

U L v. Carter.

1984

Plainsboro

Consent Order (proposed)

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SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION-MIDDLESEX COUNTY

URBAN LEAGUE OF GREATER  
NEW BRUNSWICK, et al.,  
  
Plaintiffs,  
  
vs.  
  
THE MAYOR AND COUNCIL OF  
THE BOROUGH OF CARTERET,  
et al.,  
  
Defendants.

Docket No. C 4122-73  
Civil Action

CONSENT ORDER

This matter having been opened to the Court by the undersigned attorneys for the plaintiffs and having been remanded for trial by the Supreme Court on the issue of fair share allocation of the regional need for low and moderate income housing and on whether Plainsboro

Township has complied with the mandate to satisfy its fair share allocation by providing a realistic opportunity for the development of such housing and it being represented to the Court that the parties agree to the following:

NOW, THEREFORE, it is this \_\_\_\_ day of \_\_\_\_\_, 1984, ORDERED AND ADJUDGED:

1. Plainsboro Township's fair share of low and moderate income housing need through 1990 is 575 units.

2. Subject to the provisions of paragraph \* below, the Township's fair share shall be met as follows:

a. 125 units of newly constructed senior citizen housing, for low-income households.

b. 60 low income units and 60 moderate income units within the existing Forrestal Village development, which will be restructured on either a sale or rental basis to ensure that the units remain affordable to low and moderate income families.

c. 40 newly-constructed low income sale units within the Princeton Meadows development.

d. 228 units of moderate income housing and 60 units of low income housing within the existing Princeton Meadows development, which will be restructured on either a sale or rental basis to ensure that the units remain affordable to low and moderate income families.

e. 2 units credited because of rehabilitation since 1980 of substandard housing within the Township of Plainsboro occupied by low and moderate income households.

3. Forthwith, but no later than September 30, 1984, the Township of Plainsboro shall adopt an affordable housing ordinance.

a. Eligibility. For purposes of this ordinance, the appropriate housing region shall be the eleven counties specified in the court-appointed expert's final report of April 2, 1984; low income shall be defined as no more than 50% of the median income of this eleven county region; moderate income shall be defined as between 50% and 80% of the median income of this eleven county region; the definitions of low and moderate income shall be adjusted for family size; and median income for the eleven county region shall be determined annually using data published by the United States Department of Housing and Urban Development.

b. Affordability. This ordinance shall also provide that affordability is determined by the monthly cost of shelter as a proportion of household income, adjusted for household size. For sales units, monthly costs including mortgage principal and interest, taxes, insurance and condominium fees must not exceed 28% of income. For rental units, the sum of contract rent and utilities must not exceed 30% of income. In addition, in order to insure that both low and moderate income units are affordable by a range of households within each category, the income ceiling in each category must be set at no

higher than 90% of the maximum income in that category. A sample affordability table, based on 1983 data for Plainsboro Township, is attached hereto as Exhibit \*.

c. Alternate standards. The ordinance shall further provide that if any portion of Plainsboro Township's fair share need is met through use of a federal or state subsidy program, the eligibility and affordability standards of that program may be substituted for those specified in the ordinance, provided that the subsidy program is generally designed to assist households of low or moderate income, rather than higher-income groups.

d. Period of controls. The ordinance shall further provide that all low and moderate income units covered by this agreement shall be subject to appropriate occupancy, re-rental or re-sale controls, by means of lease or deed restrictions or otherwise, for a period of thirty years from the date of first occupancy after such controls are instituted, in order to assure the continued affordability of these units. Exceptions from these restrictions may be provided for in the case of foreclosure and resale by the lender after foreclosure, and also to conform to the control period fixed by any subsidy program referred to in paragraph 3(c) above, when the housing units have been financed through such program.

e. Affordable housing agency. The ordinance shall further establish an appropriate mechanism to determine eligibility for the low and moderate income units covered by this agreement, and to moni-

tor their continued affordability. This mechanism may not be controlled by any private developer, but the Township may contract to have this function provided by an external public or private non-profit entity rather than establishing a separate local agency.

f. Affirmative marketing. The ordinance shall further provide that the availability for sale or rent of any low or moderate income housing units covered by this order shall be made known to a variety of public and private housing agencies concerned with expanding housing opportunities and shall be advertised in appropriate ways in the urban core areas of the eleven county region. The ordinance shall provide for conformity with all state and federal non-discrimination obligations.

4. Senior Citizen Housing.

a. Forthwith, but no later than July 1, 1984, the Township shall by resolution of its governing body identify one of the following \* sites as the location for 125 units of low income senior citizen housing:

<u>Block/Lot</u>	<u>Size</u>	<u>Owner</u>	<u>Map #</u>
11/10.09	24.17 acres	Linpro Company	1
5/21.01	22.89 acres	Pollera	2
5/23	19.01 acres	Bowers Dev. Co.	3
5/22	17.78 acres	Bowers Dev. Co.	4
6.16/24.01	17.26 acres	Cooper	5

15/16.01	35.90 acres	Walker Gordon	6
10.01/13.07	6.09 acres	McCarthy	7 →
10/12	43.60 acres	McCarthy	8

These sites are identified as Sites 1 through 8 on the map of the Township of Plainsboro which is Exhibit \*. Thereafter, but no later than December 1, 1984, all necessary rezoning for the site selected shall have been completed.

b. Forthwith, but no later than July 1, 1984, the Township by resolution of its governing body shall commit itself to making an application for federal funding under the Section 202 program, and to pursue all recourse to see that the project gets funded through this program or through any other available state or federal housing subsidy program. Thereafter, but not later than December 1, 1984, the \$202 application shall have been completed and filed with the appropriate offices. By the same date, the Township shall also insure that an appropriate non-profit entity has been established or identified to apply for and receive state or federal subsidy funds.

c. Forthwith, but no later than July 1, 1984, the Township, by resolution of its governing body, shall commit its 1984-1985 Community Development Bloc Grant allocation, which is expected to be \$25,300, toward the expenses of preliminary development of this senior citizen housing.

d. If appropriate funding for at least 125 senior citizen units has not been secured by July 1, 1987, the fallback mechanism of paragraph (\*) below shall be invoked.

tion of the existing Forrestal Village development to condominium ownership in order to provide 60 units of low income and sixty units of moderate income housing for sale to eligible households.

a. Forthwith, the Township shall undertake negotiations with Princeton University with respect to the refinancing of this development, in accordance with the outline of agreement which is attached hereto as Exhibit \*. However, the Township's obligation to assure provision of these 120 units of housing is independent of any agreement with Princeton University and also of any specific method of financing that may be agreed to.

b. Paragraph (6) of Attachment B shall be modified in any agreement that is reached so that the only households having priority are existing tenants who meet the income guidelines of paragraph 2 of this consent order.

c. If the Township is unable to reach satisfactory contractual agreement with Princeton University with respect to the financing of Forrestal Village or to initiate condemnation proceedings by December 31, 1984, the fallback mechanisms of paragraph (\*) below shall be invoked.

d. If all statutorily required approvals for conversion have not been obtained by July 1, 1985, so that sale of units to eligible households can begin immediately thereafter, the fallback mechanisms of paragraph (\*) below shall be invoked.



b. Princeton meadows. The Township shall effectuate the creation of 40 units of newly constructed sale housing for low income households, and 288 units of existing housing which will be restructured to become affordable to low and moderate income households on either a sale or a rental basis.

a. New Construction. Forthwith, but no later than September 30, 1984, Plainsboro Township shall amend its zoning ordinance with respect to Lot , Blocks . This amendment shall permit at least 40 units of the Princeton Meadows subdivision affordable to low income households on a purchase basis. If this deadline is not met, or if construction shall not have begun on these units by December 31, 1986, the fallback mechanisms of paragraph (7) below shall be invoked.

b. Existing housing units. Forthwith, the Township shall undertake negotiations with the Linpro Company with respect to 288 units of existing housing owned or managed by Linpro in the Princeton Meadows development, in order to provide 228 units that are affordable to moderate income households and 60 units that are affordable to low income households. If the Township is unable to reach satisfactory agreement with the Linpro Company or initiate condemnation proceedings by March 1, 1985, the fallback mechanisms of paragraph (7) will be invoked. However, the Township's obligation to assure provision of these 288 units of housing is independent of any agreement with Linpro Company and also of any specific method of financing that may be agreed to.

c. Condominium conversion option. The sale of units to be negotiated with the Linpro Company pursuant to paragraph 6(b) may be provided by conversion to condominium ownership. If this is done, all statutorily required approvals for conversion shall be obtained no later than Sept. 30 1985, so that sale of units to eligible households can begin immediately thereafter. Failure to meet this deadline shall invoke the fallback mechanisms of paragraph (7) below, unless the Township shall have complied with the alternate provisions of paragraphs 6(e) and (f) below. If possible, more than one section of the Princeton Meadows development shall be converted to condominium ownership so that the low and moderate income households can be dispersed within the Princeton Meadows community to the maximum extent feasible.

d. Forthwith, but no later than September 30, 1985, the Township shall apply for FmHA subsidies for some or all of the low income sales units to be provided within Princeton Meadows, but the obligation to provide these units is not dependent upon such financing being available, and these subsidies are not specifically targeted for either the newly constructed or converted low income units.

e. Rental option. In lieu of condominium conversion of the 288 units specified in paragraph 6(c) above, the Township may seek to reach agreement with the Linpro Company by March 1, 1985, to preserve an equivalent number of units as rental housing, dispersed as widely as possible throughout the entire Princeton Meadows complex. If this

mechanism is used, all 200 units may be maintained as moderate income units without changing the other components of the low/moderate income mixture specified in this order.

f. If the 288 Units of rental housing specified in paragraph 6(e) are provided, the Township shall adopt, no later than July 1, 1985, a mechanism obligating it to use whatever powers are available to it, including direct subsidization if necessary, to insure that these units remain affordable to moderate income households. If the rental option permitted by paragraph 6(e) is chosen but rental units have not been brought under suitable controls by July 1, 1985, or if at any time thereafter the affordability of the units is not maintained, the fallback mechanisms of paragraph (7) shall be invoked.

7. Fallback mechanisms. In the event that the undertakings covered by paragraphs (3), (4), (5) and (6) above are not completed, this paragraph provides an alternate mechanism for remedying the unmet portion of the Township's fair share obligation.

a. Before this paragraph is invoked, the parties by mutual agreement may permit reasonable extensions of deadlines or reasonable modification of the terms of the agreement.

b. When this paragraph is invoked, the matter will be referred immediately to the Court, which shall order alternate remedies as a means of achieving the unmet portion of the Township's fair

share obligation. The Court shall in its discretion refer the case to a master for his or her recommendation, but in no event shall the issues of fair share number or of initial non-compliance be reopened in these proceedings.

c. Under appropriate circumstances, the master shall first attempt to recommend a solution which preserves the remedial approaches set forth in this agreement, but the master shall not be required to do so. In particular, the master is not bound to recommend senior citizen housing, or condominium conversion, or use of existing rental housing if those approaches are unfeasible.

d. If the master should recommend appropriate rezoning of additional land in Plainsboro with a 20% set-aside for low and moderate income housing, the sites listed for new senior citizen housing in paragraph 4( ) above shall be presumptively appropriate for rezoning to meet any portion of the Township's obligation, not only that portion initially intended to have a senior citizen restriction, but this agreement shall not preclude the master recommending other sites for rezoning if they are more appropriate under then-existing circumstances.

f. Should any of the mechanisms provided in this paragraph be invoked, the distribution of low and moderate income units within an alternate housing development shall be such that, as nearly as practicable, an overall proportion of fifty percent low income and fifty percent moderate income within Plainsboro's fair share is maintained.

8. Forthwith, but no later than September 30, 1984, the Township shall adopt an ordinance requiring that in any residential development subsequently approved by the Township that permits a gross density of 4 or more units per acre, whether pursuant to a zoning amendment, conditional use, variance, or otherwise, 10% of all housing units in such development must be affordable to households of low income and 10% must be affordable to households of moderate income, as defined herein. This ordinance is attached as Exhibit \* and made a part hereof.

9. Plainsboro Township shall report in writing to the Court and to Plaintiff Urban League or its designee when each of the actions specified in this Consent Order has been taken. In addition, the Township shall report annually in writing to the Plaintiff Urban League or its designee, on July 1 of each year beginning July 1, 1985, the number of low and moderate income units subject to the controls specified in paragraph (2) above, with such supporting information as shall permit monitoring of the Township's continuing compliance. To assist the Urban League or its designee in carrying out this monitoring function, the plaintiffs may apply to the Court for an order requiring that the Township make a one-time contribution of \$15.00 per low and moderate income unit to the Urban League, earmarked solely for monitoring purposes within Middlesex County, and the entry of this Consent Order may not be set up in opposition to such an application.

10. Provided that all actions required as of October 1, 1984 shall have been taken and certified as provided in paragraph (9) above, an

Order of Compliance respecting Plainsboro Township shall be entered and shall be valid and binding for a period of six years from October 1, 1984, subject to any of the fallback mechanisms set forth in paragraph (7) above.

EUGENE D. SERPENTELLI, J.S.C.

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

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of Plainsboro

The National Committee Against  
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