

VL v. Cartwright (S. Plainfield)

12 June 1987

- copies of ordinances proposed to be passed by  
S. Plainfield

+ letter from Dalto, map of proposed project, misc.  
documents received from S. Plainfield relating to  
Senior Citizens project

29 pg =

741

CARTWRIGHT

~~CARTWRIGHT~~

*Barbara J. Williams, Esq.*  
*90 Denow Road*  
*Lawrenceville, New Jersey 08648*  
*(609) 896-0910*

June 12, 1987

Mr. Allan Mallach  
15 Pine Drive  
Roosevelt, N.J. 08555

Re: Civic League of Greater New Brunswick et al v. Borough  
of Carteret et al ( South Plainfield).

Dear Allan:

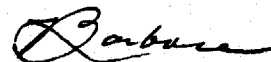
I am enclosing copies of the ordinances proposed to be passed by South Plainfield. We will need to be in a position by the June 18th meeting to advise the mediator whether our objections are obviated by the terms of the ordinances as written or what changes would be necessary to satisfy our objections. To that end, I would appreciate your reviewing the ordinances in light of the filed objections of the Civic League.

I am also enclosing a letter from Angelo Dalto and a map of a proposed project in South Plainfield/ Edison. You will note that the boundary between the two towns cuts through a Mt. Laurel unit raising an interesting question as to who gets credit for it!

Lastly, I am enclosing various miscellaneous documents also received from South Plainfield relating to the Senior Citizen project which I am sure you have already seen.

Again, thanks for all your help.

Very truly yours,



Barbara J. Williams

cc. Mr. C. Roy Epps (without enclosures)  
enc. Eric Neisser Esq.  
Dean John Payne

# The Atlantic Group

3  
5/29/87

URBAN DEVELOPMENT CONSULTANTS

Lawrence O. Houstoun, Jr., A.I.C.P., Principal  
1 South Main Street  
Cranbury, New Jersey 08512  
609/655-5328

May 12, 1987

Mr. Patrick Diegnan  
33 South Plainfield Ave.  
South Plainfield, N.J. 07080

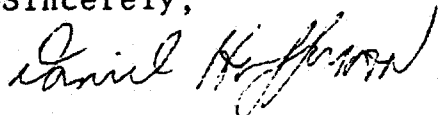
Dear Mr. Diegnan:

As per your request, please be advised that The Atlantic Group is currently under contract with the Housing Authority of the Borough of South Plainfield.

According to the terms of our contract, we expect to apply for, on behalf of the Authority, a grant for \$750,000 from the Dept. of Community Affairs' Urban and Balanced Housing Fund. The application will be made within the next 90 days, and the Borough should have a favorable response from the Dept. of Community Affairs within 45 days of receipt of the application. Your project is clearly eligible and the state program is fully funded, so money from DCA will be available.

Simultaneous to the DCA review of your application, The Atlantic Group will also file, on behalf of the Authority, an application with the N.J. Housing and Mortgage Finance Agency for permanent mortgage financing for the balance of the housing project's costs. This application should also be treated as a routine matter by the N.J.H.M.F.A. and as such I would expect construction to be able to begin in the fourth quarter of 1987.

Sincerely,



Daniel Hoffman  
Project Manager

*89 Elder Lodge*

**ABRAMS, BLATZ, DALTO, GRAN, HENDRICKS & REINA**

A PROFESSIONAL CORPORATION  
COUNSELLORS AT LAW  
1550 PARK AVENUE

POST OFFICE DRAWER D  
SOUTH PLAINFIELD, NEW JERSEY 07080

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(201) 757-4488  
(201) 756-1000

SOUND BROOK OFFICE  
ROBERT E. HENDRICKS  
RESIDENT PARTNER  
(201) 356-9400  
PLEASE REFER TO  
FILE NO.

NORMAN J. ABRAMS  
FRANK H. BLATZ, JR.  
(N.J. AND FLA. BARS)  
ANGELO H. DALTO  
HOWARD GRAN  
ROBERT E. HENDRICKS  
C. DOUGLAS REINA

JANE D. CASTNER  
WILLIAM J. JOHNSON  
STEVEN H. MERMAN

June 3rd, 1987

John Graf, Secretary  
South Plainfield Planning Board  
2480 Plainfield Avenue  
South Plainfield, New Jersey 07080

re: DiGian & Son Construction  
Adams Parcel  
Lot 34, Block 255, South Plainfield; Lot 10, Block 590-A, Edison

Dear Mr. Graf:

On behalf of DiGian & Son Construction Company, and pursuant to N.J.S.A. 40:55D-10.1, I am herewith requesting an informal review of a "concept plan" for the development of the Adams Tract, known as Lot 34 in Block 255 in South Plainfield and Lot 10 in Block 590-A in Edison Township. I am enclosing herewith five (5) copies of the plan, which is purely a conceptual rendering of what is intended for this site.

As you know, this site was originally proposed for Mount Laurel consideration in the zoning adopted by the Planning Board and governing body, and later repealed by the governing body. This plan proposes development in accordance with the zoning standards which were adopted at that time. On that basis we would welcome the opportunity to discuss the zoning of this tract for its original Mount Laurel considerations. You will note that the plan herewith enclosed proposes development to accommodate Mount Laurel consideration. We would be prepared to discuss all aspects of the proposal. We would welcome the attendance of the governing body should the Mayor and Council determine that to be in their best interests.

We are forwarding a copy of this letter to the Council on Affordable Housing as well as to Barbara Williams, Esq., so that they would be apprised of our intentions in this matter.

Very truly yours,

*Angelo H. Dalto*  
Angelo H. Dalto

AHD:jsb  
Enclosures

cc: DiGian & Son Construction  
Barbara J. Williams, Esq.  
Council on Affordable Housing  
Mayor and Council, South Plainfield

*Copy to COAH on \_\_\_\_\_*

*Patrick J. Diegnan, Jr.*

*Attorney at Law*

*33 South Plainfield Avenue*

*P.O. Box 736*

*South Plainfield, N.J. 07080*

May 29, 1987

Mr. David Cohen  
1 East Parkway Place  
Holmdel, New Jersey 07733

RE: Borough of South Plainfield  
Housing Element and Fair Share Plan

Dear Mr. Cohen:

As per your direction at the mediation held on May 28, 1987, enclosed please find the following documents for your review:

- 1) Conformed copy of Ordinance #1063, adopted by the Governing Body of the Borough of South Plainfield on January 26, 1987.
- 2) Ordinance entitled "Housing Affordable" to be immediately adopted by the Governing Body of the Borough of South Plainfield if the form and content of same is acceptable to the Council on Affordable Housing.
- 3) A letter from Daniel Hoffman, Project Manager of The Atlantic Group, who has been retained by the Borough of South Plainfield to seek the necessary funding for the construction of low and moderate income housing on the Morris Avenue site within the Borough.
- 4) A copy of a consent order entered by Judge Serpentelli, confirming that \$50,000.00 has been forwarded for the purpose of developing affordable Senior Citizens Housing on the Morris Avenue site.

It is also important to note that approximately \$500,000.00 in Housing and Community Development funds will be re-directed by the Borough to the construction of low and moderate income Senior Citizen Housing on the Morris Avenue site.

It is anticipated that the appropriate resolution will be passed by the Governing Body before the end of June.

Additionally, the Borough is donating to the Housing Authority the property located at the Morris Avenue site which would have an estimated value of approximately \$500,000.00.

If I can provide any further information please advise.

Very truly yours,



PATRICK J. DIEGNAN, JR.

PJD/ad

cc: Stephen E. Barcan, Esq.  
Barbara Williams, Esq.  
Lester Nebenzahl

①  
579187.

ORDINANCE NO. 1063

AN ORDINANCE ESTABLISHING A HOUSING AUTHORITY  
OF THE BOROUGH OF SOUTH PLAINFIELD

BE IT ORDAINED by the Mayor and Council of the Borough of South Plainfield that:

Section 1. Pursuant to the provisions of the Local Housing Authorities Law of the State of New Jersey, particularly, N.J.S.A. 55:14A-4 et seq. as amended and supplemented, there is hereby created and established the Housing Authority of the Borough of South Plainfield.

Section 2. The Housing Authority of the Borough of South Plainfield shall consist of seven (7) members who shall be referred to as Commissioners and who shall be appointed and hold office for the terms as herein provided.

Section 3. The governing body shall appoint five (5) Commissioners and the Mayor shall appoint one (1) Commissioner, for a term of five (5) years; one (1) Commissioner shall be appointed by executive officer of the State Public Housing and Development Authority.

Section 4. The Commissioners first appointed shall serve for the following terms: one for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years and two for the term of five (5) years, and until their respective successors are appointed and have qualified.

After the initial appointments, Commissioners so appointed shall hold office for a term of five (5) years and until their respective successors are appointed and qualified,

except that all vacancies shall be filled for the unexpired term.

Not more than one Commissioner of the Housing Authority may be an officer or employee of the Borough of South Plainfield.

Section 5. All Commissioners shall hold office until their successors have been appointed and have qualified. A certificate of appointment or reappointment of any Commissioner shall be filed with the Borough Clerk and such certificate shall be conclusive evidence of the due and proper appointment of such Commissioner. A Commissioner shall receive no compensation for his/her services but should be entitled to the necessary expenses, including traveling expenses incurred in the discharge of his/her duties.

Section 6. Four (4) Commissioners shall constitute a quorum of the Housing Authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the Housing Authority upon the affirmative vote of the majority but not less than three (3) of the Commissioners present, unless in any case the bylaws of the Housing Authority shall require a larger number.

The Housing Authority shall select a chairperson and a vice chairperson from among its Commissioners and it may employ a secretary, technical experts and such other officers, agents and employees, permanent and temporary, as it may require and shall determine their qualifications, duties and compensation.

Section 7. The Housing Authority may, for such legal services, as it may require call upon the municipal attorney of the municipality or may employ its own counsel and legal staff. The Housing Authority may delegate to one or more of its agents or employees such powers and duties as it may deem proper.



Section 8. No Commissioner or employee of the Housing Authority shall acquire any interest, direct or indirect, in any housing project or in any property included or planned to be included in any project nor shall he/she have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any Commissioner or employee of an authority owns or controls any interest, direct or indirect, in any property included or planned to be included in a housing project, he/she immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes by the authority. Failure to disclose such interest shall constitute misconduct in office. Upon such disclosure, such Commissioner or employee shall not participate in any action by the Housing Authority effecting such property.

For inefficiency or neglect of duty or misconduct in office, a Commissioner of the Housing Authority may be removed by the appointing authority but only after he/she shall have been given a copy of the charges at least ten (10) days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any Commissioner, a record of the proceedings together with the charges and findings thereon, shall be filed in the office of the Borough Clerk.

Section 9. The Housing Authority shall have such powers as are described and set forth under Chapter 14A, Title 55 of the Revised Statutes particularly N.J.S. 55:14A-7 as amended and supplemented.

Section 10. This Ordinance shall take effect upon adoption and publication according to law.

ATTEST:

MICHAEL ENGLISH, Mayor

JAMES V. ECKERT, Clerk

ORDINANCE NO.

(ORDINANCE TO AMEND ORDINANCE 762  
ENTITLED DEVELOPMENT REVIEW ORDINANCE  
OF THE BOROUGH OF SOUTH PLAINFIELD  
MIDDLESEX COUNTY, NEW JERSEY)

BE IT ORDAINED by the Mayor and Council for the Borough of South Plainfield that Ordinance 762 entitled the Development Review Ordinance of the Borough of South Plainfield, Middlesex County, New Jersey be amended as follows:

SECTION 1. Please add the following as Section 816 to Ordinance 762 immediately after Section 815.

SECTION 2. Housing Trust Fund 816.1. On a subdivision of 3 lots or more, or site plan application for commercial or industrial development, prior to final approval, the developer and/or applicant shall be required to pay into the Borough of South Plainfield's housing trust fund a contribution determined in accordance with the foregoing:

816.1A. In the instance of a subdivision and where the property is to be developed residentially, developer/applicant shall pay a fee of \$ \_\_\_\_\_ per lot;

816.1B In the instance of a subdivision and where the property is to be developed nonresidentially, developer/applicant shall pay a fee of \$ \_\_\_\_\_ per lot;

816.1C A non-residential developer applying for and obtaining approval of building height increase not more than an additional ten feet and/or the maximum floor area ratio increase but not more than ten percent above what is permitted in the zone district, will be assessed a contribution of \$1.00 per square foot of gross floor area of new construction. This contribution shall be in exchange for and shall apply to new construction or additions to existing buildings requiring site plan approval for which application has been made for height or maximum floor area ratios in excess of that permitted in the zone district. This contribution shall not be assessed concerning development applications

having a height and maximum floor area ratio which conform to the existing zone district regulations. The payment, therefore, shall be made prior to final approval and shall be contributed to the Borough in the form of a payment by certified check or bank money order and shall be deposited in an interest-bearing escrow account for lower income housing purposes. The money trust contributed shall be limited to those purposes that will produce a direct benefit to the production of either a higher ratio of lower income units in a given project, a reduction in the costs of producing lower income units that shall be passed on to a purchaser or a tenant of a unit or the direct construction of a unit such as Borough sponsored projects. In addition, the funds can be expended for improvements to deteriorated housing of lower income families or for the direct construction or acquisition of lower income units in the Borough or by transfer to any other municipality provided such transfer and payment conforms to criteria established by the Fair Housing Act N.J.S.A. 52:27D-301.

SECTION 3. Repealer. The remainder of all other sections and subsections of the aforementioned Ordinance No. 762 not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 4. Inconsistent Ordinances. All ordinances or parts thereof inconsistent with provisions of this Ordinance are hereby repealed to such inconsistency.

SECTION 5. Severability. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 6. Effective Date. This Ordinance shall take effect upon its passage and publication according to the law.

Michael P. English, Mayor

Attest:

By

James V. Eckert  
Borough Clerk

5729187

6/1/87

ORDINANCE NO. 113

HOUSING, AFFORDABLE

- Section 116-1. Title.
- Section 116-2. Purpose.
- Section 116-3. Definitions.
- Section 116-4. General provisions.
- Section 116-5. Qualified households.
- Section 116-6. Maximum sale prices and rental charges.
- Section 116-7. Restrictions.
- Section 116-8. Foreclosure.
- Section 116-9. Affirmative marketing.
- Section 116-10. Affordable Housing Agency.
- Section 116-11. Inconsistent Ordinances.
- Section 116-12. Severability.
- Section 116-13. Date of Effectiveness.

Section 116-1. Title.

This chapter shall be known and may be cited as the "Affordable Housing Ordinance of the Borough of South Plainfield," and is intended to act as the Borough's Fair Share Plan as same is defined in the appropriate regulations of the Council on Affordable Housing.

Section 116-2. Purpose.

The purpose of this chapter is to assure housing units designated for occupancy by low- and moderate-income households are provided and remain affordable to and occupied by low- and moderate-income households, as required by the Fair Housing Act of New Jersey (N.J.S.A. 52:27D-3.01 et seq.).

Section 116-3. Definitions.

The following terms wherever used or referred to in this section shall have the following meanings unless a different meaning clearly appears from the context:

**AFFORDABLE HOUSING** - Housing that is affordable to low and moderate income households as defined by the Fair Housing Act of 1985 as amended and the New Jersey Council on Affordable Housing Substantive Rules.

**AFFORDABLE HOUSING AGENCY** - The agency referred to in Section 116-10 of this chapter or its designee.

**COAH** - The New Jersey Council on Affordable Housing which has primary jurisdiction for the administration of housing obligations in accordance with regional planning considerations in this State.

**INCLUSIONARY DEVELOPMENT** - A residential housing development in which a substantial percentage of the housing units are affordable housing units.

**INCOME CEILING** - Eighty percent (80%) of the regional median income for moderate-income households and fifty percent (50%) of the regional median income for low-income households.

**LOW-INCOME HOUSEHOLD** - A household whose income does not exceed fifty percent (50%) of the regional median income, with adjustments for household size as determined by the Affordable Housing Agency.

**LOW-INCOME UNIT** - A dwelling unit which is subject to the price and occupancy requirements of this chapter and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by low-income households.

**MODERATE-INCOME HOUSEHOLD** - A household whose income is greater than fifty percent (50%) but does not exceed eighty percent (80%) of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.

**MODERATE-INCOME UNIT** - A dwelling unit which is subject to the price and occupancy requirements of this chapter and whose sale price or rental charge does not exceed the maximum price or charge that is affordable by moderate-income households.

Section 116-4. General provisions.

- A. Whenever reference is made to low- or moderate-income units in the Zoning Ordinance, the standards, qualifications, definitions and procedures set forth in this chapter shall apply.
- B. Except as otherwise expressly provided herein, no low- or moderate-income unit shall be offered for sale or rental except at prices that are affordable to low- or moderate-income households.
- C. Except as otherwise expressly provided herein, no low- or moderate-income unit shall be sold, resold, rented or rerented, except to a household that has been qualified as a low- or moderate-income household.
- D. A covenant embodying these restrictions shall be recorded with the deed for all sales of property subject to the provisions of this chapter.

Section 116-5. Qualified households.

A prospective purchaser or renter of a low- or moderate-income unit must be qualified as a low- or moderate-income household by the Affordable Housing Agency, prior

to the purchase or sale of such unit. In making this determination, the Affordable Housing Agency shall apply the standards contained in the definitions of low- and moderate-income households set forth in Section 116-3 of this chapter. The Affordable Housing Agency shall periodically recalculate the regional median income and determine adjustments for household size based on changes in the official estimates of the median income for the primary metropolitan statistical area (PMSA) in which the borough is located.

Section 116-6. Maximum sale prices and rental charges.

Prior to the sale, resale, rental or rere rental of a low- or moderate-income unit, the Affordable Housing Agency shall determine the maximum sale price or rental charge that may be charged for that size unit in each income category.

A. Sale, resale and rental of Affordable Housing Units.

- (1) Initial Pricing - The initial price of a low and moderate income owner-occupied single family housing unit shall be established so that after a downpayment of ten percent, the monthly principal, interest, taxes, insurance and condominium fees do not exceed 28 percent of an eligible gross monthly income. Rents, excluding utilities, shall be set so as not to exceed 30 percent of the gross monthly income of the appropriate household size. Maximum rent shall be calculated as a percentage of the uncapped Section 8 income limit or other recognized standard adopted by the COAH that applies to the rental housing unit. The following criteria shall be considered in determining rents and sale prices:
  - (a) Efficiency units shall be affordable to one person households;
  - (b) One bedroom units shall be affordable to two person households;
  - (c) Two bedroom units shall be affordable to three person households;
  - (d) Three bedroom units shall be affordable to five person households; and
  - (e) Four bedroom units shall be affordable to seven person households.
- (2) Housing units that satisfy the criteria in (a) through (e) above shall be considered affordable.
- (3) Median income by household size shall be established by the uncapped Section 8 income limits, published by HUD or other recognized standard adopted by the COAH that applies to the rental housing unit.
- (4) Annual indexed increases - The price of an owner-occupied housing unit and the rents of affordable housing units may increase annually based on the percentage increase in median income for each housing region as determined from the uncapped Section 8 income limits, published by HUD or other recognized standard adopted by the COAH

that applies to the rental housing unit. Such price increases shall be calculated and fixed by the Affordable Housing Agency.

- (5) Subsidies. Government subsidies may be used at the discretion of the applicant to fulfill the requirements of this section.
- (6) In the event that no low or moderate income purchaser is found within ninety (90) days after the unit is listed for sale with a realtor and the Housing Administrator is notified in writing of such listing, the low income unit may be sold to a moderate income purchaser or, if none is available, to any interested purchaser, and the moderate income unit to any interested purchaser. Regardless of the income of a purchaser, the sales price of a unit shall not increase more than permitted in paragraph D of this subsection. Proof of the attempt to sell shall be submitted to and shall be satisfactory to the Housing Administrator prior to resale. Resale controls shall remain in effect for any subsequent resales.

Reimbursements for documented monetary outlays for reasonable improvements to the unit will also be permitted, provided that such improvements comply with N.J Council on Affordable Housing Regulations and have been approved by the Housing Administrator prior to construction.

- Resale and rental controls shall remain in effect for the life of the unit or until such time as the Borough determines that the need for the unit no longer exists. Such a determination shall be made by means of a periodic review of the Borough's Master Plan Housing Element as mandated by the N.J. Municipal Land Use Law.
- (7)

- Prior to final approval of any development subject to this chapter, the Affordable Housing Agency shall determine the maximum sale and rental prices by unit size for the low- and moderate-income units in the development and shall so notify the developer. These prices shall remain in effect for a period of one (1) year or until all of the low- and moderate-income units have been sold or rented, whichever occurs first. The developer may request a modification of the maximum sales prices at any time by applying to the Affordable Housing Agency for recalculation of these prices based on changes in any of the factors used to calculate these prices.
- (8)

#### B. Unit Mix.

- (1) In all inclusionary developments 50% of all affordable housing units shall be moderate income housing and 50% shall be low income housing.
- (2) Furthermore, the average price of low and moderate income units within an inclusionary development be, as best as practicable, affordable to households at 57.5 percent of median income as contained in N.J.A.C. 5:92-12.4.



affordability (3)

The developer shall provide, as best as practicable, for the following distribution of prices for every 20 low and moderate income units:

Proposed Pricing Stratification

Low	1 at 40	through 42.5 percent
	3 at 42.6	through 47.5 percent
	6 at 47.6	through 50 percent
Moderate	1 at 50.1	through 57.5 percent
	1 at 57.6	through 64.5 percent
	1 at 64.6	through 68.5 percent
	1 at 68.6	through 72.5 percent
	2 at 72.6	through 77.5 percent
	4 at 77.6	through 80 percent

- (4) For initial occupancy, priority shall be given to households within a particular income category with flexibility based on N.J. Housing and Mortgage Finance Agency affordability controls criteria.

C. Bedroom Mix.

In each inclusionary development, with the exception of a Senior Citizen housing complex, affordable housing units shall be provided as follows:

- (1) At a minimum, 35 percent of all low and moderate income units shall be two bedroom units; and
- (2) At a minimum, 15 percent of all low and moderate income units shall be three bedroom units; and
- (3) No more than 20 percent of all low and moderate income units may be efficiency units.

D. Relationship between household size and unit size.

For the purpose of determining maximum sale prices and rental charges pursuant to Section 116A and B of this chapter, the ceiling incomes of the following household sizes shall be used to determine the maximum prices for each of the following unit sizes:

<u>Unit Size</u>	<u>Household Size</u>
Efficiency	1 person
1 bedroom	2 persons
2 bedrooms	3 persons
3 bedrooms	5 persons
4 bedrooms	6 persons

E. Affordable price tables.

The Affordable Housing Agency shall prepare and maintain the tables of maximum affordable prices for low- and moderate-income households by unit size as a guide for determining maximum sale prices and rental charges for low- and moderate-income units.

F. Phasing of low income housing.

- (1) Schedule for phasing.

- (a) Lower income housing shall be phased in accordance with the following schedule:

<u>Minimum Percentage of Low and Moderate Income Units Completed</u>	<u>Percentage of Market Housing Units Completed</u>
0	25
10	25 + 1 unit
50	50
75	75
100	90
	100

- (b) The developer may construct the first twenty-five percent (25%) of the market units without construction of low and moderate income housing units. No certificates of occupancy shall be issued for any additional market units until ten percent (10%) of all affordable units have been issued certificates of occupancy. Upon the issuance of certificates of occupancy to ten percent (10%) of all affordable units, certificates of occupancy may be issued for up to fifty percent (50%) of all market units. No certificates of occupancy shall be issued for any market units in excess of fifty percent (50%) until certificates of occupancy have been issued to fifty percent (50%) of all affordable units. Upon issuance of certificates of occupancy to fifty percent (50%) of all affordable units, certificates of occupancy may be issued to up to seventy-five (75%) of all market units. No certificates of occupancy shall be issued to any market units in excess of seventy-five percent (75%) of all market units until certificates of occupancy have been issued to seventy-five percent (75%) of all affordable units. Upon issuance of certificates of occupancy to seventy-five percent (75%) of all affordable units, certificates of occupancy may be issued to up to ninety percent (90%) of all market units. No additional certificates of occupancy shall be issued for market units until certificates of occupancy have been issued to one hundred percent (100%) of all affordable units.

- (c) A developer of an inclusionary development may seek relief from the requirements of this phasing schedule if he can demonstrate that he has affirmatively marketed the affordable units and can not sell or rent such units to eligible households. Such relief may only be granted by the Borough Council.

- (2) Any development for which a subdivision or site plan has been approved shall be considered a single development for purposes of this subsection regardless of whether parts or sections are sold or otherwise disposed of to persons or legal entities other than the ones which received approval. All such approvals and conditions of approvals shall run with the land. Any tracts or parcels sold shall include documentation

satisfactory to the Borough Attorney, setting forth the requirements for low and moderate income housing units.

Section 116-7. Restrictions.

*All 116-6A-7*

- A. Restrictions on the resale of low- or moderate-income sales units shall expire thirty (30) years from the date of the initial sale of the property.
- B. Low- or moderate-income rental units shall remain subject to the requirements of this chapter indefinitely, except that the limitations set forth in Sections 116-7A and 116-8 shall apply if such rental units are converted into condominiums, cooperatives or some other form of ownership property.

Section 116-8. Foreclosure.

- A. Notwithstanding the restriction on resale of low- or moderate-income units set forth in Section 116-7A, there shall be no such restriction in the event of foreclosure and resale by a lender after foreclosure.
- B. In the event of foreclosure, the Affordable Housing Agency shall attempt to identify qualified low- and moderate-income purchasers and shall give notice to the lender of their identity. The Affordable Housing Agency shall undertake other efforts to ensure that low- and moderate-income units will not be made unavailable to low- and moderate-income households by virtue of foreclosure. Toward this end, the Affordable Housing Agency shall work with developers of low- or moderate-income housing to incorporate into deeds or covenants appropriate language providing the Agency with limited rights to intervene prior to foreclosure in order to maintain the property as a low- or moderate-income unit.

*Approved*

Section 116-9. Affirmative Marketing of Affordable Housing.

Developers of inclusionary housing development shall be required to affirmatively market low and moderate income housing units in the following manner:

- A. The developer shall initially make available to low and moderate income households residing or working in South Plainfield fifty percent (50%) of the total number of affordable units in the inclusionary development.
- B. The developer shall advertise availability of such housing units in at least two newspapers of general circulation within the Borough's housing region a minimum of once weekly, commencing at least 90 days prior to the issuance of certificates of occupancy and shall continue to do so until all units are under contract for sale or lease. All advertisements shall indicate that, initially, 50% of the units offered will be reserved for eligible households working or living in South Plainfield. The advertisement shall also state that, once the initial 50% of the affordable units are sold or leased, the remaining income eligible applicants, not yet under contract, shall be pooled and offered contracts.

- C. Developers of 25 or more low and/or moderate income housing units shall be required to actively market such housing units to the following representative groups or agencies:

At a minimum, this shall include the mailing of a copy of the above newspaper advertisement accompanied by a cover letter requesting that the group or agency notify eligible families of the availability of said housing. Such mailings shall be directed to the Chief Executive Officer of said group or agency and shall be by registered mail with a return receipt requested.

- D. Developers shall submit copies of certification of publication of all newspaper advertisements to the Borough Affordable Housing Agency within one week of publication. Copies of receipts showing proof of notification of the above representative groups and agencies shall be submitted upon receipt by the developer.

Section 116-10. Affordable Housing Agency.

- A. Creation and purpose. There is hereby created an Affordable Housing Agency (Agency) whose purpose and responsibilities shall be as follows:
- (1) To create a body of rules and regulations to implement the policies and goals of this chapter, specifically; to ensure that housing units designated as low- or moderate-income units, once constructed, shall remain affordable to and be occupied by low- or moderate-income households.
  - (2) To ensure the continued availability of low- or moderate-income units by: reviewing the qualifications of prospective purchasers and tenants to ensure that they qualify as low- or moderate-income households; determining the maximum sale, resale and rental charges for low- and moderate-income units to ensure that the units are affordable to low- or moderate-income households; requiring that a covenant be recorded with each deed restricting the resale of low- or moderate-income units to low- or moderate-income households; and where appropriate, maintaining a waiting list of persons who have been qualified as low- or moderate-income households and are eligible to rent or purchase a low- or moderate-income unit.
  - (3) To restrict the installation of improvements or amenities within or as a part of low- or

moderate-income units which would unduly increase the resale price or rental charge of such units above the amounts considered by the Agency to be affordable by low- or moderate-income households and to control the low- or moderate-income unit resale price adjustments for homeowner-installed improvements.

- (4) To undertake efforts to ensure that units designated as low- or moderate-income units do not thereafter become unavailable to low- or moderate-income households by virtue of foreclosure.
- (5) To monitor the marketing practices of developers of low- and moderate-income units to ensure that they comply with the affirmative marketing requirements set forth in Section 116-9 above.

#### B. Composition.

- (1) The Agency shall consist of seven (7) regular members and two (2) alternate members. Five (5) members shall constitute a quorum.
- (2) The Mayor shall appoint two (2) regular members of the Agency and one (1) alternate. The Borough Council shall appoint five (5) members of the Agency and one (1) alternate.
- (3) Alternate members shall be designated at the time of appointment, and the Mayor shall designate his/her alternate as Alternate No. 1, and the Council shall designate their alternate as Alternate No. 2.
- (4) The initial terms of the Mayor's appointments shall be one (1) year and four (4) years for the regular members, and two (2) years for the alternate member. The terms of the Council's appointments shall be one (1) year, two (2) years, two (2) three-year terms, and one (1) four-year term, and two (2) years for the alternate member. Thereafter the term of each regular member shall be four (4) years; and the term of each alternate member shall be two (2) years.
- (5) No member may hold any elective office or position under the municipality. No member of the Agency shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. A member may, after public hearing, if he requests it, be removed by the governing body for cause. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.
- (6) The Agency shall elect a Chairman and Vice Chairman from its members and select a Secretary who may or may not be a member of the Agency.
- (7) Alternate members may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate

member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

(8) All members must be residents of South Plainfield.

C. Powers.

(1) The Agency is hereby granted and shall have and exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this chapter, including but not limited to the following:

(a) To prepare and forward to the Borough Council such rules and regulations as it deems necessary or appropriate to implement the purposes of this chapter. Said rules and regulations shall be filed with the Clerk and shall be subject to the review and modification by the Borough Council.

(b) To supply information to developers and low- or moderate-income households to help them comply with the provisions of this chapter.

(c) To review applications upon due notice and adjudicate applications of individuals or families who believe themselves to be low- or moderate-income households.

(2) The Affordable Housing Agency shall give ten (10) days' written notice of any hearing to all parties involved and shall give all interested persons an opportunity to be heard.

Section 116-11. Inconsistent Ordinances.

All ordinances or parts thereof inconsistent with provisions of this Ordinance are hereby repealed to such inconsistency.

Section 116-12. Severability.

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

Section 116-13. Date of Effectiveness.

This ordinance shall take effect upon its passage and publication according to law.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
JAMES V. ECKERT  
Borough Clerk

I certify the foregoing to be a true and correct abstract of a resolution regularly passed at a meeting of the Common Council of the Borough of South Plainfield, held

January 26, 1987  
and in that respect a true and correct copy of its minutes.

\_\_\_\_\_  
Clerk of the Borough of South Plainfield

*Copy to COAH on*

*Patrick J. Diegnan, Jr.*

*Attorney at Law*

*33 South Plainfield Avenue*

*P.O. Box 736*

*South Plainfield, N.J. 07080*

June 4, 1987

Mr. Lester Nebenzahl  
The Hudson Partnership  
Brunswick Woods Office Park  
40 Brunswick Woods Drive  
East Brunswick, N.J. 08816

RE: Borough of South Plainfield  
Housing Element and Fair Share Plan  
Mediation

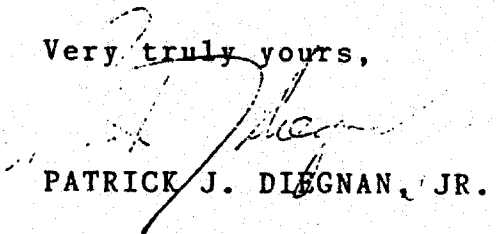
Dear Les:

Enclosed please find copies of a letter from Peter J. Calderone, Esq., attorney for South Plainfield Planning Board, which includes a copy of the Planning Board's Resolution adopting the Housing Element for the Borough.

I have also included copies of two (2) additional resolutions relating to the Borough in relation to this matter.

If you require additional information please contact my office.

Very truly yours,



PATRICK J. DIEGNAN, JR.

PJD/acd  
Enc.

cc: Mr. David Cohen, Mediator  
Barbara Williams, Esq.  
Stephen, E. Barcan, Esq.

*Copy for COAH file/Dat*

PETER J. CALDERONE  
ATTORNEY AT LAW  
19 HOLLY PARK DRIVE  
SOUTH PLAINFIELD, N.J. 07080  
(201) 561 - 0479

February 2, 1987

Mr. Douglas V. Opalski  
Executive Director  
Council on Affordable Housing  
CN 813  
Trenton, New Jersey 08625-0813

Re: Borough of South Plainfield

Dear Mr. Opalski:

Pursuant to your January 12, 1987 letter to the Borough of South Plainfield, enclosed is a copy of the Planning Board Resolution adopting the housing element for the Borough on file with the Council as a component of the Master Plan.

Please contact me if you need additional information on this matter.

Sincerely,



PETER J. CALDERONE  
Attorney for South  
Plainfield Planning Board

Enclosure  
c: Patrick Diegnan, Esq.  
Borough Attorney



Be it resolved, by the Mayor and Council of the Borough of South Plainfield, New Jersey, that:

WHEREAS, the Borough of South Plainfield has by ordinance established a Housing Council of the Borough of South Plainfield; and

WHEREAS, one of the purposes of said Housing Council is to coordinate the construction of senior citizens housing in the Borough of South Plainfield; and

WHEREAS, by Consent Order entered by the Honorable Eugene Serpentelli, Judge of the Superior Court, in the matter of Urban League of Greater New Brunswick, et al. vs. Mayor and Council of the Borough of Carteret, et al., \$50,000.00 has been released from escrowed land fund proceeds for the purposes of seed captial and development costs of the Borough of South Plainfield Morris Avenue Senior Citizens Housing Complex.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of South Plainfield that the said \$50,000.00 be and is hereby transferred to the Housing Authority of the Borough of South Plainfield for the purposes of retaining necessary professional services, seed money and developmental costs for the construction of the South Plainfield Morris Avenue Senior Citizens Housing Complex.

- |           |                          |             |                                     |
|-----------|--------------------------|-------------|-------------------------------------|
| Assessing | <input type="checkbox"/> | Payroll     | <input type="checkbox"/>            |
| Attorney  | <input type="checkbox"/> | Police      | <input type="checkbox"/>            |
| Code Eng. | <input type="checkbox"/> | Rec.        | <input type="checkbox"/>            |
| Court     | <input type="checkbox"/> | Tax         | <input checked="" type="checkbox"/> |
| DPW       | <input type="checkbox"/> | Welfare     | <input type="checkbox"/>            |
| Eng.      | <input type="checkbox"/> | Acct'g      | <input checked="" type="checkbox"/> |
| Fire      | <input type="checkbox"/> | a/c payable | <input type="checkbox"/>            |
| Health    | <input type="checkbox"/> | Miss.       | <input type="checkbox"/>            |

(SEAL)

Approved ..... 19

*Samuel J. Gallagher*

Mayor of the Borough of South Plainfield

.....  
Clerk of the Borough of South Plainfield

I certify the foregoing to be a true and correct abstract of a resolution regularly passed at a meeting of the Common Council of the Borough of South Plainfield, held

.....  
and in that respect a true and correct copy of its minutes.

.....  
Clerk of the Borough of South Plainfield

*Julius G. Gushy*  
*Alvin K. Kline*  
*R. L. Luma*

COMMITTEE

4  
5/29/86

JOHN PAYNE, ESQ.  
ERIC NEISSER, ESQ.  
BARBARA STARK, ESQ.  
Rutgers Law School  
Constitutional Litigation Clinic  
15 Washington Street  
Newark, NJ 0710  
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.

Docket No. C 4122-73

Plaintiffs,

Civil Action

vs.

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

Defendants.

CONSENT ORDER

THIS MATTER having been opened to the Court by Frank A. Santoro, Esq., attorney for Defendant, BOROUGH OF SOUTH PLAINFIELD, on notice to Eric Neisser, Esq., attorney for plaintiff, CIVIC LEAGUE OF GREATER NEW BRUNSWICK, formerly the Urban League of Greater New Brunswick, and the parties having consented to the form and entry of the within Order:

IT IS on this      day of     , 1986

O R D E R E D that:

1. The Borough of South Plainfield is hereby permitted to utilize not more than \$ 50,000.00 of the escrowed land sale proceeds for purposes of seed capital and developmental costs of the Borough of South Plainfield Morris Avenue Senior Citizen Housing Complex;

2. The Borough of South Plainfield shall provide the Civic League with a full and complete report as to the utilization of such funds.

---

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

We hereby consent to the form and entry of the within Order.

C. Roy Epps, President  
Civic League of Greater  
New Brunswick

Frank A. Santoro, Esq.  
Attorney for Defendant  
Borough of South  
Plainfield

---

C. Roy Epps

---

Frank A. Santoro, Esq.

John Payne, Esq.  
Eric Neisser, Esq.  
Barbara Stark, Esq.  
Rutgers Constitutional Litigation Clinic  
Attorneys for Urban League Plaintiffs  
and on Behalf of the ACLU of NJ

---

Barbara Stark, Esq.

104 Bayard Street New Brunswick New Jersey 08901

201 249-6242

June 5, 1987

Mr. Patrick Diegnon  
Council on Affordable Housing  
P.O. Box 736  
South Plainfield, NJ 07080

Re: South Plainfield Senior  
Citizens Housing  
Job Number 86120

*Monroe Ave*

Dear Mr. Diegnon:

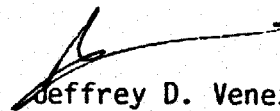
As of this date our office has completed the following tasks on the above referenced project:

1. Schematic design of living units.
2. Schematic design of community center.
3. Schematic site plan.
4. Preliminary documents and outline specification for apartment buildings.

It is my understanding that at this time the site engineer is also working on the topographical and utility survey as well as the outbound survey for the project in preparation for submission to the Planning Board.

If you should have any need for any additional information on this project or any questions regarding the state of the project at this time, please do not hesitate to call.

Very truly yours,

  
Jeffrey D. Venezia, AIA  
ARCHITECTURE/PLANNING ASSOCIATES

JDV/cc  
cc: Michael English

RESOLUTION

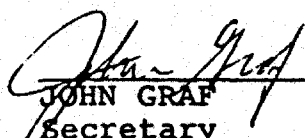
WHEREAS, the Planning Board of the Borough of South Plainfield has submitted a Fair Share Plan and Housing Element to the Council on Affordable Housing;

WHEREAS, the Planning Board conducted a public hearing and reviewed the Housing Element for inclusion in the Master Plan; and

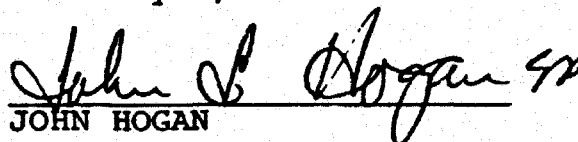
WHEREAS, the Planning Board found good cause and planning justification to include the Housing Element as a Component of the Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of South Plainfield that the Housing Element of the Borough's Fair Share Plan is included as a component of the Master Plan of the Borough of South Plainfield.

Attest:

  
\_\_\_\_\_  
JOHN GRAF  
Secretary  
South Plainfield  
Planning Board

Adopted  
February 1, 1987

  
\_\_\_\_\_  
JOHN HOGAN  
CHAIRMAN  
South Plainfield  
Planning Board

**Be it resolved, by the Mayor and Council of the Borough of South Plainfield,  
New Jersey, that:**

Whereas, previous funding has been made available to the Borough of South Plainfield through Community Development Block Grants for improvements beneficial to residents of low and moderate incomes; and

Whereas, the Mayor and Council recognize the need for Senior Citizen Housing and that said Housing would provide maximum benefits to older citizens in low and moderate income classifications.

Now, Therefore, Be It Resolved, that the following CDBG Funds be transferred to the 1987/88 Senior Citizen Project increasing that account by \$432,544.51:

From 1984/85 the unexpended balance of	\$ 4,044.51
From 1984/85 Hamilton Boulevard	351,700.00
From 1985/86 Hamilton Boulevard	76,800.00

432,544.51

Be It Further Resolved, that Housing Community Development receive a certified copy of this resolution and that H.C.D. fulfill all legal requirements for public advertising and public hearings.

(SEAL)

*James J. ...*  
Clerk of the Borough of South Plainfield

Approved ..... April 13, 1987 ..... 18  
*Paul J. ...*  
Mayor of the Borough of South Plainfield

I certify the foregoing to be a true and correct abstract of a resolution regularly passed at a meeting of the Common Council of the Borough of South Plainfield, held

..... April 13, 1987 .....

and in this respect a true and correct copy of its minutes

*James J. ...*  
Clerk of the Borough of South Plainfield

*John A. Zawoa*  
*Nichole ...*  
*Michael ...*  
COMMITTEE