

CA - East Brunswick

(filed) 9/9/74

Answer of East Brunswick

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*Mortimer S. Kaufman*  
Clerk

**BUSCH AND BUSCH**

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ATTORNEYS FOR Deft., Township Council of East Brunswick

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, JEAN  
WHITE, On their own behalf and on behalf  
of all others similarly situated,

Plaintiffs,

vs.

TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF EAST BRUNSWICK,

Defendant.

SUPERIOR COURT OF <sup>314</sup>  
NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY

Docket No. C-4122-73 ✓

CIVIL ACTION

ANSWER

Defendant, The Township Council of the Township of East Brunswick, incorrectly designated The Township Committee of the Township of East Brunswick, by way of answer to the complaint, says:

1. They deny the allegations of Paragraphs #1, #2 and #3 to the extent that they are directed against this defendant.
2. It has insufficient knowledge to form a belief as to the truth of the allegations contained in Paragraphs #4, #5, #6, #7, #8, #9, #10 and #11.

3. It denies the allegations contained in Paragraph #12.  
4. It admits the allegations contained in Paragraph #13.  
5. It admits the allegations contained in Paragraph #14, except that it has insufficient information to form a belief as to the truth of the allegation that the location of the transportation lines has been central to the increased commercial, industrial, and residential growth of the County.

6. It has insufficient information to form a belief as to the truth of the allegations contained in Paragraphs #15, #16, #17, #18 and #19.

7. It denies the allegations contained in Paragraph #20.

8. It has insufficient information to form a belief as to the truth of the allegations contained in Paragraphs #21, and #22.

9. It denies the allegations contained in Paragraphs #23, #24, #25, #26, #27, #28, #29 and #30.

10. It has insufficient information to form a belief as to the truth of the allegations contained in Paragraph #31.

11. It denies the allegations contained in Paragraphs #32, #33, #34 and #35 to the extent that they are directed against this defendant.

#### FIRST SEPARATE DEFENSE

The complaint should be dismissed on the grounds that plaintiffs do not constitute a class.

#### SECOND SEPARATE DEFENSE

The complaint should be dismissed because defendants do not constitute a class as defined by the rules of court.

THIRD SEPARATE DEFENSE

The complaint should be dismissed on the grounds that the plaintiffs have failed to present a justiciable issue before the courts under the Declaratory Judgment Act.

FOURTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that it fails to set forth a claim upon which relief can be granted.

FIFTH SEPARATE DEFENSE

The complaint should be dismissed against this defendant on the grounds that the plaintiff failed to take into account the unique factual history and pattern of growth for this defendant.

SIXTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that this defendant at no time violated any legal requirement of State or Federal Law.

SEVENTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that it fails to include indispensable parties including the State of New Jersey, the United States of America and the remaining municipalities in the State of New Jersey.

EIGHTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that plaintiffs are seeking a broad advisory opinion from the court as to the permissible limits of the zoning power, which opinion may not be rendered by the court.

NINTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that the matters referred to in plaintiffs' complaint are properly the subject of legislation and any grievances which plaintiffs have should be directed to the elected officials of the legislature.

TENTH SEPARATE DEFENSE

The complaint should be dismissed as against this defendant on the grounds that plaintiffs fail to allege that any specific act or ordinance enacted by this defendant has resulted in damage or injury to any plaintiff.

ELEVENTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that plaintiffs have failed to consider unique differences of each of the municipalities named as defendants and have asked the court to fix reasonable requirements in land use. It is submitted that the court lacks such power.

TWELFTH SEPARATE DEFENSE

The complaint should be dismissed because it is predicated on the fallacious assumption that each municipality must provide for specific uses while in fact there is no such requirement in law.

THIRTEENTH SEPARATE DEFENSE

The complaint should be dismissed because plaintiffs have failed to exhaust their administrative remedies in accordance with the rules of court and the laws of the State of New Jersey.

Plaintiffs have not made application to any of these defendants for relief and accordingly this action is premature and untimely.

FOURTEENTH SEPARATE DEFENSE

The East Brunswick ordinances which are challenged are not unconstitutional either on their face or as applied.

FIFTEENTH SEPARATE DEFENSE

The complaint fails to conform with the rules of pleading as provided by the rules of court and inhibits the ability of the defendants to formulate complete answers thereto.

SIXTEENTH SEPARATE DEFENSE

The ordinances of the Township of East Brunswick have been enacted following a comprehensive study of local conditions, geographical, topographical, ecological, economic and sociological. The studies and subsequently enacted ordinances properly reflect the needs of the Township and the region.

SEVENTEENTH SEPARATE DEFENSE

The State of New Jersey is now the most densely populated State in the United States. The relief requested, if granted, would not remedy the alleged ills suffered by the plaintiffs and the net effect would be to cause further deterioration of the inner cities and substantial population density increases in the entire State to the detriment of the entire State.

EIGHTEENTH SEPARATE DEFENSE

The ordinances of the Township of East Brunswick do not violate the Federal or State constitutions and do not constitute racial discrimination in any form.

NINETEENTH SEPARATE DEFENSE

This defendant is entitled to a dismissal of the complaint together with court costs and attorneys fees.

TWENTIETH SEPARATE DEFENSE

The venue of this action should be removed to the United States District Court in view of the fact that a substantial Federal question is presented based upon the United States Constitution.

TWENTY-FIRST SEPARATE DEFENSE

East Brunswick has met the needs of all economic classes, having a complete mix of existing housing including apartments, mobile homes, condominiums and modest single family housing on small lots. In addition East Brunswick has adopted cluster zoning and subdivision ordinances. A Master Plan Review Committee is currently reviewing the present and proposed zoning and land use of the Township, including a planned unit development ordinance which has been adopted by the East Brunswick Planning Board and will be considered by the East Brunswick Township Council upon the receipt of a report by the Master Plan Review Committee.

BUSCH AND BUSCH, ESQS.  
Attorneys for Defendant  
The Township Council of the  
Township of East Brunswick

BY: Bertram E. Busch  
BERTRAM E. BUSCH  
A Member of the Firm

I hereby certify that a copy of the within answer was served within the time period allowed by Rule 4:6-1 and that a copy was served upon the attorney for the plaintiff by ordinary mail on the \_\_\_\_\_ day of \_\_\_\_\_, 1974.

Bertram E. Busch  
BERTRAM E. BUSCH