

UL v. ~~Case~~ Carteret (Cranbury)

11/11/74

Twp's Answer + notice of motion
+ cover letter

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pgs 10

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HUFF AND MORAN
COUNSELLORS AT LAW
CRANBURY-SOUTH RIVER ROAD
CRANBURY, NEW JERSEY 08512

J. SCHUYLER HUFF
WILLIAM C. MORAN, JR.

TELEPHONE
(609) 655-3600

November 11, 1974

Mr. Mortimer G. Newman, Jr.
Clerk, Superior Court of New Jersey
State House Annex
Trenton, New Jersey 08600

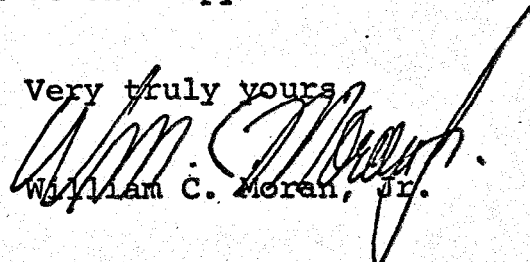
Re: Urban League of Greater New Brunswick, et als v.
The Mayor and Council of the Borough of Carteret, et als
Docket No. C-4122-73.

Dear Mr. Newman:

In connection with the above-captioned matter, I am enclosing herewith original and two copies of Defendant's, Township Committee of the Township of Cranbury, Answer and an original and two copies of Proof of Mailing.

I would appreciate the return of one copy of the Answer marked "filed" for our records.

Very truly yours



William C. Moran, Jr.

WCM:dms

Encls.

cc: All attorneys for co-defendants - Encl.
David H. Ben-Asher, Esquire - Encl.

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HUFF AND MORAN
 Cranbury-South River Road
 Cranbury, New Jersey 08512
 609-655-3600
 Attorneys for DEFENDANT, Township Committee of the Township
 of Cranbury

)
 Plaintiffs - URBAN LEAGUE OF GREATER NEW)
 BRUNSWICK, a non-profit corporation of)
 the State of New Jersey; CLEVELAND BENSON;)
 FANNIE BOTTS; JUDITH CHAMPION; LYDIA CRUZ;)
 BARBARA TIPPETT; KENNETH TUSKEY and JEAN)
 WHITE, On their own behalf and on behalf)
 of all others similarly situated,)

SUPERIOR COURT OF
 NEW JERSEY
 CHANCERY DIVISION
 MIDDLESEX COUNTY

Docket No. C-4122-73

vs.)

)
 Defendants - THE MAYOR AND COUNCIL OF THE)
 BOROUGH OF CARTERET, et als)

CIVIL ACTION

ANSWER

Defendant, Township Committee of the Township of
 Cranbury, a municipal corporation of the State of New Jersey, by
 way of answer to the complaint says:

I. PRELIMINARY STATEMENT

1. The allegations of paragraphs 1, 2 and 3 of the complaint
 are denied to the extent that they are directed against the Town-
 ship of Cranbury.

II. PLAINTIFFS

2. Defendant, Township of Cranbury, has insufficient in-
 formation to form a belief as to the truth of the allegations

set forth in paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 of the complaint and leaves Plaintiffs to their proofs.

III. CLASS ACTION ALLEGATIONS

3. The allegations of paragraph 12 of the complaint are denied.

4. The allegations of paragraph 13 of the complaint are admitted.

IV. FACTUAL ALLEGATIONS

5. The allegations of paragraph 14 of the complaint are admitted, except as to those allegations which form a conclusion as to the relationship between the transportation lines and increased commercial, industrial and residential growth in Middlesex County, the truth of which Defendant has insufficient information with which to form a belief and Plaintiffs are left to their proofs.

6. Defendant has insufficient information to form a belief as to the truth of the allegations contained in paragraphs 15, 16, 17, 18 and 19 of the complaint and leaves Plaintiffs to their proofs.

7. The allegations of paragraph 20 of the complaint are denied.

8. Defendant has insufficient information to form a belief as to the truth of the allegations contained in paragraphs 21 and 22 of the complaint and leaves Plaintiffs to their proofs.

9. The allegations of paragraphs 23, 24, 25, 26, 27, 28, 29 and 30 of the complaint are denied.

10. Defendant has insufficient information to form a belief as to the truth of the allegations contained in paragraph 31 of the complaint and leaves Plaintiffs to their proofs.

11. The allegations of paragraphs 32, 33, 34 and 35 of the complaint are denied to the extent that they are directed against the Township of Cranbury.

APPENDIX

As to the allegations contained in the Appendix of the complaint relating to the Township of Cranbury, Defendant admits that it has not established a public housing authority nor passed a resolution of need required by the housing financial assistance law, if this is the resolution referred to in the complaint. It denies the other allegations contained in the Appendix to the complaint both as to the content of the zoning ordinance and the effect thereof.

FIRST SEPARATE DEFENSE

Plaintiffs do not constitute a proper class.

SECOND SEPARATE DEFENSE

Defendants do not constitute a proper class as defined in the rules of the court.

THIRD SEPARATE DEFENSE

Plaintiffs have failed to present a justiciable issue under the Declaratory Judgment Act.

FOURTH SEPARATE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

FIFTH SEPARATE DEFENSE

This Defendant at no time violated any legal requirement

of State or Federal Law.

SIXTH SEPARATE DEFENSE

The complaint fails to include indispensable parties including the State of New Jersey, County of Middlesex, the United States of America and the other municipalities of the State of New Jersey.

SEVENTH SEPARATE DEFENSE

The complaint seeks a broad advisory opinion from the court as to the permissible limits of the zoning power without reference to any specific actions by the municipalities involved, which opinion is beyond the power of this court to grant.

EIGHTH SEPARATE DEFENSE

The relief requested by the complaint is properly the subject of legislation and any grievances which the Plaintiffs have should be directed to the legislature.

NINTH SEPARATE DEFENSE

Plaintiffs fail to allege any specific act or ordinance enacted by this Defendant which has resulted in damage or injury to any Plaintiff.

TENTH SEPARATE DEFENSE

The complaint is predicated on an incorrect assumption that each municipality must provide for all types of uses, when, in fact, there is no such requirement in the law.

ELEVENTH SEPARATE DEFENSE

The complaint improperly joins the Defendants in the same action when there are no questions of law or fact which are common to all the Defendants.

TWELFTH SEPARATE DEFENSE

Township of Cranbury has unique circumstances which separates it from each of the other Defendant municipalities; and, therefore, a separate trial should be granted to the Township of Cranbury.

THIRTEENTH SEPARATE DEFENSE

Plaintiffs have failed to exhaust their administrative remedies.

FOURTEENTH SEPARATE DEFENSE

Township of Cranbury has an established character, the preservation of which mandates its present zoning plan.

FIFTEENTH SEPARATE DEFENSE

The zoning ordinance of the Township of Cranbury is in accordance with a comprehensive plan and a reasonable and proper exercise of the zoning and police power.

SIXTEENTH SEPARATE DEFENSE

The complaint fails to conform with the rules of pleading as provided by the rules of court.

SEVENTEENTH SEPARATE DEFENSE

The Cranbury Township zoning ordinance is not unconstitutional either on its face or as applied.

EIGHTEENTH SEPARATE DEFENSE

The Cranbury Township zoning ordinance does not constitute racial or economic discrimination in any form.

NINETEENTH SEPARATE DEFENSE

The zoning ordinance of the Township of Cranbury is in accordance with the comprehensive master plan for the develop-

ment of Middlesex County and for the housing needs of Middlesex County as adopted by the Middlesex County Planning Board.

TWENTIETH SEPARATE DEFENSE

Plaintiffs lack standing to challenge the zoning ordinance of the Township of Cranbury.

TWENTY-FIRST SEPARATE DEFENSE

The relief requested by Defendants is beyond the power of this court to grant.

HUFF AND MORAN
Attorneys for Defendant
Township Committee of the Township
of Cranbury

By: _____


J. Schuyler Huff

CERTIFICATION

I hereby certify that the within answer was filed and served within the time allowed by R.4:6-1 as extended by consent and by rule of court.


J. Schuyler Huff

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November 18, 1974

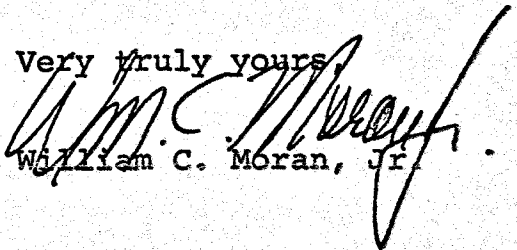
TO: Roland A. Winter, Esquire
William H. Gazi, Esquire
Bertram E. Busch, Esquire
Guido J. Brigiani, Esquire
Andre W. Gruber, Esquire
Joseph H. Burns, Esquire
John J. Vail, Esquire
Samuel C. Inglese, Esquire
Arthur W. Burgess, Esquire
Alan J. Karcher, Esquire
Edward J. Johnson, Jr., Esquire
Sanford E. Chernin, Esquire
Edward J. Dolan, Esquire
Louis Alfonso, Esquire
Richard F. Plechner, Esquire
Lawrence Lerner, Esquire
Charles V. Booream, Esquire
Henry Handelman, Esquire
Robert C. Rafano, Esquire
Roy M. Oake, Esquire
Joseph L. Stonaker, Esquire
Martin A. Spritzer, Esquire
David H. Ben-Asher, Esquire

Re: Urban League of Greater New Brunswick, et als. v.
Mayor and Council of the Borough of Carteret, et als
Docket No. C-4122-73.

Gentlemen:

In connection with the above-captioned matter, I am enclosing
herewith a copy of Notice of Motion.

Very truly yours,


William C. Moran, Jr.

WCM:dms
Encl.

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a. The actions complained of in the Plaintiffs' Complaint against the twenty-three (23) municipal Defendants, do not involve a common question of law or fact arising out of the same transaction or series of transactions.


b. A single consolidated trial against the within named twenty-three (23) Defendants would be prejudicial and an undue financial burden upon the Defendant, Township of Cranbury, since the factual questions in the Plaintiffs' suit against the Township of Cranbury are distinctly different than the factual questions raised against the other Defendants.

c. Actions already pending against the Township of Cranbury, which will be decided in advance of any determination of the within matter, will resolve the issues of the validity of the Cranbury Township ordinance.

d. In support of said motion, Township of Cranbury will rely on the Brief already submitted in support of its motion to dismiss and joins in the Brief submitted by the Borough of Carteret.

HUFF AND MORAN
Attorneys for Defendant, Township
Committee of the Township of Cranbury

By: _____


J. Schuyler Huff
A Member of the Firm.