

Plainsboro 1985

Consent Order

Attch: letters from Lerman to Judge
cover letter to judge

pgs. 30

~~file & place in folder~~

ML0002990

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 Rutgers Law School
 15 Washington Street
 Newark, New Jersey 07102
 [201] 648-5687
 On behalf of the American
 Civil Liberties Union

ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION-MIDDLESEX COUNTY
 (OCEAN COUNTY)

URBAN LEAGUE OF GREATER]	
NEW BRUNSWICK, et al.,]	
]	Docket No. C-4122-73
Plaintiffs,]	
]	Civil Action
vs.]	
]	CONSENT ORDER RE:
THE MAYOR AND COUNCIL OF]	PLAINSBORO TOWNSHIP
THE BOROUGH OF CARTERET,]	
et al.,]	
]	
Defendants.]	

This matter having been remanded for trial by the Supreme Court on the issues of fair share allocation of the regional need for low and moderate income housing and whether Plainsboro Township has complied with the mandate to satisfy its fair share allocation by providing a realistic opportunity for the development of such housing, and

The parties, by their attorneys, having signed a proposed Consent Order on May 22, 1984, which Order has not been formally approved by the Court, and

The agreement embodied in the said May 22, 1984, proposed

Consent Order having proven impractical to implement in some of its elements, and

The Court, on March 29, 1985, having appointed Carla Lerman as Master to assist the parties in revising the agreement between them, and

The parties, by their attorneys, having signed a further agreement embodied in the following proposed Consent Order, which the Court has reviewed:

NOW, THEREFORE, it is this ____ day of _____, 1985,
ORDERED AND ADJUDGED:

1. Non-compliance and fair share.

a. As of May 22, 1984, the land use ordinances of the Township of Plainsboro failed to provided a realistic opportunity for the construction of the Township's fair share of the regional need for low and moderate income housing, in violation of the New Jersey Constitution.

b. Plainsboro Township's constitutional obligation to provide its fair share of low and moderate income housing need through 1990 is 575 units.

2. Summary of remedial steps. Subject to the provisions

of paragraph 7 below, the Township's fair share shall be met as follows:

a. 413 units of newly-constructed rental units adjacent to the existing Princeton Meadows development, of which 125 shall be available solely to low income senior citizen households, and 288 shall be available to moderate income households. "Senior citizen households" shall be those in which at least one family member is age 65 or older.

35 acres to be rezoned

by Lingo or a non profit

b. 40 newly-constructed low income sales units within the Princeton Meadows development.

Lingo + g density incr. compensate

c. 60 low income and 60 moderate income rental units to be subsidized as provided in paragraph 6 below.

by Hsg. Trust Fund

d. 2 units credited because of rehabilitation since 1980 of substandard housing within Plainsboro Township occupied by low and moderate income households.

The number of units provided for in paragraph 2(a) above may be modified in accordance with the provisions of paragraph 4(e) below without further consultation between the parties.

3. Forthwith, but no later than May 1, 1985, The Township of Plainsboro shall certify to the Court and the attorneys for the Civic League of Greater New Brunswick that a duly adopted affordable housing ordinance is in force in Plainsboro Township. The text of this ordinance is appended hereto as Appendix A.

4. Princeton Meadows Rental Housing.

a. Forthwith, but no later than August 1, 1985, the Township shall rezone the tract of 35 acres (plus or minus one acre) located north of Plainsboro Road and west of the Public Service easement, identified as part of Lot 12, Block 10 on the Plainsboro Township Tax and Assessment Map, to permit construction of 413 units of low and moderate income housing on a rental basis, of which 125 units shall be available to low income senior citizen households and 288 units shall be available to moderate income non-senior citizen households.

b. Forthwith, the Township shall enter negotiations with the Linpro Company and with any other appropriate entity (including, but not limited to, public or private entities capable of sponsoring non-profit housing development) with respect to the financing, construction and management of 413 units of low and moderate income housing, as part of the Princeton Meadows development, on the tract to be rezoned. In

connection therewith, the Township shall, if necessary, issue general obligation bonds, create a redevelopment authority, make a declaration of blight, agree to accept a reversion of title to the 413 units, arrange for sewer franchise access, and take such other reasonable and appropriate steps as shall facilitate production of the 413 housing units affordable to households of low and moderate income on a non-profit basis at the lowest feasible cost.

c. The agreement with the Linpro Company shall specify the following:

- * The general design of the development shall conform to the plans currently being used in either the "Aspen" or the "Raven's Crest" sections of Princeton Meadows;

- * The 125 units of senior citizen housing shall be physically distinct from the remaining 288 units in the development;

- * The site plan shall provide for appropriate recreational facilities, comparable to those provided elsewhere in Princeton Meadows, provided that the cost of such facilities need not exceed \$250,000;

- * The section of Princeton Meadows provided for in this paragraph shall bear a name and be identified by signs and have landscaping compatible with those used in other sections of Princeton Meadows.

d. The Township shall keep the Civic League of Greater New Brunswick apprised of the course of its negotiations with the Linpro Company and with any other agency, public or private, that may participate in the financing, construction, management and ownership of the 413 units specified herein, and the Civic League shall have the right to review and comment on any agreements proposed to be reached with the Linpro Company or other such entities.

e. Because the Linpro units as presently designed must be constructed in blocks of either eight or sixteen units, the number of senior citizen units may be increased to 128, but any such change shall not alter the obligation to provide at least 413 units overall. If the adjustment permitted by this subparagraph is made, Plainsboro Township shall not be deemed to have failed to meet its fair share obligation solely because of this change.

f. The fallback mechanisms of paragraph 7 shall be invoked if any one of the following events occur:

- * The Township shall have failed to reach agreement as specified in subparagraphs (c) and (d) above prior to August 1, 1985; or

- * The Linpro Company has not acquired an option to purchase the specified site from the present owners prior to

August 1, 1985; or

* Construction on the 413 units has not begun prior to August 1, 1986.

5. Princeton Meadows Sales Housing. The Township having represented that all necessary revisions have been completed and adopted, in accordance with the prior agreement with the Civic League, sufficient to permit construction of 40 units of housing affordable to low income households, on a purchase basis, on Lot 10, Block 7.01, in the Princeton Meadows development, the Township shall forthwith, but no later than May 1, 1985, certify to the Court and the attorneys for the Civic League of Greater New Brunswick that all such revisions are presently in force. If this certification is not made by May 1, 1985, or construction shall not have begun on these units by August 1, 1985, the fallback mechanisms of paragraph 7 shall be invoked.

6. Housing Trust Fund. Forthwith, but no later than August 1, 1985, the Township shall adopt an ordinance creating a Housing Trust Fund, in substantially the form set out and attached to this Consent Order as Appendix B.

a. As monies become available in the Housing Trust Fund, the income therefrom shall first be used to provide

rental housing subsidies to 120 households qualified under the Affordable Housing Ordinance in existing housing in Plainsboro Township, so that such housing is affordable within the standards established by the Affordable Housing Ordinance.

b. Individual housing subsidies pursuant to paragraph 6(a) shall be provided no later than the dates shown below. Low income households shall have priority within each deadline group.

<u>Date</u>	<u># of low- income households</u>	<u># of moderate income households</u>
7/1/86	15	15
7/1/87	30	30
1/1/88	45	45
7/1/88	60	60

[numbers are cumulative]

As adequate funds become available, individual household subsidies shall be provided in advance of the deadline dates. Thereafter, as new households replace prior households in the subsidy program, the number of low and moderate income households subsidized shall be divided as nearly equally as practicable.

If the number of subsidies provided in this Table has not been met or if any Court of competent jurisdiction shall declare this Housing Development Fee ordinance invalid under

state or federal law, the fallback mechanisms of paragraph 7 shall be invoked, provided, that where one of the deadlines specified in this subparagraph has been missed, the Master (if one be appointed) shall first report to the Court whether in his or her opinion the deficiency in the program can be made up in a reasonable period of time (such as by payments into the Fund that can be reasonably anticipated on the basis of pending development proposals), in which case the Master may in his or her discretion recommend an appropriate revision in the Table contained in this subparagraph.

c. The program of 120 subsidized units provided for in paragraph 6(a) above shall continue for at least thirty years from the date of the first subsidy payment, and the corpus of the Fund shall be maintained for a like period in an amount sufficient to maintain the program from the income of the Fund, provided, that contributions to the Housing Trust Fund shall be permitted, but not required as a part of this Consent Order, from any source other than the Development Fee Ordinance and provided further, that the Township may maintain the 120-unit subsidy program beyond thirty years if it chooses to do so.

d. If the income from the Housing Trust Fund is sufficient to permit subsidy payments in excess of the amounts

necessary to finance the 120 units specified in paragraph 6(a) above, such excess income may be used for any of the purposes specified in Section 6 of the Development Fee Ordinance attached hereto as Appendix B. In addition, the corpus of the Fund may be used to subsidize capital expenses associated with any of the purposes specified in section 6 of the Development Fee Ordinance, so long as reduction of the capital value of the Fund does not impair the income necessary to maintain the 120 subsidized units specified in subparagraphs (a) and (b) above.

e. The benefit of any further use of the Fund as specified in subparagraph (d) above shall be divided so that, as nearly as practicable, two low-income households shall be assisted for each moderate-income household assisted.

f. If, at any time prior to the expiration of the period of repose provided for in paragraph 10 below, the Township shall provide continuing affordable housing subsidies out of the Trust Fund in excess of the 120 units specified in paragraph 6(a) above, credit for such subsidies against the current or any future fair share obligation shall be governed by paragraph 8(b) below.

7. Fallback mechanisms. In the event that the undertakings covered by paragraphs (3), (4), (5), and (6)

above are not completed by the dates specified, this paragraph provides the required alternate mechanism for remedying the unmet portion of the Township's fair share obligation.

a. This paragraph shall be invoked by motion to the Court. Upon a finding that an undertaking covered by paragraphs (3), (4), (5), or (6) above has not been completed by the date specified, the Court shall immediately order alternate remedies as a means of achieving the unmet portion of the Township's fair share obligation. The Court shall in its discretion first refer the case to a Master for his or her recommendation, but in no event shall the issues of fair share number or of initial non-compliance be reopened in these proceedings.

b. Under appropriate circumstances, the Master shall first attempt to recommend a solution which preserves the remedial approaches set forth in this Order, but the Master shall not be required to do so. In particular, the Master is not bound to recommend senior citizen housing, or publicly assisted financing of new construction, or use of the Housing Trust Fund, if those approaches are unfeasible. The Master is specifically authorized to recommend appropriate rezoning of any additional land in Plainsboro Township with a 20% set-aside for low and moderate income housing, in his or her

discretion.

c. Should any of the mechanisms provided in this paragraph be invoked, the distribution of low and moderate income units within an alternate housing development shall be such that, as nearly as practicable, an overall proportion of fifty percent low income and fifty percent moderate income within Plainsboro's fair share is maintained.

8. Additional affordable housing.

a. Forthwith, but no later than May 1, 1985, the Township shall certify to the attorneys for the Civic League of Greater New Brunswick that there is in force in Plainsboro Township an ordinance requiring that in any residential development subsequently approved by the Township that permits a gross density of 4 or more units per acre, whether pursuant to a zoning amendment, conditional use, variance, or otherwise, 10% of all housing units in such development must be affordable to households of low income and 10% must be affordable to households of moderate income, as defined herein.

b. In addition to the compliance program established by paragraphs (3) through (7) above, the Township may provide

additional units of affordable housing by any means consistent with the provisions of this Consent Order. "Additional units" within the meaning of this paragraph shall include (without limitation) continuing subsidies financed by the Housing Trust Fund in excess of the 120 units of subsidy provided for in paragraph 6(a) above, or new construction with a low and moderate income set aside as provided in paragraph 8(a) above. It is the intention of the parties that any such additional units of housing, if found to be consistent with the provisions of this Order, should be favorably considered as a credit against the post-1990 fair share obligation of Plainsboro Township, within the limits of law, by any Court or administrative agency charged with making such determination.

9. Plainsboro Township shall report in writing to the Court and to the Civic League of Greater New Brunswick or its designee when each of the actions specified in this Consent Order has been taken. In addition, the Township shall report annually in writing to the Civic League or its designee, on July 1 of each year beginning July 1, 1985, the number of low and moderate income units being subsidized as specified in this Order, with such supporting information as shall permit monitoring of the Township's continuing compliance.

10. Provided that all actions required as of August 1,

1985, shall have been taken and certified as provided in paragraph 9 above, an Order of Compliance respecting Plainsboro Township shall be entered and shall be valid and binding for a period of six years retroactive to March 1, 1985, subject to any of the fallback mechanisms set forth in paragraph 7 above.

Eugene D. Serpentelli, J.S.C.

We hereby consent to the form, substance and entry of
this Consent Order.

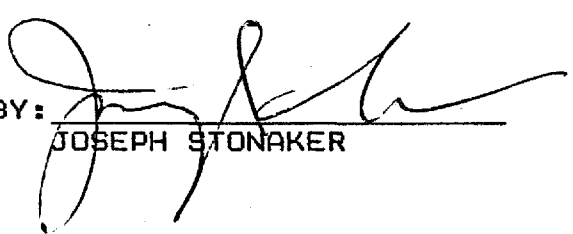
Stonaker and Stonaker

Constitutional Litigation
Clinic, Rutgers Law School

Attorneys for the
Township of Plainsboro


Attorneys for the Civic
League of Greater New
Brunswick

BY:



JOSEPH STONAKER

BY:



JOHN N. PAYNE
ERIC NEISSER
BARBARA J. WILLIAMS

DATE:

4-22-85

DATE:

4.18.85

SCHEDULE OF ACTION DATES

<u>Date</u>	<u>Action to be taken</u>
May 1, 1985	Certify adoption of Affordable Housing Ordinance
	Certify approval for 40 units of sales housing in Princeton Meadows
	Certify adoption of set aside ordinance covering any additional higher-density developments
July 1, 1985	First annual report to Court and Civic League
August 1, 1985	Rezone 35 acres for 413 units of housing
	Reach agreement with Linpro and others re: financing, construction and management of 413 units of housing
	Linpro to acquire option to purchase 35 acres
	Deadline to begin construction on 40 units of sales housing
	Housing Trust Fund ordinance in force
	Repose granted retroactive to March 1, 1985 if all conditions to date have been met
July 1, 1986	Deadline for implementing first subsidies out of the Housing Trust Fund (see additional deadlines in paragraph 6(b))
August 1, 1986	Deadline to begin construction on 413 units

ORDINANCE ESTABLISHING AFFORDABLE HOUSING
REQUIREMENTS, STANDARDS, AND MONITORING OF SAME

BE IT ORDAINED, By the Township of Plainsboro as follows:

Section 1 - Definitions:

"Income Ceiling" means 80% of the regional median income for moderate income; and 50% of the median regional income for low income.

"Agency" means the Affordable Housing Agency of Plainsboro Township as created by this ordinance.

"Regional Median Income" means the published (by HUD or other federal agency) average median income for the eleven counties including: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Union, Sussex, Warren. For ease of calculation, "Regional Median Income" may be figured as 94% of the PMSA in which Plainsboro is located.

"Gross Aggregate Family Income" means the total annual income from all sources of all members of the household, as determined in accordance with the rules and regulations promulgated by the Agency. In determining amounts to be excluded from income the Agency may, at its discretion, consider the number of minor children in the household and such other factors as the Agency may deem appropriate, consistent with State and Federal Guidelines.

"Low and Moderate Priced Dwelling Units" means the dwelling units approved or constructed pursuant to the Township ordinances to provide housing for families of low or moderate income as defined in this ordinance.

"Low and Moderate Income Family" means a family whose gross aggregate family income does not exceed the limits established in this ordinance.

"Utilities" means those utilities that are essential to the safe and sanitary operation of a household and shall include water, sewer, electric, and heat. Utilities for the purpose of this ordinance shall specifically not include cable television or telephone.

Section 2 - Establishment, Powers and Duties of Affordable Housing Agency:

2.1 Establishment - There is hereby established an Affordable Housing Agency of the Township of Plainsboro. The Agency shall consist of the number of staff persons determined by the Township Administrator and approved by the Township Committee as needed to fulfill the requirements of this ordinance and as provided for in the annual budget. The Agency shall report to the Township Administrator and shall be located within the Department felt to be appropriate by the Administrator. The Agency shall work with the Plainsboro Township Housing Advisory Committee to meet mutual goals and to request assistance and feedback. The Agency shall report to the Township Committee through the Township Administrator.

2.2 Duties - The Agency shall:

a) create the rules and regulations needed to implement the policies and goals of this ordinance, specifically: to retain low and moderately priced housing, as such, once constructed; and to restrict the initial sale and rental and the resale, re-rental, and/or occupancy of such units to families of low and moderate income.

develop rules & regs for rent subsidization program in existing rental units

Coordinate use of local vouchers or other state & fed subsidy program

b) monitor the continued existence of low and moderately priced dwelling units as such by: reviewing the qualification of prospective purchasers and tenants to confirm that they are families of low or moderate income; determining the maximum resale and rent levels of the low and moderately priced dwelling units to assure that the units remain affordable to families of low or moderate income; and requiring that a covenant be recorded with each deed restricting the resale to families of low or moderate income, as appropriate.

c) provide annual reports of all activity to the Township, Courts, Litigants and others as required.

d) provide for and implement an Affirmative Marketing Program for all housing covered by this ordinance.

2.3 Guidelines - The following guidelines set the methodology of determining the specific definitions of low and moderate income families, low and moderately priced dwelling units, housing size for household size, and other conditions and restrictions of this ordinance. The income and costs shall be reviewed by the Agency annually and updated if new information is available. The source of data shall be readily available published Federal data from the United States Department of Housing and Urban Development or successor agency.

2.3 a Low and Moderate Income - Prospective purchasers or renters of low or moderately priced dwelling units must be qualified prior to purchase or rental as a family of low or moderate income.

A low income family is a family with income less than 50% of regional median income with adjustments for family size. When a State or Federal subsidy and/or guarantee program to assist low or moderate income families is involved, the income levels established for that program shall prevail provided that said income levels shall not exceed the greater of the PM or the regional median income levels.

A moderate income family is a family with income less than 80% of regional median income with adjustments for family size. Where a State or Federal subsidy and/or guarantee program to assist low or moderate income families is involved, the income levels established for that program shall prevail. Provided that said income levels shall not exceed the greater of the PMSA or the regional median income levels

The median regional income level shall be determined by taking the arithmetic average of the median incomes for the eleven county region according to the latest published data.

2.3b Affordable Sales Price - The Affordable Sales Price shall be determined such that the sum of the monthly payments for principal, interest, property taxes, theft and liability insurance, and homeowner association fees does not exceed 28% of 90% of the maximum income for low income or moderate income families. The following assumptions shall be made:

A ten percent down payment requirement and a thirty year mortgage

term shall be assumed in making this calculation.

In calculating the monthly interest payment, the interest rate provided by the developer as being available to the subject development for low/moderate income units shall be utilized. If the developer or any other entity offers to buy down the prevailing rate of interest for a minimum of three years commencing at the time of purchase, and the terms of the buy down provide that the increase in interest rate charged does not exceed one half of one percent (0.5%) per year during the period of the buy down, the interest rate for the first year of the buy down period shall be used in the calculation above to determine affordability. If the increase in the interest rate exceeds one half of one percent (0.5%) per year, the average interest rate for the period of the buy down shall be used.

If the developer proposes that an adjustable rate mortgage (ARM) be used to calculate the monthly interest rate payment, the initial interest rate of that mortgage shall be used only if the maximum annual average increase does not exceed one-half of one percent (0.5%). Otherwise, a rate which is the average of the initial interest rate and the highest possible rate in effect after three years shall be used.

2.3c Prior to final approval of any development subject to these provisions, the Affordable Housing Agency shall determine the maximum sales prices by unit size for the low and moderate income units in the development and shall so notify the developer. These prices shall remain in effect for a period of one year or until all of the low and moderate income units have been sold, whichever occurs first. The developer may request a modification of the maximum sales prices at any time by applying to the Affordable Housing Agency for recalculation of these prices based on changes in any of the factors used to calculate these prices.

2.3d Prior to the resale of any low or moderate income unit, the Affordable Housing Agency shall determine the maximum sales price for that

unit in accordance with a formula developed by the Agency which takes into account increases in a generally accepted price or income index, reasonable improvements to the property as determined by the Agency, reasonable out-of-pocket costs of the sale as determined by the Agency, and which, to the extent feasible, ensures that the sales price will be consistent with the affordability standards set forth in subsections above.

2.3e Affordable Rental Price - The Affordable Rental Price shall be determined such that the sum of the monthly rental payment, including utilities but exclusive of any recreational fees, does not exceed 33% of 90% of the low income or moderate income ceiling.

If the cost of all utilities, including heat, hot water, cooking fuel, and electricity, is not included in the monthly rental charge, an estimated monthly charge for those utilities not included in the rent shall be calculated for each unit size. This estimated charge shall be subtracted from the maximum gross rent to determine the maximum rental charge that may be imposed for each low and moderate income unit.

2.3f Once the maximum rental charges have been determined for a development subject to the provisions of this Section, such charges shall not be increased without the prior written approval of the Affordable Housing Agency. The Agency shall establish appropriate criteria and procedures for allowing periodic rental charge increases consistent with the affordability standards set forth in subsections above. No more than one rental charge increase shall be allowed for any unit or group of units within any twelve (12) month period.

2.3g Household Size Related to Family Size - To determine sales or rent levels affordable to different sized families, it is assumed that the following family size would occupy the following sized dwelling:

<u>Dwelling Size</u>	<u>Family Size</u>
Efficiency	1 Person
One Bedroom	2 Persons
Two Bedroom	3.5 Persons
Three Bedroom	4.5 Persons
Four Bedroom	5 Persons

2.3h Expiration of Restriction - Restrictions placed on re-sale or re-rental of housing units whether through agreement, deed restriction or covenant, or other means, shall expire upon the completion of 30 years from the date of the initial restriction.

Exceptions to these restrictions may be provided for in the case of foreclosure and resale by the tenant after foreclosure, and also to conform to the control period fixed by any State or Federal subsidy and/or guarantees program used to provide the low or moderate income housing.

2.3i Appeals - Appeals from the rulings or determination of the Affordable Housing Agency shall be to the Township Committee.

2.4 Requirement to File for Determination - All housing which is constructed or used to fulfill the Township's low and moderate income housing need pursuant to the stipulation of settlement with the Urban League dated or subsequent action of the Township Committee, shall be required to continue to meet the affordability requirements at the time rented or sold or re-rented or resold initially designated for those units for a period of 30 years. In order to ensure that this requirement is met on an initial and on-going basis, prospective owners and/or renters shall be pre-qualified by the Agency and a certificate as to their qualifications shall be issued. Renters must be requalified at least every three years. In the event that the renter's income exceeds the applicable low/moderate income standards, the renters' shall pay 30% of their annual income for rent up to the market rent. Notification of this requirement to the potential purchaser or renter shall be the obligation of the seller or landlord.

2.5 Affirmative Housing Marketing Plan - The Agency will develop and implement an Affirmative Housing Marketing Plan for dwellings covered by this ordinance. At a minimum the availability of housing for low/moderate income families shall be made known to a variety of public and private housing agencies and shall be advertised in appropriate ways throughout the eleven county region. All advertisements shall conform with applicable Affirmative

Action, Equal Opportunity, and non-discrimination laws of the State and Federal government.

2.6 Twenty Percent Set Aside - In the event that any new housing is approved in the Township at a gross density of more than four (4) dwellings per acre then ten percent of all such dwellings constructed will be made affordable to low income households and ten percent of all such dwellings shall be made affordable to modern income households. In the event of such construction, all requirements of this ordinance shall be met.

New housing, for purposes of this ordinance, does not include any housing which has at the time of adoption, conceptual, preliminary, or final approval. New housing will also not include any housing that is built to meet the requirements of the Urban League stipulation of settlement.

Ordinance No. 80-84-19
Introduced 10-8-84
Published 10-18-84
Hearing Nov. 12, 1984
Adopted 11-12-84
Published 11-22-84

Township of Plainsboro
County of Middlesex

PROPOSED ORDINANCE ESTABLISHING
DEVELOPMENT FEES FOR FUNDING
PLAINSBORO TOWNSHIP'S
MT. LAUREL II HOUSING NEEDS

WHEREAS, in order to provide the necessary funds to finance and administer Plainsboro Township's Mt. Laurel II housing compliance program, the following development fees are to be paid by applicants for development in Plainsboro after the effective date of this Ordinance;

THEREFORE BE IT ORDAINED by the Township Committee of the Township of Plainsboro:

Section 1. All Applicants for general, corporate, administrative and professional office, retail, commercial, personal service computer centers, publishing houses and commercial printing plants, product development laboratories, research laboratories, limited manufacturing and industrial uses securing after the effective date of this ordinance, final or preliminary subdivision or site plan approval, or a building permit for development in all zones shall pay a development fee to the Township of \$.50 for each gross square foot of each structure for use of programs to implement Plainsboro Township's Mount Laurel compliance.

Section 2. Exemptions. No public agency, hospital, educational institution, eleemosynary, charitable and philanthropic institutions, places of worship, facilities for social and civic clubs and organizations, public buildings,

schools, agricultural uses and other community facilities shall be obligated to pay any development fee contemplated herein.

Section 3. The development fee shall be payable according to the following schedule:

-- 25% upon receipt of final site plan approval, if final site plan approval has not been obtained as of the effective date of this ordinance;

-- 25% upon receipt of a building permit, or 50%, if final site plan approval has been obtained as of the effective date of this ordinance;

-- 50% upon receipt of a certificate of occupancy or the first certificate of occupancy in any structure, or full real estate tax assessment whichever occurs first.

Section 4. Place of Contribution. All development fees required hereinunder shall be payable to the appropriate Township official or officials issuing or signing the preliminary, final subdivision or site plan approval, building permit or certificate of occupancy.

Section 5. No preliminary, final subdivision or site plan approval, building permit or certificate of occupancy shall be issued for any development covered by this ordinance until receipt of the development fee has been certified by the appropriate municipal officer.

Section 6. The Affordable Housing Agency shall utilize

said development fees for the purpose of financing and administering Plainsboro Township's Mt. Laurel II Compliance program to provide low and moderate income units through rental subsidy, construction, renovation, purchase or whatever other techniques in the opinion of the Affordable Housing Agency and the Township Committee are appropriate to provide affordable housing to meet Plainsboro Township's Mt. Laurel II obligation. The Affordable Housing Agency may provide the services set forth herein on a contractual basis.

Section 7. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

Section 8. Immediately upon adoption of this Ordinance, the Municipal Clerk shall file a copy of this Ordinance with the Middlesex County Planning Board as required by law.

Section 9. This ordinance shall become effective upon adoption after publication thereof in accordance with law.

CARLA L. LERMAN
413 W. ENGLEWOOD AVENUE
TEANECK, NEW JERSEY 07666

June 7, 1985

Hon. Eugene D. Serpentelli, A.J.S.C.
Ocean County Court House
CN. 2191
Toms River, N. J. 08754

Dear Judge Serpentelli:

I have reviewed the draft consent order for Plainsboro Township in the case of the Urban League of Greater New Brunswick v. Carteret et al. The fair share number of 575 low and moderate income units to be provided in Plainsboro through 1990 is acceptable.

The compliance proposals appear to be highly satisfactory.

1. The area proposed for all new construction of low and moderate income housing is presently an area of higher density development which will not be negatively impacted by additional development.
2. The proposal provides for 533 of the 575 low and moderate income units to be rental units, with 35% of those to be for low income households and 65% for moderate income households. The growing need for rental housing for the "Mount Laurel households" has been expressed repeatedly during the development of compliance packages over the past year.
3. The development of a Housing Trust Fund for use as subsidy in existing rental units is a valuable demonstration of the potential for subsidization, absent a significant federal involvement. As Plainsboro has a considerable rental housing stock and has experienced substantial housing growth in the past decade, this is a particularly relevant and useful component of the plan for meeting the low and moderate housing need.

I would offer one suggestion to facilitate the portion of the compliance proposal that relates to subsidizing rental housing. It is anticipated that over the course of the next decade a federal program of rent

Honorable Eugene D. Serpentelli

June 7, 1985

subsidy will be in effect, referred to as "housing vouchers" (replacing Section 8). These vouchers provide for a flat monthly payment to subsidize rent, not based on the percentage of actual rent. Although it is not known how much money will be available for these vouchers, either nationally or in New Jersey, the Affordable Housing Agency might be given the responsibility of either applying to administer a voucher program for Plainsboro or coordinating rent subsidy efforts with the Department of Community Affairs Rental Assistance Program which administers vouchers on a statewide basis. The funds available in the Housing Trust Fund might be leveraged by supplementing the voucher program, particularly for the low income households. This might be especially valuable if the Housing Trust Fund does not produce the anticipated revenues.

Overall I am of the opinion that this proposal for meeting Plainsboro's low and moderate income housing needs is very responsible and creative, and should provide a valuable example for other municipalities.

Sincerely,



Carla L. Lerman, P. P.

CARLA L. LERMAN
413 W. ENGLEWOOD AVENUE
TEANECK, NEW JERSEY 07666

cc
copy

July 8 1985

Hon. Eugene D. Serpentelli, A.J.S.C.
Superior Court of New Jersey
Ocean County Court House
CN 2191
Toms River, N.J. 08754

Dear Judge Serpentelli,

The proposed consent order for Plainsboro, in Urban League of Greater New Brunswick v. Carter et al, included provisions for rental units for low and moderate income households. The suggested division between low and moderate is 39 percent low income and 61 percent moderate income. Although this is not the 50 percent low and 50 percent moderate division suggested by the Court, it represents a distribution between rental and sales units that is particularly advantageous to lower income households - of the 575 lower income housing units to be provided, 93 percent will be rental units.

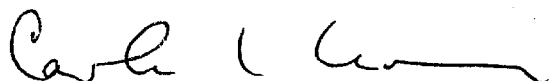
Although the Court in Mount Laurel II did not specifically address the issue of rental versus sales as a means of meeting the Fair Share, two realities have become clear since that decision. One is that the overwhelming majority of developers do not wish to build rental housing, particularly not for low and moderate income households. The second reality is that even with subsidized sales prices for low income purchasers, it is extremely difficult for those purchasers to accumulate savings for the down payment, meet all closing costs, and still convince a lender that they will not default and that they will maintain the house, even though they have minimal disposable income. The obvious solution, and indeed the pattern that has existed throughout the past, is to provide affordable rental housing for low income households, perhaps providing the opportunity for some savings to make purchase possible at a later date, if purchase is desired.

If more low and moderate income rental housing can be stimulated through the incentive of a slight imbalance from low to moderate, which requires less internal subsidy by the developers, it seems that it would be well worth it, and might provide a model to be copied by other developers in the state.

In evaluating Plainsboro's compliance program, the provision of 93 percent of their low and moderate income housing as rental units weighed heavily, and, I believe, fully justifies the imbalance of 39 percent low income and 61 percent moderate income housing units.

I hope this clarifies my position on this issue. Please let me know if I can be of any further help in this matter.

Sincerely,

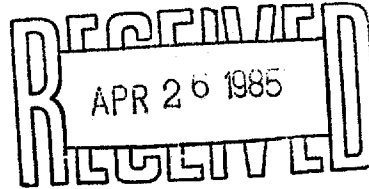


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April 25, 1985

Honorable Eugene D. Serpentelli
Superior Court of New Jersey
Chancery Division
Ocean County Court House
CN 2191
Toms River, NJ 09754

Re: Urban League of Greater New Brunswick, et al.,
v. Borough of Carteret (Plainsboro)
Docket No. C-4122-73

Dear Judge Serpentelli:

I am enclosing for filing an original and copy of the Consent Order regarding the above-captioned matter. On April 22, 1985 the Township of Committee authorized me to sign and submit the order on behalf of the Township of Plainsboro. A copy of this order has been sent to Carla Lerman for her review.

Respectfully,


Joseph L. Stonaker

JLS/amr
enc. (2)
cc: John M. Payne, Esquire