Exclusionary Zoning and the *Mount Laurel* Doctrine:

A Selective, Lightly Annotated Bibliography of Secondary Sources

[compiled by Paul Axel-Lute, Fall 2011]

**Scope and Arrangement**

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

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

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


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


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

Randall W. Scott, editor, Management & Control of Growth: Issues, Techniques, Problems, Trends (The Urban Land Institute, 1975), Call# HT 167.M36, vol.1, chapters 6 & 7, at pages 439-589, include ten articles on exclusionary land use and proposals to address it.

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

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


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

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


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


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


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


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


http://ssrn.com/abstract=1349280


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

Part 3. Inclusionary Zoning


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


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


Part 4. Regional Fair Share Housing Allocation

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


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


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

