

CA - Monroe

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Pre-trial Memo of Tusk of
Monroe ① cover letter

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MOSS AND INGLESE

COUNSELLORS AT LAW

METUCHEN PROFESSIONAL BUILDING

406 MAIN STREET

METUCHEN, N.J. 08840

548-3122

AREA CODE 201

BRANCH OFFICE

134 N. MAIN STREET
MILLTOWN, N.J. 08850

ROBERT F. MOSS
NEW JERSEY BAR
FLORIDA BAR

SAMUEL C. INGLESE
NEW JERSEY BAR

DAVID JOSEPH FRIZELL
NEW JERSEY BAR

November 12, 1975

Baumgart & Ben-Asher, Esqs.
134 Evergreen Place
East Orange, New Jersey 07018

Attn.: David H. Ben-Asher, Esq.

Re: Urban League vs Carteret, et als

Dear Mr. Ben-Asher:

Enclosed herewith please find a copy of the
Pre-Trial Memorandum and Factual and Legal Contentions
annexed thereto, on behalf of Monroe Township.

Same has this date been filed with Judge
Furman.

Very truly yours,

Samuel C. Inglese
SAMUEL C. INGLESE

SCI:cp
encs.

cc: All attorneys for co-defendants

MOSS AND INGLESE
406 MAIN STREET
METUCHEN, N. J. 08840
(201) 548-3122
ATTORNEYS FOR

Township of Monroe

Plaintiff

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, a non-profit corporation
of the State of New Jersey, et als

vs.

Defendant

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

SUPERIOR COURT OF
NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY

Docket No. C-4122-73

CIVIL ACTION

PRETRIAL MEMORANDUM OF
TOWNSHIP OF MONROE

1. NATURE OF ACTION: Suit challenging zoning and other land use ordinances, policies and practices of Defendant municipalities on basis of economic and racial discrimination. Claims for relief are based upon N.J.S.A. 40:55-32; Article 1, paragraphs 1, 5 and 18 of the New Jersey Constitution; 42 U.S.C. a. 1981, 1982 and 3601; and the Thirteenth and Fourteenth Amendments to the United States Constitution. Suit instituted as plaintiff class action.

2. ADMISSIONS AND STIPULATIONS: It is requested that plaintiffs admit that none of them sought housing in Monroe Township.

3-4. FACTUAL AND LEGAL CONTENTIONS: (Annexed hereto)

5. DAMAGE AND INJURY CLAIMS: Plaintiffs claim is constitutional in nature and they allege exclusion, low and moderate income persons and improper zoning practices.

6. AMENDMENTS: None

7. LEGAL ISSUES AND EVIDENCE PROBLEMS:

(a) Do corporate and individual plaintiffs have standing to institute suit?

(b) Have plaintiffs presented a justiciable issue?

(c) Are plaintiffs seeking a broad advisory opinion as to the permissible limits of zoning power and if so, may the Court render this opinion?

(d) Is Monroe Township required to provide zoning for specific uses?

(e) Have the ordinances, practices and policies of Monroe Township violated State and Federal statutes and constitutions?

(f) Are plaintiffs entitled to costs and attorneys fees?

(g) Is Monroe Township Zoning Ordinance reasonable with regard to amount of vacant land zoned for multi-family, single family and industrial use?

(h) Are requirements governing minimum floor areas and minimum lot sizes reasonable?

(i) Is Monroe Township required to establish a Public Housing Authority?

(j) What is the region of which Monroe Township is a part?

(k) Has Monroe Township over-zoned for industrial uses?

(l) If Monroe Township is subject to the Mt. Laurel opinion, can it meet the burden of persuasion to justify present zoning?

(m) Does fair share of regional needs apply to low and moderate income housing only, or to wide choice and variety of housing as well?

(n) Determination of the region and its housing needs and an allocation of those needs within the municipalities of the region.

(c) If allocation is determined, the reasonableness of the allocation based upon available highway, public transportation and retail outlets necessary for serving of low and moderate income citizens.

8. LEGAL ISSUES ABANDONED: None
9. OBJECTIONS: None
10. EXPERT WITNESSES: No limitation
11. BRIEFS: As directed by the Court
12. ORDER OF OPENING AND CLOSING: As may be determined by Court
13. ANY OTHER MATTERS AGREED UPON: It is respectfully requested that a time limitation be set for the plaintiffs to advise the defendants as to the names and addresses of their experts as requested in answers to interrogatories, together with copies of their reports and a time for the taking of depositions of said experts. Failure on the part of the plaintiffs to supply the above as ordered by the court, shall be cause for the barring of the use of the experts as witnesses during trial. It is also specifically requested that the plaintiffs complete answers to interrogatories within a specific period of time, which answers provided for completion after discovery. Said order should require a time limitation and provide for a dismissal of the complaint for failure to answer of a limitation as to proofs to be submitted.
14. TRIAL COUNSEL: Samuel S. Inglese for Monroe Township unless a new attorney is appointed after January 1, 1976.
15. ESTIMATED LENGTH OF TRIAL: Unknown
16. WEEKLY CALL OR TRIAL DATE:
17. ATTORNEYS FOR PARTIES CONFERRED ON:
18. ALL PRE-TRIAL DISCOVERY HAS NOT BEEN COMPLETED because of the failure of the plaintiffs to provide names and addresses of their expert witnesses, copies of their reports and providing defendants the opportunity to depose them. Discovery has also not been completed in the area of interrogatories since there is supplemental information to be provided by the plaintiffs upon completion of discovery.
19. PARTIES WHO HAVE NOT BEEN SERVED: None

PARTIES WHO HAVE DEFAULTED: None

MOSS AND INGLESE
Attorneys for Township of Monroe

By: /s/ SAMUEL C. INGLESE
SAMUEL C. INGLESE

DATED: November 12, 1975.

3-4. FACTUAL AND LEGAL CONTENTIONS

It is submitted that the corporate plaintiff has no standing to institute suit on Federal claims under the recent U.S. Supreme Court case of Warth vs. Seldin, decided on June 25, 1975, 43 Law Week 4966. It is also submitted that the plaintiffs have not sought in Monroe Township and therefore, have not standing under the Warth vs. Seldin case, supra. In addition, under the Petaluma case, Monroe Township may phase its growth over a long period of time.

Monroe Township takes the position that it is primarily a farm area and some development in housing and industrial needs. It is presently in the position of conducting an ecological inventory and drawing up of a new master plan. Upon completion of a master plan, appropriate zoning ordinances will be adopted to conform with said plan. The continuation of this suit against the Township of Monroe would be a waste of the Court's time until such time as Monroe Township has completed its master plan and has adopted a new zoning ordinance.

Monroe Township is approximately 43 square miles and is located on the outer fringe area of Middlesex County. It is bound by the municipalities of South Brunswick, Holmdel, Spotswood, Jamesburg and Madison Township. To the south and east it is bound by the municipalities in both Monmouth County and Mercer County. Parts of Monroe Township may be part of the region encompassed by the city of Trenton, Heightstown, East and West Windsor. Another portion of Monroe Township is encompassed by the region of Freehold and Asbury Park.

A large percentage of Monroe Township has soil consisting of sand and gravel and is a primary in-take and re-charge area for water supply not only for the Township of Monroe, but for many of the adjoining communities. Portions of Monroe Township are located in the Englishtown sands and also in the Farrington sands, both being a water supply for municipalities such as South River, East Brunswick, Englishtown, Freshhold, South Brunswick and many other communities. Within the past five (5) years, Monroe Township has created the Monroe Utilities Authority, which is presently in the process of developing a sewerage and water system throughout the Township as well as Jamesburg and Helmetta. All of the water supplies for the Township of Monroe come from wells located either in the Englishtown Sands or the Farrington Sands and supplies the wells of Forsgate Water Company and wells developed by the Monroe Utilities Authority.

There is presently proposed to construct in the Township of Monroe, either the Governor Driscoll Expressway, which is a spur of the New Jersey Turnpike or mass transit system either of which will go to the City of Toms River. This highway or transit system as well as all of the aforesaid facts are being taken into consideration by the Municipal Planner and the Planning Board of the Township of Monroe in order to ascertain the needs and requirements of the Township and its orderly growth in order to bring about a zoning ordinance which should meet the requirements of the law.