

CA - Edison

9/21/76

memorandum in opposition to Edison's  
motion for an order of dismissal  
certification of service

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SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION - MIDDLESEX  
COUNTY  
DOCKET NO. C-4122-73

URBAN LEAGUE OF GREATER NEW  
BRUNSWICK, et al.,

Plaintiffs,

v.

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

Defendants.

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:  
: Civil Action  
:  
: MEMORANDUM IN OPPOSITION TO  
: DEFENDANT EDISON'S MOTION  
: FOR AN ORDER OF DISMISSAL  
:

Introduction

On May 4, 1976, the Court issued its written opinion in the above captioned case. On July 9, 1976, the Court signed the judgment order. On September 7, 1976, defendant Edison moved for an order of dismissal or an order of compliance with the judgment. The motion was originally noticed for September 17, 1976, but by consent was rescheduled for September 24, 1976. Edison appears

to be requesting relief from that part of the judgment ordering rezoning to accommodate 2,625 low and moderate income housing units by 1985. In support of this request, Edison has submitted a copy of its 1976 Community Development Block Grant Application, an affidavit from William M. Lund, township Engineer concerning undeveloped lands within the township, and an affidavit from William Godwin, Director of Public Works, concerning current subdivision applications.

Argument


Plaintiffs oppose defendant Edison's requests, and respectfully request that the Court deny the motion. Plaintiffs' opposition is based on the following reasons:

1. The opinion and judgment both struck down Edison's zoning ordinance and ordered new ordinances to accommodate Edison's fair share of low and moderate income housing (2,625 units) or the rezoning of all remaining vacant land suitable for housing to accommodate low and moderate income housing according to a specific ratio. Nothing in the documents brought forward by defendant show that this has been done.
2. The Community Development Block Grant data shows only that certain units are slated for rehabilitation. There is no showing that these units meet, at least in part, the need for new low and moderate income units.
3. The Lund affidavit is irrelevant in that first, the computations^ are derived from the present zoning ordinance, which was struck down, and second, no showing is made that such "possible new units"

are to be low and moderate income units. Additionally, if this affidavit is an attempt to dispute the Court's findings concerning vacant acreage suitable for housing, it is wholly improper.

4. The Godwin affidavit is irrelevant for substantially the same reasons. There is no showing that the units for which subdivision applications are pending will be available for low and moderate income families. Additionally, there is no showing that these units do not come under the unconstitutional and now invalid zoning provisions.

5. Finally, establishing that a certain number of units fall under suggested density provisions, without more (such as mandatory minimums of low and moderate income units) is patently short of what is required for compliance with the judgment of this Court.



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DANIEL AL SEARING

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memorandum was served by ordinary mail upon Roland A. Winter, Esq., Attorney for Edison and all other defense counsel, and a copy was mailed to Judge Furman at the Middlesex County Courthouse, New Brunswick, New Jersey on September 21, 1976.

  
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