

CA- Piscataway

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Pre-Trial Memo of Piscataway ; Factual and Legal Contentions

4 pages

CA001792D

PRETRIAL MEMORANDUM OF DEFENDANT, TOWNSHIP OF PISCATAWAY (CONT'D)

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

3-4. FACTUAL AND LEGAL CONTENTIONS.

Jean White, a welfare recipient, the only plaintiff who resides in Piscataway, has withdrawn from the suit. None of the other plaintiffs reside or work in Piscataway. None of the plaintiffs hold title or have ever held title to or have any interest in any real property in the Township. None of the plaintiffs pay taxes to Piscataway. None of the plaintiffs has ever sought a building permit or a variance from Piscataway for the construction of housing. None of the plaintiffs ever applied for a pad or space to accommodate a trailer or mobile home in Piscataway. None of the plaintiffs has been refused occupancy as a tenant in any apartment dwelling or any residence or dwelling in Piscataway. There are vacant dwelling units available in Piscataway.

On March 18, 1975, Piscataway adopted a resolution that there is a need for moderate income housing in said municipality and the same has been filed with the secretary of the State of New Jersey Housing and Finance Agency.

On May 20, 1975, Piscataway approved the First Baptist Church for New Market as a sponsor for Senior Citizen Housing Project with authority to take such steps as necessary to implement senior citizen housing in Piscataway.

On January 7, 1975, Piscataway adopted a resolution that it desires to cooperate with the County of Middlesex to implement an application under the urban county approach, and the authority and Mayor Ted H. Light entered into necessary agreement with the County of Middlesex in order to make application for funds.

On May 30, 1975, Piscataway entered into an agreement with the County of Middlesex for the establishment of cooperative means of conducting certain development activities (H.U.B. Program).

Until June 5, 1974, Piscataway entered into a contract with Suburban Planning Associates in connection with the preparation of:

- A. Revised and updated Master Plan.
- B. Housing study of the Township.

C. Land subdivision ordinance which will lead to amendments or to a new zoning ordinance.

There are peculiar circumstances relating to Piscataway which requires the maintenance of the zoning ordinance and the land use provisions but complete facts cannot be given at this time and will be upon the report and recommendation of the Suburban Planning Associates. The following are part of the facts:

Location of part of Rutgers University in this municipality, an instrumentality of the State of New Jersey for the purpose of operating the State University has approximately 12% of the total acreage of the Township on which are located institutions on Livingston campus and Busch campus and elsewhere in said Township, Rutgers football stadium, apartments, dormitories, and single family housing.

Rutgers University has a substantial number of research facilities, centers, laboratories and institutes located on the two campuses in Piscataway. A list of those facilities is found below:

Livingston (Kilmer) Campus

Bureau of Government Research
Center for Urban Policy Research
Beck Hall - Chemistry Laboratories

Busch (University Heights) Campus

Center for Alcohol Studies
Institute for Environmental Studies
Bureau of Biological Research
Institute of Microbiology
Bureau of Engineering Research
(Civil, Mechanical, Environmental,
Thermal, Biological, Chemical,
Mechanics, and Materials, etc.
Engineering Laboratories)
Marine Sciences Center
Radiation Science Center
Institute of Mental Health Sciences
College of Pharmacy
College of Medicine & Dentistry of N. J.

Hill Center (Math, Statistics, Computers)
Soil Mechanics Laboratory
Soil Stabilization Laboratory
Soil Dynamics Laboratory
Rock Mechanics Laboratory
Mineral Research Laboratory
Geology Laboratory
Physics Laboratory
Nuclear Physics Laboratory
Wright Chemistry Laboratories
Nelson Biological Laboratories
Polymer Research Laboratories
Concrete Structures & Material Laboratory

Also in the municipality are a County Vocational School, the County Park and land belonging to the United States.

The defendant further contends that none of the plaintiffs have any standing to bring this suit; that Rutgers University and its affiliate institutions within the borders of Piscataway, the County Vocational School, the County Park, land belonging to the United States, are not subject to the zoning ordinance of Piscataway; that there are peculiar circumstances which require maintenance of the zoning ordinance for land use provisions in Piscataway; that the region of which Piscataway is a part is not confined to Middlesex County, but includes the surrounding municipalities, specifically, Franklin Township; that the revised zoning ordinance of the Township of Piscataway adopted on May 23, 1972, and the amendments thereto was a proper exercise of the zoning power by said Township; and said ordinance is in all respects reasonable and within the proper scope of its zoning power and is valid and in compliance with all statutory law and does not violate provisions of the State or Federal Constitution; that neither Piscataway nor any of the other defendant municipalities have any authority to allocate or fix the amount of rent paid to welfare recipient; as far as housing needs are concerned, that Piscataway is a balanced community; that its zoning ordinances, land use and practices are not of an exclusionary nature nor discriminatory.

This defendant further contends that the plaintiffs have failed to exhaust their administrative limitations.

This defendant further contends that the plaintiffs are not entitled under the law to have low or middle income housing units made available to them nor can the Court compel the defendant to join with any other defendant for any joint plan or method or manner to pursue in Order to adopt or change any provisions of its zoning ordinance.

7. LEGAL ISSUES AND EVIDENCE PROBLEMS.

Validity of revised zoning ordinance of Township of Piscataway adopted May 23, 1972, and amendments thereto; defendant's housing, zoning, land use ordinance controls, plans, policies and practices; standing of the plaintiffs to institute and prosecute this action; plaintiff's failure to exhaust their administrative remedies; failure to state a cause of action wherein relief can be granted by this Court; jurisdiction of the Court to direct by judicial decree how a municipality can be zoned or how it should use its discretionary powers; is there a justiciable question; was the defendant's action approximate cause of plaintiffs' alleged wrongs; the Court's jurisdiction to compel this defendant to join with any other defendant for any joint plan or the manner or method to pursue in order to adopt or change any provision of its zoning ordinance; are the provisions for decent, adequate housing or opportunities therefor a common state purpose and obligation of the State of New Jersey and not simply a local municipal matter; would the relief requested by the plaintiffs place upon this defendant unequal or discriminatory tax burden for the financing of housing as a common state purpose; would the imposition of the burden of financing housing on Piscataway be arbitrary, capricious and unreasonable.