

CA-Piscataway

4/14/76

- Reply Brief to the Post-trial Brief of the plaintiffs' dealing only with those attributes which specifically apply to Piscataway township and its zoning Ordinance
- Cover letter to Judge

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RWS-MTL-169

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April 14, 1976

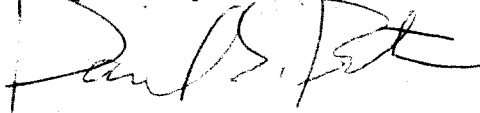
Honorable David D. Furman
Middlesex County Court
Court House
New Brunswick, New Jersey 08903

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

Dear Judge Furman:

Enclosed please find an original and one copy of Reply Brief to the Post-Trial Brief of the Plaintiffs' Dealing Only With Those Attributes Which Specifically Apply to Piscataway Township and Its Zoning Ordinance with regard to the above entitled matter.

Respectfully submitted,



DANIEL S. BERNSTEIN
For the Firm

DSB cm
Encs.

CC Baumgart & Ben-Asher, Esquires (with enc.)
Attorneys for Plaintiffs

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY
DOCKET NO. C-4122-73

URBAN LEAGUE OF GREATER NEW BRUNS- :
WICK, et al, :

Plaintiffs, :

-vs- :

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

Defendants. :

REPLY BRIEF TO THE POST-TRIAL BRIEF OF
THE PLAINTIFFS' DEALING ONLY WITH THOSE
ATTRIBUTES WHICH SPECIFICALLY APPLY TO
PISCATAWAY TOWNSHIP AND ITS ZONING ORDI-
NANCE

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Township

DANIEL S. BERNSTEIN
On the Brief

This Brief shall comment on that section of the plaintiffs' Appendix B, Part Two, which pertains to Piscataway Township.

1. The plaintiffs seek additional small lots in Piscataway. In view of the extreme amount of low and moderately priced dwelling units which were discussed in the previous Brief which was submitted by Piscataway Township, there is no need for additional small lots.

2. The plaintiffs seek repeal of the requirement that each single-family residence have an enclosed garage. The plaintiffs also seek repeal of the anti-look-alike ordinance. Since these provisions of the ordinance:

- a. were not mentioned in the Complaint,
- b. were not mentioned in Mallach's exhibit which was marked P-142, and
- c. there was absolutely no testimony offered by the plaintiffs as to these provisions of the Piscataway Zoning Ordinance,

these provisions of the Piscataway Zoning Ordinance cannot be reviewed by this Court.

3. The plaintiffs raised a number of objections to the provisions of the R-M apartment zone.

- a. The plaintiffs contend that 5 acre minimum lot size is excessive. Since there was testimony that all of the land

in the R-M Zone was contiguous, it would not be logical to break down that land into 2 acre parcels.

b. Piscataway's planner agrees that there should be a density of between 12 and 15 apartments per acre in the R-M Zone.

c. The plaintiffs seek $1\frac{1}{2}$ parking spaces per dwelling unit and the Township's planner feels that 1.6 spaces are appropriate. In view of the fact that the plaintiffs are also seeking an absence of bedroom restrictions, the 1.6 figure would seem more applicable.

d. The plaintiffs seek to remove the air-conditioning, storage, and zig-zag provisions. However, they failed to indicate the marginal cost of each of these requirements and how each of these requirements was specifically exclusionary. Furthermore, the New Jersey Courts have specifically permitted aesthetic provisions to be the basis of zoning. Westfield Motor Sales v. Westfield, 129 N.J. Super 528, 535 (L. D. 1974). This would permit the zig-zag and anti-look-alike provisions absent a showing that the cost of these provisions in Piscataway would be excessive.

e. The Township's planner agreed that the minimum floor area requirements were excessive.

f. The plaintiffs argued that minimum number of units per building should be removed from the ordinance. However, since this matter was not raised by way of either Complaint, P-142, or by way of testimony as to Piscataway Township, this matter cannot now be considered by the Court.

4 and 5. The plaintiffs are presently recommending that Piscataway Township adopt ordinances similar to those found in Cranbury and East Brunswick zoning ordinances. Since Piscataway has not be advised of this suggestion prior to the present time, and since this defendant has not be supplied with a copy of the aforementioned zoning ordinances, no comment can be made at the present time.

6. The plaintiffs seek removal of the prohibition on trailers. However, the plaintiffs failed to prove that low income individuals can afford to purchase trailers. In fact, the lay witness who testified as to trailers could give no information as to the monthly charges for:

- a. insurance,
- b. utilities, and
- c. financing payments

with regard to trailers. All that she could tell the Court was that the new trailer parks were charging \$130.00 per month. In view of her testimony, it would appear that trailers do not constitute inexpensive housing.

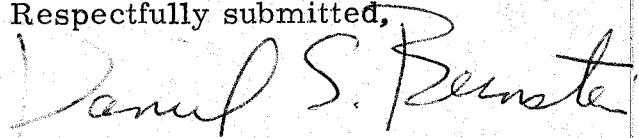
7. The plaintiffs recommend a PUD for Piscataway and the Township's planner recommends a PRD. Since a PUD may also allow industrial and commercial uses, a PRD could provide more housing.

8. The plaintiffs make a number of recommendations on changes to the Zoning Ordinance without having viewed the Township. Surely the Township's planner and other Township officials would be in a better position to advise changes after having studied the areas in question.

CONCLUSION

The Township of Piscataway sincerely requests the Court to review the existing conditions in each municipality prior to making a ruling. A fair decision cannot be made merely by making a cursory examination of the ordinance.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Daniel S. Bernstein". The signature is written in a cursive style with a large, sweeping initial "D".

DANIEL S. BERNSTEIN

For the Firm

Attorneys for Defendant, Piscataway
Township