

U.L. v. Carteret

S. Plainfield

14 Aug 1986

Letter to Judge w/ Notice to Compel Discovery (2 pgs)

Certification of Barbara Stark in support (27 pgs)

~~1~~ copy of order. (2 pgs)

Service List (1 pg)

Pgs. 33 total.

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15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

August 14, 1986

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

Re: Urban League, et al. v. Carteret, et al.
(South Plainfield)

Dear Judge Serpentelli:


Enclosed please find copies of Notice of Motion to Compel Discovery (South Plainfield) and Certification of Barbara Stark in support thereof, and original and three copies of proposed form of Order. A stamped, self-addressed envelope is also enclosed.

I hereby certify that by copy of this letter, copies of the within Notice of Motion and Certification are being filed with the Clerk in Trenton and copies of all of the foregoing pleadings are being served upon the attorneys listed on the attached service list.

Although we have been advised that Your Honor will be on vacation August 29, 1986, we have indicated that the within motion is returnable on that date pursuant to our discussion with Your Honor's Clerk. As we explained, that date was chosen in order to file this application within the 90 day period set by the Court for the completion of discovery.

Respectfully yours,

cc:Service List w/enc



SERVICE LIST

Urban League v. Carteret, Civ C 4122-73 (Superior Court, Chancery
Div., Middlesex County) (SOUTH PLAINFIELD)

Frank A. Santoro, Esq.
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 JOHN M. PAYNE, ESQ.
 BARBARA STARK, ESQ.
 Constitutional Litigation Clinic
 Rutgers Law School
 15 Washington Street
 Newark, New Jersey 07102
 201-648-5687
 ATTORNEYS FOR URBAN LEAGUE PLAINTIFFS

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 No. C 4122-73
 (Mount Laurel)

NOTICE OF MOTION TO COMPEL
 DISCOVERY (South Plainfield)

TO ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that on Friday, August 29, 1986, at nine o'clock in the forenoon or as soon thereafter as counsel may be heard, Eric Neisser, Esq. and Barbara Stark, Esq., attorneys for the Urban League plaintiffs, shall move before the Honorable Eugene D. Serpentelli for an Order as follows:

1. Compelling defendant Borough of South Plainfield to provide fully responsive answers to interrogatories within five days of the entry of this Order, pursuant to R.4:23-1(a); and
2. Granting the Urban League plaintiffs counsel fees and costs in an amount to be determined following the submission of an affidavit of services pursuant to R.4:23-1(c); and,

3. For such further relief as this Court deems just and equitable.

Plaintiffs shall rely upon the Certification of Barbara Stark, Esq., submitted herewith.

A proposed form of Order is submitted herewith pursuant to R.1:6-2. Plaintiffs consent to disposition of this application on the papers.

DATED:

August 14, 1986



Eric Neisser, Esq.
Barbara Stark, Esq.
Attorneys for the Urban
League Plaintiffs and on
behalf of the ACLU

JOHN M. PAYNE, ESQ.
ERIC NEISSER, ESQ.
BARBARA STARK, ESQ.
Constitutional Litigation Clinic
Rutgers Law School
15 Washington Street
Newark, New Jersey 07102
201-648-5687
ATTORNEYS FOR URBAN LEAGUE PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN COUNTY

URBAN LEAGUE OF GREATER]	Civil No. C 4122-73
NEW BRUNSWICK, et al.,]	(<u>Mount Laurel</u>)
]	
Plaintiffs,]	South Plainfield
]	
vs.]	
]	
THE MAYOR AND COUNCIL OF]	
THE BOROUGH OF CARTERET,]	
et al.,]	
]	Certification of
Defendants.]	Barbara Stark

Barbara Stark, of full age, certifies as follows:

1. I am an attorney at law of the State of New Jersey and staff attorney with the Rutgers Constitutional Litigation Clinic. John Payne, Esq., Eric Neisser, Esq. and I are co-counsel for the Urban League plaintiffs in this matter and in this capacity I am fully familiar with the facts and circumstances of this case. I submit this Certification in support of the Urban League's motion to compel discovery.

2. By Order dated May 21, 1986, a copy of which is annexed as Exhibit A, the Honorable Eugene D. Serpentelli expressly authorized the Urban League to serve interrogatories upon the defendant municipality. By letter dated May 29, 1986, interrogatories were

duly served. A copy of that letter and the interrogatories enclosed therewith is annexed as Exhibit B.

3. By letter dated August 5, 1986, a copy of which is annexed as Exhibit C, plaintiffs again requested defendant's cooperation with regard to the Court Ordered discovery. By letter dated August 8, 1986, Frank A. Santoro forwarded copies of letters to the Borough Engineer and the Town Planner, which purportedly indicated "that the Interrogatories are nearly complete and will be forwarded to [plaintiffs] shortly." Unfortunately, these letters indicate nothing of the kind. Copies are annexed as Exhibit D. Indeed, defendant's bad faith is shown by the fact that the interrogatories were not even sent to Robert Rosa until August 7, 1986, more than one week after the answers were due.

4. This Court has already determined that the Urban League is entitled to discovery regarding South Plainfield's suitable sites for Mount Laurel housing. As set forth in the attached Order, discovery in this matter was to be completed within 90 days. Defendant's refusal to provide answers to interrogatories has made it impossible for the Urban League to complete discovery within this period. It is respectfully submitted that defendant South Plainfield should not be permitted to ignore the Order of this Court with impunity.

5. It is respectfully requested, accordingly, that defendant South Plainfield be compelled to provide fully responsive answers to interrogatories within one week, and that in accordance with R.

4:23(c) defendant municipality be required to pay the Urban League plaintiffs counsel fees and costs in connection with this application in an amount to be determined following the submission of an affidavit of services. Defendant's refusal to comply with the Order of this Court necessitated the instant application and, under the cited Rule, it should be required to pay the expenses thereby incurred.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I may be subject to punishment.


Barbara Stark

Dated: *August 14 1986*

5-20-86

ROGER J. SERFENTELLI, A.B.C.

FRANK A. SANTORO, ESQ.
1500 Park Avenue
P.O. Box 272
South Plainfield, New Jersey 07030
(201) 561-6868
Attorney for Defendants

Plaintiffs,

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al.,

vs.

Defendants,

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

=SUPERIOR COURT OF NEW JERSEY
=CHANCERY DIVISION
=MIDDLESEX/OCEAN COUNTY
=
=CIVIL NO. C 4122-73
=(Mt. Laurel)

ORDER AS TO DEFENDANT
BOROUGH OF SOUTH PLAINFIELD

THIS MATTER having been opened to the Court by Eric Neisser, Jr., Esq., John M. Payne, Esq. and Barbara Stark, Esq., attorneys for Plaintiff Urban League, on an application for conditions of transfer and on notice to Frank A. Santoro, Esq., Peter J. Calderone, Esq., William V. Lane, Esq., Angelo H. Dalto, Esq., Raymond Miller, Esq., Leonard H. Selesner, Esq., John George, Esq., Donald R. Daines, Esq., Joseph Buccellato, Joseph Murray, Esq., and Stephen E. Barcan, Esq., and the Court having considered the entire record in this action and the papers as submitted by respective counsel, and having heard oral

argument, and good cause having been shown,

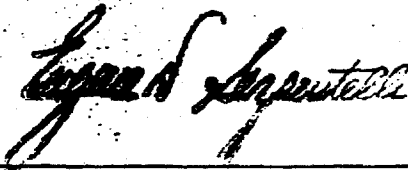
IT IS on this 21st day of May, 1986, ORDERED:

1. Defendant Borough of South Plainfield shall be permitted to close title on current pending outstanding land sales of Borough land, provided the proceeds of said sales are held in a separate escrow account by Defendant Borough of South Plainfield pending further Order of this Court or Order of the Council on Affordable Housing.

2. That the Defendant Borough of South Plainfield is restrained from any further land sales of Borough-owned land pending further Order of this Court or Order of the Council on Affordable Housing.

3. That such discovery as required by Plaintiffs shall be allowable for the purpose of determining whether or not there exists in Defendant Borough of South Plainfield any additional sites suitable for Mt. Laurel Housing construction.

4. That the prior restraints issued by this Court in July of 1985 on the Borough of South Plainfield including all requirements to notify plaintiffs of official actions with respect to the sites listed in Exhibit A, attached hereto, shall remain in effect pending further Order of this Court or Order of the Council on Affordable Housing.



Hon. Eugene D. Serpentelli, A.J.S.C.

Exhibit A

SITES

Harris Steel

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, 21

Coppola Farm

Block 528 Lot 43

Pomponio Avenue

Block 448 Lots 2.01, 4.01
 Block 427 Lot 1.01

Universal Avenue

Block 255 Lots 14, 33, 34

Frederick Avenue

Block 308 Lot 34
 Block 310 Lots 1.01, 4.01, 5-7, 9, 11, 13-15, 17, 18
 Block 311 Lots 16-36,

Morris Avenue

Block 111 Lots 1-4
 Block 112 Lots 1, 2.01
 Block 113 Lots 1.01, 2, 4, 5.01
 Block 115 Lots 1, 2, 2.01, 3

Archdiocese of Metuchen

Block 12 Lots 9, 16, 17

Elderlodge

Block 259 Lots 5, 6.01, 6.02, 7, 12

SERVICE LIST

Urban League v. Carteret, Civ C 4122-73 (Superior Court, Chancery
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May 29, 1986

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

Re: Urban League, et al. vs. Carteret, et al.
(South Plainfield)

Dear Mr. Santoro:

Enclosed please find original and two copies of
interrogatories in connection with the above matter.

Kindly provide fully responsive answers to same
within 45 days so that all discovery, including depositions
if necessary, may be completed within the Court ordered
90 day period.

Very truly yours,

encls

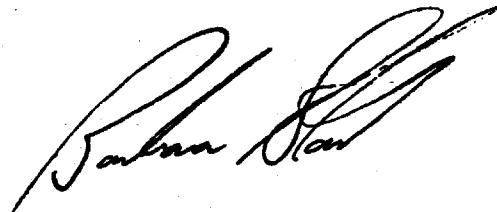


Exhibit B

ERIC NEISSER, ESQ.
JOHN M. PAYNE, ESQ.
BARBARA STARK, 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 NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN COUNTY

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al.,

Plaintiffs,

Civil No. C 4122-73
(Mount Laurel)

vs.

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

Defendants.

PLAINTIFFS' INTERROGATORIES
AND REQUEST FOR PRODUCTION
OF DOCUMENTS (South
Plainfield)

Pursuant to Rules 4:17 and 4:18 of the Rules Governing Civil Practice, plaintiffs hereby request that defendant Borough of South Plainfield answer the following questions in writing, under oath and, where requested, provide accurate and complete copies of specified documents.

Instructions

These Interrogatories shall be answered under oath by an appropriate officer or agent of each defendant who shall furnish all information available to that defendant and its agents, employees, or attorneys.

The person answering the Interrogatories shall designate which information is not within his or her personal knowledge and as to that information shall state the name and address of every person from whom it was received, or, if the source is documentary, a full description of the document.

Whenever a full and complete answer to any Interrogatory contained herein or subpart thereof is contained in a document or documents, such document or group of documents, appropriately identified as answering a specific numbered Interrogatory or subpart, may be supplied in lieu of the written answer.

Whenever in these Interrogatories information is requested which was previously furnished in answer to another Interrogatory, such information need not be restated, and it will suffice to identify the previous answer containing the information requested.

If the defendant has previously submitted to plaintiffs any of the documents requested herein at any time since the status conference of July 25, 1983, a duplicate need not be provided and the answer should simply identify the document and the date it was provided to plaintiffs.

Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known by defendant or its agents, employees, or attorneys, to call for estimates, if any exist. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

Whenever an Interrogatory calls for information which is not available to a defendant, its agents, employees or attorneys, in the form requested, but is available in another form or can be obtained at least in part from other data in the possession or knowledge of defendant, its agents, employees or attorneys so state and either supply the information requested in the form in which it is available or supply the data from which the information requested can be provided.

Unless otherwise required by the context, each Interrogatory should be construed independently and not by reference to any other Interrogatory herein for purposes of limitation.

These Interrogatories shall be deemed to be continuing so as to require supplemental answers between the date the Interrogatories are answered and the date the Township's housing element is filed with the Council on Affordable Housing.

The following definitions shall apply to these Interrogatories:

"Document" means any letter, memorandum, report, agreement, contract, notes, minutes, resolution, ordinance, map, photograph, computer printout, tape or video recordings or any writing or other tangible or intangible record of words or numbers or any draft of preliminary copy of any of the foregoing.

"Farmland" means land which is qualified as farmland under the "Farmland Assessment Act of 1964," N.J.S.A. 54:4-23.1 et seq., or could be qualified as such.

"Lot" means a designated parcel, tract or area of land, established by a plat, or otherwise permitted by law to be used, developed or built upon as a unit. Lots may be identified by reference to tax assessment maps or otherwise readily available official designation.

"Low income families or households" means those whose incomes do not exceed 50 percent of the median income of the region.

"Moderate income families or households" means those whose incomes are no greater than 80 percent and no less than 50 percent of the median income of the region.

"Vacant land," unless otherwise defined, means land not currently developed for residential, industrial, or government use.

"Vacant land" includes woodlands and farmland, and land with abandoned structures or structures that are not currently being put to productive use, but excludes (1) publicly owned parks, recreation areas, and nature preserves; (2) areas normally under water; and (3) cemeteries.

Interrogatories

1. State the total number of acres and the number of acres of vacant land in the municipality zoned for:

(a) non-residential uses, including

- (1) industrial,
- (2) office,
- (3) commercial,
- (4) other (specify)

(b) one acre or larger single-family housing;

(c) less than one acre but larger than one-quarter acre single family housing;

(d) one-quarter acre or smaller single-family housing;

(e) multi-family housing.

2. Attach any documents such as aerial photographs or maps (specifically including a tax map indicating present ownership), which show the present use of all land in the municipality.

3. For each zone in defendant's current zoning ordinances, state or identify:

(a) The name of the zone.

(b) The permitted uses.

(c) The total number of acres in the zone.

(d) The total number of vacant acres in the zone.

(e) The specific lots of vacant land in the zone. (Identify by lot and block number and specify number of acres of each lot.)

(f) The specific lots, and the number of acres of each lot which are vacant but subject to an approved or pending site plan application or an approved or pending variance. For any such sites, set forth (i) date of approval or (ii) date on which application is to be considered, (iii) name of approving body, and (iv) attach copies of all such approvals.

(g) The specific lots, and the number of acres of each lot, which are vacant but are farmland.

(h) The specific lots, and the number of acres of each lot, which are vacant but cannot be used for residential development because of environmental constraints, such as water or wetlands, and identify the constraint[s] applicable to each lot.

(i) The specific lots, and the number of acres in each lot, which are vacant but subject to physical conditions that render residential development difficult or more costly, including, but not limited to, the following, and in each case specify the point at which the condition is considered by defendant to be a constraint on residential development (e.g., bedrock within four feet of surface):

(1) Bedrock close to surface.

(2) Steep ground slopes.

(3) Watertable close to ground surface.

(4) Location within a flood hazard zone.

(5) Soil content (use soil classification of U.S. Department of Agriculture Soil Conservation Service in specifying types of soil content).

(6) Other physical conditions affecting development (specify).

(j) The number of acres which are vacant but would require for residential development construction, provision, or extension of any municipal service or necessary infrastructure, including, but not limited to, sewer or water service. (If water/sewer is provided up to the lot line, it should be considered available for purposes of this interrogatory unless an existing facility would have to be expanded.)

(k) The specific lots which are vacant but would require for residential development, construction, provision or extension of any municipal services or infrastructure and identify the service[s] or infrastructure needed for each lot.

(l) The specific lots which are vacant but not available for residential development for reasons other than those

described in questions 3(f) through 3(k) but listed in 3(e), and identify the reason[s] applicable to each lot. Specify lot and block and number of acres of each lot.

(m) The specific lots which are vacant and available for residential development. Specify lot and block and number of acres of each lot.

4. For each zone in which there is land which is vacant but already subject to an approved site plan or a pending site plan application or an approved or pending variance, state for each such site plan, variance or site plan or variance application:

(a) The zone in which the proposed development is located and the location of the proposed development within the zone.

(b) The lot and block numbers and number of acres covered by the site plan or site plan or variance application.

(c) The nature of the proposed development (e.g., residential-single family detached houses, residential-garden apartments, commercial-hotel, commercial-shopping center).

(d) The date the site plan application was filed and the date approval was granted.

(e) The name and address of the applicant and, if represented by an attorney, the name and address of the applicant's attorney.

5. Attach a copy of all site plans and site plan and variance applications mentioned in answer to question 4.--

6. Within each zone:

(a) State how many acres of vacant land are owned by the municipality.

(b) Identify each lot of vacant land owned by the municipality by lot and block number and number of acres in the lot.

(c) For each lot, state any restrictions or constraints which would make it unavailable for residential development.

(d) For each lot, estimate current value.

(e) Set forth amount in escrow account, source of funds, and date of each deposit.

(f) Set forth in detail and with particularity all contracts for sales not yet closed, including, but not limited to date, name of purchaser, attorney, and anticipated date of closing. Attach copies of contracts and any related Council resolutions and newspaper publications.

7. State any development approvals since February 1984 on any lands identified in defendant's original answers to interrogatories.

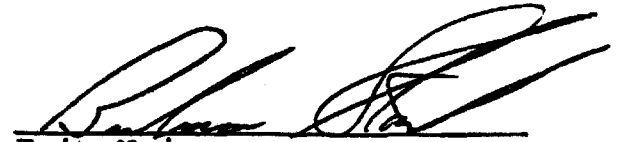
8. Set forth all persons to whom building permits were granted for construction on vacant lots from February 1984 to present, the dates of issuance of such permits and the block and lot numbers of the subject sites.

9. Set forth a detailed description of any and all studies, plans, and steps taken or approved for construction of senior citizen housing by the municipality or privately owned sites not limited to the Morris Avenue site. Specify the number of units and the source of funding.

10. Set forth all formal and informal inquiries received for Mount Laurel development since February 1984 anywhere in the municipality, including the dates and sources of such inquiries.

11. Set forth any and all formal and informal inquiries and/or proposals for any development on the 8 sites subject to restraint, since February 1984, including the dates and sources of such inquiries.

Dated: May 29, 1986

Handwritten signatures of Eric Neisser and Barbara Stark, written in black ink over a horizontal line.

Eric Neisser
Barbara Stark
Attorneys for Plaintiffs

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS
Campus at Newark

School of Law-Newark • Constitutional Litigation Clinic
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15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

August 5, 1986

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

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

Dear Mr. Santoro:

As you know, the Honorable Eugene D. Serpentelli ordered that this matter be completed within a 90-day period. We requested that you provide answers to interrogatories within 45 days, so as to comply with the Court Order. As of this date, however, we have not received your answers. Even under the usual discovery schedule set forth in the Rules, those answers were due by the end of July.

Please be advised that if fully responsive answers to interrogatories are not received by Monday, August 11, 1986, we may have no alternative but to file the appropriate application with the Court.

Very truly yours,

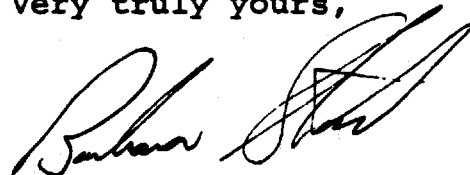


Exhibit C

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

AREA CODE 201
681-6808

August 8, 1986

Barbara Stark, Esq.
Rutgers University
School of Law - Newark
Constitutional Litigation Clinic
S. I. Newhouse Center for Law and Justice
15 Washington Street
Newark, New Jersey 07102-3192

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

Dear Ms. Stark:

In response to your letter of August 5, 1986, I enclose copies of letters to me from our Borough Engineer and from our Borough Engineer to our Planner, which indicate that the Interrogatories are nearly complete and will be forwarded to you shortly.

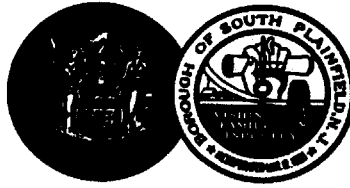
Very truly yours,


FRANK A. SANTORO

FAS:sr
Enclosures

Exhibit D

#86-280



BOROUGH *of* SOUTH PLAINFIELD

MIDDLESEX COUNTY • NEW JERSEY

August 8, 1986

Frank A. Santoro, Esq.
P. O. Box #304
1500 Park Avenue
South Plainfield, N.J. 07080

Re:

Urban League Interrogatories

Dear Frank:

I am forwarding to you the maps as required by the Urban League (under separate cover).

The interrogatories were sent to Bob Rosa's office since he would have the bulk of the required information.

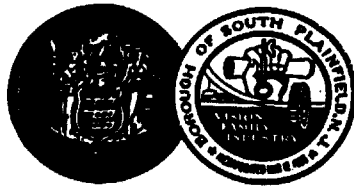
Very truly yours,

Rich

Richard J. Naberezny, PE&LS
Borough Engineer

RJN/cmp

#86-281



BOROUGH *of* SOUTH PLAINFIELD

MIDDLESEX COUNTY • NEW JERSEY

August 7, 1986

Mr. Robert Rosa
510 Amboy Avenue
Woodbridge, N.J. 07095

Re:

Urban League Interrogatories

Dear Mr. Rosa:

We submit herewith the above mentioned interrogatories, and ask that you please complete them.

The Borough will provide the aerial photographs, tax maps and zoning maps required.

Your timely submission will be appreciated.

Very truly yours,

Richard J. Naberezny, PE&LS
Borough Engineer

Enclosures

RJN/cmp

JOHN M. PAYNE, ESQ.
ERIC NEISSER, ESQ.
BARBARA STARK, ESQ.
Constitutional Litigation Clinic
Rutgers Law School
15 Washington Street
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201-648-5687
ATTORNEYS FOR URBAN LEAGUE PLAINTIFFS

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 No. C 4122-73
(Mount Laurel)

ORDER (South Plainfield)

THIS MATTER having been opened to the Court by the Urban League plaintiffs, upon notice to Frank A. Santoro, Esq., Peter J. Calderone, Esq., William V. lane, Esq., Angelo H. Dalto, Esq., Raymond Miller, Esq., Leonard H. Selesner, Esq., John George, Esq., Donald R. Daines, Esq., Joseph Buccellato, Joseph Murray, Esq., Stephen E. Barcan, Esq., Carmine Campanile, Esq., Edward J. Boccher, Esq., Glenn S. Pantel, Esq., Peter D. Sudler, Esq., and the Court having considered the papers appearing at the foot hereof, and good cause having been shown,

It is, on this _____ day of September, 1986, ORDERED:

1. That defendant Borough of South Plainfield provide fully responsive answers to interrogatories within five days of the entry

of this Order, pursuant to R.4:23-1(a); and

2. That defendant pay the Urban League plaintiffs counsel fees and costs in an amount to be determined following the submission of an affidavit of services pursuant to R.4:23-1(c).

Hon. Eugene D. Serpentelli, A.J.S.C.

PAPERS CONSIDERED:

_____ Notice of Motion
_____ Movant's Affidavit
_____ Movant's Brief
_____ Answering Affidavits
_____ Answering Brief
_____ Cross Motion
_____ Movant's Reply
_____ Other _____