

CA - Metuchen 25-Nov-74

Brief in Support of Motion, on behalf
of the Mayor and Council of the borough
of Metuchen, to sever.

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NEW JERSEY SUPERIOR COURT
CHANCERY DIVISION DAVID D. FURMAN, J.S.C.
MIDDLESEX COUNTY

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FRANK SCHATZMAN
CLERK

Docket No. C 4122-73

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

Plaintiff, :

vs. :

Civil Action

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

Defendants :

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

MARTIN A. SPRITZER
Attorney for Defendant
Borough of Metuchen
414 Main Street
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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 METUCHEN, WOULD BE UNDULY PREJUDICIAL TO THE SAID DEFENDANT, BOROUGH OF METUCHEN.

The Plaintiff, Urban League of Greater New Brunswick, in its Appendix to its Complaint, charges the Borough of Metuchen with the following:

"Metuchen's zoning ordinance prohibits mobile homes and permits multi-family use on only an insignificant amount of land.

It subjects single-family detached units to minimum floor area requirements from 1,000 to 1,400 square feet.

Metuchen has not established a public housing authority."

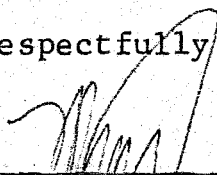
The Appendix to the Plaintiff's Complaint in Paragraphs (2) through (23) then contains allegations against the remaining twenty-two municipal Defendants in this matter, which said allegations contain vastly different discriminatory charges against each individual community.

Nowhere in the Complaint does the Plaintiff, Urban League of Greater New Brunswick, 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 (see Schedule A attached to brief of defendant Borough of Carteret) 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 Metuchen 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,



MARTIN A. SPRITZER
Attorney for Defendant,
Borough of Metuchen

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