, the urban poor, who would like nothing more than decent and affordable housing, and who, for the most part, I would rather suspect don't particularly care to move to Middletown or Holmdel or anywhere else, would like to have that housing right where they are -- where their communities are.

So, for these reasons, Assemblyman Azzolina's bills are clearly major steps in the right direction, but they are only just that, steps in the right direction. We in Middletown will be struggling during the next year with specific solutions, and we have to deal with the system as we find it, which means we will be dealing with the Housing Council. How we make out with the Council is anyone's guess. I notice that the Director of the Council announced a few nights ago -- when he learned of one of our procedural attempts, namely that we were going to file a motion to have our numbers reduced -- that he didn't think it would get very far because it would open up Pandora's box. One of the members of the Township Committee of this community indicated that at least it indicated that they recognized that they had a Pandora's box which ought not perhaps to be opened.

I suggest that this Committee ought to do everything it can to help to open that Pandora's box, because I think the bottom line is that when a policy is so unique that only New Jersey has seen fit to adopt it, when the United States Supreme Court -- in an analogous situation -- has ruled that there are no such rights upon which Mount Laurel is based, and then the New Jersey Supreme Court hung its hat on provisions in the New Jersey Constitution which are identical to those of the 49 other states, the general welfare and the police power clauses of our State Constitution, it seems to be self-evident that New Jersey is doing something wrong. Just as the initial reaction

at Harvard Law School and elsewhere was to applaud the New Jersey courts for their progressivism, I rather suspect that that reaction is already turning into something just this side of laughter, because it underscores what happens when the elected officials -- the people who are elected by the people -- allow the courts to do what they have done.

I strongly recommend to you all the quick release from your Committee of Assemblyman Azzolina's bill. I know you have already acted -- or other committees have already acted -- on other bills. As I say, this is the first step toward providing at least temporary relief to the people of Middletown, and all other towns similarly situated.

I thank you very much for your attention.

ASSEMBLYMAN KLINE: Thank you, Bill. Assemblyman Azzolina, please continue with your presentation.

ASSEMBLYMAN AZZOLINA: I would like to call on Cathy Sullivan, who represents an organized group which instantly -- within the last few weeks -- organized against the Affordable Housing Council and what is happening in Middletown. This is just an example. Cathy Sullivan, please.

ASSEMBLYMAN KLINE: Cathy?

ASSEMBLYMAN AZZOLINA: She got so excited she busted her foot. (laughter)

ASSEMBLYMAN KLINE: She brought the cane to hit you with, Joe.

CATHY SULLIVAN: No, Joe's been good. I, too, thank you for coming out tonight. If I am a tad nervous, it's because I have never testified before Assemblypeople or anything before.

ASSEMBLYMAN AZZOLINA: We're just like anybody else.

ASSEMBLYMAN HENDRICKSON: Well said, Joe.

ASSEMBLYMAN KLINE: We're just normal people waiting for you to speak.

MS. SULLIVAN: I wrote my stuff down so I wouldn't forget it. Thank you.

ASSEMBLYMAN KLINE: I got her to shake now.

MS. SULLIVAN: Okay. My name is Cathy Sullivan. I reside at 25 Nautilus Drive here in Middletown -- the Leonardo section. I am Chairperson of the Middletown Coalition for a Fair Share, an organization -- as Assemblyman Azzolina said -- which got together recently to try to deal with the numbers we have been assigned by the State and to draw up a plan that Middletown can use.

The organization has a membership in excess of 200 people and representatives from a majority of the civic associations in Middletown. Our goal is not to fight Mount Laurel housing, but to try to achieve a realistic implementation of our fair share. We desperately need your support to do this.

The Council on Affordable Housing has mandated that each municipality in New Jersey submit its plan to accommodate its fair share of 145,707 affordable housing units. If the builders' remedy is employed, this figure jumps to nearly three-quarters of a million units. In the entire nation, a total of 1,840,000 units were built last year. The National Association of Home Builders has forecast 43,300 single-family housing starts for the State of New Jersey this year. At this rate of development, allowing only for the building of affordable housing inclusionary developments, it would take 17 years to develop these units.

While we believe that Middletown has received a disproportionately large assignment of units, this problem is not unique to Middletown. It is a statewide dilemma. Under the current allotment, many communities, including Middletown, are facing the potential of a devastating impact on our schools, infrastructure, and support services. The economic impact of providing these services will severely overburden the residents of this State.

By reducing each municipality's allotment by one-half, we will go a long way toward fulfilling the intent of the Fair Housing Act. Unrealistic numbers create resentment and an overwhelming burden on all of us. Give us numbers we can reasonably implement, and we will gladly provide for a true fair share.

At the November public hearing that the Planning Board held on the first draft fair share plan, Arthur Kondrup, Chairman of the Council on Affordable Housing, was there. He told us, at that time, that the Council didn't expect that more than half of these units would be built, yet these were the numbers they assigned.

We heartedly support the legislation that Assemblyman Azzolina has presented, and hope it will soon become law, enabling us to plan realistically for our community.

Thank you for hearing me.

ASSEMBLYMAN KLINE: Very good. Thank you.

ASSEMBLYMAN AZZOLINA: Is Rosemary Peters here?  
(affirmative response) Would you like to say something?  
(affirmative response) Rosemary represents another group; there are two coalitions here. Rosemary, would you come up, please? This young lady has done a lot of research all over the State. Both of these young ladies have done a lot of research throughout the State on affordable housing. They have not just zeroed in on Middletown. They know what is going on all over the State. They have made hundreds of phone calls to many communities to get the facts and information they have. Rosemary Peters.

R O S E M A R Y P E T E R S: Thank you very much for coming out into the battlefield. The Mount Laurel situation reminds me of some movies I have seen on push button warfare, where the people who initiate it sit in control rooms with buttons and dials and push buttons sending missiles out that impact far, far away, and they never have to look at the destruction they



cause. They never have to look at what actually happens as a result of their actions. I think by your coming out to Middletown, you will begin to get a sense of what is happening in the areas of greatest impact as a result of Mount Laurel.

I will try not to repeat anything that has been said already, but I think there are a few facts that you need to know about Middletown as a community, that will help you to understand why the citizens of Middletown are so outraged. I understand, from talking to Mr. Azzolina and from Senator Van Wagner, that there is great disbelief in Trenton that what they are telling them about the level of outrage in Middletown is true. I don't know if we are unique in the State, but I gather that among communities that didn't settle for the courts and are working through the Council, Middletown probably is the one where the citizens are most outraged.

One of the reasons for this is that according to the 1980 census, 16% of the people who live in Middletown are low-income people; 17% are moderate-income people. That means that one-third of the population of Middletown is already low- and moderate-income. In addition to that, Middletown has 650 units of subsidized housing, which the community built as part of affirmative housing programs. We sought funds to build these units. Of course, as has already been mentioned, none of these units have been credited to us.

Of the renter-occupied housing units in the Township, 16.1% are affordable to low-income households, and 31.1% are affordable to moderate-income households. So, we have already provided a lot of housing for people in these categories.

A fiscal impact statement that was prepared by a doctor at the Center for Urban Policy Research at Rutgers, suggested that to reduce the fiscal impact of our allocation on Middletown, we should transfer out as many units as possible, and avoid use of the builders' remedy. Now, to transfer out 836 units, at a price of perhaps \$15,000 a unit, will cost

Middletown taxpayers \$12.5 million. Now, to avoid the builders' remedy, which he suggested we try not to use, requires much greater amounts of State subsidies than the Legislature has provided.

So, what is happening is that even though the Fair Housing Act envisioned a financing mechanism for Mount Laurel housing, it was never provided. What is happening is that taxpayers in towns like Middletown will be providing those subsidies. Our neighbors and wealthier communities -- even in our region -- which are developed, will not be helping with those subsidies, so low- and moderate-income households in Middletown will be helping to provide subsidies that used to be available from the Federal government and the State. This is not being distributed equitably.

Those are some of the points I wanted to make. I sincerely hope you will all consider Middletown. I have spoken with people in Ocean Township. Ocean Township is another community in our region which was very hard hit. Some of the members of their council expected to come up here tonight, and I have a feeling that the weather held some of them back. The same thing is true of Dover Township, which got the largest allocation in our region. Officials from these towns were expecting to come up, and I think it is really unfortunate that the weather intervened, because I think you would have seen this hall packed, and I think you would have seen people from greater distances trying to get out here. I am hoping that perhaps they will write to you in Trenton to give you a sense of how this is impacting on their towns, because although they have all gotten high allocations, the situation in each town is a little bit different. It is impacting differently because of their populations. Dover Township has a very high population of senior citizens, and much of the housing they built in the 10-year period during which the growth was being considered, was senior citizen housing. The irony of this is that much of

that housing today is going for the same price that the affordable housing will be going for.

It seems strange that someone would be confronted with the choice of buying a \$50,000 unit that is affordability controlled or a \$50,000 unit which could appreciate faster than the rate of inflation. That is the situation they've got. Ocean Township has a tremendous number of apartments which provide much of the affordable housing in the area for large employers like Fort Monmouth. They were not credited with any of that housing because it is not affordability controlled. Each town has problems. Each town's problems are a little bit different, but the fact of the matter is, the formula has impacted very heavily on towns whose growth peaked during a certain period. Other towns which were built up earlier, are just not being asked to bear as much of a burden as taxpayers in municipalities like Middletown.

I sincerely hope that you will not only pass the bills you have before you -- when you get them onto the floor and consider them for passage -- but I would really hope that legislators would look more closely at what is happening out in the battlefield. It truly is very disturbing to those of us who live out here.

Thank you.

ASSEMBLYMAN KLINE: Thank you, Rosemary.

ASSEMBLYMAN AZZOLINA: Thank you, Rosemary. Dover Township did call my office today. I don't know if they are here or not, but they wanted a copy of the bill because they are very interested in it. We have gotten calls from several other municipalities that want copies of the bill also.

That concludes the witnesses I have here this evening. As soon as I make my wrap-up comment, then you may want to throw it open to the public -- to whoever would like to speak.

What I would like to say at this moment is, we have -- I believe it was close to 90 municipalities which did not file plans because they felt the Affordable Housing Council was unfair and they were going to take their chances. Another about 90 filed, many of them under protest, at the last minute and on almost the very last day. In the time they had, they just could not come up with a proper plan. I attended many meetings of this municipality's Planning Board, and there is no way that Planning Board could come up with a proper plan, especially of this magnitude.

What is has done -- and I have been watching this community-- It is dividing sections of town against other sections. What the Affordable Housing Council has done has really divided up communities -- dividing them up against each other -- and that's not right. That's not right. That's socialism at its worst. I think we have to stop this kind of socialism we have going on.

On this bill I have 30 cosponsors, as you can see here. I spent five hours talking to legislators the day I got the cosponsors on here, and many of the legislators read and understood the bill. I was shocked at the legislators who normally don't co-sign anyone's bills, some who are pretty tough, who got on this bill. I have 30 cosponsors. I have others who said they would vote for the bill, but they didn't want to get on the bill just yet, even though they would support it. I believe I probably have the 41 votes it would take to pass this in the Assembly.

Now, as you heard from the battlefield here in Middletown -- and this is probably one of the large battlefields -- we have citizens who have organized and fought. In some communities, they maybe haven't fought. Maybe they don't know what to do. Maybe they don't have the leadership of civic organizations like we do here in Middletown. But, this is a tough battle all over the State.

There is an urgent need -- a real urgent need -- to resolve this problem quickly.

Now, knowing how slowly the machinery of the Legislature works-- You first must get it through a committee and vote it in that house. Then you have to move it to the next house through committee, and convince the Governor. Of course, I have been working on two fronts. I have been working here, and I have been badgering the Governor's counsels. I have had two meetings already, and I have more coming up, to try to get them on board, or to see if there is anything wrong, or see if there is something they would like to have amended.

Right now, there is such an urgency out there that time is of the essence. I think lawyers normally use that term, and none of you are lawyers. You are all businessmen. In fact, I wouldn't want to do what the Governor did to the lawyers in his speech last week. He really tore into some of them.

ASSEMBLYMAN HENDRICKSON: With the exception of Tom.

ASSEMBLYMAN AZZOLINA: With the exception of Tom, right. Tom, he said, was a nice guy, and Bill Dowd is a nice guy.

But anyway, time is of the essence. We have to move very rapidly. After you hear the rest of the speakers here this evening, I urge you -- urge you -- to vote this bill out of Committee tonight so I can start my lobbying effort with each legislator. You know, we break in March again for the budget and appropriations hearings, and I would like to get this up for a vote in the Legislature before we break. So, it is going to take a lot of lobbying effort, you know, and once this bill gets released from Committee, there is going to be lobbying effort against it, too. So, I have to do a lot of talking, and I have to have your help and the help of every legislator who is for this bill, so we can move it through the legislative process.

Thank you very much for coming this far. Next time I come to Atlantic City -- Brigantine, Assemblyman -- I hope you will take me to one of your shows in Atlantic City. (laughter)

ASSEMBLYMAN KLINE: Sit right down, Joe; don't get up yet. We're not finished with you.

ASSEMBLYMAN AZZOLINA: Do you want me to come up there and sit?

ASSEMBLYMAN KLINE: Yes. In fact, if the meeting had been in Atlantic County, everybody would have gotten \$10 in quarters.

Usually what we do-- This is a public meeting, and we are expecting public questions on Assembly Bill 3587. We have just had Assemblyman Joe Azzolina give a presentation on the bill. Before we go to the public portion, we want to go through the Committee members to see if there are any questions of the people who gave testimony -- if there are any questions they would like to ask at this time.

Usually we hold our Committee meetings in Trenton. I want everyone to know that I think it is great to be out in the battlefield tonight. We are getting the pulse of the community. I am an elected Mayor in my municipality, and sometimes I worry about "Big Brother." That's us, the legislators in Trenton. When we have a Committee meeting in Trenton, there are one or two people there. Tonight we have a full house for a Committee meeting, and it's even a bad night to be out.

So, I'm glad we're here. I'm glad to see everyone here. If anyone does want to speak on behalf of the bill, or in opposition to the bill, we will give you ample time. But, before we do that, we will go through the Committee members to see if there are any questions at this time of the people who have given testimony so far.

Would any Committee members like to ask questions at this time? Assemblyman Kamin?

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ASSEMBLYMAN KAMIN: Thank you, Mr. Chairman. Through you, if I might, I would like to ask--

Well, let me preface my remarks by saying, first of all, I am happy to be a cosponsor of this bill. I come from a town up in Morris County. Morris County had this wave of Mount Laurel problems hit us many years ago. Senator Dorsey and Senator Gagliano have been, let's say, fighting the courts on the front lines for at least 10 years on Mount Laurel housing. Senator Dorsey represents a number of towns as an attorney up in Morris County. We knew the potential damage from being in that 1978 suit with the Public Advocate's office. Since the Public Advocate is so willing to jump on the side of what seems to be a rightful cause, and seeing so many people here and having Joe Azzolina present legislation which is trying to remedy a rightful cause, I was wondering if the Mayor and the Committee have approached the Public Advocate to see if he might intervene on behalf of the Township here -- to help.

ASSEMBLYMAN AZZOLINA: I don't think that would work, do you?

SENATOR GAGLIANO: He might reverse it.

ASSEMBLYMAN AZZOLINA: He might reverse it.

ASSEMBLYMAN KAMIN: Quite clearly, let me add another point, if I might; that is, the credit. We built, in my hometown of Mount Olive Township -- not to be confused with Mount Laurel -- more housing during the decade of the '70s than the entire rest of Morris County combined. We fought the Public Advocate's office tooth and nail for about four years -- four and a half years, I guess it was. We spent hundreds of thousands of dollars in attorneys' fees and for planners and consultants; of course, all paid for by our local taxpayers.

We ultimately did receive credit for some of the apartment houses which still, on an open market -- without rent control, without rent leveling-- They are rented now or are being built today, and they are still considered to be



moderate-income housing. We did, in fact, receive a credit. We settled about a year and a half ago. We signed our final agreements with Steve Eisdorfer and company. He is one of the prosecutors out of the Public Advocate's office.

So, I think you have a good cause. All I can say is, urge your municipal officials to stand tall, dig in their heels, play tough, and I will certainly do my part -- if I can -- in the Assembly to support this type of legislation, which is to correct -- yes, provide moderate-income housing, but to also take into account the tremendous need to look at its entire ramifications. We in the Legislature must understand what infrastructure means and where the bucks are going to come from to solve this, and what is reasonable and what is not. Let's do things that are reasonable for a change. A little common sense-- As a good friend of mine always says, "Common sense ain't so common." I hope we down in Trenton can maybe exercise a bit more common sense.

I am delighted to be here in Middletown with you tonight.

ASSEMBLYMAN KLINE: Assemblywoman Smith?

ASSEMBLYWOMAN SMITH: I would like to thank all of our colleagues on behalf of myself, and Joe, and the people of Middletown for coming here on this great night. It is a great night for Middletown because we got a Committee meeting up here. It's probably one of the greatest towns in Monmouth County. No one wants to acknowledge that fact, but we make them know about it, don't we?

The girls who worked so hard, and all of the people on all of the committees in Middletown, have one thing in common: They all care about their community. They have started something that is mushrooming across the State. I come from a municipality in this district that is almost equal to yours in population and size. We are in the courts, and we are not

having too much success either. No one seems to want to listen. I think we are going to have to conduct the same type of letter-writing campaign to all the other legislators, ladies and gentlemen, which you have done in your own district. You put it together through the schools, through your civic groups, through your fire companies and your first aid squads. I passed out all the copies I had, but I think it is mandatory-- I believe that out of the 32 sponsors, they probably all represent one of the 40 districts in the State, so I don't think we are going to have too much of a problem.

We have to make them know and understand the demigods, I call them -- that is the word I choose to use -- the judiciary who dictate to us what we are supposed to do and live with. I would like to know how they would try to set up our planning board and zoning board meetings to comply with their timetable. There are only 52 weeks in a year, and in six years that would only be 300 and some. You would have to have meetings consistently, of planning boards and zoning boards, in order to approve all the units they would require -- where we would have to bring it down to comply with our fair share of housing. You're talking about all the thousands of units. You would have to go out and bring builders in, and say to them-- In order to comply to their six-year timetable, in my mind -- I am trying to look at it as a layperson, okay? -- you would have to bring them in by the hand, and say, "You have to build in this town. You have to build this, and you have to do that. Whether you want to build all those units or not, you have to, because we have a compliance to meet."

Now, that's stupid. I mean, builders come around often enough. I have nothing against them; most of them do a tremendous job in supplying the housing. I am a mortgage officer in a bank, and I know what they do and I know the money they come in for. Most of them are reputable people, and I commend them for building the things we need. However, the

rationale and the realistic aspect of it-- It is not going to work in six years. I don't believe that many units will work in 10 years.

I think Joe should be commended. Senator Gagliano should be commended, and all of the people on their staffs who worked with them so hard and, in particular, the people of Middletown for doing what they have done. Everyone seems to be floundering on their own out there, and maybe it is time that we all get together. You started the whole ball rolling, and I think it is going to work. If the people in the Senate can't see it, I know for sure that the Assembly is going to recognize the fact, and this bill is going to move.

Thank you for allowing me to be here tonight.

ASSEMBLYMAN KLINE: Assemblyman Hendrickson?

ASSEMBLYMAN HENDRICKSON: First, thank you very much, Mr. Chairman. Let me also congratulate Senator Gagliano and Assemblyman Azzolina.

ASSEMBLYMAN AZZOLINA: Azzolina. (correcting pronunciation of his name)

ASSEMBLYMAN HENDRICKSON: I was practicing, too. I have been practicing it.

ASSEMBLYMAN KLINE: We work with him every day in Trenton, but we just call him Joe. Gee -- hey, Joe.

ASSEMBLYMAN HENDRICKSON: Joe, we'll get it right. We are going to get it right tonight; honest we are.

But, it is gratifying for me, and a pleasure, to be here tonight. What I see is our government in action; the people -- the constituency -- having their voices being heard on something I believe they feel is very unfair, from listening to their testimony.

One of the pieces of that testimony I think I would like to highlight is, you are not interested in fighting the mandate, but you are trying to actually show the courts of the State of New Jersey the unfairness of it.

I had the pleasure -- or displeasure -- of speaking on the Assembly floor against the Fair Housing Act, because I thought we should have taken the approach, in our wisdom, to go into the cities to see if the poor really wanted to be relocated. I don't really think an awful lot of them do. We have a quantitative amount on paper, but we are not sure if the individuals really want to relocate, i.e., Middletown or Ocean County. I am an Ocean County legislator and resident. Seeing the figures here, Ocean County is impacted by 224 more mandated units than Monmouth County. We are a little further south.

ASSEMBLYMAN AZZOLINA: And half the size.

ASSEMBLYMAN HENDRICKSON: What I did not hear tonight was approximately two and a half children to each family, and impacting somewhere around 4700 students, if you have to adhere to the mandate of almost 1900.

So I, too, will support you from Ocean County in that I think the direction you are taking is proper to show the actual infrastructure, financial impact, and how the law should really be revised. I am a cosponsor of Assemblyman Joe's-- (laughter) You are not going to get me a second time.

ASSEMBLYWOMAN SMITH: Azzolina (giving correct pronunciation) (laughter)

ASSEMBLYMAN HENDRICKSON: I am going to practice on the way home. I've got an hour and a half.

I am a cosponsor of the bill, and we will do -- I say to you all -- everything in our power to take that mandate and do what we feel is morally right in sending the numbers back to the Legislature -- both houses -- to see that there is some fairness to it.

Again, thank you very much. My wife is here tonight. I had to have someone show me the way. Thank you for having me.

ASSEMBLYMAN KLINE: Okay, I think we will go to the public portion now. Senator and Assemblyman (speaking to Assemblyman Azzolina and Senator Gagliano), please come up here

with us. You are not going to put us on the hot seat without you by our sides.

This is a public meeting on A-3587. As I stated earlier, usually we have these Assembly Committee meetings in Trenton. It is very unusual for a large crowd to come forward to a Committee meeting, ask questions, or speak pro or con on a particular bill. So, tonight, this is a public meeting, and we urge the public to speak on, or ask questions on A-3587. Is there anyone from the general public who would like to speak at this time? (affirmative response) Yes, sir. Would you please step forward and state your name for the record?

N O E L B R I T T R A Y N O R: My name is Noel Britt Raynor. I live at 115 Church Lane, Middletown. I am also a Township Committeeman for Middletown Township.

I, too, would like to thank Foodtown Joe and the rest of you for showing up here tonight. (laughter) I don't speak Italian, so I am not going to give it a shot.

ASSEMBLYMAN KLINE: You get free tomatoes, too.

MR. RAYNOR: This is a very demanding topic in this town. It is unfortunate, but I am a little bit disappointed with the turnout tonight. Several of you up there have mentioned that it is a large crowd. It is a very small crowd compared to what we have had in the past. We have had as many as 900 to 1100 estimated at the high school. There was standing room only in the hallway here a couple of weeks ago when we reviewed the final submittal. That final submittal was wrong. It was wrong in everyone's eyes. It was inadequate. It was rushed in preparation. However, the purpose of its presentation was, to me, right.

Middletown said, "We are going to play by the rules. You set the rules down; we'll play by them. But we will also fight you in a parallel motion." Those rules are wrong. Why are they wrong? During the course of action, the timetable was short. The mandate was high. The rules were changed, as

everyone here knows, on a weekly basis. When one avenue was taken and right was thought and purpose of direction was correct, a new ruling would come down from the Housing Council. In the midst of this, our professional planner was taken away from us through a better job opportunity. Who did he go with? He went with the State. We requested an extension because we lost our planner: "Oh, no, we can't do that. We might open up a Pandora's box," favorite words of Mr. Kondrup.

During the latter part of 1986, I had the pleasure -- or displeasure -- of attending several forums at which Mr. Kondrup was the main speaker, one of which was in Atlantic City in the largest public room at Convention Hall. Another was here at our high school, and another was over at the new hotel in Red Bank -- the Oyster Point. In particular, at the Oyster Point, Mr. Kondrup made a statement: "We understand your problem. We know your plans are not in stone. Changes can be made." A question was asked of Mr. Kondrup, "Where did these numbers come from?" "Well--" To make a point -- (Mr. Raynor stood up and made a gesture like catching something out of the air.) -- arbitrary and capricious. No foundation. "Well, why did you release them?" "Well, we were working with these numbers--" I quote: "We were working with these numbers, and we were threatened by the press that they would take us to court if we didn't give them the numbers we were working with. So, we gave them the numbers."

As the days and weeks after that passed by, these numbers became law. They became our mandate. We come now to the fair share. That is what this whole thing is about. Fair means an equitable distribution throughout the State, so that each and every taxpayer pays his fair share. Eighteen-hundred and fifty units for Middletown, and 28 buildable units in Rumson is fair? Ridiculous. Every taxpayer should have to pay an equal amount into a kitty. Therefore, each community, based on its mandated amount, if it turns out to be fair, then has a

pool by which to build these units. How can we be asked, as Middletown, to place \$12,500,000 -- maybe on the low end, if we are creative -- to a total of \$44 million, if we don't sell some of our units out? Again, key words, fair share. It's just not here, gentlemen -- and lady. I caught that, right?

Fair share means the responsibility of every person in the State to take care of his obligation. We have been singled out, with Monmouth County having the highest number. Monmouth County has been singled out if you put all the figures down on paper. Maybe it is because Mr. Kondrup is from Monmouth County and doesn't want to be accused of giving special treatment. I don't know. All I know is, we get back to the same two words -- the key words in this whole program -- fair share.

Mr. Azzolina's bill is the beginning of bringing back fair share to reality. Thank you.

ASSEMBLYMAN KLINE: Okay, we will have the gentleman in the back, and the other gentleman second.

ASSEMBLYMAN HENDRICKSON: This is Bernie Laufgas from Barnegat.

ASSEMBLYMAN KLINE: Please state your name for the record.

B E R N A R D L A U F G A S: Good evening. My name is Bernard Laufgas. I am from Barnegat Township in Ocean County.

ASSEMBLYMAN HENDRICKSON: Hi, Bernie.

MR. LAUFGAS: How are you, Assemblyman? He is my representative.

ASSEMBLYMAN HENDRICKSON: You have to know your constituents.

MR. LAUFGAS: Mr. Hendrickson is a very fine Assemblyman. (laughter and applause) I tell it the way it is.

ASSEMBLYWOMAN SMITH: Now we won't be able to live with him.

MR. LAUFGAS: That's not true.

ASSEMBLYMAN HENDRICKSON: I am going to leave while I am ahead.



MR. LAUFGAS: I read an article in The Asbury Park Press, and I had to come here to voice my opinion. The article states that you are going to modify certain laws that have been passed. Now, before you consider modifying anything, consider the obligation. Many municipalities failed. Now, are you going to punish the poor and the disadvantaged because our officials failed? Why don't you punish them? Get rid of them out of their jobs because they didn't do their jobs.

All through history, when the legislators -- when the leaders -- failed the public, you had a revolution. Is that what you want in this country? Is that fair? You had the French Revolution because the king thought he was the sun. You had the revolution in Russia because the czar felt the same way. If our officials fail, punish them. Don't punish the poor and the middle class. That is what you will be doing if you change those laws.

Through history, only a few Presidents have come down-- Everybody knows a few Presidents, like Lincoln-- He took care of the poor. He saw that the slaves were being taken advantage of. So, our leaders did something about it. Unfortunately, we had to have the Civil War, but the disadvantaged were being taken care of by the leaders. John F. Kennedy also went down in history as a great leader. Why? Because he saw the disadvantaged taken care of.

Now, if you go and change the numbers of how many houses for the low-income people, what you are going to do is, you are going to take away exactly what the Bible says. The Bible says to make sure that one portion of your property is for charity, for those who cannot afford things. Before you worry about the politicians in the municipalities, or worry about the few builders -- and that's what it amounts to-- Somebody put pressure on somebody, and that is why the bills are going to be changed.



Let's look at those who cannot afford housing. They are the most important people we have in this country, because if we don't take care of them, then we don't take care of ourselves. Learn from history. If you don't, history is going to destroy this country. Those who cannot afford it, if we take care of them, this country is going to go down in history forever as great.

I just became a citizen in 1980. I admire this country very much, but my admiration would be that much more if you didn't take care of the politicians. If they fail, punish them. Sentence them to community service; then next time they won't fail. When they fail, they fail you. You pass the laws. You pass the legislation; the Governor signs it. Now, they have to enforce it. Just like running a red light. If you run a red light, you don't say, "Well, I'm sorry. I failed." You get punished; you lose points; and you pay a penalty in court. Let those politicians pay for it, not the people who really need help.

Thank you. Have a nice evening.

ASSEMBLYMAN KLINE: Thank you. The gentleman in the blue sweater first.

P E T E R W. R O W E: My name is Peter Rowe. I am a member of the Board of Education here in Middletown. I really appreciate your coming to be with us.

I want to comment on the impact of Mount Laurel and the Council's regulations and quota on the education here, as Assemblyman Hendrickson pointed out. I really appreciate your taking that point of view.

Before I do that, just something that has struck me ever since I learned of the quota of 1850, and the set aside on top of that to take it close to 10,000 additional units here in Middletown-- Middletown was founded in 1664 -- over 300 years ago -- and in that period of time about 22,000 housing units have been built here in Middletown. This Mount Laurel quota

and the possibility of a set aside on top of that would add another 10,000 in a very short period of time. I mean, just use that as a bench mark, and it is just ludicrous, as far as I am concerned.

The Middletown Township Board of Education certainly recognizes the need for affordable housing. We recognize our constitutional obligation to provide quality education to all of the children, no matter what the income background of the family that brings the children to us is. We certainly also recognize that the current Mount Laurel law, the current Housing Council quota, and the builders' remedy possibility will likely cause us a big problem in providing that quality education.

Middletown, as many people have pointed out, has provided jobs, rehabilitated housing, and senior citizen housing, and has really done quite a good job. In effect, what is being done is, we are being penalized for not doing the very thing -- exclusionary zoning -- that the law is intended to prevent. If, indeed, one school-age child comes from each of these units -- one or more -- as our studies indicate they will, it would almost overnight double the number of children in our school system here. It would make it very, very difficult to house the students and provide the kind of quality education we are dedicated to providing.

In addition, the State mandates many specific and appropriate education programs, and has regulations to intervene, take over, and run districts that do not comply with these standards. Many of these State standards are focused on the educationally disadvantaged. Neither the Mount Laurel law nor the Council rules recognize the significant number of additional students who will come from this housing, which will make it very difficult to comply with State-mandated educational programs and provide education to these kids.

The Board supports Assemblyman Azzolina's bill. We recommend that you look further, and not only reduce the number of units statewide, but do away with the builders' remedy club -- which really could lead to serious problems -- consider what communities have done in the past to provide affordable housing, and consider the need to provide quality education to the children of low- and moderate-income families. With a realistic quota, Middletown will be able to provide affordable housing in a reasonable fashion and we, the School Board, will be able to provide quality education to the children of Middletown.

Thank you very much.

ASSEMBLYMAN KLINE: Thank you, Peter. I think the lady in the white sweater was next.

M A R Y O P D Y K E: My name is Mary Opdyke. I live on Heritage Drive in Middletown.

First of all, I support Joseph Azzolina's bill. There are several things. Maybe it is time to stop and think, what are we doing to these people who are going to be moving into these fair housing places? For instance, in Middletown, there might be a place on Caine's Lane. Those people living there -- everybody, the kids -- are going to know, "Oh, those people are fair housing people." Are we categorizing them unfairly? Maybe that is something to stop and think about. Are we being prejudiced about that? It's time to stop and think.

Number two, the people who might be moving down here from North Jersey-- How are they going to get to their jobs up there? You know, we are having problems here in Middletown getting our regular commuters up to New York and Jersey City. How are they going to get to their jobs? That is another thing to stop and think about.

Taxes-- My husband and I have been living here since-- We have been paying taxes since 1976. Taxes have crept up. We happen to have children in private school. We

know that our children go to a school that has at least 265 children from Middletown. I also know that there are one, two, three, four other private schools in the area which take Middletown students. Now, when all these 1800 houses come here, we might not be able to afford to send our children to private schools. You know, who are you being fair to? Perhaps it is time to stop and think, you know, cut that in half -- that 1800.

You have to think about the police in Middletown. Right now, Middletown is-- I guess we just dropped down to 7% for a community our size in crime prevention. Who is going to pay for the extra policemen? Who is going to pay for the extra firemen? Our fire and first aid are going downhill. (negative reaction from audience) They are not going downhill, it's just that we don't have people-- Sorry. They are not going downhill. They are all working; they have other jobs. The women are working. There is nobody here. Who is going to help these other people? So, we're talking about police and fire.

Since 1977, McGuire's Grove-- You are going to have to check your own homework, but McGuire's Grove has gone up. Those are apartments. Cambridge Manor, down the highway, has gone up. Green Meadows has gotten put on smaller lots of land, and Williamsburg Estates-- Since 1977, Middletown has really been doing its part. So, you know, really, sit up and think about it. Sit up and think about if you lived here in Middletown. Okay?

ASSEMBLYMAN KLINE: Thank you, Mary.

J O H N P A I N O: My name is John Paino. I have been a resident of Middletown for seven years.

I am going to give you some excerpts out of a letter that is going to Governor Kean. It has not been completed because of some snow-shoveling duties I have had for the last couple of days.

ASSEMBLYMAN AZZOLINA: Incidentally, everybody should write to Governor Kean.

MR. PAINO: I feel this has to go to the Governor, because whether it originally came from the court or from the Legislature -- the law itself -- this is going to be known as "Governor Kean's folly" when it is all said and done, and when this whole concept of Mount Laurel dies because of inaction or backlogged legislation. I think he has to be informed by you gentlemen, our elected officials, of what is going on down here in the pits.

While the underlying principle and preamble to the current Mount Laurel law is morally right and just -- yes, we do need low- and moderate-income housing; we have to have some housing for the low- and moderate-income people -- the balance of the law and the administrative rules, to date, have created the most bureaucratic and socialistic doctrine ever to affront the people of New Jersey.

The law calls for the low- and moderate-income people, who are supposed to be the beneficiaries, to basically sign away their rights to participate in property appreciation and economic growth. The people this law is designed to help are being asked to mortgage their lives to go into housing that will never be able to appreciate in 20 years.

How fast will these Mount Laurel monuments depreciate when their owners have no incentive to raise a hammer or a paintbrush to maintain them? Worse, you are taking away any incentive to better their lives. They will be forever in these Mount Laurel jails. With the value of these Mount Laurel homes capped at below market value, they will never pay their fair share for municipal facilities, thus making the rest of Middletown homeowners subsidize them for life. With a third of Middletown already low and middle income -- all right? -- these low- and middle-income citizens who are already here will bear the brunt -- on a percentage basis more than anybody else in the Township.

So, although the law is intended to help them, it is going to hurt them by raising their taxes throughout this whole thing. This law is a builder's dream, and a private homeowner's nightmare. If you did a very simple cash flow of the money involved, you would see that it comes from the State and the banks, through mortgages, ends up being the debt of the recipients -- the low- and middle-income homeowners -- and goes directly into the pockets of the developers. The law dictates that for every Middletown resident helped, we must help one person from outside Middletown. Where will these people come from? They will probably come from cities such as Asbury Park, Long Branch, Jersey City, Hoboken, and Newark. I am just giving a couple of examples. The inner cities that are being redeveloped, the cities these people are being evicted from and pushed out from to make room for these developments -- and they are being subsidized by the State-- These are the same people who are in need of homes. They are being pushed by the State into these other areas. I don't think-- You know, they are being pushed away from their jobs, away from their culture, away from their lives. I don't think this is what most of these people want. These are the same cities, incidentally, that are the receiving cities from Mount Laurel, which get our money if we want to use the sell-off provisions. It just doesn't make sense to me as a private individual.

The law has a built-in conflict of interest, by having a builder required on the Council. The law dictates a builder to be a member of that Council. I am not saying anything directly about Mr. Hovnanian, but, you know, how can a man be on a panel reviewing all of these municipal plans, and also not be in conflict when he acquires properties and development? Again, I don't understand that.

The plan calls for no municipality to be forced to spend any funds on Mount Laurel-related projects. That is probably the most laughable line in the law. It says: "We

cannot force a municipality to spend money." However, they are telling us we have to spend about \$20 million if we want to sell off units. They are telling us we have to make room for possibly 20,000 students. We have to build an infrastructure to maintain this, but, no, we don't have to spend a cent.

The law intended for the townships not to spend a cent, but what they are telling us we have to spend is millions of dollars over many years. It just doesn't make any sense to me.

I back Assemblyman Azzo-- Here we go again. (laughter) I back Assemblyman Azzolina, and thank you, Joe, for coming to our aid.

ASSEMBLYMAN KLINE: Thank you, John.

SENATOR GAGLIANO: Mr. Chairman?

ASSEMBLYMAN KLINE: Go ahead, Senator.

SENATOR GAGLIANO: If I might, I would just like to comment on that testimony, because I think it is a good idea that you write to the Governor. All of these issues -- over the past 10, 15, 20 years -- have been raised. Mount Laurel I came along in 1975, and just sort of got into it a little bit. But when we got Mount Laurel II, in January, 1983, the very things that you discuss were set forth by Chief Justice Wilentz in the Mount Laurel II decision. They were stated as though they were constitutional guarantees given to people. Specifically, while the Chief Justice was saying in the decision, "People are entitled to housing" -- whether they are of low or moderate income, people are entitled to housing -- he further stated that you had to put restrictions on resale, because if you didn't put restrictions on resale you would lose -- that is, the municipality would lose -- the credit that you got for creating the housing in the first place.

One of the things that I have said -- and I said it publicly, and no one has ever really challenged it -- was, the concept which we are stuck with as a result of the Supreme

Court decision-- Understand that. This is the backdrop that we were dealing with. That decision created a situation whereby it is an invitation for fraud in the transfer of real estate. We all recognize it, and it is going to happen. There is no way -- in the opinion of anybody I know -- that you can force someone who has purchased a home for, say, \$25,000 or \$30,000, who lives in that home for four or five or six years, that when the time is up, and they have increased in their income, or they have moved, or something happens in the family and they have to leave that residence, that they are going to sell that at no profit. If there is a profit out there in the market, the people are going to find a way to get that profit. Either they will take money under the table, or there will be some other transfer, or some other consideration, but it is going to happen.

You point out a very telling point. We have been wrestling with this in the Legislature for a long time, because it was required in the Supreme Court decision, when the Supreme Court actually usurped our powers, and basically they have gotten away with it.

ASSEMBLYMAN KLINE: Thank you, Senator. The gentleman in the yellow flannel shirt, in the back row.

S T E V E N   W I D N I C K: My name is Steve Widnick. I am a resident of Port Monmouth. The gentleman who spoke previously and pointed out that we should learn from history kind of spurred my thought processes. I just want to point out what I think I have learned from history.

I am a former resident of New York City, and I had to leave that place because the outer boroughs deteriorated when a lot of public housing and subsidized housing was brought in. New York City became a place where only the very rich or the very poor could really reside. Therefore, a lot of people had to relocate to areas like Middletown, so they could live decently, be productive members of the community, and raise



their families on a working-class income. I am one of those people.

I am not wealthy. I bought my house in the Port Monmouth area about five years ago. It was a foreclosure, and I fixed it up myself. I have roots in the community. I feel very strongly about our town. Frankly, I love this area. I am afraid of what is going to happen if too many subsidized units are thrust upon our town. I saw it happen in the Bronx, where I used to live. The area deteriorated.

I suggest that if so many units are thrust on Middletown, four basic things are going to happen: Crime is going to go up; taxes are going to go up; the quality of life is going to go down; and, property values are going to go down. I just want to ask you: If that happens, where are people like myself and my family going to live?

That is all I have to say. Thank you.

ASSEMBLYMAN KLINE: A good question. Thank you.

JOHN L. SULLIVAN: Good evening. My name is John Sullivan. I am a resident of Middletown. I would like to make a comment on the school impact of the subsidized housing.

I don't know if you know it, but three years ago, the Middletown public school system lost its certification in the State. I chaired the Level II Committee to help us put together a plan for regaining our certification. Now, part of that plan was to get rid of some of our substandard facilities, such as portable classrooms; part of it was to implement some of the special education procedures and set aside room for special ed classes, which we were lacking; and, part of it was involved in a very painful redistricting inside our Township to use the facilities we had in a manner that would give a reasonable amount of space to students across the Township.

It was a very difficult time, and we recently regained our certification through the efforts of our Superintendent and our Board of Education in implementing this plan. I don't

think we can over-stress the importance of education. I realize that the Council on Affordable Housing places a great deal of value on being able to carry sewage away properly and bring in fresh water for drinking, cooking, and cleaning. But I think the real vehicle for upward mobility in our society has been education. If we get a large influx of students from this affordable housing, I can almost guarantee you, knowing the facts and figures, that Middletown will lose its certification immediately. If we can't provide the quality of education for the residents of Middletown who are here presently, and for the people who are coming to Middletown, we are simply relocating them. We are not helping them to get a piece of the American society, and we are not helping them to have a meaningful way of life.

Contrary to the former gentleman who spoke, I don't think the most important people in this country are the poor. I think the most important people in this country are the children. If we cannot accommodate and if we cannot make room for their children and give them the quality of education that will keep the families that are here who can afford it from sending their kids to private school, I think we are doing them a disservice.

You folks have a unique opportunity to help to set to rights some of the things that the courts, perhaps, have set somewhat awry. I very much support Assemblyman Joe's bill. Nobody is going to get your name right tonight. (laughter)

ASSEMBLYMAN HENDRICKSON: That's all right. You make us feel a lot better.

MR. SULLIVAN: Close enough. I really hope you can help us. Give us numbers. We are not looking to get out from underneath the mandate. We are looking for numbers we can deal with, because we think a good job should be done. We are more than willing to help and to participate, but we have so much outrage now and so much of a problem trying to deal with what

is going on, that we are afraid it is going to impact our entire educational system, and really have a negative effect on the people who live here, as well as the people who move here.

Thank you.

ASSEMBLYMAN KLINE: Okay. Thank you. You're next. (motioning to a gentleman in the audience)

ASSEMBLYMAN AZZOLINA: He's a lawyer, by the way. A good lawyer, though.

J O H N S. L E W I S: I am John Lewis, from Manchester Township. I represent the Community Services of Manchester, Inc.

ASSEMBLYMAN KAMIN: I'm sorry, your name, sir?

MR. LEWIS: John Lewis. We are concerned about this, and it was interesting to hear the other comments. I daresay the gentleman who just preceded me was concerned about the capacity of municipalities -- the impact of the Council on Affordable Housing's number of housing units that this town is required to provide. I would say the infrastructure is important. I preface my comments by stating that perhaps the Council might consider whether the infrastructure -- such as schools and so forth -- can accommodate this. I daresay perhaps we do not need legislation to do that. Perhaps we should confront the Council.

Nevertheless, it's quite sad that in such a nation as we are, in the time of enlightenment we live in, that it should be necessary, number one, that there should be legislation to mandate the municipalities to provide for the low- and moderate-income families. I think another thing that helped to accelerate the problem, was the fact that the costs of construction of homes -- that is, the costs of housing -- have risen dramatically since the late '60s. Furthermore, say a young family came in and they had children. The normal way was that the children graduated from high school and went to college, and then they found an apartment. The apartment was

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usually within the normal range of their income. Then from the apartment, they looked to buy a home.

So, it was like a stage. You had a stage that went from your parents, you went into an apartment, and from the apartment you went to a home. Or, perhaps you went from your parents-- You left your parents, you went to an apartment, you bought a piece of property, and then you built a home. But, we find that if we look back before the '60s, or the '70s, the cost-- In 1960, you could build a three-bedroom house for less than \$10,000, or about \$10,000. But, today, a three-bedroom house can cost up to \$60,000 or \$70,000, which is ridiculous.

Something has to be done. Number one, I think had the cost of housing not dramatically escalated, you probably wouldn't be here today. But, nevertheless, this society has to deal with this problem. We can't go to some other planet. It is our problem, and we have to deal with it.

In a community, anywhere in the nation, you have all levels of income. Planners normally should plan-- When a planner plans, a planner has to plan for everybody in the community. Hence, the gist of my subject is limited to just what is written here (referring to written statement).

"Land use planning and control law did not begin to emerge as a separate and distinct area of the law until the early zoning ordinances and judicial decisions concerning them in the 1920s. Planners and municipal law specialists began to think of zoning as a special area in the 1930s, '40s, and '50s." I am quoting from a book.

"Building codes were even older than zoning and subdivision controls. Housing codes were originally authorized by environmental health laws, and dealt primarily with conditions which must be maintained in existing residential buildings to protect the public health, safety, and welfare of the public.

"Since the founding of this republic until the '60s, a town's or city's indigent people were simply placed next to the industrial zone, the local dump, or across the railroad track.

"A zoologist calculates the depth, width, and height of a wooded area necessary to support a given number of current animal life, and then proceeds to enclose these animals and restrict their movement outside these confines.

"Common sense will dictate that these confined inhabitants will multiply and the available food and space will be insufficient, forcing them to break out into the unconfined spaces.

"Lack of long-range planning in the early history of this country led to the population uprisings of the '60s in America. Detroit, Los Angeles, Miami, Chicago, and Newark are a few of the cities in which ghettoed inhabitants demanded access to decent jobs, housing, and education.

"The reaction of the public was to support legislation that outlawed zoning and housing discrimination. Furthermore, public moneys were set aside to redress past short-sighted planning by our leaders."

This bill on affordable housing for low- and moderate-income citizens of New Jersey seeks to delay implementation and reduce the number of housing units and clearly reverts back to the short-sighted thinking of early city planners, which led to the loss of life and property, and the enactment of laws redressing such denial of basic human rights.

The Assembly Committee should first bring their concerns to the Council on Affordable Housing. The Council would then be obliged to consider the Committee's concerns for the municipalities that feel they have a legitimate complaint. Just looking at the numbers for Middletown, I daresay that if I were the Mayor here I would be concerned, too. It seems to me that you do have a problem.

What I am saying is this: You should bring it to the Council, rather than trying to push this legislation through. Talk to Mr. Kondrup.

ASSEMBLYMAN AZZOLINA: May I interrupt for a minute? We have done that, and they told us to go to hell.

MR. LEWIS: Okay. Well, my response, if that is the case, would be-- The Council was a response of the Legislature to Mount Laurel III (sic). So, it was a hurry-up committee that was created. They were ordered to redress it. Of course, they had to deal with the law. I mean, we are not outside the law. So, they had to deal with it to show good faith. Now, naturally, when you are dealing with many, many different municipal bodies -- I think there are 567 in this State-- Well, when you are dealing with them and some of them are out of compliance, or some of them are clearly-- Like, you take the town I am from, Manchester. Manchester is outrageous. They haven't built one single stick of housing since the current administrator has been there, and he has been there for the last 26 years. This is outrageous.

There were only 2000 people there when I got there 26 years ago. Now, there are over 30,000, mostly seniors, who are fine, because they bring in ratables and they don't bring in kids. (laughter) So, we get the dollars. They are like Santa Claus; I welcome them.

The only problem is-- And that would help you, too, if you only had some space here. I don't know how you stand. But, anyhow, I will put it this way: We did not have any problems during the time -- I think it was in the '70s -- when there was a crisis where the revenue sharing was cut back. Many municipalities had a problem because it fouled up their budgets. I think it was Assemblyman Doyle, among others, who got together and found some money to help the municipalities.

The boards of education had a crisis. No, there was a cap law. I beg your pardon, it was a cap law -- Senator Russo's cap law -- that precipitated the boards of education problem. They could not spend as they had spent before. Manchester had no problem because we had an abundant number of senior citizens, and we went on and built a high school at the crisis time of the other municipalities.

Nevertheless, in Manchester Township, it is very sad. Manchester Township is a crying example of why this Council on Affordable Housing was created -- why Mount Laurel came about. Manchester had a philosophy, an unwritten philosophy, which was clearly seen in their zoning and in their building code. In fact, in the whole philosophy, they were actually pushing out people of low and moderate income. It is very sad, because during the time of the Reagan Administration-- He came in with a bluster. What happened? People voted for him, and he began to cut here and cut there, and finally the very people who voted for him found, themselves, that they were no longer upper middle income. They found they were middle income, and the middle income found they were lower income, and the lower middle income found that they were now people counted among the low-income people.

So, I'm saying you should have, in your community -- and every community -- a mix of housing, because you never know. Perhaps one day some of us sitting here who perhaps may be affluent, or may be middle income, or whatever, may find that we may need to move into that type of house ourselves. When a guy like Ronald Reagan comes along, you may just have to do it. (laughter)

Thank you.

ASSEMBLYMAN KLINE: Thank you. We are going to have one or two more speakers, and then we are going to wrap it up. I see two more hands in the back. Go ahead, sir.



PHILIP LEONE: Thank you. Members of the Committee, Assemblyman Azzolina, Senator Gagliano: You have heard many fine comments tonight. I am sure you have all taken them to heart, and will take them back to the General Assembly with you. You have also heard from two ladies tonight -- Cathy Sullivan and Rosemary Peters -- who have done a tremendous job in organizing the residents of Middletown to start an attack, if I may, against the Council on Affordable Housing, its rules, its regulations, and how this quota that Middletown has been given is going to impact on the Township itself. It is almost unfortunate that the residents have to organize in a fight such as this, and put forth the energies, the time, and the expense that is going to go into what I feel is unnecessary -- to fight what has come down from the Housing Council.

If there is one thing I hope you will all take back with you, it is that while we might convince you on the importance of this bill, and the logic behind this bill, I know you are going to have a fight in the General Assembly. What we don't want this to be viewed as-- I think we already see it being viewed as a fight against low-income housing. That is not why Cathy Sullivan is fighting; it is not why Rosemary Peters is fighting; it is not why any of the residents of Middletown are fighting. No one is fighting against low-income housing, yet I know -- I have been around the State in a number of counties-- They have read some of the accounts of our-- We have been having almost daily meetings gearing up for this fight in one part of the town or the other. They read the accounts and they say, "Oh, you're gearing up for a big fight against low-income housing." That is just not true. We are not fighting low-income housing.

What we are asking is that we have fair and equitable housing distributed throughout the State. One thing that is going to happen -- and I think Senator Gagliano's point is so well taken, and also Assemblywoman Smith's point is so well



taken-- If you are given an unreasonable number of housing to be constructed in six years, when the act itself was giving us 15 years -- given a town the size of Middletown -- 15 years to construct a similar number -- it seems only reasonable or logical that the number is wrong, or at least it has to be slashed or cut in order to have feasible planning.

If we are not talking about reasonable planning, we are only creating housing for the people it is supposed to benefit, who are also going to be placed in the position of finding it a disaster also. I think ill-planned planning is no planning at all. If we rush into this -- which we certainly have-- I would make note of the fact that Mount Laurel -- the several decisions in Mount Laurel -- took over a decade to conclude. The State Legislature took several years to wrestle with whether or not to take it out of the courts and adopt a Fair Housing Act -- which they finally did. The Council took many, many months to organize and formulate their own rules and regulations, and we had two public meetings in order to come up with a plan to satisfy it. It just doesn't seem to make sense whatsoever.

In those public meetings, we came up-- The town was forced to submit a plan under a deadline that the Council came up with itself.

ASSEMBLYMAN AZZOLINA: Duress.

MR. LEONE: Yes, duress, and it is not feasible. I think the logic behind the bill before you makes such good sense that when you take it to the General Assembly, I hope you will take with you all of the comments you heard tonight and, basically, those points concerning just the logic behind the reduction in the quota as it exists right now.

ASSEMBLYMAN AZZOLINA: Phil, there is a transcript being made of this meeting, so it will go to every single legislator in both houses, and to the Governor.

MR. LEONE: I am very glad to hear that.

ASSEMBLYMAN HENDRICKSON: With a request for them to read it.

MR. LEONE: I am very happy to hear that. It just seems that so much is being done needlessly. I'm sure many municipalities all over the State are like ours. The same things are being done by the residents. They are fighting. It is being looked at as residents against low income, and that is not what it is. What you are doing is-- Basically, what the Council is doing-- If it is allowed to continue the way it is now, and if they do force us to build the 1850 units, we are going to have 1850 very unhappy residents of these homes. You are going to have residents surrounding them who are unhappy. It is just not a healthy situation. Whereas I think with well-defined planning, and an opportunity to plan that is well-thought-out, you can certainly build low-income housing that would be welcomed by the residents of the town. You will have people going in there who are going to be a benefit to the town. They will help the town; they will contribute to the town; and I think the town will welcome them.

This is not what is going to happen under the present system. Certainly this bill before you now is well worth a fight in the General Assembly.

Let me make one more comment with respect to the Council on Affordable Housing. I have gotten involved-- I am a member of the coalition which Cathy Sullivan chairs. In that capacity, I have been in touch with the Housing Council on a number of occasions, quite often in the last 30 days. One thing I find. I get an impression from the Housing Council -- and I am only speaking to a few individuals who were representatives there -- but I get the impression that the Council has been created, and they feel they have a job to do. I think they feel they basically have to justify their existence. They came up with certain numbers. To retract now on those numbers would sort of put them in a position of saying

they didn't do their job, or they didn't do a good job, or there was no need for them to be created in the first place.

I don't think they are going to respond to the citizens within the framework and the mechanism that exists under the law, the way that you can get them to respond. I think the only real hope we have, as municipalities, is that the Legislature will see the wisdom behind all of the bills that are being put before you -- certainly this bill, along with the other two bills -- and I hope you will take that and ask in the General Assembly that they side with you, and that these bills get passed.

Thank you.

ASSEMBLYMAN KLINE: Thank you.

A L B E V A C Q U A, J R.: My name is Al Bevacqua. My wife and I have been residents of Middletown Township all of our lives. Let's say for her it's over 30 years; for me it's almost 50 years. But, in any event, I guess what I'm saying is, as individuals, we are not opposed to affordable housing. I think what we are opposed to -- and I think what the Assemblyman is opposed to -- is perhaps the way it has been shoved down our throats and how it has been decided by a group of bureaucrats that was established down in Trenton that a certain number should be established as the right number for Middletown.

I think what is wrong with this whole plan is the fact that the people down in Trenton picked a number out of the sky. They don't know Middletown. They don't know any community, really. They don't know that Middletown has been doing a job over the years I have been here providing for its own people, and providing for those who needed the help. I mean, we've got senior citizen housing. We are not getting credit for it. We have plenty of what you would call affordable housing that has been provided by the Township in the way they have been helping with community funds, and so

forth, but none of this is being credited to the Township. That's not right.

I think someone before said that perhaps a third of our residents would fall within that number -- that magic number for low income. What right does a group down there have to tell Middletown, "You have to provide so much housing. We mandate this"? I mean, they don't know what impact it is going to have on the people who live here. A good many of the people who are going to be hurt the most are the ones who are already meeting the line of the one-third group we are talking about.

I have been involved in the Township over all of the years we have been here. I served for nine years on the Recreation Commission. We did a job, we thought, to provide recreation for all of the citizens, no matter what part of the Township they were in. We did this for everybody. I think the thing that bothers me is that we are being forced. We are having this whole thing tossed upon us, and I think as much as we may object to it being thrown at us this way, I think the people who they are trying to force into this might also be objecting. They are being moved. You're saying, "We are going to move them out of these areas into Middletown." That is what is eventually going to happen.

I think Assemblyman Azzolina's bill -- and I know how to say your name, Joe -- is a step in the right direction, but I think it stops short of what we really need. My feeling is that we need a repeal to this whole thing of some bureaucrats mandating that we should have to do a certain thing within the Township. I think that is the way I would like to see this whole thing end up eventually.

Thank you very much.

ASSEMBLYMAN KLINE: Okay. Thank you very much. Everyone has been patient. Mr. Bevacqua was our last speaker this evening. I thank you for the opportunity to have everyone give his or her point of view.

I know tonight we have listened to a lot of people speak. Joe asked us to come down and have a public meeting in your town to maybe change our minds or give us a different outlook on the bill. I know, just standing in the hallway prior to the meeting and talking to the Mayor about where the dollars are going to come from for the Police Department, the infrastructure, and other things, it got our attention. I am a Mayor, and I know what it costs for a police department. We talked about that.

Peter spoke about the schools, and when Mary said, "Stop and think," I stopped and was thinking up here. I feel tonight that your points of view did change my mind. I was going to hold this meeting tonight and then continue it by having another meeting on this bill, but after hearing what has been said tonight, I think -- and I am going to ask the other members of the Committee -- I am ready to move it out of Committee tonight. (applause) I want to hear what the members have to say. I know I have the pulse of what the community wants, and I am ready to hear what my fellow members have to say. But myself, personally, I am ready, not to have another meeting, but to move it tonight.

Would anyone else like to make any comments on that?

ASSEMBLYMAN KAMIN: Mr. Chairman, if I might, I would like to make a couple of comments. There were a couple of points of view -- Mr. Lewis, specifically -- that talked about short-sighted planning. That is exactly why a piece of legislation like this needs to be passed. Because what is happening-- I come -- as I mentioned before -- from a community that has been fighting Mount Laurel for almost a decade; a community that was forced to settle; a community that did not get credit for its full fair share of building 6000 apartment units during the 1970s; a community that would have had to build -- if you used the builders' remedy -- 11,000 units, and we are half the size -- less than half the size -- 24,000 -- of your community.

*New Jersey State Library*

So I know what is happening and the kinds of settlements that are taking place. You are only part way down the road here. Senator Gagliano knows some of the horrible situations, and you are only part way down the road. What you are finding is that the planning boards are zoning and putting things in the plan that would never be developed under any other circumstance. You are getting builders' densities and transfer development credits. These are all short-sighted planning measures that are knee-jerk reactions to the wrong situation.

I think we in the Legislature are concerned about the result, which is to build low- and moderate-income housing. We are concerned about jobs and providing transportation to and from those jobs, and about doing things that are doable. As mentioned earlier, a little common sense is needed. I think this is very much a common sense bill. And, Mr. Chairman, I move the bill.

ASSEMBLYMAN KLINE: Joann?

ASSEMBLYWOMAN SMITH: Mr. Chairman, again I would like to thank all the members of the Committee here tonight. I would like to thank the people of Middletown, and bring into place just one more point that makes this bill so urgent. Infrastructure was touched on very briefly. The State is compelled to pay for infrastructure if it mandates. It has given us nothing. I am Vice Chairman of the Transportation Committee. Joe is Chairman of the Economic Development Committee. We are fighting for our lives down here in this district. We are fighting for transportation, and they finally set up a commission on EDC for the bay shore. We finally started something, and now we are going to be turned back by bureaucrats who sit there.

I thank you, again, for bringing this meeting here on behalf of myself and the people of Middletown, and I second the motion on the bill.

ASSEMBLYMAN KLINE: We have had a motion to move the bill. You seconded it. May we have a roll call, please?

MR. KENNEDY: Assemblyman Kamin?

ASSEMBLYMAN KAMIN: Yes.

MR. KENNEDY: Assemblywoman Smith?

ASSEMBLYWOMAN SMITH: Yes.

MR. KENNEDY: Chairman Kline?

ASSEMBLYMAN KLINE: Yes. It has been moved out of Committee. Any comments?

ASSEMBLYMAN HENDRICKSON: Yes, Mr. Chairman. I think it was a good move to move the bill out of Committee. I have known John Lewis for many years, and I have sat on other committees and listened to him testify. John, I am kind of surprised your very articulate son is not with you tonight, because I have listened to him testify on some of the problems out there in Manchester. That's all I will say, John. And Bernie, out of Barnegat.

I think that Manchester and the district that my two constituents talked about here tonight are heavily regulated under the police power of the State and what is known as the "Comprehensive Management Plan of the Pinelands." On the periphery of that in Ocean County, we are building just as fast as the ground can be absorbed. I think you will find that we are either one week number one, or one week number two in the amount of residential units being constructed. We have some residential units and condos -- two bedrooms -- on the market now for \$43,900. I defy you -- in many parts of the State -- to pick up that type of housing in a rural setting.

I think what has to be addressed is each municipality taking care of its own poor and its own needs. I don't believe the State should mandate social engineering. (applause) What we have is the problem of society in the fast lane we are living in being socially engineered, and a few might have the concept that that is to the good.



I spoke on the Assembly floor against that housing bill, and I asked the sponsors of the bill at the time: "Do we have testimony from the inner cities where the poor are? Do they really want to move, or would those people prefer to have reasonable, liveable, decent housing within the core centers they are used to, where their jobs are, where their children have their friends? Or, must we, through the courts, mandate that transition from the areas they already know to perhaps areas they are not familiar with?"

I think it was alluded to here a little while ago that perhaps that will contain another social stigma, and I agree with that. That social stigma is more harmful to the children being brought up in it than the parts of the social engineering to take housing to the poor.

If we are going to give housing to the poor, then let's rehab the cities. Let's spend some money in the cities, and see how many people want to move out of them or if the poor really need to be helped.

Thank you very much for having me. Thank you, Bernie.

ASSEMBLYMAN KLINE: Thank you, Assemblyman. One point was brought out in the public portion -- I think it was brought out by Bernie -- that I do want to address. The point that was brought out was why we, the legislators, don't punish the municipal officials, officials who have not followed the law. The only thing I would like to say to you on that point is, if, in fact, the Parkway Authority or a group came out and put a 25-mile-an-hour speed limit on the Parkway, people would be out en masse, saying, "That is unreasonable." They would look to us, the legislators, not to give speeding tickets to speeders, but to be reasonable in legislating in the State.

So, I feel tonight that I want to answer that one question. I don't feel we should punish municipal officials who have not followed this law, because the law they are being mandated to follow is unreasonable. It is our job to change that law.



Assemblyman Azzolina?

ASSEMBLYMAN AZZOLINA: Mr. Chairman and members of the Committee, I want to thank you for coming here to Middletown in this horrible weather. If we had had decent weather, you would have had three or four times the amount of people. You would not have been able to fit them in here this evening.

But now starts the numbers game in Trenton to garner 41 votes to get it past the Assembly. We will start tomorrow gathering those votes, and will convince the Speaker to put it up for a vote, as soon as we get the votes.

Thank you very much.

ASSEMBLYMAN KLINE: Senator Gagliano?

SENATOR GAGLIANO: Mr. Chairman, I want to congratulate the Committee and thank the Committee for its efforts tonight, and for the efforts they will have to put forth in order to get this bill through the Assembly, and to help me to get 21 votes for it in the Senate.

I congratulate Joe Azzolina for what he has done. I have known lots of members of the Legislature over the past 10 years -- this is my tenth year in the Senate -- but Joe Azzolina has a certain amount of drive, a certain amount of effort, and a certain amount of interest, especially for the people he represents, that is absolutely amazing. He just keeps after it, keeps after it, and keeps after it until he gets what he feels is right for the people. Joe, congratulations.

ASSEMBLYMAN AZZOLINA: Thank you.

ASSEMBLYMAN KAMIN: Mr. Chairman, I would like to thank, again, Joe Azzolina for sponsoring this legislation, and Senator Gagliano for the companion bill in the Senate. And, Joann Smith-- In fact, as a courtesy, I probably should have let her move the bill tonight, but I didn't. But, I want to let you folks here in Middletown know just what fine legislators you do, in fact, have. You think I came down here

because of my interest in being on the Municipal Government Committee. That is not exactly true. Assemblyman Azzolina is a retired U.S. Navy Captain. I was only an enlisted man, and he pulled rank on me. That is why I am down here.

But, no, this is a fine piece of legislation, and you folks should know how hard they work. When Joe says he needs those 41 votes and is out on that task, I think you can be well-assured that he will get the 41. I just think that the minority side in the Senate may have a more difficult task, but you can bet your Senator will be working as hard on that one, as well.

ASSEMBLYWOMAN SMITH: It's an election year. Maybe it will fly.

ASSEMBLYMAN KLINE: We thank everyone.

ASSEMBLYMAN HENDRICKSON: As you saw, I did not vote on the legislation, but I'm here. That is because of the arm-twisting of Assemblyman Joe here. Yesterday, in that snowstorm, when we were leaving Trenton, he said, "You've got to come up to Middletown and listen to this bill." So, I'm here at the request and demand of Assemblyman Joe to see what the problems are. That is the type of guy you have representing you.

ASSEMBLYMAN KLINE: He said he is going to start to lobby tomorrow morning on the bill. Call me Monday; I am going to be sleeping from this trip. The meeting is now adjourned. Thank you.

(MEETING CONCLUDED)