

~~U.L. v. Carter~~ U.L. v. Carter

Dunellen

13-July-76

Judgment in favor of Dunellen

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U.S. DISTRICT COURT, N.J.

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ATTORNEY FOR DEFENDANT, MAYOR AND COUNCIL OF THE BOROUGH OF SOUTH PLAINFIELD

Plaintiff

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, ET AL,

vs.

Defendant

THE MAYOR AND COUNCIL OF
THE BOROUGH OF CARTERET,
ET AL,

SUPERIOR COURT OF
NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY

Docket No. C 4122-73

CIVIL ACTION

JUDGMENT

THE ABOVE ENTITLED MATTER HAVING BEEN TRIED BEFORE THIS COURT COMMENCING FEBRUARY 3, 1976 AND THE COURT HAVING HEARD AND CONSIDERED THE TESTIMONY AND EVIDENCE ADDUCED DURING THE TRIAL AS RESULT OF WHICH THIS COURT HAS RENDERED ITS OPINION DATED MAY 4, 1976;

IT IS, THEREFORE, ON THIS *a* DAY OF *July*, 1976,
ORDERED AND ADJUDGED AS FOLLOWS:

- JUDGMENT BE AND IS HEREBY ENTERED IN FAVOR OF THE DEFENDANT, BOROUGH OF DUNELLEN, AND AGAINST THE PLAINTIFF BASED UPON THE RELIEF DEMANDED IN THE COMPLAINT.

COPY OF THIS FILED IN THE COURT HAS BEEN FILED WITH THE COURT

David D. Furman J.B.J.

2. THE DEFENDANTS, BOROUGH OF CARTERET, BOROUGH OF HELMETTA, BOROUGH OF HIGHLAND PARK, BOROUGH OF JAMESBURG, BOROUGH OF METUCHEN, BOROUGH OF MIDDLESEX, BOROUGH OF MILLTOWN, CITY OF SOUTH AMBOY, BOROUGH OF SOUTH RIVER, BOROUGH OF SPOTSWOOD, AND TOWNSHIP OF WOODBRIDGE, HAVING AMICABLY ADJUSTED THEIR DIFFERENCES, BE AND ARE HEREBY DISMISSED UPON THE CONDITION THAT THEY COMPLY WITH THE TERMS OF THEIR RESPECTIVE SETTLEMENTS WITH THE PLAINTIFF TO THE EXTENT ^{Applicable} THAT THEY SHALL CAUSE THEIR RESPECTIVE ZONING ORDINANCES TO BE AMENDED TO CAUSE (A) DELETION OF LIMITATIONS ON THE NUMBER OF BEDROOMS OR ROOMS IN MULTI-FAMILY HOUSING; (B) DELETION OF SPECIAL EXCEPTION PROCEDURES FOR MULTI-FAMILY HOUSING AND PROVISIONS FOR IT AS AN ALLOWABLE USE; (C) REDUCTION OF EXCESSIVE PARKING SPACE REQUIREMENTS IN MULTI-FAMILY HOUSING; (D) REDUCTION OF EXCESSIVE MINIMUM FLOOR AREA REQUIREMENTS IN MULTI-FAMILY OR SINGLE FAMILY HOUSING OR BOTH; (E) REDUCTION OF EXCESSIVE MINIMUM LOT SIZES FOR MULTI-FAMILY OR SINGLE FAMILY HOUSING OR BOTH; (F) INCREASE IN MAXIMUM DENSITY OF MULTI-FAMILY HOUSING TO 15 UNITS PER ACRE; (G) INCREASE OF MAXIMUM HEIGHT OF MULTI-FAMILY HOUSING TO 2-1/2 STORIES OR HIGHER; (H) DELETION OF A MULTI-FAMILY HOUSING CEILING OF 15% OF TOTAL HOUSING UNITS WITHIN A MUNICIPALITY; (I) A REZONING FROM INDUSTRY TO MULTI-FAMILY RESIDENTIAL AND FROM SINGLE FAMILY TO MULTI-FAMILY RESIDENTIAL.

3. THE DEFENDANT, BOROUGH OF CARTERET, AS CONDITION

SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

TO BE SUBMITTED SEPARATELY

4. THE DEFENDANT, BOROUGH OF HELMETTA, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

"RE-ZONING OF A STRIP APPROXIMATELY 225 FEET BY 1800 FEET ALONG THE NORTHERLY SIDE OF MAPLE STREET FOR TOWNHOUSES."

5. THE DEFENDANT, BOROUGH OF HIGHLAND PARK, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

(A) DENSITY OF UNITS PER ACRE ARE 16 UNITS PER ACRE ON PARCELS OF LAND GREATER THAN ONE ACRE, 12 UNITS PER ACRE ON PARCELS LESS THAN ONE ACRE,

12 UNITS PER ACRE ON PARCELS LESS THAN ONE ACRE, THERE NO LONGER BEING A MINIMUM REQUIREMENT OF ACREAGE (2½) FOR MULTI-FAMILY DWELLINGS.

(B) THAT THE DISTRIBUTION OF APARTMENTS INTO A RATIO OF ONE AND THREE BEDROOM UNITS BE DELETED ENTIRELY.

(C) THAT THE PROHIBITION OF RENOVATION AND/OR CONSTRUCTION OF HOMES TO MORE THAN 3 BEDROOMS IN THE RESIDENCE ZONE BE DELETED FROM THE ZONING ORDINANCE.

6. THE DEFENDANT, BOROUGH OF JAMESBURG, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

(A) DELETION OF SPECIAL EXCEPTION PROCEDURES FOR MULTI-FAMILY HOUSING AND PROVISION FOR IT AS AN ALLOWABLE USE.

(B) REDUCTION OF EXCESSIVE PARKING SPACE REQUIREMENTS IN MULTI-FAMILY HOUSING.

(C) REDUCTION OF EXCESSIVE MINIMUM FLOOR AREA REQUIREMENTS IN MULTI-FAMILY OR SINGLE-FAMILY HOUSING OR BOTH.

7. THE DEFENDANT, BOROUGH OF METUCHEN, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

"ELIMINATION OF THE REQUIRED MINIMUM LIVING AREA OF 1,400 SQUARE FEET IN THE R-1 ZONE."

8. THE DEFENDANT, BOROUGH OF MIDDLESEX, AS CONDITION T SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS .

ZONING ORDINANCE AS FOLLOWS:

(A) THE ACREAGE REQUIREMENT FOR MULTIPLE-FAMILY DWELLINGS BE REDUCED FROM 4 ACRES TO 2 ACRES.

(B) THE BEDROOM LIMITATIONS CONTAINED IN THE GARDEN APARTMENT ORDINANCE AND THE HIGH-RISE ORDINANCE BE DELETED.

(C) PROVISION SHOULD BE MADE FOR SOME ADDITIONAL LAND IN THE BOROUGH TO BE ZONED FOR MULTIPLE-FAMILY DWELLINGS.

(D) THE PLANNING BOARD RATHER THAN THE ZONING BOARD OR MAYOR AND COUNCIL SHALL BE DESIGNATED AS THE REVIEWING AGENCY IN THE ORDINANCE TO ASCERTAIN WHETHER AN APPLICANT WISHING TO BUILD GARDEN APARTMENTS AND/OR HIGH-RISE APARTMENTS HAS COMPLIED WITH THE TERMS AND CONDITIONS OF THE ZONING ORDINANCE.

9. THE DEFENDANT, BOROUGH OF MILLTOWN, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

(A) AMEND CHAPTER 20-4.4 TO REDUCE MINIMUM FLOOR AREA OF DWELLING TO 950 SQ. FT.

(B) AMEND CHAPTER 20-4.4 TO REDUCE MINIMUM LOT FRONTAGE TO 80 FT.

(C) AMEND CHAPTER 20-7.1 A(2) AND 7.1 B(1) TO PERMIT MULTI-FAMILY DWELLINGS WITHOUT "SPECIAL PERMIT".

(D) AMEND CHAPTER 20-9.4 C(7) TO REDUCE GARDEN APARTMENT AVERAGE MINIMUM FLOOR AREA PER DWELLING UNIT FOR ENTIRE DEVELOPMENT TO 650 SQ. FT. AND ABSOLUTE MINIMUM FLOOR AREA PER DWELLING UNIT TO 500 SQ. FT.

(E) AMEND CHAPTER 20-9.4 C(8) TO INCREASE MAXIMUM NUMBER OF GARDEN APARTMENT DWELLING UNITS PER ACRE TO 15.

10. THE DEFENDANT, CITY OF SOUTH AMBOY, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

MULTI-FAMILY

- (A) REMOVE BEDROOM RESTRICTIONS IN THEIR ENTIRETY.
- (B) PROVIDE THAT APPLICATIONS FOR MULTI-FAMILY DWELLINGS BE MADE TO THE PLANNING BOARD INSTEAD OF THE ZONING BOARD OF ADJUSTMENT.
- (C) OPEN SPACE WILL BE 10% OF THE ENTIRE PLOT, PLUS A PLAYGROUND FOR CHILDREN TO BE DETERMINED BY THE MARKETPLACE.
- (D) REMOVE THE TWO STORY LIMIT.
- (E) THE MINIMUM FLOOR AREA IN THREE OR FOUR BEDROOM APARTMENTS WILL BE IN ACCORDANCE WITH FHA REQUIREMENTS.

GARDEN APARTMENTS

- (A) ZONING ORDINANCE TO BE CHANGED TO PROVIDE FOR 16 UNITS-PER ACRE.
- (B) ELIMINATE TWO-STORY HEIGHT REQUIREMENT.
- (C) OPEN AREAS SAME AS MULTI-FAMILY.

IN ADDITION TO THE ABOVE, SOUTH AMBOY HAS AGREED TO REZONE 55 ACRES OF INDUSTRIAL LAND FOR MULTI-FAMILY USE.

11. THE DEFENDANT, BOROUGH OF SOUTH RIVER, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

- (A) MULTI-FAMILY RESIDENTIAL USE IS PERMITTED AS ~~BY~~ SPECIAL EXCEPTION.

(B) THE MINIMUM SIZE LOT FOR DEVELOPMENT OF MULTI-FAMILY RESIDENTIAL USE SHALL BE NOT LESS THAN TWO (2) ACRES.

(C) ROOM RESTRICTIONS IN ANY MULTI-FAMILY UNIT SHALL BE ELIMINATED ENTIRELY.

(D) THERE SHALL BE ELIMINATED ANY PERCENTAGE OR OTHER TYPE OF CEILING ON THE NUMBER OF MULTI-FAMILY UNITS PERMITTED IN DEFENDANT BOROUGH.

(E) MAXIMUM HEIGHT FOR MULTI-FAMILY UNITS SHALL BE NO MORE THAN THREE (3) STORIES.

(F) THIRTY-FIVE (35) ACRES OF EXISTING RESIDENTIALLY ZONED LAND WITHIN DEFENDANT BOROUGH SHALL BE ZONED FOR 7500 SQUARE FOOT LOTS WITH MINIMUM HABITABLE FLOOR AREA EXCLUSIVE OF BASEMENT AREA, OF NOT LESS THAN 900 SQUARE FEET.

12. THE DEFENDANT, BOROUGH OF SPOTSWOOD, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

(A) DELETION OF LIMITATIONS ON THE NUMBER OF BEDROOMS OR ROOMS IN MULTI-FAMILY HOUSING.

(B) REDUCTION OF EXCESSIVE MINIMUM FLOOR AREA REQUIREMENTS IN MULTI-FAMILY OR SINGLE-FAMILY HOUSING, OR BOTH.

(C) REDUCTION OF EXCESSIVE MINIMUM LOT SIZES FOR SINGLE-FAMILY HOUSING.

(D) REZONING FROM INDUSTRY TO MULTI-FAMILY RESIDENTIAL OR SINGLE-FAMILY HOUSING ON REDUCED LOT SIZES.

13. THE DEFENDANT, TOWNSHIP OF WOODBRIDGE, AS CONDITION TO SETTLEMENT AND DISMISSAL HAS AGREED TO APPROPRIATELY AMEND ITS ZONING ORDINANCE AS FOLLOWS:

ZONING ORDINANCE AS FOLLOWS:

ARTICLE VI - SCHEDULE OF AREA, YARD, AND BUILDING REQUIREMENTS ZONING ORDINANCE OF THE TOWNSHIP OF WOODBRIDGE, NEW JERSEY.

SECTION 1. ARTICLE VI, SCHEDULE OF AREA, YARD, AND BUILDING REQUIREMENTS ZONING ORDINANCE OF THE TOWNSHIP OF WOODBRIDGE, NEW JERSEY. THIS ARTICLE SHALL BE AMENDED BY DELETING ALL REFERENCE TO FOOTNOTE NO. (1) IN THE COLUMN TITLED MINIMUM GROSS FLOOR AREA/FAMILY (IN SQUARE FEET) FOR THE R-5 RESIDENCE ZONE.

SECTION 2. FOOTNOTE NO. (1) SHALL BE AMENDED TO READ AS FOLLOWS: FOR GARDEN APARTMENTS, THE MINIMUM HABITABLE FLOOR AREA IS 650 SQUARE FEET.

ARTICLE XII - R-6A RESIDENCE ZONE, SECTION 1. PERMITTED USES

SECTION 1. ARTICLE XII, SECTION 1. PERMITTED USES IS AMENDED BY ADDING PARAGRAPH C. AS FOLLOWS:

C. GARDEN APARTMENT DEVELOPMENTS

ARTICLE XII - SECTION 3. OTHER USES PERMITTED UPON APPLICATION TO THE ZONING BOARD FOR A SPECIAL PERMIT

SECTION 1. ARTICLE XII, SECTION 3.A. AND B. ARE AMENDED TO READ AS FOLLOWS:

- A. SAME AS SPECIFIED IN THE R-5 RESIDENCE ZONE, EXCEPT THAT PUBLIC AND QUASI-PUBLIC SWIM CLUBS ARE PROHIBITED.
- B. BOARDING AND ROOMING HOUSES, BUT NOT MOTELS, HOTELS OR TOURIST HOMES AND CABINS, SUBJECT TO THE STANDARDS AND CONDITIONS SET FORTH IN ARTICLE XX, SECTION 2. OF THIS ORDINANCE.

ARTICLE XII - SECTION 4. AREA, YARD, AND BUILDING REQUIREMENTS

SECTION 1. ARTICLE XII, SECTION 4. PARAGRAPH B. IS ADDED TO READ AS FOLLOWS:

B. FOR GARDEN APARTMENT DEVELOPMENTS AS PERMITTED IN

THIS ARTICLE:

- MINIMUM LOT SIZE - 2 ACRES
- MINIMUM LOT WIDTH - 200 FEET
- MINIMUM LOT DEPTH - 300 FEET
- MINIMUM YARD REQUIREMENTS - 25 FEET ON ALL SIDES
- MINIMUM FLOOR AREA PER DWELLING UNIT - 650 SQUARE FEET
- MINIMUM OFF-STREET PARKING SPACES PER DWELLING UNIT 1-1/2
- MAXIMUM BUILDING COVERAGE - 20 PER CENT
- MAXIMUM BUILDING HEIGHT - 35 FEET
- MAXIMUM NUMBER OF DWELLING UNITS PER ACRE - 18

THE AREAS SHALL BE ATTRACTIVELY LANDSCAPED AND SEEDED.

ADEQUATE RECREATION AREA AND FACILITIES TO SERVE THE NEEDS OF THE ANTICIPATED POPULATION SHALL BE PROVIDED AND SHALL CONSIST OF AT LEAST THE FOLLOWING: A FENCED OFF PLAY-LOT INCLUDING PLAY EQUIPMENT SUCH AS SWINGS, SEESAWS, ETC., SHALL BE PROVIDED. THERE SHALL BE FIFTEEN (15) SQUARE FEET OF PLAY-LOT FOR EVERY DWELLING UNIT WITH A MINIMUM SIZE AREA OF ONE THOUSAND (1,000) SQUARE FEET.

THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO GARDEN APARTMENTS PREVIOUSLY CONSTRUCTED OR TO APPLICATIONS FINALLY APPROVED AS OF THE DATE OF THE ADOPTION OF THIS AMENDMENT.

ARTICLE XIV - B-1 NEIGHBORHOOD BUSINESS ZONE, SECTION 1. PERMITTED USES

SECTION 1. ARTICLE XIV B-1 NEIGHBORHOOD BUSINESS ZONE, SECTION 1. PERMITTED USES IS AMENDED BY ADDING PARAGRAPH C. TO READ AS FOLLOWS:

C. GARDEN APARTMENT DEVELOPMENTS.

ARTICLE XIV - SECTION 4.C. OTHER USES PERMITTED UPON APPLICATION TO THE ZONING BOARD FOR A SPECIAL PERMIT

SECTION 1. ARTICLE XIV, SECTION 4.C. OTHER USES PERMITTED UPON APPLICATION TO THE ZONING BOARD FOR A SPECIAL PERMIT IS DELETED IN ITS ENTIRETY.

ARTICLE XIV - SECTION 5., AREA, YARD, AND BUILDING REQUIREMENTS

SECTION 1. ARTICLE XIV, SECTION 5., AREA, YARD AND BUILDING REQUIREMENTS IS AMENDED BY ADDING PARAGRAPH C. AS FOLLOWS:

C. AS TO GARDEN APARTMENT DEVELOPMENT, AS SPECIFIED IN ARTICLE XII, SECTION 4.B., OF THIS ORDINANCE.

ARTICLE XV - B-2 CENTRAL BUSINESS ZONE, SECTION 1., PERMITTED USES

SECTION 1. ARTICLE XV, B-2 CENTRAL BUSINESS ZONE, SECTION 1. PERMITTED USES IS AMENDED BY ADDING PARAGRAPH I. TO READ AS FOLLOWS:

I. GARDEN APARTMENT DEVELOPMENTS.

ARTICLE XV - B-2 CENTRAL BUSINESS ZONE, SECTION 3. D. OTHER USES PERMITTED UPON APPLICATION TO THE ZONING BOARD FOR A SPECIAL PERMIT.

SECTION 1. ARTICLE XV, B-2 CENTRAL BUSINESS ZONE, SECTION 3. D. OTHER USES PERMITTED UPON APPLICATION TO THE ZONING BOARD FOR A SPECIAL PERMIT IS DELETED IN ITS ENTIRETY.

ARTICLE XV - B-2 CENTRAL BUSINESS ZONE, SECTION 4., AREA YARD, AND BUILDING REQUIREMENTS.

SECTION 1. ARTICLE XV, B-2 CENTRAL BUSINESS ZONE, SECTION 4., AREA, YARD, AND BUILDING REQUIREMENTS IS AMENDED BY ADDING PARAGRAPH C. TO READ AS FOLLOWS:

C. AS TO GARDEN APARTMENT DEVELOPMENTS, AS SPECIFIED I ARTICLE XII, SECTION 4.B., OF THIS ORDINANCE.

ARTICLE XVI - B-3 HIGHWAY BUSINESS ZONE, SECTION 1.C. PERMITTED USES.

SECTION 1. ARTICLE XVI, B-3 HIGHWAY BUSINESS ZONE, SECTION 1. C. PERMITTED USES IS AMENDED BY ADDING SUBSECTION (8) TO READ AS FOLLOWS:

(8) GARDEN APARTMENT DEVELOPMENTS.

ARTICLE XVI - B-3 HIGHWAY BUSINESS ZONE, SECTION 4., AREA, YARD, AND BUILDING REQUIREMENTS.

SECTION 1. ARTICLE XVI, B-3 HIGHWAY BUSINESS ZONE, SECTION 4., AREA, YARD, AND BUILDING REQUIREMENTS IS AMENDED BY

ADDING PARAGRAPH C. TO READ AS FOLLOWS:

C. AS TO GARDEN APARTMENT DEVELOPMENTS, AS SPECIFIED IN ARTICLE XII, SECTION 4.B., OF THIS ORDINANCE.

ARTICLE XVII - M-1 LIGHT INDUSTRY ZONE, SECTION 5.E. (3) OTHER PROVISIONS AND REQUIREMENTS.

SECTION 1. ARTICLE XVII, M-1 LIGHT INDUSTRY ZONE, SECTION 5. E. (3) OTHER PROVISIONS AND REQUIREMENTS IS AMENDED TO READ AS FOLLOWS:

(3) RESIDENTIAL DWELLINGS EXCEPT GARDEN APARTMENTS AS PROVIDED FOR IN THIS ORDINANCE.

ARTICLE XX - SECTION 2. E. SPECIAL EXCEPTIONS (GARDEN APARTMENT DEVELOPMENTS)

SECTION 1. ARTICLE XX, SECTION 2. E. SPECIAL EXCEPTIONS (GARDEN APARTMENT DEVELOPMENTS) IS DELETED IN ITS ENTIRETY AND AMENDED TO READ AS FOLLOWS:

E. GARDEN APARTMENT DEVELOPMENTS MAY BE PERMITTED IN THE M-1 LIGHT INDUSTRY ZONE PROVIDED THAT THE FOLLOWING DESIGN STANDARDS AND APPLICATION PROCEDURES ARE COMPLIED WITH:

(1) DESIGN-STANDARDS:

MINIMUM LOT SIZE - 2 ACRES
MINIMUM LOT WIDTH - 200 FEET
MINIMUM LOT DEPTH - 300 FEET
MINIMUM YARD REQUIREMENTS - 25 FEET ON ALL SIDES
MINIMUM FLOOR AREA PER DWELLING UNIT - 650 SQUARE FEET
MINIMUM OFF-STREET PARKING SPACES PER DWELLING UNIT 1-1/2
MAXIMUM BUILDING COVERAGE - 20 PER CENT
MAXIMUM BUILDING HEIGHT - 35 FEET
MAXIMUM NUMBER OF DWELLING UNITS PER ACRE - 18

THE AREA SHALL BE ATTRACTIVELY LANDSCAPED AND SEEDED.

ADEQUATE RECREATION AREA AND FACILITIES TO SERVE THE NEEDS OF THE ANTICIPATED POPULATION SHALL BE PROVIDED AND SHALL CONSIST OF AT LEAST THE FOLLOWING: A FENCED OFF PLAY-LOT INCLUDING PLAY EQUIPMENT SUCH AS SWINGS,

SEESAWS, ETC., SHALL BE PROVIDED. THERE SHALL BE FIFTEEN (15) SQUARE FEET OF PLAY-LOT FOR EVERY DWELLING UNIT WITH A MINIMUM SIZE AREA OF ONE THOUSAND (1,000) SQUARE FEET.

THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO GARDEN APARTMENTS PREVIOUSLY CONSTRUCTED OR TO APPLICATIONS FINALLY APPROVED AS OF THE DATE OF THE ADOPTION OF THIS AMENDMENT.

(2) APPLICATION PROCEDURES:

- (A) APPLICANT SHALL CONFORM TO THE REQUIREMENTS OF ARTICLE V, GENERAL REGULATIONS, SECTION 23. OF THIS ORDINANCE.
- (B) APPLICATION FOR A PERMIT TOGETHER WITH THREE (3) COPIES OF THE APPROPRIATE PLANS, SPECIFICATIONS AND SIX (6) PLOT PLANS SHALL BE MADE TO THE BUILDING INSPECTOR, WHO SHALL GATHER ALL INFORMATION ON THE ABOVE REQUIREMENTS AND REFER THE MATTER TO THE ZONING BOARD.
- (C) THE ZONING BOARD SHALL REFER THE MATTER TO THE PLANNING BOARD FOR REPORT THEREON AS TO IT EFFECT ON THE COMPREHENSIVE PLANNING OF THE TOWNSHIP. NO ACTION SHALL BE TAKEN UNTIL SUCH REPORT SHALL HAVE BEEN RECEIVED FROM THE PLANNING BOARD, WHICH BOARD SHALL MAKE ITS REPORT THEREON WITHIN FORTY FIVE (45) DAYS. AFTER RECEIPT OF SUCH REPORT, THE ZONING BOARD SHALL HEAR THE APPLICATION IN THE SAME MANNER AND UNDER THE SAME PROCEDURE AS IT IS EMPOWERED BY LAW AND ORDINANCE TO HEAR CASES AND MAKE EXCEPTIONS TO THE PROVISIONS OF THE ZONING ORDINANCE.
- (D) THE ZONING BOARD SHALL THEREAFTER REFER THE APPLICATION WITH ITS RECOMMENDATION AND THE RECOMMENDATION OF THE PLANNING BOARD TO THE MUNICIPAL COUNCIL. THE MUNICIPAL COUNCIL SHALL EITHER DENY OR GRANT THE APPLICATION, AND SHALL GIVE THE REASONS THEREFORE. IN APPROVING ANY SUCH APPLICATION, THE MUNICIPAL COUNCIL MAY IMPOSE ANY CONDITIONS THAT IT DEEMS NECESSARY TO ACCOMPLISH THE REASONABLE APPLICATION OF THE ABOVE STANDARDS AND TO ENSURE CARRYING OUT OF THE GENERAL PURPOSE OF THE ZONING ORDINANCE.

(E) IF THE APPLICATION IS GRANTED, THE BUILDING INSPECTOR SHALL ISSUE A BUILDING PERMIT, BUT ONLY UPON THE CONDITIONS, IF ANY, IMPOSED BY THE MUNICIPAL COUNCIL.

14. UPON FULL AND COMPLETE COMPLIANCE WITH THE TERMS OF THE SETTLEMENT BY THE DEFENDANTS, BOROUGH OF CARTERET, BOROUGH OF HELMETTA, BOROUGH OF HIGHLAND PARK, BOROUGH OF JAMESBURG, BOROUGH OF METUCHEN, BOROUGH OF MIDDLESEX, BOROUGH OF MILLTOWN, CITY OF SOUTH AMBOY, BOROUGH OF SOUTH RIVER, BOROUGH OF SPOTSWOOD AND TOWNSHIP OF WOODBRIDGE, THE COMPLAINT IN THE ABOVE MATTER SHALL BE DISMISSED.

15. THE DEFENDANTS, TOWNSHIP OF MADISON (OLD BRIDGE), TOWNSHIP OF MONROE, AND TOWNSHIP OF SOUTH BRUNSWICK BE AND ARE HEREBY ORDERED AND DIRECTED TO ENACT OR ADOPT NEW ZONING ORDINANCES TO ACCOMMODATE THEIR RESPECTIVE FAIR SHARE ALLOCATION OF LOW AND MODERATE INCOME HOUSING AS SPECIFICALLY OUTLINED IN THE COURT'S WRITTEN OPINION DATED MAY 4, 1976 AT PAGE 32 THEREOF PLUS AN ADDITIONAL FAIR SHARE ALLOCATION OF 1,333 UNITS FOR EACH SUCH MUNICIPALITY.

THE DEFENDANTS, TOWNSHIP OF CRANBURY, TOWNSHIP OF EAST BRUNSWICK, TOWNSHIP OF EDISON, TOWNSHIP OF NORTH BRUNSWICK, TOWNSHIP OF PISCATAWAY, TOWNSHIP OF PLAINSBORO, BOROUGH OF SAYREVILLE AND THE BOROUGH OF SOUTH PLAINFIELD, SHALL, ALTERNAT LY, ENACT OR ADOPT NEW ZONING ORDINANCES TO ACCOMMODATE THEIR RESPECTIVE FAIR SHARE ALLOCATION OF LOW AND MODERATE INCOME HOUSING AS SPECIFICALLY OUTLINED IN THE COURT'S WRITTEN OPINION

dated May 4, 1976 at page 32 thereof, plus an additional fair share allocation of 1,333 units for each such municipality; or, shall rezone all of their remaining vacant land suitable for housing in order to permit or allow low and moderate income housing on a ratio of 15% low and 19% moderate income housing units as specifically outlined in this Court's written opinion at pages 33 and 34.

16. All of the various defendants shall cause the enactment or adoption of their respective zoning ordinance amendments to be completed within ninety (90) days of the entry of this Judgment.

17. This Court retains jurisdiction over the pending litigation for the purpose of supervising the full compliance with the terms and conditions of this Judgment.

18. Applications for special relief from the terms and conditions of this Judgment may be entertained by this Court.

19. It is the Judgment of this Court that the plaintiffs have an interest in this litigation which entitles them to standing to represent a class of low and moderate income people.

20. All allegations as to alleged violations of the Federal Civil Rights Act, in such case made and provided, be and are hereby dismissed.

21. Each of the defendants, Township of Cranbury, Township of East Brunswick, Township of Edison, Township of Madison (Old Bridge), Township of Monroe, Township of North

Brunswick, Township of Piscataway, Township of Plainsboro, Borough of Sayreville, Township of South Brunswick and the Borough of South Plainfield, are hereby ordered and directed to make good faith efforts by way of participation in existing or proposed Federal and State subsidy programs for new housing and rehabilitation of existing substandard housing. In implementing this judgment the 11 municipalities charged with fair share allocations must do more than rezone not to exclude the possibility of low and moderate income housing in the allocated amounts. Approvals of multi-family projects, including Planned Unit Developments, should impose mandatory minimums of low and moderate income units. Density incentives may be set. Mobile homes offer a realistic alternative within the reach of moderate and even low income households. Whether single-family housing is attainable for moderate income households may hinge upon land and construction costs. The 11 municipalities should pursue and cooperate in available Federal and State subsidy programs for new housing and rehabilitation of substandard housing, although it is beyond the issues in this litigation to order the expenditure of municipal funds or the allowance of tax abatements.

22. The Third Party Defendants, City of New Brunswick and City of Perth Amboy, be and are hereby dismissed and judgment entered accordingly.

23. With regard to the 11 municipalities referred to in

Paragraph 2 above, separate orders of dismissal shall be submitted to the Court under Rule 4:42-1(b) upon enactment of ordinances in full compliance with this judgment.

24. Plaintiff's application for counsel fees is denied; however plaintiffs may apply for costs by separate motions.

It is further ORDERED that a copy of this judgment be forwarded to the respective attorneys within seven (7) days of the date hereof.

David D. Furman, J.S.C.

DAVID D. FURMAN J.S.C.

I hereby consent to the form of the within judgment.

Daniel A. Searing

DANIEL A. SEARING, Esq.
Attorney for Plaintiff

I hereby certify that the foregoing is a true copy of the original on file in my office.

M. Lewis Bonbrink

Clerk