

CA - South Plainfield

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Interrogatories answers by P

Pgs. 4

p.i. 3434

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ATTORNEY FOR Deft., Mayor and Council of the Borough of
South Plainfield

Plaintiff

URBAN LEAGUE OF GREATER NEW BRUNSWICK,
etc., et als,

vs.

Defendant

MAYOR AND COUNCIL OF THE BOROUGH OF
CARTERET, et als,

SUPERIOR COURT OF
NEW JERSEY
CHANCERY DIVISION:
MIDDLESEX COUNTY

Docket No. C 4122-73 ✓

CIVIL ACTION

INTERROGATORIES

TO: DAVID H. BEN-ASHER, ESQ.
BAUMGART & BEN-ASHER, ESQS.
Attorneys for Plaintiffs
134 Evergreen Place
East Orange, New Jersey 07018

PLEASE TAKE NOTICE, that demand is hereby made of the plain-
tiff, Cleveland Benson, for Certified Answers to the following
Interrogatories within the time period prescribed by the rules of
this Court.

19. Give a history of any and all applications which you made for a variance before the Board of Adjustment of the Borough of South Plainfield.

None.

20. Give a history of any and all builders or contractors who you attempted to engage for the purposes of erecting new housing within the Borough of South Plainfield. If you received any appraisals or cost estimates with regard to the same, attach a copy of same hereto.

None.

21. Attach hereto copies of any authorization executed by this individual plaintiff in favor of the Urban League of Greater New Brunswick, indicating its authority to act on behalf of such individual plaintiff.

No such authorizations exist.

22. Set forth each portion of the zoning ordinance of the Borough of South Plainfield which this plaintiff challenges as being discriminatory or otherwise illegal and unlawful.

Plaintiffs challenge as discriminatory both the application to large amounts of land certain portions of defendant South Plainfield's zoning ordinance and the absence of zones in which housing plaintiffs and the class they represent can afford could be provided. At this time, such portions included in the 1969 ordinance:

(1) Art. III, Schedule of General Requirements, the underlined requirements of R-40, R-20, R-15, and R-10 of the attached schedule.

(2) Art VI Residential Zones, See A, R-20 and R-40 zones requiring minimum floor areas of not less than 1500 sq. ft; See B, R-10 and R-15 zones requiring minimum floor areas of 1250 sq. ft; See C: R 7.5 zone, requiring minimum floor areas of 1250 sq. ft. Such requirements are totally unrelated to health, welfare and safety.

23. As to each such portion of the zoning ordinance referred to in the previous answer, set forth each and every fact upon which this plaintiff will rely to support its allegation that the same is racially discriminatory and/or otherwise unlawful.

See answers below to interrogatories 26, 39, 40, 41, 49.

24. Set forth each portion of the land use policies and practices of the Borough of South Plainfield which this plaintiff challenges as being discriminatory or otherwise illegal and unlawful.

Plaintiffs challenge as discriminatory the application of Residential Zones as noted in 22 above to almost all vacant, developable, residentially zoned land and the exclusion of mobile homes, multifamily dwellings for 3 or more families, and the application of commercial and industrial zones to an excessive amount of land. In addition, South Plainfield has not established a public housing authority, and has not passed the resolution of local approval required for the use of state financial aid to assist low-and moderate-income families with their housing needs.

25. As to each such portion of the land use policies and practices referred to in the previous answer, set forth each and every fact upon which this plaintiff will rely to support its allegation that the same is racially discriminatory and/or otherwise unlawful.

See answer below to interrogatory 26, especially that portion pertaining to population statistics. See also interrogatory 39, 40, 41.

26. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates N.J.S.A. 40:55-32.

At this time the facts available to plaintiffs and upon which they will rely are alleged in the complaint. These are reviewed below.

Specifically, we will rely on general and specific population figures reviewed in paragraphs 16-20 of the complaint (sources outlined in interrogatories #37-41) to show minority confinement to central city areas, their exclusion from South Plainfield and existing racial discrimination.

Plaintiffs will rely on the income statistics of paragraphs 21 and 22 of the complaint to show that plaintiffs and the class they represent cannot afford the type of housing allowed by South Plainfield.

Plaintiffs will rely on the employment patterns and practices outlined in paragraphs 23-28 (sources noted in part in interrogatories 43, 44) to show that employment opportunities for plaintiffs and the class they represent have far outstripped housing opportunities in South Plainfield. Such an imbalance will continue to exist, and will increase under current zoning and other land use policies and practices.

In addition, see answers to interrogatories 22 and 24.

27. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates Article 1, paragraph 1 of the New Jersey Constitution.

See answers to interrogatories 22, 24, and 26.

28. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates Article 1, paragraph 5 of the New Jersey Constitution.

See answers to interrogatories 22, 24, and 26.

29. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates Article 1, paragraph 18 of the New Jersey Constitution.

Plaintiffs will not press this allegation.

30. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates 42 USC 1981.

See answers to interrogatories 22, 24, 26.

31. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates 42 USC 1982.

See answers to interrogatories 22, 24, 26.

32. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates 42 USC 3601.

See answers to interrogatories 22, 24, 26.

33. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates the 13th Amendment to the United States Constitution.

See answers to interrogatories 22, 24, 26.

34. Set forth all facts upon which this plaintiff will rely to establish its allegation that the conduct of the Borough of South Plainfield violates the 14th Amendment to the United States Constitution.

See answers to interrogatories 22, 24, 26.

✓ 45. Set forth any and all legal or other authority upon which this plaintiff will rely to support its position that the individual plaintiffs are entitled under the law to have low or middle income housing units made available to them.

Our legal position will be fully explicated at the appropriate time, either through pre-trial briefs or through other orders of the court. In addition plaintiffs' do not claim that they are entitled under the law to have low or middle income housing units made available to them, only that they are entitled to be free from discrimination in seeking equal housing opportunities. If plaintiffs prove their case, it may well be that as a matter of equitable relief, the court will order that plaintiffs are entitled under the law to have low or middle income housing units made available to them. However, the question of appropriate relief is one to be decided by the court after a full hearing on the merits, and it would be premature, as well as inappropriate for the plaintiffs to discuss the scope of relief.

✓ 46. Set forth all authorities upon which this plaintiff will rely to establish the conclusion that this defendant is obliged to establish public housing authorities to provide housing for low income families.

Plaintiffs legal position will be fully explicated at the appropriate time. However, plaintiff does not claim that there is a per se duty to establish public housing authorities to provide housing for low income plaintiffs, but that the failure to establish public housing authorities is an inherent part of a consistent pattern of conduct by which low- and moderate-income persons, white and nonwhite, have been excluded from South Plainfield. If plaintiffs prove their case, it may be that as a matter of equitable relief the court will order the undertaking of such an affirmative duty. However, the question of appropriate relief is one to be decided by the court after a full hearing on the merits.

✓ 47. Set forth all authorities upon which this plaintiff shall rely to establish the conclusion that this defendant is obliged to "pass the resolution of local approval required for the use of state financial aid to assist local and moderate income families with their housing needs."

See answer to interrogatory 46.

✓ 48. Set forth all authorities upon which this plaintiff shall rely to support the conclusion that this defendant is obliged to "implement the low and moderate income housing elements" of the master plan of the Middlesex County Planning Board.

See answer to interrogatory 46.

49. Identify that portion of this defendant's zoning ordinance referred or pertaining to the allegations of paragraph 33(a) of the complaint.

See answer to interrogatory 22. Additionally, South Plainfield's ordinance does not provide for mobile homes or multiple dwellings for more than two families.

50. Identify that portion of this defendant's zoning ordinance referred or pertaining to the allegations of paragraph 33(b) of the complaint.

See answer to interrogatory 22.

51. Identify that portion of this defendant's zoning ordinance referred or pertaining to the allegations of paragraph 33(c) of the complaint.

See answer to interrogatory 22, and 49. The zoning ordinance provisions and the other land use practices of South Plainfield deters and prevents the construction of subsidized housing within South Plainfield.

52. Identify that portion of this defendant's zoning ordinance referred or pertaining to the allegations of paragraph 33(d) of the complaint.

See 1969 Zoning Ordinance, Article VII, Commercial Zones, and Article VIII, as amended, Industrial Zones.

53. Set forth that portion of the land located in the Borough of South Plainfield which the plaintiffs will allege should be the reasonable amount allocated for industrial purposes.

At this time this figure is not for plaintiffs to determine. Determination of the reasonable amount is for municipal authorities to decide in consideration of all circumstances. Plaintiff's assertion is that the current allocation is excessive.