

~~Case~~ CA - Carteret

15 - Nov - 74

Brief in Support of Notice of Motion
on Behalf of the Mayor and Council
of the Borough of Carteret.

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NEW JERSEY SUPERIOR COURT
CHANCERY DIVISION
MIDDLESEX COUNTY
Docket No. C 4127

URBAN LEAGUE OF GREATER NEW BRUNSWICK, etc., et als, :

Plaintiff, :

vs :

MAYOR AND COUNCIL OF THE BOROUGH OF CARTERET, et als, :

Defendants. :

Civil Action

BRIEF IN SUPPORT OF NOTICE OF MOTION ON BEHALF OF THE
MAYOR AND COUNCIL OF THE BOROUGH OF CARTERET

EDWARD J. DOLAN
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THIS ACTION DOES NOT INVOLVE A COMMON QUESTION OF LAW OR FACT ARISING OUT OF THE SAME TRANSACTION OR SERIES OF TRANSACTIONS AND PRE-TRIAL DISCOVERY AND TRIAL OF THE ISSUE AGAINST THE DEFENDANT, BOROUGH OF CARTERET, WOULD BE UNDULY PREJUDICIAL TO THE SAID DEFENDANT, BOROUGH OF CARTERET.

The Plaintiff, Urban League of Greater New Brunswick, in its Appendix to its Complaint, charges the Borough of Carteret with prohibiting mobile homes; permitting multi-family dwelling construction only in areas zoned for commercial use; prohibits construction of new apartments with more than four rooms and requires that 90% contain no more than three rooms; contends that the Borough of Carteret has available vacant development acres to meet low- and moderate-income housing needs of its present and potential residents; further charges the Borough of Carteret with an excessive and unnecessary amount of its land being zoned for commercial use and further that Carteret has not passed the resolution of local approval required for the use of state financial aid to assist low- and moderate-income families with housing needs. It further charges the Borough of Carteret with having a public housing authority but building only thirty-six (36) units in the past decade.

The Appendix to the Plaintiff's Complaint in Paragraphs (2) through (23) then contains allegations

against the remaining twenty-two municipal Defendants in this matter, which said allegations contain vastly different discriminatory charges against each individual community.

Nowhere in the Complaint does the Plaintiff, Urban League of Greater New Brunswick, charge a conspiracy between all or any of the municipal Defendants whereby said Defendants enacted exclusionary zoning and other land use policies and practices.

It is perfectly clear from an analysis of the Appendix to the Plaintiff's Complaint, Paragraphs (1) through (23) inclusive, that the allegations against each municipality does not involve common question of law or fact arising out of the same transaction or series of transactions (see attached Schedule A) and, therefore, in accordance with Rule 4:38 were improperly consolidated. To force all of the Defendants to participate in a common discovery or in a common trial, would be unduly burdensome, would be unduly expensive and would be highly prejudicial to the Defendant, Borough of Carteret and the other twenty-two municipal Defendants.

Therefore, pursuant to Rule 4:38-2, the matter should be Severed into twenty-three (23) separate suits

and the Court should provide for discovery, pretrial and trial in twenty-three (23) separate actions.

Respectfully Submitted,
EDWARD J. DOLAN
Attorney for Defendant,
Borough of Carteret


