

CA - Borough of
Spotswood

Nov. - 1979
(no date)

Brief in Support of Notice of Motion on
Behalf of the Mayor and Council of the
Spotswood.

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CA002182B

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

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

Plaintiff, :

- vs - :

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

Defendants. :

Civil Action

BRIEF IN SUPPORT OF NOTICE OF MOTION ON BEHALF OF THE
MAYOR AND COUNCIL OF THE BOROUGH OF SPOTSWOOD.

GUIDO J. BRIGIANI,
Attorney for Defendant,
Borough of Spotswood,
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(201) 826-3050

CA002182B

THIS ACTION DOES NOT INVOLVE A COMMON QUESTION OF LAW OR FACT ARISING OUT OF THE SAME TRANSACTION OR SERIES OF TRANSACTIONS AND PRE-TRIAL DISCOVERY AND TRIAL OF THE ISSUE AGAINST THE DEFENDANT, BOROUGH OF SPOTSWOOD, WOULD BE UNDULY PREJUDICIAL TO THE SAID DEFENDANT, BOROUGH OF SPOTSWOOD.

The Plaintiff, Urban League of Greater New Brunswick, in its Appendix to its Complaint, charges the Borough of Spotswood with the following:

"Spotswood limits licenses for mobile home parks to one for each 10,000 population and limits occupancy in such units to people over the age of 52 without children.

Its vacant land zoned for multi-family dwelling units is insignificant. Apartments larger than two bedrooms are prohibited, and 90 per cent are limited to efficiency or one bedroom apartments.

It also requires that single-family detached homes have minimum lot widths of 100 feet and minimum floor areas of 1,300 square feet.

Spotswood 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."

The Appendix to the Plaintiff's Complaint in Paragraphs (2) through (23) then contains allegations against the remaining twenty-two municipal defendants in this matter, which said allegations contain vastly different discriminatory charges against each individual community.

Nowhere in the Complaint does the Plaintiff, Urban League of Greater New Brunswick, charge a conspiracy between all or any of the municipal Defendants whereby said Defendants enacted exclusionary zoning and other land use policies and practices.

It is obvious from an analysis of the Appendix to the Plaintiff's Complaint, Paragraphs (1) through (23), inclusive, that the allegations against each municipality does not involve common question of law or fact arising out of the same transaction or series of transactions, and, therefore, in accordance with Rule 4:38 were improperly consolidated. To force all of the Defendants to participate in a common discovery or in a common trial would be unduly burdensome, would be unduly expensive and would be highly prejudicial to the Defendant, Borough of Spotswood, and the other twenty-two municipal Defendants.

In view of the many unrelated questions of fact as to each Defendant by reason of the dissimilarity of each of their zoning ordinances and land use practices; because of the involved and complex issues, the Defendant, Borough of

Spotswood, pursuant to Rule 4:38-2, respectfully requests this Honorable Court to sever the trial as against the Borough of Spotswood from the other Defendants herein.

Respectfully submitted,

s/ Guido J. Brigiani
GUIDO J. BRIGIANI
Attorney for Defendant,
Borough of Spotswood.