

u.l. v. Caturet, Cranbury

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Notes: incomplete, only pgs 7-9

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PHASING OF DEVELOPMENT

Both the Township report and the Caton report recommend that Cranbury's fair share obligation be phased over a more extended period than the six-year period which has come to be seen as customary. The justification for permitting such phasing is set forth cogently in the Caton report (at 42-48), a justification which we find completely reasonable. It is hard to imagine any community in New Jersey that would be more radically transformed than Cranbury by development of the magnitude that is at least theoretically possible. We accept, therefore, the recommendation that the fair share obligation be phased over a period longer than six years.

It remains necessary to arrive at specific numbers which reflect this general principle. This includes determining first, the total fair share number to be phased; second, the period over which it is to be phased; and finally, the distribution of units between the different phases of the overall schedule. In this regard, we differ to some extent with the specific proposal set forth in the Caton report.

The Caton report sets forth an extensive rationale for incorporating only 6/10 of the prospective need determined under the Warren methodology into any municipality's fair share obligation to be satisfied over the next six years. In essence, the rationale is that since the prospective need is based on a 10 year projection, and since the compliance period is to be six years, then it is only reasonable to require that only 6/10 of the projection be achieved during that six year period. While arguable, this has a certain logic to it.

The logic, however, in our view, tends to dissipate when the intent of a community is to meet its fair share goals over a longer than six year period, which is what is proposed here. The reduction of the fair share goal to 6/10 is inextricably interwoven with the six year timetable, which is 6/10 of the projection period. Since, however, the period during which Cranbury will carry out its fair share goal will indeed be longer than ten years, there is no apparent reason for reducing the percentage of prospective need to be met below the amount (the "10/10ths") dictated by the Warren methodology. Thus, in our opinion, the total fair share allocation to be phased should remain at the level of 816 established by the Court.

With regard to the second question, we agree with the Caton report that a twelve year period is an appropriate one for purposes of phasing. That will provide for two target periods, one from 1985 through 1990, and the second from 1991 through 1996.

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Given the two periods, we believe that the logic of phasing dictates that more units be provided in the second period than in the first, since the population and housing base for the second period will be larger than it is at present/5. In that manner, the growth curve, reflecting the rate of increase, will not vary too widely from one period to the other. We believe, as a rule of thumb, that a target which, if achieved, would result in 40% of the total fair share goal being achieved during the first period through 1990 is a reasonable one. That, in turn, suggests a goal of 320 to 340 lower income units through 1990.

Achievement of this goal appears possible without drastic modification of the detailed scheme set forth in the Caton report (at 51-54). With regard to the Garfield proposal, the timetable shown at 52 appears reasonable. With regard to both the Zirinsky and Cranbury Land projects, it appears reasonable to expect, assuming the sites are rezoned as recommended in this report, that both would be developed in full during the first period, through 1990. Neither site is large enough to be reasonably phased over a longer period, and furthermore, permitting both these sites to be developed during the initial six year period would appear to be consistent with the general thrust of Mount Laurel, which seeks to make development by builder-plaintiffs economically attractive.

Applying these propositions, and factoring in the projected contributions from rehabilitation and from development by Cranbury Housing Associates into the picture, we obtain the phasing schedule given on the following page. This schedule contains, of course, one major question mark; i.e., the category "additional sites/projects". It is our position that Cranbury should have the greatest possible latitude to determine the manner in which the additional units are to be provided, within the parameters set down in the Mount Laurel decision. How best to do so, of course, raises questions. While there are additional sites in the Township which are suitable for multifamily development, and could be so zoned now, such zoning could trigger more units during the first six year period than the already large number dictated by the phasing plan set forth above.

It is our understanding that there are certain sites (other than the builder-plaintiff sites) which are considered by the Township to be clearly more suitable for future multifamily development than the balance of the vacant land in the municipality. One option with regard to those sites, which could be given consideration, would be to zone them for very low density development or for agricultural use (which is their present use) at present, but with an automatic rezoning "trigger" to medium or high density multifamily housing that would become effective in 1991. In this manner it may be possible to retain those sites for future multi-

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family development, rather than see them consumed by large lot subdivisions between now and 1991, but without triggering additional immediate development.

 PROPOSED PHASING OF FAIR SHARE GOAL FOR CRANBURY TOWNSHIP

	LOWER INCOME UNITS	MARKET RATE UNITS
PERIOD 1: 1985-1990		
Garfield	94	556
Zirinsky	60	240
Cranbury Land	60	240
Rehabilitation	21	0
Cranbury Housing Associates	100	0
	<u>335</u>	<u>1036</u>

PERIOD 2: 1991-1996

Garfield	212	668
Cranbury Housing Associates	100/1	0
Additional Sites/Projects	169	NA
	<u>481</u>	<u>668+</u>

1/Depending on feasibility considerations, availability of subsidies, etc., this number could increase.

 This question does not have to be resolved in this report, since it is a legal issue as much as it is a planning question. It will, however, have to be addressed by Cranbury Township in its compliance program, at the appropriate time.

In closing, we believe that the Township report and the Caton report represent, separately and together, a highly desirable movement toward the achievement of fair share goals in Cranbury Township. With the modest adjustments recommended in this report, we believe they represent the basis for an outstanding Mount Laurel program, balancing the goal of decent housing for all with important and complex planning goals.