

CA - South Brunswick

3/22/78

Letter to McLaughlin from Brechman acknowledging that South Brunswick joins in the letter brief arguments ~~set forth~~ ~~prepared~~ on behalf of East Brunswick.

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March 22, 1978

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MARTIN E. SLOANE

Elizabeth McLaughlin, Clerk
Appellate Division
Superior Court of New Jersey
State House Annex
Trenton, New Jersey 08652

RE: Urban League of Greater New Brunswick, et al vs.
The Mayor and Council of the Borough of Carteret, et al
Docket No. A-4681-75

Dear Ms. McLaughlin:

This will acknowledge receipt of a supplemental letter brief prepared by Bertram E. Bush, Esq. on behalf of the defendant Township of East Brunswick. This will further serve to acknowledge the assumption by Mr. Bush that the defendant Township of South Brunswick joins in the arguments set forth therein.

If one reviews both Middle Union Associates v. The Mayor and Township Committee of the Township of Holmdel, et al (App. Div. 1977) as well as Oakwood at Madison, Inc. v. Township of Madison, 72 N.J. 481 (1977), it becomes increasingly clear that the Courts have not been applying county boundries as applicable regions where the defendant is a single municipality within a given county. Thus, in each instance the plaintiff bore the burden of proof as to the individual defendant municipality and its placement within a region. In the instant case, the Court made the determination that Middlesex County constitutes appropriate housing region for the purpose of the litigation prior to the presentation of individual defenses by the municipalities. Proofs were limited to the individual municipalities compliance with standards to be established for the "region" thus eliminat ng from consideration the concept that any one municipality has adequately kept up with regional needs which region may go beyond county lines.

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The Township of South Brunswick is just such a municipality.

Other than the submission into evidence of the "Schwartz Abeles" study, the record is silent as to any consideration being given to the propriety of the regional study conducted by this defendant. Further, assuming arguendo, that many or most of the municipalities within Middlesex County have inter-related obligations with regard to population planning based upon such items as employment surveys and industrial growth. Same is not dispositive of the question of whether or not each individual municipality has an identical obligation. Additionally, there is no basis for the conclusion that a municipality, such as South Brunswick, bears a similar obligation merely because it shares a common board of chosen Freeholders.

Such a determination eliminates from consideration the need for participation in housing programs for bordering municipalities outside of the county and that have a considerably more logical connection to the regional problem. By way of example, the Township of Franklin, a sprawling municipality, is caused to bear none of the responsibility of providing low and moderate income housing for workers in the City of New Brunswick with which it shares an extensive common border.

It would seem that the bottom line in the Holndel case is the simple fact that each municipality must be dealt with separately. By so doing, and absent any statewide public policy with regard to designation of regions, the Court may then determine the appropriate region for such municipalities based upon the testimony presented. Certainly, in Urban League, such an approach would have been difficult, if not impossible, for the trial court based upon the evidence presented by the plaintiff. Perhaps the answer to this dilemma is that the Urban League case should not have been tried at all. Had each municipality been fully severed from the case, perhaps just, individual determinations could have been made. However, once Middlesex County had been established as the appropriate region, the efforts of South Brunswick to legitimately meet the needs of a region professionally determined to be appropriate become irrelevant.

For the above set forth reasons as well as those previously

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set forth in the brief submitted by this defendant, it is respectfully suggested that Middle Union Associates, vs. The Mayor and Township Committee of the Township of Holmdel, supports the position of the Township of South Brunswick that the establishment of Middlesex County as a housing region for the purposes of this litigation is improper and that the imposition of a formula remedy upon the Township of South Brunswick is not supported in the record.

Respectfully,



BARRY C. BRECHMAN, Esq.

BCB/mns

cc: All Attorneys of Record

CERTIFICATION

I certify that the required number of copies of the foregoing letter memorandum has been served upon all attorneys of record and upon the Court by ordinary mail on March 22, 1978.

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



BARRY C. BRECHMAN, Esq.