

CA - Sayreville

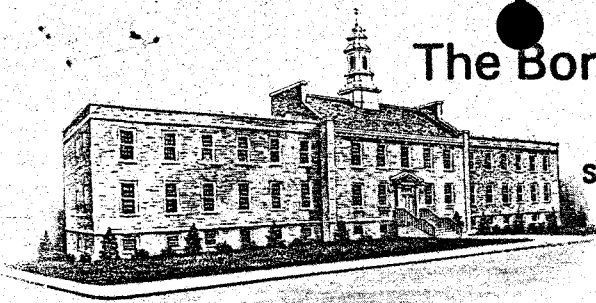
9/10/74

Answer to Complaint

~~11~~ 9
7 pages

pi 970

CA001862 A



The Borough of Sayreville

MIDDLESEX COUNTY
167 MAIN STREET
SAYREVILLE, NEW JERSEY 08872
(201) 257-3200

MAYOR:

JOHN E. CZERNIKOWSKI

BOROUGH COUNCIL MEMBERS:

ROBERT E. BAILEY
PRESIDENT

KENNETH W. BUCHANAN, SR.
ALVIN W. JOLLY
THOMAS R. KUBERSKI
RANIERO TRAVISANO
FELIX WISNIEWSKI

OFFICERS OF THE BOROUGH:

MARY J. KOSAKOWSKI, Clerk
ALAN J. KARCHER, Attorney
HOWARD M. SCHOOOR, Engineer
JAMES I. LINDSAY, Controller-Treasurer
J. HOWARD KOLB, Tax Assessor
JAMES P. DOLAN, Tax Collector

September 10, 1974

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

Attention: David H. Ben-Asher, Esq.

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

Dear Mr. Ben-Asher:

In connection with the above entitled, enclosed herewith is copy of Answer of the Mayor and Council of the Borough of Sayreville which was this day sent to the Clerk of the Superior Court for filing. Also enclosed is copy of letter to the Clerk.

Kindly acknowledge receipt of same on the copy of this letter and return to this office in the envelope enclosed for your convenience.

Yours very truly,


Alan J. Karcher

AJK:ss
Enc.



The Borough of Sayreville

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SAYREVILLE, NEW JERSEY 08872
(201) 257-3200

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September 10, 1974

Mortimer G. Newman, Jr., Clerk
Superior Court of New Jersey
State House Annex
Trenton, New Jersey 08625

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

Dear Sir:

I enclose herewith original and copy of Answer
of the defendants, Mayor and Council of the Borough
of Sayreville. Also enclosed is original and copy
of Stipulation Extending Time to Answer to September
13, 1974.

Kindly file same and charge to the account of
Karcher, Reavey & Karcher, P.A.

Yours very truly,

Alan J. Karcher
Attorney for Borough of
Sayreville

AJK:ss
Enc.

cc: Baumgart & Ben-Asher, Esqs. (w/enc)
All other parties to this suit (w/enc)

RECEIVED & RECORDED
MIDDLESEX COUNTY, N.J.

74 SEP 16 AM 7:18

BOOK _____
FRANK SCHULZMAN
CLERK

FILED

SEP 11 1974

Handwritten signature/initials

ALAN J. KARCHER, ESQ.
61 MAIN STREET
SAYREVILLE, NEW JERSEY 08872
(201) 257-1515

ATTORNEY FOR DEFENDANTS, MAYOR AND COUNCIL OF THE BOROUGH
OF SAYREVILLE

314

URBAN LEAGUE OF GREATER NEW	:	SUPERIOR COURT OF NEW JERSEY
BRUNSWICK, a non-profit corpora-	:	CHANCERY DIVISION
tion of the State of New Jersey,	:	MIDDLESEX COUNTY
CLEVELAND BENSON, FANNIE BOTTS,	:	Docket No. C-4122-73
JUDITH CHAMPION, LYDIA CRUZ,	:	
BARBARA TIPPETT, KENNETH TUSKEY,	:	
JEAN WHITE, on their own behalf :	:	
and on behalf of all other similar-	:	
ly situated,	:	CIVIL ACTION

Plaintiffs, : ANSWER

-vs-

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

Defendants.

The defendants, Mayor and Council of the Borough of Sayre-
ville, by way of Answer to the Complaint filed herein, say:

1. They deny the allegations of Paragraphs #1, #2 and #3
to the extent that they are directed against these defendants.

2. Said defendants have insufficient knowledge to form a

belief as to the truth of the allegations contained in Paragraphs #4, #5, #6, #7, #8, #9, #10 and #11 and therefore deny the same and put the plaintiffs to their proofs.

3. They deny the allegations contained in paragraph #12.

4. They admit the allegations contained in Paragraph #13.

5. They admit the allegations contained in Paragraph #14 of said Complaint except to state that they have information insufficient to form a belief as to the truth of the allegations that the location of transportation lines has been central to the increased commercial, industrial and residential growth of the County and thereby deny same and put the plaintiffs to their proofs.

6. They have insufficient information to form a belief as to the truth of the allegations contained in Paragraphs #15, #16, #17, #18 and #19 and therefore, deny same and put the plaintiffs to their proofs.

7. They deny the allegations contained in Paragraph #20.

8. They have insufficient information to form a belief as to the truth of the allegations contained in Paragraphs #21 and #22 and therefore deny same and put plaintiffs to their proofs.

9. They deny the allegations contained in Paragraphs #23, #24, #25, #26, #27, #28, #29 and #30.

10. They have insufficient information to form a belief as to the truth of the allegations contained in Paragraph #31 and therefore deny same and put the plaintiffs to their proofs.

11. They deny the allegations contained in Paragraphs #32, #33, #34 and #35 to the extent that they are directed against these defendants.

FIRST SEPARATE DEFENSE

The complaint should be dismissed on the grounds that plaintiffs do not constitute a class.

SECOND SEPARATE DEFENSE

The complaint should be dismissed because defendants do not constitute a class as defined by the rules of court.

THIRD SEPARATE DEFENSE

The complaint should be dismissed on the grounds that the plaintiffs have failed to present a justiciable issue before the courts under the Declaratory Judgment Act.

FOURTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that it fails to set forth a claim upon which relief can be granted.

FIFTH SEPARATE DEFENSE

The complaint should be dismissed against these defendants on the grounds that the plaintiffs failed to take into account the unique factual history and pattern of growth for the Borough of Sayreville.

SIXTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that these defendants at no time violated any legal requirement of State or Federal Law.

SEVENTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that it fails to include indispensable parties including the State of New Jersey, the United States of America and the remaining municipalities in the State of New Jersey.

EIGHTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that plaintiffs are seeking a broad advisory opinion from the court as to the permissible limits of the zoning power, which opinion may not be rendered by the court.

NINTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that the matters referred to in plaintiffs' complaint are properly the subject of legislation and any grievances which plaintiffs have should be directed to the elected officials of the legislature.

TENTH SEPARATE DEFENSE

The complaint should be dismissed as against these defendants on the grounds that plaintiffs fail to allege that any specific act or ordinance enacted by these defendants has resulted in damage

or injury to any plaintiff.

ELEVENTH SEPARATE DEFENSE

The complaint should be dismissed on the grounds that plaintiffs have failed to consider unique differences of each of the municipalities named as defendants and have asked the court to fix reasonable requirements in land use. It is submitted that the court lacks such power.

TWELFTH SEPARATE DEFENSE

The complaint should be dismissed because it is predicated on the fallacious assumption that each municipality must provide for specific uses while in fact there is no such requirement in law.

THIRTEENTH SEPARATE DEFENSE

The complaint should be dismissed because plaintiffs have failed to exhaust their administrative remedies in accordance with the rules of court and the laws of the State of New Jersey. Plaintiffs have not made application to any of these defendants for relief and accordingly this action is premature and untimely.

FOURTEENTH SEPARATE DEFENSE

The Borough of Sayreville's ordinances which are challenged are not unconstitutional either on their face or as applied to the plaintiffs or the classes they allegedly represent.

FIFTEENTH SEPARATE DEFENSE

The complaint fails to conform with the rules of pleading as provided by the rules of court and inhibits the ability of the defendants to formulate complete answers thereto.

SIXTEENTH SEPARATE DEFENSE

The ordinances of the Borough of Sayreville have been enacted following a comprehensive study of all local conditions, including geographical, topographical, ecological, economic and sociologic as well as all of those cited in the Complaint. The studies and subsequently enacted ordinances properly and legally reflect the needs of the Borough of Sayreville and the region as a whole.

SEVENTEENTH SEPARATE DEFENSE

The State of New Jersey is now the most densely populated State in the United States. The relief requested, if granted, would not remedy the alleged ills suffered by the plaintiffs and the net effect would be to cause further deterioration of the inner cities and substantial population density increases in the entire State to the detriment of the entire State.

EIGHTEENTH SEPARATE DEFENSE

The ordinances of the Borough of Sayreville do not violate the Federal or State constitutions and do not constitute racial discrimination in any form or fashion.

NINETEENTH SEPARATE DEFENSE

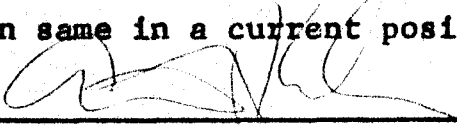
These defendants are entitled to a dismissal of the complaint together with court costs and attorneys fees.

TWENTIETH SEPARATE DEFENSE

The venue of this action should be removed to the United States District Court in view of the fact that a substantial Federal question is presented based upon the United States Constitution.

TWENTY-FIRST SEPARATE DEFENSE

The Borough of Sayreville has met the needs of all economic classes, having a thorough, adequate and fair mixture of existing housing which includes apartments, multiple family units, houses designed and priced for the modest and low income families and permitting housing on lots as small as 75" x 100". In addition, the Borough of Sayreville has adopted PUD (Planned Unit Development) as part of its zoning ordinances. Not only does Sayreville have a Master Plan but continues to maintain same in a current position.


ALAN J. KARCHER
Attorney for defendants, Mayor
and Council of the Borough of
Sayreville

I hereby certify that a copy of the within Answer was duly and legally filed and served within the time period allowed by Rule 4:6-1 and that a copy of same has been duly served by ordinary mail on each of the attorneys representing the plaintiffs and each of the remaining twenty-two defendants within the time prescribed by law on the 10th day of Sept. , 1974.


ALAN J. KARCHER