

UL v. Carteret (S. Plainfield)

28 Aug (1985)

Affidavit in opp. to S. Plainfield's motion to transfer case to council on affordable housing (9)

Exhibit A (84)

Exhibit B (27)

PI # 3015

120 pgs

CA000658V

ERIC NEISSER, ESQ.
 BARBARA J. WILLIAMS, ESQ.
 JOHN M. PAYNE, ESQ.
 Constitutional Litigation Clinic
 Rutgers Law School
 15 Washington Street
 Newark, New Jersey 07102
 201-648-5687
 ATTORNEYS FOR URBAN LEAGUE PLAINTIFFS
 On Behalf of the ACLU of NJ

SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION
 MIDDLESEX/OCEAN COUNTY

URBAN LEAGUE OF GREATER
 NEW BRUNSWICK, et al.,
 Plaintiffs,

vs.

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

Civil Action No. C 4122-73
 (South Plainfield)

AFFIDAVIT IN OPPOSITION TO
 SOUTH PLAINFIELD'S MOTION TO
 TRANSFER CASE TO COUNCIL ON
 AFFORDABLE HOUSING

STATE OF NEW JERSEY)
 : ss.:
 COUNTY OF ESSEX)

ERIC NEISSER, being duly sworn, deposes and says:

1. I am co-counsel for the Urban League plaintiffs and submit this affidavit in opposition to South Plainfield's motion under Section 16(a) of the Fair Housing Act of 1985 to transfer this case to the Council on Affordable Housing.

2. This affidavit supplements the existing record with regard to South Plainfield by: (a) documenting the actions of the South Plainfield Borough Council on July 29, 1985; (b) rebutting the inaccurate statement in Frank Santoro's

Certification of July 18, 1985 that under the Judgment As To South Plainfield of May 22, 1984: "The Borough of South Plainfield shall be required to allow for the construction of up to 4500 new residential housing units"; and (c) detailing certain other aspects of the discovery and negotiations that led to the Stipulation of May 10, 1984 upon which summary judgment was entered as well as subsequent negotiations concerning the implementing ordinances.

July 29 Council Meeting

3. On July 29, 1985, the South Plainfield Borough Mayor and Council held a public meeting to consider adoption of Ordinances No. 1009 and 1010, the zoning and affordable housing ordinances necessary to bring the Borough into compliance with the Judgment As to South Plainfield. Prior to the meeting, my co-counsel Barbara Williams informed Mr. Santoro, the Borough Attorney, that the Urban League plaintiffs considered the ordinances satisfactory to achieve compliance except for the failure to specify the block and lot numbers of the affected land in the zoning ordinance and some minor typographical errors. At the meeting, Mr. Santoro recommended to the Council that it table the ordinances pending this Court's consideration of this transfer motion. After extended discussion, the Council voted 4-2 to table both ordinances. A copy of the official transcript of the July 29, 1985 meeting of the Mayor and Council of South Plainfield, provided to plaintiffs by Mr. Santoro, is attached hereto and made a part hereof as Exhibit A.

Number of Units Required by Judgment

4. I was the attorney primarily responsible for the South Plainfield litigation from September 1983 to September 1984. For details see my Affidavit in Support of Motion to Hold South Plainfield in Contempt and for Temporary Restraints, sworn on June 21, 1985. As set forth in that affidavit, I negotiated the Stipulation between the Borough and the plaintiffs executed on May 10, 1984, which is annexed as Exhibit F to that affidavit.

5. Although the Stipulation agrees to reduce South Plainfield's fair share obligation to 900 units in light of the limited remaining vacant land, the Stipulation and, of course, the ensuing Judgment, do not require rezoning to produce 900 units. Rather, the eight sites (not seven as stated in Mr. Santoro's Certification) specifically designated for rezoning would produce only between 553 and 603 lower income units at best. These figures are derived by multiplying the stated acreage times the specified gross density and then multiplying the total resulting units by 20 percent. Moreover, because not all of the rezoning will require a four-to-one construction ratio, the new rezoning will not produce even five times the 553-603 number. The Morris Avenue senior citizen project of 100-150 units is to consist exclusively of lower income units. Thus, only the 453 lower income units on the seven other sites will be accompanied by market production, resulting in a total possible production on those seven sites of 2267 units, 1814 market and 453 lower income units. Adding in the Morris Avenue site, the

total number of units that could realistically be produced by the Stipulation and Judgment as now formulated is 2367-2417 of which 1814 would be market units and 553-603 lower income units. The calculations leading to these totals, presented in the order in Paragraphs 12-19 of the Stipulation and Paragraphs 3(A)-(H) of the Judgment, are set forth in Exhibit B.

6. The reason that the Stipulation specified a fair share number greater than the number of units for which land would be rezoned is that plaintiffs wanted to insure that the Borough would be obligated to do everything possible to produce lower income units, in the event, considered by all to be unlikely, that substantial rehabilitation or rent subsidy money were to become available, redevelopment were to occur, or significant additional land were to become available as a result of fire or demolition. It is for this reason also that Paragraphs 21 and 22 were inserted in the Stipulation and Paragraphs 3(J) and 6 in the Judgment, requiring the Borough to permit higher density multi-family development with a set-aside on any site over three acres, precluding such higher densities without a set-aside, and obligating the Borough to adopt a resolution, as yet not adopted, committing the Borough to apply for all government funding that might become available for rehabilitation of existing deficient units or for subsidization of construction or rental of new units.

7. In a telephone conversation on July 15, 1985, among other matters, I explained to Mr. Santoro that the eight sites in

the Judgment would produce only approximately 500 or 550 lower income units and that, because 100-150 of these units would be in the senior citizens project, only some 400 units would be in higher density inclusionary projects which would produce some 2000 units. I informed Mr. Santoro that the parties were aware of this at the time the Stipulation was negotiated and I explained why the higher number of 900 was nevertheless chosen. I urged him to contact Patrick Diegnan, the former Borough Attorney, to confirm these facts if not satisfied by his own mathematical calculations. Attached hereto and made a part hereof as Exhibit C are my contemporaneous handwritten notes of that telephone conversation; see circled notation on page 2.

Other Aspects of Discovery and Negotiation

8. As noted in my Affidavit of June 21, 1985, Para. 4, the defendant's assertedly "complete" listing of vacant lots in the Borough did not include certain sites later identified by the plaintiffs as a result of careful review of the tax maps and assessment rolls. Most importantly, plaintiffs uncovered what were then the two largest sites -- the 84.8 acre Harris Steel site and the 27 acre Coppola farm. James Higgins, who was the associate of Robert Rosa, the Borough's planning consultant, and Mr. Diegnan explained to me that those two sites were not on their vacant land list because they were assessed as farms and thus did not show up on the computer program they used for identifying vacant land.

9. The fair share number of 900 in the Stipulation was itself a compromise. Plaintiffs had originally proposed 1000, see plaintiffs' draft of proposed stipulation attached hereto as Exhibit D, Para. 2, but ultimately acceded to defendants' proposal of 900. See defendant's draft of proposed stipulation attached hereto as Exhibit E, Para. 2. Transcript of July 29 meeting, Exhibit A, at 57 (Mayor English).

10. Other aspects of the Stipulation were also the product of negotiation and hence of compromise. Plaintiffs did not insist on rezoning of all vacant sites over three acres, which was one of our original demands. Rather, as set forth in my letter of April 3, 1984 to Mr. Diegnan, then counsel for the Borough, we agreed "to forego the firehouse site next to Shadyside, the westernmost tip of the municipally owned Pomponio site, and some other smaller sites, which we also consider appropriate for multi-family development." Neisser Affidavit of June 21, 1985, Exhibit B, at 3. We made these concessions because Mr. Diegnan insisted that they were politically sensitive sites and that it would be impossible to get Council agreement to the Stipulation if they were included. We also later gave up the Bayberry site of 6.9 acres, Exhibit D, Para. 18, and our demand that the municipal contribution include construction of roads for the Pomponio Avenue, Universal Avenue, and Frederick Avenue sites. Id., Paras. 14-16. We also modified the general provision in Paragraph 21 of the Stipulation to make high-density multi-family use with a set-aside a permitted, rather than

exclusive, use for other sites over three acres that were then or would in the future become available within residential zones.

Transcript of July 29 Borough Council Meeting, Exhibit A, at 46.


11. In the proposed Judgment that I submitted with Plaintiffs' Motion for Summary Judgment, I asked that the Borough be given 90 days for rezoning. Exhibit F to Neisser Affidavit of June 21, 1985. However, in light of the objections of Mr. Diegnan and his request for additional time because of the limited number of Planning Board and Council meetings on the 1984 summer schedule, I agreed to his request to make the deadline 120 days. The Judgment also provided that the time would not start to run until five days after the Court-appointed expert reported to the Court. Neisser Affidavit of June 21, 1985, Exhibit H, Para. 11.

12. In late July 1984, Mr. Rosa, the Borough's planning consultant provided me with drafts of the proposed zoning and affordable housing ordinances. Although I was about to leave on vacation, I immediately contacted and extensively consulted with Alan Mallach, the plaintiffs' housing and development consultant. On the evening of July 26, 1984, I had a telephone conversation of approximately one hour with Mr. Rosa, in which I described to him in detail plaintiffs' concerns and objections and the reasons for each of them. New drafts were provided some four weeks later, on August 22nd. The remaining objections of plaintiffs were conveyed in my September 5, 1984 letter to Mr. Rosa, which was Exhibit G-2 to the Williams Affidavit of October 26, 1984,

submitted with plaintiffs' first motion for restraints concerning South Plainfield. On November 19, Mr. Rosa met with Mr. Mallach and reviewed plaintiffs' concerns. On January 23, 1985, Mr. Rosa sent the Council the ordinances with the Planning Board's recommendation for approval under protest.

13. Finally, in a letter of June 25, 1985 to Mr. Santoro, after this Court granted our motion of June 21 for temporary restraints, I requested appropriate documentation as to the ownership of the Morris Avenue site parcels, in light of our discovery that the Buccellato parcel was still privately owned. By letter dated July 26, Mr. Santoro provided a two-page inventory of Borough land sales that ended on April 22, 1985. He also explained that he had requested the chairmen of the Economic Development Committee and the Land Management Advisory Committee to provide information concerning the Buccellato site. On June 28, I wrote Mr. Santoro seeking documentation as to all Borough sales of land within lots specified in the Judgment, a written explanation and documentation of the moratorium on sale of Borough-owned land, which he told me had been imposed in April, 1985, and a written representation that no sales had occurred since April 22, 1985. On July 10, Barbara Williams, my co-counsel, after reviewing the sales inventory in detail, wrote Mr. Santoro requesting clarification of certain illegible or incomplete information. Copies of Mr. Santoro's June 26 letter and attached sales inventory, my June 28 letter, and Ms. Williams' July 10 letter are attached hereto and made a part

hereof as Exhibits F, G and H. In our telephone conversation on July 15, I again requested that Mr. Santoro provide us with the documentation as to Borough land sales, subdivisions of any lots within the Judgment, and information as to the Buccellato site. Exhibit C at 4, circled note. To date, plaintiffs have not received the requested documentation of the listed land sales, clarification of the illegible or incomplete data on the land sale inventory, verification of the reason for the inventory terminating in April 1985 and that no further sales have occurred, information concerning the Buccellato site, or information as to lots in the Judgment that have been subdivided. This information would bear directly upon the defendant's bad faith, which is relevant to this transfer motion, as well as on what modifications must be made in the Judgment for additional rezoning or municipal contributions to compensate for units lost through Borough land sales, lot subdivisions, and inconsistent development approvals. When I called Mr. Santoro's office on August 20 to inquire about this material, I was told that he was out of the office until September 3, 1985; thus, I will receive this material too late for inclusion with this affidavit.


ERIC NEISSER

SWORN TO and SUBSCRIBED
before me this 28th day
of August, 1985.

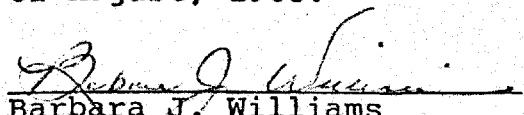

Barbara J. Williams
Attorney at Law, State of New Jersey

EXHIBIT A TO NEISSER AFFIDAVIT OF AUGUST 28, 1985

PENGAD CO., DAYTON, N.J. 07002 FORM 2044

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STATE OF NEW JERSEY - MIDDLESEX COUNTY
BOROUGH OF SOUTH PLAINFIELD
SPECIAL MEETING OF THE MAYOR AND COUNCIL

-----X
IN THE MATTER OF: :
PUBLIC MEETING
1. Adoption of Resolutions :
Numbers 1 through 10.
2. Ordinance 1009 - Final :
Reading and Public Hearing. : TRANSCRIPT OF PROCEEDINGS
3. Ordinance 1010 - Final :
Reading and Public Hearing.
-----X

Monday, July 29, 1985
South Plainfield Municipal Building
South Plainfield, New Jersey
Commencing at 8:07 P.M.

THE HONORABLE MICHAEL P. ENGLISH, Presiding
Mayor, Borough of South Plainfield

MEMBERS OF THE COUNCIL PRESENT:

- FERDINAND A. THIEL, Council President
- BERNARD J. CONLON
- ADDIE LEVINE
- MICHAEL WOSKEY
- DONALD ACRIN
- DANIEL J. GALLAGHER

APPEARANCES:

- FRANK A. SANTORO, Esq., Borough Attorney.
- WILLIAM T. DeSABATO, Borough Clerk Administrator.

JANICE M. SMITH, C.S.R.
136 Teeple Place
South Plainfield, New Jersey

I N D E X

1	2	ITEM	PAGE
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3	RESOLUTIONS 1 to 10	3
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4	ORDINANCE 1009	5
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5	ORDINANCE 1010	64
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6	<u>COMMENTS FROM THE AUDIENCE</u>	
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7	LENORE SLOTHOWER	6
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8	10 Thorton Lane	
	Piscataway, New Jersey	

9	JOSEPH MURRAY, ESQ.	
10	Westfield, New Jersey	65

11	PHILLIP GEORGE	68
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12	JOANN GRAF	73
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	1012 Maple Avenue	
13	South Plainfield, New Jersey	

14	WALTER KALMAN	76
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	232 Merchants Avenue	
15	South Plainfield, New Jersey	

16	LARRY MASSARO	77
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	3122 Woodland Avenue	
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17	JACKIE WEAVER	78
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18	327 Norwood Avenue	
	South Plainfield, New Jersey	

19	JOHN PUTRICO	79
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20	DIANE O'CONNOR	80
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21	1301 Walnut Street	
	South Plainfield, New Jersey	

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(Mayor English called the meeting to order and asked for a roll call. The roll call was taken and all Councilpersons were present. The Pledge of Allegiance and Invocation then took place.)

THE MAYOR: Ladies and gentlemen of the audience, this is a special meeting. The original intent of the meeting was to only discuss Ordinance Number 1009 and 1010, but what we are doing is because there is added work and we are in summer session and, therefore, do not necessarily meet the third and fourth Mondays, we have taken the opportunity to add on some Resolutions that we feel vital and necessary to pass tonight. Those are Resolutions 1 through 10.

The public will be given an opportunity to speak on those items. The Ordinances you will be given, because it is a final reading, there will be a public hearing and you can speak on them at that specific time.

Is there anyone in the audience who would like to discuss the Resolutions 1 through 10?

(No response.)

THE MAYOR: Seeing no one, I will close that portion of the public hearing and I call for a motion on the Resolutions.

1 MR. THIEL: So moved.

2 MR. CONLON: Second.

3 THE MAYOR: So moved by Council President

4 Thiel and seconded by Councilman Conlon.

5 Any discussion?

6 MS. LEVINE: I would like to ask one question.

7 THE MAYOR: Yes, Councilwoman Levine.

8 MS. LEVINE: On Resolution 2, I would just
9 like to ask where we are getting the \$40,000 that
10 we're going to put into that program. Where is
11 that coming out of in our budget?

12 MR. DE SABATO: It will be through the -- if
13 you notice Resolution number 7 -- not 7 but Resolu-
14 tion number 8 makes a provision for matching funds.
15 It's done through a vehicle known as an Emergency
16 Appropriation where you pay it -- where you use the
17 funds this year and raise it in full in the 1986
18 budget.

19 MS. LEVINE: So actually we're not taking --
20 let's see. The \$40,000 then will actually come out
21 of next year's budget?

22 MR. DE SABATO: It will pay for it in next
23 year's budget. We will take it out of funds that are
24 available this year.

25 MS. LEVINE: And the funds are in what

1 appropriation? A particular appropriation that is
2 just --

3 MR. DE SABATO: No, not an appropriation.
4 What we are doing is we are appropriating as an
5 emergency. We are spending money that you have which
6 you have to appropriate next year to replace it.

7 MS. LEVINE: Yes. But I am asking where are
8 we taking it out of this year?

9 MR. DE SABATO: Surplus funds. Surplus funds
10 are available.

11 MS. LEVINE: So it is coming out of the
12 surplus?

13 MR. DE SABATO: Whatever.

14 THE MAYOR: Any other discussion? Seeing
15 none, roll call, please.

16 (Roll call taken on Resolutions 1 through 10.
17 All Councilpersons vote unanimously in favor.)

18 THE MAYOR: All right. Now, Ordinance 1009.
19 Bill, if you will please read it. Not the Ordinance,
20 but the Resolution.

21 MR. DE SABATO: The title. "An Ordinance
22 amending Ordinance 1008 entitled Zoning Ordinance of
23 the Borough of South Plainfield, 1978."

24 THE MAYOR: All right. This being a Final
25 Reading, I will open this Ordinance up to the public.

1 Anyone who wishes to discuss it may do so at this
2 time. Would you please do us a favor? Simply
3 state your name and address so we can get it down on
4 the records.

5 A VOICE: I am Lenore Slothower. My address is
6 10 Thorton Lane, Piscataway, New Jersey, however,
7 at the present time I am here representing the
8 Piscataway Planning Board as an Assistant Planner
9 for the Township of Piscataway.

10 I beg your indulgence while I read a letter
11 directed to you, Mayor, and the Township Council of
12 the Borough of South Plainfield from the Piscataway
13 Planning Board.

14 "Dear Town Council of the Borough of South
15 Plainfield: Piscataway Township Planning Board has
16 directed me to attend your meeting and voice their
17 concerns to you regarding the rezoning of two tracts
18 of land in your Borough to PRD 1 status. The two
19 tracts are adjacent to New Brunswick Avenue and New
20 Durham Avenue respectively.

21 ~~"The Township of Piscataway has had a monu-~~
22 mental task before it in managing the traffic
23 travelling on New Brunswick Avenue, particularly
24 where it intersects with Stelton Road. The same
25 circulation problem has proven to be true where New

1 Durham Road intersects with Stelton Road.

2 "Because of the additional traffic which would
3 be generated by the two planned residential tracts,
4 the Borough of South Plainfield's properties, the
5 Planning Board of Piscataway Township would respect-
6 fully like to make the following suggestions to your
7 Honorable Body: 1, that you might reconsider
8 allowing 12 units per acre and you might reduce that
9 number to 10 units per acre; 2, that you might
10 consider acting with the Township of Piscataway in
11 a collaborative effort to effect road improvements to
12 New Brunswick Avenue and its intersections with
13 Stelton Road, Lakeview Avenue, and West 7th Street
14 proportionately with development of tracts adjoining
15 the roadway.

16 "This request is especially meaningful since
17 both South Plainfield and Piscataway Master Plans
18 show New Brunswick Avenue as a four lane highway.

19 "And, 3, that both the Borough of South
20 Plainfield and the Township of Piscataway act in a
21 ~~dual effort to review site plans for development of~~
22 the planned residential tracts which adjoin the
23 boundary lines of both, especially with regard to
24 drainage studies, traffic impact reports and proposed
25 road improvements.

1 "Signed, Lenore Stothower,, Assistant Planner
2 to the Planner for the Piscataway Township Planning
3 Board."

4 THE MAYOR: Thank you.

5 Is there anyone else who would like to speak
6 and discuss this Ordinance from the public?

7 (No response.)

8 THE MAYOR: Seeing no one, I will close the
9 public portion and I will call for the Resolution.

10 MR. DE SABATO: "Be it Resolved, the Mayor
11 and Council of the Borough of South Plainfield, New
12 Jersey, that Ordinance Number 1009 entitled An
13 Ordinance Amending Ordinance 1008 entitled Zoning
14 Ordinance of the Borough of South Plainfield, 1978,
15 be finally adopted and advertised according to law."

16 THE MAYOR: Ladies and gentlemen of the
17 Council, you have heard the Resolution.

18 MR. ACRIN: Excuse me, Mr. Mayor. Before we
19 vote on this I would like to get a status report
20 from the Borough Attorney in reference to the request
21 to transfer this matter to the Housing Council.

22 THE MAYOR: I thought it would be more
23 appropriate if that would be under discussion, but if
24 you want to place it now, that's perfectly fine with
25 me. Frank?

1 MR. SANTORO: Surely. You all got copies of
2 the letter received by me today from Eric Neisser to
3 Judge Serpentelli in which he asks that the motion
4 which has been filed with the Court, the motion I
5 might add that was filed on short notice and which
6 the Court has chosen not to deem necessary, which
7 means essentially we didn't get down before the
8 Judge for the Judge to decide that motion before
9 tonight.

10 As a matter of fact, as of four o'clock this
11 afternoon I still had no date from the Judge as to
12 when this motion is indeed going to be heard.

13 The letter of Eric Neisser suggests that the
14 Township of Cranbury, Monroe Township and one other
15 who have also filed similar motions for the transfer
16 be consolidated with our request and be heard
17 sometime in September.

18 With reference to the Ordinances that are
19 before the Governing Body tonight for adoption, as
20 of four o'clock this afternoon in a telephone con-
21 versation with Barbara Williams, believe it or not,
22 they passed muster; that is to say, that other than
23 some minor typographical corrections, the Ordinances
24 are in proper form for adoption.

25 I think it also becomes important at this

1 point if I were just to -- all of you have copies,
2 the Court has copies. However, many of those in
3 the audience do not have copies of the moving papers
4 that were filed. I think it appropriate to point
5 out that the motion that was filed was filed pursuant
6 to the Fair Housing Act, the much sought for
7 Legislation that the Courts have been trying for
8 for a number of years. As a matter of fact, Mount
9 Laurel I and Mount Laurel II has language that
10 indicates that the courts were really reluctant
11 to do what they had to do or what they thought they
12 had to do because the Legislature failed to act.

13 Ladies and gentlemen of the Council, as you
14 know, the Legislature has indeed acted. It is a
15 combined Senate Bill 2046 and 2334 called the Lynch,
16 Littman, Stockman Bill which was adopted by both
17 houses of our Legislature, signed into law July
18 3rd, 1985.

19 The appropriate sections of this which I
20 would like to read into the record because I think
21 they are very pertinent and I will also give the
22 individuals in the audience an opportunity to hear
23 firsthand since this new law is not really yet
24 available in most of your usual sources.

25 The first section on which our motion for the

1 transfer is based is found in Section 16, and it
2 says, and I quote: "Any party to litigation of
3 exclusionary zoning cases may file a motion with
4 the Court to seek a transfer of the case to the
5 Council."

6 Now, the Council they are referring to is the
7 Council on Affordable Housing that is in the process
8 of being set up by the Fair Housing Act. The intent
9 of the Legislature and the intent of this Legislation
10 is to allow for mediation and arbitration between
11 municipalities, the Fair Housing Council, the Office
12 of Administrative Law, the Appellate Division, and
13 the like.

14 What we have done and we could not have done
15 it before the law became effective, is to ask Judge
16 Serpentelli to allow us to go to this Housing Council
17 and have the Housing Council decide whether or not
18 the present and prospective fair share allocations as
19 contained in the May 22, 1984 Judgment are proper under
20 all the circumstances. The Judge, as I said, has
21 not given us, although I fully expect that the
22 request of the Urban League to have the matter set
23 down in September for oral argument, will more than
24 likely be honored by the Court.

25 The criteria for and by which the Housing

1 Council decides if the present and prospective need
2 in terms of least cost housing is met can be found
3 on page 6 of the original Bill, and just a couple
4 of the items which may generate some questions, and
5 if I could, I will read those sections into the
6 record. These are the criteria and guidelines the
7 Housing Council will establish to review the housing
8 element that must as a necessary procedure in the
9 step towards substantive certification of the
10 municipalities' housing plan be filed. The Housing
11 element which is developed, and there is another
12 section which has about 15 different items that a
13 municipality is to use in developing such a housing
14 element, is then reviewed by the Housing Council and
15 the following are very particularly pertinent to the
16 Borough of South Plainfield.

17 The guidelines and criteria will look at,
18 for example, "the established pattern of development
19 in the community would be drastically altered."
20 Another section of equal importance is, "adequate
21 ~~land for recreational, conversation (sic) --~~ "Conservation
22 Depends on if you want to talk. "...conservation or
23 agricultural and farmland preservation purposes would
24 not be provided." and last and by certainly no means
25 least, and I think it was just brought to our

1 attention with the first public speaker, the
2 Assistant Township Planner of Piscataway, namely,
3 "adequate public facilities and infrastructure
4 capacities are not available, or would result in
5 costs prohibitive to the public if provided."

6 Now, going back to our request and keeping
7 that in mind that the Court Order of May 22nd, 1984
8 has as its basis, as its legal basis Mount Laurel II
9 and Mount Laurel II which resulted because the
10 Legislature failed to act, now provides the
11 mechanism for the Borough of South Plainfield as
12 well as the other municipalities to have decided for it
13 the least cost housing units which would be their
14 present and prospective fair share. I think that if
15 I were to read all of the memoranda, it would take
16 a considerable length of time. I am sure most of it
17 will be covered with questions both from the Members
18 of the Governing Body and members of the audience.

19 But, needless to say, the one statement or
20 comment of Judge Serpentelli in the hearing on
21 ~~November 2nd, 1984 certainly predicted in the event~~
22 that such Legislation as the Fair Housing Act were
23 to be adopted what the most logical and natural
24 step for South Plainfield would be tonight.

25 The Court stated in that transcript on pages

1 10 and 11 -- that transcript, by the way, which has
2 been available to anyone in the Borough Clerk's
3 Office -- the Court stated that, "Rezoning under
4 Mount Laurel II doesn't prejudice the town's right
5 to appeal, seeing that the Legislature acts as it
6 should act so the Courts don't have to."

7 In a nutshell, the current motion before Judge
8 Serpentelli is exactly that. Your Honor, the
9 Legislature has indeed acted. The original basis of
10 the Judgment of May 22nd, which is in essence the
11 basis of Mount Laurel II, is no longer valid. It
12 is now time for South Plainfield to get its fair
13 share housing decided by the Council on Affordable
14 Housing.

15 So, my recommendation based upon the fact that
16 the motion is still pending and that the Court has
17 not deemed it convenient or whatever to hear that
18 motion before tonight is that you do not adopt tonight
19 but that a motion to table the adoption is in order
20 pending the return date and determination by Judge
21 Serpentelli of whether we can or whether we cannot go
22 to the Housing Council.

23 With that, any questions?

24 MS. LEVINE: Can I make a comment?

25 THE MAYOR: First of all, Mr. Attorney, I want

1 to know what the consequences would be if we do not
2 pass this within the time limitation given to us by
3 Judge Serpentelli.

4 MR. SANTORO: Certainly.

5 THE MAYOR: What are all the possible con-
6 sequences that would happen to this town?

7 MR. SANTORO: Well, for one thing, I would
8 probably have to put two more phone lines in my office.

9 THE MAYOR: I think this is a little bit too
10 serious to make fun of it. I would like to know
11 what the possible consequences are.

12 MR. SANTORO: Yes. The possible consequences
13 are eloquently set forth in the transcript that I
14 referred to before. They include among other things
15 the appointment of a Master, the Master who would
16 then look at all of South Plainfield and essentially
17 tell the Court where and how least cost housing
18 should be put in. He could shut the town down or
19 I should say in this, in this instance continue to
20 have the town shut down, i.e., no building permits,
21 ~~no site plan approvals, no subdivision approvals.~~

22 He could under other language in Mount Laurel II
23 which he also alluded to at the November 2nd hearing
24 decide South Plainfield is not zoned. It is un-
25 regulated. You can follow the usual consequences.

1 If there is no zoning ordinance and someone has a
2 single family lot, I suppose that if no appeal were
3 possible that particular individual, that property
4 owner could go and ask for a building permit to
5 put a high rise, commercial office building on a
6 10,000 square foot lot.

7 Those are some of the more important and
8 salient warnings, if you will, choices that Judge
9 Serpentelli has in the event that the town never
10 adopts.

11 THE MAYOR: How about a financial consequence?

12 MR. SANTORO: Mount Laurel II has never, not
13 even in dicta allowed for any civil penalties such
14 as what --

15 THE MAYOR: Has anyone to this date absolutely
16 refused to comply?

17 MR. SANTORO: Yes. Piscataway.

18 THE MAYOR: Piscataway has not complied?

19 MR. SANTORO: Piscataway originally did not
20 comply and then they came in with a Master and as
21 ~~I recall they went to trial and the results of that~~
22 trial, which concluded last Friday, reduced the
23 number of least cost housing units by approximately
24 one thousand.

25 THE MAYOR: Okay. Who would the Master

1 probably be?

2 MR. SANTORO: Could be Carla Lerner.. Could
3 be Alan Mallick.

4 THE MAYOR: Who has been the person that's
5 been most of the time involved with the case in
6 South Plainfield?

7 MR. SANTORO: Carla Lerner..

8 THE MAYOR: What was her original determination
9 as to how many low and moderate income housing
10 South Plainfield needed?

11 MR. SANTORO: Some thirteen hundred or so
12 as I recall.

13 THE MAYOR: I think it was 1,840 to be exact.
14 So, the Master, the Master Planner who might be
15 appointed who would probably be appointed has
16 already stated publicly because she has already
17 looked at South Plainfield at one point, she said that
18 we needed around 1,840 homes. What is the date that
19 was given by Judge Serpentelli to act upon the
20 Zoning Ordinance?

21 MR. SANTORO: July 30, 1985.

22 THE MAYOR: So if this Council does not, if
23 this Council tables the motions that are before it,
24 Judge Serpentelli may as soon as this Friday appoint
25 a Master who could come in and rezone the entire town?

1 MR. SANTORO: Subject --

2 THE MAYOR: Who could possibly declare our
3 town and in fact stated in the court case of May of
4 1984 that that was a definite viable alternative;
5 that the town of South Plainfield could be declared
6 unzoned, unrestricted, and, therefore, anybody could
7 come in and build whatever they felt like in this
8 town.

9 Also, were not some of the other consequences
10 which he stated that if that be the case, he also
11 has the right to take away any and all authority
12 of the Planning Board and the Board of Adjustment?
13 Anybody coming in for a site approval would no
14 longer have to go to them; would go to the Master
15 Planner and the courts, and if the court saw fit
16 and proper, they could issue the building permits,
17 not the Borough of South Plainfield?

18 MR. SANTORO: No, that's not correct.

19 THE MAYOR: That's not correct? That is not
20 stated in the May of 1984 transcript?

21 MR. SANTORO: It may have been stated somewhere
22 in that transcript, but Mount Laurel II doesn't
23 provide for the complete elimination of the authority
24 and jurisdiction of Planning Boards and Boards of
25 Adjustment.

1 THE MAYOR: So what you are saying, what the
2 Judge said was invalid?

3 MR. SANTORO: I am saying if the Judge intended
4 to take away the jurisdiction of the Planning Board
5 and Board of Adjustment, he was overstepping the
6 authority given him under Mount Laurel II.

7 THE MAYOR: Isn't he -- well, that's our
8 interpretation. All right.

9 Wasn't it not stated in Eric Neisser's letter
10 that he felt it appropriate and the Judge at this
11 time said that he wasn't going to discuss that, but
12 that it could be held for future discussions, and
13 that would be a \$5,000 fine per day for every day the
14 Borough does not comply with this Ordinance after
15 the date registered?

16 MR. SANTORO: The Court could award any kind
17 of judgments in any kind of cases and in this
18 particular case if he were to award a \$5,000 a day
19 fine, he would be overreaching because Mount Laurel
20 II doesn't talk in terms of civil penalties.

21 THE MAYOR: Okay. If the amendments were
22 passed tonight, would that in toto dissolve us of
23 any right to go to the Fair Share Housing Council?

24 MR. SANTORO: It would make the issue moot
25 because since we are a municipality currently

1 involved in pending litigation, such litigation being
2 of an exclusionary zoning nature, once adoption
3 takes place of a fair share housing ordinance, there
4 is no longer any need for the Court to decide whether
5 we should transfer to the Housing Council.

6 THE MAYOR: Okay. On page 10 of the
7 Legislation, line 32, "The agreement shall be entered
8 into prior to the entry of a final judgment in
9 litigation. In cases in which a final judgment was
10 entered prior to the date this Act takes effect and in
11 which an appeal is pending, a municipality may
12 request consideration of a regional contribution
13 agreement provided that it is entered into within
14 120 days after this Act takes effect. In a case
15 in which a final judgment has been entered, the court
16 shall consider whether or not the agreement constitutes
17 an expeditious means of providing part of the
18 fair share."

19 That does not give us the right to go before
20 the Fair Housing Council and ask that we be
21 developed relative to the regional plans and the
22 regional numbers?

23 MR. SANTORO: That section talks in terms of
24 a contribution to a receiving municipality under a
25 regional plan whereby a receipt of the least cost

1 housing units being completely built in the giving
2 or sending municipality, a portion in this instance
3 if 990 were the present prospective need for 1990,
4 some figure would be attributed to those numbers
5 and up to 50 percent of them could be contributed
6 to a receiving municipality.

7 But that section has nothing to do with the
8 section under which a motion is filed for requesting
9 a transfer.

10 THE MAYOR: In your motion before the Judge,
11 section 5, you have stated in the motion that,
12 "The Borough of South Plainfield shall adopt in
13 accordance with the provisions of the aforesaid
14 Fair Share Housing Act a Resolution of Participation
15 and prepare and file a housing element and fair
16 share plan within the time prescribed."

17 MR. SANTORO: That's correct.

18 THE MAYOR: Is that not stating we, therefore,
19 are in need of low and moderate income housing?

20 MR. SANTORO: No.

21 THE MAYOR: What does that do?

22 MR. SANTORO: That says that we're a
23 municipality in an exclusionary zoning suit and we
24 are asking the Council on Affordable Housing to take
25 a look at the criteria that they are going to

1 establish and determine whether or not any least
2 cost housing can be built with the ten percent
3 set asides from the viewpoint of South Plainfield is
4 basically a single family residential community,
5 it's infrastructure is completely overloaded to
6 date, there is very little area. Those are the
7 bases by which the Council on Affordable Housing
8 would look and maybe decide -- I mean, anything is
9 possible. Maybe even decide that South Plainfield
10 should not provide any least cost housing units.

11 THE MAYOR: Okay. And item 6, you said that
12 "The Borough of South Plainfield may propose to
13 transfer up to 50 percent of its fair share."

14 Is that acknowledging that we have fair share
15 housing need?

16 MR. SANTORO: That is in the event -- let
17 us suppose that the Court decides, yes, you do have
18 the right to transfer. We go to the Council on
19 Affordable Housing. We forward to them the housing
20 element. The Council on Affordable Housing comes back
21 and says X is the number of units of present and
22 prospective need.

23 At the same time as the Council on Affordable
24 Housing is considering what the numbers should be,
25 there will be municipalities contacting the Council

1 in terms of they would be willing to put in other
2 least cost housing units and be a receiving
3 municipality. Are there any municipalities interested?

4 We have preserved our right to then say,
5 okay, if the Council has decided that 900 be the
6 total number of units, we would like to enter into
7 a regional participation and pay over to the receiving
8 municipality the cost of --

9 THE MAYOR: We pay somebody else to build
10 them in their community?

11 MR. SANTORO: That's correct.

12 THE MAYOR: The Borough of South Plainfield
13 would pay somebody else?

14 MR. SANTORO: Yes. But that is not the
15 primary intent of the motion.

16 THE MAYOR: I am just saying that that was
17 stated in your motion.

18 MR. SANTORO: It is in there. I am asking for
19 it, yes.

20 THE MAYOR: Also in the two ordinances that
21 ~~are in front of us this evening, is there anything~~
22 included in the ordinance other than the senior
23 citizen complex where we are stating that we would
24 ask for a tax abatement and the land given to them?
25 Is there any other instance where we say that the

1 Borough would be responsible for giving of land, for
2 paying of sewers, for improving in any other way
3 other than the density factor?

4 MR. SANTORO: No. The judgment of May 22nd
5 from which Ordinance 1009 and 1010 were developed
6 talks in terms only of seed money with regard to the
7 Morris Avenue site. There is no requirement under
8 that Judgment nor under these Ordinances for the
9 Governing Body to look to method whereby we would
10 contribute land to anyone else to build least cost
11 housing.

12 THE MAYOR: Is there such mandatory statements,
13 set asides, abatements, et cetera, in the Legislative
14 Act?

15 MR. SANTORO: I am not sure if I understand
16 the question.

17 THE MAYOR: Well --

18 MR. THIEL: The point of order is, Mayor --

19 THE MAYOR: Excuse me.

20 MR. THIEL: Well, can I ask a question?

21 THE MAYOR: Surely.

22 MR. THIEL: What is it? Is our attorney on
23 trial here tonight? Are you asking questions -- what
24 is going on? You know, Mr. Mayor, you had this all
25 week and now you are going public and asking questions.

1 You know what -- who created this whole mess last
2 year?

3 MS. LEVINE: Excuse me.

4 THE MAYOR: No. I am not letting this get
5 any further. If we can't at a public meeting as
6 representatives of the people ask the Borough
7 Attorney questions about something we are going to
8 vote on, what is the sense of having a person such
9 as the Borough Attorney?

10 Now, Frank, if you will continue.

11 MR. SANTORO: Surely.

12 THE MAYOR: On page 9 of the new Legislation,
13 certain areas which they say a town if the Fair
14 Share Housing Council decides that we do need low
15 and moderate income housing, some of the alternates
16 which they could demand of a municipality: a
17 plan for an infrastructure, expansion and rehabilita-
18 tion, if necessary, to assure the achievement of the
19 municipality's fair share of low and moderate
20 income housing.

21 MR. SANTORO: Correct.

22 THE MAYOR: Donation or use of municipal
23 owned land or land condemned by the municipality for
24 providing for purposes of providing low and moderate
25 income housing.

1 MR. SANTORO: That's correct.

2 THE MAYOR: Tax abatements for purposes of
3 providing low and moderate income housing.

4 MR. SANTORO: That's correct.

5 THE MAYOR: Down to 8, utilization of
6 municipally generated funds towards the construction
7 of low and moderate income housing.

8 MR. SANTORO: That's correct.

9 THE MAYOR: So that this Council might, this
10 Council that is being the Fair Share Council might
11 demand of the municipality of South Plainfield that
12 they pay for some of this low and moderate income
13 housing?

14 MR. SANTORO: No. Mayor, if you look at the
15 beginning of section 11 which is on page 8, it
16 talks about in the adopting of its housing element,
17 the municipality may provide for its fair share of
18 low and moderate income housing, and then it says,
19 "In preparing the housing element, the municipality
20 shall consider the following techniques."

21 THE MAYOR: Right.

22 MR. SANTORO: So items 1, 2, 3 and some of the
23 others you have just gone over through 8 are the
24 techniques that the municipality shall consider, not
25 that the Housing Council will mandate it.

1 THE MAYOR: But that all those alternatives
2 are there if they find need for us to have, if they
3 determine us to have a need for low and moderate
4 income housing and we come up and say, well, we
5 can't decide how to do it.

6 MR. SANTORO: Yes, except --

7 THE MAYOR: Those provisions are there?

8 MR. SANTORO: Except that each of those items
9 may be mutually exclusive. For example, in preparing
10 the housing element, item number 1 could be the only
11 one need be used by the Borough of South Plainfield.
12 Rezoning for densities necessary to assure economic
13 viability of any exclusionary development, either
14 through mandatory set asides -- in essence, the
15 housing element prepared by the Governing Body would
16 set up some kind of set asides, but they don't have
17 to be 10 percent low and ten percent moderate. They
18 could be something else.

19 Again, this is not mandated by the Housing
20 Council, but these are the guidelines if you will,
21 the criteria if you will that the municipality may
22 use in developing that housing element.

23 THE MAYOR: Okay. Does anyone else of the
24 Council have any questions of the Borough Attorney?

25 MR. ACRIN: I have a statement if I could.

1 THE MAYOR: Wait a minute. We haven't made
2 the motion yet. That was just simply questions for
3 the Borough Attorney.

4 If no one else has questions for the Borough
5 Attorney, what I would like to do is you have had
6 the Ordinance. You have heard the Resolution. What
7 is the intention of the Council?

8 MR. GALLAGHER: So moved.

9 THE MAYOR: So moved by Councilman Gallagher.

10 MS. LEVINE: Second.

11 THE MAYOR: Seconded by Councilwoman Levine.

12 Now, any discussion? Councilman Acrin.

13 MR. ACRIN: Thank you, Mr. Mayor.

14 I have a prepared statement here.

15 On May 22nd, 1984 a summary judgment was
16 entered by the court of Judge Eugene Serpentelli which
17 mandated that the Borough adopt amendments to its
18 zoning ordinance that would provide for low and
19 moderate income housing. Where did the judgment
20 come from? The judgment was a direct result of last
21 ~~year's council majority that illegally authorized~~
22 the Borough Attorney to sign a stipulation agreeing
23 to build low income housing.

24 At last weeks Executive Meeting, Mayor English
25 and Councilman Gallagher stated they did not want

1 to transfer this case to the Housing Council because
2 that would mean that we are agreeing in the concept
3 of low income housing.

4 Well, Mr. Mayor, and Councilman Gallagher,
5 if you're that against low income housing, why did
6 you authorize the signing of the stipulation? Why
7 did you approach a local developer and sell the
8 Pomponio Avenue tract of land to that developer when
9 knowing that Pomponio Avenue was designated for low
10 income housing? You didn't have to sell that land.

11 I hope tonight sometime that both of you will
12 respond to those questions.

13 As we know, the total number of low and
14 moderate units is 990 within the next five years.
15 Because of the builders' remedy, 4,500 total units
16 would have to be built which is a 67 percent increase
17 in the number of residences which will mostly be
18 located on the south side of town. The impact is
19 devastating. New schools would have to be built.
20 New roads would have to be built. Municipal
21 services such as police, fire, rescue squad would
22 almost probably double, and this would all be funded
23 by a major tax increase to all the Borough residents.

24 Does all this have to be? Do the wishes of
25 some group called the Urban League have to control

1 the destiny of us and our children? Can a court as
2 one of the branches of our government deny the
3 Borough access to another agency of government even
4 when the two other branches of government have
5 mandated such access? The answer to these questions
6 is a resounding no.

7 Many of you here tonight have been directly
8 affected by the Judge's order which has virtually
9 shut down the town. Many of you until the order was
10 amended couldn't even get building permits to put
11 in pools, put on siding, put on roofs. Where did
12 the Judge get this power? He got it from the Mount
13 Laurel Decision of the New Jersey Supreme Court.
14 The entire constitutional basis for giving judges
15 the power to rezone, the power to shut down towns,
16 and the power to attempt to give the Urban League
17 everything and anything it wants because the
18 Legislature has failed to act. Well, that is not
19 the case anymore.

20 Our Legislature under the leadership of
21 ~~Governor Thomas Kean has acted. It has adopted the~~
22 Fair Share Housing Act. That means to me that at
23 least whatever Mount Laurel II was intended to
24 originally do must now be questioned in light of
25 the Fair Housing Act.

Our Attorney has advised us of the latter. The Fair Housing Act signed into law on July 3rd of 1985 will have the Council on Affordable Housing consisting of nine citizens appointed to look into what towns like South Plainfield's needs should be and how they are going to come up with the plan.

Finally, they are giving us the ability to do this on ourselves without a judge telling us we have to do it.

Through our attorney we have asked the Court as the new law says we can to transfer the matter of low income housing to the Housing Council. This unfortunately has not been decided upon yet. For whatever reasons, the Court has refused the attorney the right to argue. Hence, tonight is literally a show down, since if we adopt Ordinance 1009 and 1010, even under protest, we will never have access to the Fair Housing Act and our future and the future of our children will be the disaster that I mentioned before.

I see no other alternative but to follow the recommendations of our Borough Attorney and table the adoption of this Ordinance until the Court rules on the request for the transfer.

Thank you, Mayor.

1 THE MAYOR: Anyone else?

2 MR. CONLON: Mayor.

3 THE MAYOR: Councilman Conlon.

4 MR. CONLON: For as long as I have been on
5 the Council, we have been fighting Mount Laurel,
6 Mount Laurel II. We have been saying that the Judge
7 doesn't have any right to come in here and tell us
8 how we should run our town. We spent a lot of money
9 on attorneys defending our right to run our town.
10 This man has come in. He has shut our town down.
11 He has acted as far as I'm concerned completely
12 illegally and unreasonable.

13 We had said that we were looking for
14 legislation that would protect home rule. We now
15 have that legislation after a fashion. It may not
16 be the best, but it is something that will take it
17 out of the courtroom, take it away from a judge who
18 can be dictated by the Urban League; whatever they
19 want they get. We have an opportunity to go into the
20 Housing Council and ask that they look over South
21 Plainfield and come up with a decision. The Judge
22 has not seen fit to hear us yet or give us an
23 answer, so we are in limbo. We don't know whether
24 we are going to go in and be denied that right. If
25 we are denied the right, we have a right of appeal,

1 and the right of appeal, nothing will happen with
2 these ordinances. Nothing can happen as far as
3 building is concerned until the appeal is exhausted.

4 However, if we pass this Ordinance tonight,
5 that's the end. We have low cost housing. We have
6 a potential 4,500 more units in South Plainfield,
7 taxing our school, taxing our police force, taxing
8 everything in town.

9 I think we have a right to take advantage of
10 the Legislature's wishes. I don't think that a
11 judge has a right to take it away from us because
12 then he is really getting out of line.

13 I feel tonight the only thing we can do is to
14 table this Ordinance. If we don't table it, I have
15 no choice but to vote against it. I voted against
16 Mount Laurel last year. Council President Thiel
17 and myself, and we voted against it again. It is
18 unjust. We are taking away our right to rule
19 ourselves.

20 Thank you, Mayor.

21 ~~THE MAYOR:~~ Thank you. Anyone else?

22 MR. THIEL: Yes.

23 MS. LEVINE: Yes.

24 THE MAYOR: Council President Thiel.

25 MR. THIEL: Thank you, Mr. Mayor. My fellow

1 citizens: it's my third year that I am on the
2 Council and tonight I am telling you honestly from
3 the bottom of my heart it is a very difficult and a
4 very hard evening for me to sit here and have to
5 make a decision which I have to live with.

6 Mount Laurel II, the decision or the judgment
7 which was handed down to the Borough of South
8 Plainfield is asking for the maximum of 4,500 units
9 in the Borough of South Plainfield. At the moment,
10 the Borough of South Plainfield has approximately
11 6,100 private homes. The population is around
12 20,000 plus. We have a police force of 53 men. We
13 have a fire department, volunteer fire department of
14 55 men. We have a volunteer rescue squad.

15 We say we cannot afford to build more homes
16 and more roads. There is no room for more roads.
17 The Borough of South Plainfield cannot under no
18 circumstances take up this kind of judgment or comply
19 with this kind of judgment that Judge Serpentelli
20 demands from us.

21 The Urban League is doing it. It is something
22 unbelievable. Believe me, I came to the United
23 States in '51 and I was used to hearing things that
24 you have to do, you cannot do what you want to do,
25 and now we are told again you have to do this.

1 My fellow citizens, I can't go along with
2 this. I have to vote against it in the best interest
3 of the Borough. If Judge Serpentelli decides he
4 wants to put in a Master in the Borough of South
5 Plainfield, maybe it is one way he will find out
6 there is no such land that he is talking about to
7 put those units there. The land is not there. The
8 roads are not there. The schools are not there.
9 The police department is not there. It is not there.

10 I thank you, Mr. Mayor.

11 THE MAYOR: Anyone else?

12 MS. LEVINE: Yes, Mr. Mayor.

13 THE MAYOR: Councilwoman Levine.

14 MS. LEVINE: Thank you. Nobody up here likes
15 Mount Laurel. We all hate it, but before I tell you
16 how I am going to vote tonight I want to just read
17 number two of the transcript that came back to us
18 from Judge Serpentelli, and let me -- "Should the
19 Council not take any one of the appropriate actions
20 by the date specified in paragraph 1 above," which is
21 tomorrow, July 30th, "the Court on request of the
22 plaintiffs will appoint a Master to submit forthwith
23 a proposed compliance plan for South Plainfield for
24 the Court's immediate consideration."

25 And what that means, ladies and gentlemen, is

1 if we don't vote this in tonight, he is coming in.
2 He is going to send more than likely Carla Lerner
3 in and she has been here. It is not a case of maybe
4 she is going to come in here and she is going to see
5 that we don't have roads or we don't have anything
6 that Councilman Thiel was talking about. She has
7 been through this whole town. She knows exactly
8 what South Plainfield is all about. She was part
9 of the planning of coming up with the tracts of land
10 that were zoned and that we are talking about.

11 So, it is not that she doesn't know what
12 South Plainfield has and doesn't have in the area
13 of land. She will be back in here, and you can bet
14 that the Master Planner will be Carla Lerner or
15 anybody else he sends in here. They are going to
16 rezone this town, and not only that, they are going
17 to do and do some of the things you heard the
18 Borough Attorney talk about before, and it could be
19 anything.

20 I disagree with the Borough Attorney. I am
21 ~~not an expert in law, but he can come in and fine us~~
22 \$5,000 a day if he wants to. He is not fooling
23 around with us. This has been going on for a long
24 time, and he has called us on the carpet and told us
25 you are either going to comply. Mount Laurel is law.

1 It is not we are fighting Mount Laurel law. It's
2 already the law. And he is now doing his job and he
3 has told us we are going to do what he has told us
4 to do. We don't do it, nobody is going to be able
5 to build anything and we are going to have a whole
6 town rezoned, and as the Borough Attorney said, you
7 can see five story buildings in this town. You can
8 see trailers some place. There is a lot of ramifi-
9 cations if we don't go along with this.

10 So, I am going to vote to go along with these
11 Ordinances tonight.

12 And another comment that I want to make.
13 Councilman Acrin, I believe it was you and Councilman
14 Thiel, you both alluded to last year and who brought
15 this mess into South Plainfield. I am a little tired
16 of it, and I want it cleared up tonight also.

17 Number one, the Mayor has no vote. Okay.
18 Remember that, people. The Mayor has no vote, so
19 when something like this comes up, illegally authorized
20 the Borough Attorney, he doesn't have a vote, so he
21 didn't have anything to do with that.

22 You are referring to a stipulation. Now, as
23 far as the stipulation goes, Mr. DeSabato, you sat
24 in on every meeting that we had with Mount Laurel.
25 You were there last year when the entire Council --

1 there wasn't anybody on that Council that evening
2 that voted against the Borough Attorney going in
3 with that number. Am I correct or not?

4 MR. DE SABATO: Yes, you are.

5 MS. LEVINE: Thank you.

6 MR. THIEL: Point of order.

7 MS. LEVINE: The election is over. That was
8 last November and a lot of garbage went on about this
9 stipulation and a lot of lies, but it is about time
10 it is cleared up.

11 Nobody had a secret meeting. Nobody. The
12 Mayor and the Borough Attorney of last year did not
13 go and illegally authorize or sign any stipulations.
14 That was agreed to by every Member of the Council
15 last year and Councilman Thiel, you were on the
16 Council.

17 MR. THIEL: I never voted for it.

18 MS. LEVINE: You did. Excuse me.

19 Mr. DeSabato, did he or did he not?

20 MR. THIEL: Point of order.

21 MS. LEVINE: No, not a point of order.

22 MR. THIEL: Yes. Please --

23 MS. LEVINE: I asked this gentleman a question.

24 MR. THIEL: Mr. DeSabato is a Borough employee.

25 MS. LEVINE: He is the Borough Administrator.

1 Mr. DeSabato, would you answer my question, please?

2 MR. THIEL: You may ask for the minutes.

3 MS. LEVINE: No. I am asking the Borough
4 Administrator a question. Every time you get your
5 back against the wall, you start saying, oh, don't
6 answer this and don't answer that.

7 Mr. DeSabato, did he or did he not vote along
8 with that?

9 MR. DE SABATO: Addie, my recollection of the
10 meeting that we were discussing is that Mike, the
11 Mayor, went around the table and asked if everybody
12 was in agreement to what Patrick had suggested,
13 Patrick Diegnan, the Borough Attorney. My recollection
14 is everybody went around the table and said yes.

15 MS. LEVINE: Thank you.

16 MR. GALLAGHER: Mayor?

17 THE MAYOR: Councilman Gallagher.

18 MR. GALLAGHER: If I can just correct a few
19 misstatements that were made. I do not approach
20 developers and suggest to sell land. As Chairman
21 of Economic Development, Councilman Acrin should
22 know that developers approach Land Management and
23 the cases are brought before the Mayor and Council
24 and the land is sold at public auction.

25 The stipulation once again referred to - and

1 I am in total agreement with Councilwoman Levine -
2 it was brought before the entire Council. We voted
3 for it unanimously. The former Borough Attorney,
4 Mr. Chernin, had filed an appeal, a number of appeals,
5 and won a case under Mount Laurel II that would
6 require South Plainfield to construct 2,400 low
7 income homes.

8 As a result of the stipulation, we reduced
9 that to 990. The stipulation said simply we do not
10 zone for low and moderate income. We do not have it.
11 We find this in violation. Fine. That's a fact.
12 We will go out with your Master. We will take a
13 look at the land that we think is available. That's
14 been done. The figure is 240 now and 660 in a six
15 year need. It's 990.

16 If the stipulation did nothing other than
17 reduce that amount by 50 percent, I think it did a
18 terrific job.

19 Judge Serpentelli has given us an Order. We
20 will comply by tomorrow or he will in effect close
21 ~~South Plainfield as he has done twice.~~

22 My disagreement with the Borough Attorney,
23 we will not have a Planning Board. We will not have
24 a Board of Adjustment. They will do nothing unless
25 the Master agrees. The Master will come in and select

lots, any size.

You have heard comments such as I recommend we table this and wait for the Judge's ruling. The Judge has made a ruling. You will decide by tomorrow. I have heard a comment, I suppose we could take a one family lot and construct a high rise commercial office building on 10,000 square feet. That is not a supposition. That's a fact. Statements such as 50 percent of our need could be contributed to another community. It's got to be within your housing region. The other municipality has got to agree to accept it, and South Plainfield has got to pay for it.

Also, when you hear some of the techniques that the Fair Housing Council can impose, the statement is as such other techniques as may be published by the Council, Fair Housing Council, whatever they suggest to do.

The Judge most certainly will send in his Planner as he has done already. The Planner has finished her work. She has recommended 1,800 units in South Plainfield. We have effectively reduced that to 990 as I said.

There are no fees or fines per se in Mount Laurel, but they certainly do exist in violation of a

1 Court Order, and is spelled out very clearly: \$5,000
2 per day.

3 The Urban League has petitioned for the
4 Borough to pay all their legal fees, possibly a
5 million dollars. I have no idea.

6 They can reinstitute builders' remedies,
7 give them the land, don't tax it, bring in the
8 sewers, streets, sidewalks, curbs and any off site
9 improvements. This can be done to you.

10 As far as two branches of Government mandating
11 access to the Fair Housing Council, it has been
12 provided based on a perceived need, Yes, they did
13 act. In my opinion, they haven't done enough.

14 We have no assurance that we will get our
15 case transferred to the Fair Housing Council and we've
16 got to act by tomorrow.

17 This gentleman from the Urban League, this
18 letter from him says, "I have been informally
19 advised that several other municipalities may be
20 going this route." Absolutely nothing concrete.

21 ~~I also heard the statement that tonight is a~~
22 show down. I think that's a pretty damn poor label
23 to put on something so important as this. I have
24 people calling my home who I can't reveal. They
25 can't do construction work. Contractors have hundreds

1 of thousands tied up. They can't sell a house. This
2 is a very small example of what can be done to this
3 Borough.

4 Voting for these two Ordinances to comply
5 under protest will lift all those restrictions
6 immediately, and as stated by the Judge - it is
7 in writing and everyone has it - no low or moderate
8 income homes will be constructed until all avenues
9 of appeal have been exhausted. All. They in themselves
10 could take years to do.

11 To go to the Fair Housing Council as told to
12 us by our Borough Attorney on July 15th is an
13 admission, yes, we do need and want low income
14 housing. Please tell us where to put it and how
15 many. I don't know how in God's name we could do
16 that to the people of South Plainfield.

17 Thank you, Mayor.

18 THE MAYOR: Any other discussion?

19 MR. WOSKEY: Yes, Mayor.

20 THE MAYOR: Councilman Woskey.

21 MR. WOSKEY: Yes. There have been Members
22 on this Council, everybody talking of doom and gloom,
23 about a czar coming in here, rezoning the town, taking
24 away the zoning, allowing anybody to build anything
25 haphazardly. This is not going to happen. Towns

1 have had Masters come in and have actually had their
2 numbers reduced. Cranford is one town in particular
3 and they are also at this time looking to appeal
4 the Mount Laurel II decision and go under the
5 Legislation Act.

6 Right now Judge Serpentelli has stated the
7 reason that he is acting is because the Legislature
8 has failed to act. Well, now, a law has been passed
9 in New Jersey which states that any town that has
10 not reached the final judgment or agreement will be
11 able to go to the Housing Council and look for what
12 they think either is their fair share or no share,
13 depending on what their actual conditions of the
14 town are.

15 We have talked in the past that the Legislature
16 hasn't done anything. We said write your Legislature.
17 Well, now they have finally done something. I don't
18 see where the Court has the power any longer now
19 that there is a law in the State of New Jersey that
20 will allow a municipality to zone the way it should
21 zone. If it does not need low income housing, this
22 Council will look at it and it will come up with
23 numbers that can be agreed upon if that is the case.

24 But for a court and for the Urban League to
25 mandate that a town zoned the way they say it should

1 be zoned instead of the people of the town to zone
2 it the way the residents want it, I think that's
3 unconstitutional.

4 Also the fact that they can mandate you as
5 tax payers in this town put your money, actually
6 give your money to developers or put in roads. That
7 is dictating a town as to how they can spend or
8 utilize their money. That also is unconstitutional.
9 They cannot tell us how we can use our money.

10 I think a lot -- not a lot, but there are
11 several Members up here that are trying to paint a
12 gloomy picture when, in fact, we do have an option
13 now, and if we do not look and act on this option
14 and we act on these Ordinances as they are tonight,
15 that option is no longer available to us.

16 And for that I would have to agree with the
17 Borough Attorney's advise and to table this until
18 such time as Judge Serpentelli looks at this motion
19 that was presented to him so that we can, in fact,
20 utilize the Legislator's law which is now in effect in
21 New Jersey.

22 MS. LEVINE: Mr. Mayor?

23 THE MAYOR: I want the opportunity --

24 MS. LEVINE: Just one comment?

25 THE MAYOR: I want the opportunity to speak.

1 Everyone has had their opportunity to speak.
2 I would like to address some of the items stated
3 tonight.

4 First and foremost, I hope this evening has
5 put to bed and I would hope that lack of experience
6 or knowledge will not continue certain actions and
7 statements made by Members of the Council relative
8 to the actions taken by the Council last year. Every
9 Member of this Council knew what the stipulation
10 was of the 1984 Council. Every Member was given a
11 copy and there was only one paragraph left out,
12 and that dealt with lots that were three acres or
13 more, and in the agreement which was finalized we
14 even come out better relative to the three acre lots
15 because instead of them all being rezoned for Mount
16 Laurel, it was decided that none of them would;
17 that you would have to go before our Board of
18 Adjustment and our Board of Adjustment would decide.

19 Mount Laurel II has been with us for over
20 eleven years. It has been with every last municipality
21 that has had a growing problem or been in the regions
22 that are considered growth problems in the State of
23 New Jersey.

24 We were originally demanded to put in 2,400
25 homes. Then Carla Lerner came through, Planner,

1 Master decided we should need around 1,800 homes.
2 1,800 homes, if applied with the gloom and doom not
3 what is represented by tonight's Council, but what
4 was represented last year for three or four months
5 would have put into process the development and
6 rezoning for 9,000 homes in South Plainfield.

7 The Borough sat down with on many occasions
8 with the Urban League and had that number reduced
9 to 1,800.

10 Now, I want something very important to be
11 understood. We were not agreeing to a judgment. The
12 judgment had already come down. South Plainfield
13 was in violation of the constitutionality of not
14 having fair and moderate income housing. What we
15 were trying to do was lower the amount of homes
16 that the judgment would include. That did not in
17 any way take away our right to appeal. That's
18 exactly why these provisions and ordinances are under
19 protest this evening, so we still have the right to
20 appeal.

21 I agree wholeheartedly with Councilman Woskey.

22 I think the actions taken by the Court are uncon-
23 stitutional, but by going and agreeing to go to the
24 Fair Share Housing Council, the only difference is
25 instead of a judge telling us we need 990 homes, we

1 will have a Fair Share Housing Council telling us
2 we need 990 homes. Our argument has been for the
3 last eleven years that no one tells us what to do.
4 We should be allowed to develop ourselves, and that
5 will only be developed in a court case where we
6 declare that the motions of Mount Laurel I and II are
7 unconstitutional.

8 The premise for this legislation is that the
9 actions taken by the court were valid. By accepting
10 that you go to the Fair Share Housing Council, you
11 accept the validity that every town needs and must
12 have fair share housing provisions in their zoning
13 ordinances. I think every last person up here
14 tonight has said that they consider those actions
15 unconstitutional. Well, why are you going to agree
16 to them? That's exactly what this Council is doing.
17 It's saying, okay, the Legislature has acted. Here
18 they have acted on something that the premise that we
19 consider invalid, and we are going to go along with
20 it? Why fight for eleven years in court? Now we
21 are going to accept the premise, okay, then we
22 accept that we need fair share housing. We accept
23 that we need low and moderate income housing, and
24 instead of going before a judge, now we go before
25 a Council. What's the difference? There is none.

1 Sure they are going to say this is nine
2 members instead of a judge. We are not -- if that
3 judge comes in and says -- the Council says yes, you
4 do need 900, then what are you going to do? You are
5 going to appeal it to a higher authority. Why don't
6 we appeal it now?

7 (Yelling from the audience.)

8 THE MAYOR: Excuse me, ladies and gentlemen.

9 MS. LEVINE: That's okay. I didn't vote for
10 it.

11 THE MAYOR: Okay. The actions that are going
12 to be taken tonight by this Council may have drastic
13 lasting effects on this town. I am not talking doom
14 and gloom. I am talking about written statements.
15 We have seen in the last three weeks what the Judge
16 can do. He's closed down development. He closed
17 down all permits for a while. He could very easily
18 on Thursday go right back and close down all permits,
19 all of them, no matter what they are. He could
20 bring in Carla Lerner and to set us straight, she
21 ~~could bring back the 1,800 homes that she originally~~
22 designed for us. She could also demand that any
23 site approvals go to her, not to the Planning Board,
24 for approval. This Judge has stated publicly he does
25 not appreciate all of the items of Mount Laurel II,

1 but he is acting according to the laws of the State
2 of New Jersey.

3 There is a Councilman tonight who made
4 reference to the fact that he does not particularly
5 care for the way that the Courts are treating us.
6 None of us do. That doesn't give us the right to
7 break the law. This government was founded upon the
8 premise that if there -- if someone has infringed
9 upon your privileges, you can go to a higher court
10 and seek remedies, and that's exactly what we are
11 trying to do.

12 If this Council tonight decides to table, and
13 a Master Planner comes in, he or she can rezone every
14 last parcel of land in this Borough. This is fact.
15 I am not talking about doom and gloom. We've had
16 over a year and a half with negotiations with these
17 people. The Judge told us three weeks ago, okay, he
18 has had it. Do something. And he gave us a time
19 limitation. If we decide we are not going to do it,
20 our right to control our town is totally taken away
21 from us. And it was stated where possibly could
22 the courts continue to control us with this legislation
23 passed. Well, on page 16 of this legislation it gives
24 the courts the exclusive right to determine if a
25 municipality has been in litigation for over 60 days,

1 the Court decides whether or not we can go to the
2 Council. The Legislation gave the courts that
3 authority.

4 Stop fooling and smoke screening the people
5 of this town. Of course the Legislation gave the
6 rights to the Court to decide that. Now, if the
7 Court decides we can't go to it, we have every
8 legal right, therefore, to try to appeal the Court's
9 decision because there is an out in this, an
10 injustice performed upon the municipality.

11 But the injustice performed upon the munici-
12 pality I don't think is this Legislation. The
13 injustice performed upon this municipality is Mount
14 Laurel I and Mount Laurel II, and, and if we don't
15 file an appeal on the Judgment that was mandated to
16 us, then we're not doing what we have been fighting
17 for for the last eleven months (sic).

18 I would simply urge each and every Member of
19 this Council, if they have decided they want to table
20 this to go before the new Council, that they ask
21 themselves two questions: 1, how is the Fair Share
22 Housing Council in any way different from a judge?
23 They are both going to demand certain things of us.
24 If they don't like what we come up with, they will
25 demand we have something else. The Judge has done

1 the same thing. The problem is the time table.
2 Under the rules of this Legislation, I sincerely
3 believe that if we pass these Ordinances tonight we
4 still have every right to go before the Fair Share
5 Housing Council because it states specifically if a
6 judgment is there, you have 60 days to go to the
7 courts. All right. If the courts don't give -- to
8 go to a judge. If the judge doesn't give you what
9 you want, you can appeal it.

10 If we do not pass these zoning ordinances, who
11 is going to suffer? The town is going to suffer.
12 We're going to lose our right to govern ourselves,
13 and any person here on this Council that cannot state
14 unequivocally tonight that the Judge does not have
15 the authority to do that, please state it in front
16 of all these people in the audience. I don't want
17 people in the audience leaving this courtroom
18 believing that, okay, we tabled it. We are going to
19 go to the Fair Share Housing Council and nothing
20 can be done to us, because that's not true.

21 ~~Lastly, this has been inferred by a Member~~
22 of this Council that on a number of occasions this
23 Mayor sought out someone to buy land, to build low
24 income housing. As a politician and as a political
25 figure you accept people being able to say whatever

1 they want to say about you. That's part of the game.
2 I want to state publicly for the last time, no one
3 on this Council -- excuse me. Especially the Mayor,
4 has never sought out anyone to buy any piece of
5 property, to conform with Mount Laurel II, and all I
6 think that is is someone trying to sensationalize
7 yellow journalism headlines instead of talking about
8 the issues that are real, the issues that are written,
9 the issues that will affect every last person in
10 this town come tomorrow morning.

11 Let's start talking about, all right, Thursday.
12 Here comes a Master Planner. What does our Building
13 Inspector do? Is he allowed to issue permits? No.
14 Are we allowed to build single family homes so that
15 people can move into them? No. Might the Judge take
16 away the permits that he has given us as far as
17 alterations to homes? Yes. Might the Judge accept
18 Eric Neisser's statements that he wants \$5,000 a day?
19 And what is the \$5,000 a day for? Because Mr. Neisser
20 is saying it is because of our zoning we are precluding
21 low and moderate income families from living here.
22 They, therefore, have to live somewhere else. They,
23 therefore, should receive damages for them living
24 somewhere else. He wants \$5,000 a day. I am not
25 saying he gets it, but the Judge can give it to him

1 until we rezone.

2 Can the Judge make us pay for the legal fees
3 of the Urban League? Yes. I know and you know what
4 the cost of this has been to the Borough of South
5 Plainfield. It's in the hundreds of thousands of
6 dollars. Double it because that's what we would have
7 to pay to the Urban League.

8 Tabling this tonight and saying we're going to
9 the Fair Share Housing Council in no way stops the
10 Judge from doing what he can do. If this was last
11 year at this time I would advise this Council to take
12 the bet. Let's try to postpone. Let's work this
13 as long as we can. That game is over with. This
14 Legislation doesn't help us. This Legislation only
15 accepts the fact that what the Supreme Court declared
16 that zoning ordinances that don't allow for fair
17 share housing are unconstitutional is valid and works
18 from that premise. Not one Member of the Council
19 has stated that yet tonight.

20 The time has come to stop playing, to stop
21 postponing, and to do what is in the best interest of
22 this Borough. We are not building any homes. This
23 is being -- the amendments under protest are going
24 to be appealed by this Council to higher authorities.
25 While that is being done, not one single home will be

1 built in this town for low and moderate. Those are
2 not my words. Those are the words down by Judge
3 Serpentelli in the transcript. We were the first
4 community to get that committment out of him. That
5 was all part of the stipulation that people feel was
6 illegal or not accepted by all the Council Members.

7 Any other comments?

8 MR. WOSKEY: Mr. Mayor?

9 THE MAYOR: Yes, Councilman Woskey.

10 MR. WOSKEY: Yes. You have stated that our
11 original need for low and moderate income was 2,400
12 units which was reduced back to 1,800, and it is
13 stayed at 1,800 it would mean with the ten percent
14 set asides a total of 9,000 additional units that
15 would be required in South Plainfield. Well, for
16 all I care he could make that 20,000 because we are
17 going to have a hard enough time to put the 4,500
18 units on the vacant land that is in town right now.
19 To increase these numbers, the reason why they
20 decreased it was because, in fact, they knew that
21 ~~this amount of units could not be built in South~~
22 Plainfield. South Plainfield is just not big enough
23 to handle nor do they have the vacant land available
24 for that number of units.

25 The only way that those units could be built

1 is with the ten percent set asides because no
2 builder will build it unless he is going to make a
3 profit, and in that case that's why the ten percent
4 set asides came about. The worse we will ever do is
5 what we have right now. If the Judge came in with
6 the Master, most likely if anything he would go with
7 these two Ordinances along with the zoning that is
8 set up right there now.

9 This town will not accept because of the
10 geography additional units in this town. I think
11 these numbers are just being put put to scare the
12 people of the town when, in fact, it is not possible.

13 Thank you, Mayor.

14 THE MAYOR: Councilman Woskey, just for a point
15 of information, this town can accept a lot more than
16 the units that were called for. Don't kid yourself.
17 We went around, Bill went around with one of the
18 Planners, right, Mr. Administrator?

19 MR. DE SABATO: Yes.

20 THE MAYOR: And so did our Planner and large
21 ~~portions of certain areas like on the south side or~~
22 on the north side near the lake, et cetera, we told
23 them there were no sewers there; you can't build
24 there. All right. We told them no, you can't build
25 on New Brunswick Avenue. That is all a waterway.

1 Don't kid yourself. This town can with high density
2 accept a lot more homes. He can go into an area
3 such as Gary Park and say okay, I now zone this so
4 that you can build 12 units on an acre of land. And
5 they can be built. There are homes there. They can
6 be torn down. People can decide to tear them down
7 and build 12, 15 units on an acre of land. This is
8 not just for existing vacant land. We are talking
9 about someone coming in and rezoning all of South
10 Plainfield. They can turn around and rezone one of
11 the vacant factories and say, okay, let's make that
12 an apartment complex, and put four, 500 people in it.
13 They can do a lot more than what we were able to get
14 them down to at 900, 200 immediate and 990 total.
15 Believe me, Michael. If you were there and saw all
16 the parcels that the Planner came up with, and we
17 said, oh, this couldn't be done because there is no
18 sewers there, this can't be done because it is wet,
19 this can't be done because there is no roads there.
20 All right. We snowed them down to 900. They can
21 come back and rezone the entire town and at that
22 point we don't have the option of snowing them anymore.
23 We don't have the option of sitting down and talking
24 with them. There will be a Master and a mandate.

25 MR. CONLON: Mayor, a question.

1 THE MAYOR: Yes, Councilman Conlon.

2 MR. CONLON: You alluded to approving this

3 under protest and with an appeal nothing would

4 happen. Where is the appeal?

5 THE MAYOR: I would direct that we immediately

6 appeal not only this Judgment to the Federal Court

7 System on the premise that we do not feel that the

8 legislation that was passed is constitutional because

9 it's based upon Mount Laurel II Judgment. It's

10 based upon the concept that they have the right to

11 tell a town it needs a fair share low and moderate

12 income zoning amendments, and I say and we have all

13 said that we don't need it.

14 So, we don't -- just because this legislation

15 was passed doesn't mean that we can't challenge it

16 also.

17 MR. CONLON: Wasn't it one of our reasons to

18 go to the Federal Court the separation of powers;

19 that we said that the Court couldn't tell us what to

20 do? Now we do have the legislation.

21 THE MAYOR: But the legislation is based upon

22 the premise that what the Supreme Court did was valid

23 and constitutional and we are saying that that is

24 invalid, and that would be another alternative for us

25 to go to the Supreme Court. That just opens up

1 another avenue for us to fight this.

2 MR. CONLON: Well, I have to disagree with
3 you. As far as avenues of appeal in the Federal
4 Court, what happened at Holmdel? The Mayors' Task
5 Force? Nothing happened there, right?

6 THE MAYOR: They went to one court. They are
7 not stopped.

8 MR. CONLON: Well, they are pretty dead in the
9 water right now I think.

10 THE MAYOR: They are pretty dead in the water
11 because there has been no one willing to challenge it.

12 MR. CONLON: Nothing has been happening as
13 far as the appeals are concerned. Appealed it to
14 the Supreme Court. It said no.

15 THE MAYOR: Exactly.

16 MR. CONLON: The Federal Courts, we have
17 separation of powers. We don't have that separation
18 of powers anymore. The Legislature has acted.

19 THE MAYOR: And acted in our view in an illegal
20 and unconstitutional fashion.

21 ~~MR. CONLON: Your view.~~

22 THE MAYOR: Well, the premise, therefore,
23 Councilman Conlon, is you believe that every last
24 municipality should be dictated to by the Legislature
25 and said that you must have a fair share housing plan

1 in your zoning ordinance.

2 MR. CONLON: No, I don't.

3 THE MAYOR: That is exactly what this says.
4 That is exactly what, if I am not incorrect, is in
5 a resolution in the motion.

6 MR. CONLON: The Legislature is saying that
7 they will give us an opportunity to go to them and
8 they will decide if there is a need in a municipality
9 for fair share housing.

10 THE MAYOR: The motion says that the motion
11 that was supplied by our attorney to the Court dated
12 July 18, article 5, "The Borough of South Plainfield
13 shall adopt in accordance with provisions of the
14 aforesaid Fair Housing Act a Resolution of partici-
15 pation and prepare and file a housing element and
16 fair share plan within the time prescribed."

17 This motion, therefore, states that we agree
18 that the concept that the Legislature has the right
19 and this Bill has the right to tell us we must have
20 a fair share housing plan is constitutional, and we
21 are accepting it.

22 MR. CONLON: We have argued that we wanted
23 to be able to dictate our own terms, and this is just
24 what the Housing Council is allowing us to do. If
25 we go into the Housing Council and say we only need

1 100 units, they look at it, approve or disapprove
2 it. That may be --

3 THE MAYOR: And what happened?

4 MR. CONLON: At least you have a choice, and
5 this is what we have been arguing about right along.

6 THE MAYOR: And Councilman Conlon, what
7 happens in the next month if the Judge brings in a
8 Master and rezones this town and does not allow any
9 building except for that which is in accordance with
10 Mount Laurel II?

11 MR. CONLON: The Judge has said that the
12 Legislature should act. Now they have acted, and
13 now I believe that he will --

14 THE MAYOR: He has --

15 MR. CONLON: -- allow us to --

16 THE MAYOR: I am sorry. He has already stated
17 in the paper. He is not going to look at this until
18 the end of August. Why? He wants to see what we
19 are going to do. Let's stop this. That letter by
20 Neisser and that letter by the Judge is telling us,
21 hey, I am not going to let you fool around with this
22 anymore. If you don't act on this, you will suffer
23 the consequences. He could very easily said last
24 Tuesday, okay, come on in. I am going to listen
25 to this and decide whether or not to let you go to

1 the Fair Share Housing Council. He didn't. He told
2 us I am going to wait until -- let's not make it a
3 short notice. We are going to make it a longer
4 notice. I want time to look at this. The time to
5 look at it is to see what this Council is going to
6 do.

7 MR. CONLON: Well, regardless, Mayor, if we
8 pass this Ordinance tonight, we have a Zoning
9 Ordinance. There is no appeal. There has been no
10 appeal prepared. We act tonight, it is acted.
11 That's it. It is all over with. No Housing Council,
12 no nothing.

13 THE MAYOR: This is not open to the public.
14 I ask --

15 A VOICE: Break tradition, please.

16 THE MAYOR: No, no. I asked if there was any
17 comment from the public and there was none.

18 A VOICE: We didn't know what you all were
19 thinking.

20 THE MAYOR: No, no.

21 A VOICE: We would like an opportunity to
22 speak.

23 THE MAYOR: There is no comment from the
24 public.

25 Anyone else?

1 MR. CONLON: That is all, Mayor.

2 THE MAYOR: I have a Resolution on the floor.
3 Motion on the floor to adopt the Resolution. I
4 think if there is a need, there is another motion.

5 MR. THIEL: I have a motion to table Ordinance
6 1009 until we hear --

7 MR. CONLON: And 1010.

8 MR. THIEL: -- any response from Serpentelli
9 on our request to transfer our action to the Council
10 of Affordable Housing.

11 THE MAYOR: I have a motion. Is there a
12 second?

13 MR. ACRIN: Second.

14 MR. CONLON: Second.

15 THE MAYOR: Seconded by Councilman Acrin.
16 Any discussion?

17 Before I call for the roll, I will state
18 here publicly, I am not in accordance with what this
19 Council is doing tonight. I will not accept
20 responsibility if a Master comes in and rezones this
21 town. And I will state the same to the Judge.

22 All right. Bill, the roll.

23 MR. DE SABATO: On the motion to table. Mr.
24 Acrin?

25 MR. ACRIN: Yes.

1 MR. DE SABATO: Mr. Conlon?

2 MR. CONLON: Yes.

3 MR. DE SABATO: Mr. Gallagher?

4 MR. GALLAGHER: No.

5 MR. DE SABATO: Mrs. Levine?

6 MRS. LEVINE: No.

7 MR. DE SABATO: Mr. Thiel?

8 MR. THIEL: Yes.

9 MR. DE SABATO: Mr. Woskey?

10 MR. WOSKEY: Yes.

11 THE MAYOR: Bill, can I have a Resolution
12 for Ordinance 1010?

13 MR. DE SABATO: "Be it resolved, the Mayor
14 and Council of the Borough of South Plainfield, New
15 Jersey, that an Ordinance 1010 entitled Affordable
16 Housing Ordinance of the Borough of South Plainfield
17 be finally adopted and advertised according to law."

18 THE MAYOR: Someone please make a collateral
19 motion to that?

20 MR. DE SABATO: A public hearing, Mayor.

21 THE MAYOR: I am sorry. This is an ordinance
22 that is up for final reading and at this time I will
23 open it up to the public.

24 Anyone who wishes to discuss this ordinance
25 which deals with affordable housing may do so now.

1 A VOICE: Mayor?

2 THE MAYOR: Yes, sir. Please again state
3 your name and your address.

4 A VOICE: Joseph Murray. I am an attorney
5 from Westfield representing Mr. Don DiGiandominico
6 who is a builder in town. I have also for the last
7 six or seven years been involved as the attorney
8 representing developers in Mount Laurel litigation,
9 specifically Warren Township and other communities
10 in this area..

11 I would like to ask the Attorney if Barbara
12 Williams indicated to him whether the restraints
13 that are now against this community would have been
14 voluntarily lifted between tonight and the date of
15 the return of your motion for transfer. Was there
16 any such discussion with Barbara Williams?

17 MR. SANTORO: The discussion with Barbara
18 Williams concerned what she hoped to be the adoption
19 process this evening. In that discussion she said
20 that tomorrow her and I could get on a conference
21 call to Judge Serpentelli and get the restraints
22 removed as to non-Mount Laurel land.

23 MR. MURRAY: Assuming that you are tabling --

24 MR. SANTORO: Assuming that the Ordinance
25 1010 and 1009 were adopted this evening.

1 MR. MURRAY: I have discussed with Barbara
2 Williams the prospect of what I have indicated in
3 my correspondence to Council, that is a suit on
4 behalf of my client which is another element of
5 prospective damage against this Township, against
6 the Borough under Section 1983 of the Civil Rights
7 Act which also includes a claim for counsel fees.

8 Under Section 1983 of the Civil Rights Act
9 any governing body, municipality, such as this,
10 acting under the color of law whereby deprives
11 somebody of their property rights, my client's right
12 to build, you are subject to the expenses of the loss
13 of that client's profits, his expenses in carrying
14 the properties which he cannot now develop, for
15 example, mortgage, interest, et cetera, loss of
16 contracts that have time limits, and I am only
17 speaking for my client. I don't know how many others
18 in this community are faced with the same economic
19 problem.

20 There is a false premise that was evidenced
21 by Ed Conlon tonight in that he has indicated that
22 once you pass this ordinance we can't appeal. That's
23 baloney. You can take both routes. You can stay
24 with Judge Serpentelli, you can go to the Fair
25 Housing Council. One doesn't bar the other. You can

1 take appeals from Judge Serpentelli's orders and
2 final judgment while you are before the Fair Housing
3 Council.

4 Make a decision at some point where you have
5 one of two to choose from. You are not doing that.
6 You are just cutting your tie lines to Judge
7 Serpentelli if it hasn't already been cut because I
8 am sure he is going to enter some additional judgment
9 from which you have no appeal until you have a final
10 judgment, and you get no final judgment until you
11 have an ordinance in place.

12 The Mayor is right. Don't fool around anymore.
13 I have been before Judge Serpentelli for the past four,
14 five years. He is not a person who is vindictive.
15 He is not a person who doesn't understand the
16 municipalities' fears and hopes, et cetera. But he
17 is also a person as the Mayor pointed out who has a
18 job to do.

19 Mount Laurel II is not the source of your
20 problems. The New Jersey Constitution is. That is
21 the source of Mount Laurel II.

22 Now, let's stop fooling around with the
23 Federal case because how many dollars have been poured
24 into the New York lawfirm and where have they gone
25 with the Federal case? Right from the beginning, the

1 defenders' attorneys knew that that would most
2 likely be a waste of time.

3 What you have done tonight is really provided
4 fodder for the prospective 1983 claim. I don't know
5 what you are going to do on the next ordinance, and
6 I don't know how much that has of the bearing upon
7 what we are going to do tomorrow. But the Judge is
8 going to do something later this month, and I have
9 indicated in my correspondence what we have to do.
10 We do it by choice. I think the Judge has to do it
11 out of necessity because he has been directed under
12 his oath of office to do so.

13 You have an oath of office and you are not
14 following it.

15 (Whereupon, a short recess was taken.)

16 THE MAYOR: We will resume if people will
17 please take their places.

18 We are again in the public portion of the
19 hearing dealing with Ordinance 1010.

20 If anyone else would like to speak, please
21 raise your hand. All right. I would ask you again
22 to state your name. Mr. George.

23 A VOICE: Good evening, your Honor. Phillip
24 George.

25 Your Honor, I would like to direct questions

1 through you to the Borough Attorney and ask whether
2 I may have an older copy of the Bill, but whether
3 Section 8 of the Act of the Fair Housing Act or that
4 section as it may have been changed requires the
5 housing element be submitted with the Council, the
6 Fair Housing Council, as a prerequisite to being
7 considered by the Fair Housing Council.

8 THE MAYOR: Well, I will ask my Borough
9 Attorney to answer that, but I think they give us
10 within a four month period.

11 MR. SANTORO: Yes.

12 THE MAYOR: To supply them with the information
13 that they need.

14 MR. GEORGE: I would like to know further then,
15 your Honor, whether that housing element as a
16 mandatory requirement requires proof that the
17 municipality has revised the Land Use Ordinances
18 in order to incorporate provision for low and
19 moderate income housing, and whether if that change
20 has not been deleted whether that, in fact, requires
21 the Borough to adopt an ordinance if not identical
22 to this one or substantially similar to even be
23 considered by the Fair Housing Council.

24 THE MAYOR: Borough Attorney?

25 MR. SANTORO: Mr. George, the latter section

1 of Section 8 on page 7 of the Legislation I have in
2 front of me indicates that the Fair Share Housing
3 Ordinance, i.e. the housing element, should be
4 introduced and given first and second reading in a
5 hearing pursuant to RS40:40-2, and that's exactly
6 what's happened tonight. We are giving first
7 reading and second reading. It does not indicate
8 adoption unless your copy does. Mine does not.
9 This came right from Trenton.

10 MR. GEORGE: Well, Mr. Attorney, what I am
11 considering is that is my question. Since the final
12 Act is bearily getting circulation now, whether my
13 copy is inaccurate in stating that the municipality
14 shall establish that the Land Use Ordinances have, in
15 fact, been revised to incorporate the provisions for
16 low and moderate income housing contained in the
17 housing element, and isn't that, therefore, a pre-
18 condition to even approaching the Housing Commission?

19 MR. SANTORO: Before we get a chance to go to
20 the Council on Affordable Housing, Judge Serpentelli
21 ~~must decide as the Mayor indicates, the Judge has~~
22 the discretion, the Court has the discretion of
23 exclusionary zoning suits such as this to decide
24 whether or not we even have a right under the
25 Legislation to go to the Council on Affordable Housing,

1 and I think a point should be made, and everybody
2 who leaves here tonight is going home with a lot of
3 other points, so go home with this point as well.
4 The Judge cannot forestall a determination of our
5 request. Eventually, and eventually means to me in
6 accordance if the Urban League continues to get what
7 they want, the oral argument will be heard on the
8 f first Friday of September or shortly after August
9 30th. If the Judge at that time determines based
10 upon certification submitted as I am sure by the
11 Urban League that manifest injustice would occur
12 to any party to the litigation and accordingly
13 denies the Borough of South Plainfield access to the
14 Council on Affordable Housing, my advisement to the
15 Governing Body will be to set down on the usual
16 notice another public hearing for the adoption of
17 Ordinances 1009 and 1010, because at that point the
18 adoption will take place simultaneously with the
19 filing of a Notice of Appeal to the Appellate
20 Division of Judge Serpentelli's refusal to allow us
21 access to the Council on Affordable Housing.

22 We are not tonight -- we are not tonight
23 forestalling ever adopting the two ordinances. We
24 are merely awaiting the Judge deciding whether we
25 have a chance to go to the Housing Council. If we

1 go to the Housing Council, there is no need to adopt
2 that ordinance or ordinances until after the Housing
3 Council has looked at it and gotten back to us and
4 said these are your numbers.

5 MR. GEORGE: Well, that is not my question.
6 My question is whether we have to file a housing
7 element in order to qualify for treatment under the
8 Fair Housing Act regardless of what happens in
9 Superior Court in Toms River.

10 MR. SANTORO: First Superior Court in Toms
11 River must say yes, you can go to the Housing Council.
12 Then we file a housing element.

13 MR. GEORGE: That's correct. But doesn't
14 the Act require the housing element to require the
15 municipality to establish that it has revised its
16 ordinances to accommodate low and moderate income
17 housing?

18 MR. SANTORO: Other than to have introduced
19 and first and second readings as that section provides.
20 It does not say adoption. We have done that.

21 MR. GEORGE: My question, though, is should
22 you get that far, to even be considered before they
23 recommend --

24 MR. SANTORO: Considered by whom? By Judge
25 Serpentelli?

1 MR. GEORGE: By the Council. Is it not
2 necessary that we enact an ordinance substantially
3 similar or identical to tonight's ordinances?

4 MR. SANTORO: Certainly an ordinance that
5 would include some least cost housing, yes.
6 Certainly. That is what the Legislation says.

7 MR. GEORGE: So the Fair Housing Council --

8 MR. SANTORO: But not similar in numbers.

9 MR. GEORGE: That was only my question is
10 whether we would have to be forced to adopt an
11 ordinance in order to be considered by the Housing
12 Council.

13 MR. SANTORO: The answer to that is yes.

14 MR. GEORGE: Thank you.

15 THE MAYOR: Yes?

16 A VOICE: Joann Graf. I live at 1012 Maple
17 Avenue.

18 That being the case, why are you stalling
19 tonight? If voting tonight under protest allows us
20 number one to appeal to a higher court and, number
21 two, I would think put us in a more favorable light
22 with Judge Serpentelli as not being obnoxious,
23 superior people, why not pass, untable if you may,
24 if you can, your first ordinance, pass it under
25 protest, go to Judge Serpentelli and say, okay, we

1 we have done what you have asked. Please lift the
2 ban on our town, number one, and please look
3 favorably on our request to go over to the Housing
4 Council for their consideration.

5 If he looks favorably on your request whether
6 you vote yes tonight or you table, you are going
7 to go over there. But if I were the Judge, I would
8 look at the track record of this town. You have
9 ignored Judge Serpentelli for the past year and a
10 half. You have been and I have been -- I was on
11 the Council last year. We have butted heads with
12 him every chance we have had. We have said no, this
13 is unconstitutional. We don't want to do it.

14 He has through his transcripts on several
15 occasions given us loopholes to save ourselves.
16 Perhaps we are too blind to see the loopholes and
17 the kindness that he has shown. As this gentleman
18 said, he is not a vindictive man. He has stated I
19 know to the Mayor that he is not thrilled about Mount
20 Laurel, but he has a job to do and he is going to do
21 it.

22 So, I beg you, do not sign a death certificate
23 for this town. The Building Department -- the Judge
24 has proven it. He shut us down already. You think
25 he is going to be nicer tomorrow? Do you think he

1 is going to say well, they table it. They are
2 probably going to vote for it eventually? Let's lift
3 the ban. Carla, stay where you are and let's wait
4 and see what's going to happen. No. He is going to
5 say I've had it with South Plainfield. Who do you
6 think you are? Are you the only town in the State
7 of New Jersey who doesn't have to comply with the
8 Order?

9 You will get what you are asking for. You are
10 playing a game that you have no way of winning.
11 Mount Laurel is not going away. You are not ulti-
12 mately going to be blessed with no low and moderate
13 income housing.

14 Do what you should do for the people in this
15 room and the people in this town. I don't think
16 there are too many people in this room and in this
17 town who are going to be thrilled with what you have
18 done tonight. My comments didn't get a boo. Okay.

19 Tomorrow it is going to be in the press what
20 you have done. Fortunately, four of you aren't up
21 for re-election. You better thank God that you
22 aren't up for re-election this year. You would all
23 be gone.

24 A VOICE: Try impeachment.

25 MS. GRAF: I beg of you, if there is a way,

1 that you can call another -- advertise two days.

2 If you can, untable that Resolution and change your
3 minds for the good of this town, Forget your
4 politics. Forget whoever told you how to vote
5 tonight, and vote the way you know in your heart you
6 should. Protect this town because Carla Lerner will
7 be here, no doubt about it.

8 Thank you.

9 THE MAYOR: Anyone else? Is there anyone
10 else in the public portion? Walter?

11 A VOICE: Walter Kalman, 232 Merchants
12 Avenue.

13 I have one question. You said that there is
14 no building going on at all or there is no building
15 allowed at this time or any time?

16 THE MAYOR: No.

17 MR. KALMAN: None at all, even outside --

18 THE MAYOR: No, Walter. You may build
19 additions, alterations up to \$25,000. There have
20 also been certain individual cases where individual
21 people have gone and gotten special permission from
22 the Judge to build.

23 Basically, what he has stated, the Order is
24 that we can't have any new construction of any kind.

25 MR. KALMAN: As of what date?

1 THE MAYOR: Three weeks ago.

2 MR. KALMAN: Okay. Two houses being built
3 down my street. That is why I was wondering.

4 THE MAYOR: They must have already had
5 received the permits before the Order took effect.

6 MR. KALMAN: So they have permission to go
7 ahead and build?

8 THE MAYOR: Yes.

9 MR. KALMAN: The only question I have is the
10 type of houses. I was just curious because I know
11 they have almost two the same type of houses. I
12 didn't understand that. But I think -- thought we
13 have different housing permits.

14 THE MAYOR: Walter, do me a favor. Come to
15 us at a regular agenda meeting and discuss that, but
16 right now we are talking about this.

17 MR. KALMAN: They will be finished by then.

18 THE MAYOR: Okay. Anyone else?

19 A VOICE: Larry Massaro, 3122 Woodland Avenue,
20 South Plainfield.

21 There was a statement made tonight by
22 Councilman Acrin that I would like to refute. You
23 said that the Mayor and/or Council approached a
24 certain developer in town to purchase a piece of
25 land that is in question with regard to this Mount

1 Laurel Legislation.

2 I would like to state and I am sure the record
3 will show that the Land Management Committee
4 received a letter from me, I guess, two and a half
5 years ago requesting purchase of this land, and I
6 think this is long before the word Mount Laurel ever
7 came on the lips of anyone in South Plainfield.

8 So, I would like to state that, and I would
9 like Councilman Acrin to please get his facts straight
10 before he makes any statements.

11 THE MAYOR: Anyone else?

12 A VOICE: Yes.

13 THE MAYOR: Yes, Ma'am?

14 A VOICE: Jackie Weaver, 327 Norwood Avenue.

15 Am I to understand that this Council is going to
16 subject the people of this Township to undue
17 hardships because of their decision tonight, meaning
18 restriction of permits to any additions whatsoever
19 is going to be banned as of tomorrow?

20 THE MAYOR: We cannot say that that is going
21 to happen at all. It may, by the actions taken
22 tonight, the Judge has a prerogative to do what he
23 has threatened to do in both May of 1984 and as late
24 as I think that case was June 11 -- June 24th.

25 MR. SANTORO: June 24th.

1 THE MAYOR: The June 24th appearance. He may.

2 MS. WEAVER: He has done it in the past as
3 past performance shows. He probably is going to do
4 it again tomorrow. Where does that leave the people
5 of the Township? In a hole. I mean, this is
6 ridiculous. You are supposed to be representing us,
7 but what you are doing is representing themselves,
8 and what the hell are you guys going to? What about
9 us? You are leaving us nowhere and with no recourse.
10 What are these people going to do that have bought
11 houses that can't be built? They have no place to
12 live.

13 Are you people going to pay for that, too?
14 As well as I am supposed to be doing some building
15 to my own home. What am I supposed to do? This is
16 ridiculous. We voted you people to represent us,
17 not for what you want but what we want. Why don't
18 you listen to us for a change?

19 THE MAYOR: Yes, sir?

20 A VOICE: John Putrico. Mr. Acrin, Mr. Woskey,
21 the four people that turned this down tonight, I
22 just sold my house and purchasing a new house. Are
23 you going to pay my bills on my apartment that I have
24 to move in the 29th of August? Who is going to pay
25 my bills? My wife is pregnant. Are you going to pay

1 my bills? Are you? Are you? Are you? Then let's
2 get this straight tonight.

3 THE MAYOR: Anyone else in the audience?

4 A VOICE: Yes.

5 THE MAYOR: Yes, Ma'am?

6 A VOICE: Diane O'Connor. I live at 1301
7 Walnut Street. I lived in the town for more than
8 seven years. I am a little embarrassed to say this
9 is my very first meeting and I am very disappointed.

10 It wasn't -- it was a point of order, I
11 realize that -- that we were not allowed to express
12 our views once all the discussion happened. Every-
13 body on the Council made up their minds before they
14 even heard what we, the town's people, had to say.

15 I am in the same boat. I am not going to
16 have a place to live. I don't appreciate it because
17 we are either going to have to file a suit against
18 the town or something. I don't know what we can do.
19 Or we are going to have to look elsewhere for
20 housing. I like living in South Plainfield. But
21 what option is there?

22 A VOICE: I lived 34 years.

23 THE MAYOR: One at a time.

24 MS. O'CONNOR: Are you going to have
25 emergency housing for those of us who have sold our

1 houses? Where are we going to live? Do you have
2 any answers for us? You voted without even knowing
3 what we felt, and I don't appreciate it. I would
4 just like to go on record saying that.

5 THE MAYOR: Anyone else in the audience?
6 Seeing no one else, I will close the public portion.

7 Bill, I will call for the Resolution.

8 MR. DE SABATO: "Be it resolved, the Mayor
9 and Council of the Borough of South Plainfield, New
10 Jersey, that Ordinance 1010 entitled Affordable
11 Housing of the Borough of South Plainfield, be
12 finally adopted under protest and advertised
13 according to law."

14 THE MAYOR: Lady and gentlemen of the Council,
15 you have heard the Resolution. What is your
16 intention?

17 MR. GALLAGHER: So moved.

18 THE MAYOR: So moved by Councilman Gallagher.

19 MS. LEVINE: Second.

20 THE MAYOR: Seconded by Councilwoman Levine.
21 Yes, Councilman Acrin?

22 MR. ACRIN: Thank you, Mayor. Yes, I would
23 like to make a motion to table Ordinance 1010,
24 Affordable Housing.

25 THE MAYOR: There has been a motion to table.

1 Is there a second?

2 MR. CONLON: Second.

3 MR. WOSKEY: Second.

4 THE MAYOR: Any discussion? Seeing none,
5 roll call, please, Bill.

6 MR. DE SABATO: On the motion to table. Mr.
7 Acrin?

8 MR. ACRIN: Yes.

9 MR. DE SABATO: Mr. Conlon?

10 MR. CONLON: Yes.

11 MR. DE SABATO: Mr. Gallagher?

12 MR. GALLAGHER: No.

13 MR. DE SABATO: Mrs. Levine?

14 MS. LEVINE: No.

15 MR. DE SABATO: Mr. Thiel?

16 MR. THIEL: Yes.

17 MR. DE SABATO: Mr. Woskey?

18 MR. WOSKEY: Yes.

19 MR. DE SABATO: Motion carried, Mayor.

20 Before we go any further --

21 THE MAYOR: Excuse me. We are still in

22 session.

23 MR. DE SABATO: Before we go any further,

24 let me read into the record a letter from the

25 Middlesex County Planning Board, addressed to me.

1 "The professional staff of the Middlesex
2 County Planning Board has reviewed the proposed
3 amendment number 1009 and Ordinance 1010 regarding
4 Affordable Housing and the establishment of an
5 Affordable Housing Agency and has no additional
6 comment.

7 "Thank you for your considerations. Sincerely
8 yours, Robert G. Emerson, Principal Planner."

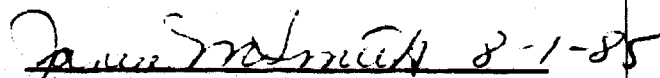
9 THE MAYOR: All right. Seeing that that is
10 the end of business, I will call for a motion of
11 adjournment.

12 So moved and seconded. We are out. Unanimous.

13 (Whereupon the meeting was adjourned at
14 9:53 P.M.)

15 * * * * *

16 I HEREBY CERTIFY that the foregoing is a true
17 and accurate transcript of the proceedings taken
18 in the afore-entitled matters, reported by me at
19 the place and date hereinbefore set forth.

20 
21 JANICE M. SMITH, C.S.R.
N.J. License #X100569

EXHIBITS B through H TO NEISSER AFFIDAVIT OF AUGUST 28, 1985

STIP ¶	JUDGMENT ¶	SITE	ACREAGE	DENSITY	TOTAL UNITS	LOWER INCOME UNITS
12	3 (A)	Harris Steel	84.8	12/a	1018	204
13	3 (B)	Coppola Farm	27	12/a	324	65
14	3 (C)	Pomponio Avenue	25 (32)	15/a	375 (480)	75 (96)
15	3 (D)	Universal Avenue	18	12/a	216	43
16	3 (E)	Frederick Avenue	12.25	12/a	147	29
17	3 (F)	Morris Avenue	6.15	--	100-150	100-150
18	3 (G)	Tompkins Avenue	7.25	12/a	87	17
19	3 (H)	Elderlodge	1.46	--	100	20
					2367-2417 (2472-2522)	553-603 (574-624)

The range noted for the Morris Avenue site is specified in the Stipulation and Judgment because of the uncertainty as to how many senior citizen units could realistically be constructed on that site given the limited land and available financing. As a result of plaintiffs' discovery in June 1985 that the Pomponio Avenue site, which the Stipulation and Judgment state have only approximately 25 acres, actually encompassed 32 acres within the specified block and lot numbers, see Neisser Affidavit of June 21, 1985, Paras. 6-9 and Williams Affidavit of June 21, 1985, Paras. 11-18, the total units in that development should be increased to 480 and the total lower income units to 75, which would yield an overall total of 2472-2522 new units, of which 574-624 would be lower income units.

7/15 Santos

He has trans. from heading
p. 4

He hasn't yet contacted; on work

in the interim rest ^{points} for work
any permits would require the
intent to issue an

He also indicated J. would write as re 2 modifications

^{modification}
alter permit - to upgrade existing facade -
make kitchen
screen
roof

addition → pools

→ ^{addition} ^{cost} ^{or other modifications}
also permits, where addition or expanded ~~altg~~
size shall not \$25,000

no construction permits for any at all

copy of this
only

consent order

zoning ords → will send map

PRD 1 - 12/acre

PRD 2 - 15/acre - 0.15

^{stage}
he still reads as ready to adopt on 7/1
will talk in exec session tonight re legis

he likes branching system
have dev p

9, 100 - 50 low/ unit ^{short} - 150 are ^{deduct}
S/K only

he was on Council in 78

he favored 1/4 zone
which

expl^{no} welfare matters
taxes / police
vs water

50 & 100
in li den
max 2000

Morris Ave site -

even though on bulldozer site
concerned re seed \rightarrow
don't know if planter

Knowledge

Sales Inventory

for other reasons
in Apr. 85 - Council proposed ^{any} ~~used~~ ^{on other} ~~sites~~
sales -

looking at effect of sales on cap
artificially expand

ask if sales $\&$ used - cap exp
why?

land prices out of site
BOM Dev. - keep $\&$ in land

Salls → before Town Mty → he rep'd Cal-ter

Samford Chemin →

sales to Cal-ter not completed
South of Christopher

Block 427 & lot → any new lots - will see

Does ^{all} sales in Block 427 & 428

Bucellato → doesn't know if any regst

will work acreage →

Travis atty gets involved in land sales →
only after Corp - when gets used.

ERIC NEISSER, ESQ.
JOHN PAYNE, ESQ.
Constitutional Litigation Clinic
Rutgers Law School
15 Washington St., Newark, N.J. 07102
201/648-5687

BRUCE S. GELBER, ESQ.
JANET LA BELLA, ESQ.
National Committee Against
Discrimination in Housing
733 - 15th St. NW, Suite 1026
Washington, D.C. 20005
202/783-8150

ATTORNEYS FOR PLAINTIFFS

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

STIPULATION

Plaintiffs and the Borough of South Plainfield, by their attorneys,
hereby stipulate as follows:

1. The fair share methodologies set forth in the Fair Share Report
of Carla L. Lerman, the Court-appointed expert in this action, dated
April 2, 1984, and in the Expert Report on Mount Laurel II Issues prepared
by Alan Mallach, plaintiffs' retained expert, dated December 1983, are
both generally reasonable approaches to the fair share issues remanded
to this Court by the Supreme Court.

2. The total present and prospective fair share allocation for South Plainfield through 1990 resulting from the Lerman methodology is 1725 units affordable by low and moderate income households and the fair share for South Plainfield resulting from the Mallach methodology is 1523 units. There is, however, insufficient vacant developable land suitable for development of low and moderate income housing to meet the full fair share resulting from either methodology. As of February 1984, there were only 641 vacant acres remaining in the Borough, of which a significant proportion were in floodplains, in an environmentally sensitive swampland, or in the midst of substantial existing industrial or commercial development. In addition, much of the remaining developable land is in small lots of less than 3 acres. In light of the remaining land, the fair share obligation of South Plainfield should be reduced to 1000 units.

3. The zoning ordinance of South Plainfield does not now have, and has not at any time since July 9, 1976, had, a zone for multi-family housing.

4. The only proposal for rezoning to permit more than two-family construction, which is set forth in the South Plainfield Planning Board's 1978 Review of the Master Plan, was rescinded by the Planning Board in its January 1980 Addendum No. 1 to the 1978 Review.

5. The zoning ordinance of South Plainfield does not provide, and has not at any time since July 9, 1976, provided, any mandatory set-aside, density bonus, waiver of zoning requirements, or affirmative municipal assistance for construction of housing affordable by persons of low or moderate income.

6. No multi-family housing has been constructed in South Plainfield since 1976.

7. The only proposal for multi-family housing in South Plainfield since 1976, a proposed six-story, 100-unit senior citizen housing project, was rejected by the Board of Adjustment on May 4, 1982. That decision of the Board of Adjustment was remanded to the Board of Adjustment for amplification and supplementation of the record in light of the decision in South Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983) (Mount Laurel II), in an order of this Court filed December 23, 1983 in Elderlodge, Inc. v. South Plainfield Board of Adjustment, No. L-56349-81 (Law Div., Middlesex County).

8. The only proposal for ^{attached} ~~high density~~ single family development in South Plainfield, a proposal by Bayberry Construction to construct 70 townhouses on 6.9 acres, was denied a variance by the South Plainfield Board of Adjustment on January 3, 1984, in part because "the price range indicated is not within the 'low-income' as is required by recent Court decision."

It is likely that
9. ~~None~~ of the single family and two-family homes approved or constructed in the Borough since 1976 is affordable by persons of low or moderate income.

not since 1976
10. The Borough has ~~never~~ provided for construction of any subsidized low or moderate income housing under any government subsidy program.

11. The Borough has obtained Middlesex County Community Development funds for rehabilitation of ~~only~~ 33 housing units since 1976.

12. The 84.8 acre site on New Brunswick Avenue, known as the Harris Steel site and designated as Block 459 Lot 1, Block 460 Lot 1, Block 461 Lots 1-3; Block 462 Lot 2, Block 465 Lot 1, Block 466 Lot 1, Block 467 Lots 1,3,4,5 and 21, is appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent

low income and 10 percent moderate income units.

13. The 27 acre site on New Durham Road, known as the Coppola farm and designated as Block 528 Lot 44, is appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units.

14. The municipally owned site of approximately 25 acres at the northern tip of Kennedy Road, known as the Pomponio Avenue site and designated as Block 448 Lots 2.01 and 4.01 and Block 427 Lot 1.01, is appropriate for multi-family development at a density of 15 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units, if the Borough constructs Pomponio Avenue from the northern tip of Kennedy Road west to Clinton Avenue.

15. The 18+ acre site near Universal Avenue, known as the Universal Avenue site and designated as Block 255, Lots 14, 33 and 34, is appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units, if the Borough constructs the necessary road extension to provide appropriate access to the developed site.

16. All portions of the municipally owned site of 4 acres and the privately owned site of 4 acres to the north and west of Frederick Avenue, known as the Frederick Avenue site and designated as Block 300, Lots 30.01 and 34, which are wider than 100 feet are appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units; if the Borough extends Sylvania Place and Frederick Avenue until they connect and donates the Borough-owned land without cost to an

Block 311, 16-36

appropriate developer.

17. The municipally owned site of 10 acres on Morris Avenue, known as the Morris Avenue site and designated as Block 111, Lots 1-4, Block 112, Lots 1, 2.01, Block 113, Lots 1.01, 2.4, 5.01, and Block 115, Lots 1, 2, 2.01 and 3, is appropriate for development as a senior citizens housing project at a density of 15 units per acre of which all would be affordable by low or moderate income households, if the Borough would contribute the land and provide necessary financial support, including seed money and tax abatement.

18. The 6.9 acre site at the northern tip of Rush Street, known as the Bayberry site, and designated as Block 315 Lot 7, is appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units.

19. The 7 $\frac{1}{2}$ acre site south of Tompkins Avenue, currently owned by ~~and placed to be used for church purposes~~ the Archdiocese of Metuchen, designated as Block 12, Lots 9, 16 and 17, is appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units. *See other way.*

20. The 2+ acre site on Hamilton Boulevard, known as the Elderlodge site and designated as Block 259, Lots 5, 6A, 6B, 7, and 12, is appropriate for development of a 100-unit multi-family development, with a mandatory set-aside of 10 percent low income and 10 percent moderate income units.

21. The Borough permits use of modular or manufactured housing meeting state building code requirements and zoning requirements for residential development.

22. The Borough will adopt a policy in its zoning ordinance requiring that of all future development on vacant sites other than those listed in paragraphs 12-20 above, on sites on which existing structures are destroyed or demolished by act of God or otherwise, or on sites that are proposed to be redeveloped, at least 10 percent of new units constructed will be affordable by low income families and at least 10 percent will be affordable by moderate income families. This policy will govern all actions of the South Plainfield Planning Board and Board of Adjustment in passing on applications for site and subdivision approvals and variances.

23. The Borough will apply for all federal, state, and county funds that become available between the present and 1990 for rehabilitation of existing deficient housing units and for all funding that becomes available for subsidization of the construction or rent of new housing units.

24. Low income households are those earning less than 50 percent of the median household income in the 11-county region designated in the Lerman Report of April 2, 1984. Moderate income households are those earning between 50 and 80 percent of the median household income in that 11-county region.

25. To be affordable by low income households, units for sale may require the expenditure of no more than 28 percent of the household income for principal, interest, taxes, insurance, and condominium fees, and units for rent may require the expenditure of no more than 30 percent of the household income for rent and utilities.

26. All units affordable by low and moderate income households must be affirmatively marketed by the developer throughout the 11-county

region and all marketing practices must comply with federal and state laws against discrimination.

27. All units for sale affordable by low and moderate income households must contain deed restrictions limiting resale for a 30-year period to households of similar qualifications and these restrictions must be enforced by an appropriate ~~independent~~ agency *indep of developer*

*28. If, for any reason, the Court fails or refuses to enter Judgment directing appropriate rezoning and ~~issuing~~ *issuing* six-year repose upon appropriate ordinance amendments, within 30 days of the signing of this Stipulation, either party is free to withdraw from this Stipulation and to proceed to trial on the issues herein, at which trial this Stipulation will not be admissible in evidence.*

Plaintiffs Urban League, et al.

Defendant Borough of South Plainfield

By _____
Eric Neisser

By _____
Patrick Diegnan

Date _____

Date _____

ERIC NEISSER
JOHN PAYNE
Constitutional Litigataion Clinic
Rutgers Law School
15 Washington Street
Newark, N.J. 07102

BRUCE GELBER
JANET LABELLA
National Committee Against
Discrimination in Housing
733 Fifteenth Street N.W.
Washington, D.C. 20005

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION/MIDDLESEX COUNTY

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al.,

Plaintiffs

Plaintiffs

v.

DOCKET NO. C-4122-73

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

STIPULATION

Defendants..

Plaintiffs and the Borough of South Plainfield, by their attorneys,
hereby stipulate as follows:

1. The fair share methodologies set forth in the Fair Share Report of Carla L. Lerman, the Court-appointed expert in this action, dated April 2, 1984, and in the Expert Report on Mount Laurel II Issues prepared by Alan Mallach, plaintiffs' retained expert, dated December 1983 are both generally reasonable approaches to the fair share issues remanded to this Court by the Supreme Court.

EXHIBIT E

2. The total present and prospective fair share allocation for South Plainfield through 1990 resulting from the Lerman methodology is 1725 units affordable by low and moderate income households and the fair share resulting from the Mallach methodology is 1523. There is, however, insufficient vacant developable land suitable for development of low and moderate income housing to meet the full fair share resulting from either methodology. In light of the remaining land, the fair share obligation of South Plainfield should be reduced to 900 units, to be allocated as 250 Units present need by 1990 and 650 units prospective need.
3. The zoning ordinance of South Plainfield does not now have, and has not at any time since July 9, 1976, had, a zone for multi-family housing.
4. The only proposal for rezoning to permit more than two-family construction, which is set forth in the South Plainfield Planning Board's 1978 Review of the Master Plan, was rescinded by the Planning Board in its January 1980 Addendum No. 1 to the 1978 Review.
5. The zoning ordinance of South Plainfield does not provide, and has not at any time since July 9, 1976, provided, any mandatory set-aside, density bonus, waiver of zoning requirements, or affirmative municipal assistance for construction of housing affordable by persons of low or moderate income.
6. No multi-family housing (^{other than} ~~in excess of~~ two-family units) has been constructed in South Plainfield since 1976.
7. The only proposal for multi-family housing in the Borough of South

Plainfield since 1980 was rejected by the Board of Adjustment in April 1982. That decision of the Board of Adjustment has now been remanded to the Board of Adjustment for amplification and supplementation of the record in light of the decision in South Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983) (Mount Laurel II), in an order of this Court filed December 21, 1983 in Elderlodge, Inc. v. South Plainfield Board of Adjustment, No. L-56349-81 (Law Div., Middlesex County).

8. The Borough has obtained Middlesex County Community Development funds for rehabilitation of ³³housing units since 1976.
9. The municipally owned site of approximately 25 acres at the northern tip of Kennedy Road, known as the "Pomponio Avenue site", and designated as Block 448, Lots 2.01 and 4.01 and Block 427, Lot 1.01, is appropriate for multi-family development at a density of 15 units per acre with a mandatory set-aside 10 percent low income and 10 percent moderate income units, said 15 units include a density bonus of 3 units per acre by the Borough of South Plainfield to encourage construction of 'Mt. Laurel' housing and as such shall be considered a "municipal contribution" to the "Pomponio Avenue Site".
10. The municipally owned site of 4 acres and the privately owned site of 6.4 acres to the north and west of Frederick Avenue, known as the Frederick Avenue site, and designated as Block 308, Lots 30.01 and 34, is appropriate for multifamily development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units.

11. The 7 1/4 acre site south of Tompkins Avenue, designated Block 12, Lots 9, 16, and 17, owned by the Archdiocese of Metuchen is

~~currently planned to be used for Church purposes. However, if no appl. is filed within 12 months of the date of the site plan, the property should in the future become available for non-church related development, it shall at that time be considered~~

appropriate for multi-family development with a mandatory set-aside of 10 percent low income and 10 percent moderate income family units. *INSERT*

12. The municipally owned site of 10 acres on Morris Avenue, known as the Morris Avenue site and designated Block 111, Lots 1-4, Block 112, Lots 1, 2.01, Block 13, Lots 1.01, 2.4, 5.01, and Block 115, Lots 1, 2, 2.01 and 3 is appropriate for development as a senior citizens housing project at a density of 15 units per acre of which all would be affordable by low or moderate income

households, if the Borough would contribute the land and provide necessary financial support, including seed money and tax abatement

13. The 18+ acre site near Universal Avenue, known as the Universal Avenue site and designated as Block 255, Lots 14, 33, and 34, is appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income.

14. The 2+ acre site known as the Elderlodge site and designated as Block 259, Lots 5, 6A, 6B, 7, and 12 is appropriate for development of a 100-unit multi-family development with a mandatory set aside of 10 percent low income and 10 percent moderate income units subject to reasonable conditions to be

imposed by the Board of Adjustment.

16. The 27 acre site on New Durham Road, known as the Coppola farm and designated as Block 528, Lot 44 is appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of ~~of which~~ 10 percent ~~would be~~ affordable by low income ~~persons~~ families and 10 percent ~~by~~ moderate income ~~families~~ units.

17. The 84.8 acre site on New Brunswick Avenue, known as the Harris Steel site and designated as Block 459, Lot 1, Block 460 Lot 1; Block 461, Lots 1-3; Block 462, Lot 2, Block 465 Lot 1; Block 466 Lot 1; Block 467 : Lots 1,3,4,5 and 21 is appropriate for multi-family development at a density of with a mandatory set-aside of 12 units per acre ~~of which~~ 10 percent ~~would be~~ affordable by low income ~~persons~~ and 10 percent ~~by~~ moderate income ~~families~~ units.

18. The Borough permits use of modular or manufactured housing meeting state building code requirements and zoning requirements for residential development.

19. The Borough will adopt a policy in its zoning ordinance ^{permitting} ~~requiring that~~ of all future ^{residential} development on ^{including} vacant sites other than those listed in paragraphs 11-17 above, ^{of 4 acres or more} on sites on which existing structures are destroyed or demolished by act of God or otherwise, ^{on sites that are} or are proposed to be redeveloped, at least 10 percent of new units constructed will be affordable by low income families and at least 10 percent will be affordable by moderate income families. ^{How many are}

20. The Borough will apply for all ~~available~~ federal, state, and county funds ~~for~~ that become available between the present and 1990 for rehabilitation ^{ation} of existing deficient housing units and for all funding that becomes available for subsidization of the construction or rent of new housing units.

21. Low income households are those earning less than 50 percent of the median household income in the 11-county region designated in the Lerman Report. Moderate income households are those earning between 50 and 80 percent of the median household income in the 11-county region.

22. To be affordable by low income households, units for sale ~~must~~^{may} require the expenditure of no more than 28 percent of the household income for principal, interest, taxes, insurance and condominium fees and units for rent ~~must~~^{may} require the expenditure of no more than 30 percent of the household income for rent and utilities.

23. All units ~~affirmatively~~ affordable by low and moderate income households must be affirmatively by the developer marketed/throughout the 11-county region.

24. All units ^{for sale} affordable by low and moderate income households must contain deed restrictions limiting resale for a 30-year period to households of similar qualifications and ~~x~~ these restrictions ~~will~~^{must} be enforced by an appropriate ~~independent~~ agency.

25. If, for any reason, the Court fails or refuses to enter Judgment directing appropriate rezoning and providing ^{an Order of Compliance to the municipality with an accompanying} six-year repose upon appropriate ordinance amendments, within ⁹⁰~~30~~ days of the signing of this Stipulation, either party is free to withdraw from the Stipulation and proceed to trial on the issues herein, ~~at~~^{for} which trial this Stipulation will not be admissible in evidence.

Law Offices
FRANK A. SANTORO

1500 PARK AVENUE, SUITE ONE
P. O. BOX 272
SOUTH PLAINFIELD, NEW JERSEY 07080

MEMBER
NEW JERSEY BAR
U.S. PATENT BAR

ARRA CODE 201
561-8868

June 26, 1985

Eric Neisser, Esq.
Constitutional Litigation Clinic
Rutgers Law School
15 Washington Street
Newark, New Jersey 07102

Re: Urban League v. Carteret (South Plainfield)
No. C-4122-73

Dear Mr. Neisser:

Under separate cover you received a copy of my letter to Judge Serpentelli regarding my objections to the form of the Order. This letter is in regard to your letter to me of June 25, 1985, which I received June 26, concerning the lot and block on Morris Avenue and owned by Buccellato.

By copy of this letter, I am requesting that the Chairman of the Economic Development Committee, Councilman Donald Acrin, contact forthwith the Chairman of the Land Management Advisory Committee and have them supply me with information that you have requested concerning the Morris Avenue site.

In regard to the sales and approval information requested by Judge Serpentelli, I enclose herewith a copy of the property sales inventory sheet showing all property sales occurring from January, 1984, through the present, with the notations of the Borough Clerk/Administrator as to lot, block, amount of consideration and the notation as to whether the consideration has been paid. Please be advised that notations as to where the consideration has been paid is an indication that closing of title has taken place and the lands have been transferred.

Hopefully, this information will be of assistance to you in regard to your inquiries concerning the "Mount Laurel Inventoried Lands".

EXHIBIT F

Eric Neisser, Esq.
Page 2
June 26, 1985

If you have any questions, please advise.

Very truly yours,



FRANK A. SANTORO

FAS:sr

Enclosure

cc: Honorable Eugene D. Serpentelli
Mayor and Council, Borough of South Plainfield
Councilman Donald Acrin
Chairman John Shaw, Economic Development Committee

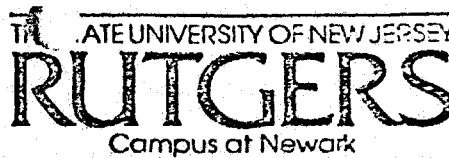
PROPERTY SALES

7,097,642

		1	2	3	4	5
		LOT	BLOCK	BOOK RECEIVED	BOOK CONVEYED	
984						
9	GEO. DENKER	1	438			1812500
23	TOMMASO GRASSO	1	379			1000000
27	P.J. PANZARELLA	Ord 978		L2 B 113	L3, B-394	250000
AP 12	PHILIP CAMPANA	9	427			1250000
12	DOMINGO LAURIA	7	329			645000
R 26	GALLO-RINKER	1.01	427			3750000
R 9	A.A. & G. BLDRS	10.01	352			2100000
23	J.M. WHITE	6	20			300000
AP 13	PATRICK ENGLISH	14.01	365			1615000
NE 11	R. BENVENGA	P/O 2	397			1250000
11	D. DI GIANTSON	P/O 1.01	427			2132500
11	RINKER & GALLO	P/O 1.01	427			2500000
11	A. DI GIANTSON	P/O 4.01	448			2500000
11	R. BENVENGA	P/O 2	397			4996200
11	L. MASSARO	P/O 6 P/O 26	438 310			15962500
11	JOSEPH SAIESE	2	366			7500000
11	E. SIKANOWICZ	Ord 990		L 33, B 368 L 21, B 310	L 1.06 BLK 380	2475000
11	WM. MACELLARA	Ord 991		L 37, B 311 L 25, B 310	L 12.01 BLK 365	2703500
11	D. DI GIANTSON	Ord 992		L 31, B 111 L 31, B 316	L 1, BLK 431	2717500
ME 25	FRANK BENAK	Ord 993		L 31, B 316 L 31, B 316	P/O 4, BLK 380	625000
LI 9	VINCENTORAZI	P/O 2.01	398			2500000
9	ATTILIO GRASSO	P/O 1.01	353			4600000
9	DI GIANTSON	Ord 994		2004A, B, D.	4, AL 307-24, B 54 10, BL 514, L 5-54	13125000
9	CHAS. ERICKSON	4	449			2010000
6 13	L. MASSARO	P/O 4.01 P/O 1.01	448 427			127031850
13	ALAN CESARE	24	110			440000
R 10	PAT CONNOLLY	P/O 13	405			1124250
10	FRANK ESICK	ORD 997	CANCELLED	L 6, B 341	P/O 6-399	NONE
T 9	A. MONDORO	ORD 1002				750000
OV 13	D. DI GIANTSON	5	396			700000
13	D. DI GIANTSON	P/O 4.01	448			625000
13	TOTH-DABRIO	21	128			1223500

PROPERTY SALES

1985		LOT #	BLOCK #	BOROUGH RECEIVED	BOROUGH CONVEYED	AMOUNT
JAN 14	RINKER	13	345			147700
28	RINKER	P/O 6	399			125000
28	JAMES CARDAMONE	P/O 6	315			230000
FEB 11	ZENA MEADOR	30	404			425000
11	ROBERT BENGUENHA	P/O 8.01 (A)	404			320000
11	"	P/O 28.01 (B)	404			225860
MAR 25	JOS. DEANREA	P/O 8.01	347			150000
25	RALPH PASTORE	1.01	525			1400000
25	ZENA MEADOR	P/O 3.01	363			225000
25	RALPH PASTORE	P/O 2	367			297500
25	RALPH PASTORE	P/O 6.01	525			1100000
25	PAUL DI DARLO	1/2 2	108			150000
25	HAROLD WILSON	1/2 2	108			150000
APR 8	D. DIGIACONCIS	ORD. #	1014	41-524 41-524	41-524 41-524	14452500
22	ZENA MEADOR	P/O 3.01	363			310000
22	PATRICK FANULARO	P/O 8.01	347			125000
22	ZENA MEADOR	P/O 3.01	363			6000000
22	WALTER KURILEW	9	330		726,131	1150000



School of Law-Newark • Constitutional Litigation Clinic
S.I. Newhouse Center For Law and Justice
15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

June 28, 1985

Frank Santoro, Esq.
1500 Park Avenue, Suite One
P.O. Box 272
South Plainfield, N.J. 07080

RE: Urban League v. Carteret
(South Plainfield)

Dear Mr. Santoro,

I am in receipt of your letter of June 26 to the Judge concerning the Order and my response is enclosed. Please note that I called you on Wednesday afternoon to inform you, among other things, that we do not agree with your interpretation of the Order, specifically your instruction to John Allen, the Assistant to Building Inspector John Graf, that the Order does not apply to addition and alteration building permits, but only to new construction permits. I never received a response to that call and when I called yesterday at 5 P.M. there was no answer at your office. Hence my letters of today. I note that your letter to the Judge does not incorporate the interpretation of the Order that you gave Mr. Allen, which is understandable since the Judge never discussed and you never sought clarification on the point. Indeed, the only clarification you sought in Court led to an unequivocal statement by the Judge that all building permits were restrained. Your letter also does not include a motion for reconsideration, the appropriate form for seeking such a change.

Second, I have received your letter of June 26 concerning the Buccellato site and appreciate your prompt and thorough response. With regard to the inventory of property sales, I note that it confirms our allegation that six, not just three, sales of land within Block 448 Lot 4.01 and Block 427 Lot 1.01 have occurred between April 26, 1984 and November 13, 1984. We would appreciate receipt of all documentation concerning those sales, including Council ordinances, resolutions of acceptance, notices of auction, newspaper advertisements, bids received, etc. We will review the remaining listed sites to determine if

EXHIBIT G

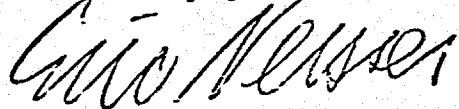
any others are on land within the Judgment. Further, we note that the list ends on April 22, 1985. I understand that at some point the Borough imposed a moratorium on sale of Borough-owned land. Please let me know when and why this moratorium was imposed, and attach copies of all resolutions or other official acts with regard to it. Please also inform me in writing whether the Borough represents that it has not sold or contracted to sell any land to any persons since April 22, 1985.

Third, we have received a number of calls since Monday from Borough officials, such as Mr. Graf and Mr. Allen, seeking, for example, clarification from us as to the scope of the Order. We do not feel comfortable advising employees of an opposing party who is represented by counsel. Moreover, we believe that it is your obligation to advise them. Hence, we will not accept such calls in the future and will refer them to you. If you have any questions on any aspect of this litigation as a result of your consultation with Borough officials, you should then personally contact Barbara Williams, who remains the attorney primarily responsible for the South Plainfield litigation.

Finally, we have been told that the Council will introduce the ordinances on first reading at its upcoming meeting on Monday, July 1. We would appreciate receiving a copy of the ordinances so introduced, including the zoning map that accompanies the zoning ordinance, as well as a copy of the Planning Board's action on these ordinances, which we understand took place on June 18.

We look forward, as you hope you do, to a prompt resolution of these matters.

Sincerely yours, /



Eric Neisser

Co-Counsel for Plaintiffs

CC: Judge Serpantelli
South Plainfield Service List

RUTGERS

Campus at Newark

School of Law-Newark • Constitutional Litigation Clinic
S.I. Newhouse Center For Law and Justice
15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

July 10, 1985

Frank A. Santoro, Esq.
1500 Park Avenue
South Plainfield, N.J. 07080

Re: Urban League v. Carteret, No. C 4122-73

Dear Mr. Santoro:

I have reviewed the listing of "Property Sales" which you provided.

The July 9, 1984 sale to D. DiGian in the amount of \$131,250.00 is illegible as to the Lot and Blocks involved. A similar problem exists as to the D. DiGian purchase for \$144,525.00 on March 25, 1985. Also, with respect to the \$75,000 sale to A. Mondaro neither the date nor the Lot and Block are specified.

I would appreciate your providing me with clarification regarding the foregoing at your earliest convenience.

Very truly yours,

Barbara J. Williams

EXHIBIT H