

VL v. Carteret (S. Plainfield)

June (1985)

Order re: Elder Lodge

5 pgs

CA0006400

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ATTORNEYS FOR URBAN LEAGUE PLAINTIFFS

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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.

SUPERIOR COURT  
OF NEW JERSEY

CHANCERY DIVISION  
MIDDLESEX COUNTY  
No. C-4122-73

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ELDERLODGE, INC.,  
a New Jersey Corporation,  
Plaintiff,

v.

SOUTH PLAINFIELD BOARD OF ADJUSTMENT  
BY ITS MAJORITY MEMBERS (Ronald  
Hepburn, Chairman; Carl Abbruzzese;  
Robert Horne; Carl La Ferrara;  
Cynthia GaNun, First Alternate);  
BOROUGH OF SOUTH PLAINFIELD BY ITS  
MAYOR AND COUNCIL; JOHN GRAF, BUILDING  
INSPECTOR OF THE BOROUGH OF SOUTH  
PLAINFIELD; and PLANNING BOARD OF THE  
BOROUGH OF SOUTH PLAINFIELD,

Defendants.

LAW DIVISION  
MIDDLESEX COUNTY  
No. 56349-81

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ORDER

Urban League plaintiffs having opened this matter to the Court by a motion to hold South Plainfield in contempt and for temporary restraints against any subdivision or site plan approvals, variances or issuance of any building permits with regard to property subject to rezoning for Mount Laurel compliance under this Court's Judgment of May 22, 1984, and against sale by the Borough of specified lots subject to rezoning under the Judgment, and Urban League plaintiffs having filed in support thereof Affidavits of Eric Neisser, Esq. and Barbara Williams, Esq., a Memorandum of Law in Support, and a proposed Order, and having served all parties and affected property owners or contract-purchasers in person on June 21, 1985, and the Court having heard oral argument in open court on June 24, 1985 from all parties and affected property owners and contract-purchasers who appeared,

It is hereby O R D E R E D this \_\_\_ day of June 1985 that:

1. Defendant Borough of South Plainfield is found to be in civil contempt of this Court's Judgment as to South Plainfield filed May 22, 1984, and of this Court's Order of December 13, 1984, by failing to adopt compliant zoning and affordable housing ordinances first within 120 days after June 4, 1984, and then by

January 31, 1985, and by selling municipally owned land subject to the Judgment. The Borough is directed to adopt on final reading zoning and affordable housing ordinances in compliance with the Judgment As To South Plainfield no later than Wednesday, July 3, 1985, or pay every day thereafter a fine of \$5,000. per day until final passage of such ordinances.

2. Defendants Borough of South Plainfield, South Plainfield Planning Board, and South Plainfield Board of Adjustment and all agents, employees, entities, and persons acting in concert with them are hereby temporarily restrained, pending further Order of this Court finding that the Borough has adopted zoning and affordable housing ordinances in compliance with the Judgment As To South Plainfield filed on May 22, 1984, from granting any subdivision or site plan approvals, granting any variances, issuing any building permits, or granting any other official approvals necessary for development of any site listed in the Judgment As To South Plainfield.

3. Defendant Borough of South Plainfield is hereby temporarily restrained, pending further order of this Court, from transferring title of any municipally owned parcels within Block 427 Lots 1.01, 1.02, 1.03 and 1.04, and Block 448 Lots 2.01 and

4.01 to Michael Gallo, Marshall Rinker, Gal-Ker, Inc., D. DiGian and Son Construction Co. or Tonsar Corp., or any entity in which the aforesaid have a controlling interest, from issuing building permits or any other form of approvals concerning development of any parcel in the specified lots, and from issuing a building permit to Joseph Buccellato with regard to Block 111, Lot 1.

4. Defendant Borough of South Plainfield is hereby ordered to make a municipal contribution for the development of lower income housing units equal to the amount of money necessary to subsidize the number of lower income units that would have been constructed on the land in Block 448 Lot 4.01 for which building permits for single family homes have been granted since the date of the Judgment As To South Plainfield, the exact amount of the contribution to be determined by subsequent order of this Court after submission of appropriate proofs.

5. Defendants Borough of South Plainfield, South Plainfield Planning Board and South Plainfield Board of Adjustment shall pay the Urban League plaintiffs' costs and attorneys fees for the preparation and service of this motion, the precise amount to be determined by subsequent order of this Court after appropriate submissions by the Urban League plaintiffs.

6. The attorneys for defendants Borough of South Plainfield, South Plainfield Planning Board and South Plainfield Board of Adjustment are hereby ordered to effect within 2 days of the signing of this Order personal service of a copy of this Order upon each member of the Borough Council, Planning Board, and Board of Adjustment of South Plainfield, the Mayor, Town Planner, Town Engineer, and Building Inspector and shall file with this Court within 3 days hereof appropriate sworn proofs of such service.

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