

CA-North Brunswick

11/27/74

Brief in support of notice of motion on
behalf of township committee of township of
North Brunswick

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY
Docket No. C-4122-73

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

Plaintiff,

vs.

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF NORTH BRUNSWICK.

Defendant.

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Civil Action

BRIEF IN SUPPORT OF NOTICE OF MOTION ON BEHALF
OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
NORTH BRUNSWICK

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Township Committee of
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THIS ACTION DOES NOT INVOLVE A COMMON QUESTION OF LAW OR FACT AND SUBJECTING DEFENDANT TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NORTH BRUNSWICK TO PARTICIPATION IN PROCEEDINGS WITH THE OTHER TWENTY-TWO DEFENDANTS WOULD BE PREJUDICIAL.

There is no allegation in the complaint of conspiracy by and among the twenty-three defendants. Therefore, the only possible reason for this action to be maintained as now constituted would be if there were common questions of law and fact.

There is no need to go beyond the complaint and particularly the appendix thereto to conclude that common questions of law and fact do not exist. The complaint states specifically allegations which in effect charge each defendant with different acts which are, according to the complaint, peculiar to the specific defendant. Furthermore, the Court can take judicial notice of the fact that each defendant municipality has its own zoning ordinance and other pertinent ordinances and master plans, which are not duplicates of those of other defendant municipalities. This alone is sufficient to require a severance.

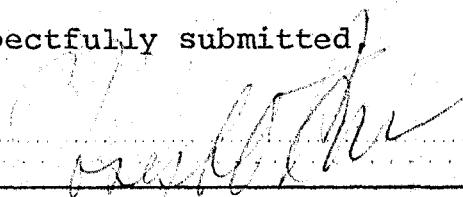
In addition, however, each municipality has different physical, economic, geographic and other characteristics which are unique to each municipality. Thus, there is not only a difference in the municipalities themselves, but the further difference which occurs when a specific ordinance is judged as to its application to the specific

municipality.

The effect of not severing would require this defendant to participate in twenty-two other trials, at great cost of time and expense to the parties and to the Court.

It is submitted that this matter should be severed in accordance with Rule 4:38.

Respectfully submitted,



JOSEPH H. BURNS
Attorney for Defendant
Township Committee of the
Township of North Brunswick