

U.L. v. Careport, Plainston & 9/28 1983
Cranbury

- internal memo re. town ordinances

2 pgs.

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To: Urban League team

RUL

Fr.: Rachel Horowitz

Re: Plainsboro and Cranbury ordinances: procedural compliance with the Municipal Land Use Law (N.J. Stat. Ann. S40:55D-1 et seq.)

The towns' new ordinances appear to comply with the procedural requirements of the Municipal Land Use Law in most respects. However, neither ordinance appears to incorporate S40:55D-63 of the MLUL, namely that if 20 percent of property owners within a specified affected area (200 feet) file a protest against an amended ordinance, a 2/3 vote of the municipal governing board is required to override that protest. In addition, Cranbury's requirements for site plan applications, S150-100, appear to go far beyond the MLUL specifications set forth in S40:55D-38 through 42. Most notably, Cranbury requires that site plan applications include a detailed "environmental impact assessment" (S150-100D), and that larger projects (those on 50 acres or more, or with 100 or more dwelling units) include a "community impact statement" (S150-100E). Section 40:55D-41 of the MLUL, which limits the permissible contents of site plan ordinances, refers only to "natural resource preservation" as a legitimate concern of site plan ordinances. Cranbury also requires both an "environmental impact assessment" and a "community impact assessment" for planned development applications (S150-102). In addition, the town asks for a "soil disturbance review" if more than 300 cubic yards of soil will be placed or removed (S150-69).

Plainsboro's ordinance appears to conflict with the MLUL in a few minor respects. SS85-6(G) and 85-8 allow the municipal governing board to vote on whether a proposal constitutes a "minor subdivision". This seems to contradict the definition of "minor subdivision" set

forth in S40:55D-5 of the MLUL. (This could have some significance, since procedures to approve minor subdivisions are simpler than those pertaining to approval of major subdivisions.) In addition, SS20-18, 20-34, and 101-170 of the Plainsboro ordinance allow a party 65 days to file an appeal with the municipal zoning board of adjustment, whereas S40:55D-72 specifies the time period as 20 days. Plainsboro's ordinance also states that a variance expires if it is not exercised within one year (S20-20). I did not note a similar provision in the MLUL, which requires consideration of variance applications (SS40:55D-25, 60, and 70).