

CA - Cranbury

4/10/84

Affidavit of Eric Neisser, atty representing  
Pl's, submitted in opposition to Δ's/Cranbury's  
motion for recusal of trial judge  
+ exhibits

10 43

CA 002230V

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ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY  
 CHANCERY DIVISION-MIDDLESEX COUNTY

URBAN LEAGUE OF GREATER  
 NEW BRUNSWICK, et al.,  
  
 Plaintiffs,  
  
 vs.  
  
 THE MAYOR AND COUNCIL OF  
 THE BOROUGH OF  
 CARTERET, et al.,  
  
 Defendants.

Docket No. C 4122-73  
 Civil Action

AFFIDAVIT

STATE OF NEW JERSEY)  
 : ss.:  
 COUNTY OF ESSEX )

ERIC NEISSER, of full age, being duly sworn according to law, on oath,  
 deposes and says:

1. I am one of the attorneys representing the plaintiffs in this action.  
 I submit this affidavit in opposition to defendant Cranbury's Motion for  
 Recusal of Trial Judge.

2. This action, originally filed in 1974, was remanded to this Court  
 by the New Jersey Supreme Court in Southern Burlington Cty. NAACP v. Mt. Laurel  
 Township, 92 N.J. 158, 456 A.2d 390 (1983), for determination of region,

regional need, and fair share allocation, and then appropriate revision of each defendant's zoning ordinance.

3. On July 21, 1983, this Court held the first case management conference after remand. At that time the Court established a schedule for production of expert reports and discovery, leading to a trial date of March 19, 1984. A copy of the Court's letter-order of July 25, 1983 setting forth the results of that conference is annexed hereto and made a part hereof as Exhibit A.

4. In August 1983, the Court appointed Carla Lerman, the Executive Director of the Bergen County Housing Authority, as the Court-appointed expert in this matter and directed her to prepare a report to assist the Court and the parties in the resolution of the issues of region, regional need, and fair share allocation. In November 1983, Ms. Lerman filed her first report, which allocated a fair share of 587 housing units to Cranbury. In December 1983, the Urban League plaintiffs filed the fair share report of their expert Alan Mallach, which allocated 577 units to Cranbury.

5. At a hearing on November 18, 1983, attended by counsel for all parties, including this affiant, the Court consolidated several actions brought by developers against the Township of Cranbury and issued a revised schedule calling for the production of expert reports by those plaintiffs as well. A copy of the letter-order of November 28, 1983 is attached as Exhibit B.

6. On January 24, 1984, a second case management conference was held attended by counsel for all parties, including this affiant. At that time the Court set up a final schedule for production of all expert reports and for completion of all discovery. The Court also informed counsel for all

parties of the approach proposed by several experts during the proceedings in AMG Realty & Timber Properties v. Warren Township, over which the Court has presided earlier that month. The Court informed counsel that it had directed Carla Lerman to apply the analysis developed in the Warren Township case to the municipalities before the Court on this action to determine whether it might be a useful methodology in this case. At the January 24 conference, Michael Herbert, counsel for Lawrence Zirinsky, one of the Cranbury developer plaintiffs, suggested that it might assist in the resolution of the case or simplification of the trial if all planners in the case, including the Court-appointed expert, could meet to discuss the issues and determine if any common ground could be found. The Court inquired of other counsel's willingness to have a joint planners' meeting. Although some questions were raised by various counsel, both for plaintiffs and defendants, it was ultimately agreed that a meeting along these lines would be beneficial. It was agreed that, after the planners met, the Court and counsel would meet with the planners jointly. Counsel for Cranbury did not at that time object to the procedure or raise any questions about the impact of the procedure upon the independence of his planner or upon the ability of the Court to make a judgment based solely upon the evidence presented at trial. The Court did not order the attendance of anyone and did not indicate what it thought would be the proper outcome of such a meeting. On January 30, the Court issued a letter-order confirming the results of the conference, which is annexed hereto as Exhibit C.

7. On February 3, 1984, Carla Lerman issued to all parties in this action a memorandum applying the methodology developed by three planners in the Warren Township case to this action. That methodology resulted in a total fair share for Cranbury of 322 housing units. Ms. Lerman explained

that "This memorandum does not offer an evaluation of the recommendations in the Warren Township case, but merely attempts to apply the dual regional definition for present need and prospective need determination and allocation." A copy of the first page describing the report and the last page summarizing the fair share allocations for the defendants in this action are attached hereto as Exhibit D. Counsel for Cranbury did not object at that time to the report or to the procedure of having the Court-appointed expert apply the methodology of other planners to this case nor did he raise any question as to the impact of this procedure or report upon the independence of its retained planner or upon the ability of the Court to make a judgment based solely upon the evidence at trial.

8. On February 7, 1984, the Court informed counsel that the planners would meet all day on February 7 and that the meeting with counsel would be delayed until February 9. A copy of the Court's letter of February 3 to that effect is attached as Exhibit E. On February 8, the Court informed counsel that the scheduled meeting of Court and counsel with the planners was postponed until February 14 in order to permit all of the experts to reconvene for a second day, on February 13, in order to pursue "their efforts at reaching a common approach to fair-share allocation." A copy of that Memorandum is attached hereto as Exhibit F. No counsel was present at either meeting of the planners. The Court informed counsel at the conference on February 14, see paragraph 9 infra, that the Court had met with the planners on those occasions to inquire as to their progress in achieving consensus on the regional issues.

9. On February 14, 1984, a special case conference was held, which was attended by all counsel, including this affiant, and a number of the planners involved in the prior meetings. At that meeting, Carla Lerman described the methodology which had emerged from the two days of meetings by the planners and handed out a four-page handwritten outline of the methodology.

That outline did not indicate the fair share allocations that would result from this methodology for the municipal defendants in this action. Counsel for all parties were offered the opportunity to ask Ms. Lerman questions about the proposed methodology. Counsel for Cranbury did not at that time object to the methodology or to the meeting of planners that had produced the methodology nor did he raise any questions as to the impact of the methodology or the procedure upon the independence of his retained planner or upon the ability of the Court to determine the issues based solely upon the evidence produced at trial.

10. On February 17, the Court-appointed expert sent all planners involved in the meetings, including George Raymond, the expert retained by Cranbury, a copy of an initial draft of her proposed report in light of the planners' meetings. A copy of the first two pages, describing the report, is attached as Exhibit G. Ms. Lerman suggested to the Court that a third planners' meeting would be useful to discuss questions, comments and additional ideas of the various participants. As a result, the Court rescheduled the pretrial conference in this action, originally scheduled for March 2, and asked the planning group to meet at that time instead. The Court's Memorandum of February 24, 1984 to that effect is attached as Exhibit H. Counsel for parties in this action were not invited to attend; only Urban League plaintiffs had requested the opportunity to do so. The Court did not meet or communicate with the planning group on this occasion.

11. On March 7, Carla Lerman issued a report summarizing the methodology discussed at the three planners' meetings. As explained in the Preface to that report, a copy of which is attached as Exhibit I, the report, although informed by the discussions of the planners, is that of the Court-appointed expert.

That report stated that Cranbury's fair share allocation under this methodology would be 796. On March 13, 1984 as a result of a suggestion of several planners who were not satisfied with the approach initially presented, Ms. Lerman prepared a brief additional report, copy attached as Exhibit J, that set forth the use of an additional allocation factor, median household income. With that modification, Cranbury's fair share allocation became 822.

12. On March 12, 1984, the Court sent all counsel a Memorandum, a copy of which is attached as Exhibit K, asking them to discuss the "report fully so that we may address the fair share allocation method proposed." The Memorandum ended with the statement: "Please be prepared to advise the Court whether the resulting fair share allocation can be stipulated."

13. On March 16, 1984, the Court held the pretrial conference in this action, attended by counsel for all parties, including this affiant. At that time the Court asked Ms. Lerman to explain the household income factor set forth in her March 13 memorandum, and permitted all counsel the opportunity to ask questions and to comment upon the analysis. The Court then inquired of all counsel which parties would not object to or would stipulate to the approach proposed by Ms. Lerman as a result of the planners' meeting. None of the defendants, including Cranbury, indicated an acceptance of that methodology. Counsel for Cranbury did not at that time raise any objection to the procedure used, or suggest that the procedure had compromised the independence of his planner, or the ability of the Court to make a judgment

based upon the evidence presented at trial. The Court stated again that it had not yet decided on the appropriateness of the approach set forth in Ms. Lerman's report and indeed might have approached some issues differently, although declining to indicate those issues or the reasons the Court might have for questioning the approach.

14. In the afternoon of March 16, the Court held a case management conference attended by counsel for North Brunswick, Old Bridge and plaintiffs, including this affiant. At that time the Court described the approach taken by the Court-appointed expert after the planners' meetings, provided copies of the March 7 and 13 documents to counsel for North Brunswick and Old Bridge, and at the joint request of all parties there present, directed the Court-appointed expert, to apply the methodology to those two towns and provide counsel by March 23 with the results of that effort. Counsel were directed to state by April 6 whether they could stipulate to this approach. A copy of the Court's letter-order resulting from that conference is attached as Exhibit L.

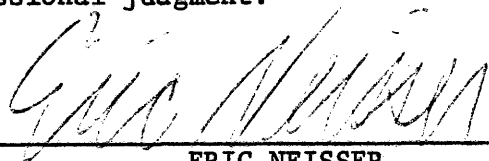
15. On March 19, 1984, George Raymond, Cranbury's expert, issued his revised report on behalf of Cranbury. The report critiques the Lerman methodology for incorporating the "growth area" factor and presents a different allocation system based solely on employment and household income factors. This methodology produced a total fair share allocation for Cranbury of only 599 units. A copy of the cover page and pages 5 and 7-10 of Mr. Raymond's report with his main critiques of the "consensus" approach is attached as Exhibit M.

16. On April 2, 1984, Carla Lerman issued her final Fair Share Report, reflecting the most current and complete data and incorporating the wealth factor described in her March 13 memorandum. The preface, a copy of which



is attached as Exhibit N, again states that, although the methodology is a result of the planners' meetings, she takes responsibility for the report. This report also shows a fair share allocation of 822 for Cranbury. It was at this point that Cranbury's counsel filed his Motion for Recusal.

17. Throughout the period described herein, Urban League plaintiffs' counsel, including this affiant, have repeatedly met with and spoken by telephone with their retained planning expert, Alan Mallach. He has continued to provide vigorous and forthright counsel to us. He has not indicated to us, nor in our opinion is there any evidence, that his participation in the planners' sessions has compromised his professional judgment.



ERIC NEISSER

SWORN TO and SUBSCRIBED  
before me this 10<sup>th</sup> day  
of April, 1984.



Frank Askin  
Attorney at Law, State of New Jersey



# Superior Court of New Jersey

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI

929-2176

OCEAN COUNTY COURT HOUSE  
C. N. 2191  
TOMS RIVER, N. J. 08753

July 25, 1983

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Re: Urban League of Greater New Brunswick v. Carteret - Middlesex County -C-4122-73

Gentlemen:

This will summarize the results of the case management conference held on Thursday, July 21, 1983.

1. It is understood that Plainsboro, South Brunswick, East Brunswick, Piscataway and Cranbury shall immediately provide copies of their amended zoning ordinances together with any related Master Plan Studies or other documents to the plaintiff and to the Court. The plaintiff shall review the submissions and attempt to advise each defendant within 30 days of receipt of the documents whether the amendments would constitute the basis for dismissal as adopted and if not, what modifications the plaintiffs would find acceptable.

TO: All Attorneys

July 25, 1983

Re: Urban League of Greater New Brunswick v. Carteret

2. It is the Court's intention to appoint an expert to assist the Court and the parties in the determination of region, regional need and fair share. I request that counsel consult the list of names which is enclosed and make an effort to agree on the selection of an expert. If agreement is not possible, each counsel shall have the right to advise the Court with respect to any name specifically objected to and the Court will thereafter designate an expert from the list. In light of the fact that I will commence my vacation on August 5, I request that all counsel advise me no later than August 1 with respect to the list. I would ask that the plaintiff's counsel submit to me under the five day rule, an order providing for the appointment of an expert to assist the Court and the parties concerning the issues indicated above, leaving a blank space for the name and address of the expert. This will make it possible for me to issue the order before leaving on vacation.
3. It is understood that the Court appointed expert shall be asked to make any necessary projection through the year 1990. The order submitted by plaintiff's counsel shall contain such language. It was also agreed at our meeting that all expert reports obtained by the parties shall be based upon the 1990 projection.
4. In accordance with our discussion, I would ask each counsel to submit to me within 30 days, positions which each municipality and the plaintiff will take concerning the definition of region as it affects your client.
5. With regard to discovery, we have agreed upon the following time schedule:
  - a. obtaining and exchanging of experts reports within 120 days.
  - b. depositions of experts within 60 days of the submissions of their reports.
  - c. all discovery to be completed within 180 days.
  - d. the plaintiff's expert or experts shall be deposed jointly by the defendants as opposed to individual sessions.
6. Each defendant has leave to file an amended answer without the necessity of motions within 30 days from the date of this letter.
7. Bruce S. Gelber, Esq. shall be admitted pro hac vice as co-counsel

TO: All Attorneys

July 25, 1983

RE: Urban League of Greater New Brunswick v. Carteret

for the plaintiff. An order is to be submitted and no consent is necessary since all counsel agreed at our meeting.

8. A combined case management and pretrial conference shall be held on Tuesday, February 21, 1984 at 10:30 a.m. in Court Room 1 of the Ocean County Court House. Pretrial memos shall be submitted in accordance with the Rules of Court.

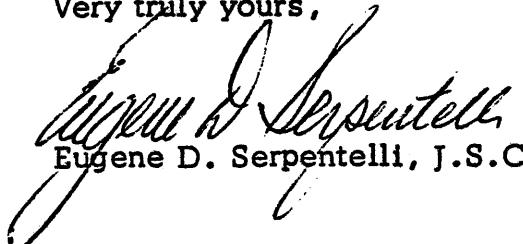
9. Trial is hereby scheduled for Monday, March 19, 1984 at 9:00 a.m. in Toms River unless the parties are advised otherwise.

10. It is understood that the State Development Guide Plan may have been amended as to its concept maps as it affects South Brunswick, Plainsboro and Cranbury. I will make an effort to verify that fact and, if possible, provide counsel with copies of the amended map. However, counsel should also alert their experts to this situation so that their reports might reflect any changes.

11. Insofar as possible, all conferences and motions will be heard by means of telephone conference unless counsel request otherwise.

Finally, I wish to commend all counsel on their spirit of cooperation and the demonstrated desire to resolve as many of the issues involved in this case as possible. I urge you to work towards resolution of each dispute. I reiterate my availability to assist in that regard.

Very truly yours,



Eugene D. Serpentelli, J.S.C.

EDS:RDH

POTENTIAL COURT APPOINTED EXPERTS

URBAN LEAGUE v. CARTERET

- ✓ 1. Carl Hintz  
Pennington, N. J. 737-0305  
23 East Delaware Ave  
08534
- ✓ 2. Clark and Caton  
Trenton, N. J. 393-3553  
342 West State St  
08648
- ✓ 3. Candeub, Fleissig and Associates Inc.  
Newark, N. J. 643-3919  
744 BOARD ST.  
Suite 1913, Newark 07102
- ✓ 4. Dorram Associates, Inc.  
Totowa, N. J. 254-6699  
265 A Route 46  
07413
- ✓ 5. Dean Borman and Associates  
Montclair, N. J. 33 Fulerton Ave  
07042 744-88
6. Peter Abeles  
New York, N. Y.
- ✓ 7. Carla Lerman  
Hackensack, N. J. Bergen County Housing Auth  
190 Moore St 07401  
646-266
8. Ronald Schiffman  
Pratt Institute  
Brooklyn, N. Y.
9. Jan Krasnowiecki  
University of Pennsylvania  
Philadelphia, Pa.



# Superior Court of New Jersey

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE  
C. N. 2191  
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10 Park Place  
Morristown, N. J. 07960

Re: Urban League of Greater New Brunswick  
v. Carteret - Middlesex County - C-4122-73

This will serve to confirm the results of a conference held on Friday, November 18, 1983 which was brought about by virtue of the motion brought by Mr. Moran to consolidate the suits of Garfield Company, Joseph Morris and Robert Morris, Browning-Ferris Industries et al and Cranbury Development Corp. with the Urban League v. Carteret action. I have also treated the motion as seeking to consolidate the Cranbury Land suit brought by Mr. Bisgaier.

I have decided to permit the consolidation of the five cases mentioned above subject to the conditions of the case management procedures which follow:

1. With regard to Garfield, Morris, Browning Ferris and Cranbury Development and Cranbury Land, (hereinafter "new cases"), all experts reports shall be filed on or before January 23, 1984.
2. With regard to the new cases, all interrogatories, except those relating to the new cases experts reports, shall be propounded within 60 days of November 18, 1983.
3. With regard to the new cases, depositions and interrogatories concerning the experts reports shall be completed by February 21, 1984.
4. An additional case management conference shall be held on Tuesday, January 24, 1984, at 10:30 a.m.

For the purpose of trial, the issues involved in this litigation shall be handled in the following order:

1. Determination of region and fair share.
2. Compliance hearings concerning each municipality. The order of proceeding as among the municipalities shall be decided at the time of pretrial or at the case management conference.
3. As to Cranbury's compliance hearing, the order of proofs shall be as follows:
  - a. A summary hearing on the validity of the TDC aspects of the ordinance.
  - b. Notwithstanding the Court's ruling as to validity of the TDC, there shall be a hearing following the summary hearing which shall determine whether the TDC is arbitrary and capricious as applied to the individual plaintiffs who challenge it.
  - c. There shall follow a hearing as to whether the zoning ordinance, aside from the TDC aspect, is arbitrary and capricious as applied to the plaintiffs.

d. That hearing will be followed by a hearing as to whether the zoning ordinance, including its TDC aspect, complies with Mount Laurel II.

e. The issues concerning the alleged section 1983 violations shall be severed and heard at a date to be set by the Court.

f. In the event the Court finds the TDC aspect of the ordinance to be ultra vires, the Court will consider the severing of the Morris action so that an appeal may be immediately pursued.

4. In the event of a finding of invalidity of any of the zoning ordinances of the seven municipalities involved, any plaintiff, whether or not the plaintiff has raised a Mount Laurel claim, shall have the right to participate in any subsequent proceedings which involve the appointment of a master in connection with the zoning ordinance revision.

Mr. Moran is hereby requested to submit a simple order merely stating that his motion for consolidation, which is deemed amended to include the Cranbury Land suit, is granted subject to the terms and conditions set forth in the Court's letter of November 28, 1983. The order need not recite the terms of the letter.

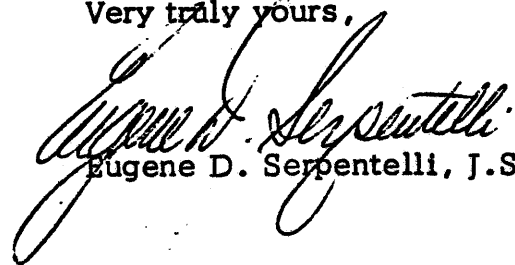
A copy of this letter is being sent to Ms. Carla Lerman so that she is aware of the developments in this matter and also so that she may provide a copy of her report to the four new plaintiffs currently involved (Messrs. Bisgaier, Schatzman, Litwin and Buchsbaum - Mr. Farino has previously received a copy of the report). It was agreed at the conference that any party shall have 30 days from receipt of Ms. Lerman's report to submit to the Court any questions relating to that report for which clarification is sought from Ms. Lerman.

An additional copy of this letter is being sent to Frank Petrino, Esquire who has written to the Court on behalf of Ziransky by letter of November 15, 1983 indicating that an additional complaint is about to be filed on behalf of Mr. Ziransky which will somewhat track the pleadings in Garfield and Cranbury Land. Presuming that such a complaint is promptly filed with the Court, and assuming Mr. Petrino's willingness to abide by the terms and conditions of this letter, I would direct Mr. Petrino to file, both his complaint and an order for consolidation under the five day rule, which order would recite that the application is granted subject to compliance with the terms and conditions of this letter. I would, of course, entertain any objections to the proposed order which may be appropriate.



I wish to commend all counsel in this matter for the professional manner in which they have approached this difficult litigation and the cooperation that they have evidenced at our conference. I reiterate my willingness to be available to assist in any settlement efforts and my desire to deal with the problems which may develop in meeting the deadlines set forth in this letter.

Very truly yours,

  
Eugene D. Serpentelli, J.S.C.

EDS:RDH  
CC: Carla Lerman  
Frank Petrino, Esquire



# Superior Court of New Jersey

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE  
C. N. 2191  
TOMS RIVER, N. J. 08753

*rec'd 2/7*

January 30, 1984

## m e m o r a n d u m

to

Richard Schatzman, Esq.  
Ronald Berman, Esq.  
Thomas R. Farino, Jr., Esq.  
Lawrence B. Litwin, Esq.  
Bruce S. Gelber, Esq.  
John M. Payne, Esq.  
Bertram Busch, Esq.  
Patrick J. Diegnan, Jr., Esq.

Joseph J. Benedict, Esq.  
Phillip L. Paley, Esq.  
William C. Moran, Jr., Esq.  
Carl S. Bisgaier, Esq.  
Joseph L. Stonacker, Esq.  
Michael J. Herbert, Esq.  
Ms. Carla Lerman  
Mr. Philip M. Caton

Re: Urban League et als v. Carteret et als

This will confirm the results of the case management conference held on Tuesday, January 24.

The following represents the principal time deadlines and other issues addressed.

1. All fair share reports shall be submitted by January 31 except for the reports for Cranbury, S. Plainfield and Plainsboro which will be submitted by February 7.
2. All interrogatories as to the "old" cases shall be in hand by February 7.
3. All interrogatories concerning the "new" cases shall be in hand by February 21.
4. All depositions will be completed on or before March 2. Any party wishing to depose either the Court appointed expert or Mr. Mallach must advise the Court within 7 days of being supplied with Ms. Lerman's analysis of the Warren Township methodology so that a single deposition date may be set for the experts. Alternatively, any party shall have the right to submit questions to the Court for Ms. Lerman within 7 days of the submission of her analysis. It is also understood that Ms. Lerman will submit her responses to the questions already posed to her within 7 days.
5. It was agreed that there would not be strict compliance with the notice requirements concerning depositions and that any depositions to be taken

would be in the vicinity of New Brunswick.

6. It was also agreed that subpoenas as to experts for trial, would be waived.

7. It was agreed that the planners representing all parties together with Ms. Lerman and Phillip Caton will meet on Tuesday, February 7 at 9:00 a.m. in my Court Room to discuss possible resolution of the fair share issue. At 1:30 on the same date counsel for the parties, the planners and the Court will hold a case management conference.

I would like to emphasize that the time requirements shall be adhered to strictly and that the case will be pretried on Friday, March 2 and trial will commence on Monday, March 19, as previously scheduled.

I am most grateful for the cooperation of everyone involved in this matter and the professional attitude which has been displayed.

EDS:RDH

  
\_\_\_\_\_  
Eugene D. Serpentelli, J.S.C.

CARLA L. LERMAN  
413 W. ENGLEWOOD AVENUE  
TEANECK, NEW JERSEY 07666

To: All participants in Urban League of Greater New Brunswick v. Carteret et al.

Date: February 3, 1984 *rec'd 2/7*

Re: Chadwick-Coppola-Moskowitz Memo of 1/30/84

A memo regarding "Mt. Laurel II" Fair Share Computations by John Chadwick III, Richard T. Coppola and Harvey S. Moskowitz (1/30/84) has been circulated to all planners involved in the Urban League of Greater New Brunswick v. Carteret, and closely related cases.

Following the considerable effort of these three planners (experts in the AMG Realty and Timber Properties v. Township of Warren consolidated cases) to reach a consensus on certain basic Mt. Laurel issues, Judge Serpentelli requested that the conclusions reached in that case be applied to the Middlesex County case, Urban League of Greater New Brunswick v. Carteret et al.

This memorandum does not offer an evaluation of the recommendations in the Warren Township case, but merely attempts to apply the dual regional definition for present need and prospective need determination and allocation. For purposes of comparison, the same factors for measuring Present Need which were used in the Lerman Fair Share Report were used in this analysis.

#### PRESENT NEED

Lerman's Fair Share report for the Court in this case used an expanded metropolitan region of the thirteen counties to determine the overall level of present need. This large region was then broken down into two sub-regions resembling housing markets. The excess need in the Core Area (Hudson County and the City of Newark) was reallocated to the north and south sub-regions in proportion to their economic growth and vacant land Growth Areas (SDGP). A new level of present need was then calculated for the sub-regions which included the reallocated excess. This new present need percentage was then applied to all municipalities in the case. Their own indigenous need was increased by the number required to bring their present need rate to that of the sub-region.

EXHIBIT D

FAIR SHARE ALLOCATIONS OF PRESENT AND PROSPECTIVE NEED

Comparison of Lerman and C C M Allocations

	Lerman	CCM
<b>Cranbury</b>		
Present	41	44
Prospective	514	278
<b>East Brunswick</b>		
Present	638	694
Prospective	1028	1356
<b>Monroe</b>		
Present	329	357
Prospective	440	288
<b>Piscataway</b>		
Present	701	763
Prospective	2912	4940
<b>Plainsboro</b>		
Present	174	190
Prospective	314	513
<b>South Brunswick</b>		
Present	310	337
Prospective	1370	1578
<b>South Plainfield</b>		
Present	355	386
Prospective	1427	2026



# Superior Court of New Jersey

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE  
C. N. 2191  
TOMS RIVER, N. J. 08753

rec'd 2/7

February 3, 1984

## MEMORANDUM

### TO

Richard Schatzman, Esq.  
Ronald Berman, Esq.  
Thomas R. Farino, Jr., Esq.  
Lawrence B. Litwin, Esq.  
Bruce S. Gelber, Esq.  
John M. Payne, Esq.  
Eric Neisser, Esq.  
Bertram Busch, Esq.

Patrick J. Diegnan, Jr., Esq.  
Joseph J. Benedict, Esq.  
Phillip L. Paley, Esq.  
William C. Moran, Jr., Esq.  
Carl S. Bisgaier, Esq.  
Joseph L. Stonacker, Esq.  
Michael J. Herbert, Esq.

Re: Urban League et als v. Carteret et als

This will confirm my secretary's conversation of this date.

I am advised that the planners expect to use a full day in their deliberations on February 7 and that time will not be available to meet with counsel or the Court. Therefore, I am requesting that counsel appear on February 9, at 9:30 a.m. at which time the Court and counsel will be advised of the results of the planners deliberations.

Each of the planners are being notified of this arrangement through Ms. Lerman's office. However, I would ask that you confirm the new schedule with your planner if he or she was scheduled to attend.

ED:SRDH

Eugene D. Serpentelli, J.S.C.

EXHIBIT E



# Superior Court of New Jersey

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE  
C. N. 2191  
TOMS RIVER, N. J. 08753

February 8, 1984

## M E M O R A N D U M

### TO

Richard Schatzman, Esq.  
Ronald Berman, Esq.  
Thomas R. Farino, Jr., Esq.  
Lawrence B. Litwin, Esq.  
Bruce S. Gelber, Esq.  
John M. Payne, Esq.  
Eric Neisser, Est.  
Bertram Busch, Esq.

Patrick J. Diegnan, Jr., Esq.  
Joseph J. Benedict, Esq.  
Phillip L. Paley, Esq.  
William C. Moran, Jr., Esq.  
Carl S. Bisgaier, Esq.  
Joseph L. Stonacker, Esq.  
Michael J. Herbert, Esq.

Re: Urban League et als v. Carteret et als

This will confirm a telephone notice which you received from my law clerk on February 8 with regard to the above matter.

The meeting of the experts and counsel scheduled for February 9 has been cancelled in order to permit all of the experts to reconvene on Monday, February 13 to complete their efforts at reaching a common approach to fair-share allocation. Counsel should not attend the meeting of February 13.

A meeting will be held on Tuesday, February 14, at 9:30 a.m. with all counsel and all experts for the purpose of reviewing the results of the experts deliberations.

EDS:RDH

  
Eugene D. Serpentelli, J.S.C.

EXHIBIT F

DRAFT

TO: The Hon. Eugene D. Serpentelli  
FROM: Carla L. Lerman  
DATE: February 17, 1984

On February 7 and February 13, 1984, day-long sessions were held with planners who are involved directly or indirectly in the case of the Urban League of Greater New Brunswick vs. Carteret to determine if concensus could be reached on the most appropriate methodology for determining region and fair share. These two sessions reviewed all aspects of the fair share methodologies that had been used to date in fair share reports, and evaluated their appropriateness. The participants also reviewed the Rutgers study, Mt. Laurel II: Challenge and Delivery of Low Cost Housing, prepared by the Center for Urban Policy Research. The meetings were attended by the following planners:

Peter Abeles	Philip Caton
John T. Chadwick, IV	Richard Coppola
David H. Engel	James W. Higgins
Carl Hintz	Lee Hobaug
Carla L. Lerman	John J. Lynch
Alan Mallach	Harvey S. Moskowitz
Michael Mueller	Lester Nebenzahl
William Queale, Jr.	George Raymond
Robert E. Rosa	Richard B. Scalia
Paul F. Szymanski	Peter Tolischus
Geoffrey Wiener	
Center for Urban Policy Research; (Robert W. Burchell & David Listokin)	

Drs. Robert Burchell and David Listokin were invited to address the first meeting with a presentation of the methodology

EXHIBIT G



and findings of the Rutgers study. There was an opportunity for the planners to present questions. Following questioning, Dr. Burchell and Dr. Listokin left the meeting.

### Determining Region

Two distinct approaches to region have been noted to date in fair share reports: the use of a large metropolitan region, consisting of 8, 9 or 13 counties, and the use of smaller "commutershed" regions which relate to a specific municipality. The use of these two types of regions is supported in different ways in different sections of the opinion. For example, definition of region in Oakwood vs. Madison, indicated that a region should be "that general area which constitutes, more or less, the housing market of which subject municipality is a part, and from which the prospective population of the municipality would be drawn, in the absence of exclusionary zoning." 92 NJ 158 at 256

The court further states in Mt. Laurel II that Justice Pashman's opinion in Mt. Laurel I should be considered in determining a definition for region: 92 NJ 158 at 256

- the area included in the interdependent residential housing market;
- the area encompassed by significant patterns of commutation;
- the areas served by major public services and facilities; and,
- the area in which the housing problem can be solved.

These two definitions of region, expressed by Justice Furman and Justice Pashman, indicate a strong connection in the



# Superior Court of New Jersey

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE  
C. N. 2191  
TOMS RIVER, N. J. 08753

February 24, 1984

## MEMORANDUM

Richard Schatzman, Esq.  
Ronald Berman, Esq.  
Thomas R. Farino, Jr., Esq.  
Lawrence B. Litwin, Esq.  
Bruce S. Gelber, Esq.  
John M. Payne, Esq.  
Eric Neisser, Esq.  
Bertram Busch, Esq.  
Patrick J. Diegnan, Jr., Esq.  
Joseph J. Benedict, Esq.

Phillip L. Paley, Esq.  
William C. Moran, Jr., Esq.  
Carl S. Bisgaier, Esq.  
Joseph L. Stonacker, Esq.  
Michael J. Herbert, Esq.  
Leslie Lefkowitz, Esq.  
Michael Noto, Esq.  
Henry Hill, Jr., Esq.  
Ms. Carla Lerman, P.P.

RE: Urban League et als v. Carteret et als


This will confirm our telephone call of Friday, February 24 relative to the above referenced matter.

The pretrial scheduled for March 2 at 11:00 has been adjourned to March 9, at 10:00. The case management conference involving Old Bridge and North Brunswick is rescheduled for March 9 at 2:00.

The pretrial is adjourned in order to allow the Planning Advisory Group to meet on Friday March 2 to review the preliminary report which should now be in your planner's possession, and the figures generated by the proposed methodology. The one week delay will allow also for input as to the methodology from the participants in Mount Laurel litigation. The decision will be made on March 9 as to whether the trial date should be advanced by one week. For the present, please assume that trial will proceed on March, ~~16~~ 19.

All planners have also been notified by telephone of the revised schedule. However, may I ask that you confirm the contents of this memorandum with any planner who may have been retained by you.

EDS:RDH

  
Eugene D. Serpentelli, J.S.C.

## FAIR SHARE REPORT

URBAN LEAGUE OF GREATER NEW BRUNSWICK

v.

CARTERET ET AL.

### PREFACE

During February and March, 1984, three day-long sessions were held with planners who are involved directly or indirectly in the case of Urban League of Greater New Brunswick v. Carteret to determine if consensus could be reached on the most appropriate methodology for determining region and fair share as set forth in the New Jersey Supreme Court decision known as Mt. Laurel II.

These three sessions provided the opportunity to review all aspects of the fair share methodologies that had been used to date in fair share reports, and to evaluate their appropriateness. The participants also reviewed the Rutgers study, Mt. Laurel II : Challenge and Delivery of Low Cost Housing, written by the Center for Urban Policy Research. Drs. Robert Burchell and David Listokin were invited to address the group at its first session.

The results of those meetings, as well as many hours of telephone conferences, and total cooperation and sharing in the data-gathering effort, are summarized in this report. Appendix A explains the methodology in detail and includes the tables containing most of the basic data for the fair share numbers.

The formula for prospective need set forth in this report utilizes three factors: current employment, employment growth, and amount of land designated as Growth Area in the State Development Guide Plan. There has been in the discussions substantial interest (and not complete concurrence) in the use of an economic factor in the formula for allocating prospective need. A subcommittee of the planners' group involved in developing this consensus has been established and is working on various alternatives which will be presented to the larger group within the next two weeks. At that time some amendment to the formula may be proposed.

All of the planners involved have felt that the lack of reasonably accurate data on land availability presents a serious problem. There was general agreement that as soon as this information is available, a re-evaluation of all formulas would be in order.

This report has been limited to the issues of region, regional need, allocation and fair share methodology. It has not addressed issues of compliance, although there has been

considerable discussion of many aspects of that subject, and acknowledgement of its great importance in achieving any of the goals of Mt. Laurel II. Clearly, when a municipality is assigned its fair share number, there will be need and opportunity to evaluate that share in light of particular conditions within that town; that will be the appropriate time to raise questions of feasibility, previous efforts and accomplishments, staging and alternative means of meeting goals.

Although the participating planners are listed below, and their participation and contributions are an integral part of this report, I assume full responsibility for the accuracy and validity of materials and information presented herein.

Carla L. Lerman, P.P.

March, 1984

Peter Abeles  
Philip Caton  
John T. Chadwick, IV  
Richard Coppola  
David H. Engel  
James W. Higgins  
Carl Hintz  
Lee Hobough  
Carla L. Lerman  
John J. Lynch  
Alan Mallach  
Harvey S. Moskowitz  
Michael Mueller  
Lester Nebenzahl  
Anton Nelessen  
William Queale, Jr.  
George Raymond  
Robert E. Rosa  
Richard B. Scalia  
Paul F. Szymanski  
Peter Tolischus  
Geoffrey Wiener

CARLA L. LERMAN  
413 W. Englewood Avenue  
Teaneck, New Jersey  
07666

MEMORANDUM

TO: The Honorable Eugene D. Serpentelli  
FROM: Carla L. Lerman  
DATE: March 13, 1984  
SUBJECT: Amendment to Fair Share Report, 3/7/84, based on report  
of subcommittee of Planners' Group

The subcommittee appointed at the last planners' meeting met several times, and considered the alternative methods for applying an economic factor to the consensus formula, given the available data.

Full consideration, including "running the numbers" on several factors, was given to the following: 1) use of equalized valuation per capita; 2) 1970-1980 change in percentage of lower income households within a subject municipality; and 3) current median household income. In each case, the methodology that might be used to relate that characteristic on a municipal level to a regional level was evaluated in terms of available data and reasonable comparability between jurisdictions.

The use of valuation per capita in the allocation formula presented several important problems. The revised formula had the potential of increasing allocations to towns that could not realistically absorb additional units, and decreasing allocations to towns that have less development and ample amounts of vacant land. The relatively low value of essentially open, undeveloped land resulted in a lower valuation, while highly developed municipalities with substantial improvements indicated high valuations. Even with the difference in population, the result was to give a higher allocation factor to the built-up community, and a lower allocation factor to the undeveloped community.

Additionally, the variables that contribute to valuation might be expected to give rise to considerable disagreement regarding the validity of assigning a higher fair share number to municipalities with higher per capita valuation. The mere fact of higher per capita valuation could reasonably be argued not to justify a higher Mt. Laurel obligation, as the residents themselves might not be capable of absorbing an increase in municipal expenditures related to providing opportunities for lower income households.

The change in the proportion of low and moderate income households in a given municipality was considered as a potential

fair share allocation factor. A major limitation which precluded the use of this factor was the lack of comparable data available for 1970 and 1980. The breakdown of households by income was not available in 1970 for comparison with 1980. The family income data that is available for both census years would exclude single person households from the comparison. The exclusion of these households, which comprise a significant portion of the lower income households, would result in an inaccurate portrayal of increase or decrease in lower income households in the subject municipality.

The ratio of municipal median household income to regional median household income is a valid expression of financial capability that is readily available on a municipal and county level. In the sense that the Mt. Laurel decision is an economic one, the household income is a relevant factor in determining a municipality's fair share of lower income housing.

...if sound planning of an area allows the rich and middle class to live there, it must also realistically and practically allow the poor. slip op at 21

Use of median household income as a factor in determining fair share provides one means of measuring past efforts to provide affordable housing. Measuring these efforts has been of general concern to the planners' group. A municipality that has been relatively open to garden apartments, or one which has made efforts to develop assisted housing will have a relatively lower median household income than a municipality that has been more exclusionary.

In addition to reflecting past efforts, the median household income will broaden the formula in such a way that a town which has not sought to increase employment and ratables, but has been exclusionary in its residential zoning, will receive a relevant fair share allocation, in spite of its low employment.

The methodology for including the municipal-to-regional ratio of median household income will establish that income ratio as a fourth factor for determining fair share of prospective need, and a third factor for determining the fair share of the reallocated excess of present need. The alternative method of applying an adjustment factor to the entire fair share number was considered, but was rejected in favor of the method that placed the income factor on a par with the other factors. This was part of a consensus reached by the subcommittee, which reflected flexibility on the parts of all involved.

The formula will be adjusted according to the methodology on the following page. It is presented in detail for one municipality, and summarized for the remaining six municipalities.

Methodology for Applying Median Household Income to  
Formula for Present Need

Where :

- "A" equals municipal employment as percent of regional employment
- "B" equals municipal growth area as percent of regional growth area
- "C" equals municipal employment growth 1972-1982 as percent of regional employment growth
- "IR" equals ratio municipal median household income to regional median household income
- "D" equals median income factor to be added to formula
- "E" equals revised percent of reallocated excess

Cranbury : Present Need

$$\frac{A + B}{2} \times IR = D \quad \frac{A + B + D}{3} = E \quad E \times 35,014 = \text{Share of re-allocated excess}$$

$$\frac{0.298 + 0.961}{2} \times 1.07 = 0.674$$

$$\frac{0.298 + 0.961 + 0.674}{3} = 0.644 \times 35,014 = 226$$

$$226 \times 1.2 (\text{reallocation allowance}) = 271$$

$$271 \div 3 (\text{staging periods}) = 90 (\text{present need to 1990})$$

$$90 \times 1.03 (\text{vacancies}) = 93$$

$$29 (\text{indigenous}) + 93 (\text{reallocated excess to 1990 incl. vacancies}) =$$

Total Present Need of 122

Prospective Need

$$\frac{0.634 + 0.934 + 0.401}{3} = 0.656 \times 1.13 = 0.741$$

$$\frac{0.634 + 0.934 + 0.401 + 0.741}{4} = 0.678 \times 83,506 = 566$$

$$566 \times 1.2 = 679 \text{ Prospective Need}$$

$$679 \times 1.03 = \underline{700} \text{ Total Prospective Need}$$

East Brunswick: Total Present Need (revised) 415  
Total Prospective Need (revised) 1910

Monroe: Total Present Need (revised) 265  
Total Prospective Need (revised) 585

Piscataway: Total Present Need (revised) 678  
Total Prospective Need revised) 3087

Plainsboro: Total Present Need (revised) 99  
Total Prospective Need (revised) 549

South Brunswick: Total Present Need (revised) 416  
Total Prospective Need (revised) 1828

South Plainfield: Total Present Need(revised) 280  
Total Prospective Need (revised) 1454

→ All Present Need calculations are based on the final excess need for the eleven county region: 35,014 units to be reallocated. This is a small increase over the first calculations which were estimated to be 95% complete. The final revision of the Fair Share Report will reflect this change, as well as several changes in non-growth municipalities about which some question had existed regarding their status in the SDGP. None of these changes will have any significant impact on the Fair Share allocations.





# Superior Court of New Jersey

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE  
C. N. 2191  
TOMS RIVER, N. J. 08753

March 12, 1984

## MEMORANDUM

Carla Lerman  
Richard Schatzman, Esq.  
Ronald Berman, Esq.  
Thomas R. Farino, Jr. Esq.  
Lawrence B. Litwin, Esq.  
Bruce S. Gelber, Esq.  
Eric Neisser, Esq.  
Bertram Busch, Esq.  
Patrick J. Diegnan, Jr. Esq.

Joseph J. Benedict, Esq.  
Phillip L. Paley, Esq.  
William C. Moran, Jr., Esq.  
Carl S. Bisgaier, Esq.  
Joseph L. Stonacker, Esq.  
Michael J. Herbert, Esq.  
Leslie Lefkowitz, Esq.  
Henry A. Hill, Jr., Esq.  
Jerome J. Convery, Esq.

Re: Urban League v. Carteret

1. Pretrial and Trial Date
2. Planner's Report

As you were advised the pretrial in the Urban League v. Carteret matter has been adjourned until Friday, March 16th at 10:00 a.m.

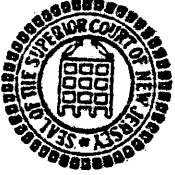
The conference in the matters involving Old Bridge and North Brunswick is adjourned to the same date at 2:00 p.m. The trial date is set back tentatively to Monday, March 26, 1984 at 9:00 a.m.

By the time you receive this memo, your planner should have already received the revised report of the planners group. I request that you discuss that report fully so that we may address the fair share allocation method proposed. The subcommittee of the planners group has suggested one adjustment to the fair share allocation criteria which will change each municipality's fair share number. The precise number including this adjustment will be given to your planner by March 13.

Please be prepared to advise the Court whether the resulting fair share allocation can be stipulated.

EDS:rdh

Eugene D. Serpentelli, J.S.C.



# Superior Court of New Jersey

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE  
C. N. 2191  
TOMS RIVER, N. J. 08753

March 19, 1984

## MEMORANDUM

Bruce S. Gelber, Esq.  
Eric Neisser, Esq.  
John M. Payne, Esq.  
Leslie Lefkowitz, Esq.

Henry A. Hill, Jr., Esq.  
Jerome J. Convery, Esq.  
Ms. Carla Lerman  
Robert J. Lecky, Esq.

Re: Urban League v. Old Bridge & North Brunswick Twps.  
O & Y v. Old Bridge Twp.

This will serve to confirm the results of the case management conference held on Friday, March 16. The following items were agreed upon and shall constitute an order of the Court:

1. Ms. Carla Lerman shall supply the fair share number for both municipalities on or before March 23.
2. Each municipality shall advise the Court and other parties by April 6, whether the fair share number is acceptable and whether the issue of compliance will be litigated.
3. If litigation is to occur on either or both issues, the following schedule is established:
  - a. All interrogatories are to be served and answered by May 11.
  - b. All experts reports are to be filed by May 11.
  - c. All depositions, including experts depositions, are to be completed by June 1, 1984.
  - d. Pretrial is set for June 15, 1984 at 10:00 a.m.
  - e. Trial is set for Monday, July 2, 1984 at 9:30 a.m.

March 19, 1984

Bruce S. Gelber, Esq.  
Eric Neisser, Esq.  
John M. Payne, Esq.  
Leslie Lefkowitz, Esq.

Henry A. Hill, Jr., Esq.  
Jerome J. Convery, Esq.  
Ms. Carla Lerman  
Robert J. Lecky, Esq.

I wish to thank all counsel for the cooperative manner in which the conference was conducted. I believe that in the spirit of compromise, this matter can be resolved without the necessity of lengthy litigation. In any event, I remain available for any inquiries at your convenience. You will recall that I requested that no motions be filed without prior consultation with the Court and counsel.

Finally, it should be noted that all parties have agreed to bear equally the cost of Ms. Lerman's services as to the determination of fair share number and any other service she may perform with the consent of counsel.

EDS:RDH

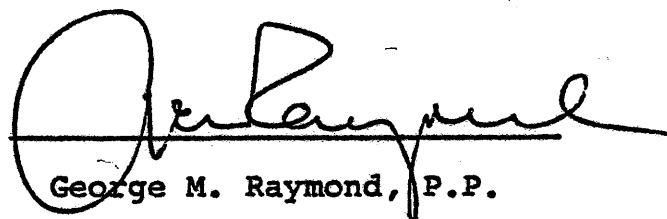
  
Eugene D. Serpentelli

Region, Housing Needs and

Fair Share Allocation

for

Cranbury, New Jersey



George M. Raymond, P.P.

License No. 552

Prepared by  
George M. Raymond, AICP, AIA, P.P.  
Tarrytown, New York

Revised -- March 19, 1984

housing supply to create mobility, thus providing the larger households with the opportunity of finding more appropriate quarters. This view of what needs to be done about standard but overcrowded units seems to be sanctioned by the Supreme Court's stress (cited above) on the inclusion of resident poor "who now occupy dilapidated housing" (emphasis supplied).

Given that, as detailed below, the satisfaction of Cranbury's Mount Laurel obligation will require a major amount of new construction, I do not believe it to be appropriate to consider the 28 units which represent that Township's indigenous need on a par with the fair share of its excess present need and its prospective need. The latter must, largely, be provided in the form of additional housing units. A remedy for Cranbury's indigenous need problem should be sought first through a municipal survey of the actual conditions and the mounting of a local rehabilitation or other program tailored specifically to the needs so identified. This is particularly appropriate in an instance where the total number of units involved is so small.

municipalities will lack sufficient vacant land to accommodate their fair share of present need (Lerman Report, p. 9) and prospective need (Lerman Report, p.20).

The inclusion of the "land in growth area" factor was suggested because of the absence of reliable data regarding the availability of vacant developable land, municipality by municipality. In my opinion, "land in the growth area" is a most inadequate surrogate for vacant developable land. As an example, let us assume that two municipalities have equal amounts of land in the growth area. In one of the two all of such land may be fully developed whereas in the other it may be substantially vacant.

The Supreme Court's concern with the growth area as delineated in the State Development Guide Plan is limited to assuring that "remedial solution(s)...impose the Mount Laurel obligation only in those areas designated as "growth areas" by the SDGP" (92 N.J. 236). Nowhere in Mount Laurel II does the court imply that a municipality which has a sufficient quantity of vacant developable land to satisfy its obligation has any right to pass it

on, in whole or in part, to another municipality simply because the latter has more of its land in the "growth area" or because it has more vacant developable land. In fact, the court very specifically stated that "there is (no) justification for allocating a particular regional need equally among municipalities simply because they have enough land to accommodate such equal division. There may be factors that render such a determination defensible, but they would have to be strong factors, and certainly not the simple fact that there is enough land there" (92 N.J. 350).

The devising of a formula that does not result in the shifting of responsibilities on unsupported grounds finds sanction in the Supreme Court's clear joining of employment growth with ratables in its instructions as to the proper fashioning of a fair share formula" "Formulas that accord substantial weight to employment opportunities, especially new employment accompanied by substantial ratables, shall be favored..." (92 N.J. 256)--(emphasis supplied). Even if it results in a heavy Mount Laurel responsibility, a formula which emphasizes employment growth will most probably affect municipalities which have favored

the influx of ratables but not of the workers which make them possible. Such a municipality should be permitted to shift its obligation onto others only upon conclusive proof that its fair share cannot be accommodated within its borders despite the use for this purpose of all the suitable vacant developable land in its growth area at the highest appropriate density.

As stated in the Lerman Report (p. 9), "[t]his method (the 20% addition-ed.) will preclude the (need for) upward adjustment of any municipality's allocation based solely on the unavailability of vacant land in another municipality." Thus, by including a 20% surcharge in anticipation of the probability that some municipalities will lack sufficient vacant land to accommodate their fair share, the formula assures that the accommodation of the entire regional need will not be thwarted by lack of vacant land.

- (c) For the reasons stated above, since the "land in growth area" factor does not measure any municipal characteristics that are relevant to the fair allocation of housing responsibilities, I believe that it should not be made part of the allocation



formula. The elimination of the "growth area" factor would result in a formula which emphasizes recent job growth (which is a reliable indicator of need for housing) and currently existing jobs in the municipality (which is an equally reliable indicator of the relative breadth of job opportunities for lower income persons who might be moving into the new Mount Laurel-type housing). Such a formula would "accord substantial weight to employment opportunities, especially new employment" (92 N.J. 256) as the Supreme Court urged be done.

A third factor was developed to reflect the relative wealth of the municipality (Lerman Memorandum, p.3). This factor represents a reliable indicator of fiscal capacity in terms of ability of residents to assume any tax burdens that may be imposed by compliance with Mount Laurel II.

- (d) Cranbury's Fair Share of the Reallocated Excess Present Need. Based on the modification to the "consensus formula" discussed above, Cranbury's fair share of the reallocated excess present need in its region is as follows:

**FAIR SHARE REPORT**

**URBAN LEAGUE OF GREATER NEW BRUNSWICK  
v.  
CARTERET ET AL.**

**Prepared for  
Honorable Eugene D. Serpentelli  
Superior Court  
Ocean County, N.J.**

**Carla L. Lerman, P.P.**

**April 2, 1984**

**EXHIBIT N**

FAIR SHARE REPORT

URBAN LEAGUE OF GREATER NEW BRUNSWICK  
v.  
CARTERET ET AL.

Prepared by Carla L. Lerman, et al.<sup>1</sup>

Preface

During February and March, 1984, three day-long sessions were held with planners and housing experts who are involved directly or indirectly in the case of Urban League of Greater New Brunswick v. Carteret to determine if consensus could be reached on the most appropriate methodology for determining region and fair share as set forth in the New Jersey Supreme Court decision known as Mt. Laurel II.

These three sessions provided the opportunity to review all aspects of the fair share methodologies that had been used to date in fair share reports, and to evaluate their appropriateness. The participants also reviewed the Rutgers study, Mt. Laurel II: Challenge and Delivery of Low Cost Housing, written by the Center for Urban Policy Research. Drs. Robert Burchell and David Listokin, who of the project leaders, were invited to address the group at its first session.

The results of those meetings, as well as many hours of telephone conferences, and total cooperation and sharing in the

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<sup>1</sup>See participant list in Preface.

data-gathering effort, are summarized in this report. Appendix A explains the methodology in detail; Appendix B includes the tables containing most of the basic data for the fair share numbers.

Although the methodology offers a well-conceived, reasonable and professional approach, given available reliable data, to devising a Fair Share number as required by the Court, no participant involved with this consensus methodology is forfeiting the opportunity to present to the Court, in any given case, reasoned evidence why unique situations in a town might not alter the approach, or why the existing conditions will have an impact on compliance.

All of the planners and housing experts involved have felt that the lack of reasonably accurate data on land availability presents a serious problem. There was general agreement that as soon as this information is available, a reevaluation of all formulas would be in order.

This report has been limited to the issues of region, regional need, allocation and fair share methodology. It has not addressed issues of compliance, although there has been considerable discussion of many aspects of that subject, and acknowledgement of its great importance in achieving any of the goals of Mt. Laurel II. Clearly, when a municipality is assigned its fair share number, there will be need and opportunity to evaluate that share in light of particular conditions within that