

CA

~~11/14~~ - U.L. v. Carter

Sayreville

20 Sept. -76

Memorandum in Opposition to
Defendant Sayreville's Motion
Regarding Conformity with the
Judgment.

pgs = 6

CA001926D

PI 959

Argument

Plaintiffs oppose defendant Sayreville's Motion and respectfully request that it be denied. It is appropriate to review verbatim the Court's opinion and judgment regarding Sayrevi.

Sayreville is a heavily industrialized borough surrounded on three sides by tidewater, with a deep water channel on the Raritan River. Much of its vacant acreage is abandoned sand pits. It has 467 substandard housing units and 674 occupied by households requiring a governmental housing subsidy.

Its zoning ordinance provides cluster and townhouse options in single-family residential zones. Planned Unit Developments are allowable uses in industrial zones. Minimum lot sizes for Planned Unit Developments are excessive, 100 acres under one option and 250 acres under the alternative, as are the requirements of 10% of total area in commercial use and 25% in industrial use. A density restriction under 15 units per acre, minimum lot size of five acres and excessive minimum floor areas curtail low and moderate income housing in garden apartments. The borough is overzoned for industry apart from the Planned Unit Development alternatives. Major townhouse, garden apartment and senior citizen housing projects, which would provide over 600 low and moderate income units, are under construction, approved or under review.

Sayreville's zoning ordinance is held invalid under Mt. Laurel. Its fair share allocation as determined infra should be attainable with relatively minor revisions. Opinion, p. 27-28.

The judgment states, at paragraph 15

. . . Borough of Sayreville . . . shall, alternatively, enact or adopt new zoning ordinances to accommodate their respective fair share allocation of low and moderate income housing as specifically outlined in the Court's written opinion dated May 4, 1976 at page 32 thereof, plus an additional fair share allocation of 1,333 units for each such municipality; or, shall rezone all of their remaining vacant land

suitable for housing in order to permit or allow low and moderate income housing on a ratio of 15% low and 19% moderate income housing units as specifically outlined in this Court's written opinion at pages 33 and 34.

Plaintiffs oppose defendant Sayreville's motion for several reasons. First, the motion itself is defective in that there is no application for special relief from the judgment, as permitted by paragraph 18 of that document. No request for modification of the judgment is presented. The request that is made -- that defendant Sayreville is in compliance with the judgment -- is inexplicable because on its face the document submitted in support of the motion does not comply with the Opinion and judgment. There is no showing of the elimination of exclusionary provisions or the adoption of ordinances that provide opportunity for low and moderate income housing.

Second, in presenting at this time a statistical study unrelated to any ordinance revisions, not to mention the "relatively minor revisions" specified in the Opinion, defendant is attempting to relitigate its case. It is far past the time to present evidence. There is no opportunity for cross-examination. There is no procedure for rebuttal.

Third, the Opinion is crystal clear on what is excessive and therefore invalid. Nevertheless, the very foundations of the "studies" submitted are based on the invalid zoning provisions.

The report stresses that new construction will take place in the PUD zones -- presumably under the provisions the Court has held invalid. Indeed, in estimating the need for new housing in the Borough the report states: "The existing zoning ordinance of the Borough of Sayreville fully allows for that total number of units to be developed." The author of the report does not seem to comprehend that the existing ordinance can no longer serve as a benchmark in determining the housing mix under the terms of the Opinion and judgment.

Finally, the report is deficient in several other areas that would seem basic to any application, under the terms of the judgment, for special relief. These areas include:

a) assertions that units in process will satisfy low and moderate income housing needs while providing no information as to zoning provisions under which such units are to be developed, no information as to the exact status of the proposals, and no information on the number of bedrooms, size of units, densities and proposed rental levels. Thus, an explanation of how compliance with the judgment is achieved is lacking;

b) a failure to provide any detailed information on how the vague references to lower income housing satisfy the clear command of the judgment to have 1661 units in place by 1985;

c) a failure to recognize that the Court accepted the Community Development application figures on substandard housing and units in financial need, rather than the 1970 Census figures.

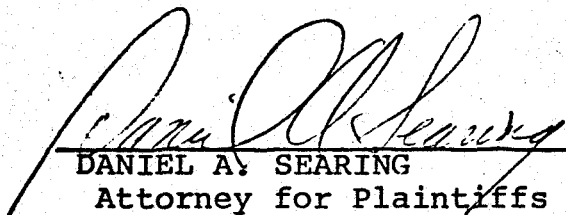
Finally, plaintiffs assert that the report in toto provides no information that was not available to the Court when the Opinion was issued. As such the application is argumentative and not put forward in good faith.

For all the above reasons, plaintiffs respectfully request that this motion be denied.


DANIEL A. SEARING

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memorandum was served by ordinary mail upon Alan J. Karcher, Esq., Attorney for Sayreville and all other defense counsel, and a copy was mailed to Judge Furman in the Middlesex County Court House, New Brunswick, New Jersey, on September 20, 1976.



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