

Piscataway (1985)

12/11/85

- Carteret -

forms: proposed consent order

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December 11, 1985

Thomas Kelso, Esq.  
Gluck & Kelso  
132 Hamilton Street  
New Brunswick, NJ 08901

Phillip L. Paley, Esq.  
17 Academy Street  
Newark, NJ 07102

Re: Urban League v. Carteret (Piscataway)

Dear Tom and Phil:

Enclosed please find our proposed Consent Order with regard to Site 3. I am sending the original to Tom for him to fill in the name of the development corporation, prepare the necessary promissory note, sign, and mail on to Phil. Please let us know if you have any questions.

Sincerely,



Eric Neisser  
Urban League Co-Counsel

encls

cc/Roy Epps



hereby dissolved insofar as Block 228, Lots 33 through 67 and Lot 134 in the Township of Piscataway, also designated as Site 3 in the Report of the Court-appointed expert, Carla Lerman, dated November 10, 1984. Dissolution of these restraints are subject to the conditions stated in Paragraphs 2-6 below.

2. Application for development of Site 3. Peter J. Saker, Jr. may apply forthwith to the Planning Board of the Township of Piscataway for approval to develop Site 3 as a shopping center. Such application will be considered by the Planning Board, and by any other appropriate Township boards, agencies, or officials, in accordance with the requirements of the Municipal Land Use Law and the existing land use regulations of Piscataway, but nothing in this Consent Order shall bind the Planning Board or any other Township boards, agencies or officials to approve such application except in accordance with otherwise applicable law.

3. Payment in lieu of affordable housing. If Site 3 is approved for development as a shopping center, Peter J. Saker, Jr. shall pay in to the Court pursuant to Rule 4:57 for the use of the Civic (formerly Urban) League of Greater New Brunswick, the sum of \$250,000 for the purposes specified in Paragraph 4 below, in accordance with the following schedule:

a. Simultaneous with closing of the construction loan or issuance of the first building permit, whichever shall occur earlier, the sum of \$50,000.

b. Thereafter, the sum of \$25,000 every three months until the total sum of \$250,000 shall have been paid.

4. Use of funds to provide affordable housing.

a. The funds payable to the Civic League pursuant to this Consent Order shall be held by the Clerk of the Superior Court in a separate interest bearing account designated as the "Piscataway Affordable Housing Fund." Payments from this account shall be for purposes stated in this paragraph and as specifically authorized by the Board of Directors of the Civic League and approved by the Court, provided that all such expenditures shall further the provision of affordable housing in Piscataway Township. In the discretion of the Board, payments may be made either from the capital value of the Fund or the interest income thereon, but in no event shall annual payments from the Fund be less than the annual interest accrued to the Fund.

b. An appropriate amount, but in any case no more than \$10,000 per year from the Fund shall be paid to the Civic League for the purpose of monitoring Piscataway Township's compliance with the Judgment of September 17, 1985, and any further judgments, orders or settlements which implement compliance.

c. The remainder of the Fund shall be used to subsidize affordable housing in Piscataway. The Fund may be used to subsidize the capital cost of providing new housing or of rehabilitating existing substandard housing. The Fund may also be used to provide operating subsidies to providers of housing for low and moderate income households, or to provide subsidies directly to such

households. Other expenditures from the Fund consistent with the general purposes specified in this paragraph may be approved.

d. All housing subsidized by the Fund shall be occupied only by low and moderate income households and shall be subject to appropriate controls on resale or rerelease. Until further order of this Court establishing a final compliance plan for Piscataway Township, the standards of eligibility and control shall be those used in the Society Hill at Piscataway development, approved by this Court by Consent Order entered on \*\*\*\*\*.

5. Enforcement.

a. The payment obligation of Paragraph 3 shall be secured by a promissory note of \*\*\*\*\* Development Corporation and co-signed personally by Peter J. Saker, Jr., in the amount of \$250,000, a copy of which is attached to this Consent Order.

b. If any payment specified in Paragraph 3 is not made in full and on time, the Township of Piscataway shall not issue any further building permits or certificates of occupancy for the development of Site 3 until the amount in arrears, together with interest at interest rate on the construction loan plus 2% per month for the period of the arrearage shall have been paid to the Clerk of the Superior Court.

c. This consent order shall be enforceable by a Motion to Enforce Litigants' Rights brought pursuant to Rule 1:10-5.

d. Peter J. Saker, Jr., and \*\*\*\*\* Development Corporation, hereby consent to the jurisdiction of this Court for purposes of enforcement of this Order and agree that service of motion papers upon

their attorneys pursuant to the Rules of Court shall constitute adequate service to permit entry of an order under Rule 1:10-5.

6. Credits against fair share. If the Township of Piscataway grants approval to Peter J. Saker, Jr., for development of Site 3 as a shopping center, and if Peter J. Saker, Jr., makes all payments in lieu of affordable housing specified in Paragraph 3 above, the Township of Piscataway shall be entitled to a credit of 75 units of moderate income housing against its total fair share obligation of 2215 units specified in this Court's Judgment of September 17, 1985.

7. Continuance of restraint if development approval not granted. If for any reason Peter J. Saker, Jr., fails to submit an application for development of a shopping center on Site 3 by February 28, 1986, or the Township denies such application, any other application for development on Site 3 by him or any other person or entity shall be subject to all of the restraints contained in this Court's Order of December 11, 1984.

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

We hereby consent to the form, substance and entry of this consent order.

Constitutional Litigation Clinic  
Rutgers Law School  
Attorneys for the Civic League of Greater New Brunswick

BY: \_\_\_\_\_  
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