

U.L. v. Carter

S. Plainfield

(?) 1987 or later

- Objections of Civic League to S. Plainfield's Plan (10 pgs.)
- Exhibit A: expert report of Alan Mallaeh (4 pgs)
- Exhibit B: order of Judge Serpentelli. (5 pgs)
- Exhibit C: pertinent provisions of order & Plan (4 pgs)
- Exhibit D: compliance facts Asto S. Plainfield (5 pgs).

Pgs: 28 total

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OBJECTIONS OF THE CIVIC LEAGUE
TO SOUTH PLAINFIELD'S HOUSING ELEMENT AND
FAIR SHARE PLAN

Introduction

As a defendant in an exclusionary zoning suit¹ transferred to the Council by the courts² South Plainfield is deemed to have filed a petition for substantive certification by filing its Housing Element and Fair Share Plan [hereinafter the "Plan"] N.J.A.C. 5:91-4.2. The Civic League of Greater New Brunswick [hereinafter the "Civic League"] respectfully submits these objections to South Plainfield's Plan pursuant to N.J.A.C. 5:91-5.1. These objections are limited to those provisions of South Plainfield's Plan which fail to comport with the guidelines and criteria established by the Council. N.J.A.C.5:91-5.1(a)4.

The Civic League expressly reserves its rights with respect to objections it may have regarding the methodology and regulations of the Council in general; including but not limited to objections as to regions, filtering and fair share; and as specifically applied to South Plainfield.

Having been a named plaintiff in the Mount Laurel litigation cited above, the Civic League remains an interested party in this matter. The Civic League's membership includes low and moderate

¹ Urban League, et al. v. Carteret, et al., Civil No. C 4122-73.

² Hills Development Co. v. Township of Bernards, 103 N.J. 1 (1986).

income persons whose need for affordable housing has been expressly recognized by the New Jersey Supreme Court.

In support of these objections, the Civic League shall rely upon the expert's report of Alan Mallach, AICP dated January , 1986, annexed hereto as Exhibit A.

This submission does not address the "request" set forth in the letter dated January 5, 1987 of Frank Santoro, Esq. for unspecified relief from the May 1986 Order of the Honorable Eugene D. Serpentelli. That request is improper and should not be considered by the Council. South Plainfield's demands with respect to the Order should be made by motion, on notice, pursuant to N.J.A.C. 5:91-13.1 et seq.

Objections

1. Proposed rehabilitation element

The borough has provided no inventory setting forth the "age, condition, purchase or rental value, occupancy characteristics and type" or any other evidence showing the existence of 68 physically substandard units suitable for rehabilitation as required by N.J.A.C. 5:92-1.4(a)1.

Furthermore, assuming that some rehabilitation program would be appropriate, the borough has failed to demonstrate that such rehabilitation would be within the parameters set forth at N.J.A.C. 5:92-11.5. Nor has it provided any information as to

funding sources essential to the feasibility of this program.

The Civic League respectfully submits that the Borough's complete failure to even establish the existence of the units to be rehabilitated, considered in conjunction with the patent inadequacies of its Plan with respect to said units, mandates the denial of its petition for substantive certification pursuant to N.J.A.C. 5:91-6.3(a).

In the alternative, denial of certification should be conditioned upon the submission by the Borough of the necessary documentation, which should have been included in the Plan, within fifteen days. Although under N.J.A.C. 5:91-6.3(b), as much as 60 days may be allowed for refiling, it is in keeping with the administrative scheme that that period be shortened where, as here, no documentation whatsoever has been provided.³ The cited rule expressly contemplated the process to be completed within the 60 day period. Since South Plainfield has failed to provide the requisite documentation, it should be required to do so within 15 days so that interested parties may respond within the sixty day period.

2. Morris Avenue senior citizen housing project

³ Where the mediation process has been triggered by the timely filing of objections, as it has been here, the requested timetable is particularly appropriate in view of N.J.A.C. 5:91-7.2(e), which provides in pertinent part that mediation "may be conducted for a period of not more than 60 days after the time for receipt of objections to a petition for substantive certification has expired."

The borough has again failed to provide documentation as to the extent of the subsidy needed to make the 100 unit senior citizen project feasible, the source of the subsidy, or the alternatives to be pursued in the event the needed subsidy funds are unavailable. Again, the Borough conspicuously ignores the mandate of N.J.A.C.-1.4(a) to produce a housing element "designed to achieve the goal of access to affordable housing." Indeed, the unsigned and undated Ordinance "to amend Ordinance 762" submitted with South Plainfield's Plan, which requires unspecified and legally problematic contributions from non-Mount Laurel developers, only demonstrates South Plainfield's lack of good faith in this regard, especially when considered in conjunction with the very limited development taking place in the Borough.

Since there may well be objections to South Plainfield's documentation, if it is in fact provided, the Borough should be required to file its supplemental submission within 15 days so as to permit objections within the specified 60 day period.

South Plainfield should further be required to provide a firm and legally binding commitment that in the absence of adequate external subsidy funds, it will take responsibility for the amount needed to make the project feasible.

In the absence of such documentation and commitment, South Plainfield's petition for substantive certification should be denied in accordance with N.J.A.C. 5:91-6.3(a). In the

alternative, denial of certification should be conditioned upon the appropriate submissions by the Borough in accordance with N.J.A.C. 5:91-6.3(b).

3. Total number of age-restricted housing units

The Borough proposes to provide 100 senior citizen units on the Morris Avenue site, and 20 on the Elderlodge site, for a total of 120 senior citizen units. This represents 30% of South Plainfield's fair share allocation. N.J.A.C. 5:92-14.3 expressly provides that no more than 25% or 100 units within the fair share allocation may be age-restricted. Twenty of the excess units, accordingly, should not be credited toward satisfaction of the Borough's fair share.

Since this results in a shortfall of 20 units, the Civic League respectfully submits that the petition for substantive certification should be denied in accordance with N.J.A.C. 5:91-6.3(a). In the alternative, denial of certification should be conditioned upon the submission by the Borough of its detailed proposal for providing the 20 affordable units within 15 days.

The Borough should have no difficulty developing such a proposal in view of the extensive prior fact-finding and negotiations undertaken in this matter, resulting in the Order of May 22, 1984 of the Hon. Eugene D. Serpentelli annexed hereto as Exhibit B.⁴ A comparison of the pertinent provisions of that

⁴ As Edward Boccher notes in "Mediation and Review Before the

Order and the instant Plan is annexed as Exhibit C, for the convenience of the Council and the mediator.

4. Mixed use/industrial-residential sites

The Borough proposes to designate two sites (Harris Steel and Coppola Farm) largely for industrial use. A small part of the site is to be designated for lower income housing, subsidized by the industrial development. It is respectfully submitted that the following conditions must be satisfied if these sites are to be considered "suitable" under COAH definitions set forth at N.J.A.C. 5:92-1.3:

a. The Borough must show that there will be no harmful impact on residential development, by reason of traffic, noise, visual encroachment, or any other by-product of the industrial uses.

b. Since the residential development would be relatively small scale (100 units on Harris and 50 units on Coppola), and consist entirely of lower income housing, the Plan may well create isolated residential enclaves. The Borough must establish

Council on Affordable Housing," 119 N.J.L.J. 1 (Jan. 1, 1987): "Significantly, the council and its mediator are not bound by any interim adjudications previously entered by a trial court in cases transferred to the council, nor is the council bound to accept any stipulations entered into by a party in any such litigation. Hills, supra, 103 N.J. at 59. Nevertheless, the council, or its mediator, is not precluded from utilizing such findings or agreements, and perhaps may do so to encourage a successful resolution of the mediation process. N.J.A.C. 5:91-7.1(c)." (Emphasis added.)

that the proposed developments represent reasonable extensions of existing residential areas.

c. This scheme proposes that industrial development, rather than market residential development, will subsidize the lower income units. As set forth in Mr. Mallach's report, however, there is substantial overzoning for industry throughout Central New Jersey and many industrially zoned sites in central New Jersey are vacant. Current market conditions are not conducive to expeditious industrial development. Enforceable guarantees must be provided, accordingly, assuring expeditious development. In the alternative, fallback mechanisms must be specified.

d. The Borough has failed to set forth a schedule in accordance with N.J.A.C. 5:92-10.2 to ensure that the lower income housing is actually built.

e. A number of technical questions must be addressed in detail by the Borough: (1) will the industrial developer be responsible for building the units, or for conveying the land to another party? (2) who will be responsible for long-term ownership and operation of the rental units?

The Civic League respectfully submits that unless these conditions are satisfied, and full documentation provided with respect to same, South Plainfield's petition for substantive certification should be denied in accordance with N.J.A.C. 5:91-6.3(a). In the alternative, denial of certification should be

conditioned upon the appropriate submissions by the Borough in accordance with N.J.A.C. 5:91-6.3(b). The Borough should be required to submit the documentation and guarantees described above within 15 days, so as to permit review and the further filing of objections by interested parties within the 60 day period.

5. Bedroom Mix

South Plainfield has made no effort to comply with N.J.A.C. 5:92-14.1(a)1 et. seq. which requires, at a minimum, that 35% of all low and moderate income units within an inclusionary developments contain two bedrooms, 15 % of such units contain three bedrooms and no more than 20% of such units be efficiency units.

6. Range of Affordability

South Plainfield does not comply with the requirements of N.J.A.C. 5:92-14.2, which requires the municipality to provide a range of affordability for purchased housing.

7. Rental Units

South Plainfield does not comply with N.J.A.C. 5:92-14.4, which requires those municipalities with a fair share obligation equal to or greater than 125, like South Plainfield, to "provide the opportunity" for 20% of such units to be rental units.

8. Affirmative Marketing Program

South Plainfield has failed to develop and implement an Affirmative Marketing Program, as required by N.J.A.C. 5:92-15.1.

9. Municipal Ordinances

The Fair Housing Act requires that a municipality adopt the ordinances necessary to the implementation of its Housing Element and Fair Share Plan within forty-five days of the grant of substantive certification. A final draft of such ordinance(s), meeting all statutory and COAH standards, should be provided by South Plainfield prior to any grant of substantive certification. Not only are the provisions of such ordinance(s) critical to the actualization of the Plan, but as a practical matter, the ordinance should be drafted prior to substantive certification if there is to be any possibility of its adoption within the mandated forty-five days.

Conclusion

When all the the above described defects are considered , it is respectfully submitted that the Borough's purported "Plan" falls far short of Council standards, mandating the dismissal of this matter pursuant to N.J.A.C. 5:91.3.3 for failure to undertake those actions required by N.J.A.C. 5:93-3.1. Objections 1 through 4, above, raise serious doubts as to the feasibility of

more than 75% of the units described in the Plan. As noted in objections 5 through 8, the Borough has simply ignored the Council's requirements with respect to the critical issues of affordability range, bedroom mix , affirmative marketing and rental units .

Indeed, the Borough's failure in this regard is hardly surprising in view of its long history of resistance to affordable housing. As set forth in the excerpt from the Civic League's Brief in Opposition to Transfer, annexed as Exhibit D, South Plainfield has persistently defied Court Orders in its determination to avoid its Mount Laurel obligation. It is respectfully submitted that taking into account the Borough's unmitigated record of bad faith -- and the instant Plan is but the latest example of that bad faith -- this matter should be dismissed on an accelerated basis pursuant to N.J.A.C. 5:91-11.2.

A

BOROUGH OF SOUTH PLAINFIELD

COMMENTS ON DRAFT HOUSING ELEMENT

1. Proposed rehabilitation element

The borough has provided no surveys or other evidence in support of the existence of 68 physically substandard units suitable for rehabilitation in the borough/1. There is, therefore, no factual basis for assuming that a 68 unit rehabilitation program, as proposed by the borough, is feasible and appropriate. Furthermore, assuming that some rehabilitation program would be appropriate, the housing element provides no information on funding sources, guidelines, resale controls, etc. As presented in this draft housing element, the rehabilitation program is clearly inadequate.

2. Morris Avenue senior citizen housing project

The borough has provided no documentation of the extent of subsidy needed to make the 100 unit senior citizen project feasible, the source of the subsidy, or the alternatives to be pursued in the event the needed subsidy funds are unavailable/2. Although in concept this is a legitimate undertaking, in the absence of thorough documentation of all of those elements, it cannot be considered a realistic opportunity for provision of housing, and should not be acceptable as a part of the housing element.

In essence, should the borough want to include this project in its housing element, in addition to further documentation of what is necessary for it to be feasible, it must adopt one of two alternative approaches: (a) provide a firm commitment that in the absence of adequate external subsidy funds, the borough will take responsibility for the amount needed to make the project feasible/3; or

1/The indigenous need category in the fair share formula is based on a formula, rather than a field study, which may vary significantly from the actual number. In addition, the formula includes overcrowded units as well as physically substandard ones, and may well include units that are not physically capable of being rehabilitated. Thus, it is completely inappropriate simply to assume that the indigenous need figure in the COAH fair share formula can automatically serve as the target for a rehabilitation program.

2/Judging from the comment in an earlier part of the housing element, "it is recommended that the Borough continue to seek funding for the construction of a senior citizen housing complex..." it appears that the borough not only has no idea where funding will come from, but has no intention of providing such funding itself.

3/In view of the legal uncertainties involved, as well as the limited development taking place in the borough, a proposal to charge a fee on non-Mount Laurel development (as suggested on p.10 of the housing element, would clearly not adequately address this issue.

(b) provide a fallback or alternative project, which can clearly go forward without the need for externally-generated subsidy funds.

3. Total number of age-restricted housing units

The Borough proposes to provide 100 senior citizen units on the Morris Avenue site, and 20 on the Elderlodge site, for a total of 120 or 30% of their fair share allocation. Under Council rules, no more than 25% or 100 units within the fair share allocation may be age-restricted.

4. mixed use/industrial-residential sites

The Borough proposes to designate two sites (Harris Steel and Coppola Farm) largely for industrial use, with an unspecified but small part of the site designated for lower income housing, to be subsidized by the industrial development on the balance of the site. While not inherently unacceptable in concept, this raises a number of serious questions which must be adequately answered if these sites are to be considered acceptable under Council standards:

a. The physical relationship between the industrial uses and the residential uses on the same site must be clearly shown to be such that there will be no harmful effects to the residential development, in terms of traffic, noise, visual encroachment, etc. by the industrial uses.

b. The physical relationship between the residential development and both the industrial uses on the same site as well as adjacent land uses must be shown, in order to ensure that the effect of this scheme is not to create isolated residential enclaves⁴, but rather residential areas that represent reasonable extensions of existing residential development.

c. This scheme proposes that industrial development, rather than market residential development, will subsidize the lower income units. There are considerably more uncertainties surrounding industrial development than moderate-density market residential development. There is substantial overzoning for industry throughout Central New Jersey; many industrially zoned sites in central New Jersey are vacant. While one can reasonably assume, given current market conditions, that a physically appropriate site zoned for higher density residential development and owned by

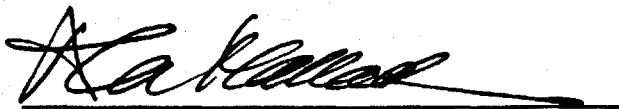
⁴Under the earlier version worked out between South Plainfield and the Urban League this was not a serious problem, because of the large scale (and mixed-income character) of the residential development on these sites. Under the current proposal, the residential development would be relatively small scale (100 units on Harris and 50 units on Coppola), and would be entirely lower income housing. Thus, this is now a serious concern.

an owner willing to develop will be developed expeditiously, the same is not true of industrial development. Assurances must be provided that development will take place expeditiously, or, if not, fallback approaches are available.

d. Closely related to (c) above is the question of phasing; assuming that the other issues are resolved, what phasing schedule will be adopted to ensure that the lower income housing is actually built?

e. A number of technical questions remain: will the industrial developer be responsible for building the units, or for conveying the land to another party? Who will be responsible for long-term ownership and operation of the rental units?

While in concept the proposals for the Harris and Coppola sites may be potentially workable, in the absence of resolution of the issues given above they are not appropriately included in the housing element.

A handwritten signature in black ink, appearing to read "Alan Mallach", with a long horizontal line extending to the right from the end of the signature.

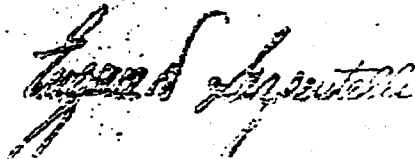
Alan Mallach, AICP
December 24, 1986

B

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 Div., Middlesex County) (SOUTH PLAINFIELD)

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9

Comparisons between South Plainfield's Plan and the Order
dated May 21, 1984 of the Hon. Eugene D. Serpentelli

Morris Avenue. The Plan provides for a 100 unit senior citizen complex. The Order provides for a 100-150 senior citizen unit of which at least 50% are low income and the remaining amount moderate income seniors.

Harris Steel Site. This site is on New Brunswick Ave. between Tyler Place and Jersey Street. It is approximately 100 acres and the town states that only 55 are developable. Industry is located to the north, east, and south and multi-family housing to the west. The Plan designates the site for mixed development, including 10 acres containing 100 affordable units of which 45 will be rental units. The rest of the site will be used for industrial purposes. Paragraph 3a of the Order requires that the entire site be zoned exclusively for multi-family housing at a development of 12 per acre with a set aside of 10% low income and 10% moderate income units.

Elderlodge. This site is located on Hamilton Blvd. between Church Street and S. Plainfield Avenue. Currently it is zoned for a 100 unit age restricted complex. The Plan reserves 20 of these units for low/moderate income households. Paragraph 3h of the May 21, 1984 Order requires that this land be used to

construct a 100 unit multi-family development with a set aside of 10% low and 10% moderate income units.

Coppola Farm Site. The Borough intends to rezone this site so that 5 acres are used to build 50 affordable units and the other 20 acres used for industrial purposes. The Order required that the entire lot be zoned exclusively for multi-family development at 12 units per acre with 10% for low and 10% for moderate income families. Paragraph 3b of May 21, 1984 Order.

Pomponio Avenue Site. This site includes 11 acres of freshwater wetlands. It is surrounded by residences to the north and east and industrial uses to the south and west. The Borough intends to market it for private development consisting of 90 units, 18 of which will be affordable units.

Paragraph 3c of the Order requires that this be zoned exclusively for multi-family development at a rate of 15 units per acre with 10 percent set aside for low and ten percent set aside for moderate income housing.

Universal Avenue Site. This site is located on the Edison border. The Borough proposes building 105 units here with 21 being set aside for low and moderate income households.

Paragraph 3d of the Order set a density at 12 units per acre

with a set aside of 10% low and 10% moderate income units.

Metuchen Diocese Tract. This site is in a single family residential neighborhood. Six of the seven acres are developable. There is a school to the south and single-family housing to the north, west and east. The plan recommends that 20 units be built here of which only 4 will be available to low and moderate income households.

Paragraph 3g of the Order requires 12 units per acre with 10% set aside for low and 10% set aside for moderate income households.

The Plan does not include development of the Frederick Avenue site which consists of 8 acres of public land and 4 and 1/2 acres of private land. Building was to take place at a density of 12 units per acre with a 10% low and 10% moderate income set aside.

Furthermore, the Plan unlike the Order fails to specify phasing schedules. Also, the Order requires all multi-family units to contain a bedroom mix reflecting the distribution of housing needs by household size. There is no mention of bedroom mix in South Plainfield's Plan.

D

E. Compliance Facts As To South Plainfield

After the beginning of the joint fair share trial, South Plainfield and the Urban League plaintiffs signed a Stipulation on May 10, 1984, which included all facts necessary for the Court to determine fair share, ordinance invalidity, and the appropriate remedy. The Borough and plaintiffs expressly stipulated that both the Court's general formula for fair share allocation, which would have assigned South Plainfield 1725 lower income units, and the Urban League plaintiffs' expert's formula, which would have assigned South Plainfield only 1523, were "reasonable." However, the parties agreed that there was "insufficient vacant developable land suitable for development of low and moderate income housing to meet the full fair share resulting from either methodology" and therefore stipulated to a fair share of 900 units.

The Stipulation identified (by block and lot number) only eight specific sites as suitable for multi-family development with a set-aside. Based on the acreage estimates provided by the Borough, the number of units that would be constructed in South Plainfield would be at most 603. One of these sites, known as Elderlodge, had been the subject of a separate lawsuit, challenging in part on Mount Laurel grounds, a Board of Adjustment denial of a senior citizen apartment project.

Based on the Stipulation, plaintiffs moved for summary judgment, which was granted on May 22, 1984, establishing October 4, 1984 as the deadline for enactment of the necessary ordinances. During the 133-day compliance period, plaintiffs reviewed

the Borough's drafts of the proposed zoning and affordable housing ordinances and provided defendants with detailed input to permit passage of compliant ordinances well within the time required by the Court. Instead, in response to a written inquiry by the Court, the South Plainfield attorney informed the Court on October 4, 1984, the compliance deadline, that no ordinance revisions would be approved until complete revision of the Master Plan. On October 2, 1984, the South Plainfield Board of Adjustment granted Elderlodge a variance to build senior citizen housing without any Mount Laurel set-aside.

Pursuant to the Urban League plaintiffs' October 1984 motion for restraints in light of these developments, the Court entered an Order on December 13, 1984 consolidating the Elderlodge and Urban League matters, preventing vesting of any rights as to the Elderlodge plaintiff, and directing adoption of compliant ordinances by January 31, 1985. South Plainfield violated that Order, as it had violated the prior Judgment. No ordinances were passed in January nor at a March 11, 1985 public hearing on second reading. On the latter date, because the plaintiffs had suggested a few minor modifications of the ordinances to conform to the Stipulation, the Council referred the ordinances back to the Planning Board as if they required complete redrafting.

In June 1985, while awaiting further Planning Board and Council action, the Urban League plaintiffs learned that the Borough had sold several municipally-owned parcels identified by block and lot number in the Judgment and the Planning Board had approved development of two-family homes on those sites, approv-

als clearly inconsistent with the required but delayed rezoning of those parcels. After a further period of defiance, and as a result of a stringent Court order restraining issuance of almost all building permits and any sale of Borough-owned land, the South Plainfield Borough Council finally adopted the ordinances under protest on August 7, 1985, more than 10 months after the deadline set in the Judgment of May 22, 1984.⁶

Even while the ban on sales of municipally-owned property remained in effect, the Borough adopted a "time of essence" resolution on August 12, 1985 requiring contract purchasers of Borough-owned land to post the full purchase price by August 22. This resolution applied to one contract purchaser of the bulk of a specified Judgment site, who had already contracted for resale of the property to an experienced Mount Laurel developer. The resolution forced him to deposit the full \$1.27 million purchase price, although the Borough was barred from transferring title.

When the trial court denied the transfer motion herein appealed, the zoning and affordable housing ordinances of South Plainfield, adopted on August 7, 1985, went into effect. Order of October 11, 1985, Para. 3. On November 12, 1985, Judge Serpentelli was scheduled to hold the compliance hearing for South Plainfield. However, at the very last minute, the owner of the largest site within the Judgment, Harris Structural Steel Co.,

6 The sorry details of South Plainfield's intransigence are set out in the Urban League respondents' Memorandum of Law in Opposition to South Plainfield's Motion to Transfer dated August 28, 1985, filed with this Court on November 25, 1985.

sought leave to intervene to object to the rezoning of its site. As a result, the hearing was adjourned to December 4, to give Harris Steel time to present appropriate data which were not in its moving papers and to negotiate its problem with the parties and, at the Court's request, for the parties to attempt settlement of the remaining compliance issues. On November 19, the Borough attorney informed the Urban League attorneys that there was no possibility of settlement. On November 22, Judge Serpentelli granted South Plainfield's motion to stay further trial court proceedings pending determination of this appeal, believing that he was bound by this Court's earlier affirmance of the Appellate Division's grant of a stay in the Bernards Township appeal.