

CA - Highland Park 22-Nov. 74

Brief in Support of Notice of
Motion on Behalf of the Mayor
and Council of the Borough of
Highland Park.

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Plaintiff

URBAN LEAGUE OF GREATER NEW BRUNSWICK,
etc., et als.

vs.

Defendant

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

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MIDDLESEX COUNTY

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BOOK PAGE
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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY

Docket No. C 4122-73

CIVIL ACTION

BRIEF IN SUPPORT OF NOTICE OF MOTION ON BEHALF OF THE MAYOR AND
COUNCIL OF THE BOROUGH OF HIGHLAND PARK

RUBIN AND LERNER
Attorneys for Defendant
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Lawrence Lerner
On the Brief

THIS ACTION DOES NOT INVOLVE A COMMON QUESTION OF LAW OR FACT ARISING OUT OF THE SAME TRANSACTION OR SERIES OF TRANSACTIONS AND PRE-TRIAL DISCOVERY AND TRIAL OF THE ISSUE AGAINST THE DEFENDANT, BOROUGH OF HIGHLAND PARK, WOULD BE UNDULY PREJUDICIAL TO THE SAID DEFENDANT, BOROUGH OF HIGHLAND PARK.

The Plaintiff, Urban League of Greater New Brunswick, in its Appendix to its Complaint, charges the Borough of Highland Park with prohibiting mobile homes; restricting the supply of apartments for households of three or more persons by limiting two bedroom apartments to 15 percent of each project and three bedroom apartments to five percent (5%); contends that Highland Park has not passed the resolution of local approval required for the use of state financial aid to assist low- and moderate-income families with their housing needs; and has not built units for families since 1961 (in its public housing authority).

The Appendix to the Plaintiff's Complaint in Paragraphs One (1) through twenty-three (23), excluding Paragraph 7, then contains allegations against the remaining twenty-two municipal Defendants in this matter, which said allegations contain vastly different discriminatory charges against each individual community.

Nowhere in the Complaint does the Plaintiff charge a conspiracy between all or any of the municipal Defendants whereby said Defendants enacted exclusionary zoning and other land use policies and practices.

It is perfectly clear from an analysis of the Appendix to the Plaintiff's Complaint, Paragraphs (1) through (23) inclusive, that the allegations against each municipality does not involve common question of law or fact arising out of the same transaction or series of transactions and, therefore, in accordance with Rule 4:38 were improperly consolidated. To force all of the Defendants to participate in a common discovery or in a common trial, would be unduly burdensome, would be unduly expensive and would be highly prejudicial to the Defendant, Borough of Highland Park, and the other twenty-two municipal Defendants.

Therefore, pursuant to Rule 4:38-2, the matter should be Severed into twenty-three (23) separate suits, and the Court should provide for discovery, pretrial and trial in twenty-three (23) separate actions.

Respectfully Submitted,

RUBIN AND LERNER
Attorneys for Defendant,
Borough of Highland Park

by /LAWRENCE LERNER/
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