

CA - North Brunswick

2/21/86

Affidavit in reply to motion

returnable on 2/25/86 by Leslie S.

Lefkowitz setting forth Twp's position
w/ regard to its motion to enforce
litigents rights and compel compliance

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CA 002563V

*Rec'd - Judge Sappentell
2/24/86*

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ATTORNEYS FOR Defendant, Township of North Brunswick

Plaintiff s, URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al.,

SUPERIOR COURT OF NEW
JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN COUNTY

vs.

Docket No. C 4122-73

Defendant s, THE MAYOR AND COUNCIL OF THE
BOROUGH OF CARTERET, et al.,

CIVIL ACTION

AFFIDAVIT IN REPLY TO
MOTION RETURNABLE ON
FEBRUARY 25, 1986

*AFJ
2/24/86*

STATE OF NEW JERSEY:

SS.

COUNTY OF MIDDLESEX:

LESLIE S. LEFKOWITZ, being duly sworn, deposes and says:

1. I am an attorney at law of the State of New Jersey and the attorney for the Township of North Brunswick entrusted with the handling of this action.

2. I submit this affidavit to set forth the Township's position with regard to plaintiff's motion to enforce litigants' rights and compel compliance and in opposition to plaintiffs' motion.

3. I have no argument with the basic factual pattern as set forth in Paragraphs 2 through 6 of Mr. Neisser's affidavit in support of his position.

4. On January 20, 1986, the Affordable Housing Ordinance, annexed hereto marked Schedule A, was introduced on second reading in accordance with statutory mandates. A public hearing was held at which time a number of suggestions were made by members of the public. As a direct result, the Council went into executive session until the early hours of the morning and the Council returned to the public portion of the meeting to amend the Ordinance to include significant changes which required re-publishing for a hearing to be held on the amendments. Councilman Frank Paul denies that he was the "instigator" of these amendments.

5. Thereafter, on Friday, January 24, 1986, the parties met prior to the scheduled compliance hearing. At the compliance hearing, I requested an adjournment advising the Court that on February 3, 1986, the Township was going to have the second reading of the revised Ordinance. I felt that an agreement could be reached with regard to any existing contested sections of the Ordinance.

6. Further intensive negotiations occurred; and all parties agreed to compromise on all the disputed points, subject to the approval of and passage by the Council.

7. The said changes were memorialized in a draft of the Affordable Housing Ordinance, revised January 29, 1986,

annexed hereto marked Scheduled A, which Mr. Neisser alludes to in his Affidavit. Thereafter, at the public hearing on February 3, 1986, a vote was taken on the revised Ordinance, annexed hereto marked Schedule A, with one further amendment approved by the Council. On Page 5, B 4., the following was added:

"The term of office of any Council member shall be for a one-year period, subject to reappointment for additional one year terms."

In addition, an amendment was proposed by Councilman Frank Paul that would, in effect, require a majority of the entire Council to approve and pass any future Rules and Regulations of the Affordable Housing Agency. Said proposed amendment was rejected. Thereafter, a vote was taken on the Ordinance with the aforesaid adopted amendment and the Ordinance was defeated by a vote of three to two, our government requiring a majority of the entire six member Council voting affirmatively in order to pass an Ordinance.

8. Councilman Paul objects to and denies that he was the instigating force behind the amendments introduced on January 20, 1986; he further denies that he was primarily responsible for the compromised position arrived at subsequent to January 24, 1986, and emphatically denies that he voted against the Ordinance after obtaining the revisions he sought because he believed that "the Judge will order them into effect anyway".

9. On behalf of the majority of the Council that

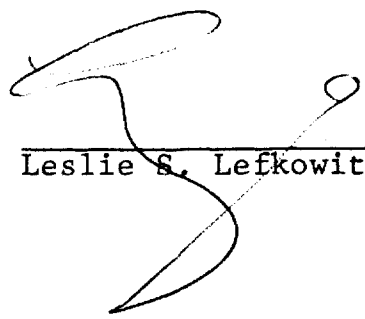
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voted for passage of the Ordinance, on February 3, 1986, annexed hereto marked Schedule A, I urge the Court to reject Mr. Neisser's proposed form of Order and the amendments that he seeks to the negotiated and agreed upon Ordinance, revised as of January 29, 1986.

10. The Township and the other parties to this litigation have worked diligently, arduously and in good faith in order to develop an agreement which was, under the circumstances, palatable to not only the parties but to the citizens of the Township of North Brunswick, as well as the Court and its Planner, Carla Lerman. Although the Ordinance in question was not passed because of the necessity of four affirmative votes, I would respectfully request the Court to consider the fact that (a majority of the Council able to vote did seek passage.)

11. The Township of North Brunswick has, throughout the course of this entire proceeding, acted in good faith. While other municipalities have sought delays in meeting their Mt. Laurel obligations, the Township has recognized the need for affordable housing and has arduously negotiated not only a settlement which has been memorialized by an entry of a Consent Order but also has adopted a comprehensive land use plan effectuating the aforesaid Consent Order and has attempted to enact an Affordable Housing Ordinance. I would add parenthetically that at the meeting of February 3, 1986, a motion seeking a stay of this matter and a transference to the Affordable Housing Council was voted down. In light of the

aforesaid position that the Township has taken, it would be unduly harsh to impose the relief and penalties Mr. Neisser is seeking. If the Court is inclined to impose an Ordinance on the Township, I respectfully request on behalf of a majority of the members of the Council able to vote on this matter that that Ordinance be the Ordinance that failed to carry by a vote of three to two on February 3, 1986.



Leslie S. Lefkowitz

Subscribed and Sworn to
before me this 21st day
of February, 1986.



SUSAN L. MARTIN
A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires August 31, 1987