

CA - Milltown

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letter re: mention for additional relief

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October 20, 1977

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

RE: Urban League vs. The Mayor and Council of the
Borough of Carteret, et als
Docket No. C-4122-73

Dear Judge Furman:

Plaintiffs in the above matter have filed a motion for additional relief with respect to the conditionally dismissed municipalities scheduled for October 21, 1977. This office represents the Borough of Milltown one of those conditionally dismissed municipalities, and we submit this letter memorandum in lieu of formal brief in opposition to plaintiffs motion.

Plaintiffs conceded in their Motion for Certification of an appeal pending unheard in the Appellate Division, filed October 4, 1977 that "In addition, Judge Furman granted dismissals to 11 other municipalities conditioned solely upon their adoption of appropriate amendments to their zoning ordinances". The Borough of Milltown was one of those 11 municipalities. Rather than litigate this matter to its ultimate conclusion the Borough negotiated a settlement with plaintiffs and plaintiffs consented to the conditional dismissal of the Borough of Milltown based upon said settlement. Additional relief at this point is not needed to carry out the letter or spirit of said settlement as cited by plaintiffs at page 2 of their brief.

The Borough of Milltown Zoning Ordinance does not become exclusionary merely because plaintiffs have joined it in a suit with 23 other municipalities. It is submitted that the Borough of Milltown is similar to the Borough of Wenonah with respect to being a "developed municipality". Milltown is a single town of 1.6 square miles which is not exclusionary. The minor contributions that a fully developed

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small municipality such as Milltown could make to the housing needs, if there be any, of Middlesex County is negligible. Plaintiffs mislead the Court when they state that, taken together, the conditionally dismissed municipalities have a substantial, aggregate of vacant acreage. Milltown has less than 100 vacant acres remaining for development. This acreage includes residential, industrial and commercial zones. Residential acreage was rezoned under this Courts order so ~~ast~~ to leave the largest developable residential lot size in Milltown an 8000 square foot lot with an 80 foot front.

Plaintiffs discussion of vacant acreage in industrial and related zones in their Brief at page 4 is preposterous, in light of your Honors ruling without any objection by plaintiffs that the Borough of Milltown was not required to rezone any industrial acreage for residential use. The only remaining industrial acreage in Milltown is adjacent to the turnpike.

Plaintiffs appealed this Courts order of July 9, 1976 conditionally dismissing plaintiffs case against 11 defendants. Plaintiffs appeal to the Appellate Division was dismissed and their subsequent petition for certification to the New Jersey Supreme Court was not granted. That should have ended this case. Plaintiffs had already, at this point, settled with the Borough of Milltown and then subsequently requested additional relief from this Court on May 28, 1976 and were denied additional relief. Plaintiffs are now attempting to come back into this Court and relitigate this issue of additional relief again.

This defendant further relies on the legal authority cited in the letter memorandum of Rubin and Lerner, Esquire, attorneys for defendant, Highland Park and Edward J. Johnson, Jr., Esquire, attorney for defendant Borough of Middlesex as well as the statement in lieu of brief of Martin A. Spritzer, Esquire, attorney for defendant Metuchen in support of the position taken herein by defendant Borough of Milltown.

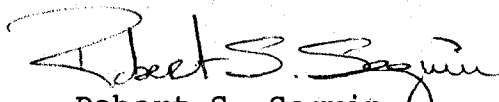
Further the Borough of Milltown joins with the defendant, Borough of Metuchen in requesting dismissal of the plaintiffs motion and awarding of costs to the 11 defendant municipalities. It is time for this Court to take a stand and inform the plaintiffs that it will not tolerate the continued harassment of these 11 defendant municipalities who negotiated settlements with the plaintiffs in good faith. Milltown as did many of the smaller municipalities that are substantially developed chose to settle with the plaintiffs, in large part so as to

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spare itself the enormous legal expenses that would be involved in this litigation. The plaintiffs with their vast staffs and large amounts of money, however are constantly causing these municipalities to expend vast amounts due to their constant attempts to relitigate the same issues and this must be put to a stop.

Respectfully submitted,



Robert S. Seguin

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cc: All attorneys