

Old Bridge

(1985)

City letter discussing settlement + proposed
settlement
attached

~~10 pgs~~

7 pgs

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May 3, 1985

Mr. Roy Epps, Executive Director
Civic League of Greater New Brunswick
47-49 Throop Avenue
New Brunswick, New Jersey 08903

Mr. Alan Mallach
15 Pine Drive
Roosevelt, New Jersey 08555

Dear Roy and Alan,

We are planning to have a final settlement: discussion concerning Old Bridge next week, prior to the May 10 court hearing on our motion to join Oakwood at Madison in the case and to stop then from proceeding until adequate Mount Laurel guarantees are imposed and on O Sc Y's motion to atop all further approvals until the water problem is solved. We have already told the judge and the parties that if we cannot achieve settlement, or make substantial progress towards it, at this session, then we will ask the judge to direct Carla Lerman, the Master, to review all proposals and make a recommendation to the judge for compliance on an involuntary basis. If we go the latter route, we would suggest submitting as our proposal a modified form of the previous proposal for a non-profit corporation that would float tax-exempt bonds, buy the houses from the developers, rent them to qualified households and turn the ownership over to the Township at the end of 20 years.

Meanwhile, I would like your thoughts and views on the attached final proposal for voluntary settlement, which I discussed in general outline with Alan earlier this week. The advantages of settlement now are that we would avoid an appeal and the attendant significant delays in the start of construction and that we would avoid the restrictions and delays, or almost all of them, of any legislation that might be enacted. We have three major well-established developers, counting Oakwood, and they... are ready and anxious to go forward. **The** idea of phasing set forth in the attached settlement proposal is justified in

our minds and Alan's only because of the enormous up-front infrastructure costs (water and sewerage) which these developers must handle. The lower set-aside in the early years will let them recoup those costs and then, we submit, they can afford a higher set-aside like other developers. You will recall that in North Brunswick we settled for a 17 percent set-aside and the figures in East Brunswick work out, overall, to something similar. Also, given the size and extended period of development, we all know that is impossible to pinpoint with any accuracy the break-even or walk-away points.

The advantage of the phasing to US is not only the possibility of settlement, but an inducement to them to build their development faster than presently projected -- that is, because they would have lower set-asides in the earlier years, they may be induced to push as far and as fast as the market will allow to get their project done in less than 20 years. Obviously, neither we nor they know how much the market can absorb in 1986 or 1990, not to mention 1995 or 2000, nevertheless this structure would provide an ongoing inducement to fast construction and vigorous marketing practices. We have tried to structure the proposal also so that we get a reasonable percentage and total even if they walk away from the project in the last few years because they reach a point where they think it is not profitable, or not profitable enough. We would, of course, have a provision that the phasing schedule would not apply to a subsequent owner of these tracts, as otherwise they would be able to sell it off to a shell corporation and start against at 13 percent. We will, of course, include the provision for some trade-off in the mix of low and moderate if they choose to build low income rentals, but it is quite clear from prior conversations that they have no interest in doing rentals and thus would not exercise such an option, finally, I should note that although in prior discussions we had mentioned the idea of "least cost" housing affordable to those at 90 percent of median income, we suggest that we hold that off here and use such a position as a fall-back should it appear that something along these lines is workable.

I will call each of you at the beginning of next week to get your reactions.

Sincerely yours,



Eric Neisser

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DRAFT OF SETTLEMENT PROPOSAL

<u>Years of Construction</u>	<u>Total Units</u>	<u>Percent Set-Aside</u>	<u>Low t #</u>		<u>Moderate % #</u>		<u>Total Low/Moderate</u>
1-2	1320	13	6.5	86	6.5	86	172
3-4	1320	14	7	92	7	92	184
5-8	2640	15	7.5	198	7.5	198	396
9-12	2640	16	8	211	8	211	422
13-16	2640	17	8.5	224	8.5	224	448
17-18	1320	18	9	119	9	119	238
19-20	1320	19	9.5	125	9.5	125	250
		<u>16</u>	<u>8</u>		<u>8</u>		<u>2110</u>

5/7/85

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SETTLEMENT PROPOSAL

This document is for settlement discussions only. It is for review by attorneys and their parties only. It is not for disclosure to the Master or Judge without the express consent of counsel for the Urban League.

1. A 16 percent overall set-aside would be phased in over the period of development. There would be a sliding scale starting at 13 percent and going up to 19 percent. The percentage would apply to the years of construction, not to a fixed number of units. Thus, if more than 1/10 of the project were to be developed in the first 2 years, for example, the 13 percent set-aside would apply to all units constructed in those two years, rather than to a preordained number. The attached charts show the impact of the proposed phasing upon the O & Y and Woodhaven projects, using the total number of units allocated by the settlement proposal circulated by Mr. Convery and assuming an even rate of construction throughout the 20-year life of the project. The total number of low and moderate income units would be lower if the projects were completed in fewer years. The first year of construction would start on the date that the first building permit was granted and all dates would be calculated from then, regardless of the actual level of construction in any year. Failure to meet the set-aside requirement in any one year would automatically force the developer up to the next set-aside percentage level, regardless of the year in which the default occurred.

2. This phasing approach would be applicable to the land not just the current owners of PD land. Thus, a current developer could not sell the land to a developer in year 9 when the percentage is to go up to 16 and then start over again at 13 percent. Rather, any new owner would have to pick up on the scale where the prior owner left off.

3. In addition to the above, there would be an option available to a developer to substitute some moderate for some low income units if low income rentals were produced. Specifically, during the first 8 years, if 4 percent of the units were low income rentals, the remainder of the low income requirement could be met through construction of moderate income units. If less than 4 percent were developed as low income rentals, the same proportion of the low income requirement above 4 percent could be met through moderate income as the proportion of 4 percent that was developed as low income rentals. Thus, for example, if 3 percent were built as low income units in year 3, then 3/4 of the remaining obligation above 4 percent, namely 3/4 of 3

percent, could be met through moderate income units. **Starting with year 9, the maximum percentage is 5 percent low income rentals,** with the same proportional calculation as above.

4. There would be no escape clause under any new legislation **except** that construction could be delayed until, but **not later than,** March 1986, but processing of approvals would **continue during** any period of moratorium until then.

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Chart for Settlement Proposal - 0 & Y

<u>Years of Construction</u>	<u>Total Units</u>	<u>Percent Set-Aside</u>	<u>Low %</u>	<u>#</u>	<u>Moderate %</u>	<u>#</u>	<u>Total Low/Moderate</u>
1-2	1320	13	6.5	86	6.5	86	172
3-4	1320	14	7	92	7	92	184
5-8	2640	15	7.5	198	7.5	198	396
9-12	2640	16	8	211	8	211	422
13-16	2640	17	8.5	224	8.5	224	448
17-18	1320	18	9	119	9	119	238
19-20	1320	19	9.5	125	9.5	125	250
	<u>13,200</u>	<u>16</u>	<u>8</u>	<u>1055</u>	<u>8</u>	<u>1055</u>	<u>2110</u>

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Chart for Settlement Proposal - Woodhaven

<u>Years of Construction</u>	<u>Total Units</u>	<u>Percent Set-Aside</u>	<u>Low</u>		<u>Moderate</u>		<u>Total Low/Moderate</u>
			<u>%</u>	<u>#</u>	<u>%</u>	<u>#</u>	
1-2	728	13	6.5	47	6.5	47	94
3-4	728	14	7	51	7	51	102
5-8	1456	15	7.5	109	7.5	109	218
9-12	1456	16	8	116	8	116	232
13-16	1456	17	8.5	124	8.5	124	248
17-18	728	18	9	66	9	66	132
19-20	728	19	9.5	69	9.5	69	138
	<u>7,280</u>	<u>16</u>	<u>8</u>	<u>582</u>	<u>8</u>	<u>582</u>	<u>1,164</u>