

CA - Old Bridge

4/23/76

letter re: letter memorandum, fair share
region

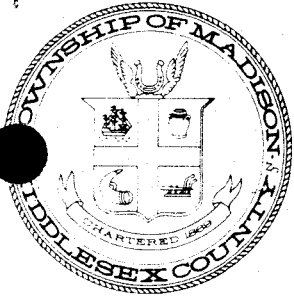
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Township of Madison

MIDDLESEX COUNTY, N. J.

Please Reply to:
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BOX 684
OLD BRIDGE, N.J. 08857

April 23, 1976

The Honorable David D. Furman
Middlesex County Court
Court House
New Brunswick, New Jersey 08903

Re: Urban League of Greater New
Brunswick, et als vs. Mayor
and Council of the Borough
of Carteret, et als
Docket No. C-4122-73
Letter Memorandum

Dear Judge Furman:

So that your record is complete, I did not find it necessary to brief the items you suggested as our Township is obviously in a somewhat different position from the other defendants due to your previous ruling in the Oakwood at Madison case, and we adopt the arguments of brother counsel as to the issue of standing.

As to the issue of remedy, my reply is limited to suggesting that the Court, as far as Old Bridge is concerned, should consider four points:

1. In determining any fair share, it should be noted that the testimony by our witnesses demonstrated that there was approximately a 20% yearly turnover in Old Bridge residential units. Obviously, some of the housing need can be served by that turnover and it is thus requested that if there is a determination that our community along with the other defendants provide for housing needs, that we be given a credit for said turnover as it relates to the alleged need in our area. In examining the alleged need, the Court should recall that our witnesses also showed that there were many vacant units available in the Township for low and mod-

erate income families in existing apartment units and that the vacancy rate had never gone below 5% of all units. Our testimony also showed mortgage money was available with minimum down payments for low and moderate income families. Thus, we argue we are entitled to a credit of a few hundred dwelling units based on the above, and any allocation for an area should be reduced by that amount.

2. Old Bridge is not an integral part of the region set forth by the plaintiff. Old Bridge has an identity of interests with the northern part of Monmouth County and is inadequately linked with the major areas of Middlesex County. There is a lack of public transportation from Old Bridge north into other communities and a dearth of road networks. Additionally, there is no showing that so-called commuter patterns link Old Bridge with the region. Large areas of the Township containing at least half the population are adjacent to Monmouth County and are linked to Monmouth by common transportation and shopping. Thus, Old Bridge's share of any alleged demand or need for low and moderate income housing in plaintiffs' region should be minimal, at best.

3. Additionally and lastly, plaintiff submitted a fair share plan which the Court admitted had several flaws. Plaintiffs now, instead of submitting a new plan, on page 22 of their brief, say give the defendants 45 days to develop fair share plans. The plaintiffs are obviously unable to develop a plan and have not met their burden in submitting one and now ask that each town devise one. It is submitted that this would shift the burden to the defendant to prove and implement what is in fact the burden of plaintiff. If plaintiff, in the several months that this case has been pending, have been unable to devise an adequate fair share plan it is silly at best for them to suggest that each defendant devise one within 45 days. Therefore, since plaintiffs have not met their burden as to remedy, it is requested that the complaint be dismissed.

4. In Appendix B, plaintiffs say they have not listed restrictive elements and suggested revisions for Old Bridge because a copy of our ordinance was allegedly not available. How can plaintiffs prove or even attempt to prove a case against Old Bridge when it is apparent that they have not even examined, or for that matter, looked at our ordinance. In fact, copies of the ordinance were available for a \$10.00 fee at Town Hall as plain-

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tiffs were advised, until mid February, 1976 when the last copy was sold. (Other copies were then being run off by the Clerk.) After that date, a master copy was available for inspection at Town Hall. Thus, plaintiffs have not met their burden as to our ordinance and the Court can not include by order any action for the Governing Body to take to meet the allegedly discriminatory housing conditions set forth by plaintiffs in its' complaint as there is no evidence on this point set forth by plaintiffs.

Respectfully yours,

0415
LOUIS J. ALFONSO
Township Attorney

LJA/amr

c.c. Daniel A. Searing, Esq.
David Ben-Ascher, Esq.
All Defense Counsel