

CA - North Brunswick

6/15/84

Order ~~of~~ precluding D from introducing evidence
re: amount of vacant developable land.

Pgs - 7

Note: Attached report ~~on~~ on fair share allocations

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Rec'd 184

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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

O R D E R

Plaintiffs having filed and served on May 18, 1984 a Motion to Exclude Evidence and Expert Testimony on Behalf of defendants North Brunswick and Old Bridge, which was made returnable by the Court on May 30, 1984, and counsel for both defendants having filed Affidavits, and the Court having heard oral argument on the motion, via telephone conference call on May 30, 1984, and the Court having orally ordered defendant Township of North Brunswick to serve by June 15, 1984 complete answers to Interrogatories 19, 34, 41(b), 42(b), 53 and 54 and all documents called for by Interrogatories 20(b), (d), (h), 22(b), (c) and 24, and, based upon the representation of the

attorney for North Brunswick that the Township will not assert a defense of insufficient vacant developable land to satisfy the fair share allocation defined by either the Court-appointed expert or plaintiffs' expert, to serve no later than June 22, 1984 complete answers to Interrogatories 27-29, 33(b), (c) and 45-51, and the Court having orally ordered defendant Township of Old Bridge to serve by June 6, a preliminary expert report indicating the expert's opinions on all regional and fair share issues, what additional data was still being gathered, and how he would incorporate that data when received, and to serve by Friday, June 15, 1984, a final expert report and complete answers to all interrogatories, and the plaintiffs having renewed the motion because of partial noncompliance with the oral order of May 30, 1984 and the Court having heard counsel for all parties in open court on Tuesday, June 19, 1984 at the time of the pretrial conference in this action, and having orally ordered that defendant Township of Old Bridge serve in person on plaintiffs' counsel by Thursday, June 21, 1984 all remaining documents concerning the Senior Rotary project and other projects that defendant Old Bridge intended to claim as credit against the fair share and the data on vacant developable land from all counties except Union County that the defendant Old Bridge's expert intended to rely upon, and to serve by Monday, June 25, 1984 the data concerning Union County, and having authorized plaintiffs' counsel to renew the motion if prejudiced by the delay in defendant's discovery, and plaintiffs' counsel having orally renewed the motion by telephone call on June 21 when informed by defendant Old Bridge's counsel that the data on vacant developable land would not be available by the dates set by the Court,

It is, therefore, this 2 day of *July* ~~June~~, 1984, O R D E R E D, that

1. The defendant Township of Old Bridge is precluded from introducing at trial any evidence, including, but not limited to, expert^{or}/factual testimony or documentary evidence, relating to the amount of vacant developable land in the prospective need region contended for by defendant or to any other matters set forth under the heading "Local Development Potential" on pages 7 through 9 of Carl Hintz's Report on Fair Share Allocations for Old Bridge Township, Middlesex County, N.J., dated June 15, 1984, the cover page and pages 7 through 9 of which are attached hereto.

2. Paragraph 9 of the Pretrial Order in this action dated June 19, 1984 is hereby amended to provide that the portions of pages 7 through 9 under the heading "Local Development Potential" in Mr. Hintz's expert report of June 15 are deleted from the exhibit stipulated into evidence and will not be introduced into evidence.

3. If defendant Township of North Brunswick fails to serve in person upon plaintiffs' counsel by Friday, June 22, 1984, complete answers to Interrogatories 27-29, 33(b), (c), and 45-51, defendant North Brunswick shall be precluded from introducing at trial any expert testimony or other evidence relating to those portions of the matters covered by those interrogatories not answered on time.


EUGENE D. SERPENTE, J.S.C .

REPORT ON FAIR SHARE
ALLOCATIONS FOR OLD BRIDGE
TOWNSHIP, MIDDLESEX COUNTY, N.J.

Prepared by:

Hintz/Nelessen Associates
P. O. Box 1241
Princeton, N.J. 08542

June 15, 1984



Carl E. Hintz, PP, AICP, ASLA



Department of Labor and Industry, State of New Jersey, were 602,614 for the region, of which Old Bridge had 4,225 of the regional total. This represents 0.70% of the regional jobs in the prospective need region.

LOCAL DEVELOPMENT POTENTIAL

The amount and quality of land available for development is the factor used in the allocation formula. Simply put, the greater the amount of vacant developable land, the greater the fair share allocation.

VACANT, DEVELOPABLE LAND

Vacant, developable land, prepared within the last few years, is available for the prospective need region for Old Bridge Township. Hintz/Nelessen Associates, P.C., surveyed the planning staffs of four of the five counties in the region. The Middlesex County Planning Mapping vacant land on an "Existing Land Use" map in 1981, and plotted wetlands, floodplains and freshwater wetlands in 1984.

Ocean County, also part of Old Bridge's prospective need region, has completed a preliminary mapping analysis, including data on vacant land and environmentally-sensitive land. Their studies are being finalized this year, but are mapped.

Somerset County's planning staff has also evaluated its vacant, developable land, and its studies are about three years old.

Finally, Monmouth County's staff began assembling such data as vacant land and environmentally-suitable land in 1981. Their studies

are not fully mapped, but may be available as quantified acreages, according to their staff, with other counties.

Hintz/Nelessen Associates has not yet contacted the remaining county planning staff, Union, to ascertain the availability of the data, but will do so in the next week.

It is the opinion of H.N.A. that vacant developable land acreage and corresponding percent of regional developable land per municipality represents a more realistic factor to assess regional need than the percentage of land in growth as designated by the SDGP. Much of the area designated as growth area in Old Bridge has existing built-up land uses and lands unsuitable for development because of serious environmental constraints. This factor adds additional weight to availability of developable land as an indicator of the need to absorb low and moderate income units. Planners have agreed that when data on vacant, developable land becomes available that should be used in the formula rather than growth area.

The growth area factor in Old Bridge, where the growth area is 24,121 acres, and is a percentage of 4.35 of the region. The actual vacant and developable land in the township is 11,239 acres, according to the 1982 Master Plan. Of this, 3,604 acres are vacant and in planned development zones, and over another 4,000 acres are being developed or scheduled for planned unit development. This is not indicative of a community that is exclusionary. In fact, the zoning is attributable to the township's litigation in the "Oakwood at Madison" case.

Due to the municipality's actual vacant land numbers, it is H.N.A.'s opinion that the 20% of 1.2 multiplier for excess vacant developable land should not be applied in the prospective need formula.

CONCENTRATIONS OF LOW AND MODERATE INCOME HOUSING AND ASSISTED HOUSING/ECONOMIC CAPACITY INDICATOR

An objective in the fair share allocation formula is to foster dispersal away from locations with prior concentrations of affordable and/or subsidized housing units. A factor was generated in the allocation formula used by H.N.A. to accomplish this objective. This indicator attempts to direct allocation away from areas of high concentrations of low and moderate income or subsidized housing and towards those municipalities which have previously been exclusionary. The rationale behind this criterion is that: (1) the poor should be dispersed rather than concentrated in a particular geographic location and/or (2) locations which have existing high levels of housing for the poor are already doing a part of their fair share.

To determine this factor in the allocation formula, the total numbers of households per municipality were taken from the U.S. Census and disaggregated by income levels. 1979 median household income was used to delineate households into both low and moderate income households. Low income households are those whose income is 0 to 50% of median household income and moderate is defined as between 50% and 80% of median income.

Working with several other consulting planners, H.N.A. arrived