

a affidavit of Alan Malkch in support
of IT's motion to restrain final approval
of 2400-unit age-restricted Concordia
extension

P 4

CA002632V

RECEIVED

JUL 27 1984

JUDGE SCIENTIFICI'S CHAMBERS

ERIC NEISSER, ESQ.
JOHN M. PAYNE, ESQ.
BARBARA J. WILLIAMS, ESQ.
Constitutional Litigation Clinic
Rutgers Law School
15 Washington Street- Room 338
Newark, N.J. 07102
Attorneys for Urban League Plaintiffs
on behalf of the ACLU of New Jersey

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-
MIDDLESEX COUNTY

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

No. C 4122-73

AFFIDAVIT

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

ALAN MALLACH, being duly sworn, deposes and says:

1. I am a member of the American Institute of Certified Planners and a housing development consultant for the Urban League plaintiffs. I submit this affidavit in support of plaintiffs' motion to restrain final approval of the 2400-unit age-restricted Concordia extension in Monroe Township pending the Master's review and this Court's determination concerning the adequacy of Monroe's plan for compliance with this Court's Order and Judgment of August 13, 1984.

2. I am familiar with Monroe's Compliance Plan submitted to this Court on March 29, 1985, which is awaiting the Master's report. This Plan calls for, among other matters, approval of a Planned Retirement Community (PRC) on Balantrae's site for approximately 2044 age-restricted market units and 466 non-age-restricted lower income units and for approval of the Concordia PRC extension with a 5% set-aside intended to yield another 100 lower income units. I have been informed that on May 23, 1985, the Monroe Township Planning Board discussed and then voted to recommend to the Township Council site development plan approval for the Concordia extension with 2400 age-restricted units but no lower income set-aside and at its June 27, 1985 meeting, adopted a resolution to that effect. I have reviewed the Minutes of the May 23, 1985 Planning Board meeting and the 4-page Resolution of Memorialization which are attached to Ms. Williams' Affidavit. I have also been informed that on July 1, 1985 the Monroe Township Council voted to approve that project and that adoption of a resolution of approval is set for the Council meeting on August 5, 1985.

3. Approval of the Concordia extension without a set-aside for lower income units would have two effects upon the Township's compliance plan. First, it would necessarily eliminate at least 100 units of the Township's 774 obligation. Indeed, at 5% of 2400 units, it would mean an actual loss of at least 120 units.

4. Second, it has the potential for undermining the realistic opportunity for development of the 466 units tied to the Balantrae PRC. If the Concordia extension and Balantrae PRC are directly competitive, approval of the former without any set-aside would undermine the economic viability of the latter, with an 18.5% set-aside.

5. Whether the two projects are directly competitive depends on a number of factors, of which the set-aside for lower income units is only one significant factor. Other major factors include the cost of the land, the cost of the infrastructure, the cost of the internal amenities required by the Township or proposed by the developer, the cost of required off-tract improvements, the strength of the market demand for these units, and the profit margin. I do not at this time have sufficient information about these other factors to be able to give an opinion as to whether these two projects are directly competitive and thus whether approval of the Concordia extension would undermine the viability of the 466-unit portion of the Monroe compliance plan tied to the Balantrae development. However, the general descriptions of the two Planned Retirement Communities and the requirements of Monroe's zoning ordinances in regard to such projects create a significant possibility that the two projects would be directly competitive in the same housing market and thus that approval of Concordia extension would undermine the realistic opportunity for development of 466 of the 774 units comprising Monroe's fair share. I am confident, however, that the brief delay necessary

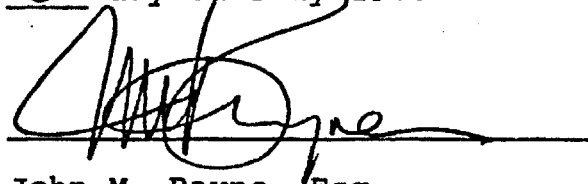
for the Master and this Court to reach a firm conclusion as to whether these two projects are directly competitive would not undermine the economic viability of the Concordia extension as recommended by the Planning Board.



ALAN MALLACH

Sworn to before me this

18th day of July 1985



John M. Payne, Esq.

Attorney at Law, State of New Jersey