

CA - Sayrenille

10/9/79

Letter to Judge from Rosenthal detailing Plaintiff's opposition to D. Sayrenille's motion for an Order of Dismissal.

3 pages

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Yellow note # 1195

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Eugene T. Lowe

October 9, 1979

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

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

Dear Judge Furman:

The Borough of Sayreville has again moved for an Order of Dismissal from the above-captioned case. Plaintiffs wish to state their continuing opposition to the entry of such an order at this time.

Following receipt of Sayreville's most recent communication, plaintiffs engaged in additional research as to the matter of the Borough's compliance. We have again reached the conclusion that the Borough's zoning ordinance still does not provide an opportunity to accommodate the fair share assigned to Sayreville in your Honor's opinion and judgment order. In addition to the statements made to your Honor in letters of January 5, 1978 and March 12, 1979 and during oral argument, we rely on the following information:

The 1,950 new units to be built in Winding Wood Estates will not provide housing opportunities for low and moderate income families. What ensures that the cost of the development will prevent low and moderate income persons access to this housing is the significant additional expenditures necessitated by the site of Winding Wood Estates. The project is being built on an aquifer outcrop. This requires that a system for water runoff be established. The cost of this improvement alone is presently estimated at approximately one half million dollars. In addition, because

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of the project's proximity to a historic district in East Brunswick, substantial expenditures will be required on the part of the builder for road improvements to handle the great increase in traffic generated by the development.

Furthermore, it is apparent that even the modest multi-family housing which now exists in the Borough, built during an era of substantially lower building costs, is out of reach of low and moderate income families. Examination of monthly rents at the two-existing apartment complexes in Sayreville, (both of which were built approximately fifteen years ago), shows that lower income families cannot afford these older complexes. More recently constructed apartments in the County have rental levels far higher than at the two older Sayreville complexes due, in no small part, to the increased building costs which have prevailed in the last several years. It is, therefore, inconceivable that without governmental assistance Winding Wood Estates could be within reach of low and moderate income families, when even the older more modest complexes in the Borough are outside the reach of those families. \*/

As the Supreme Court noted in Mt. Laurel, "[F]actually, low and moderate income housing cannot be built without some form of contribution, concession or incentive by some level of government. Such, under various state and federal methods, may take the form of public construction or some sort of governmental assistance or encouragement to private building." 67 N.J. at 170, n.8. In this instance, we have representations from the builder that Winding Wood Estates is neither governmentally subsidized nor the beneficiary of a federally guaranteed mortgage. In short, the development is being conventionally financed. This fact, alone, makes Winding Wood Estates unlikely as a resource for low and moderate income persons.

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\*/ Plaintiffs note that unless utility bills can be held to below \$40 per month, a moderate income family of four cannot even afford the least expensive two bedroom apartment in the less expensive of the two existing complexes in the Borough.

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Finally, plaintiffs respectfully urge that this matter not be decided at the present time and that your Honor withhold a decision on the Borough's motion until the Supreme Court has an opportunity to review the decision of the Appellate Division in this case.

Respectfully,

*Marilyn G. Morheuser*  
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*Roger C. Rosenthal*  
Martin E. Sloane  
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Attorneys for Plaintiffs

cc: Alan J. Karcher, Esq.