

Affidavit of Stephen E. Barcan, Esq. -
in support of Plaintiff - Intervenor
Harris Steel's Motion to Intervene
⊕ cover letter

pgs = 9

CA002663V

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August 13, 1985

Frank A. Santoro, Esquire
 1500 Park Avenue
 Box 272
 South Plainfield, New Jersey 07080

Re: Urban League v. Carteret (South Plainfield)

Dear Frank:

I am aware that South Plainfield has adopted a rezoning ordinance under protest and you are scheduled to appear before Judge Serpentelli on August 23, 1985 on the motion to transfer the case to the Affordable Housing Council. I am enclosing another copy of our March 11 memo which was discussed when we appeared before the Council at or about that time. Please note our position that only 30 acres are buildable because of various site constraints, including the presence of the industrial plant. This would mean that at a gross density of 12 units per acre 360 total dwelling units will be provided and 72 low and moderate units. We would proposed to subsidize these with industrial development as you are aware. Perhaps this information could be used by you at the August 23 hearing.

Should your request for transfer be denied by the Court, we intend to intervene in the proceedings and to present these views ourselves. However, we are enlisting your cooperation in advancing to the Court the position

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that the low and moderate income units can and should be subsidized by nonresidential uses and that the Judgement should be amended accordingly.

Yours very truly,

STEPHEN E. BARCAN

SEB:ls
cc: Mr. William Barraco
Mr. William Keyes
Mr. Robert Gray

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JUDGE ROBERT M. CHAMBERS

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Harris Structural Steel Company, Inc.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY
DOCKET NO. C-4122-73

-----X
URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al.,

Plaintiffs,

vs.

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

Defendants,

vs.

HARRIS STRUCTURAL STEEL
COMPANY, INC., a New Jersey
corporation,

Plaintiff-Intervenor
-----X

Civil Action

AFFIDAVIT OF
STEPHEN E. BARCAN, ESQ.,
IN SUPPORT OF PLAINTIFF-
INTERVENOR'S MOTION TO
INTERVENE

Judgment is attached hereto as Exhibit "A". The Judgment is attached hereto as Exhibit "A".

5. The Borough of South Plainfield held public meetings to discuss and decide the appropriate revisions to its Zoning Ordinance. While this firm participated in one such meeting it was obvious that the Council had no discretion to discuss Harris' suggestions as it was obliged to implement the Judgment.

6. Harris' suggestions to the Borough contemplated that Harris be permitted to build light industrial facilities, e.g., office buildings, on its property to subsidize the lower income housing. Harris had hired a professional planner for assistance in its dealings with the Borough and the Consultant rendered a report dated March 11, 1985 indicating that Harris' property was not completely suited for residential development and that the highest and best use of the property was as a light industrial use. This report was submitted to the South Plainfield Borough Council at the March 11 meeting and is attached hereto as Exhibit "B". A newspaper article describing the meeting is annexed as Exhibit "C".

7. As stated above, my office appeared for Harris before the Borough Council of South Plainfield on March 11, 1985 in an attempt to influence the Council in what any amendment to the Zoning Ordinance should include. Council for Harris tried to

persuade the Council to permit Harris to build light industrial/office facilities on its property. See Exhibit "C".

8. On April 10, 1985, Harris' professional consultant again submitted a report to the Borough of South Plainfield suggesting possible provisions to be included in an amendment to the Zoning Ordinance. See report annexed as Exhibit "D".

9. Harris' consultant met with the South Plainfield planner on May 14, 1985 and options for meeting the Borough's Mount Laurel obligations while permitting light industrial/office facilities on the Harris property were discussed. See file memo annexed as Exhibit "E".

10. I and other attorneys in this firm conversed and corresponded with the Borough attorney in an attempt to secure an amendment to the Zoning Ordinance permitting Harris to construct light industrial/office facilities on its property. See letter to Frank Santino, Esq., annexed as Exhibit "F".

11. While Harris participated in the process of amending the South Plainfield Zoning Ordinance, the Borough was ultimately obliged to adopt the rezoning provisions contained in Judge Serpentelli's order. Thus, Harris has been precluded from being effectively heard by the Borough.

12. The property in question has been owned by Harris since the early 1900's. Harris had advised me that its intention has been to construct office buildings on a portion of the property to be used in conjunction with Harris' steel plant adjacent

to the property. Prior to the rezoning, the property was located in an Industrial Zone and is presently surrounded by industrial uses.

13. A stream transverses the property raising environmental concerns in any proposed construction plan. I am advised by Harris' professional planning consultant - John Rohenkamp and Associates. Wetlands, flood plains, vegetation and soil conditions, including the environment controls applicable to such areas, make full development of all the property impossible. We are also advised that the amount of unbuildable lands is about one-half the site; the precise amount of acreage so affected would have to await field investigation of soil and vegetation types and them survey.

14. Harris has instructed this firm to attempt to obtain a rezoning of the subject property permitting the construction of light industrial facilities thereon. At the same time, Harris accepts the fact that a lower income housing obligation has been imposed, and Harris makes the following suggestions which would satisfy the Borough's lower income housing obligation and Harris' claims:

(a) Allow the construction of light industrial/office facilities on the Harris site together with lower income housing, making appropriate reductions in numbers reflecting density based on the area of buildable property available for such housing; or

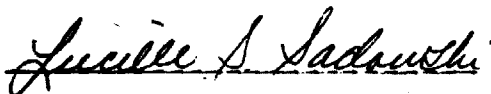
(b) Allowing the construction of lower income housing off-site through Harris' contribution for rehabilitation of sub-standard housing, contributions to the local Housing Authority, and/or contributions to another lower income housing project.

15. For all of the above reasons, I respectfully request that this Court permit Harris to intervene in this matter, and declare the revised Zoning Ordinance of the Borough of South Plainfield invalid insofar as it limits the use of the subject property exclusively to multi-family residential development or, in the alternative, amend the Judgment and the Zoning Ordinance to permit the construction of light industrial facilities on the subject property together with lower income housing there or elsewhere but at a reduced density. The non-residential user would subsidize the lower income housing.



STEPHEN E. BARCAN

Sworn and subscribed to
before me this 24th
day of OCTOBER, 1985.



LUCILLE S. SADOWSKI
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Nov. 6, 1986

