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pleadings folder 1-2 #66

motion for certification of an appeal
pending unheard in the Appellate Division.
from 10/4/77

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NATIONAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING, INC.

Fair Housing Legal Program

1425 H Street, N.W., Washington, D.C. 20005 • (202) 783-8150

MARTIN E. SLOANE
General Counsel**RECEIVED**
OCT 6 1977

October 4, 1977

SUPREME COURT
OF NEW JERSEYMs. Florence R. Peskoe
Clerk
Supreme Court of New Jersey
State House Annex
Trenton, New Jersey 08625

15,018

Re: Urban League of Greater New Brunswick, et al.,
v. The Mayor and Council of the Borough of
Carteret, et al.

Dear Ms. Peskoe:

Please find enclosed for filing in the above-captioned case the original and nine copies of Plaintiffs' Motion for Certification of an Appeal Pending Unheard in the Appellate Division. To pay the required filing fee we also enclose our check in the amount of \$5.00.

An additional copy of the Motion and a stamped self-addressed envelope is provided so that you may return a stamped copy of the Motion to us.

Thank you in advance for your assistance.

Sincerely,



Roger C. Rosenthal
Attorney for Plaintiffs

SUPREME COURT OF NEW JERSEY

URBAN LEAGUE OF GREATER NEW :
BRUNSWICK, et al., : DOCKET NO. , TERM 1977
 :
 Plaintiffs, :
 : Civil Action
 v. :
 : Sat Below:
 THE MAYOR AND COUNCIL OF THE :
 BOROUGH OF CARTERET, et al., : Hon. David D. Furman, J.S.C.
 :
 Defendants. :

MOTION FOR CERTIFICATION OF AN
APPEAL PENDING UNHEARD IN THE APPELLATE DIVISION

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Attorneys for Plaintiffs

URBAN LEAGUE OF GREATER NEW BRUNSWICK, et al.,	:	Docket No.	, Term 1977
	:		
Plaintiffs,	:	Civil Action	
	:		
v.	:		
	:	Motion for Certification	
THE MAYOR AND COUNCIL OF THE BOROUGH OF CARTERET, et al.,	:	of an Appeal Pending Unheard	
	:	in the Appellate Division	
Defendants.	:		

To the Honorable Chief Justice and Associate Justices
of the Supreme Court of New Jersey:

Pursuant to Rule 2:12-2, plaintiffs, the Urban League
of Greater New Brunswick and four individuals, hereby move
for certification of their appeal and cross-appeal which
are pending unheard in the Superior Court, Appellate Division.
As grounds for this motion, the plaintiffs state:

(1) Plaintiffs filed this suit on July 23, 1974 in
the Superior Court of New Jersey, Chancery Division, Middlesex
County, against 23 of the 25 municipalities in Middlesex
County. New Brunswick and Perth Amboy, the County's older
central cities, were not named as defendants.

(2) Trial commenced on February 3, 1976 and continued
through March 23, 1976 before the Honorable David D. Furman,
J.S.C.

(3) Judge Furman issued his opinion on May 4, 1976
finding 11 municipalities' zoning ordinances constitutionally
invalid. In addition, Judge Furman granted dismissals to

11 other municipalities conditioned solely upon their adoption of appropriate amendments to their zoning ordinances. During trial one defendant was dismissed outright from the suit. On July 9, 1976 Judge Furman signed the judgment setting out the requirements to be met by each defendant.

(4) Eight defendants filed timely appeals with the Superior Court, Appellate Division in August, 1976. Plaintiffs filed timely cross-appeals against these eight defendants and timely appeals against the other 14 defendants remaining in the suit. The Superior Court, Appellate Division has dismissed 11 of those 14 defendants, and issued stays of the trial court's judgment as to the eight municipalities that initially appealed.

(5) All briefs in this case were filed with the Superior Court, Appellate Division on or before October 3, 1977.

(6) Plaintiffs' appeal and cross-appeal are pending unheard in the Superior Court, Appellate Division.

(7) The above-captioned case is of great public importance and presents issues of first impression in New Jersey. It is the first regional exclusionary zoning suit brought in this state. Plaintiffs here challenge as exclusionary the zoning laws and other land use policies and practices of all municipalities in Middlesex County which surround the two central cities of New Brunswick and Perth Amboy. Plaintiffs claim that the policies and practices of these municipal defendants, taken together, effectively bar plaintiffs from securing housing and employment opportunities throughout suburban

Middlesex County. The unique nature of this suit makes it inevitable that the parties will ultimately seek review by this Court.

(8) The case requires prompt final adjudication since the vindication of constitutional rights is at stake. Because of the stay of judgment ordered by the Superior Court, Appellate Division, eight of the defendants which are parties to this appeal, are presently under no legal duty to alter any of their land use practices. As each day passes, the constitutional rights of the plaintiffs are further abridged as a result of defendants' continued exclusion of low and moderate income residents. Expeditious disposition of this appeal will significantly reduce the period in which plaintiffs suffer injury without remedy.

CONCLUSION

Therefore, plaintiffs respectfully request that this Court grant their Motion for Certification of an Appeal Pending Unheard in the Appellate Division.

Respectfully submitted,

Marilyn Morheuser
MARILYN MORHEUSER
Attorney for Plaintiffs

Dated: October 4, 1977


CERTIFICATE OF SERVICE

I hereby certify that service of this Motion for Certification of an Appeal Pending Unheard in the Appellate Division was made by mailing the original and nine copies to the Clerk of the Supreme Court of New Jersey, and two copies of the Motion to counsel for the defendants listed below:

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Dated: October 4, 1977