

CA - South Brunswick

(filed) 9/13/74

Answer and Separate Defenses

CA002007A

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MIDDLESEX COUNTY

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Notarized

**SEIFFERT FRISCH & GRUBER**

1215 LIVINGSTON AVENUE  
NORTH BRUNSWICK, N.J. 08902  
(201) 249-2141-2:5

ATTORNEYS FOR Defendant, Township Committee of  
the Township of South Brunswick

*Plaintiff* URBAN LEAGUE OF GREATER NEW  
BRUNSWICK, a non-profit corporation of  
the State of New Jersey, et al.

vs.

*Defendant*

MAYOR AND TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF SOUTH BRUNSWICK

Defendant, Township Committee of the Township of South  
Brunswick, a municipal corporation of the State of New Jersey,  
maintaining offices at Municipal Building, Monmouth Junction,  
New Jersey, by way of Answer to the Complaint, says:

1. Defendant has insufficient information to either admit  
or deny the content of the first sentence of Paragraph 1 of the  
Complaint. Defendant denies the allegations contained in the  
second sentence of Paragraph 1 of the Complaint.

314  
SUPERIOR COURT OF  
NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY

Docket No.  
C-4122-73 ✓

CIVIL ACTION  
Answer and  
Separate Defenses

2. Defendant denies the allegations of Paragraph 2 of the Complaint as they concern the Township of South Brunswick, however Defendant has insufficient knowledge either to admit or deny the allegations contained in Paragraph 2 of the Complaint as it concerns the other twenty two (22) Defendants joined herein.

3. Defendant denies that any set of facts exist which would give rise to the claims for relief as set forth in Paragraph 3 of the Complaint.

4. Defendant has insufficient knowledge to either admit or deny the allegations of Paragraph 4 of the Complaint, except that Defendant denies the allegations of sentences 3 and 4 of Paragraph 4 of the Complaint.

5. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraphs 5, 6, 7, 8, 9, 10, and 11 of the Complaint.

6. Defendant denies the allegations contained in Paragraph 12.

7. Defendant admits that it is a Township and a Municipal Corporation organized under the laws of New Jersey. Defendant admits that it is responsible for the enactment of the Zoning Ordinance and other land use policies and practices of South Brunswick Township, and that Defendant's officials, employees and agents are responsible for the administration of this Ordinance and other

land use policies and practices. Defendant has insufficient knowledge to either admit or deny the allegations of Paragraph 13 of the Complaint as it applies to the other twenty two (22) Defendants joined herein.

8. Defendant admits the allegations of sentences 1 and 3 of Paragraph 14 of the Complaint. Defendant has insufficient knowledge to either admit or deny the allegations contained in sentence 2 of Paragraph 14 of the Complaint.

9. Defendant has insufficient knowledge to either admit or deny the allegations of Paragraphs 15, 16, 17, 18 and 19 of the Complaint.

10. Defendant denies the allegations of Paragraph 20 as they apply to Defendant. Defendant has insufficient knowledge to either admit or deny the allegations of Paragraph 20 as they apply to the other twenty two (22) Defendants herein.

11. Defendant has insufficient knowledge to either admit or deny the allegations of Paragraphs 21, 22, 23, 24, 25, 26, 27, 28, and 29.

12. Defendant denies the allegations of sentence 1 of Paragraph 30 as they apply to South Brunswick Township. Defendant has insufficient knowledge to either admit or deny the allegations of sentence 1 of Paragraph 30 as they apply to the twenty two (22) other Defendants herein. Defendant has insufficient knowledge to either admit or deny the allegations of subparagraphs (a), (b),

and (c) of Paragraph 30, particularly since Defendant does not know what the financial capabilities are of the alleged class of Plaintiffs. Defendant admits that it has not established a public housing authority as alleged in subparagraph (d) of Paragraph 30, but has insufficient knowledge to either admit or deny the allegations of this subparagraph as they apply to the other twenty two (22) Defendants herein. Defendant admits that it has not passed the resolution of local approval as alleged in subparagraph (e) of Paragraph 30, but Defendant has insufficient knowledge to either admit or deny the allegations as it applies to the other twenty two (22) Defendants herein.

13. Defendant has insufficient knowledge to either admit or deny the allegations of Paragraph 31 of the Complaint.

14. Defendant denies the allegations contained in Paragraph 32 of the Complaint, but has insufficient knowledge to either admit or deny the allegations of this Paragraph 32 as they apply to the other twenty two Defendants herein.

15. Defendant denies all allegations contained in Paragraphs 33, 34, and 35 as they apply to Defendant. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraphs 33, 34, and 35 as they apply to all other twenty two (22) Defendants herein.

16. Defendant has insufficient knowledge to either admit or deny the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22 and 23

of the Annex to Complaint.

17. Defendant admits that it limits mobile homes to only three mobile home parks.

Defendant admits that by the terms of South Brunswick Township Ordinance No. 45-73, multiple dwellings are limited to the planned residential districts, but it denies that insufficient provision is made for low and moderate income housing.

Defendant admits that it requires a minimum floor area for single-family detached homes, however, it denies that with the Cluster option of Districts R-1, R-2, and R-3 that there is a one acre minimum lot size or a lot width of 150 feet. Further, in an R-4 District, such lot size or width requirements do not exist.

Defendant denies that it has an excessive amount of land zones industrial and commercial.

Defendant admits that it has not established a public housing authority.

All the above allegations are set forth in Paragraph 19 of the annex to Complaint.

#### SEPARATE DEFENSES

#### 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 justifiable 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 on the grounds that Plaintiffs fail to allege that any specific act or ordinance enacted by this Defendant has resulted in damage or injury to any Plaintiff which would give rise to equity jurisdiction.

### SIXTH 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.

### SEVENTH SEPARATE DEFENSE

The Complaint should be dismissed because Plaintiffs' remedy, if any is required, is available at law in the nature of a Prerogative Writ.

EIGHTH 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, Middlesex County and the remaining municipalities in the State of New Jersey

NINTH SEPARATE DEFENSE

The Complaint should be dismissed on the grounds that the issues presented by Plaintiff's Complaint are political issues and not subject to judicial determination. The proper forum for the resolution of political issues is in the bodies, Federal, State, County and Local which are legislative and executive in nature.

TENTH SEPARATE DEFENSE

The Complaint fails to conform to the rules of pleading as provided by rules of Court and inhibits the ability of the Defendant to formulate complete answers thereto.

RELIEF

For the above reasons, Defendant is entitled to a dismissal of the Complaint together with Court costs and attorneys' fees.

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ANDRE WM. GRUBER  
Attorney for Defendant  
Township of South Brunswick

I hereby certify that the within Answer was served within the period allowed by Rule 4:6.

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ANDRE WM. GRUBER