

OA - Edison

6-Nov-1975

Pre-trial Memo on Behalf of Def, Tushk
of Edison ⊕ cover letter

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Township of Edison,

Middlesex County, New Jersey 08811

MOV 111975

November 6, 1975

Hon. David D. Furman
Middlesex County Courthouse
New Brunswick, New Jersey 08903

Re: Urban League of Greater New
Brunswick, vs. Borough of Carteret, et al
Docket-No. C - 4122-73

Dear Judge Furman:

Enclosed herewith please find an original and two
copies of Pretrial Memorandum on behalf of the Defendant,
Township of Edison, together with extra copies of the
Factual and Legal Contentions, for the Pretrial
Conferences scheduled for November 17, 1975 at

1:30 P. M.

Respectfully yours,

Roland A. Winter

RAW/fif

cc: All Attorneys of Record.

ROLAND A. WINTER, ESQ.
Attorney for Defendant, Township of Edison
940 Amboy Avenue, Edison, New Jersey 08817 - 201-738-1300

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION,
MIDDLESEX COUNTY
DOCKET NO. C- 4122-73 V^r^" . -

URBAN-LEAGUE OF GREATER NEW
BRUNSWICK, a non-profit
corporation of the State of
New Jersey, et al.,

Plaintiffs,

vs.

THE MAYOR AND COUNCIL OF THE
BOROUGH OF CARTERET, et al.,

"Defendants."

Civil Action

PRETRIAL MEMORANDUM ON BEHALF
OF "DEFENDANT, TOWNSHIP OF EDISON"

1. NATURE OF ACTION: In gist, this is a class action which broadly attacks the reasonableness and validity of the Zoning Code based upon alleged non-compliance with Federal and State Statutes and Constitutions.

2. ADMISSIONS AND STIPULATIONS: None.

3 - 4. FACTUAL AND LEGAL CONTENTIONS: Annexed hereto.

5. DAMAGES AND INJURY CLAIMS: None.

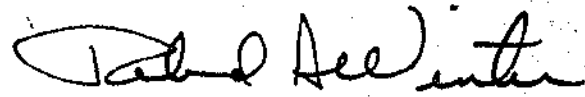
6. AMENDMENTS: No amendments are sought by Edison.

7. LEGAL ISSUES AND EVIDENCE PROBLEMS: The legal standing of the plaintiffs to maintain this suit and the legal sufficiency as a class--Does the suit present a claim or justiciable issues upon which the Courts may grant relief? -- The validity and reasonableness of the Edison Zoning Code -- Are the plaintiffs entitled to costs and attorney fees? -- Are any of the defendants, if successful, entitled to costs or attorney fees? -- Are the minimum requirements established under the Edison Building Code reasonable and valid? -- Taken as a geographical unit, does the area comprised of the respective defendants in this suit constitute a "region"; if not, is it too small, too large, should others be joined, or some of the defendants be removed? -- In the context of the Mt. Laurel decision,

is Edison a developed or an undeveloped community? — If the Courts feel that the criteria or standards to be employed in determining whether Edison is "undeveloped", should open spaces and parks be included or excluded when applying the eventual formula. -- Should ecological and aesthetic considerations be considered or ignored in considering the formula for fair and valid land use designations? -- Since a realistic approach to the problem manifestly dictates that without the funds to build any kind of dwelling houses or units, is the Court in this case essentially dealing with a moot question in the judicial sense inasmuch as the judiciary does not have the power to tax or the funds to supply for subsidized dwellings.

8. LEGAL ISSUES ABANDONED: None.
9. EXHIBITS: None have been marked as yet, but Edison Township will offer a large number of Exhibits.
10. EXPERT WITNESSES: No limitation.
11. BRIEFS: As may be directed by the Court.
12. ORDER OF OPENING AND CLOSING: As directed by the Court.
13. ANY OTHER MATTERS AGREED UPON: None.
14. TRIAL COUNSEL: Roland A. Winter, Esq. for the Township of Edison.
15. ESTIMATED LENGTH OF TRIAL: Impossible to determine at this time.
16. WEEKLY CALL OR TRIAL DATE: As may be fixed by the Court.
17. Attorneys for parties conferred on several occasions, including some occasions in the Court House.
18. IT IS HEREBY CERTIFIED that all Pretrial Discovery has been completed, except that plaintiffs' expert witnesses have not as yet been identified so there has been no discovery proceedings with regard to them.
19. Parties who have not been served - none.
Parties who have defaulted - none.

Dated: November 6, 1975.



"ROLAND A." WINTER
Attorney for Defendant, Township
of Edison

FACTUAL AND LEGAL CONTENTIONS ON BEHALF OF THE TOWNSHIP OF EDISON

The geography of Edison may be generally described as being centrally located within the County of Middlesex, which, in turn is centrally located within the State of New Jersey. Although it encompasses in excess of 32 square miles of area, it completely surrounds the Borough of Metuchen, which is more or less situated in its center.

One of its boundaries is the Raritan River that contains a deep water channel for most of its length, where its channels are adjacent to the Township. It is served by three major railroads, all of which have mainlines, trunks and spurs (many of which were installed and extended by the railroad and the Federal Government to facilitate the movement of troops to the Port of New York from what use" to be Camp Kilmer during World War II). The Penn Central mainline runs through the heart of the Township with an Amtrack stop on the Woodbridge-Edison line, a major commuting stop in Metuchen and a local* stop a few miles to the West of Metuchen. Route #1 and the New Jersey turnpike traverses the long axis of the Township, together with a great number of lesser, but, heavily trafficked arteries, Route #9, #35 and the Garden State Parkway come within scant feet of the Woodbridge-Edison border with many of its exchanges and access roads directly leading, in the direction of Edison. The New Jersey Turnpike has a major exchange in Edison. Route #287 joins up with major highways to the South and to the North as well as the New Jersey Turnpike at the Edison interchange.

As will be noted later, Edison represents an industrial as well as a residential center, but nevertheless, serves as a corridor for East-West and North-South traffic.

The post war development of the Township of Edison was not as swift or as loose as many large municipalities experienced in the post World War II years. The oldest sections of the Township remain virtually unchanged in character and use during the stages of development to the present date. In the process of expansion (within the last 18 years), the Township built and operates, together with its older schools, no less than 12 new institutions of learning. The Middlesex County College is within the Township and it must be noted that the expansion of Rutgers, The State University, has been in a direction toward the Edison borders, so that its newest facilities are virtually at the Township's lines.

The capital improvement programs of the last 18 years (in addition to the building of over a dozen new schools), encompasses projects that saw the building of a substantial number of miles of new roads, storm sewers and sanitary sewers.

A Master Plan for the entire Township was undertaken* in the late 1960's, and after many revisions, culminated with its implementation by the adoption of a new Zoning Code in December, 1972, which has been amended from time to time down to the present date.

The Township's Building Code is largely based on the BOCA Code, which is amended annually and there is nothing unique about the minimum requirements in the building code.

It may fairly be stated that of the open spaces remaining within the Township, much of it is in a marshy area bordering the railroad and much of it is in the northern sections of the Township that are not yet sewered and where drainage is a problem. In that same geographic location, a large Urban Renewal Project is in progress, which presently contains low income housing in existing buildings, and contracts have been let for the early stages of a project which contemplates the eventual building program that will accommodate in excess of 400 dwelling units in multi and single family dwellings. (All of which is funded by the Federal Department of Housing and Urban Development).

While the Zoning Ordinance does not list trailer or mobile homesites as a permitted use, there are several in operation within the Township as non-conforming uses.

The historical and current consideration for a viable, equitable and legal zoning plan are honestly aimed and practically oriented; moreover, [there is nothing in the zoning scheme that violates in letter or in spirit any of the constitutional guarantees of equality. Stated in another way, there is nothing in motive or in fact contained in the Zoning Code that discriminates against race or economic classes.

In evaluating those areas set aside for industry, it must be borne in mind that Edison's proximity to highways, rails, deep water, the Newark Airport and the labor market makes it uniquely attractive to industry. It must also be borne in mind that the locations of large and basic industries in the area, together with Edison's proximity to institutions of advanced learning (Princeton, Rutgers, the Middlesex County

College, Seton Hall, and Rider. makes it equally attractive to research centers. In short, allocation of sufficient industrial zoning merely expresses a realization of the land resources and is not and was never intended to restrict other legitimate Land uses.

Another unique attribute lies in the expanse of Edison Township, in that the various land uses need not intrude upon each other.

finally, the Township is truly concerned that it might conceivably be ordered by the Court to set aside land for low cost housing without any remedy that could or would permit the eventual development and make that housing a reality. In effect, it is a jeopardy that if only half measures appear in the remedy, that land might conceivably be relegated (for practical purposes) to fallowness.