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U-I. v. Carter

South Brunswick

~~1000~~⁹ Jan - 76

Supplemental Interrogatories
demanded by S. Brunswick

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CA0020306

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Attorneys for Plaintiffs

RECEIVED

JAN 28 1975

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

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al.

Plaintiffs,

v.

THE MAYOR AND COUNCIL OF
THE BOROUGH OF CARTERET,
et al.

Defendants

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:
:
:
:
:
:

Civil Action

SUPPLEMENTAL INTERROGATORIES

TO: Andre W. Gruber, Esq.
1215 Livingston Avenue
North Brunswick, New Jersey 08902

DEMAND is hereby made of the defendant TOWNSHIP OF
SOUTH BRUNSWICK for Certified Answers to the following supple-
mental interrogatories within the time prescribed by the
Rules of this Court.

1. Please list each of the zoning ordinance
provisions and land use practices admitted in the Request
for Admissions answered by you on June 3, 1975 which you
contend are justified by peculiar circumstances.

See attached rider

CA002030G

Rider for Number 1 of Supplemental Interrogatories

- 1) Limitation of three mobile home parks with a maximum capacity of 280 mobile homes in each park.
- 2) Limitation of multiple dwellings to Township PRD zones.
- 3) A maximum overall density of seven dwelling units per acre in Township PRD 7 zone.
- 4) A maximum overall density of five dwelling units in PRD zone.
- 5) A minimum lot area of five acres, minimum lot width of 150 ft. and minimum gross floor area of 1,000 sq. ft. in township A5 zone.
- 6) 719 undeveloped acres in the A5 zone.
- 7) A minimum lot area of three acres, minimum lot width of 150 ft. and minimum gross floor area of 1,000 sq. ft. in township A3 zone.
- 8) A3 zone 628 acres.
- 9) A minimum lot area of 1 acre to 3,000 sq. ft., minimum lot width from 120 to 150 feet and minimum gross floor area of 1,000 sq. ft. in the R1 zone.
- 10) The R1 zone has 3,007 undeveloped acres in addition and are 504 acres of PRD 7 option.
- 11) A minimum lot size of 20,000 to 30,000 sq. ft., a minimum lot width of 110 to 150 feet and a minimum gross floor area of 1,000 sq. ft. in the township of zone two.
- 12) There are 2,237 undeveloped acres in the R2 zone, 298 of which are scheduled for PRD Green Village on the Master Plan under the scheduling.
- 13) Minimum lot area of 15,000 to 20,000 sq. ft., minimum lot width of 100 ft. and a minimum floor area of 1,000 sq. ft. in the Township of Zone R3.
- 14) There are 686 undeveloped acres in PRD 5 and 7. In addition there are an additional 1,656 acres designated as PRD on the Master Plan under the scheduling.
- 15) The industrial zones acreage of 8,418 acres of which 7,323 were undeveloped as of 1976.

2. Please state for each such ordinance provision or practice listed in response to Interrogatory #1 above, a summary of the peculiar circumstances, including the facts which support it.

See attached rider

3. Please state every other defense that you intend to raise at trial in response to the allegations of the complaint.

See attached rider

4. For each such defense listed in response to Interrogatory #3 above, provide a summary of the facts supporting it.

See Factual and Legal Contentions set forth in Pretrial Memo.

Rider for Number 2 of Supplemental Interrogatories

The Township incorporates herein its Factual and Legal Contentions as attached to its Pretrial Memorandum and all Answers to interrogatories supplied to plaintiff and documents within said interrogatories within this Answer, including the Middlesex County Master Plan. In addition to the above Answers already incorporated within, the Township specifically sets forth additional information as to the specific items listed above:

(These numbers correspond with numbering listed in Answer under Supplemental Interrogatories #1)

- 1) The limitation on mobile home parks is justified as a reasonable percentage of the dwelling units in the Township. There has been an increased health and safety problems which result from a group of mobile homes within a mobile home park. Mobile homes or mobile units are also permitted under the BOCA Code to be constructed outside a mobile home park. The number of units within a park is based upon the social and other services rendered to the mobile home owners within the park by the management. Mobile home park costs and depreciation of the homes themselves are also a factor in this regard.
- 2) (See Residential Alternative Study) Specifically, the PRD areas are grouped around services which can be reasonably provided to the PRD areas.
- 3) The PRD 7 Green Village Town Center Option Zoning District permits a gross density of seven dwelling units per acre. This permitted density is high for suburban areas. The gross density permits a net density for multifamily units of 15 dwelling units per acre; a net density of 8 dwelling units per acre for townhouse units and a net density of approximately 4 dwelling units per acre for single family attached and detached.
- 4) The PRD 5 Green Village Option Zoning District allows a gross density of 5 dwelling units per acre. This density is lower than the PRD 7 since the area of PRD 5 is an aquifer recharge area and should not have as high site coverage (for environmental reasons) as the PRD 7 area. The net densities are the same as the PRD 7 area. The net densities have been established after thorough research and consideration of planning and design texts, studies, etc. including. (Katz, Robert D., Design of the Housing Site Urbana, Ill.: University of Illinois, 1966)
- 5 & 6) The A5 area is located at Pigeon Swamp. The Township believes there should be ecological restraints upon this area, (See Middlesex County Planning Board Report, Feb. 19, 1975, Pigeon Swamp Document Material) and state decision to

Rider for Number 2 (Continued)

- 7 & 8) Ecological restraints against undeveloping this property because of its lack of aquifer. Higher densities are permitted under the Master Plan when sewer and water are available, and it is an aquifer.
- 9) Most of these acres are in future PRD's within the Township Master Plan. The Township will use this land for PRD's as the need for housing develops over the next 25 years.
- 10 & 11) 298 acres are zoned for PRD options. The Township is meeting the needs of low and moderate income housing in its other zones.
- 12 & 13) The Township is using this land and R4 land to round out existing village areas.
- 14) The Township has received applications for development on some of this land and in addition has proposed 1,656 acres in its Master Plan in its future development under PRD. The Township permits a minimum of 10% moderate and low income housing in all PRD developments and this is a flexible percentage based upon the housing needs of the community at the specific times the developments come in. (See attached reports)
- 15) The industrial zoning of the Township provides for less jobs than the proposed housing as set forth in the zoning and Master Plan. (See report attached to original interrogatories of Opinion Research)

Rider for Number 3 of Supplemental Interrogatories

- 1) The Complaint should be dismissed on the grounds that Plaintiffs do not constitute a class.

The Complaint should be dismissed because Defendants do not constitute a class as defined by the rules of Court.

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.

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

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.

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.

The Complaint should be dismissed because plaintiffs' remedy if any is required, is available at law in the nature of a prerogative writ.

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.

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.

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.

- 2) The cost of land zoned for multiple dwelling units do not allow for low and moderate income housing.
- 3) Township of South Brunswick requires a minimum of 10% of low and moderate housing in PRD areas.
- 4) The Township has already taken many steps to enlarge low and moderate housing.

Rider for Number 3 (Continued)

- 5) The Township Master Plan provides for future growth of the low and moderate housing.
- 6) Numerous studies have been zoned by and on behalf of the Township to determine its fair share of low and moderate housing.
- 7) The Township zoning provides for sufficient housing to meet its own specific needs and meet its fair share of its region of which it's a part.
- 8) South Brunswick Township supports Raritan Valley Unit Development Corporation, a nonprofit corporation to provide low and moderate housing for senior citizens.

5. If you plan to rely on any decision or action taken by any government official, agent, representative or employee of the defendant, County of Middlesex, or State of New Jersey regarding the defenses listed above, set forth with particularity:

(a) each and every such official decision or action upon which defendant will rely:

See Attached

(b) the name and position of each government official, agent, representative or employee

See Attached

(c) a description of any document or writing supporting such decision or action.

See Attached

6. Please give the name and address of each expert witness whose testimony will be relied upon in preparation of the defenses listed in Interrogatories 1-3 above.

See attached rider

7. Please provide a summary of any written reports prepared for use at trial of any expert upon whose testimony defendant will rely at the time of trial, including a statement of where a copy of such a report can be obtained and its cost.

All reports received by Township are attached hereto or are attached to original interrogatories.

8. If no written reports have been received, give the time, date and place of any interviews or oral discussions with experts and set forth a summary of such discussions.

December 8, 1975
December 10, 1975
January 8, 1976

At the office of Andre Wm. Gruber, discussed entire matter of defense of South Brunswick Township and in particular answers to interrogatories requested herein.

Rider for Number 6 of Supplemental Interrogatories

- Mr. Elwood Jarner, Cape May County Courthouse, Cape May, N. J.
- Mr. John Lynch, Queale & Lynch, 20 No. Pennsylvania Ave.,
P.O. Box 58, Morrisville, Pa. 19067
- Mr. Harry Schwartz, Abeles & Schwartz, 10 Kenmare Street,
New York, N. Y.
- Mr. Harry O'Neill, Opinion Research Corp., No. Harrison St.,
Princeton, N. J. 08540
- Mrs. Constance Gibson, 19 Cleveland Lane, R.D. 4, Princeton,
N. J. 08540
- Mr. Michael Mihalcik, Municipal Bldg., Monmouth Junction, N. J.
08852
- Mr. Eugene Amron, Municipal Bldg., Monmouth Jct., N. J. 08852
- Mr. Carl Hintz, Municipal Bldg., Monmouth Jct., N. J. 08852
- Mr. Stuart Bressler, N. J. Dept. of Community Affairs, 365
West State St., Trenton, N. J. 08675
- Mr. Joseph Miller, N. J. Dept. of Env. Prot., Labor & Industry
Bldg., Trenton, N. J. 08675
- Mr. Douglas Powell, Mdx. Co. Planning Board, 40 Livingston Ave.
New Brunswick, N. J. 08901
- Mr. John Sully, Mdx. Co. Planning Board, 40 Livingston Ave.
New Brunswick, N. J. 08901
- Mr. William Kruse, Mdx. Co. Planning Board, 40 Livingston Ave.,
New Brunswick, N. J. 08901
- Mr. Charles L. Gabler, Raritan Valley Community Development
Corp., 67 Patterson St., New Brunswick, N. J.
- Ms. Golda Gottlieb, Middlesex-Somerset-Mercer Regional Study
Council, 3 Spring St., Princeton, N. J. 08540
- Mr. Solomon Raider, P.O. Box 28, Monmouth Jct., N. J. 08852
- Mr. Alexander Molnar, Raymond Rd., R.D. 2, Princeton, N. J.
- Mr. Herbert Tansman, P.O. Box 159, 214 Highway 18, East
Brunswick, N. J. 08816
- Chester Klatskin, 400 Hollister Road, Teterboro, N. J.

9. Please describe all litigation filed, pending, adjudicated or otherwise resolved from January 1, 1973 to the present in which one or more of the issues involves all or any part of the municipal zoning ordinance. For each such case, please list the full caption, civil action number, court, date filed, name of plaintiffs' attorney and a summary of result or current status (this case need not be listed).

See attached rider

<u>CAPTION:</u>	<u>CIVIL ACTION NO.</u>	<u>DATE FILED</u>	<u>PLAINTIFF'S ATTORNEY</u>	<u>DISPOSITION</u>
WILLIAM GAMBOCZ v. MAYOR and COUNCIL OF THE TOWNSHIP OF SOUTH BRUNSWICK AND THE ZONING BOARD OF ADJUSTMENT OF THE TWP. OF SOUTH BRUNSWICK.	L-4215-74	Estimated October, 1974	Joseph A. Dambach, Esq.	Judge Furman ruled in favor of Township and remanded matter and allowed plaintiff to refile an application before the Zoning Board of Adjustment. Plaintiff to date has not done so.
MEYER FRISCHLING, JOSEPH GROSS and JACOB GROSS vs. BOARD OF ADJUSTMENT OF THE TOWNSHIP OF SOUTH BRUNSWICK, BUILDING INSPECTOR OF THE TWP. OF SOUTH BRUNSWICK and, TOWNSHIP OF SOUTH BRUNSWICK.	L-11380-70	Dec. 18, 1970	Gross, Weissberger & Linett, Esqs.	In the Law Division, Judge Bachman ruled in favor of Developer. He was reversed in appeal to Appellate Division.
RED BIRD, INC; RUTH ROTH, Individually and as Executrix of the Estate of Mollie Yuran; NATHAN YURAN and RUTH YURAN, Individually; MURIEL YURAN and HERBERT B. DERMAN, Executors and Trustees under the Last Will and Testament of Herbert Yuran, deceased; and MURIEL YURAN, Ind.	L-18832-73 P.W.	Feb. 22, 1974	Wilentz, Goldman & Spitzer, Esqs.	Matter settled with a minor density zoning change which permitted the set back lines to determine lot width around cul de sac.

<u>CAPTION:</u>	<u>CIVIL ACTION NO.</u>	<u>DATE FILED</u>	<u>PLAINTIFF'S ATTORNEY</u>	<u>DISPOSITION</u>
SAMUEL J. HAMELSKY vs. TOWNSHIP OF SOUTH BRUNSWICK, a municipal corporation of the State of New Jersey, ZONING BOARD OF ADJUSTMENT of the Twp. of South Brunswick and MICHAEL J. MIHALCIK, Building Inspector of the Twp. of South Brunswick.	L-10244-72	Dec. 8, 1972	Borris, Goldin & Foley, Esqs.	In the Law Division, Judge Eachman ruled in favor of Developer. He was reversed in appeal to Appellate Division.
LORIE GARDENS, INC., a New Jersey Corporation vs. THE MAYOR AND TOWNSHIP COMMITTEE OF THE TOWNSHIP OF SOUTH BRUNSWICK and THE TOWNSHIP OF SOUTH BRUNSWICK, a municipal corporation of the State of New Jersey.	L-17226-73 P.W.	Estimated February, 1974	Hutt, Berkow & Hollander, Esqs.	Judge Deegan ruled in favor of Township. Developer appealing. Brief filed. No hearing set by Appellate Division.
PAUL GOLDMAN vs. TOWNSHIP OF SOUTH BRUNSWICK, A municipal corporation of the State of New Jersey, PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF SOUTH BRUNSWICK and MICHAEL J. MIHALCIK, BUILDING INSPECTOR OF THE TOWNSHIP OF SOUTH BRUNSWICK.	L-18053-72 P.W.	Estimated February, 1973	Norman Robbins, Esq.	Plaintiff dismissed case without prejudice.

BAUMGART & BEN-ASHER
Attorneys for Plaintiff

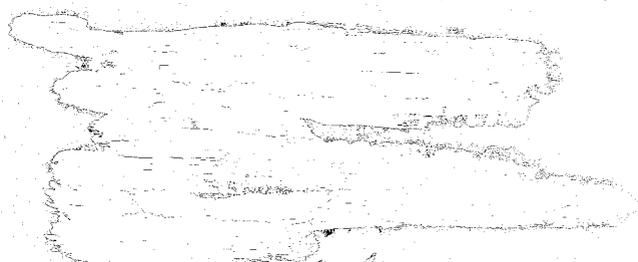
BY: *David H. Ben-Asher*
DAVID H. BEN-ASHER
A member of the Firm

7-30-75

CERTIFICATION

I certify that the foregoing statements made
by me are true. I am aware that if any of the foregoing
statements made by me are wilfully false, I am subject to
punishment.

DATED: January 9, 1976


BY: *Carl Hintz*
CARL HINTZ
SOUTH BRUNSWICK TOWNSHIP
PLANNING DIRECTOR

URBAN LEAGUE / DENSITY - SOURCES

- Lynch, Kevin. Site Planning 2nd ed. Cambridge, Mass.: The M.I.T. Press, 1971.
- Norcross, Carl. Townhouses and Condominiums: Residents Likes and Dislikes. Washington, D. C.: Urban Land Institute, 1973.
- Burchell, Robert W. Frontiers of Planned Unit Development. A Synthesis of Expert Opinion. New Brunswick: Center for Urban Policy Research, Rutgers - The State University of New Jersey, 1973.
- Katz, Robert D. Design of the Housing Site. Urbana, Ill.: University of Illinois, 1966.
- Burchell, Robert W. and Hughes, James W. Planned Unit Development: New Communities American Style. New Brunswick: Center for Urban Policy Research, Rutgers - The State University of New Jersey, 1973.