

CA - Highland Park

4-8-76

- Brief on Behalf of Highland Park (5)
  - Exhibit C (Ordinance) (2)
- Letter to Lerner from Wresenfeld re: High Density Housing (2) + (5) ↓
- Exhibit E - Amendment to Annual Contributions Contract No. NY-346, Project No. NJ-44-1, 2 from the US Dept. of Housing and Urban Development
- Various proof of notices by publication
- Exhibit G - 4/5/76 Highland Park approves hiring of Code Enforcement Officer

pi 3504

18 pages

CA 00 1459 B

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY

URBAN LEAGUE OF GREATER NEW BRUNSWICK, :  
et al., :

Plaintiffs, :

v. :

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

Defendants. :

FILED

DOCKET NO. C-22-73

1976

CIVIL ACTION

BRIEF ON BEHALF OF DEFENDANT BOROUGH OF  
HIGHLAND PARK

RUBIN AND LERNER  
Attorneys for Borough  
of Highland Park  
101 Bayard Street  
New Brunswick, N.J.  
(201) 846-5500

POINT ONE

THE BOROUGH OF HIGHLAND PARK IS NOT A DEVELOPING MUNICIPALITY SUBJECT TO THE STANDARDS LAID DOWN IN SO. BURL. CTY. N.A.A.C.P. V. TP. OF MT. LAUREL.

Plaintiffs allege that the Borough of Highland Park has engaged in practices, through its governing body and municipal agencies, which result in discrimination against persons of low and moderate income with regard to housing. For reasons to be presented infra, defendant Highland Park contends that it has acted affirmatively to provide more than its fair share of housing for those of modest means. It is submitted from the start, however, that notwithstanding any duties imposed on certain municipalities by the New Jersey Supreme Court's decision in Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975), defendant Highland Park is exempt by virtue of its status as a fully developed community.

The Court's opinion refers specifically to developing municipalities. Indeed, the concurring opinion of Justice Pashman highlights the limitations of the majority's holding:

(The majority) has also chosen not to consider the degree to which the principles applicable to developing municipalities are also applicable to rural ones and to largely developed ones. (67 N.J. at 208.)

It is our contention that even under the activist theory of judicial intervention advocated by Justice Pashman, Highland Park is under no duty to proceed further than it has, and may in fact have done more than its share. The affidavit of Dr. Joel Weisenfeld, Director of the Water Department of Highland Park, shows the strain on the Borough's water delivery system arising from the present burden. Rapid future expansion of demand for services would tax the system to the breaking point. (See Exhibit A).

Justice Pashman recognized a legitimate in insuring that "the burdens upon municipal services do not increase faster than the practical ability of the municipality to expand the capacity of those services \* \* \*" (67 N.J. at 213.)

It is true that Justice Pashman proposes an affirmative duty for already-developed municipalities, but only to the extent that existing neighborhoods will not be grossly disturbed. It is recognized that sudden dramatic change in the character of existing neighborhoods would be unduly disruptive:

It is, of course, neither practical nor wise to demand that (developed) communities completely rezone established neighborhoods; to do so would in all likelihood contribute to neighborhood instability and permit certain property owners and developers to obtain windfalls rather than actually effecting construction of low or moderate income housing. (67 N.J. at 218.)

Thus, even under a liberal application of the majority's principle of affirmative action, the dangers attendant upon the sudden re-ordering of established neighborhoods limit the range of instances in which a developed municipality would be a fit subject for the Mt. Laurel remedy.

It was stated at trial that only 19.5 acres of vacant land exist in the Borough. The statement of former Borough Engineer George Terwilliger, annexed hereto (See Exhibit B), demonstrates that land is not useable for housing. Part is located in a flood plain and part is sanitary landfill. The density of Highland Park is already very high. Figures presented at trial show the Borough to be second only to the City of Perth Amboy. The negligible vacant land, coupled with the high density and heavily-taxed water system clearly bring the Borough within the class of "developed" communities.

In sum, the problems of imposing rigorous affirmative obligations on developed municipalities such as Highland Park caused the Court to limit its holding in Mt. Laurel. To the extent this court would rearrange the face of the Borough to accommodate what it perceives to be a fair share of housing need, it oversteps the bounds of the Supreme Court's holding and risks the counterproductive effects feared even by Justice Pashman.

POINT TWO

THE BOROUGH OF HIGHLAND PARK HAS TAKEN AFFIRMATIVE ACTION TO PROVIDE FOR THE HOUSING NEEDS OF PERSONS WITH LOW AND MODERATE INCOMES.

Notwithstanding the Borough's contention that Mt. Laurel imposes no duty, it is submitted that Highland Park has nonetheless taken action designed to accommodate the needs which the Mt. Laurel Court attempted to serve. The following is a description of the Borough's activities in this regard:

- a) In 1956, Highland Park established a Housing Authority to pick up where private enterprise left off in providing safe and sanitary dwelling accommodations for persons of modest income. (See Exhibit C)
- b) The Housing Authority is presently sponsoring construction of a senior citizens' low-income housing project to accommodate one-hundred individuals. (See Exhibits D and E.)
- c) In addition to the senior citizens' project, there is a twenty-four unit garden apartment complex constructed in 1959 which houses thirteen families with children and eleven senior citizens. (See Exhibit D.)
- d) The Mayor and Council have by ordinance deleted the three prima facie exclusionary provisions from the Borough's zoning ordinance. (See Exhibit F.)
- e) The Borough has used Community Development funding to hire a Code Enforcement Officer for the Borough. (See Exhibit G.)
- f) The Borough has actively sought funds for rehabilitation of existing substandard housing.

CONCLUSION

For the reasons stated herein, it is submitted that the Borough of Highland Park has complied with any legal duty it may have to provide for the housing of low and moderate income individuals. This contention is without prejudice to the Borough's argument that as a developed community it is not subject to the remedy imposed in Mt. Laurel.

Respectfully submitted,  
RUBIN AND LERNER  
Attorneys for defendant  
Borough of Highland Park

By: Lawrence Lerner  
LAWRENCE LERNER

EXHIBIT C

Ordinance No. 408

AN ORDINANCE TO CREATE A HOUSING AUTHORITY FOR THE BOROUGH OF HIGHLAND PARK, COUNTY OF MIDDLESEX AND STATE OF NEW JERSEY AND THE POWERS AND DUTIES OF SAID AUTHORITY.

WHEREAS, there exists in the Borough of Highland Park insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; and

WHEREAS, within the Borough of Highland Park there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and constitute a menace to the health, safety, morals and welfare of the residents of the Borough of Highland Park and impair economic values; that these conditions necessitate excessive and disproportionate expenditure of public funds for public health and safety, fire and accident protection and other public services and facilities; and

WHEREAS, these areas in the Borough of Highland Park cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income (as defined in the Local Housing Authorities Law of the State of New Jersey) would therefore not be competitive with private enterprise; and

WHEREAS, the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations by any public body for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions; and

WHEREAS, it is in the public interest that work on projects for such purposes be commenced as soon as possible;

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HIGHLAND PARK THAT:

SECTION 1. A body corporate and politic to be known as the "Housing Authority of the Borough of Highland Park" consisting of six (6) members shall be created and established pursuant to the power and authority granted under the "Local Housing Authority Law" (R.S. 55:14A-1, etc.).

SECTION 2. That the Borough Council of the Borough of Highland Park shall appoint five (5) persons as Commissioners of the authority, all of whom shall be residents of the Borough of Highland Park. The Commissioners who are appointed by the Borough Council of the Borough of Highland Park shall be designated to serve for terms of one, two, three, four and five years respectively from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for terms of five years, except that all vacancies shall be filled for the unexpired term.

SECTION 3. The Director of the State Housing Authority shall appoint one commissioner as a member ex officio of said Housing Authority. Said person appointed by the Director of the State Housing Authority shall be entitled to a vote in the affairs of the Authority, and shall be entitled to all other privileges of membership on such authority. The said Director may remove such person and designate a new one at any time or may fill the vacancy caused by the death or resignation of such person.

(SOURCE: Amending Ordinance No. 504 adopted August 21, 1956.)

SECTION 4. All commissioners appointed to said authority, both by the Borough Council of the Borough of Highland Park and the Director of the State Housing Authority, shall receive no compensation from such local Housing Authority.

SECTION 5. The Clerk of the Borough of Highland Park shall file with the Director of the State Housing Authority the names of persons appointed as commissioners of said authority by the Borough Council and the Borough Clerk shall file a certified copy of this Ordinance with such director.

SECTION 6. The powers, rights, privileges, duties and responsibilities of such Local Housing Authority shall be governed by the "Local Housing Authority Law" (R.S. 55:14A-1, etc.) and all amendments and supplements thereto, together with all other Federal or New Jersey Statutes applicable thereto.

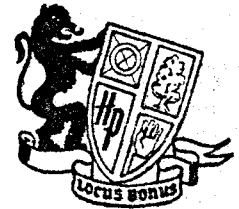
SECTION 7. All ordinances or parts of ordinances inconsistent with this ordinance to the extent of such inconsistency only, are hereby repealed, and this ordinance shall take effect immediately upon adoption and publication in accordance with the law.



# The BOROUGH of HIGHLAND PARK

County of Middlesex, State of New Jersey

21 SOUTH FOURTH AVENUE  
HIGHLAND PARK, NEW JERSEY 08904



WATER & SEWER DEPARTMENT  
TELEPHONE 201-572-3400

March 31, 1976

TO: LARRY LERNER, BOROUGH ATTORNEY  
FROM: JOEL WIESENFELD, SUPT. WATER & SEWER DEPT.  
RE: HIGH DENSITY HOUSING

The water and sewer systems of the Borough of Highland Park have generally been laid out for single and two family houses.

Our water lines are predominately 6" in diameter with fire hydrants spaced to give coverage to this kind of housing. Similarly our sewer lines are predominately 8" in diameter.

Both the existing sewer lines and water lines would be inadequate to serve any location of high density housing in the borough without extensive improvements and reinforcements of the water and sewer systems. These reinforcements would be extremely costly particularly since it would involve excavating through and replacing pavements in our improved streets.

## AFFIDAVIT

STATE OF NEW JERSEY

ss:

COUNTY OF MIDDLESEX

CECILIA HEXT, of full age, being sworn according to law, deposes and says:

1. I am the Executive Director of the Housing Authority of the Borough of Highland Park and am duly authorized to make this affidavit.

2. The Housing Authority is presently erecting a senior citizens' housing project for low income applicants which is designed to accomodate one hundred residents.

3. Said project is scheduled for completion on July 1, 1976.

4. Said project was funded by the Department of Housing and Urban Development under a Turnkey Program.

5. The amount of funding comes to three million thirty three thousand dollars (\$3,033,000.00.).

6. The project will include eighty one-bedroom units, fifteen efficiencies and five two-bedroom units.

7. In addition to said project there is a twenty-four unit garden apartment complex constructed in 1959 which houses thirteen families with children and eleven senior citizens.

s/ Cecilia Hext  
CECILIA HEXT

Sworn to and subscribed

before me this 8 day of April 1976

Phyllis Landers

PHYLLIS LANDERS  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 4-11-77

## UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## LOW-RENT PUBLIC HOUSING

AMENDMENT NO. 6 TO  
ANNUAL CONTRIBUTIONS CONTRACT NO. NY-346  
PROJECT(S) No. NJ 44-1, 2

This Amendatory Agreement entered into this 24th day of September, 1975, by and between the United States of America, (herein called the "Government") pursuant to the United States Housing Act of 1937 (42 U.S.C. 1401, et seq.) and the Department of Housing and Urban Development Act (42 U.S.C. 3531) and HOUSING AUTHORITY OF THE BOROUGH OF HIGHLAND PARK

(herein called the "Local Authority");

## WITNESSETH:

WHEREAS, the parties entered into a certain Annual Contributions Contract on May 19, 1959, as amended; and

WHEREAS, the parties desire to amend said Annual Contributions Contract in the particulars hereinafter set forth;

NOW THEREFORE, the parties do hereby agree that said Annual Contributions Contract be and the same is hereby amended as follows:

1. Wherein the language of Form HUD-53010, Part 1, November 1969 is inconsistent with Amendments to the contracts executed before its issuance, the inconsistency shall be resolved by reference to this Form as if it were specifically made an Amendment to the Annual Contributions Contract.

Wherein the language of Annual Contributions Contract Amendment Number 4, executed on April 23, 1973, was intended to revise the language of previous contracts it shall be the intention of the parties that it also update the language of Form HUD-53010, Part 1, November 1969 and incorporate the resultant language in the Annual Contributions Contract, as amended.

2. Add the following to Part One of the Contract:

Special Provisions for Turnkey Project No. NJ 44-2

The Local Authority will acquire Project No. NJ 44-2 pursuant to a Contract of Sale to be entered into between the seller and the Local Authority. Prior to the execution of such Contract of Sale, the Local Authority may enter into a Preliminary Contract of Sale with the seller to enter into such Contract. Such Preliminary Contract and such Contract shall bear the written approval of the Government. Failure of the Local Authority to expeditiously continue the undertaking of the Project or to comply with the Preliminary Contract or Contract, or if the Preliminary Contract or Contract is held to be void, voidable or ultra vires, or if the power or right of the Local Authority to enter into the Preliminary Contract of Sale or the Contract of Sale is drawn into question in any legal proceeding, or if the Local Authority asserts or claims that the Preliminary Contract or Contract is not binding upon the Local Authority for any such reason, the occurrence of any such event, if the seller is not in default, shall constitute a Substantial Default for the purpose of Article V hereof and, in such case, the Government will continue the undertaking of the Project and will take delivery of such right, title or interest in the Project as the Local Authority may have and perform such Preliminary Contract of Sale or Contract of Sale, as the case may be. The provisions of this paragraph are made with, and for the benefit of, the seller and his assignees who will have been specifically approved by the Government prior to such assignment. To enforce the performance of this provision, the seller and such assignees, as well as the Local Authority, shall have the right to proceed against the Government by action at law or suit in equity. In order to assist in financing the acquisition cost (herein called Development Cost) of the Project, the Government shall lend to the Local Authority an amount equal to the Maximum Development Cost of the Project.

Special Provisions-- Housing and Community Development Act of 1974

Contract provisions and requirements of Public Law 93-383 cited as the "Housing and Community Development Act of 1974" are included in this contract by reference.

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED, "AN ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF STRUCTURES; REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES; DIVIDING THE BOROUGH OF HIGHLAND PARK INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING MAPS OF SAID BOROUGH SHOWING BOUNDARIES AND CLASSIFICATIONS OF SUCH DISTRICTS; ESTABLISHING A BOARD OF ADJUSTMENT AND PRESCRIBING PENALTIES FOR THE VIOLATIONS THEREOF".

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF HIGHLAND PARK THAT:

1. Section 7 of an ordinance entitled, "AN ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF STRUCTURES; REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES; DIVIDING THE BOROUGH OF HIGHLAND PARK INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING MAPS OF SAID BOROUGH SHOWING BOUNDARIES AND CLASSIFICATIONS OF SUCH DISTRICTS; ESTABLISHING A BOARD OF ADJUSTMENT AND PRESCRIBING PENALTIES FOR THE VIOLATIONS THEREOF", shall be and is hereby amended as follows, to wit:

7.1.2.1 is deleted herein.

7.1.2.2 is deleted herein.

7.1.3 No building shall be erected or converted in whole or in part to multifamily dwelling density of more than twelve (12) dwelling units per acre if the property upon which the building is being constructed or converted is less than one acre and sixteen (16) dwelling units density per building when the property so developed or converted exceeds one acre in size, excepting a dwelling single family erected prior to January 1, 1967, may be converted from dwelling single family to dwelling two-family provided that the conversion does not require any lateral addition, or exterior extensions and alterations to the structure and provided said building shall comply with the requirements for off-street parking and other applicable ordinances of the Borough of Highland Park.

2. This ordinance shall take effect immediately upon adoption and publication in accordance with law.

Introduced and passed on first reading

Approved:

Adopted: April 6, 1976  
ATTEST:

/s/ H. Berman  
Mayor

/s/ William Ducea  
Borough Clerk

The Government shall make Annual Contributions with respect to Project No. NJ 44-2 based on the following:

Total Number of Units.....100  
Estimated Total Development Cost.....\$3,033,990.00  
Maximum Contributions Percentage (Contract).....7.501%  
Maximum Loan Interest Rate.....7.000%  
Maximum Number of Annual Contributions.....40  
Maximum Annual Contributions.....\$227,580.00  
Maximum Federal Annual Contributions.....9.00%

4. The execution of this Amendment by the government and the undertaking of the Annual Contributions as herein provided were authorized on LIST NO. NY 76-009.
5. The Local Authority certifies that all conditions precedent to the valid execution and delivery of this Amendment on its part have been complied with, that all things necessary to constitute this contract a valid, binding, and legal agreement on the terms and conditions, and for the purposes herein set forth, have been done and have occurred and that the execution and delivery of this Amendment on its part have been and are in all respects duly authorized in accordance with law.

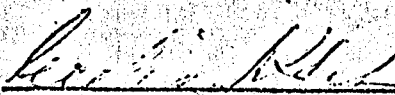
IN WITNESS WHEREOF, the parties have executed this Amendatory Agreement as of the day and year above written.

Housing Authority of the Borough of Highland Park

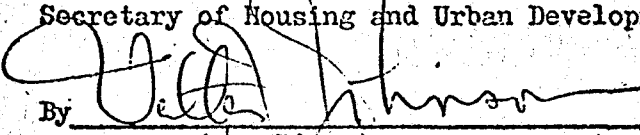
By   
Chairman

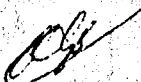
(SEAL)  
Attest:

9/23/75

  
Secretary

UNITED STATES OF AMERICA  
Secretary of Housing and Urban Development

By   
Area Director





**NOTICE  
BOROUGH OF MIDDLESEX**

Notice of  
final passage of  
**ORDINANCE NO. 706**  
**AN ORDINANCE ENTITLED**  
**"AN ORDINANCE AMENDING**  
**A PORTION OF THE ZONING**  
**ORDINANCE OF THE BOR-**  
**OUGH OF MIDDLESEX TO**  
**DELETE THE PORTION OF**  
**THE GARDEN APARTMENT**  
**SECTION OF SAID ORDINANCE**  
**DEALING WITH THE RE-**  
**QUIRED RATIO OF ONE AND**  
**TWO BEDROOM APART-**  
**MENTS"**

WHEREAS, THE Mayor and Council of the Borough of Middlesex did previously adopt a Zoning Ordinance for the Borough of Middlesex on February 9, 1955 known as Ordinance #220, and

WHEREAS, the Mayor and Council of the Borough of Middlesex did amend said zoning ordinance on October 27, 1965 by Ordinance #422 to provide for a zone within the Borough of Middlesex to be known as the "Garden Apartment" zone, which zone permits the construction of garden apartments in accordance with the restrictions contained in said ordinance, and

WHEREAS, Section 82-76(A)(7) provides that there must be at least 85% (eighty five per cent) of one-bedroom units, 15% (fifteen per cent) two-bedroom units and no units with more than two bedrooms; and

WHEREAS, the Mayor and Council are satisfied that such a provision is illegal in view of recent court decisions and therefore should be deleted from the existing zoning ordinances of the Borough of Middlesex.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Middlesex that:

1. Section 82-76(A)(7) of the existing zoning ordinance of the Borough of Middlesex is hereby deleted.

2. This ordinance shall take effect upon its final passage and publication according to law.

MARTIN S. MATUSKIEWICZ  
Mayor

Attest:  
MARGARET HANANIA  
Clerk

**TO ALL CONCERNED**

Take notice that the above ordinance was passed at a regular meeting of the Mayor and Council of the Borough of Middlesex after public hearing on the 9th of March, 1976 and was approved by the Mayor.

MARGARET HANANIA  
Borough Clerk

# AFFIDAVIT OF PUBLICATION

## LEGAL NOTICE

Notice is hereby given that the following proposed ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Middlesex, in the County of Middlesex, New Jersey, held on the 24th day of February, 1976, and that said ordinance will be taken up for further consideration for final passage at a meeting of said Borough Council to be held at its meeting room in the Municipal Building, 1200 Mountain Avenue, Middlesex, New Jersey, on the 9th day of March, 1976, at 8:00 P.M. at which time and place all persons interested therein may be given an opportunity to be heard concerning same.

MARGARET HANANIA  
Borough Clerk

ORDINANCE NO. 707  
ENTITLED  
"ORDINANCE AMENDING A  
PORTION OF THE ZONING  
ORDINANCE OF THE BOR-  
OUGH OF MIDDLESEX DEAL-  
ING WITH A RESTRICTION ON  
THE NUMBER OF BEDROOMS  
IN THE ZONE ENTITLED (High-  
Rise) R-4 RESIDENCE ZONE"

WHEREAS, the Mayor and Council of the Borough of Middlesex previously adopted a zoning ordinance on February 9, 1955 known as Ordinance #220, and

WHEREAS, said ordinance was amended on May 8, 1963 by Ordinance #365 to provide for the creation of a new zone entitled "high-rise" R-4 (residence zone) and was again amended on June 11, 1968 by ordinance #485, and

WHEREAS, Section 82-50.4(B)(6) contains a section prohibiting dwellings units in excess of two-bedrooms, and

WHEREAS, Section 82-50.4(C)(3) provides that eighty-five per cent (85%) of total units shall not be more than one (1) bedrooms,

WHEREAS, provisions have been determined by the Courts of New Jersey to be illegal, and

WHEREAS, the Mayor and Council wish to amend the high-rise zoned section of the existing zoning ordinance to delete said illegal restrictions,

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL of the Borough of Middlesex as follows:

1. Section 82-50.4(B)(6) is hereby amended to delete that section which reads as follows:

"Dwelling units in excess of two bedrooms are prohibited"

2. Section 82-50.4(C) (3) which states that "eighty-five per cent (85%) of total units shall not be more than one (1) bedroom" is hereby deleted.

3. This ordinance shall become effective upon the final passage and publication according to law.

MARTIN S. MATUSKIEWICZ,  
Mayor

Attest:  
MARGARET HANANIA,  
Clerk  
2173-f.26

23.24

STATE OF NEW JERSEY, {  
COUNTY OF MIDDLESEX, { SS:

Before the undersigned a Notary Public in and for said County and State, personally appeared

Angela Duris

who being duly sworn, says that the annexed notice was published on the following dates, to wit:

26 day of February 19 76

day of 19

day of 19

day of 19

day of 19

in THE HOME NEWS, a daily newspaper of general circulation printed and published in Middlesex County, New Jersey, of which the said affiant is book-keeper.

*Angela Duris*

Subscribed and sworn to before me, this 26th day of February 19 76

Witness my hand and notarial seal

*Galietta V. Leary*

Notary Public

NOTARY PUBLIC OF NEW JERSEY

My Commission Expires May 4, 1976

Middlesex County, New Jersey

**Borough of  
Middlesex**

**LEGAL NOTICE**

NOTICE IS HEREBY GIVEN that the following proposed ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Middlesex, in the County of Middlesex, New Jersey, held on the 23rd day of March, 1976, and that said ordinance will be taken up for further consideration for final passage at a meeting of said Borough Council to be held at its meeting room in the Municipal Building, 1200 Mountain Avenue, Middlesex, New Jersey, on the 13th day of April, 1976, at 8:00 P.M. at which time and place all persons interested therein may be given an opportunity to be heard concerning same.

MARGARET HANANIA  
Borough Clerk  
ORDINANCE NO. 714

AN ORDINANCE ENTITLED "AN ORDINANCE AMENDING PORTIONS OF THE ZONING ORDINANCE OF THE BOROUGH OF MIDDLESEX DEALING WITH GARDEN APARTMENTS DELETING THOSE SECTIONS WHICH PROVIDE FOR A FINAL DECISION TO BE MADE BY THE MAYOR AND COUNCIL AND AMENDING THAT SECTION WHICH PROVIDES FOR A TWO ACRE MINIMUM LOT SIZE"

WHEREAS, the Mayor and Council of the Borough of Middlesex did previously adopt a Zoning Ordinance of the Borough of Middlesex on February 9, 1965 known as Ordinance #220, and

WHEREAS, the Mayor and Council of the Borough of Middlesex did amend said zoning ordinance on October 27, 1965 by Ordinance #422 to provide for a zone within the Borough of Middlesex to be known as the "garden apartment zone", which zone permits the construction of garden apartments in accordance with restrictions contained in said ordinance, and

WHEREAS, Section 82-75 (C) and (D) provide that the Planning Board of the Borough of Middlesex shall review the application and exhibits and render a report to the Mayor and Council as to its findings and provide further that the Mayor and Council shall review the findings of the Planning Board and either order or deny issuance of a building permit by the Building Inspector, and

WHEREAS, Section 82-76 (A) (2) provides that minimum lot size required to erect a garden apartment shall be four acres; and

WHEREAS, the legality of said sections has been attacked in litigation instituted by the Urban League against the Borough of Middlesex and other municipalities in Middlesex County, and

WHEREAS, as a condition for the Borough being dismissed as a defendant in said litigation, the Court has ruled that said sections of the Middlesex Zoning Ordinance should be amended, and

WHEREAS, the recommendations of the Court that the minimum lot size should be reduced from 4 acres to 2 acres and that the final review should be by the Planning Board rather than by the Mayor and Council have been reviewed by the Middlesex Borough Planning Board and said Planning Board has concurred in said recommendations.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Middlesex as follows:

1. Section 82-75 (C) of the existing zoning ordinance of the Borough of Middlesex is hereby amended to read as follows:

"The Planning Board of the Borough of Middlesex shall review the application and exhibits, pursuant to N.J.S.A. 40:55-1.13 et seq and shall make a determination respecting suitability of the site plan and compliance with provisions and requirements of this ordinance, within ninety days of the receipt of the application and related exhibits. In making its findings, the Planning Board shall obtain and give consideration to the reports and analysis of the Borough Engineer, Chief of Police, Fire Department, Shade Tree Commission, Building Inspector and Borough Planner, with respect to all matters of the applications and exhibits within their respective purviews."

2. Section 82-75 (D) is hereby deleted.

3. Section 82-76 (A) (2) is hereby amended to read as follows:

"Minimum lot size shall be two acres, with sufficient frontage on an existing street for convenient, safe access, but in no case less than two hundred (200) feet.

4. Any provisions of the existing Zoning Ordinance which are inconsistent with the provisions of this ordinance are hereby repealed.

5. This ordinance shall become effective upon final passage and publication according to law.

STATE OF NEW JERSEY }  
SS.  
MIDDLESEX COUNTY }

I, **Joyce Carmen**

of full age, being duly sworn upon <sup>her</sup> oath, saith: That <sup>s</sup> **he** is connected with **THE MIDDLESEX CHRONICLE**, a newspaper printed and published in Middlesex, Middlesex County, New Jersey; that a notice of which the annexed is a true copy, was published on the  
**25th** day of **March** A. D., 19 **76**  
in said newspaper and once a week thereafter successively, in all  
weeks, viz.: upon

one

March 25, 1976

*Joyce Carmen*

Sworn and subscribed before me this

**25th** day of **March**

A. D., 19 **76**

*Betty Rosnah*  
Notary Public of N. J.



## Borough of Middlesex

### LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the following proposed ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Middlesex, in the County of Middlesex, New Jersey, held on the 23rd day of March, 1976, and that said ordinance will be taken up for further consideration for final passage at a meeting of said Borough Council to be held at its meeting room in the Municipal Building, 1200 Mountain Avenue, Middlesex, New Jersey, on the 13th day of April, 1976, at 8:00 P.M. at which time and place all persons interested therein may be given an opportunity to be heard concerning same.

MARGARETHANANIA  
Borough Clerk

### ORDINANCE NO. 715

ORDINANCE ENTITLED "AN ORDINANCE AMENDING PORTIONS OF THE ZONING ORDINANCE OF THE BOROUGH OF MIDDLESEX DEALING WITH HIGH-RISE APARTMENTS DELETING THOSE SECTIONS WHICH PROVIDE FOR A FINAL DECISION TO BE MADE BY THE ZONING BOARD OF ADJUSTMENT AND PROVIDING FOR REVIEW BY THE MIDDLESEX BOROUGH PLANNING BOARD RATHER THAN BY THE MIDDLESEX ZONING BOARD OF ADJUSTMENT AND AMENDING THAT SECTION WHICH PROVIDES FOR A TWO-ACRE MINIMUM LOT SIZE"

WHEREAS, the Mayor and Council of the Borough of Middlesex did previously adopt a Zoning Ordinance for the Borough of Middlesex on February 9, 1955 known as Ordinance #220, and

WHEREAS, the Mayor and Council of the Borough of Middlesex did amend said Zoning Ordinance on May 8, 1963 by Ordinance #365 to provide for a zone within the Borough of Middlesex to be known as the "high-rise (R-4) residence zone", which zone permits the construction of garden apartments in accordance with restrictions contained in said ordinance, and

WHEREAS, said "high-rise (R-4) residence zone" was thereafter amended on June 11, 1968 by Ordinance #485 and again was amended on March 11, 1975 by Ordinance #661, and

WHEREAS, Section 82-50.3 (B) and (C) provide that the application and exhibits filed in connection with the application for a high-rise apartment building permit be transmitted to the Secretary of the Zoning Board of Adjustment for its review and findings and provides further that the Zoning Board of

Adjustment of the Borough of Middlesex shall make a final determination as to its findings respecting compliance with provision requirements of this ordinance, and

WHEREAS, Section 82-50.4 (B) (1) provides that there must be a minimum lot size of 4 acres for an apartment building development, and

WHEREAS, the legality of said sections has been attacked in litigation instituted by the Urban League against the Borough of Middlesex and other municipalities in Middlesex County, and

WHEREAS, as a condition for the Borough being dismissed as a defendant in said litigation, the Court has ruled that said Sections of the Middlesex Zoning Ordinance should be amended, and

WHEREAS, the recommendations of the court that the minimum lot size should be reduced from 4 acres to 2 acres and that the final review should be by the Planning Board rather than by the Zoning Board, have been reviewed by the Middlesex Borough Planning Board and said Planning Board has concurred in said recommendations,

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Middlesex as follows:

1. Section 82-50.3 (B) of the existing Zoning Ordinance of the Borough of Middlesex is hereby amended to read as follows:

"The Building Inspector shall forthwith, upon receipt of an application for a high-rise apartment building permit, transmit the application and exhibits to the Secretary of the Middlesex Borough Planning Board for its review and findings as hereinafter provided."

2. Section 82-50.3 (C) of the existing Zoning Ordinance of the Borough of Middlesex is hereby amended to read as follows:

"The Middlesex Borough Planning Board shall review the application and the exhibits which are forwarded to it by the Building Inspector and shall make a final determination as to its findings respecting compliance with provisions and requirements of this ordinance."

3. Section 82-50.4 (B) of the existing Zoning Ordinance is hereby amended to substitute "2 acres" for "4 acres" and the remaining portions of said Section shall remain in full force and effect.

4. Any provisions of the existing ordinance which are inconsistent with the provisions of this ordinance are hereby repealed.

5. This ordinance shall become effective upon final passage and publication according to law.

Middlesex

LEGAL NOTICE
NOTICE IS HEREBY GIVEN that the following proposed ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Middlesex, in the County of Middlesex, New Jersey, held on the 23rd day of March, 1976, and that said ordinance will be taken up for further consideration for final passage at a meeting of said Borough Council to be held at its meeting room in the Municipal Building, 1200 Mountain Avenue, Middlesex, New Jersey, on the 13th day of April, 1976, at 8:00 P.M. at which time and place all persons interested therein may be given an opportunity to be heard concerning same.

MARGARET HANANIA
Borough Clerk
ORDINANCE NO. 718
ORDINANCE ENTITLED "AN ORDINANCE AMENDING PORTIONS OF THE ZONING ORDINANCE OF THE BOROUGH OF MIDDLESEX DEALING WITH HIGH-RISE APARTMENTS DELETING THOSE SECTIONS WHICH PROVIDE FOR A FINAL DECISION TO BE MADE BY THE ZONING BOARD OF ADJUSTMENT AND PROVIDING FOR REVIEW BY THE MIDDLESEX BOROUGH PLANNING BOARD RATHER THAN BY THE MIDDLESEX ZONING BOARD OF ADJUST-

MENT AND AMENDING THAT SECTION WHICH PROVIDES FOR A TWO-ACRE MINIMUM LOT SIZE"

WHEREAS, the Mayor and Council of the Borough of Middlesex did previously adopt a Zoning Ordinance for the Borough of Middlesex on February 9, 1955 known as Ordinance #220, and

WHEREAS, the Mayor and Council of the Borough of Middlesex did amend said Zoning Ordinance on May 8, 1968 by Ordinance #365 to provide for a zone within the Borough of Middlesex to be known as the "high-rise (R-4) residence zone", which zone permits the construction of garden apartments in accordance with restrictions contained in said ordinance, and

WHEREAS, said "high-rise (R-4) residence zone" was thereafter amended on June 11, 1968 by Ordinance #485 and again was amended on March 11, 1975 by Ordinance #681, and

WHEREAS, Section 82-50.3 (B) and (C) provide that the application and exhibits filed in connection with the application for a high-rise apartment building permit be transmitted to the Secretary of the Zoning Board of Adjustment for its review and findings and provides further that the Zoning Board of Adjustment of the Borough of Middlesex shall make a final determination as to its findings respecting compliance with provision requirements of this ordinance, and

WHEREAS, Section 82-50.4 (B) (1) provides that there must be a minimum lot size of 4 acres for an apartment building development, and

WHEREAS, the legality of said sections has been attacked in litigation instituted by the Urban League against the Borough of Middlesex and other municipalities in Middlesex County, and

WHEREAS, as a condition for the Borough being dismissed as a defendant in said litigation, the Court has ruled that said Sections of the Middlesex Zoning Ordinance should be amended, and

WHEREAS, the recommendations of the court that the minimum lot size should be reduced from 4 acres to 2 acres and that the final review should be by the Planning Board rather than by the Zoning Board, have been reviewed by the Middlesex Borough Planning Board and said Planning Board has concurred in said recommendations.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Middlesex as follows:

1. Section 82-50.3 (B) of the existing Zoning Ordinance of the Borough of Middlesex is hereby amended to read as follows:

"The Building Inspector shall forthwith, upon receipt of an application for a high-rise apartment building permit, transmit the application and exhibits to the Secretary of the Middlesex Borough Planning Board for its review and findings as hereinafter provided."

2. Section 82-50.3 (C) of the existing Zoning Ordinance of the Borough of Middlesex is hereby amended to read as follows:

"The Middlesex Borough Planning Board shall review the application and the exhibits which are forwarded to it by the Building Inspector and shall make a final determination as to its findings respecting compliance with provisions and requirements of this ordinance."

3. Section 82-50.4 (B) of the existing Zoning Ordinance is hereby amended to substitute "2 acres" for "4 acres" and the remaining portions of said Section shall remain in full force and effect.

4. Any provisions of the existing

STATE OF NEW JERSEY

MIDDLESEX COUNTY

SS.

I, Joyce Carmen

of full age, being duly sworn upon her oath, saith: That she is connected with THE MIDDLESEX CHRONICLE, a newspaper printed and published in Middlesex, Middlesex County, New Jersey; that a notice of which the annexed is a true copy, was published on the 25th day of March A. D., 1976, in said newspaper and once a week thereafter successively, in all one weeks, viz.: upon March 25, 1976

Joyce Carmen

Sworn and subscribed before me this

25th day of March A. D., 1976

Betty Rosenthal
Notary Public of N. J.

EXHIBIT G

AFFIDAVIT

STATE OF NEW JERSEY

SS:

COUNTY OF MIDDLESEX

WILLIAM DUCCA, of full age, being sworn according to law, deposes and says:

1. I am the Clerk of the Borough of Highland Park and am duly authorized to make this affidavit.

2. At the Council Meeting of the week of April 5, 1976, the Borough of Highland Park approved the hiring of a Code Enforcement Officer to be funded by Community Development.

s/William Ducca  
WILLIAM DUCCA

Sworn to and subscribed:

before me this 8 day of April 1976

Phyllis Landers

PHYLLIS LANDERS  
NOTARY PUBLIC OF NEW JERSEY  
By Commission Expires 4-11-77