

Plaintiff letter to ~~to~~ judge re region determination

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**National Committee
Against Discrimination
in Housing**

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Re: Urban League of Greater
New Brunswick v. Mayor
and Council of Cartaret,
et. al., Middlesex County
Docket No. C-4122-73

Dear Judge Serpentelli:

This is in further response to your request for our position concerning the appropriate region for determining fair share allocations for the defendant municipalities.

In reviewing the correspondence from the defendants on this issue, we note that their suggestions as to the definition of region are based on a travel-to-work analysis. Plaintiffs submit that this approach is inappropriate for several reasons.

First, it is likely to lead to an unduly narrow definition of region. Such a result would be inconsistent with the Supreme Court's admonition that the region be large enough to reflect the full lower income housing need of a market area and to permit satisfaction of that need. In other words, the region must be sufficiently large to combine a significant level of housing need with the land and fiscal resources necessary to meet that need. In discussing this point, the Court in Oakwood at Madison v. Madison Township, 72 N.J. 481 (1977), cited several examples of appropriate regions which are considerably larger than those suggested by the defendants. Id. at 538-39. Indeed, the Court noted that the record in that case, which involved a municipality in Middlesex County, showed that the pertinent region was northeastern New Jersey or the New Jersey

portion of the New York metropolitan area. Id. at 528 n.35.

Second, the travel-to-work approach serves to demarcate the area in which present residents of a community may comfortably commute to work. It neither identifies, nor gives weight to, the housing market area from which prospective residents would be drawn, absent exclusionary zoning and based on job opportunities, growth patterns and other relevant factors. This approach is therefore fundamentally inconsistent with the definition of region approved by the Supreme Court in Mount Laurel II, 92 N.J. at 256. See also Madison, 72 N.J. at 539.

Third, and most importantly, use of the travel-to-work approach conflicts with one of the underlying purposes of Mount Laurel II, which is to attain consistency and predictability in defining the constitutional obligation to provide for fair share housing. In Mount Laurel II, the Court envisioned that, after several cases, a consistent regional pattern for each section of the State and, ultimately, for the State as a whole would emerge, thus obviating the need to define region and regional need in future litigation. Id. at 254-55. This goal obviously requires standardized regions and precludes the use of idiosyncratic approaches to region under which the relevant region differs for each municipality.

Because the travel-to-work analysis identifies the area that is within reasonable commuting distance from a particular municipality, it assumes that each municipality is the core of its own region. Use of this approach would therefore lead to a different definition of region for each of the 567 municipalities in the State. Such an approach is clearly inappropriate for purposes of a Mount Laurel fair share analysis.


By contrast, plaintiffs favor the definition of region proposed by the Court's expert and adopted by the Court in Urban League of Essex County v. Mahwah Township. Under that approach Middlesex County lies on the perimeter of an eight-county region whose core is comprised of Hudson County and parts of Essex, Union and Passaic Counties. As noted in our letter of August 22, 1983, plaintiffs submit that this area comprises the relevant housing market from which the prospective population of the defendant municipalities would largely be drawn in the absence of exclusionary zoning, and also satisfies the other criteria which the Supreme Court has suggested are relevant to determining the appropriate region.

Finally, while not relating directly to region, plaintiffs note that, in its draft memorandum on region and fair share, East Brunswick Township has suggested that the Supreme Court's definition of "moderate income families" be

altered significantly to include a higher income class of people, including families with up to 105% of the median income. Plaintiffs object to any such modification of this definition. The basic underlying purpose of the Mount Laurel doctrine is to provide for an appropriate variety and choice of housing for the poor. The Supreme Court's opinion is replete with references to the constitutional obligation to meet the housing needs of the poor; indeed, as the Court makes clear, the principles and benefits of Mount Laurel are not intended to extend to any other class of people. See, e.g., Mount Laurel II, 92 N.J. at 209-11, 214-15, 259-61, 277-78. To change the definition of moderate income families in the way suggested by East Brunswick would shift the remedial focus in this case toward construction of middle income housing at the expense of housing for the poor. Plaintiffs submit that such a change would subvert the intentions of Mount Laurel.

We hope that these comments prove to be helpful. If further information is required, we would be happy to provide it.

Sincerely,



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