

UL v. Carteret (Plainsboro)

10 May 1988

proposed Consent Order for Plainsboro Twp
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May 10, 1988

The Honorable Eugene D. Serpentelli
Judge, Superior Court
Ocean County Court House, CN 2191
Toms River, NJ 08754

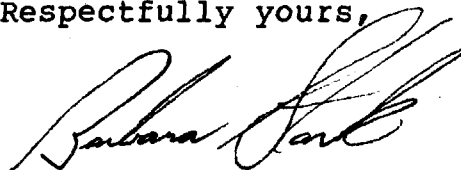
RE: Urban League, et al. v. Carteret, et al. (Plainsboro)

Dear Judge Serpentelli:

Enclosed please find, pursuant to Your Honor's request, original and copy of duly executed Consent Order in connection with the above matter. The enclosed Order incorporates some changes suggested by the Court-appointed Master, Carla Lerman, and a copy has been sent to Ms. Lerman with the request that she forward her recommendation directly to the Court.

If the enclosed Consent Order meets with the Court's approval, please advise as to a date when we may appear before Your Honor to finalize this matter.

Respectfully yours,



encls

cc/Joseph Stonaker, Esq.
Carla Lerman, Master
C. Roy Epps, President
Civic League of Greater New Brunswick

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May 10, 1988

Ms. Carla Lerman
413 West Englewood Avenue
Teaneck, NJ 07666

RE: Urban League, et al. v. Carteret, et al.

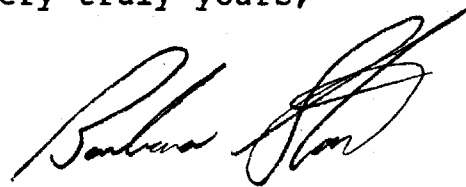
Dear Ms. Lerman:

Enclosed please find Consent Order in connection with the above matter. As you will note, the third paragraph on page 2 and the schedule set forth at paragraph 3(f) have been revised pursuant to your suggestions.

If the enclosed Order now meets with your approval, please advise the Court accordingly at your earliest convenience. We have requested a date from the Court to enter the settlement on the record and we are hoping that it will be set down within the next few weeks.

Please telephone me if you have any questions or comments.

Very truly yours,



encls

cc/Joseph Stonaker, Esq.
C. Roy Epps, President
Civic League of Greater New Brunswick

MARKED - UP
COPY

STONAKER AND STONAKER
41 LEIGH AVENUE
PRINCETON, NEW JERSEY 08540

(609) 921-2155

ATTORNEY FOR

Defendant Plainsboro Township

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al.,

Plaintiffs,

v.

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

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN COUNTY

NO. C 4122-73

CIVIL ACTION

CONSENT ORDER
FOR PLAINSBORO TOWNSHIP

This matter having been brought to the Court by motion of the parties by their attorneys, who have signed a proposed Consent Order which the Court has reviewed and approved;

Now, therefore, it is this day of _____ 1988, ordered and adjudged:

1. REASON FOR CHANGE IN 1985 CONSENT ORDER..

a) Plainsboro Township on July 30, 1985 agreed by Consent Order to provide 575 units of low and moderate income housing through 1990. Changes in the Internal Revenue Code

and decisions on the legality of the Housing Trust fund, have called into question the Township's ability to provide that number of units. The main thrust of the July 30, 1985 Consent Order was to provide the units without resort to the builders' remedy in a municipality that already had thousands of residential units. Plainsboro Township agreed to the 575 units because it had at the time means other than the builder's remedy to provide these units, It was contemplated 413 units would be constructed using private monies which because of changes in the Internal Revenue Code are not available on the same basis to fund the project.

In addition the Consent Order provided for 120 units of housing to be provided by funds from the Housing Trust Fund. At least two courts in New Jersey have held that the Housing Trust Fund is not legally enforceable. Therefore, expenditures for the 120 units have been held in abeyance.

Although the proposed number of low and moderate income units is less than formerly, the Agreement provides for ~~more~~ ^{a greater percentage of} low income housing, the units will be dispersed throughout the community, more will be rental units and this Agreement will provide three bedroom units for the first time.

2. NON-COMPLIANCE AND FAIR SHARE.

a) Plainsboro Township's obligation to provide its fair share of low and moderate income housing needed through January 1, 1993 is 350 units.

3. SUMMARY OF REMEDIAL STEPS,

The Township's fair share shall be met as follows:

a) 40 low income units in the Tamarron section of Princeton Meadows. These units have already been constructed, and all 40 units have been sold to low income persons.

b) 20 units to be provided through rehabilitation of substandard units occupied by low or moderate income households. \$10,000 shall be the minimum per unit cost necessary for rehabilitation as set forth at N.J.A.C. 5:92-11.5. The Township will supplement whatever funds may be available from the Middlesex County Program with funds from the Housing Trust Fund to achieve this objective.

c) 125 low and moderate income rental units to be constructed on a ten-acre tract to be conveyed by Linpro to a nonprofit corporation created by the Township. This tract is a part of the larger tract known as Lot 12, Block 10. Linpro has agreed to take responsibility for site planning, approvals, and construction of these units, and will sell the completed units to the nonprofit corporation. These 125 units will be equally divided between low and moderate income, and will contain a representative mix of 1, 2, and 3 bedroom units, but no less than 35% of such units shall contain two bedrooms, no less than 15% of such units shall contain three bedrooms and no more than 205 of such units shall be efficiency units, in accordance with N.J.A.C. 5:92-14.1(a)1 et seq. The nonprofit corporation is to own and administer the rental of these units.

d) 40 moderate income sales units, representing 9 % of total units, to be constructed by Linpro as a part of its development of the balance of the McCarthy Tract.

e) 25 moderate income and 15 low income sales units, representing 15% of total units, to be provided as a part of the development of the Walker-Gordon Tract, Lot 5 and Block 15, currently under option to Linpro.

f) 85 units of rental housing, ^{equally divided between} on one or more of the low and moderate income, following five sites: (1) Millstone Apartments, Block 3, Lot 6 ; (2) Wiltshier, Block 5.01, Lot 23.01; (3) Pollera, Block 5.03, Lot 21.01; (4) Wycoff, Block 6, Lot 23.02; (5) Murphy, Block 6, Lot 13; the Township with the advice and consent of the Civic League of Greater New Brunswick, shall select the sites and shall prior to ~~September 1, 1988~~ ^{February 1, 1989} have the sites selected for 45 units and prior to ~~January 1, 1989~~ ^{June 1, 1989} have the sites selected for 40 units and prior to ~~June 1, 1989~~ ^{January 1, 1990} have the housing provided.

4. HOUSING TRUST FUND.

a) The Township adopted on December 30, 1985 a Mount Laurel Housing Trust Fund ordinance a copy of which is attached hereto. Municipal ordinances substantially the same as that ordinance have been declared legally invalid by the Courts of New Jersey. Plainsboro Township has been able to negotiate with two major developers (Princeton University and Linpro) covenants not to sue (a copy of which is attached hereto and made a part hereof). and will attempt to get other developers to sign such Covenant. The Township will use these

funds to provide money for construction of new units, subsidize rental units, rehabilitation of substandard units, and write down the cost of units from moderate to low income. The covenants signed by Princeton University and Linpro will provide a minimum of approximately \$1.8 million for the Fund.

5. The Township adopted an Affordable Housing Ordinance (a copy of which is attached hereto).

6. The Township adopted 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 in the Affordable Housing Ordinance (a copy is attached hereto).

7. FALLBACK MECHANISMS.

In the event that the undertakings covered by paragraph 2 a), b), c), d) e), and f) above are not completed by the dates specified, this paragraph provides the required alternate mechanism for remedying the unmet portion of the Township's fair share obligation. 20% of the unmet portion of the Township's fair share as of the date of the motion referred to in subparagraph a shall be added to the Township's fair share as a deterrent to further delay in the provision of affordable housing. Thus, if 100 units remain unprovided at the time that motion is filed, if the motion is granted, the

Township shall be required to provide 20 additional low and moderate income units.

a. This paragraph shall be invoked by motion to the Court. Upon a finding that an undertaking covered by paragraphs 2 a), b), c), d) e), and f) above has not been completed by the date specified, the Court shall immediately order alternate remedies as a means of achieving the unmet portion of the Township's fair share obligation. The Court shall in its discretion first 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 noncompliance be reopened in these proceedings.

b. Under appropriate circumstances, the Master shall first attempt to recommend a solution which preserves the remedial approaches set forth in this Order, but the Master shall not be required to do so. The Master is specifically authorized to recommend appropriate rezoning of any additional land in Plainsboro Township with a 20% set-aside for low and moderate income housing, in his or her discretion.

c. 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, an overall proportion of fifty percent low income and fifty percent moderate income within Plainsboro's fair share is maintained.

8. Plainsboro Township shall report in writing to the Court and to the Civic League of Greater New Brunswick 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 Civic League or its designee, on January 1, 1988 and thereafter on January 1 of each year, the number of low and moderate income units being subsidized or otherwise provided as specified in this Order, with such supporting information as shall permit monitoring of the Township's continuing compliance.

9. Provided that all actions required as of January 1, 1988, shall have been taken and certified as provided in paragraph 6 above, Plainsboro Township is hereby found to be in compliance with the requirements of the Constitution of the State of New Jersey as construed in Mount Laurel II. This finding shall be valid and binding until January 1, 1993.

EUGENE D. SERPENTELLI, A.J.S.C.

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

Stonaker & Stonaker

Attorneys for the
Township of Plainsboro

BY:



JOSEPH L. STONAKER

DATE: _____

Constitution Litigation
Clinic, Rutgers Law
School

Attorneys for the Civic
League of Greater New
Brunswick

BY:

JOHN M. PAYNE
BARBARA STARK

DATE: _____