

Urban League v. Cartwright (Old Bridge) (1986)

- Order
- agreement confirmation letter
- attachments

- markup showing charges since 1/1
• on ~~the~~ ^{court} Order

• on settlement agreement

• appendix

• appendix - ordinance to be
adopted by Old Bridge

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FILE NO.

January 17, 1986

Honorable Eugene D. Serpentelli A.J.S.C.
Ocean County Court House
Toms River, NJ 08754Re: Old Bridge Township:
Urban League, et al. v. Carteret, et al.;
O & Y Old Bridge Development Corp. and Woodhaven Village v.
Township of Old Bridge, et al.

Dear Judge Serpentelli:

I am pleased to inform you that the parties have reached agreement, and enclose a copy of the final version of the settlement documents between Urban League, Olympia & York, Woodhaven Village, and the Township of Old Bridge, in the above captioned cases.

The documents included in this transmission are an Order and Judgment, a Settlement Agreement and Appendices A and F of this document. These represent the policy agreements which have been achieved as a result of intense negotiations between the parties, undertaken with the assistance of the Court appointed Master, Carla Lerman. Not included in this transmission, and to be sent in a mailing as soon as final wording is prepared, are Appendices B, C, D, and E to the Agreement, which encompass planning standards and procedures, as well as engineering standards for drainage and road construction. These technical documents are in the final stages of preparation, and we thought it inappropriate to delay Your Honor's review of the policy aspects of the settlement until the technical documents would be available.

Draft versions of all documents, including the technical material, have been on file with the Clerk of the Township of Old Bridge, and appropriate advertisements have been placed in the Woodbridge News Tribune, calling the public's attention to the compliance hearing which is scheduled for January 24, 1986.

I have retained the originals of all documents, and will bring them with

me to Court on the 24th, at which time I believe all of the attorneys will sign the consent portion of the Order and Agreement.

On behalf of all the parties to this litigation, I thank Your Honor for your support and assistance to us as we have worked out what we believe to be a fair settlement of this lengthy case.

Sincerely,



Thomas J. Hall

TJH/ss

cc: All parties on service list

MARKUP SHOWING CHANGES SINCE

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URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et. al.,

Plaintiffs,

v.

THE MAYOR AND COUNCIL of the
BOROUGH OF CARTERET, et al.,

Defendants,

and

O&Y OLD BRIDGE DEVELOPMENT
CORPORATION, a Delaware
Corporation,
and

WOODHAVEN VILLAGE, INC, a
New Jersey Corporation,

Plaintiffs,

v.

THE TOWNSHIP OF OLD BRIDGE in
the COUNTY OF MIDDLESEX, a
Municipal Corporation of the
State of New Jersey, THE TOWNSHIP
COUNCIL OF THE TOWNSHIP OF
OLD BRIDGE, THE MUNICIPAL
UTILITIES AUTHORITY OF THE
TOWNSHIP OF OLD BRIDGE, THE
SEWERAGE AUTHORITY OF THE
TOWNSHIP OF OLD BRIDGE and
THE PLANNING BOARD OF THE
TOWNSHIP OF OLD BRIDGE,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY/
OCEAN COUNTY
(Mount Laurel II)

DOCKET NO. C-4122-73

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY/
OCEAN COUNTY
(Mount Laurel II)

DOCKET NO. L-009837-84 P.W
and NO. L-036734-84P.W.

Civil Action

ORDER AND JUDGMENT
(OLD BRIDGE)

This matter having been opened to the Court by O&Y/Old Bridge Development Company (hereinafter, "O&Y"), Thomas Jay Hall, Esquire and Dean A. Gaver, Esquire appearing, and in the presence of plaintiff Woodhaven Village, Inc. (hereinafter "Woodhaven"), Stewart Hutt, Esquire appearing, and in the presence of the Urban (now Civic) League of Greater New Brunswick (hereinafter, "Urban League"), Eric Neisser and John Payne, Esquires appearing, and in the presence of the Township of Old Bridge Municipal Utilities Authority (hereinafter, "OBMUA"), William E. Flynn, Esquire appearing, and the Township of Old Bridge Planning Board (hereinafter, "Planning Board"), Thomas Norman, Esquire appearing, and the Township of Old Bridge and the Township Council of Old Bridge (hereinafter, "Township"), Jerome J. Convery, Esquire appearing; and notice of this compliance hearing having been published by the Township of Old Bridge ten days prior to January 24, 1986 in the "Woodbridge News Tribune", with copies of materials containing the elements of the compliance package made available to all parties in litigation as well as to members of the public ten days prior to January 24, 1986; and the Court having reviewed the papers and memoranda submitted and good cause having been shown:

IT IS on this day of , 1986:

ORDERED,

1. Obligation.

The obligation of the Township of Old Bridge to provide affordable housing for the six years following entry of this Order and Judgment is 1,668, half of which are to be low income and half of which are to be moderate income.

2. Proposed mechanism.

These affordable housing units are intended to be provided as follows:

- A) 500 units to be provided via O&Y's project;
- B) 260 units to be provided via the Woodhaven project;
- C) 263 units to be provided in the Oakwood at Madison, Inc. and Beren Corp. (hereinafter "Oakwood") development;

- D) 174 units to be provided in the Brunetti development;
- E) 40 units to be provided in the Rondinelli development;
- F) 208 units to be provided through the rehabilitation of existing units;
- G) 150 units to be provided in the new Senior Citizens development; and
- H) 73 units to be provided through a mandatory 10% set-aside on all other residential developments within the Township.

3. Settlement Agreement.

The Settlement Agreement attached hereto, together with its Appendices and Schedules, having been reviewed and recommended by this Court's special Master, Carla Lerman, P.P., is found to be acceptable as a component of Old Bridge Township's compliance package to meet the constitutional obligations under Southern Burlington County NAACP v. Township of Mount Laurel (Mount Laurel II) 92 N.J. 158 (1983). The Settlement Agreement, together with its Appendices and Schedules, is hereby incorporated by reference and deemed to be part of this Order and Judgment.

4. Concept Plans.

Plates A and B, which will embody the overall development plans for both O&Y and Woodhaven require Planning Board hearings, which shall commence in February, 1986 and continue, if necessary, into March of 1986. The Planning Board shall complete the hearings and shall forward its recommendations and decisions to this Court no later than March 14, 1986; provided, however, that the Planning Board may petition the Court for additional time.

5. Court Review.

Thereafter, this Court shall review the findings of the Planning Board, in accordance with the procedures set forth in the Settlement Agreement attached hereto.

6. Other Township actions:

A) Rehabilitation

1. The Township is hereby awarded 28 low and moderate income housing credits towards its fair share, as a result of rehabilitation action taken between July 1, 1984 and the compliance hearing.

2. The Township shall commit sufficient community development block grant (CDBG) funds to assure the rehabilitation of an additional thirty units per calendar year for six years, beginning January 1, 1986, for a total of 180 additional units by January 1, 1992.

3. In case sufficient CDBG funds are not available, the Township shall apply for all available funds from the Federal, State and County governments.

4. If sufficient external funding is not available at the end of any calendar year, the Township shall propose an alternative mechanism to provide the required number of rehabilitated units.

5. To be credited under this section, rehabilitation grants must be used towards units currently occupied by low and moderate income households, and grants must average, in any calendar year, \$7,500 each but in no case may any grant be less than \$2,500. In addition, these grants must be used to bring the units up to fire, building and housing code standards; and grants must be secured by a lien on the property so that the Township is repaid at the time of sale, the proceeds of such repayments to be paid into the Affordable Housing Trust Fund.

B) Senior Citizens project:

As outlined in the attached Settlement Agreement, O&Y has agreed to construct and sell to the Township a 150 unit Senior Citizens project. Construction on this project shall begin as soon as possible, and in no case later than April, 1987.

C) Residential development set-aside or monetary contribution:

1) The Township shall continue in force the amendments to the Land

Use Development Ordinance, adopted on December 19, 1985 as Ordinance No. 55-85, and the Affordable Housing Ordinance, adopted on December 19, 1985 as Ordinance No. 54-85, requiring that all residential developments which have not received preliminary site plan approval as of December 19, 1985, shall provide 10% of the total number of units as lower income housing units of which half will be low income units and half will be moderate income housing units. Forthwith, but not later than March 3, 1986, the Township shall adopt and shall thereafter continue in force the amendments to the Land Use Development Ordinance and to the Affordable Housing Ordinance to be introduced on first reading no later than February 3, 1986. Copies of Ordinances No. 55-85 and 54-85 adopted on December 19, 1985 and the amendments to those ordinances introduced on first reading are attached hereto and made a part hereof as Appendix F.

2) Forthwith, but not later than February 3, 1986, the Township shall adopt and thereafter continue in force the amendment to Ordinance No. 54-85 introduced on first reading on January 6, 1986, providing that in a residential development involving fewer than 100 total units, a developer may, in lieu of constructing 10 percent lower income units, pay a minimum of \$3,000 per market unit to the Old Bridge Affordable Housing Trust Fund, this fund having been established by Ordinance No. 54-85 on December 19, 1985. A copy of the ordinance amendments introduced on first reading on January 6, 1986 are attached hereto and made a part hereof as part of Appendix F. The amount of said payment may be modified by the Affordable Housing Agency periodically in light of changes in the costs of construction of lower income housing units. The Trust Fund shall be used solely for expansion of opportunities for affordable housing, including rehabilitation of existing substandard units, conversion of currently uncontrolled units to units affordable to and legally controlled for occupancy exclusively by low or moderate income households, and subsidization of either construction of, downpayments or mortgages for purchase of, or operating or maintenance costs or rents for, lower income units.

D) Old Bridge Township has established an Affordable Housing Agency, and shall begin the process of adopting rules and regulations within thirty (30) days of the entry of this Order and Judgment. Final adoption of rules and regulations, including detailed plans for use of Trust Fund monies, shall take place no later than 120 days following entry of this Order and Judgment.

7. Judgment.

Judgment is hereby entered against the Township of Old Bridge, the Township Council of the Township of Old Bridge, and the Planning Board of the Township of Old Bridge in favor of the O&Y Old Bridge Development Corp., Woodhaven Village, Inc.; and the Urban League of Greater New Brunswick conditioned upon the following:

- a. Carla Lerman, P.P. is retained as standing Master to assist in the resolution of disputes which may arise between the parties under the Settlement Agreement and the Schedules and Appendices attached thereto;
- b. The parties to this litigation may bring a motion, under R 1:10-5 to enforce rights under the Settlement Agreement and the Schedules and Appendices attached thereto;
- c. The parties shall conclude an agreement concerning the provision of an adequate supply of potable water for the O&Y and Woodhaven developments no later than March 15, 1986. If the parties have not completed the agreement by March 15, 1986, or such other deadlines established by mutual consent between the parties, any party, on Motion, may offer to the Court a mechanism whereby the developers shall be assured of obtaining an adequate supply of potable water for their entire projects.
- d. The Planning Board shall report its findings to the Court on or before March 14, 1986 with respect to its acceptance of Plates A

and B. If the Board has not acted by March 14, 1986, any party may move to schedule a hearing in accordance with Section V-B.3a(d) of the attached Settlement Agreement.

- e. The Township shall provide to the Urban League of Greater New Brunswick, or its designee, every three months starting March 31, 1986, a report on the implementation of this Order and Judgment and the attached Settlement Agreement and Appendices during those three months containing at least the following:
 - i) Details on all residential development applications received by any Township Board or agency, including the name of the applicant, the proposed site, number and type of units, bedroom mix, provision for the development of lower income housing or for financial contributions to the Township of Old Bridge Affordable Housing Trust Fund; and formal actions taken by the Township, its Boards, agencies and officials in response thereto, including preliminary and final approvals, variances, and the number of building permits and Certificates of Occupancy issued for market and lower income housing units;
 - ii) Copies of all housing and affirmative marketing plans;
 - iii) The sale price and/or the rental charges on all lower income units which have been sold or rented. With regard to residential developments, the Township may satisfy some of these requirements by providing copies of reports provided by developers with regard to development data.
 - iv) Details on all monies received and expended by the Affordable Housing Trust Fund and the purpose of each expenditure.

v) Information on the number, household size, and income category (low and moderate) of households certified as eligible for lower income housing, and the number of contracts, leases, and closings by unit size and income category.

f) The Planning Board shall condition approval of final development applications containing residential housing upon a requirement that such developers shall pay, ^{to the City League of Greater New Brunswick} prior to the issuance of the first Certificate of Occupancy for units constructed within such approved development, ~~and~~ a fee of \$30 for each lower income unit approved for construction in that application, for purposes of monitoring the implementation of the lower income housing program.

8. Repose:

The Township of Old Bridge is hereby entitled to a judgment of compliance granting repose from any further Mount Laurel litigation for six years from the date of this Order.

9. Rezoning:

The Township may, following the receipt of the Judgment of Compliance, rezone portions of the Township which are currently zoned Planned Development (PD) and which are not specifically mentioned in the Order or any attachment thereto, provided that the Township, after a careful review of the planning considerations involved, determines that such a rezoning would not result in a significant diminution of the Township's ability to meet its Mount Laurel obligations; provided, however that in no case no more than 10% of the land currently zoned PD and not subject to vested approvals or mentioned in this Order and attachments may be rezoned to nonresidential use.

10. Transfer Motion.

Old Bridge Township hereby withdraws, with prejudice, its Motion to transfer this case to the Council on Affordable Housing, filed October 30, 1985.

11. Continuance of Order.

The Township of Old Bridge and the Urban League hereby agree that this Court's Order of May 31, 1985, enjoining the Township from issuing building permits for more than 120 market units for the Oakwood ~~and~~^{at} Madison project until further court order approving a phasing, affordability, and re-sale/re-rental restriction plan, is continued in full force and effect.

12. Appendices B-E.

While the Urban League recognizes that Appendices B, C, D, and E are part of this Settlement Agreement, the Urban League hereby indicates that it has not reviewed these documents and reserves the right to make comments on the planning and engineering documents subsequent to the entry of this Order.

13. Jurisdiction.

This Court shall retain jurisdiction over this case so as to assure the implementation of the proposed agreement and all other aspects of the compliance package.

Eugene D. Serpentelli, A.J.S.C.

We consent to the form, substance and entry of this Order.

Thomas Jay Hall, Esquire
Attorney for O&Y Old Bridge Development Corp.


Dean A. Gaver, Esquire
Co-Counsel, O&Y Old Bridge Development Corp.

Stewart Hutt, Esquire
Attorney for Woodhaven Village, Inc.

Jerome J. Convery, Esquire
Attorney for the Township of Old Bridge
and the Township Council of the
Township of Old Bridge

Thomas Norman, Esquire
Attorney for the Planning Board
of the Township of Old Bridge

Eric Neisser, Esquire
Attorney for The Urban (now Civic) League
of Greater New Brunswick



John Payne, Esquire
Co-Counsel, Urban League

William E. Flynn
Old Bridge Municipal Utilities Authority

MARKUP SHOWING CHANGES

SETTLEMENT AGREEMENT

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I. Parties to the Settlement

This is an agreement which has been reviewed and accepted by this Court and may be enforced by a motion brought pursuant to Rule 1:10-5 for enforcement of litigant's rights. This agreement is among the following parties:

1. O&Y Old Bridge Development Corporation, a Delaware Corporation, qualified to do business in the State of New Jersey. As used in this Stipulation, O&Y Old Bridge Development Corporation (hereinafter "O&Y") also refers to any successors or assigns of O&Y Old Bridge Development Corp.

2. Woodhaven Village, Inc., a corporation organized to do business in the State of New Jersey. As used in this Stipulation, Woodhaven Village, Inc. (hereinafter "Woodhaven") also refers to any successors or assigns of Woodhaven Village, Inc.

3. The Urban (now Civic) League of Greater New Brunswick (~~a/k/a The Civic League of Greater New Brunswick~~), (hereinafter "Urban League"), a nonprofit corporation organized under the laws of the State of New Jersey. As used in this Stipulation, Urban League also refers to any successors or assigns of Urban League.

4. The Township of Old Bridge in the County of Middlesex, State of New Jersey which includes, but is not limited to, the following entities and officials:

- (a) The governing body of the Township of Old Bridge;
- (b) The Planning Board of the Township of Old Bridge;
- (c) The Mayor; all elected and appointed officials and professional employees of the Township of Old Bridge, including but not limited to, the construction code official, the Township Engineer, the Township Planning Consultant, the Township Attorney and any other individuals providing

consultative services to the Township with reference to the land development process. Hereinafter, all entities or individuals associated with the Township of Old Bridge shall be referred to as "Township".

5. The Township of Old Bridge Municipal Utilities Authority, (hereinafter "O.B.M.U.A."), a body corporate and politic organized under the laws of the State of New Jersey, and any successor agency which may be created within the Township of Old Bridge to purvey water within the corporate boundaries of the Township. Hereinafter, O.B.M.U.A. shall mean and refer to any officer, employee or member of the Board of the O.B.M.U.A. as well as the Authority itself.

II. Recitations

WHEREAS, O&Y owns approximately 2,640 contiguous acres of land within the Municipality of the Township of Old Bridge; and

WHEREAS, Woodhaven owns approximately 1,455 acres of land within the Municipality of the Township of Old Bridge; and

WHEREAS, Woodhaven and/or O&Y intend to construct residential housing, commercial buildings, office buildings and industrial buildings within the Township of Old Bridge in conformity with an overall plan of development; and

WHEREAS, on August 9, 1979, O & Y formally requested the Old Bridge Planning Board to amend the application procedures of the Land Development Ordinance to permit O & Y to develop its lands in conformity with an overall development plan; and

WHEREAS, O & Y filed suit on February 18, 1981, Docket No. L-32516-80 P.W. seeking relief from the Old Bridge Land Development Ordinance then prevailing; and

WHEREAS, by formal resolution of Council, enacted May 3, 1982, the governing body of the Township of Old Bridge directed:

- (a) that O & Y be allowed to develop its lands in accordance with an overall development plan;
- (b) that O & Y be permitted to use its lands for residential, industrial, commercial and office development;
- (c) that O & Y be accorded an overall residential density of four (4) dwelling units per acre applicable to the 2,565 acres it then owned, for a total of 10,260 units; and
- (d) that the Land Development Ordinance be amended accordingly.

WHEREAS, on April 5, 1983, The Old Bridge Township Council adopted a new Land Development Ordinance; and

WHEREAS, on May 22, 1983, O & Y filed an application for approval of a plan to develop its lands; and

WHEREAS, on December 14, 1983, 206 days after filing, the Old Bridge Township Planning Board voted to deny O & Y's development application without prejudice; and

WHEREAS, on January 8, 1984, O & Y reinstated its inactive 1981 lawsuit; and

WHEREAS, on February 14, 1984, O & Y withdrew its 1981 complaint and substituted therefor an action against the Township of Old Bridge and the other defendants, Docket No. L-009837-84 P.W. alleging, inter alia, that the Old Bridge Township Land Development Ordinance was not in conformance with the constitutional requirements set forth in Southern Burlington County NAACP v. Township of Mt. Laurel 92 N.J. 158 (1983), hereinafter Mount Laurel II and that the Old Bridge Township Land Development Ordinance was procedurally and substantively defective, which defects impaired the ability of the Township to provide realistic housing opportunities for lower income households; and

WHEREAS, in the suit, O & Y sought relief from the Court to assist O&Y in realizing its development in return for offering the public interest benefit of providing substantial housing affordable to lower income households; and

WHEREAS, Woodhaven filed suit against the Township of Old Bridge and related defendants on May 31, 1984, also alleging violations of the standards of Mount Laurel II and similarly seeking relief; and

WHEREAS, on June 18, 1984, O & Y amended its Complaint to include the Old Bridge Municipal Utilities Authority (O.B.M.U.A.) and the Old Bridge Township Sewerage Authority, as co-defendants; inasmuch as these parties control utilities essential to the resolution of the litigation; and

WHEREAS, O & Y and Woodhaven have reached an agreement with the Old Bridge Township Sewerage Authority for the provision of sewerage systems to serve their developments and the Old Bridge Township Sewerage Authority has now been dismissed as a defendant in this litigation; and

WHEREAS, on July 2, 1984, the Township entered a stipulation acknowledging its obligation to provide 2,414 lower income housing units by 1990; which number has been modified by circumstances so that the Township's goal for the year 1992 is 1,668 affordable housing units; and

WHEREAS, on July 13, 1984, this Court found Old Bridge Township's 1983 Land Development Ordinance not to be in compliance with the constitutional requirements of Mount Laurel II and Old Bridge Township was afforded reasonable time to redraft and adopt a compliant Ordinance; and

WHEREAS, the Township of Old Bridge did not enact a compliant Ordinance and on November 13, 1984 this Court appointed Carla Lerman, P.P., AICP as Special Master to review the Township's Land Development Ordinances and to assist the parties to negotiate a settlement of all issues in this case; and

WHEREAS, Ms. Lerman's assistance has been instrumental in inducing the parties to resolve the issues of this case; and

WHEREAS, the Township is willing to meet its constitutional obligation by modifying its existing Land Development Ordinance; and

WHEREAS, both O & Y and Woodhaven have committed themselves to incorporate substantial opportunities for housing for lower income families in their developments; and

WHEREAS, the Urban League accepts the methodology proposed to provide such lower income housing; and

WHEREAS, the Board of Commissioners of the O.B.M.U.A. on May 22, 1985 unanimously passed a Resolution:

- a) recognizing that there is a pressing need to obtain additional water supplies to serve their franchise area;
- b) recognizing that the New Jersey Department of Environmental Protection (N.J.D.E.P.) has curtailed additional groundwater diversion rights;
- c) recognizing that the N.J.D.E.P. will substantially reduce present groundwater diversion rights effective January 1, 1987;
- d) recognizing that the O.B.M.U.A. has conducted an extensive investigation of all possible water sources;
- e) recognizing that the most dependable long term source of water in the quantity required is from the Middlesex Water Company (hereinafter, "M.W.C.") in Edison;
- f) recognizing that O & Y and Woodhaven have offered to finance a plan to construct a transmission pipeline to connect the O.B.M.U.A. facilities to those of the M.W.C.; and

- g) directing the O.B.M.U.A. attorney and engineer to negotiate with O&Y, Woodhaven, the M.W.C. and the Borough of Sayreville regarding an agreement to finance and construct a water transmission main connecting the M.W.C. facilities to the O.B.M.U.A. facilities; and

WHEREAS, O & Y and Woodhaven's proposal to finance construction of the water transmission facilities is conditional upon satisfactory resolution of all other matters under the jurisdiction of the Township that are necessary to proceed with their developments; and

WHEREAS, comprehensive settlement of all issues currently in litigation between the Township, O & Y, Woodhaven, and the Urban League would provide additional potable water supplies to the entire Township, thus providing enhanced opportunities for the construction of lower income housing, additional market housing and increased non-residential development potential for the Township of Old Bridge in general; and

WHEREAS, the parties agree to the terms and conditions of the stipulation as set forth below and the Master has reviewed and recommended to this Court the acceptance of this Stipulation of Settlement which the Master has found to be in compliance with the constitutional requirements set forth in Mt. Laurel II; and

WHEREAS, the settlement of all issues in this case would be in the public interest, and such settlements are encouraged by this Court.

III. MATTERS RESOLVED BY AGREEMENT

III-A. Mount Laurel II Compliance

III-A.1 Establishment of an Agency:

Old Bridge Township shall establish or contract with an agency ("Township Agency") to screen and place all applicants for low and moderate (hereinafter, generally referred to collectively as "lower income") housing. The Township Agency

shall also be responsible for maintenance of income restrictions, resale controls rental controls, and other mechanisms which may be necessary in order to assure that these units will continue to be affordable to lower income households over time. This Agency shall either be part of the Municipal Government of the Township of Old Bridge or directly controlled by the Township of Old Bridge; or, if a contract is entered into with another entity to carry out the responsibilities of the Township Agency, the Township of Old Bridge shall be exclusively responsible for the execution and implementation of this contract. O&Y and Woodhaven agree to provide \$3,000 each ~~to fund~~ towards the funding of the first year's operation of the agency.

III-A.2 Ten (10%) Percent Set-Aside:

O&Y and Woodhaven shall set aside ten (10) percent of the total number of the dwelling units within their developments as housing affordable to low and moderate income families, regardless of whether said units are built pursuant to any zoning ordinance or any variance approval.

Low and moderate income housing for rental or for sale shall be priced so that, on the average, it will be affordable to households earning ninety (90) percent of the limits established for each of the income groupings, such that the housing provided for low income households shall, on the average, be affordable to families earning forty-five (45) percent of the adjusted median income for the Middlesex, Somerset, Hunterdon Primary Metropolitan Statistical Area (P.M.S.A) and housing for moderate income households shall, on the average, be affordable to persons earning seventy-two (72) percent of the adjusted P.M.S.A. median income for the region, provided that in no event shall the "affordability" criteria of units for low income families exceed fifty (50) percent of the adjusted P.M.S.A. median income for the region or in the case of moderate income families, eighty (80) percent of the adjusted P.M.S.A. median income for the region. "Adjusted" P.M.S.A. median income refers to the process of multiplying the current year P.M.S.A. income by ninety-four (94%)

percent so as to yield a lower figure, which approximates the income figure for the eleven county Northern New Jersey region, for which data is no longer conveniently available.

The Township's Land Development Ordinance shall be amended to provide the mechanisms to meet the Township's affordable housing goals, as enunciated in Appendix A, by including a requirement for a ten (10%) percent setaside for housing affordable to lower income households. This provision shall apply to all builders of housing for resale or rental, regardless of size or classification and regardless of whether said units are built pursuant to any land development ordinance or as a result of an approval gained ~~through appeal to~~ by application to the Zoning Board of Adjustment.

III-A.3 Reopening Clause

Any party to this agreement, upon good cause shown, may apply to the Court for modification of this Agreement based on a modification of law by a Court of competent jurisdiction, a state statute, an administrative regulation of a state agency acting under statutory authority, or based on no reasonable possibility of performance.

Subsequent

III-A.4 Provisions for Lower Income Housing

- (i) Housing units shall be provided which shall be housing affordable to families of low income equal to five (5) percent of the total number of housing units sold or rented within the development; and
- (ii) Housing units shall be provided which shall be housing affordable to families of moderate income equal to five (5) percent of the total number of housing units sold or rented within the development.

III-A.5 Compliance Status Report

All developers with a lower income housing obligation shall provide the Township Agency with a Compliance Status Report as more fully set forth in Appendix A, attached hereto.

III-A.6 Housing Plan

Developers with a lower income housing obligation shall supply, as part of their initial application for development within any Planned Development to the Old Bridge Planning Board, a "Housing Plan". This obligation to supply a housing plan is deferred, as to Olympia and York and Woodhaven Village, until such time as each of these developers apply for any Preliminary Major Subdivision or Site Plan approval which includes lower income housing. See the phasing schedule and anticipated application schedule set forth in Appendix A, Section A.8 and A.8.1. This Housing Plan shall set forth the mechanisms whereby the developer will construct lower income housing. Such a Housing Plan shall indicate the approximate sizes, numbers, types, locations, price ranges, price controls, deed restrictions and marketing strategies for the lower income housing, with a phasing schedule for the actual delivery of such units as part of the overall development in tandem with the market units. In particular, the Housing Plan shall provide a mechanism to insure that the units remain affordable to lower income households for a period of thirty (30) years from the date of issuance of the initial Certificate of Occupancy for each such lower income housing unit.

III-A.7 Waiver of Township Fees

Old Bridge Township agrees to waive all applicable application and permit fees related to lower income housing, as set forth in Appendix A of this Agreement. It is expressly understood that this waiver applies only to those housing units specifically designated as "lower income housing" as that term is defined in Appendix A of this Agreement ~~this Order.~~

III-B.1 Rent Controls

All developments providing a ten (10%) percent lower income housing setaside shall be exempt from all Municipal rent control regulations except such controls as provided herein that are specifically applicable to lower income housing.

III-B.2 Suspension of Lower Income Housing Obligation

In the event Certificates of Occupancy are issued for 2,135 lower income housing units prior to the end of the year 1990, the Township will have the right to suspend the construction of further lower income housing units. In this event, any party shall have the right to petition the Court for clarification as to those conditions under which they may continue to build market housing.

IV. LAND DEVELOPMENT STANDARDS

IV-A Ordinance Revisions

The Township of Old Bridge agrees to amend its Land Development Ordinance to meet its constitutional obligations as directed by this Court on July 13, 1984, which amendments will be enacted by the Governing Body of the Township in accordance with a time schedule acceptable to this Court.

It is clearly understood, however, that the provisions of this Settlement Agreement and all attachments hereto provide a mechanism under which O &Y and Woodhaven shall seek development approvals and by which development undertaken by O&Y and Woodhaven shall be controlled. No further Ordinance amendments are necessary to permit O&Y and Woodhaven to submit development applications for approval; and the standards set forth in this Agreement and the attachments hereto shall govern the relationships between the Township and O&Y and Woodhaven.

IV-A.1 Objectives

The Ordinance Amendments to be adopted by the Township shall have the following objectives:

- a. Ensuring the construction of affordable housing, maintained as affordable over time, using procedures substantially in accord with the concepts contained in Appendix A, attached hereto;
- b. Ensuring the rapid processing of development applications, using a simplified two-stage subdivision/site plan review process, with procedures

substantially in accord with the concepts contained in Appendix B, attached hereto;

c. Providing for more cost-effective development of residential land by employing regulatory standards substantially in accord with those contained in Appendix C, attached hereto;

d. Eliminating vague or unnecessary cost-generating engineering or design standards, by using more detailed measures focusing on public health and safety, substantially in accord with the comprehensive engineering standards contained in Appendices D and E, attached hereto.

However, it is specifically understood that the provision for Mid-rise apartments applicable to O&Y shall not be available to other developers, and will not be part of any ordinance revisions.

V. PROVISIONS SPECIFIC TO O & Y AND WOODHAVEN

V-A Vesting

Under the terms of this settlement, O & Y and Woodhaven shall have all the rights and privileges, specific unit counts, specific development rights and specific land development standards set forth herein, vested for a period of twenty (20) years from the date of entry of this Order.

V-A.1 O & Y Unit Count

O & Y shall be permitted to build four (4) units per gross acre (10,560 units based on their present holdings of 2,640 acres), ten (10%) percent of which, (1,056 units), shall be reserved as housing affordable to lower income households, and the remainder of which shall be housing without price controls or rent control restrictions.

V-A.2 Woodhaven Unit Count

Woodhaven shall be permitted to build four (4) units per gross acre (5,820 units based on their present holdings of 1,455 acres), ten (10%) percent of which, (582

units), shall be reserved as housing affordable to lower income households, and the remainder of which shall be housing without price controls or rent control restrictions.

V-B Development Rights Specific to O & Y and Woodhaven

V-B.1a O&Y Landholdings Map

Attached hereto is Map A 1 which shows O & Y's land holdings in the Township of Old Bridge that are the subject of this Settlement Agreement.

V-B.1.b. Woodhaven Landholdings Map

Attached hereto is Map B 2 which shows the land holdings of Woodhaven in the Township of Old Bridge which are the subject of this Settlement Agreement.

V-B.2 Additional Lands

O & Y or Woodhaven may acquire additional lands (outparcels) from time to time provided such lands are within the limit of the acquisition line as shown on the landholdings map, designated as outparcels as part of the Concept Plan, and provided that such lands are zoned PD. Such lands shall be treated as if they are part of the original land holdings of O & Y and/or Woodhaven and incorporated into their Landholdings Map. Specifically, such additional lands may be developed at four (4) dwelling units per acre and the number of dwelling units attributable to the outparcels shall be added to the total number of residential dwelling units permitted within their respective developments, provided, however, that

- (a) the number of lower income housing units required to be built within the development shall also be increased by ten percent (10%) of the number of additional dwelling units attributable to the acquired lands; and
- (b) such lands are suitable for development at four (4) dwelling units per acre.

V-B.3 Approval Procedures

V-B.3.a: Settlement Plan

O & Y and Woodhaven shall each have the right to develop their lands in accordance with the Settlement Plan, set forth on Plates A & B, applicable to their lands upon entry of this Order provided:

a) As provided in the Court Order of which this is an attachment, the Planning Board shall have the right to hold public hearings on the O&Y and Woodhaven plans (Plates A and B) commencing in February 1986, and, if necessary, continuing into March, 1986, provided that the Planning Board abides by the procedures set forth in this Settlement Agreement and the attachments hereto;

b) The Planning Board shall issue its decisions on Plates A and B simultaneously and no later than March 14, 1986 (provided, however, that the Board may petition the Court for additional time), which decisions shall be reported to the Court.

c) In the event that the Planning Board approves a Plate (with any modifications acceptable to the affected developer) the Court shall enter an Order incorporating the approved Plate into the previously approved Settlement Agreement, nunc pro tunc.

d) In the event that the Planning Board does not approve a Plate (or approves a Plate with modifications unacceptable to the affected developer) the Court shall refer the matter to the Master for recommendations, and shall thereafter schedule a hearing to determine what modifications, if any, would be necessary in order to make the Plate acceptable to the Court.

The Master shall provide the Court with recommendations, and the Court shall base its decision on the record before the Planning Board, materials supplied to the Master, and the Master's recommendations. No testimony, other than the Master's reports, shall be taken before the Court.

Thereafter, the Court shall enter an Order incorporating the Plate, as approved by the Court, into the previously accepted Settlement Agreement, nunc pro tunc. The decision of the Court shall be final and binding on all of the parties.

V-B.3.b Hearing and Notice:

Following issuance of a Court Order incorporating the Plates into this previously approved Settlement Agreement, the developer or developers whose Plates are approved by the Court may immediately thereafter submit development applications in accordance with the procedures set forth in the attached appendices to the Township Planning Board for its review and approval each time any of the lands within the Plates are proposed for development; and in accordance with the Municipal Land Use Law, no notice, other than publication, shall be required for Minor Subdivision, Final Subdivision and Final Site Plan Approval.

V-B.3.c Accelerated Review Schedule:

The Township Planning Board is obligated to review and make decisions with respect to applications for Preliminary Major Subdivision and for Site Plans within ninety-five (95) days of application; and to review and decide on applications for Final Major Subdivision and Minor Subdivision within forty-five (45) days of application.

In order to accommodate this schedule, the Township Planning Board agrees to hold special meetings not to exceed two (2) meetings per month for applications which are part of an inclusionary development, and to allocate staff, either Township employees or special consultants, to review such applications on a timely basis.

Developers seeking Township approval of applications under these procedures shall provide the Township with such funds as are reasonably necessary to assure competent professional review throughout the application process. Such funds will be placed in a Township-managed escrow account, and invoices for professional services rendered by or on behalf of the Township for such reviews will be required by the administrator of the account prior to release of such funds. Fees charged by consultants to the Township shall not exceed the normal and customary fees charged

by such consultants, and the developers shall have an opportunity to review such charges. In the event that a developer regards the review fees as excessive, the developer may appeal such charges to the Court-appointed Master, whose decision shall be final.

V-B.3.d Master's Review

Olympia and York and Woodhaven Village shall have available to them a procedure to appeal to the Court-Appointed Master which appeal procedure is more fully set forth in Appendix A, attached hereto.

V-B.4 Development Standards:

V.B.4.1 General Standards

The Township, O&Y and Woodhaven agree to abide by the procedures, principles and standards set forth in Appendices A, B, C, D and E attached hereto and made part hereof. The provisions in the attached appendices shall be applicable exclusively to O&Y and Woodhaven immediately upon entry of this Order and such Land Development Ordinance amendments purporting to affect Planned Developments as may be subsequently adopted by the Township shall not apply to O&Y and Woodhaven except insofar as such amendments affect the general public health and safety. The Township and Urban League agree that the standards in Appendix A, other than the phasing schedule set forth in A.8, shall apply to all other residential developers and shall be incorporated in appropriate ordinance revisions.

V.B.4.2. Standards and Reports

The applicant shall comply with the standards set forth in the Appendices, and in particular, Appendix B, when seeking development approvals. The applicant shall respond to issues raised in the Township's Natural Resources Inventory.

Further, the applicants shall abide by the State requirement that the rate of post-development stormwater runoff shall not exceed the pre-development rate, and shall provide natural aquifer recharge through non-structural means whenever practical and feasible.

Reports, other than those set forth in Appendices A & B, shall not be required.

V-B.5 Housing Plan

O & Y and Woodhaven shall each file a Housing Plan with the Planning Board, but their Housing Plans shall not be required until O & Y or Woodhaven ~~receives~~ applies for Planning Board approval of the first preliminary major subdivision ~~applied for by these developers~~ which includes lower income housing units. However, this obligation to supply a Housing Plan shall be deferred until such time as the Township Agency is fully operational. ~~O&Y and Woodhaven shall not be required to file a housing plan until~~ after the Township Agency has been established and published rules and regulations. They shall, however, be obligated to commence construction of the required lower income housing component in accordance with the Phasing Schedule set out in Appendix A.

V-B.6 Distribution of Lower Income Housing

It is specifically stipulated that lower income housing is to be located so as to afford similar access to transportation, community shopping, recreation, and other amenities as provided to other residents of developments constructed as a result of this Settlement Agreement. The landscaping buffers provided for lower income housing areas shall not be substantially different from those generally used in other portions of the development, nor different from those buffers generally used to separate sections of the development with different types of housing.

Nothing herein shall require any specific building, cluster, section or subdivision to have any lower income units within it, and the distribution shall be as outlined in Section A-3.3 of Appendix A. It is specifically understood by the parties that the developments contemplated to be undertaken as a result of this agreement are to be inclusionary, as a whole, and that the developers shall provide ten (10%) percent of the total residential units within the development as housing for lower income households.

V.B-7 Senior Citizen Housing:

O&Y shall construct a 150 unit senior citizen housing project on lands it currently owns and shall convey the project, including land and buildings, to the Township in return for the Township's assumption of a 30-year mortgage from the New Jersey Housing and Mortgage Finance Agency or equivalent entity, and conveying the proceeds of such mortgage to O&Y. Such mortgage will be supportable from rents reflecting the maximum permissible rental charges as set forth in Appendix A, with fifty (50%) percent of the project to be devoted to low income households and fifty (50%) percent of the project devoted to moderate income households. There shall be a \$60 per month allowance for utilities incorporated into the rent schedule. The Township shall provide 100% tax abatement for the project, shall form an entity to own and operate the project when completed, and shall exercise its best efforts to assure the availability of tax-exempt financing for the project at an interest rate of ten (10%) percent or less. The Township shall also guarantee to provide for the maintenance of the units, to the extent that such maintenance costs are not fully covered by rental charges paid by the tenants, but shall have no further financial liability with respect to this project. Construction shall start no later than April 1987.

If the funds available from the aforementioned mortgage are insufficient to meet the costs of construction of the project, O&Y agrees to forgo remuneration to the extent of such shortfall. These 150 units are in addition to the 1056 lower income units required by paragraph V-A.2, and does not reduce^{The} 10% se-aside requirement which would be generated by the acquisition of additional land, as set forth in Section V-B.2.

V-C Site Specific Provisions

V-C.1 Industrial/Commercial Development

O & Y shall construct office/retail and commercial/industrial space on their PD/SD zoned lands which are included in the Settlement Plan which lands are

contained in two separate parcels as follows:

- a) approximately 237 acres on the northerly side of Texas Road in the vicinity of State Highways 9 & 18;
Total Permitted Gross Floor Area of up to 5,162,000 square feet,
and
- b) approximately 42 acres on the southerly side of Texas Road in the vicinity of State Highways 9 & 18;

Total Permitted Gross Floor Area of up to 915,000 square feet;

provided that, in each case, the Regulatory Standards set forth in the Appendices (and specifically, Appendix C) shall govern, with no additional lower income housing obligation attendant upon these rights inasmuch as O&Y's development as a whole will be providing substantial lower income housing opportunities.

V-C.2 Shopping Center Site

O & Y shall construct a regional shopping center of up to 1,350,000 square feet on approximately ninety-three (93) acres of their lands designated for this purpose, located on the southerly side of the proposed Trans Old Bridge Connector Road in the vicinity of its juncture with State Highway 18, with no additional lower income housing obligation attendant to this right, inasmuch as O&Y's development as a whole will be providing substantial lower income housing opportunities. This right is conditioned on O&Y meeting the Regulatory Standards set forth in the Appendices (and specifically, Appendix C).

V-C.3 Optional Shopping Center Site

O & Y shall have the option of constructing the shopping center referred to in paragraph V-C.2 on the PD/SD lands referred to in subparagraph V-C.1 subject to the applicable regulatory standards of Appendix C. In the event of the exercise of this option, those lands reserved for a shopping center referenced in paragraph V-C.2 may be used for the construction of housing (at the option of the developer) or for

commercial/industrial uses that are permitted on Regional Commercial land in accordance with section C-1000 of Appendix C. As provided in the development of the Shopping Center (see above), there would be no additional lower income housing obligation attendant to the exercise of this right to construct the shopping center in an optional location, inasmuch as O&Y's development as a whole will be providing substantial lower income housing opportunities.

V-C.4 Midrise Apartments

O & Y shall be permitted to construct midrise apartments not exceeding eight (8) stories in height on its lands, which apartments may be for rent or for condominium ownership subject to the following limiting conditions:

- a) No midrise structure shall contain more than 160 units;
- b) midrise apartments will be limited to those areas designated on the Settlement Plan and will not be permitted in any other location without a specific approval from the Planning Board.
- c) the total number of apartment units within all midrise apartments shall not exceed ten (10%) percent of the total number of dwelling units permitted within the development;
- d) no building permit will be issued to construct a midrise apartment building until at least twenty-five (25%) percent of the residential units within the development have been built.

It is specifically understood that the inclusion of midrise apartments in this settlement agreement is a function of the litigation and there is no precedent in this settlement for any other midrise structures elsewhere in the Township.

V-C.5 Woodhaven Commercial Development

Woodhaven shall construct office, retail, commercial and/or industrial space on the 73 acres designated Commercial on its Settlement Plan with no additional lower income housing obligation attendant to the exercise of this right.

This right is conditioned upon Woodhaven meeting the regulatory standards set forth in the Appendices (and specifically Appendix C.).

V-C.6 Staging Performance: Non-Residential Development

O&Y, Woodhaven, and the Township recognize that it is desirable that the progress of the residential component of the projects be related to the non-residential component of the developments, generally as set forth in Section 9-10:2.1 of the existing Old Bridge Township Land Development Ordinance. However, that section of the ordinance is hereby modified, for these developers, to read as follows:

Residential housing units and acres of non-residential uses that may be developed by O&Y and Woodhaven shall be timed at intermediate points following the staging performance schedule outlined below. The staging performance schedule shall be established for each development at the time of approval of the concept plan by the Planning Board.

The staging performance schedule shall relate maximum percentage of dwelling units (expressed as the maximum number of construction permits issued) to the minimum percent of acres of non-residential uses which must be improved with public water and sewer facilities, and minimum assessed valuation of building space under construction devoted to non-residential uses.

Staging Performance Schedule

<u>Maximum Dwelling Units</u>	<u>Minimum Commercial and Office Industrial Acreage served by Infrastructure</u>	<u>Minimum Ratables as % Total Assessed Valuation of Commercial Office Industrial as Defined at Concept Plan stage</u>
10%	10%	0%
25%	25%	0%
50%	50%	25%
70%	70%	45%
85%	85%	65%

Affordable Housing units approved as part of the Concept Plan pursuant to this Settlement Agreement shall not be counted, for purposes of this section, as residential housing units and shall be excluded from the Staging Performance Scheduling requirement. This Staging Performance Schedule with respect to commercial and industrial facilities does not modify the lower income housing phasing required by Appendix A, Section A.8

V-D Off-Tract Improvements

Off-tract improvements shall be addressed in a separate agreement.

V-E Water and Sewer Improvement

V-E.1 Sanitary Sewerage System

The parties signatory hereto acknowledge that an agreement has been reached with the Old Bridge Township Sewerage Authority with respect to the provision of sewage service adequate to serve the complete projected requirements of both O & Y and Woodhaven. This agreement has previously been filed with the Court and is referenced herein as Addendum I.

V-E.2 Water

The parties signatory hereto acknowledge that an agreement to provide potable water supplies, not only to developments to be undertaken by O & Y and Woodhaven, but also to serve other portions of Old Bridge Township, is being negotiated between O & Y, Woodhaven and the O.B.M.U.A. To resolve their mutually shared concern regarding the shortage of dependable long term potable water supplies, an informal Consortium has been formed consisting of the Borough of Sayreville, the O.B.M.U.A., and the two developers, O & Y and Woodhaven. The current proposal is to construct an eight mile water transmission pipeline from the M.W.C. facilities in Edison, across the Raritan River, through the Borough of Sayreville, into the Township of Old Bridge and terminate at the O.B.M.U.A. treatment plant on Highway 18. The municipalities, or their Authorities, would enter into financial arrangements for capacity in the line.

The line will be capable of delivering 30 Million Gallons per Day (M.G.D.) at the point of crossing of the Raritan River. This capacity will be allocated: 10 M.G.D. to Sayreville, and 10 M.G.D. to O&Y and Woodhaven, with the remaining 10 M.G.D. covering the existing and future needs of the Township exclusive of the southwest quadrant where O & Y and Woodhaven have their developments.

While the O.B.M.U.A. recognizes it is essential that it participate in this project and has passed a formal resolution acknowledging this fact, there are constraints making it difficult for the O.B.M.U.A. to commit to the project without a reasonably firm cost estimate and a public hearing.

To address unresolved issues concerning funding, O & Y and Woodhaven have proposed a financial plan. Under this plan, the ~~developers~~ O&Y and Woodhaven will guarantee one-half of the O.B.M.U.A.'s cost of constructing the pipeline, provided future water connection fees from their developments are allowed to offset against this funding plus interest. The ~~developers~~ O&Y and Woodhaven have also proposed to carry the O.B.M.U.A.'s share of the construction cost of the pipeline until the O.B.M.U.A. can obtain the required funds from a bond issue. Although the O.B.M.U.A. is not in a position to grant formal approval at this time, the ~~developers'~~ proposal was very favorably received by the Board of Commissioners. Settlement of all housing, planning and development issues is a necessary precondition to reaching an agreement on the water issue. This Order constitutes such settlement. However, a firm agreement as to provision of adequate supplies of potable water shall be reached by March 15, 1986, unless the deadline is extended by mutual consent of the parties.

V-F **Additional Considerations**

V-F.1 **Potential Conflict**

It is further provided that if there is a conflict between any Ordinance now in existence or passed subsequent to this Order, this Order and the attached Appendices, as affecting the rights of O&Y or Woodhaven shall control.

In the event of any conflict between the parties signatory hereto, the parties agree to submit their disputes to the court-appointed Master before seeking redress in the Court.

V-F-2. **Implementation**

Upon entry of the Court Order to which this is an attachment, the Township of Old Bridge agrees to begin the process of immediate implementation of

this agreement and the appendices attached hereto.

Specifically, the Township Planning Board will schedule a public hearing on the Settlement Plan or Plans, provide the Court with its recommendations in a timely fashion, and thereafter, begin the process of review of all applications submitted by O&Y and Woodhaven.

V-F.3. Primacy of Order

All parties signatory hereto agree that the within Settlement together with all attachments hereto shall be implemented without the necessity of any revisions to the Township's Land Development Ordinances with regard to O&Y and Woodhaven. The parties agree that the procedures and standards set forth in the Appendices attached hereto shall be the procedures and standards applicable to the O&Y and Woodhaven developments. Any comprehensive zoning or land use ordinance revisions subsequently made by the Township shall include a specific provision in it stating that the O&Y Old Bridge development and the Woodhaven development shall be governed solely by this Settlement Agreement, the Order pursuant to which same is approved, and the Appendices attached hereto. The Township and Urban League agree that revisions to the ordinances are necessary to implement this Agreement as to all other residential developers.

V.F.4 Master's Fee

It is specifically agreed to between the parties that the amount of the Master's fees incurred to the date of the execution of the Order shall be divided evenly between O&Y, Woodhaven, and the Township, with each party bearing one-

third (1/3) of the total cost. Thereafter, Master's fees shall be allocated between the parties as provided in other pertinent sections or appendices of this Agreement, except that in no instance shall the Urban League be liable for any portion of the Master's fee.

For: The Township of Old Bridge

For: The Old Bridge Township Planning Board

For: The Old Bridge Township Municipal
Utilities Authority

For: O&Y Old Bridge Development Corp.

For: Woodhaven Village, Inc.

For: The Urban League of Greater New Brunswick

LIST OF APPENDICES ATTACHED HERETO:

1. Appendix A: Sets forth lower income housing procedures.
2. Appendix B. Procedural aspects of development applications.
3. Appendix C. Substantive revisions in planning standards.
4. Appendix D. Sets forth engineering standards for drainage.
5. Appendix E. Sets forth engineering standards for roads.
6. Appendix F: Old Bridge Township Ordinances 54-88, 55-85, and amendments thereto.
7. Schedule I: List of O&Y landholdings as of July, 1985
8. Schedule II: List of Woodhaven Village landholdings as of July, 1985
9. Map 1
10. Map 2
11. Plate A: Concept Plan for Olympia and York
12. Plate B: Concept Plan for Woodhaven Village

ADDENDUM REFERENCED HEREIN BUT NOT ATTACHED HERETO:

Addendum I: The Sewer Agreement

ADDITIONAL MATERIAL TO BE SUPPLIED

Map A: A map of O&Y landholdings as of July, 1985
Map B: A map of Woodhaven Village landholdings as of July, 1985.

01/17/86/O&Y

APPENDIX A

A.1 Purpose

The material set forth herein is intended to form both a framework for the Township's adoption of Ordinance amendments, as well as to provide a mechanism to permit O&Y and Woodhaven to commence development immediately without waiting for the promulgation of a new Township Ordinance.

A.2 Definitions

"Adjusted Median Income" shall mean and refer to the product of multiplying the published median income of the Middlesex-Hunterdon-Somerset Primary Metropolitan Statistical Area as may be adjusted by an agency of the United States Government from time to time, by 94%.

"Affordable Housing" shall mean and refer to the housing set aside for qualified Lower Income Households which is priced as follows:

- i. Housing for sale: The combination of costs for principal, interest, taxes, and insurance ~~for~~ and homeowners association assessments, if applicable shall not exceed 28% of the Total Lower Income Household Income; and
- ii. Housing for rent: The combination of contract rent plus an allowance for utility costs shall not exceed 30% of the Total Lower Income Household Income.

"Agency" shall mean and refer to the Township Agency referenced below.

"Approving Board" shall mean either the Planning Board or the Zoning Board of Adjustment, as appropriate.

"Building" is any continuously enclosed structure containing one or more separate dwelling units.

"Cluster" is any grouping of buildings in close physical proximity to each other, usually arranged around a common feature such as a courtyard or parking area.

"Household" shall mean and refer to all persons living as a single non-profit housekeeping unit, whether or not related by blood, marriage or other affiliation.

"Housing Plan" shall mean and refer to a proposed scheme for providing affordable housing for lower income households within the Township of Old Bridge, submitted to and certified by the Affordable Housing Agency.

"Lower Income" shall mean and refer to both low and moderate income housing.

"Low Income" shall mean and refer to incomes which are 50% or less than the adjusted median income.

"Moderate Income" shall mean and refer to incomes which are between 50% and 80% of the adjusted median income.

"Order" shall mean and refer to the Order and Judgment issued by the Hon. Eugene D. Serpentelli, A.J.S.C., dated _____, resolving the litigation between O&Y, Woodhaven, the Urban League and the Township of Old Bridge et al, and shall also mean and refer to all appendices and memoranda attached thereto.

"Section" is any building or grouping of buildings, or any cluster or grouping of clusters set apart by natural features, landscaping or buffers from other parts of the development so as to constitute an identifiably separate portion of the development. A separately named building or grouping as defined herein is presumptively a section.

"Township Agency" shall mean and refer to any entity established by the Township of Old Bridge to administer any portion of the lower income housing program within the control of the Township of Old Bridge.

"Total Household Income" shall mean and refer to all gross income from all sources of all members of the household or family.

A.3 Lower Income Residential Requirement

A.3.1 Requirement:

Every development application submitted to an Approving Board for construction of new ~~for~~ housing for resale or rental within the Township of Old Bridge shall set aside ten (10%) percent of all housing units which shall be affordable to lower income households. Once a Certificate of Occupancy is issued for a lower income housing unit, the Township of Old Bridge shall receive a credit for such unit against its fair share housing requirement.

A.3.2 Distribution:

Five (5%) percent of all housing units built within the Township of Old Bridge shall be affordable to low income households; and five (5%) percent of all housing units built within the Township of Old Bridge shall be affordable to households of moderate income.

A.3.3. Dispersal

Developments governed by this Order shall physically disperse the lower income units as follows:

a. No more than 24 lower income units may be located in any single building. No building, cluster or section shall be required to contain any lower income units. In any section containing lower income housing

units, no more than 1/3 of the total number of units may be lower income housing. Clusters may contain only lower income units provided that such a cluster is as much a part of a section as the clusters of market units, and that the boundaries between lower income clusters and market clusters, such as grassy areas, internal roads or sidewalks shall be no different than the boundaries between market clusters.

b. The restrictions contained in paragraph (a) above shall not apply to any building, cluster or section when necessary to finance the development of the building, cluster or section through public or tax exempt funding, but in no event shall any one building, cluster or section developed pursuant to this paragraph contain more than 150 lower income units.

A.4. Affordable Housing Plan:*

Applicants seeking approval for any residential development for ~~resale~~ sale or rental shall submit a proposed affordable housing plan for approval by the Approving Board as part of the documentation required for the first section of the development, wherein preliminary approval is requested for either subdivision or site plan, or, if the application is for development of housing for ~~resale~~ sale or rental via the variance process, as part of the variance application.

The affordable housing plan shall contain the following major elements:

- (a) Description of the units, by number, size and probable location;
- (b) Description of the affordability control mechanism, such as deed restrictions, rental price controls, resale controls, etc.;
- (c) Description of means of assuring affordability over a thirty (30) year period.
- ~~(d) Description of the relationship of lower income housing units to Township screening procedure;~~
- (d) Description of the duration of the affordability controls (minimum requirement for lower income housing is thirty (30) years); minimum requirement for maintenance as rental units, if contemplated, is ten (10) years, but after conversion to sale units, such units must remain price controlled for the balance of the thirty year period;
- (e) Description of any proposed conversion process, if applicable, involving the rental units;
- (f) Description of the proposed marketing scheme for the lower income housing units, which, at a minimum, shall include the affirmative marketing requirements set forth in the **ordinances establishing** procedures for occupancy of lower income housing, established in Section ~~V~~(F) of as Ordinance No. 54-85.

* The Settlement Agreement provides a different filing schedule for O&Y and Woodhaven.

Such marketing plans shall include assurances that the opportunities for low and moderate income units will be advertised throughout the eleven (11) county region, including Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren counties, and specifically including newspapers of general circulation in Elizabeth, Jersey City, Newark, New Brunswick, Paterson and Perth Amboy. In addition, the plan shall require that the developers notify the Civic League of Greater New Brunswick, the Housing Coalition of Middlesex County, the Middlesex County Office of Community Development, the Council on Affordable Housing, the New Jersey Housing Mortgage and Finance Agency, and all fair housing centers and housing referral organizations in the aforementioned eleven (11) counties; and

- (h) Description of a disclosure statement to be attached to all contracts for rental or sale of all housing units within the development, whether market or price controlled.

A.5 Screening Procedures, Other Regulations:

The Township of Old Bridge, by ordinance, shall establish an affordable housing agency, which shall review all affordable housing plans and certify them to the Planning Board. The affordable housing agency shall also establish, by rules and regulations, mechanisms whereby lower income households can be screened for income eligibility and for potential placement in available affordable housing.

A.5.1. Hardship Exemptions

A Developer may apply to the Agency for a Hardship Exemption, as follows:

- a) The Developer may only apply to the Agency for a Hardship Exemption after the later of (i) six (6) months after the Developer has commenced marketing the Lower Income Unit and (ii) ninety (90) days after the Developer has received the Certificate of Occupancy for such Lower Income Unit.

- b) In order for the Developer to be entitled to a Hardship Exemption from the Agency, the Developer must show the Agency that (i) the time periods set forth in subsection (a) above have lapsed, and (ii) that the Developer has been marketing such Lower Income Unit for such time period and in accordance with the affirmative marketing plan approved as part of the housing plan, and (iii) no Qualified ~~Purchaser~~ household is obligated under a contract to purchase, or a lease to rent, as the case may be, for such Lower Income Unit.

If a Developer has complied with the requirements of (a) and (b) above, despite best efforts, and has not been able to obtain a Qualified ~~Purchaser~~, household, from the waiting lists maintained by the agency or by the

Urban League, the Developer may offer such unsold unit to a person or household whose income is up to fifty (50%) higher than the ceiling income for the category for which the unit was intended. In the event an additional ninety (90) one hundred twenty (120) days elapsed with the units remaining unsold, despite the best efforts of the developer to sell the unit, days elapses with the unit remaining unsold, despite the best efforts of the developer to sell the unit, the Developer, with the permission of the Agency, may offer the unit to any person or household, whose income is up to 100% above income ceilings. regardless of income.

However, all units built as affordable housing units under this Appendix and receiving a Hardship Exemption, are to be sold and rented at no more than the maximum price permitted by this Agreement, and are to be price-controlled and deed-restricted so that the sale and re-sale prices reflect the price category for which the unit was originally intended to be offered, and future sales of units receiving Hardship Exemptions shall be subject to the original requirements for purchaser eligibility..

A.6 Affordability Standards:

Applicants for each subdivision and/or site plan approval, following the initial submission of the housing plan, shall demonstrate to the Planning Board how the applicant is meeting the commitments and schedules set forth in the affordable housing plan.

Applicants shall demonstrate that affordable housing units are being priced so that, on the average, they are affordable to households earning ninety (90%) percent of the limits established for the income groupings, such that housing for low income households shall, on the average, be affordable to persons earning forty-five (45%) percent of the Adjusted Median Income and housing for moderate income households shall, on the average, be affordable to persons earning seventy-two (72%) percent of the Adjusted Median Income.

A.7 Bedroom Mix and Unit Size:

Lower income housing units shall be provided in combinations of efficiency, one bedroom, two bedroom and three bedroom or larger units. While the distribution of units should be reasonably reflective of the market units to be provided, the lower income units shall include not more than 50% efficiency and one bedroom units shall include not more than 50% efficiency and one bedroom units or larger, not less than 35% two bedroom units, and not less than 15% three bedroom units. Unit sizes shall not be less than the following:

<u>Unit type</u>	<u>Minimum size</u>
efficiency units	480 s.f.
1 Bedroom	550 s.f
2 Bedroom	750 s.f
3 Bedroom	950 s.f

* Section A.8 and A.8.1. apply to only O&Y and Woodhaven Village. Other developers of inclusionary housing shall be subject to their own phasing schedule as set forth by court order or ordinance provision.

A.8 Phasing Schedule:*

Set forth below is the minimum phasing schedule for the construction of lower income units for O&Y and Woodhaven. The numbers set forth are based on Certificates of Occupancy.

<u>MARKET RATE HOUSING UNITS Maximum</u>	<u>LOW & MODERATE INCOME HOUSING UNITS Minimum</u>	<u>TOTAL</u>
Up to 800 units	No immediate lower income housing required	800
801 units	89 lower income units for which CO's have been issued	890
each 200 units thereafter:	22 lower <u>income units</u>	890+200+22

Notwithstanding the foregoing, there shall be a "cap" of 10% of the total market units, currently projected to be 10,560 units. If O&Y acquires additional land, additional lower income housing units shall be provided, on the basis of ten (10%) percent of residential units constructed on such lands. Further, it is understood that while the development will be inclusionary as a whole, no section, cluster, or building will be required to have lower income housing within its boundaries.

In addition, the following items are understood:

1. A subdivision of any size can be submitted by a developer, so long as the affordable housing is supplied in accordance to the above schedule.
2. There shall be no prohibition placed on obtaining building permits. The phasing is controlled by the issuance of Certificates of Occupancy.
3. While the development will be inclusionary as a whole, no section, cluster, or building will be required to have lower income housing within its boundaries.

A.8.1 Anticipated Applications

O&Y and Woodhaven intend to submit their initial applications for preliminary approval of the first section of the development as soon as the Order, of which this is an Appendix, is entered. It is anticipated that O&Y's initial subdivision will be for approximately 890 residential units; and Woodhaven's subdivision will be for approximately 900 residential units. Thereafter, O&Y and Woodhaven will be submitting development applications for other phases of their developments, which will include market units, lower

income units and industrial and commercial phases. Actual applications for development will be submitted in accord with marketing, financing, and other considerations. Any application which includes lower income units shall identify the approximate location of such units.

A.9 Fee Waivers:

Notwithstanding any ordinance requirement of the Township of Old Bridge, the applicable Township approving agency shall waive the following fees for lower income units:

- (a) Planning Board application fees;
- (b) Engineering review fees;
- (c) Building permit fees;
- (d) Certificate of Occupancy fees; and
- (e) Inspection fees for all on-tract improvements and structures;

A.10 Certification Procedures:

Developers constructing lower income housing under these provisions shall report their progress to the Township Agency as follows:

A.10.1. Quarterly Report.

Each developer providing lower income housing shall provide the Township Agency with a report at the end of any calendar quarter (defined as the period ending March 31, June 30, September 30 and December 31 of each year). The Township Agency shall supply copies to the Urban League, the Court-appointed Master, and all interested parties. This report shall set forth:

- a) the total number of all Certificates of Occupancy issued for residential units within the development during that particular three-month period;
- b) the total number of Certificates of Occupancy issued for low and moderate housing units within the development during that particular three-month period;
- c) whether the lower income units are rental units or "for sale" units;
- d) the percentage of low and the percentage of moderate income units Certificates of Occupancy issued during the three-month period expressed as a percentage of the total number of residential units Certificates of Occupancy issued within the development during the same three-month period;

- e) whether there is a surplus or deficit of low and moderate income units Certificates of Occupancy issued during the three-month period measured against the ten (10) percent low and moderate housing requirement for the development;
- f) the sales prices and rents charged for lower income housing.

A.10.2 Letters of Certification

The Township Agency shall, within thirty (30) days of receipt, issue a Letter of Certification, certifying that the Status Report is correct, or advise in writing that the Status Report is incorrect and specifying the inaccuracies therein, whereupon:

- (a) the developer will correct and resubmit the Status Report; or
- (b) will formally appeal by representation before the Board of Directors of the Township Agency; or
- (c) if the Status Report remains an issue of contention between the Township Agency, and the developer, and/or the Urban League, the matter will be placed before the Court Appointed Master whose adjudication will be final and binding upon both the Township Agency, and the developer, and/or the Urban League.

A.10.3 Certificate of Compliance

There shall be no penalty to the developer if any quarterly Status Report reveals noncompliance with the requirements to provide low and moderate income housing units provided:

- (a) no additional Certificates of Occupancy for market units shall be issued if there has been noncompliance with the phasing schedule set forth in Section A.8.
- (b) that the developer show compliance on an annual basis supported by the Letters of Certification for the previous four (4) quarters, which Letters of Certification, taken together, substantiate compliance for that fiscal period and which Letters of Certification showing annual compliance shall be submitted to the Court Appointed Master, whereupon;
- (c) the Court appointed Master shall, within thirty (30) days, issue a "Statement of Annual Compliance" certifying that the development is, as of the date of accounting, in compliance with the mandate of the Court with respect to providing low and moderate income housing in accordance with Mount Laurel II.

A.10.4 Establishment of Monitoring Fund

O&Y and Woodhaven shall, upon receipt shall, as a condition of issuance of the first Certificate of Occupancy for any residential construction resulting from an approved development application, except for the first development application referenced in Section A.8.1 of this Appendix, of a Certificate of Occupancy for any lower income unit constructed as a result of this settlement, pay \$30.00 (thirty dollars) for each lower income unit approved in the specific development application to the Urban League for purposes of monitoring compliance with the resale price controls, marketing plan, and other provisions of this settlement agreement and appendix. The Planning Board shall be informed as to the receipt of the funds by Urban League.

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A.10.5 Annual Report

No later than June 30 of each calendar year during which lower income housing has been constructed within the Township, the Township Agency shall file a report setting forth the progress being made to supply affordable housing under these procedures. Such report shall be provided to the Mayor and Council and be made available as a public document by filing with the Township Clerk. A copy of such report shall also be filed with the Court, the Urban League and any interested developer providing lower income housing in the Township.

A.11: Review and Appeal Procedures

A.11.1. Accelerated Review and Approval Schedule:

The following schedule will apply to all development applications submitted by O&Y or Woodhaven:

A. As to Preliminary Subdivision and Site Plan applications:

<u>ACTION TAKEN</u>	<u>CUMULATIVE TIME</u>
i. Application submitted to Board	0 days
ii. Checklist review completed	10 days
iii. Written notice of completeness	15 days
iv. Planning Board Staff reviews (Applicant may submit additional material)	45 days
v. Documentation available to public	46 days
vi. Public hearing to be held	57-81 days
vii. Board action by Resolution	95 days

B. As to Minor Subdivision and Final Major Subdivision applications:

<u>ACTION TAKEN</u>	<u>CUMULATIVE TIME</u>
i. Application submitted to Board	0 days
ii. Declaration of completeness	10 days
iii. Planning Board staff reviews	30 days
iv. Public Hearing held	45 days
v. Board action by Resolution	45 days

The applicant may grant extensions of time; but it is anticipated that such extensions will not be routinely sought or granted. The Planning Board will not be required to schedule more than two (2) special meetings per month for all applicants using the accelerated review and appeal procedure.

A.11.2: Appeal to the Master

If O&Y and/or Woodhaven shall have complied with all of the requirements of the processes set forth in the Order and the appendices thereto, and have not received approvals from the Planning Board within ninety-five (95) or forty-five (45) days from the date on which the application was deemed complete, depending on the type of application, they may appeal to the Master, using the procedures set forth in Appendix B.

A.12: Contributions in Lieu of Development:

The Township Agency shall prepare and recommend for adoption by the Township Council an arrangement whereby applicants for residential development for ~~resale~~ sale or resale of 99 or fewer units may make a contribution of funds, equivalent to the pro-rata cost of providing affordable housing units, in lieu of building such units within their lands. The Township Agency shall use these funds to purchase sites and construct lower income housing units or for such other purposes as the Agency may determine useful in providing lower income housing.

A.13: Concept Plan Approval Hearings:

The Planning Board shall hold hearings to approve Plates A and B, using the standards set forth in the Settlement Agreement. The hearings shall be scheduled as soon as feasible in January, 1986, and may continue to March 14, 1986.

The Planning Board shall schedule a minimum of two meetings per month, which meetings shall be devoted exclusively to reviewing the applications submitted by O&Y and Woodhaven. At least one meeting per month shall be devoted to each developer's application. The applicant shall deposit a processing fee in the amount of \$ 5.00 per residential unit contemplated to be built in the overall development. Such sums as are directly attributable to the review of the specific application shall be charged against these funds; any funds not expended in this review process shall be refunded to the applicant. Copies of invoices or vouchers substantiating time expended for professional reviews shall be submitted to the applicant on a monthly basis, and a full accounting of all monies used shall be provided to the applicant within thirty (30) days following the Board's decision.

The Planning Board Attorney shall instruct the Board as to the limited nature of the Board's jurisdiction and the nature of the plans to be reviewed, and shall indicate that the Plates are at the "master-plan-concept" level and are part of a settlement of litigation, and cannot be changed without sound reasons. Each applicant may present such testimony as the applicant feels is necessary to provide information to the Board. In the event the Board, at the conclusion of any specific hearing, feels that it needs additional information or testimony on a specific point, the Board shall so inform the applicant, in writing, no later than three (3) days following the conclusion of the specific hearing.

The Court-appointed Master shall be invited to attend any hearing on Plates A and B, and may offer comments, suggestions and recommendations to the Planning Board and the applicants.

OLD BRIDGE TOWNSHIP
ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER XX, LAND DEVELOPMENT ORDINANCE
OF THE TOWNSHIP OF OLD BRIDGE.

BE IT ORDAINED by the Township Council of the Township of Old
Bridge, County of Middlesex, New Jersey, that Chapter XX, Land Development
Ordinance be amended by adding the following:

4-8:1.1 (g) ~~Section 4-8:1.1 (g)~~ Developers of ninety-nine (99) or fewer
units may make a contribution of \$3,000 per market unit
to the Township Affordable Housing Agency in lieu of
constructing the housing in accordance with the procedures
established by said Agency. The agency may, following
hearings, adopt modifications to the contribution required
so as to reflect increases or decreases in the cost of
construction of such lower income housing units.

This ordinance shall become effective twenty (20) days after
publication in accordance with law.

APPENDIX F

Ordinances adopted by or proposed to be adopted
by the Township of Old Bridge

OLD BRIDGE TOWNSHIP
ORDINANCE NO. 54-85

AN ORDINANCE TO ESTABLISH AN AFFORDABLE HOUSING AGENCY,
TO ESTABLISH A HOUSING REHABILITATION, CONVERSION AND
ASSISTANCE FUND AND TO ESTABLISH THE POSITION OF
EXECUTIVE DIRECTOR; AFFORDABLE HOUSING, AND TO ESTABLISH
PROCEDURES FOR OCCUPANCY OF LOW AND MODERATE INCOME
HOUSING.

I. PURPOSE. The purpose of this Ordinance is to create the
administrative mechanisms to carry out Old Bridge Township's responsibility
to assist in making available affordable housing resulting from Mount Laurel
II.

II. AFFORDABLE HOUSING AGENCY.

A. Establishment of the Agency:

There is hereby established an Affordable Housing Agency, composed
of an Affordable Housing Board, to set policy and make recommendations to
the Mayor and Council of the Township of Old Bridge; an Executive Director,
required to carry out the policies established by the Board and to carry out
the day-to-day administrative tasks of the Agency, and to supervise such
employees as may be required to carry out the tasks set by the Board within
the limit of funds appropriated thereto.

B. Establishment of Affordable Housing Board.

There is hereby established in the Township of Old Bridge an
Affordable Housing Board which shall consist of five members appointed by
the Mayor, with the advice and consent of the Council. The Board shall
have such powers and duties as specified below:

1. Members of Board and Term of Office. The Board shall be
composed of one member of the governing body, whose
appointment shall be for one year, a member of the Planning
Board and three additional residents of the Township whose
term shall be three years each, except when the Board is
initially appointed one member shall be appointed for one
year, one member for two years and the third member for
three years. Appointments to fill vacancies resulting from
resignations or removal from office shall be for the departing
member's unexpired term.
2. Powers of Affordable Housing Board. The powers of the
Affordable Housing Board shall be as follows:
 - a. To recommend to the Mayor and Council the person or
organization to be appointed Executive Director:
Affordable Housing, and the amount of compensation
to be paid to that person or organization.
 - b. To recommend to Mayor and Council the adoption of rules
and regulations:

- i) For the sale or rental of affordable housing units to lower income persons pursuant to the settlement agreement and the laws of the State of New Jersey.
- ii) To assure that housing units built, renovated or converted to lower income housing pursuant to the settlement agreement remain available to lower income persons.
- iii) To establish eligibility criteria for persons wishing to purchase or rent lower income housing in the Township in accordance with the settlement agreement and the laws of New Jersey.
- iv) To establish screening mechanisms to assure that the affordable housing is allocated only to lower income persons.
- v) For the administration of all funds made available to the Township for lower income housing from developers or public sources in accordance with Section IV of this Ordinance.
- vi) To establish a method of regulating the resale of lower income units so as to allow lower income persons to recoup the value of improvements to the units while at the same time providing for the recapture of any windfall profits from the resale of the units.
- vii) To establish a method of calculating the rents and other charges for lower income rental units and to assure lower income units are rented to and remain in possession of only lower income persons.
- viii) To provide for a fair and equitable disbursement of funds from the Housing Rehabilitation, Conversion and Assistance Fund, to the extent funds are available, for down payment assistance for the purchase of lower income units, conversion of existing units for use by lower income persons, rehabilitation of substandard housing occupied by lower income persons and such other projects or assistance which assist in providing for affordable housing in the Township of Old Bridge and which are authorized by law.
- ix) Regarding applications by builders for relief from the pricing requirements of lower income units, but not in excess of those prices that would make a lower income unit unaffordable to at least some segment of either the low or moderate income housing market.
- x) To carry out such additional responsibilities as are necessary to fulfill the Township's affordable housing program in accordance with the settlement and the laws of New Jersey.

3. To recommend to the Mayor and Council the methods to be used for housing surveys to be conducted to ascertain the extent and location of substandard housing in Old Bridge and, upon authorization by the Mayor and Council, to conduct such surveys or to have such surveys conducted.

4. To seek out sources of government funding that will assist the Township to meet its goals of supplying affordable housing and, upon the authorization of the Mayor and Council, to prepare and submit applications to secure such funding.

5. To prepare an annual budget for the Affordable Housing Agency including salaries and expenditures to be incurred in administering the units built as a result of the settlement agreement, but not including any expenditure for rehabilitation, conversion or down payment assistance. The budget is to be prepared in accordance with good municipal accounting procedure and approved by the Mayor and Council as part of the municipal budget.

6. To recommend to the Mayor and Council disbursement of funds from the Rehabilitation, Conversion and Assistance Fund, if such funds are available, for rehabilitation and conversion of housing and down payment assistance in accordance with Section IV hereof.

7. To carry out such other activities as may be authorized by law to carry out the obligations of the Township to assist in providing affordable housing.

III. HOUSING REHABILITATION, CONVERSION AND ASSISTANCE FUND.

A. Creation of Housing Rehabilitation and Conversion Fund.

1) There is hereby created a Housing Rehabilitation, Conversion and Assistance Fund of the Township of Old Bridge.

2) Funds collected from residential developers resulting from Ordinance #55-85, as well as funds contributed by Woodhaven Village, Inc. as a result of the Settlement Agreement, shall be paid to and deposited by the Township Treasurer in an interest bearing account designated as the "Housing Rehabilitation, Conversion and Assistance Fund of the Township of Old Bridge ("Trust Fund").

3) Funds which may be received from government sources shall be paid to and deposited by the Township Treasurer in the Trust Fund, except if required by the funding source, they shall be held in a separate account and administered as required by the funding source.

B. Collection of Fees for Housing Rehabilitation, Conversion and Assistance Fund.

1) Prior to the Planning Board granting final approval to any applicant seeking to develop residential housing or to build residential housing without building lower income housing on site, as permitted by Ordinance #55-85, the Planning Board shall determine the amount of fees due from the application to the Ordinance.

2) The resolution adopted by the Planning Board shall condition approval upon payment of the required fee upon issuance of a building permit for the approved use. A copy of this resolution shall be supplied to the building inspector and the Executive Director: ~~Housing.~~

C. Disbursements from Housing Rehabilitation, Conversion and Assistance Fund.

1) The Affordable Housing Agency, subject to the approval of the Mayor and Council, may authorize disbursements from the Housing Rehabilitation, Conversion and Assistance Fund only if:

- a) Rehabilitation: In the case of funds sought for rehabilitation purposes, the Executive Director certifies that:
 - 1) He has examined the application submitted by the household and determined that the intended recipient is a qualified low or moderate income family according to income limits determined by the Affordable Housing Agency for that year;
 - ii) The applicant's housing unit has been inspected and the existence of the health and safety code violations which the applicant seeks to remedy through the use of proceeds from the Fund has been verified;
 - iii) The rehabilitation activity will result in the dwelling unit being free of code violations; and
 - iv) The applicant has executed an agreement to use the funds only for the approved purposes and to rent or sell the unit only to a qualified low or moderate income family; and the agreement also requires the applicant, upon receipt of funds, to record a deed convenanting for ten (10) years to allow occupancy only by low or moderate income families pursuant to a properly issued certificate of occupancy and to otherwise comply with the rules and regulations of the Affordable Housing Agency.

IV. EXECUTIVE DIRECTOR: HOUSING

A. Establishment of position of Executive Director: Housing:

There is hereby established the position of Executive Director of the Affordable Housing Agency for the Township of Old Bridge, referred to herein as Executive Director: Housing. The Executive Director shall be appointed by the Mayor and Council and may be a full or part-time municipal employee, a consultant or a government agency contracted by the Township to perform the duties and functions of the Executive Director.

B. Compensation.

Compensation shall be initially fixed by the Mayor and Council at the time of the appointment of the Executive Director, upon the recommendation of the Affordable Housing Agency.

C. Powers and Duties.

It shall be the responsibility of the Executive Director:

- 1) To administer the affordable housing program of the Township of Old Bridge in accordance with the settlement and Rules and Regulations of the Affordable Housing Agency.

2) To maintain waiting lists of households which may be eligible to rent or purchase lower income dwelling units or to obtain funding from the Housing Rehabilitation, Conversion and Assistance Fund of the Township from such other state funded program as may be available to qualified applicants in the Township.

3) To advertise the initial availability of lower income housing units, when they become available.

4) To advertise the availability of funds for housing rehabilitation, or other programs established by the Agency, if and when such funds are available.

5) To maintain up-to-date records of all deed restricted lower income housing units in the Township.

6) To monitor all transfers of ownership and changes of occupancy of all deed restricted lower income housing units and to oversee the placement of qualified household in lower income housing units and to enforce the provisions of the settlement and perform all of the administrative duties and functions outlined therein.

7) To advise the Planning Board and Zoning Board with respect to their approvals of lower income housing units and as to developer contributions to the Housing Rehabilitation, Conversion and Assistance Fund.

8) To maintain detailed records of the income and expenditure from the Housing Rehabilitation, Conversion and Assistance Fund of the Township of Old Bridge and any other grant monies received.

9) To perform the administrative functions associated with any State funded housing rehabilitation or down payment assistance program, once such program has been funded.

10) To arrange for such inspections of any lower income housing units necessary to carry out the requirements of this Ordinance, the settlement, or any rules and regulations promulgated by the Affordable Housing Agency.

11) To carefully record the progress of construction of lower income housing within the Township, and to perform the certification as to developer's adherence to the agreements, as provided in the settlement agreement and the Court Order or such additional Orders as may be issued by the Superior Court of the State of New Jersey;

12) To carry out such additional duties as may be required of the Executive Director by any rules and regulations promulgated by the Affordable Housing Agency.

V. PROCEDURAL MECHANISMS

A. Definitions.

The following terms wherever used or referred to in this section shall have the following meanings unless a different meaning clearly appears from the context:

(a) "Affordable Housing Agency" shall mean the Agency referred to in Article X of this Ordinance or its designee.

(b) "Income Ceiling" shall mean 80% of the regional median income for moderate income households and 50% of the regional median income for low income households.

- (c) "Low Income Household" shall mean a household whose income does not exceed 50% of the regional median income, with adjustments for household size as determined by the Affordable Housing Agency.
- (d) "Low Income Unit" shall mean a dwelling unit which is subject to the price and occupancy requirements of this section and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by low income households.
- (e) "Moderate Income Household" shall mean a household whose income is greater than 50%, but does not exceed 80%, of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- (f) "Moderate Income Unit" shall mean a dwelling unit which is subject to the price and occupancy requirements of this section and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by moderate income households.
- (g) "Regional Median Income" shall mean the median income for the present housing need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984. For ease of calculation, regional median income shall be deemed to mean 94% of the median income of the Primary Metropolitan Statistical Area (PMSA) in which Middlesex County is located.

B. General Provisions

- 1. Wherever reference is made to low or moderate income units in the Zoning Ordinance, the standards, qualifications, definitions, and procedures set forth in this section shall apply.
- 2. Except as otherwise expressly provided herein, no low or moderate income unit shall be offered for sale or rental except at prices that are affordable to low or moderate income households.
- 3. Except as otherwise expressly provided herein, no low or moderate income unit shall be sold, resold, rented or, re-rented except to a household that has been qualified as a low or moderate income household.
- 4. A covenant embodying these restrictions shall be recorded with the deed for all sales of property subject to the provisions of this section.

C. Qualification of Low and Moderate Income Households.

A prospective purchaser or renter of a low or moderate income unit must be qualified as a low or moderate income household by the Affordable Housing Agency prior to the purchase or sale of such unit. In making this determination, the Affordable Housing Agency shall apply the standards contained in the definitions of low and moderate income household set forth in Section A of this Ordinance. The Affordable Housing Agency shall periodically recalculate the regional median income and determine adjustments for household size based on changes in the official estimates of the median income for the Primary Metropolitan Statistical Area (PMSA) in which the Township is located.

7.

D. Determination of Maximum Sales Prices and Rental Charges.

Prior to the sale, resale, rental or re-rental of a low or moderate income unit, the Affordable Housing Agency shall determine the maximum sales price or rental charge that may be charged for that size unit in each income category.

1. Maximum Sales Price

The following procedure shall apply to determine maximum sales price:

- (a) A base price shall be calculated such that the sum of the monthly payments for principal, interest, taxes, fire, theft and liability insurance, and homeowner association fees, if any, shall not exceed 28% of the low or moderate income ceiling determined in accordance with Section C. A ten percent (10%) down payment requirement and a thirty (30) year mortgage term shall be assumed in making this calculation.

In calculating the monthly interest payment, the interest rate provided by the developer as being available to the subject development shall be utilized if the Affordable Housing Agency determines that it is in fact reasonably available to low or moderate income households. If the developer or any other entity offers to buy down the prevailing interest rate for a minimum of three years commencing at the time of purchase, and the terms of the buydown provide that the increase in interest rate charged does not exceed one half of one percent (0.5%) per year during the period of the buydown, the interest rate for the first year of the buydown period shall be used in the above calculation to determine monthly interest payment. If the increase in the interest rate exceeds one-half of one percent (0.5%) per year, the average interest rate for the period of the buydown shall be used.

If the developer proposes that an adjustable rate Mortgage (ARM) be used to calculate the monthly interest rate payment, the initial interest rate of that mortgage shall be used only if the maximum annual average increase does not exceed one half of one percent (0.5%). Otherwise, a rate which is the average of the initial interest rate and the highest possible rate in effect after three years shall be used.

- (b) In order to assure that low and moderate income units are affordable by households whose income is less than the low or moderate income ceiling, the maximum sales price that may be offered for each such unit shall not exceed ninety percent (90%) of the base price for that size unit in each category of low or moderate income housing.

- (c) Prior to final approval of any development subject to these provisions, the Affordable Housing Agency shall determine the maximum sales prices by unit size for the low and moderate income units in the development and shall so notify the developer. These prices shall remain in effect for a period of one year or until all of the low and moderate income units have been sold, whichever occurs first. The developer may request a modification of the maximum sales prices at any time by applying to the Affordable Housing Agency for

recalculation of these prices based on changes in any of the factors used to calculate these prices.

- (d) Prior to the resale of any low or moderate income unit, the Affordable Housing Agency shall determine the maximum sales price for that unit in accordance with a formula developed by the Agency which takes into account increases in a generally accepted price or income index, reasonable improvements to the property as determined by the Agency, and reasonable out-of-pocket costs of the sale as determined by the Agency, and which, to the extent feasible, ensures that the sales price will be consistent with the affordability.
- (e) The agency shall permit a developer, upon proof that a unit or units remain unsold for a period of sixty (60) days following issuance of a Certificate of Occupancy, despite diligent marketing efforts, to adjust the prices of lower income housing units as follows:
 - 1. Low income housing units may be sold to persons qualifying as moderate income purchasers;
 - 2. Moderate income units may be sold to persons earning up to one hundred twenty (120%) percent of the region's median income.

However, these units must remain deed restricted for the period specified in the Ordinance, and prices charged for these units must reflect the maximum prices charged for the relevant income category. Thus, a low income unit sold to a moderate income buyer, under this provision, must be priced as if it were a low income unit; and a moderate income unit marketed to a person earning up to one hundred twenty (120%) percent of the region's median income must be sold as a moderate income unit, so as to preserve long term affordability.

2. Maximum Rental Charges.

The following procedure shall apply to determine maximum rental charges:

- (a) A base rent shall be calculated such that the sum of the monthly rental payment, including utilities, does not exceed thirty percent (30%) of the low or moderate income ceiling, determined in accordance with subsection 1 (d) above.
- (b) In order to assure that low and moderate income units are affordable by households whose income is less than the low or moderate income ceiling, the maximum gross rent that may be charged for any such unit shall not exceed ninety percent (90%) of the base rent for that size unit in each category of low or moderate income housing.
- (c) If the cost of all utilities, including heat, hot water, cooking fuel, and electricity, is not included in the monthly rental charge, an estimated monthly charge for those utilities not included in the rent shall be calculated for each unit size. This estimated charge shall be subtracted from the maximum gross rent to determine the maximum rental charge that may be imposed for each low and moderate income unit.

- (d) Once the maximum rental charges have been determined for a development subject to the provisions of this section, such charges shall not be increased without the prior written approval of the Affordable Housing Agency. The Agency shall establish appropriate criteria and procedures for allowing periodic rental charge increases consistent with the affordability standards set forth in subsections (a) and (b) above. No more than one rental charge increase shall be allowed for any unit or group of units within any twelve (12) month period.

3. Relationship Between Household Size and Unit Size.

For the purpose of determining maximum sales prices and rental charges pursuant to Subsection 1 and 2 of this Ordinance, the ceiling incomes of the following household sizes shall be used to determine the maximum prices for each of the following unit sizes:

efficiency	1 person
1 bedroom	2 persons
2 bedrooms	3 persons
3 bedrooms	5 persons
4 bedrooms	6 persons

4. Affordable Price Tables.

The Affordable Housing Agency shall prepare and maintain tables of maximum affordable prices for low and moderate income households by unit size as a guide for determining maximum sales prices and rental charges for low and moderate income units.

Table I of this Ordinance contains the maximum affordable sales prices for condominium ownership, Table II contains the maximum affordable sales prices for fee simple ownership, and Table III contains the maximum affordable rental charges for low and moderate income households, calculated using the median income data available as of the effective date of this Ordinance. The following assumptions were made in preparing the sales tables:

- (a) A ten percent (10%) down payment and a mortgage with a thirty (30) year term.
- (b) The property tax rate in effect in Old Bridge as of the effective date of this Ordinance.
- (c) Fire, theft and liability insurance estimated to be \$40 per \$10,000 house value.
- (d) Homeowner's association fees estimated to be \$150 annually per \$10,000 house value.

E. Expiration of Restrictions.

1. Restrictions on the resale of low or moderate income sales units shall expire thirty (30) years from the date of the initial sale of the property.
2. Low or moderate income rental units shall remain subject to the requirements of this section indefinitely, except that the limitations set forth in Section I shall apply if such rental units are converted into condominiums, co-operatives, or some other form of ownership property.

F. Affirmative Marketing.

Developers of low or moderate income units shall affirmatively market those units to all segments of the lower income population within the Mount Laurel housing region in which the Township is located and to all qualified low or moderate income households irrespective of race, color, religion, sex or national origin. Toward that end, the developer shall formulate and submit an affirmative marketing plan acceptable to the Affordable Housing Agency, which plan shall be incorporated into any approval of the development application. At a minimum, the plan shall provide for advertisement in newspapers in general circulation in the following urban areas: Jersey City, Newark, Elizabeth, Paterson, New Brunswick and Perth Amboy. The plan shall also require the developer to notify the following agencies on a regular basis of the availability of any low or moderate income units: The Civic League of Greater New Brunswick, the Housing Coalition of Middlesex County, the Middlesex County Office of Community Development, and other fair housing centers, housing referral organizations, and government social service and public welfare departments located in the eleven-county present housing need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984.

This ordinance shall become effective in twenty (20) days after publication in accordance with law.

PUBLIC NOTICE

TAKE NOTICE that the foregoing ordinance was introduced at a meeting of the Township Council of the Township of Old Bridge, Middlesex County, New Jersey, held in the Municipal Complex, One Old Bridge Plaza, on December 2, 1985 and that the same will be further considered for final passage at a Special Meeting of the Council of the Township of Old Bridge, Middlesex County, New Jersey, to be held in the Municipal Complex, One Old Bridge Plaza, at 8:00 p.m. on December 19, 1985 or as soon thereafter as said matter may be reached, at which time all those interested will be given an opportunity to be heard concerning the same.

Mary M. Brown
Clerk

OLD BRIDGE TOWNSHIP
ORDINANCE NO. 55-85

AN ORDINANCE TO AMEND THE LAND DEVELOPMENT ORDINANCE
OF THE TOWNSHIP OF OLD BRIDGE, CHAPTER XX.

BE IT ORDAINED by the Township Council of the Township of Old Bridge, County of Middlesex, New Jersey that Chapter XX, Land Development Ordinance be amended by adding:

Section 4-8 GENERAL REGULATIONS CONCERNING AFFORDABLE HOUSING

(Mount Laurel II)

4-8:1 General Regulations for all Residential Development.

4-8:1.1 The purpose of these special regulations is to satisfy a Judgement of the Superior Court of New Jersey in Urban League of Greater New Brunswick, et. al. v. Mayor and Council of the Borough of Carteret, et. al.

- a. Each application for development shall comply with all provisions of the "Affordable Housing Ordinance of the Township of Old Bridge.
- b. Each application for development subject to these provisions shall clearly state the number of low and moderate income units, as defined in the Affordable Housing Ordinance and each resolution of approval shall clearly state the number of low and moderate income units that are approved as part of the development.
- c. Each approved development subject to these provisions shall contain moderate income units, in a minimum of five percent (5%) of the total number of units that may be developed, assuming full development at the maximum gross density allowed by right in the zone, and low income units minimum proportion of five percent (5%) of the total number of units that may be developed, assuming full development at the maximum gross density allowed by right in the zone.
- d. Any approval of a development application subject to these provisions shall require that construction of the low and moderate income units be phased in with the balance of the development in accordance with the following standard:

Number of market units completed as a % of total number of units approved	Number of low or moderate income units
Not more than 25%	At least 25%
50%	60%
75%	85%
90%	100%

To implement this requirement, certificates of occupancy shall not be issued for more than 25% of the total number of market units until certificates of occupancy have been issued for at least 25% of the total number of low or moderate income units; certificates of occupancy shall not be issued for more than 50% of the total number of market units until certificates of occupancy have been issued for at least 60% of the total number of low or moderate income units; certificates of occupancy shall not be issued for more than 75% of the total number of market units until certificates of occupancy have been issued for at least 85% of the total number of low or moderate income units; and certificates of occupancy shall not be issued for more than 90% of the total number of market units until certificates of occupancy have been issued for 100% of the low or moderate income units. Where construction of low or moderate income units is being phased in with the balance of a development, each phase shall include a mixture of low and moderate income units reasonably consistent with the percentage distribution of each category within the development as a whole.

- e. No more than fifty percent (50%) of the low or moderate income units in any development subject to these provisions shall be (1) bedroom units or efficiency units. In developments containing one hundred (100) or more low or moderate income units, at least twenty percent (20%) of these units shall be three (3) bedroom units or larger, except for units in senior citizen complexes. Construction of the various-sized units shall be phased proportionately according to the standard set forth above.
- f. No more than thirty percent (30%) of the total number of low or moderate income units that may be developed in any development subject to these provisions may have occupancy restrictions based on the age of household members, except if Senior Citizen projects are proposed. Where such age restrictions are permissible, occupancy shall be restricted to persons aged sixty-two (62) or over. The Township may not require a developer of low or moderate income housing to impose any age-based occupancy restrictions with respect to such units as a condition of approval. waiver of assistance.

4-8:2

Manufactured or Modular Housing

4-8:2.1

Manufactured housing, including modular, is permitted in all residential zones.

This ordinance shall become effective twenty (20) days after publication in accordance with law.