

South Plainfield 1985 (November 7th - or 2nd Doc.)

- Plaintiff's Brief on South Plainfield Compliance, in opposition to Harris Structural Steel's Motion to Intervene and in response to Massaro et. Al.'s Motion to Intervene and lift Restraints
- Affidavit of Eric Neisser
Attn: Exhibits of Affidavit of Eric Neisser

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN 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

(South Plainfield)

URBAN LEAGUE PLAINTIFFS' BRIEF ON
SOUTH PLAINFIELD COMPLIANCE,
IN OPPOSITION TO HARRIS STRUCTURAL STEEL'S
MOTION TO INTERVENE
AND
IN RESPONSE TO MASSARO ET AL.'S
MOTION TO INTERVENE AND LIFT RESTRAINTS

FACTS

The Court is fully familiar with the key facts concerning South Plainfield's compliance efforts, most of which were set forth in the Affidavit of Barbara Williams of October 26, 1984, the Affidavit of Eric Neisser of June 21, 1985, the Affidavit of Barbara Williams of June 21, 1985, the Affidavit of Barbara Williams of July 30, 1985, the Affidavit of Eric Neisser of August 28, 1985, and the Certification of Lawrence Massaro of August 27, 1985, which were filed with this Court in connection with the plaintiffs' various motions for restraints and in opposition to the Borough's recent transfer motion. The Affidavit of Eric Neisser of November 7, 1985 and the Affidavit of Alan Mallach of November 5, 1985, submitted with this brief, contain the remaining necessary facts.

In summary, the Borough and plaintiffs voluntarily signed a Stipulation with all relevant facts on May 10, 1984. This Court entered Judgment on May 22, 1984 which required rezoning and all other steps for compliance to be completed by October 4, 1984. By letter-report dated May 30, 1984, Carla Lerman, the Court-appointed expert gave her opinion that the Stipulation, including the designated sites, was reasonable. By Order entered December 13, 1984, this Court consolidated this action with the Elderlodge action and directed compliance by January 31, 1985. By Order entered July 3, 1985, and modified on July 19, this Court ordered compliance by July 30, 1985 and restrained issuance of

any building permits and sale of any Borough-owned land. On July 18, the Borough filed its transfer motion. On August 7, 1985, the Borough adopted Ordinances 1009 and 1010. On August 9, 1985, this Court stayed the effectiveness of those ordinances pending determination of the transfer motion, continued the restraints on building permits only as to sites within the Judgment, and continued the restraints on all Borough land sales. By Order entered October 11, 1985, this Court denied the transfer motion, vacated the stay on the effectiveness of the ordinances, but continued the stays on certain building permits and all Borough land sales from the August 9 Order. Details as to particular sites will be mentioned in the course of the argument below.

ARGUMENT

In summary, the Urban League plaintiffs submit that the Borough of South Plainfield is almost in compliance with this Court's Judgment of May 22, 1984 but that because of the uncertainty as to several crucial parts of the compliance plan, this Court should either defer or condition a Judgment of Compliance on satisfaction of several specific conditions. Briefly these include:

- a) a firm timetable for Borough application for funding for the Morris Avenue senior citizen site, with specific fall-back provisions should the timetable not be met;
- b) placing of funds from the sale of Borough lands within the Judgment into escrow for use in subsidizing the senior citizen project;

c) slight modification of the permissible density of the Pomponio Avenue site to compensate for the units lost on that site through the Borough's sale of land and approval of inconsistent development during the 10 months of Borough refusal to rezone in accordance with the Stipulation and Judgment;

d) amendment of the zoning ordinance to specify the block and lot numbers of lands within the new zones, to prevent any ambiguity arising from the zoning map and any possibility of a repetition of the inconsistent Planning Board approvals earlier this year; and

e) Borough adoption of the resolution regarding subsidy fund applications required by Paragraph 6 of the Judgment.

In addition, we submit that the Borough's repose, whenever granted, should date from October 4, 1984, the date when the Borough was to have complied with the Judgment, rather than any subsequent date, because the Borough should not be allowed to extend its repose through intentional violations of a Court Judgment and other Court orders.

Finally, we oppose Harris Structural Steel's motion to intervene and any modification of Paragraph 3(A) of the Judgment or the zoning ordinance with respect to this site because now, as then, the site is clearly suitable for residential development at the specified density. We oppose the motion of Massaro, et al. to intervene, but do not object to vacation of the restraints on closing title on any Borough land sales for which bids have already been accepted, with one exception noted below, as long as

the funds from any sale of land within the Judgment are placed in escrow for funding the senior citizens project, as described in (b) above. We do oppose, however, sale of the three parcels in Block 427, Lot 1.01 in the Pomponio Avenue site to Gal-Ker whose final subdivision approval was expressly made subject to Urban League's claim in this action. Moreover, Borough-owned land on which bids have not yet been accepted should not be sold until it is clear that the Borough has fully satisfied its obligation with regard to the senior citizens project, as described in more detail below.

A. Ordinances

As we have previously informed the Court, we consider Ordinances No. 1009 and 1010 to be in compliance with the Judgment except insofar as the zoning ordinance, No. 1009, fails to identify the block and lot numbers or provide metes and bounds descriptions of the affected lands. Although such precise designation is not normally found in a zoning ordinance, we believe it is necessary here for two reasons.

First, there are very few vacant sites remaining in South Plainfield and it is crucial that the precise contours of the very limited zoned land be known to all developers, landowners, and Borough officials. Indeed, in South Brunswick, where much more open space exists and each designated site is much larger, the plaintiffs and Township have agreed to put the block and lot numbers in the zoning ordinance.

Second, the Planning Board twice during the extended period of Borough noncompliance approved subdivisions and developments on land within the Judgment, in one case immediately after discussing the very ordinances at issue here. Leaving to one side whether the Planning Board or its attorney could reasonably have been charged by April 1985 with knowledge of the May 1984 Judgment's requirements, it is certainly reasonable to require the Planning Board and its attorney to read the zoning ordinance that it is charged with implementing. If the block and lot numbers had been in the ordinance, the subdivision and ensuing construction on land within the Judgment's Pomponio Avenue site, detailed below, could not have occurred. The Urban League plaintiffs are certainly entitled to protection against its recurrence.

B. Harris Steel Site

At the very last moment, Harris Structural Steel has moved to intervene. The land has been owned by this entity since long before the Stipulation and Judgment. The moving papers admit that Harris was not only well aware of the required rezoning, but actually participated at the public hearing on the ordinances on March 11, 1985, nearly 8 months ago, and has had extensive contact with Borough officials about the rezoning since then. No reason is given why this motion was not brought in a timely fashion. None could be. For that reason, the court should deny intervention without consideration of the arguments presented by Harris Steel.

The motion fares no better substantively. The arguments boil down to two: that some portion of the site is not useable for housing, and that the re-zoning is unlawful because the Borough had no choice about it and thus the public hearings held were meaningless. Both contentions are fully refuted by the facts and the law.

Mr. Mallach's affidavit fully explains why the site is entirely suitable for residential development at the designated gross density of 12 units per acre. Unlike the movants, Mr. Mallach carefully analyzes the available data, which show that at most 15 acres are subject to floodplain restrictions and that the other 70 are entirely suitable for construction.¹ Moreover, Mr. Mallach, but not the movants, incorporates the difference between gross and net densities and thus demonstrates how all the required units, both market and lower income, can be effectively and properly accommodated on the site within the existing zoning.

Because it is apparent that the zoning is entirely reasonable and consistent with sound planning, it is doubtful that a Council informed about the true facts would have been persuaded by Harris Steel's arguments. Thus, any possible deficiencies in the procedure followed would almost certainly be

1 The newspaper report provided as Exhibit C to Mr. Barcan's affidavit states that Harris Steel's planning consultant told the Borough at the March 11 that only 28 acres were buildable. The written March 11 report, their Exhibit B, claimed 30 acres were buildable. By their April 10 report, Exhibit D, the asserted buildable acreage was up to 41.5. Projecting this rate of correction over time, we assume that their consultants would soon be prepared to concede that the 70 acres documented by the available data are in fact buildable.

harmless error. But there was no error. The Council at least twice held public hearings properly noticed in the newspapers, as required by law -- one on March 11 and one on July 29, 1985. Harris Steel's representatives in fact took the opportunity to participate in the March 11 hearing, apparently at some length. The fact that they chose not to participate on July 29 hardly supports a contention that they were denied the opportunity. Nor is there any merit to the contention that the Borough Council felt it had no choice. The Council apparently felt free to violate the Judgment of May 22 and the Order of December 13, 1984, which required passage of these ordinances. Moreover, it did not adopt the ordinances at the March 11 meeting, when it heard Harris Steel's representatives, nor at the July 29 meeting, when it was under a third Court order to do so. The timidity or lack of discretion on the part of the Council to reject court orders that the movants wish to convey is quite simply not in accord with the facts.

Nor would it be unlawful had they felt "compelled" to adopt an ordinance in conformity with a settlement they voluntarily negotiated. The law does not preclude a governmental agency from settling litigation. Nor is it precluded from doing so without first holding a public hearing. Indeed, the Open Meetings Act expressly authorizes closed sessions to discuss litigation. The Municipal Land Use Law, which requires the kind of public hearings held in this case, is not a bar to such settlements. If the governing body decides to settle a case based on a commitment

to amend the zoning ordinance, it is understood that such agreements are subject to the public hearing requirements of the M.L.U.L. If the governing body, after hearing the public's views, believes it must vary the ordinance somewhat from the agreement, it can seek to renegotiate the agreement or convince the opposing party or court that the modified ordinance effectively satisfies the settlement. In a Mount Laurel context, of course, if the municipality, as here, has stipulated as to all the relevant facts but then fails to pass a compliant ordinance, the Court may ask a Master to draft an ordinance and order that version into effect. 92 N.J. 158, 285-90 (1983). Harris Steel would certainly have been no better off if the Borough had accepted its argument, reneged on the Stipulation, violated the Judgment, and had the Master, who had already given an opinion that its site was suitable, rezone the town to satisfy the Judgment.

Cases like Midtown Properties Inc. v. Madison Twp., 68 N.J. Super. 197 (Law Div. 1961), aff'd, 78 N.J. Super. 471 (App. Div. 1963), are simply not analogous. There, the Court granted the Township's motion to vacate a consent judgment based on a settlement with a developer, precisely because it was contract zoning effected without following the required statutory procedures for rezoning. Nor is this a case like Suski, Jr. v. Mayor & Commr's of Beach Haven, 132 N.J. Super. 158 (App. Div. 1975), where the ordinance was sought to be amended "by an act of a governing body of less dignity than that which created the ordinance in the first place."

Finally, it is not a requirement that a governing body amend an ordinance as introduced on first reading after hearing the public's comments. The purpose of the public meeting requirements of the Open Meetings Act and M.L.U.L. is to assure an opportunity for public input. The governing body is not required to accept all public criticisms and modify its ordinances accordingly. It would not have been a farce, legally or factually, if the Borough Council had not accepted Harris Steel's argument even in the absence of a settlement. It is no more a farce here. Harris Steel has received all the process it is due. It is not entitled to a specific result.

C. Senior Citizen Project (Morris Avenue site)

The Court's Judgment of May 22, 1984 directs the Borough to rezone the municipally-owned site of 6.15 acres on Morris Avenue exclusively for development as a senior citizens housing project. The project must contain 100-150 units, at least 50% of which will be low income, and the balance moderate income.

Para. 3(F). In addition, the Judgment requires that the Borough contribute the land at that site and provide the necessary financial support for the project, including necessary seed money and tax abatements. Para. 4.

The Borough has now properly rezoned the site, but has essentially done nothing else required by the Judgment. It has still not completed acquiring all parcels in the site, even though it affirmatively represented to the plaintiffs and this Court 18 months ago that all parcels were already municipally

owned. Indeed, at some point in the last year² the Borough officials actually told the last private landowner that it was not interested in acquiring his site. The Borough has not adopted the resolution committing itself to apply for all available subsidy funds nor has it applied to the one major new funding source that has recently become available -- the NJHMFA. We note that, in contrast, South Plainfield moved with uncommon alacrity to avail itself of another option under the Fair Housing Act -- the right to bring a motion to transfer. Contrary to its voluntary commitment in the Stipulation, and the repeated assertions of the present and prior Borough Attorney as to the intense local political commitment to this project, not one penny has been spent, nor one plan has been drawn, not one funding application has been drafted. Only a nonprofit shell corporation has been established on paper. This footdragging with regard to as much as one-quarter of the specified fair share (150 out of a possible total of 603 lower income units on the eight rezoned sites in the Judgment) would itself probably warrant judicial supervision or modification of the Judgment. However, in the context of the Borough's repeated misrepresentations and demonstrations of bad faith,³ strict measures to assure

2 Plaintiffs do not know exactly when these interactions occurred, because the Borough has still not, as of this writing, supplied the documentation requested over two months ago.

3 We need not remind the Court here of the many instances in which the Borough has failed to meet discovery and compliance deadlines, has omitted significant sites from their lists of remaining vacant land in the Borough, has sold portions of the very parcels of land included within the Judgment, and has approved development on such parcels inconsistent with the required rezoning, after intentionally delaying the rezoning of those lands for low- and moderate-income housing. We refer the Court to the Affidavit of Eric Neisser of November 7, 1985 filed herewith and our Memorandum of Law in Opposition to South

compliance are clearly in order.

In the plaintiffs' opinion, the measures should include the following:

(1) The Borough shall submit a complete application to the New Jersey Housing and Mortgage Finance Agency (NJHMFA) for financing for this project, within sixty (60) days of this compliance hearing or the deadline for the first funding round set by the NJHMFA, whichever is earlier. If the application is denied for reasons beyond the Borough's control, then it shall have an additional 120 days after the denial to apply or arrange for and obtain alternate financing.

(2) Within eight (8) months of the receipt of financing, the Borough shall complete construction of the housing units, and immediately thereafter rent out the units to qualified low- and moderate-income individuals or families.

(3) If the Borough fails to apply to NJHMFA by the date specified in (1) above or is unable to obtain alternate financing within the additional 120 days provided for in (1) above, then the Borough shall grant an option to purchase the land, at a purchase price of \$1, to any non-profit organization capable of, and committed to, providing the requisite Mount Laurel senior citizens housing for a period of one (1) year from the date of the option. The Court would have to approve the organization and its funding and development proposal.

Plainfield's Motion to Transfer This Case to the Council on Affordable Housing, August 28, 1985, pp. 3-17, for a more complete recitation of these unfortunate facts.

(4) The Borough shall place in escrow with the Court the \$1.27 million received for sale of the 23.33-acre portion of the Pomponio Avenue site to Lawrence Massaro (see below), and the \$31,250 already received for sale of three tracts within the Pomponio Avenue site approved for development inconsistent with the Judgment. Certainly a town that has done nothing to fulfill its obligation to provide financial support for one-fourth of its fair share should not be allowed at the same time to profit from the sale of land made more valuable by the rezoning it has so vigorously resisted. These escrowed funds would, of course, be released for use in subsidizing the senior citizens project, in whole or in part, once funding or a nonprofit sponsor is in place.

N.J. Court Rule 4:57-1 provides that monies may be deposited with the Superior Court in an action in which any part of the relief sought is a disposition of a sum of money. The Judgment called for the Borough's financial support of this project. Para. 4. Although this Rule is not applicable "to allow a party to deposit monies into court to avoid a breach of contract or create a fund to secure the satisfaction of a prospective judgment" (AC-Berwick Transporters, Inc. v. Sendell, 176 N.J. Super. 339, 341 (Ch. Div. 1980)), such would not be the case here, where the Judgment has already been entered, and is, therefore, not "prospective" in nature. Instead, the deposit will serve to guarantee the availability of the funds when the time for satisfying that part of the May 1984 Judgment arrives.

In light of the Borough's past behavior, the plaintiffs view such a deposit of (or other appropriate escrow arrangement for) the monies made available by the sale of another Mount Laurel site, as crucial to rendering the Court's Judgment meaningful and realistic with regard to one-quarter of the fair share.

(5) Should the steps above still not produce the promised units on the Morris Avenue site, the Court should preserve the option of providing for some of the units elsewhere. To this end, the Borough should be restrained from selling any further land for which bids have not yet been accepted.

D. Pomponio Avenue Site

The Court's May 22, 1984 Judgment also provides that the Borough shall rezone the municipally-owned site of approximately 25 acres, known as the Pomponio Avenue site, exclusively for multi-family development at a density of 15 units per acre, with a mandatory set-aside of 10% low-income and 10% moderate-income units. Para. 3(C). However, in wilful and flagrant violation of the Judgment, the Borough sold a portion of this site, amounting to 25,000 square feet, or .5739 acres, for non-Mount Laurel purposes, approved two-family home construction and then improperly granted a building permit prior to Planning Board final approval and signing of the subdivision maps.⁴

It is clear that such municipal action was in direct violation of this Court's Order and without legal authority. A

4 In addition, the Borough signed a contract of sale on the remaining 23.33 acres, but the contract purchaser of that portion, Lawrence Massaro, has already contracted for re-sale of the property to an experienced Mount Laurel developer.

building permit issued as a result of such a void action may, in fact, be rescinded by the Borough, without recourse by the new landowner. See, e.g., Hilton Acres v. Klein, 35 N.J. 570, 174 A.2d 465 (1961), and Esso Standard Oil Co. v. No. Bergen Township, 50 N.J. Super. 90, 141 A.2d 81 (App. Div. 1958).

However, plaintiffs here do not seek such drastic measures, which would perhaps inflict more harm on the apparently good-faith purchasers than on the Borough, which acted in bad faith. Instead, we seek to ensure that the Borough does not profit, nor the lower-income plaintiffs here suffer, from the Borough's unwarranted actions.

We propose that the density on the remainder of the Pomponio Avenue site be slightly increased to compensate for the .5739 acre improperly approved for contrary development by DiGian. The Borough now asserts that the site contains a total of 26.08 acres. Assuming for argument's sake the truth of this assertion, which is contrary to the 32 acre total which the Planning Board attorney informed us of in June 1985, then the sales to DiGian have reduced the site by only 2.2 percent. Increasing the density by 2.2 percent yields a new gross density of 15.33 units per acre on the remainder of the site. In addition, we believe that the money derived by the Borough from sale of this land (\$31,250) should be placed in escrow to be used for the Borough's financial commitment to the senior citizen project. See above. This approach will not require tearing down any new construction by the contract purchaser. It will not cause untoward density on

the remainder of the Pomponio Avenue site. However, it will prevent the Borough from profiting from its own illegal deeds and, most importantly, it will help assure that the Borough complies with the remainder of the Judgment.

In this connection, we note again that we have no objection to lifting the restraint on sale of Borough owned land on which bids have already been accepted, except, of course, for the sale to Gal-Ker of the three parcels within the Pomponio Avenue site. The Planning Board had granted preliminary approval of a subdivision of the Gal-Ker parcels in the Spring of 1985 without regard to the Judgment and only when the Urban League was informed and objected, did the Planning Board condition final approval on the claims of the Urban League. Clearly there is no inequity in denying final approval, because the developer has been on notice since June, if not earlier, that his application was inconsistent with the pending and mandated rezoning. The developer may, of course, have little interest in this purchase, once his subdivision application is denied. But regardless of his interest, the Borough should not be allowed to sell the land until it is clear that the purchaser has the capacity and intent to develop it in accord with the now effective zoning.

Arrangements for sale and resale only drive up the cost of development and make lower income housing less likely. The purchaser of the neighboring, far larger Massaro site, would be the most likely user of this site. In any case, given the history of the Borough's transactions as to this site, we believe

that the plaintiffs are entitled to judicial supervision of its future disposition.

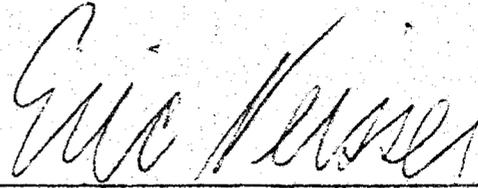
We oppose lifting of the restraint as to Borough land for which bids have not yet been accepted. Such a restraint will not defeat any legitimate expectations of a potential buyer. Moreover, given the sorry history of the Borough's efforts with regard to the Morris Avenue project, it is important for the Court to maintain options in case the Borough does not now begin to comply. By restraining sale of further Borough land, the Court retains the option of rezoning some of that land for Mount Laurel purposes should it become necessary.

E. Repose

Whenever it becomes appropriate for this Court to grant the Borough of South Plainfield repose because it has finally complied with the May 22, 1984 Judgment, it should do so for a 6-year period starting from October 4, 1984. That is the date on which the Borough was to have complied with the Judgment, which allowed 120 days from its effective date. There has been no "mutual written consent" to an extension nor was there a "written application to the Court" for one. Judgment, Para. 12. All delays since October 4, 1984 have been the result of intentional, contumacious behavior by the defendant. Those dragged into compliance against their will should not then be heard to claim that benefits should flow from the delayed date of compliance. Those who desire equity must do equity.

Dated: November 7, 1985

Respectfully submitted,



ERIC NEISSER, ESQ.

JOHN M. PAYNE, ESQ.

CO-COUNSEL FOR PLAINTIFFS

URBAN LEAGUE

On Behalf of ACLU of NJ

Counsel wish to note the assistance of Eileen Gavin McKenna and Florence Williams, Class of 1987, Rutgers Law School, in the preparation of parts of this brief.

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SUPERIOR COURT OF NEW JERSEY
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Docket No. C 4122-73

AFFIDAVIT
(South Plainfield)

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

ERIC NEISSER, being duly sworn, deposes and says:

1. I am co-counsel for the Urban League plaintiffs. I submit this affidavit in connection with the compliance hearing for South Plainfield and in opposition to the motion of Harris Structural Steel to intervene.

ORDINANCES

2. The Borough of South Plainfield adopted Ordinance Nos. 1009 and 1010 on August 7, 1985. The ordinances had been considered and discussed at a number of prior meetings of the

Mayor and Council, including most prominently the March 11, 1985 meeting, for which formal public notice had been made pursuant to law. Public notice of the ordinance was again given, pursuant to law, by publication of the full text of the two ordinances in the July 18, 1985 edition of The Reporter. A copy of pages 12-14 of that edition is attached hereto as Exhibit A. A public meeting was held on July 29, 1985, pursuant to that notice, at which time the Mayor opened the floor for public comments. Transcript of July 29, 1985 Meeting of South Plainfield Mayor and Council, at 5-6. A copy of the transcript was Exhibit A to the August 28, 1985 Affidavit of Eric Neisser, submitted to this Court in opposition to South Plainfield's motion to transfer this action to the Council on Affordable Housing. Only one person, Lenore Slothower, sought permission to address the zoning ordinance, id. at 6-8, whereupon the Mayor closed the public comment portion of the meeting and the Council discussed the ordinance. After discussion, the Council did not adopt the ordinances but rather voted 4-2 to table the zoning and affordable housing ordinances. Id. at 63-64, 81-82. The ordinances were not adopted until the subsequent meeting on August 7, 1985.

3. Neither the zoning ordinance nor the zoning map provide block and lot specification or metes and bounds descriptions of the land subject to the new zones.

HARRIS STEEL SITE

4. In their May 10, 1984 Stipulation, the Borough and the plaintiffs agreed that: "The 84.8 acre site on New Brunswick Avenue, known as the Harris Steel site and designated as Block 459 Lot 1, Block 460 Lot 1, Block 461 Lots 1-3, Block 462 Lot 2, Block 465 Lot 1, Block 466 Lot 1, Block 467 Lots 1,3,4,5, and 21, is appropriate for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units. Stipulation, Para. 12. The Stipulation is Exhibit F to the Neisser Affidavit of June 21, 1985. The Judgment of May 22, 1984 accordingly directed rezoning of those blocks and lots at that density. Para. 3(A). In her review of the South Plainfield Stipulation, Carla Lerman, the Court-appointed expert personally inspected the sites and found their designation "reasonable." A copy of Ms. Lerman's May 30, 1984 letter-report to the Court is attached hereto and made a part hereof as Exhibit B.

POMPONIO AVENUE SITE

5. The May 10, 1984 Stipulation between the Borough and the plaintiffs specified that "the municipally owned site of approximately 25 acres at the northern tip of Kennedy Road, known as the Pomponio Avenue site, and designated as Block 448 Lots 2.01 and 4.01 and Block 427 Lot 1.01, is appropriate for multi-

family development at a density of 15 units per acre with a mandatory set aside of 10 percent low income and 10 percent moderate income units." Stipulation, Para. 14. The Judgment of May 22, 1984 accordingly directed rezoning of those Block and Lot numbers at the indicated density, Para. 3(C), within 120 days of the Judgment's effective date, Paras. 3, 11, or October 4, 1984. Rezoning did not occur by that date. On December 11, 1984, this Court entered a further order directing final passage of the zoning ordinance revisions by January 31, 1985. Rezoning did not occur by that date. By further order dated July 3, 1985 the Court required rezoning by July 31, 1985. On August 7, 1985, the Pomponio Avenue site was rezoned in accordance with the Judgment but the rezoning was stayed pending determination of the transfer motion. The ordinance revision went into effect on October 2, 1985.

6. Between the date of the Stipulation and the effective rezoning of the Pomponio Avenue site, the Township contracted to sell seven municipally owned tracts within the specified land in the Pomponio Avenue site, conveyed title to three of those tracts, and then approved construction of single-family developments inconsistent with the Judgment on those three tracts and granted building permits for such development, prior to final approval having been granted.

a) Three lots on which title closed, inconsistent development was approved, and building permits were issued. On May 14, 1984, a mere four days after the Stipulation in this case was signed, the Borough directed advertising for sale of two parcels in Block 448 Lot 4.01, which were advertised publicly on May 24 and June 1, 1984. On June 11, 1984, the Borough Council accepted the bids of D.DiGian and Sons Construction Co. for those two parcels, totalling \$25,000. On November 13, 1984, the Council accepted the additional bid of \$6,250. from DiGian and Sons for an additional parcel in Block 448, Lot 4.01. Each resolution accepting bids recited "said property...is not needed for public purpose or use." On April 16, 1985, the South Plainfield Planning Board held a special and a regular meeting back-to-back. At the special meeting, the Board reviewed and made recommendations concerning nine proposed amendments to the zoning ordinance revisions required by this Court's Judgment. At the regular meeting, immediately following, the Planning Board unanimously granted preliminary approval to Application #84-20 of Tonsar Corp. (a subsidiary or successor to DiGian & Sons Construction Co.) to build new two-family homes on these lots in Block 448, Lot 4.01. On May 13, 1985, Frank Santoro, attorney for the Borough, conveyed a deed to the three lots noted above, now redesignated as Lots 4.03, 4.04, and 4.05, to DiGian & Son

Construction Co., Inc. On May 16, 1985, the Borough issued building permits for these three lots. However, final subdivision approval was not granted by the Planning Board until May 21, 1985 and the subdivision maps were not signed by the Chairman and Secretary of the Planning Board until August 20, 1985. Copies of the public notices of two lots, the two resolutions of acceptance of June 11, 1984, the resolution of acceptance of November 13, 1984, the minutes of the April 16, 1985 special meeting of the Planning Board and the first four pages of the April 16 regular meeting, the first page of the May 1, 1985 Planning Board meeting minutes and the attached resolution concerning Application #84-20, the May 13, 1985 Deed of Sale, the three building permits issued on May 16, 1985, the first two pages of the May 21, 1985 Planning Board meeting minutes and attached resolution concerning Application #84-20, and the first page of the August 20, 1985 Planning Board meeting minutes are attached hereto and made a part hereof as Exhibit C.

b) Massaro site. On June 11, 1984, the Mayor and Council adopted a resolution calling for public bids on part of Lot 1.01 in Block 427 and part of Lot 4.01 in Block 448, totalling approximately 23.33 acres. After publication on July 26, and August 2, 1984, the Borough on August 13, 1984, accepted the bid of Lawrence J. Massaro in the amount of \$1,270,318.50. On May 15,

1985, Mr. Massaro contracted with a residential developer, on information and belief K. Hovnanian and Sons, Inc., for re-sale of this property, subject to rezoning in accordance with the Judgment. On August 12, 1985, the Borough Council adopted a resolution making time of the essence on its sale of this land, although it was then subject to this Court's restraint on sale of Borough land, and on August 23, 1985, pursuant to that resolution, Mr. Massaro deposited the full amount of the purchase price with the Borough. Title has not passed first because of some questions as to title and thereafter because of this Court's restraints on Borough sale of lands, first issued on June 24, 1985. The facts are detailed in the Certification of Lawrence J. Massaro In Opposition to Motion to Transfer Cause to Affordable Housing Council, sworn August 27, 1985, filed with the Urban League plaintiffs' opposition to that motion, and a copy of the public notice of the sale inviting bids is attached as an exhibit to the Massaro Certification. The facts are further detailed in the Certification of Philip G. George sworn October 25, 1985 and the Complaint for intervention, submitted in support of Massaro et al's Application for Leave to Intervene and to Lift Restraints, returnable before this Court on November 12. Copies of the June 11, 1984 Resolution directing public bidding for the site, the August 13, 1984 Resolution of acceptance and the August

12, 1985 Resolution making time of the essence for this sale are attached as exhibits to the George Certification and Massaro Complaint.

c) Three sites in Block 427 for which bids were accepted, but title not passed and final approval conditioned on Urban League claims. In addition, the Borough has contracted to sell three other sites within the Pomponio Avenue site designated in the Stipulation and Judgment. Resolutions accepting bids totalling \$83,825. for these three parcels within Block 427, Lot 1.01 were adopted by the Borough Council on March 26, 1984 (before the Stipulation was signed) and June 11, 1984. Each recited that "said property ... [was] not needed for public purpose or use." Title has not yet closed on these Borough owned lots. On June 17, 1985, plaintiffs, upon reviewing the agenda for the June 18 Planning Board meeting, called and then wrote Mr. Calderone, attorney for the Planning Board, objecting to proposed final subdivision approval of Application #84-7, concerning Block 427, Lots 1.01, 1.02, 1.03, and 1.04. The higher numbered lots were subdivided out of Lot. 1.01 which is specified in this Court's Judgment. On June 18, 1985 the Planning Board granted final subdivision approval to Gal-Ker on Application #84-7, subject to the claims of the Urban League under this Court's Judgment. A copy of the March 26, 1984 resolution and the two June 11, 1984

resolutions relating to these lots, the first and fourth pages of the minutes of the June 18, 1985 Planning Board meeting, and the first two pages of the minutes of the July 16, 1985 Planning Board meeting and the attached resolution concerning #84-7 are attached hereto and made a part hereof as Exhibit D.

d) Details of the Borough's land sales during 1984 and 1985, its self-imposed moratorium on further sales adopted on March 4, 1985, and the certification of Frank Santoro, the Borough Attorney, that the seven sales detailed above are the only sales affecting land within the Judgment and that title has not yet passed as to the three lots described in Paragraph 6(c) above are set forth in the letter of June 26, 1985 from Mr. Santoro to me, the attached two-page inventory of 1984 and 1985 land sales, and in his letter to me of September 17, 1985. The Santoro letter of June 26 with the sales inventory, the Santoro letter of September 17, 1985, and my letter of September 5, to which his second letter responded, are attached hereto and made a part hereof as Exhibit E. The letters and the inventory refer to six rather than seven sales. See, e.g., September 17 letter, page 1. This is because Mr. Santoro is treating the sale of two parcels within Block 448, Lot 4.01 to DiGian for \$12,500 each, for which bids were accepted by the Borough in two separate resolutions adopted on June 11, 1984, as detailed in Paragraph 6(a) above, as a

single sale valued at \$25,000. Mr. Santoro further asserts that deeds of conveyance were given for only one of the six land sales. September 17 letter, page 1. However, the Deed supplied with his letter and attached hereto as part of Exhibit C clearly shows transfer of title to three different parcels, for which three separate resolutions of acceptance had been adopted. Mr. Santoro also asserts that only 20,000 square feet of land was transferred by the May 13, 1985 Deed, Letter of September 17 at page 2, although the Deed itself states that the three parcels transferred consisted of 5,000, 10,000, and 10,000 square feet respectively. Moreover, Mr. Santoro certifies that "no...closings have occurred since the April 22, 1985 date set forth on the previously supplied 'Property Sales' list," September 17 letter, at page 3, although the deed provided with the letter was executed by Mr. Santoro personally on May 13, 1985.

7. The Stipulation and Judgment stated that the Pomponio Avenue sites consisted of approximately 25 acres because that was the information on the tax maps made available to the plaintiffs by the defendants. On June 19, 1985, Peter Calderone, attorney for the South Plainfield Planning Board, informed Barbara Williams, my co-counsel, that Block 448 Lots 2.01 and 4.01, which are only two of the three specified parcels in this site, comprised 32 not 25 acres. Williams Affidavit of June 21, 1985,

Para. 11. The Borough attorney now asserts that the specified three lots total only 26.08 acres. Santoro letter of September 17, Exhibit E hereto, at pages 3-4. I requested verification of this estimate personally on October 2 and through my letters to Mr. Santoro of October 5 and 23. Despite an oral representation on November 1 that the documentation would be forthcoming, I have not received same as of this writing. A copy of my letters of October 5 and 23 are attached hereto as Exhibit F.

MORRIS AVENUE SITE

8. The Stipulation specified that: "The municipally owned site of 6.15 acres on Morris Avenue, known as the Morris Avenue site and designated as Block 111, Lots 1-4, Block 112, Lots 1, 2.01, Block 113, Lots 1.01, 2, 4, 5.01 and Block 115, Lots 1, 2, 2.01 and 3, is appropriate for development as a senior citizens housing project with a total of 100-150 units of which at least 50 percent will be affordable by low income households with the balance affordable by moderate income households, if the Borough would contribute the land and provide necessary financial support, including seed money and tax abatement." Accordingly Paragraph 3(F) of the Judgment directed rezoning of that site and Paragraph 4 directed that: "In order to facilitate development of the Morris Avenue site, after rezoning as set forth in Para. 3(F)

supra, the Borough of South Plainfield shall contribute the land at that site and shall provide the necessary financial support for the project, including necessary seed money and tax abatements." Moreover, Paragraph 6 requires: "Forthwith, but no later than 120 days after the entry of this Judgment, the Borough of South Plainfield shall adopt a resolution committing the Borough to apply for all federal, state and county funds that become available between the present and 1990 for rehabilitation of existing deficient housing units and for all such funding that becomes available between the present and 1990 for subsidization of the construction or rent of new housing units, and to encourage and assist private developers to so apply."

9. Throughout the negotiations of the Stipulation and throughout the period of non-compliance, the Borough attorneys, first Patrick Diegnan and then Frank Santoro, have repeatedly assured me on numerous occasions that the Borough is fully committed to the senior citizens project, which is politically very popular.

10. In his letter of September 17, Mr. Santoro states that the Borough owns all of the lands within the Morris Avenue site, except for the lot owned by Mr. Buccellato, that at some point Mr. Buccellato was told that the Borough was no longer interested in acquiring his site but that the matter has now been renewed in

light of my September 5 inquiry. Exhibit E, September 17 Santoro letter, at page 4. Mr. Santoro has not yet responded to my October 5 and 23 letters inquiring as to the ownership of one lot incorrectly omitted in his listing of the lots within the Morris Avenue site and requesting the Borough's correspondence with Mr. Buccellato regarding purchase.

11. Mr. Santoro further confirms that establishment of a nonprofit corporation is the only step taken to date towards development of the senior citizen center. Exhibit E, September 17 Santoro letter, page 4. On October 9, 1985 I sent Mr. Santoro and all other municipal attorneys in this action a copy of the New Jersey Housing Mortgage and Finance Agency's September 26 draft guidelines for funding grants under the Fair Housing Act, and specifically noted the January 1986 application deadline for the only intended funding cycle. Attached hereto and made part hereof as Exhibit G is my letter of October 9 and attachments. To date, the Borough has not yet adopted the resolution required by Paragraph 6 of the Judgment, of which I reminded Mr. Santoro in my September 5 letter, at page 1. Moreover, in a telephone conversation on November 1, Mr. Santoro informed me that the Borough had not yet filed an application for funding with the Agency.

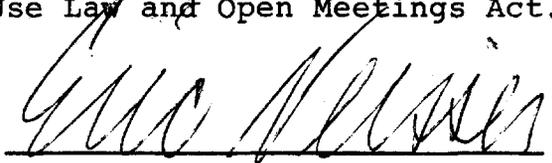
ELDERLODGE SITE

12. I have been informed by William Lane, attorney for the South Plainfield Board of Adjustment, that the Elderlodge developer, through Angelo Dalto, its attorney, has informed the Board that it considers it economically infeasible to build the project, even at the 6-story level already approved by the Board, with the 20 percent set-aside required by the Judgment and zoning ordinance. On October 21, 1985, I spoke with Mr. Dalto who stated that the developer considers the project not feasible with the 20 percent set-aside. I inquired about the basis for this conclusion. He said that he would be filing a motion for leave to file an amended complaint and to modify the Judgment with regard to the Elderlodge site. I suggested that any motion be made returnable on November 12. I have to date been served with no papers and have received no documentation as to the asserted difficulties with the development.

REPOSE

13. Paragraph 11 of the Judgment of May 22, 1984 stated that the time for taking actions set forth therein would begin to run five days after the Court-appointed expert's report to the Court. Ms. Lerman reported to the Court on May 30, 1984. Five days later is June 4, 1984. The Judgment gave the Borough 120 days, rather

than the 90 days requested by the plaintiffs, to do all the rezoning, resolutions and necessary steps for compliance. The 120 days ran out on October 4, 1984. Paragraph 12 of the Judgment provides that the time periods may be extended "by mutual written consent of parties or upon written application to the Court." Neither I nor my co-counsel ever consented, in writing or orally, to an extension of the Judgment's time deadlines, nor did the Borough ever submit a written application to the Court for such an extension. The Planning Board and Borough Council had sufficient regularly scheduled meetings between June 4 and October 4, 1984 to permit them to adopt the ordinances in compliance with the Municipal Land Use Law and Open Meetings Act.



ERIC NEISSER

SWORN TO and SUBSCRIBED
before me this 7th day
of November, 1985.



Attorney at Law, State of New Jersey
Jack C. Feinstein

EXHIBITS TO AFFIDAVIT OF

ERIC NEISSER

OF NOVEMBER 7, 1985

★ PUBLIC NOTICE ★

ORDINANCE NO. 1009
AN ORDINANCE AMENDING ORDINANCE #801 ENTITLED "ZONING ORDINANCE OF THE BOROUGH OF SOUTH PLAINFIELD, 1978"

Be It Ordained, by the Municipal Council of the Borough of South Plainfield that the Zoning Ordinance of the Borough of South Plainfield, 1978, be amended as follows:

Section 1
Article II, Definitions is amended to add the following:
32A. Apartments: A building, not more than 3 stories and forty (40) feet in height, on one lot, containing three (3) or more separate dwelling units, and sharing joint utility services and facilities.

32B. Gross Density: Gross density shall be the total number of dwelling units divided by the acreage of the entire planned residential development, including dedicated areas, common areas, and open space.

46A. Manufactured Housing: A mass produced building manufactured off site and assembled on site for long term residential use. It is modular housing and is constructed in more than one section for combination on the site. Manufactured Housing must meet State Construction Code Standards and does not include trailer home or mobile homes.

46B. Mobile Home: A unit constructed off site for residential use which is equipped with wheels or some device used for the purpose of transporting such unit from place to place whether by motor vehicle or other means, or any factory built unit, equipped with wheels, used for living or sleeping purposes, whether the same is on blocks, posts, or any other type of foundation. Mobile Home shall be synonymous with Trailer Home.

47A. Multi-Family Residential: A building used or designed as a residence for three (3) or more separate dwelling units, sharing joint utility services and facilities. This does not include motels, hotels, or rooming houses.

68A. Townhouses: More than two (2) single family dwelling units which are attached by a common wall to each other, together with individual rear and front entrances. A townhouse unit may have a front and/or rear yard design as an integral part of each unit or all townhouse units in a development may share common outside facilities in conformance with an approved site plan. A townhouse has its own separate storage area and heating system and is considered to be an independent operating unit.

Section 2
Article II, Definitions is amended to read as follows:
24. Family: One (1) or more persons living as a single, non-profit housekeeping unit.

Section 3
Article IV, paragraph 401 shall be amended to add the following at the end of the paragraph:
PRD-1 Planned Residential Development
PRD-2 Planned Residential Development
MF-1 Multi-Family Residential
SC-1 Senior Citizens Residential

Section 4
Article IV, paragraph 402 shall be amended to include zoning changes as shown on the attached map prepared by Robert E. Rosa Associates dated January 8, 1985.

Section 5
Article V, General Regulations shall be amended by adding the following paragraphs at the end of this article:
516. General Regulations for all Planned Residential Development, Multi-Family, and Senior Citizen Residential Zones (RD-1, PRD-2, MF-1, SC-1):
516.1 The purpose of these special regulations is to satisfy a May 22, 1984 Judgment of the Superior Court of New Jersey in Urban League of Greater New Brunswick, et al. v. Mayor and Council of the Borough of Carteret, et al. including the Borough of South Plainfield.
a. Each application for development shall comply with all provisions of the "Affordable Housing Ordinance of the Borough of South Plainfield, 1985".
b. Each application for development subject to these provisions shall clearly state the number of low and moderate income units, as defined in the Affordable Housing Ordinance and each resolution of approval shall clearly state the number of low and moderate income units that are approved as part of the development.
c. Each approved development subject to these provisions shall contain moderate income units, in a minimum proportion of ten percent (10%) of the total number of units that may be developed, assuming full development at the maximum gross density allowed by right in the zone, and low income units in a minimum proportion of ten percent (10%) of the total number of units that may be developed, assuming full development at the maximum gross density allowed by right in the zone.
d. Any approval of a development application subject to these provisions shall require that construction of the low and moderate income units be phased in with the balance of the development in accordance with the following standard:

Number of market units completed as a % of total number of units approved	Number of low and moderate income units
Not more than 25%	At least 25%
50%	At least 41%
75%	At least 65%
100%	At least 100%

To implement this requirement, certificates of occupancy shall not be issued for more than 25% of the total number of market units until certificates of occupancy have been issued for at least 25% of the total number of low or moderate income units; certificates of occupancy shall not be issued for more than 50% of the total number of market units until certificates of occupancy have been issued for at least 60% of the total number of low or moderate income units; certificates of occupancy shall not be issued for more than 75% of the total number of market units until certificates of occupancy have been issued for at least 85% of the total number of low or moderate income units; and certificates of occupancy shall not be issued for more than 90% of the total number of market units until certificates of occupancy have been issued for 100% of the low or moderate income units. Where construction of low or moderate income units is being phased in with the balance of a development, each phase shall include a mixture of low and moderate income units reasonably consistent with the percentage distribution of each category within the development as a whole.

e. No more than fifty percent (50%) of the low or moderate income units in any development subject to these provisions shall be one (1) bedroom units or efficiency units. In developments containing one hundred (100) or more low or moderate income units, at least twenty percent (20%) of these units shall be three (3) bedroom units or larger, except for units in the SC-1 Zone. Construction of these various-sized units shall be phased proportionately according to the standard set forth in 516.1.(d).

f. No more than twenty percent (20%) of the total number of low or moderate income units that may be developed in any development subject to these provisions may have occupancy restrictions based on the age of household members, except in the MF-1 and SC-1 Zones if Senior Citizen projects are proposed. Where such age restrictions are permissible, occupancy shall be restricted to persons aged sixty-two (62) or over. The Borough may not require a developer of low or moderate income housing to impose any age-based occupancy restrictions with respect to such units as a condition of approval, waiver or assistance.

g. The Borough shall permit, as a conditional use on any site of three (3) acres or more in any residential zone, where appropriate, multi-family development at a higher density than otherwise permitted by the applicable zoning subject to a mandatory set-aside of ten percent (10%) low income units and ten percent (10%) moderate income units, as set forth in this Section.

h. Through 1990 no sites of three (3) acres or more may be zoned at gross densities greater than four (4) units per acre unless those sites are subject to a mandatory set-aside provision requiring that at least fifteen percent (15%) of the total number of units that may be developed on the site shall be low or moderate income units. Any site that is zoned at a gross density of eight (8) units per acre or greater shall be subject to a mandatory set-aside provision requiring that a minimum of ten percent (10%) of the total number of units that may be developed on the site shall be low income units and a minimum of ten percent (10%) of such units shall be moderate income units.

517. Manufactured or Modular Housing
517.1 Manufactured housing, including modular, is permitted in all residential zones.

Section 6
Article VI, Off-Street Parking and Loading Facilities, shall be amended to add the following:
603.20 Townhouse - At least one and a half (1.5) spaces per one (1) bedroom unit and two (2) spaces per two (2) bedroom unit and above.
603.21 Multi-family - At least one and a half (1.5) spaces per efficiency and one (1) bedroom unit and one and three quarters spaces per two (2) bedroom unit and above.
603.22 Apartments - At least one and a half (1.5) spaces per efficiency and one (1) bedroom unit and one and three quarters spaces per two (2) bedroom unit and above.
603.23 Senior Citizens Community - At least one half (1.5) space per unit.

Section 7
Article VII shall be amended to add the following paragraphs:
711 PRD-1 Planned Residential Development
711.1 PERMITTED USES
A building may be erected, altered, or used, and a lot or premises may be occupied and used for any of the following purposes:

- a. Principal Uses
 - (1) Apartment dwellings subject to all requirements of this Section.
 - (2) Townhouses subject to all requirements of this Section.
- b. Accessory Buildings and Uses Including:
 - (1) Swimming pools and tennis courts, but not public swim or tennis clubs.
 - (2) Signs subject to the special conditions of Article VIII.
 - (3) Fences and hedges subject to the provisions of this Article.
 - (4) Other customary accessory uses and structures which are clearly incidental to the principal structure and use.

711.2 DEVELOPMENT STANDARD
The PRD-1 Residential Zone specified herewith shall be occupied only as indicated in the Schedule of this Ordinance and as follows:

a. The gross density shall be twelve (12) units per acre for the entire parcel but may consist of any percentage combination of apartments and townhouses. The net density of any section of a site devoted to townhouses shall not exceed ten (10) units per acre.

b. Special requirements for apartments are as follows:
(1) Principal Buildings
(a) Minimum front setback (measured from the proposed street R.O.W. line) - 35 ft.
(b) Minimum setback from interior private road - 25 ft., or parking lots - 15 ft.
(c) Minimum side and rear yard setbacks - 15 ft.

(d) Maximum lot coverage - 20%
(e) Maximum building height - 3 stories or 40 ft., whichever is less.
(f) Each principal building shall:

- (1) Not be designed for or occupied by more than 8 families per floor, nor more than a ninety (90) degree angle, nor exceed eight (8) feet without a change in facade architecture, including at least a (25%) percent change in setback, facade color, texture, design, etc., to bring about a varied curb appeal.
- (2) Not allow or contain outside television antenna. All television antenna equipment, common antenna may be used for each building.
- (3) Provide not less than seven hundred (700) cubic feet of storage for each apartment building, exclusive of closets except those units reserved for low and moderate income units have not less than three hundred and fifty (350) cubic feet of storage.
- (4) Not fail to provide, in an enclosed area, laundry facilities of not less than one washer/dryer for each ten (10) dwelling units for the exclusive use of the occupants of the development, provided within each unit. No outside clothes lines or clothes hanging facilities or devices shall be provided.
- (5) Provide a recreation area to serve the needs of the anticipated apartment population and shall consist of at least the following:
(a) A fenced-off play area including play equipment such as swings, seesaws, etc. recreation area with a minimum size of twenty thousand (20,000) sq. ft. for active and passive area.
- (6) Minimum space between buildings - there shall be a minimum open space of at least (50) feet between the rears of any two buildings, or thirty-five (35) feet between any other combination of facades.

If buildings are overlapped, the overlapped sides may not contain any windows or other architectural connections are permitted between overlap portions separated from adjacent structures by at least fifteen (15) feet.

(7) There shall be a trash area completely surrounded by a six (6) foot high solid wall.

711.2 DEVELOPMENT STANDARD

The PRD-1 Residential Zone specified herewith shall be occupied only as indicated in the Schedule of this Ordinance and as follows:

a. The gross density shall be twelve (12) units per acre for the entire parcel but may consist of any percentage combination of apartments and townhouses. The net density of any section of a site devoted to townhouses shall not exceed ten (10) units per acre.

b. Special requirements for apartments are as follows:
(1) Principal Buildings
(a) Minimum front setback (measured from the proposed street R.O.W. line) - 35 ft.
(b) Minimum setback from interior private road - 25 ft., or parking lots - 15 ft.
(c) Minimum side and rear yard setbacks - 15 ft.

(d) Maximum lot coverage - 20%
(e) Maximum building height - 3 stories or 40 ft., whichever is less.
(f) Each principal building shall:

- (1) Not be designed for or occupied by more than 8 families per floor, nor more than a ninety (90) degree angle, nor exceed eight (8) feet without a change in facade architecture, including at least a (25%) percent change in setback, facade color, texture, design, etc., to bring about a varied curb appeal.
- (2) Not allow or contain outside television antenna. All television antenna equipment, common antenna may be used for each building.
- (3) Provide not less than seven hundred (700) cubic feet of storage for each apartment building, exclusive of closets except those units reserved for low and moderate income units have not less than three hundred and fifty (350) cubic feet of storage.
- (4) Not fail to provide, in an enclosed area, laundry facilities of not less than one washer/dryer for each ten (10) dwelling units for the exclusive use of the occupants of the development, provided within each unit. No outside clothes lines or clothes hanging facilities or devices shall be provided.
- (5) Provide a recreation area to serve the needs of the anticipated apartment population and shall consist of at least the following:
(a) A fenced-off play area including play equipment such as swings, seesaws, etc. recreation area with a minimum size of twenty thousand (20,000) sq. ft. for active and passive area.
- (6) Minimum space between buildings - there shall be a minimum open space of at least (50) feet between the rears of any two buildings, or thirty-five (35) feet between any other combination of facades.

If buildings are overlapped, the overlapped sides may not contain any windows or other architectural connections are permitted between overlap portions separated from adjacent structures by at least fifteen (15) feet.

(7) There shall be a trash area completely surrounded by a six (6) foot high solid wall.

EXHIBIT A



fence with front solid gates. All outside trash shall be stored in this area and shall not bear public view over the fence height. All similar accessory appurtenances such as propane tanks shall be similarly enclosed.

- (d) There shall be no window air conditioners.
- (e) Accessory Buildings and Uses
 - (1) Accessory buildings shall conform to at least the height and front setback requirements of the principal building. The side and rear setbacks shall be ten (10) feet.
 - (2) These swimming pools less than four (4) feet high shall be enclosed by a permanent fence not less than four (4) feet high with a locked gate. Building permits shall be required for all swimming pools above or below ground, with a water surface area of two hundred and fifty (250) sq. ft. or over.
 - (3) No truck or commercial vehicle, licensed for over 8,000 lbs. gross weight shall be stored or parked on any lot or portion of a lot.
 - (4) Accessory building attached to a principal building shall comply with the setbacks of the principal building.

- c. Special requirements for townhouses are as follows:
 - (1) Front Yard Buildings
 - (a) Minimum front setback measured from the proposed public street R.O.W. line - 35 ft.
 - (b) Minimum setback from pavement of interior private road or parking area - 20 ft.
 - (c) Minimum each side and rear yard setbacks - 25 ft.
 - (d) Minimum lot coverage - 20%
 - (e) Minimum building height - 2 stories or 35 ft., whichever is less.
 - (2) Each principal building shall not:
 - (a) Be designed for more than ten (10) nor less than three (3) attached units.
 - (b) Exceed one hundred and seventy-five (175) feet in length.
 - (3) Exceed two townhouse units on one facade without providing a variation in setback equal to five (5) feet or greater.
 - (4) Exceed two townhouse units without a change in facade architecture, including at least twenty-five (25%) percent of facade color, texture, design, etc., to bring about a varied composition.
 - (5) Provide less than two (2) exterior exposures for each unit which shall be properly windowed so as to provide through-ventilation or cross-ventilation for each unit.
 - (6) Allow or contain outside television antennas. All television antenna equipment shall be built into the building to eliminate individual antenna towers from being erected on the roof. One common antenna tower may be used for each building.
 - (7) Provide, less than seven hundred (700) cubic feet of storage for each unit in the building, exclusive of closets, except those units reserved for low and moderate income units shall have not less than three hundred and fifty (350) cubic feet.
 - (8) Provide less than a minimum open space of at least fifty (50) feet between the rears of any two buildings, or thirty-five (35) feet between any other combination of facades. If buildings are overlapped, the overlapped sides may not contain any windows. Architectural connections are permitted.
 - (9) Provide a townhouse unit of less than twenty (20) feet in width, except for low and moderate income units which shall be no less than sixteen feet.
 - (10) Provide individual lots for sale of less than two thousand (2,000) sq. ft. If lots are sold except that for low and moderate income units the lots shall be not less than 1,200 sq. ft. Land may be kept in common ownership.
 - (11) Accessory Buildings and Uses.

Accessory building and uses shall conform to the same requirements as specified in 711.2(2) for apartments.

(3) Ownership and Maintenance of Common Areas

Common areas of any tract utilized for a townhouse development which are not accepted by the Township shall be deemed to a corporation, association, individuals or other legal entity consisting of a majority of the property owners within the development for their use, control, management and maintenance.

711.3 Off-street parking is required subject to the special conditions of Article VI.

711.4 LANDSCAPING

- a. General Regulations
 - (1) Landscape Area
 - (a) All areas in a development not used for construction of buildings, roads, accessways, parking or sidewalks shall be fully landscaped in accordance with these regulations.
 - (b) Site Considerations
 - (i) Natural site features such as existing trees, streams, rock outcroppings, etc. shall be preserved wherever possible. Whenever such natural features are absent or insufficient or have been destroyed during the development of the site, additional new plantings of a sufficient size as determined by the Municipal Agency shall be established to provide environmental protection to beautify the buildings and grounds, and to provide privacy, shade and the screening out of objectionable features created on the site.
 - (ii) Design
 - (A) Landscape plans shall be required, except for single and two-family homes, where no plan is required.

(4) Labeling
All landscape plans shall have a schedule of the Latin and common name, the quantity, the size, spacing, and method of planting of each plant material.

b. Additional Regulations
(1) A minimum landscaped area five (5) feet wide shall be provided along all property lines including public streets.

(2) All buffers and landscaped areas shall be protected from adjacent parking areas by curbs, or concrete, metal or wood bumpers at least six (6") inches in height and securely anchored into the ground. Buffer areas are included within setbacks.

(3) Service areas, parking areas, transformer compounds, and other strictly utilitarian improvements, shall be screened as fully as practicable. In general, it is intended that possible objectionable or unsightly features within a given development shall be screened from passing traffic or abutting residential properties.

(4) In the case of a repetition of building designs, as in apartment house development, care shall be exercised to avoid monotony in the planting design by introducing sufficient variety in the planting layout to lend interest and aesthetic appeal. By the same token, excessive variety shall be avoided, and all shall be represented as a balanced design with proper accent in the right places.

(5) All street trees and on-site deciduous shade trees shall not be less than two and one-half (2 1/2") inch diameter measured one (1) foot above the root crown.

(6) A satisfactory amount of evergreen plant material shall be included in the planting, this to be judged on an individual basis by the Municipality.

(7) Areas required for buffers shall not be cleared or graded prior to development approval.

(8) Retaining walls shall not be permitted within buffer areas unless approved as part of site plan approval.

(9) Where the non-single-family zone line abuts a single-family residential zone, a buffer of twenty-five (25) feet shall be established, except where a public street intervenes.

(10) Within the twenty-five (25) feet buffer to a residential zone line no improvements can be made, and the property shall be either left in its natural state, supplemented with evergreen screening plant materials, or both as determined by the Municipal Agency for each site.

(11) In all zones where a commercial zone line abuts a multi-family residential use, a twenty-five (25) feet buffer must be established and maintained unless such a buffer is already established and maintained along the common boundary of that zone.

c. Landscaped Area Required
In calculating landscaped areas, the areas of plazas, open pedestrian shopping malls, sitting areas, pools and fountains shall be included. Landscaped areas within and between parking areas shall also be included.

(1) A minimum of twenty (20%) percent of the site shall be devoted to landscaped areas in addition to all required buffers, but shall include required recreation areas referred to in Section 711.2 c(1)(f)(5). The Municipal Agency shall have the authority to determine its distribution, but all front yards shall have a minimum of fifteen (15%) percent landscaped areas.

711.5 FENCES AND HEDGES

a. Intersections
At the intersection of two (2) or more streets, no wall, fence, hedge or other structure shall be erected to a height in excess of three (3) feet above curb level, nor any other obstruction to vision shall be permitted within the triangular area formed by the nearest intersecting right-of-way street lines at points which are twenty-five (25) feet distant from the point of intersection, measured along said right-of-way street line. Trees whose branches are trimmed away to a height of at least ten (10) feet above curb level shall be permitted.

b. Height
On any lot in any residence district, no wall, fence, or hedge shall be erected or altered so that said wall or fence shall be over four (4) feet in height in the front yard nor be over six (6) feet in height in the side or rear yards, except that tennis court fences may have maximum height of twelve (12) feet. Tennis courts and front yard fences shall be restricted to open mesh or other open material as approved by the Construction Official.

c. Dangerous
No fence shall be erected of barbed wire, or electrified, or topped with metal spikes or constructed of any material or in any manner which may be dangerous to persons or animals.

d. Type
Solid architectural fences shall be required along all lot lines except the street line where solid property lines abut single family residential zoning district lines. Such architectural fences may be made of any material which is aesthetically pleasing and prevents the dissemination of odors, noise, detritus, or sight across the residential zoning boundary. Fences used for this purpose shall be six (6) feet in height. Nothing in this Section prevents the use of plant materials along any lot line in addition to the fence requirement, but plant materials cannot be substituted for the fence. Open chain link and chain link with plastic or aluminum slats shall not be considered to be an architecturally solid fence. A wall or fence which restricts the natural flow of drainage or causes stagnant water conditions shall not be permitted. Said wall or fence shall be ordered removed or corrected by the Owner upon direction of the Construction Official. The Municipal Agency shall have the authority to waive this requirement if a buffer area is not escaped to their requirements.

e. Maintenance
Walls or fences erected shall be maintained in an aesthetically pleasing manner and any failure to do so shall be subject to the Construction Official's order to repair or replace the wall or fence in order to meet the requirements of this Ordinance.

f. Swimming Pools
There shall be a fence, not less than four (4) feet high completely enclosing any below-ground swimming pool and any other swimming pool of one hundred (100) sq. ft. of surface water area or more which is less than four (4) feet above the ground. Each gate in a pool fence shall be capable of being locked when not in use.

g. Finished Side
The finished side of all fences shall be on the outside facing away from the lot on which the fence is erected. The intent of this provision is for safety purposes to prevent easy access from neighboring property.

PRD-2 Planned Residential Development
712.1 PERMITTED USES
A building may be erected, altered, or used, and a lot or premises may be occupied and used for any of the following purposes:

- a. Principal Uses
 - (1) Apartment dwellings subject to all requirements of this Section.
 - (2) Townhouses subject to all requirements of this Section.
- b. Accessory Buildings and Uses including:
 - (1) Swimming pools and tennis courts, but not public swim or tennis clubs.
 - (2) Signs subject to the special conditions of Article VIII.
 - (3) Fences and hedges subject to the provisions of this Article.
 - (4) Other customary accessory uses and structures which are clearly incidental to the principal structure and use.

712.2 DEVELOPMENT STANDARDS
The PRD-2 Residential Zone specified herewith shall be occupied only as in the Schedule of this Ordinance and as follows:

a. The gross density shall be fifteen (15) units per acre for the entire parcel but may consist of a combination of apartments and townhouses. The net density of any section of a site devoted to townhouses shall not exceed ten (10) units per acre.

b. All other provisions and requirements of the PRD-1 Zone shall apply to the PRD-2 Zone.

713 MF-1 Multi-Family Residential
713.1 PERMITTED USES
A building may be erected, altered, or used and a lot or premises may be occupied and used for the following uses:

- a. Principal Uses
 - (1) Multi-family Apartments
- b. Accessory Buildings and Uses

Continued on page

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- (1) Swimming pools and tennis courts, but not public swim or tennis clubs.
- (2) Signs subject to the special conditions of Article VIII.
- (3) Fences and hedges subject to the provisions of this Article.
- (4) Other customary accessory uses and structures which are clearly incidental to the principal structure and use.

714.2 DEVELOPMENT STANDARDS

The MF-1 Residential Zone specified herewith shall be occupied only as indicated in the Schedule of this Ordinance and as follows:

a. The entire parcel shall be utilized for multi-family apartments with the number of units to be one hundred (100) units. If the parcel is utilized for senior citizen units the standards of the SC-1 Zone shall apply in lieu of the following:

b. Special requirements for Multi-Family Apartments.

(1) Principal Buildings

- (a) Minimum front setback - (measured from proposed street R.O.W. line) - 60 ft.
- (b) Minimum side yard setback - 30 ft.
- (c) Minimum rear yard setback - 40 ft.
- (d) Maximum lot coverage - 20%
- (e) Maximum building height - 6 stories or 60 ft. whichever is less.
- (f) Minimum landscaping - 15%
- (g) Each principal building shall:

(1) Not allow or contain outside television antenna. All television antenna equipment shall be built into the building to eliminate individual antennas from being erected on the roof. Not more than one common antenna may be used for each building.

(2) Provide not less than seven hundred (700) cubic feet of storage for each apartment unit in the building exclusive of closets, except those units reserved for low and moderate income units shall have not less than three hundred and fifty (350) cubic feet.

(3) Not fail to provide, in an enclosed area, laundry facilities of not less than one washer and dryer for each ten (10) dwelling units for the exclusive use of the occupants of the building, unless provided within each unit. No outside clothes lines or clothes hanging facilities or devices shall be provided or allowed.

(4) There shall be a trash area completely surrounded by a six (6) foot high solid architectural fence with front solid gates. All outside trash shall be stored in this area and shall not be in public view over the fence height. All accessory appurtenances such as propane tanks shall be similarly enclosed.

(2) Accessory Buildings and Uses

(a) Accessory buildings shall conform to at least the height and front setback requirements of the principal building. The side and rear yard setbacks shall be ten (10) feet.

Those swimming pools less than four (4) feet high shall be enclosed by a permanent fence not less than four (4) feet high with a locked gate. Building permits shall be required for all swimming pools, above or below ground, with a water surface area of two hundred and fifty (250) sq. ft. or over.

(b) No truck or commercial vehicle, licensed to transport more than 8,000 lbs. gross weight shall be stored or parked on any lot or portion of a lot.

(c) Accessory buildings attached to a principal building shall comply with the setbacks of the principal building.

713.3 Off-street parking is required subject to the special condition of Article VI.

713.4 Landscaping in accordance with paragraph 711.4 of this ordinance.

714 SC-1 Multi-Family Residential

714.1 PERMITTED USES

A building may be erected, altered, or used, and a lot or premises may be occupied and used for any of the following purposes:

a. Principal Use

(1) Senior Citizen Housing

b. Accessory Buildings and Uses

- (1) Swimming pools and tennis courts, but not public swim or tennis clubs.
- (2) Signs subject to the special conditions of Article VIII.
- (3) Fences and hedges subject to the provisions of this Article.
- (4) Other customary accessory uses and structures which are clearly incidental to the principal structure and use.

714.2 DEVELOPMENT STANDARDS

The SC-1 Residential Zone specified herewith shall be occupied only as indicated in the Schedule of this Ordinance and as follows:

a. The entire parcel shall be utilized for Senior Citizen apartments with the number of units to be between one hundred (100) and one hundred and fifty (150) units.

b. Special requirements for Senior Citizens Apartments.

(1) Principal Buildings

- (a) Minimum front setback - (measured from the proposed street R.O.W. line) - 50 ft.
- (b) Minimum setback from interior private road - 20 ft.
- (c) Minimum side and rear yard setbacks - 35 ft.
- (d) Maximum lot coverage - 20%
- (e) Maximum building height - 5 stories or 50 ft., whichever is less.
- (f) Each principal building shall:

(1) Not allow or contain outside television antenna. All television antenna equipment shall be built into the building to eliminate individual antennas from being erected on the roof. Not more than one common antenna may be used for each building.

(2) Provide, in an enclosed basement area, not less than four hundred (400) cubic feet of storage for each apartment unit in the building.

(3) Not fail to provide, in an enclosed area, laundry facilities of not less than one washer and dryer for each ten (10) dwelling units for the exclusive use of the occupants of the building, unless provided within each unit. No outside clothes lines or clothes hanging facilities or devices shall be provided or allowed.

(4) There shall be a trash area completely surrounded by a six (6) foot high solid architectural fence with front solid gates. All outside trash shall be stored in this area and shall not be in public view over the fence height. All accessory appurtenances such as propane tanks shall be similarly enclosed.

(2) Accessory Buildings and Uses

(a) Accessory buildings shall conform to at least the height and front setback requirements of the principal building. The side and rear yard setbacks shall be ten (10) feet.

Those swimming pools less than four (4) feet high shall be enclosed by a permanent fence not less than four (4) feet high with a locked gate. Building permits shall be required for all swimming pools, above or below ground, with a water surface area of two hundred and fifty (250) sq. ft. or over.

(b) No truck or commercial vehicle, licensed for over 8,000 lbs. gross weight shall be stored or parked on any lot or portion of a lot.

(c) Accessory buildings attached to a principal building shall comply with the setbacks of the principal building.

714.3 Off-street parking is required subject to the special conditions of Article VI.

714.4 Landscaping is required subject to paragraph 711.4 of this ordinance.

Section 8

Article VIII, Signs, is amended to add the following:

801.1 e. One (1) sign shall be permitted for the purpose of identifying a multi-family, townhouse, garden apartment or any combination thereof, but shall not exceed twenty (20) sq. ft. aggregate on both sides. Said signs shall not be allowed to project above the ground by more than five (5) feet. Signs may be illuminated as long as the glare from the lights shines directly on the sign and does not permit light to emanate beyond the property lines of the subject site. All signs shall be setback not less than fifteen (15) feet from each street right-of-way.

Section 9

"Schedule of General Requirements" is amended to add the following at the bottom of the schedule.

Zone	Area Sq. Ft.	Minimum Lot Requirements With Depth	Front	Rear	Each Side	Accessory Rear	Accessory Side	Percent Maximum Lot Coverage	Maximum Height (whichever is less)
PRD-1	300,000	none	35/40	35/40	35/40	10	10	20	3 stories or 40'
PRD-2	800,000	none	35/40	35/40	35/40	10	10	20	3 stories or 40'
MF-1	60,000	none	60	40	30	10	10	20	6 stories or 60'
SC-1	250,000	none	50	35	35	10	10	20	5 stories or 50'

Section 10

This Ordinance shall become effective upon passage according to law.

NOTICE

Take notice that the foregoing ordinance was introduced and passed on first reading, by title, at a regular meeting of the Mayor and Council held on July 8, 1985 and will be further considered for final passage at a meeting of the Mayor and Council to be held on July 29, 1985 at 8:00 P.M. in the Municipal Building, South Plainfield, New Jersey.

s/William T. DeSabato
Borough Clerk

1 Time: 7/18/85
Fee: \$571.95

*** PUBLIC NOTICE ***

ORDINANCE NO. 1010

Affordable Housing Ordinance of the Borough of South Plainfield
An Ordinance to Amend the Code of The Borough of South Plainfield, New Jersey creating an Affordable Housing Agency and fixing procedures for providing low and moderate income housing in the Borough of South Plainfield.

Be It Ordained by the Governing Body of the Borough of South Plainfield, in the County of Middlesex and the State of New Jersey as follows:

ARTICLE I-TITLE

100 Short Title
This Ordinance shall be known and may be cited as: The Affordable Housing Ordinance of the Borough of South Plainfield.

ARTICLE II-PURPOSE

200 Purpose
The purpose of this Section is to:
(a) Comply with the May 22, 1984 Judgement of the Superior Court of New Jersey in Urban League v. Greater New Brunswick, et. al. v. Mayor and Council of the Borough of Carteret, et al., by establishing a mechanism for assuring that housing units designated for occupancy by low and moderate income households remain affordable to, and occupied by, low and moderate income households.

ARTICLE III-DEFINITIONS

300 Definitions
The following terms wherever used or referred to in this section shall have the following meanings unless a different meaning clearly appears from the context:

(a) "Affordable Housing Agency" shall mean the Agency referred to in Article X of this Ordinance or designee.

(b) "Income Ceiling" shall mean 80% of the regional median income for moderate income households and 50% of the regional median income for low income households.

(c) "Low Income Household" shall mean a household whose income does not exceed 50% of the regional median income, with adjustments for household size as determined by the Affordable Housing Agency.

(d) "Low Income Unit" shall mean a dwelling unit which is subject to the price and occupancy requirements of this section and whose sales price or rental charge does not exceed the maximum price charge that is affordable by low income households.

(e) "Moderate Income Household" shall mean a household whose income is greater than 50% but does not exceed 80%, of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.

(f) "Moderate Income Unit" shall mean a dwelling unit which is subject to the price and occupancy requirements of this section and whose sales price or rental charge does not exceed the maximum price charge that is affordable by moderate income households.

(g) "Regional Median Income" shall mean the median income for the present housing need region as cited in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 1984. For ease of calculation, regional median income shall be deemed to mean 94% of the median income of the Primary Metropolitan Statistical Area (PMSA) in which Middlesex County is located.

ARTICLE IV - GENERAL PROVISIONS

400 General Provisions

401 Whenever reference is made to low or moderate income units in the Zoning Ordinance and standards qualifications, definitions and procedures set forth in this section shall apply.

402 Except as otherwise expressly provided herein, no low or moderate income unit shall be offered for sale or rental unless it is affordable to low or moderate income households.

403 Except as otherwise expressly provided herein, no low or moderate income unit shall be sold, resold, rented or re-rented except to a household that has been qualified as a low or moderate income household.

404 A covenant embodying these restrictions shall be recorded with the deed for a residential property subject to the provisions of this section.

ARTICLE V - QUALIFIED HOUSEHOLDS

500 Qualification of Low or Moderate Income Households

A prospective purchaser or renter of a low or moderate income unit must be qualified as a low or moderate income household by the Affordable Housing Agency prior to the purchase or rental of such unit. In making this determination, the Affordable Housing Agency shall apply the standards set forth in the definitions of low and moderate income households set forth in Section 601 of this Ordinance. The Affordable Housing Agency shall generally formulae the regional median income and the median adjustments for household size based on changes in the official estimates of the median income for the Primary Metropolitan Statistical Area (PMSA) in which the Borough is located.

ARTICLE VI - MAXIMUM SALES PRICES AND RENTALS

600 Determination of Maximum Sales Prices and Rental Charges

Prior to the sale, resale, rental or re-rental of a low or moderate income unit, the Affordable Housing Agency shall determine the maximum sales price or rental charge that may be charged for that size unit in each income category.

601 Maximum Sales Price

The following procedure shall apply to determine maximum sales price:

(a) A base price shall be calculated such that the sum of the monthly payments for principal, interest, taxes, fire, theft and liability insurance, and homeowner association fees, if any, shall not exceed 28% of the low or moderate income ceiling determined in accordance with section 500. A ten percent (10%) down payment requirement and a thirty (30) 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 shall be utilized in the Affordable Housing Agency. If the developer offers to buy down the prevailing interest rate for a minimum of three years commencing at the time of purchase, and the terms of the buydown 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 buydown, the interest rate for the first year of the buydown period shall be used in the above calculation to determine monthly interest payment. 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 buydown 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 interest rate 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.

(b) In order to assure that low and moderate income units are affordable by households whose income is less than the low or moderate income ceiling, the maximum sales price that may be offered for each such unit shall not exceed ninety percent (90%) of the base price for that size unit in each category of low or moderate income housing.

(c) 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 those prices.

(d) 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, and 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 (a) and (b) above.

602 Maximum Rental Charges

The following procedure shall apply to determine maximum rental charges:

(a) A base rent shall be calculated such that the sum of the monthly rental payment and including utilities, does not exceed thirty percent (30%) of the low or moderate income ceiling, determined in accordance with subsection 601 of this Ordinance.

(b) In order to assure that low and moderate income units are affordable by households whose income is less than the low or moderate income ceiling, the maximum gross rent that may be charged for any such unit shall not exceed ninety percent (90%) of the base rent for that size unit in each category of low or moderate income housing.

(c) 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.

(d) 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 (a) and (b) above. No more than one rental charge increase shall be allowed for any unit or group of units within any twelve (12) month period.

603 Relationship Between Household Size and Unit Size

For the purpose of determining maximum sales prices and rental charges pursuant to Subsections 601 and 602 of this Ordinance, the ceiling incomes of the following household sizes shall be used to determine the maximum prices for each of the following unit sizes:

efficiency	1 person
1 bedroom	2 persons
2 bedrooms	3 persons
3 bedrooms	5 persons
4 bedrooms	6 persons

604 Affordable Price Tables

The Affordable Housing Agency shall prepare and maintain the tables of maximum affordable prices for low and moderate income households by unit size as a guide for determining maximum sales prices and rental charges for low and moderate income units.

Table I of this Ordinance contains the maximum affordable sales prices for condominium ownership, Table II contains the maximum affordable sales prices for fee simple ownership, and Table III contains the maximum affordable rental charges for low and moderate income households, calculated using the median income data available as of April 30, 1984. The following assumptions were made in preparing the sales tables:

- (a) A ten percent (10%) downpayment and a mortgage with a thirty (30) year term.
- (b) The property tax rate in effect in South Plainfield as of April 30, 1984.
- (c) Fire, theft and liability insurance was estimated to be \$40.00 per \$10,000 house value.
- (d) Homeowners' association fees were estimated to be \$150, annually per \$10,000 house value.

ARTICLE VII - RESTRICTIONS

700 Expiration of Restrictions

701 Restrictions on the resale of low or moderate income sales units shall expire thirty (30) years from the date of the initial sale of the property.

702 Low or moderate income rental units shall remain subject to the requirements of this section indefinitely, except that the limitations set forth in Sections 701 and 800 shall apply if such rental units are converted into condominiums, co-operatives, or some other form of ownership property.

800 Affirmative Marketing

Developers of low or moderate income units shall affirmatively market those units to all segments of the lower income population within the Mount Laurel housing region in which the development is located and to all qualified low or moderate income households irrespective of race, color, religion, sex or national origin. Toward that end, the developer shall formulate and submit an affirmative marketing plan acceptable to the Affordable Housing Agency, which plan shall be incorporated into any approval of the development application. At a minimum, the plan shall provide for advertisement in newspapers with general circulation in the following urban areas: Jersey City, Newark, Elizabeth, Paterson, New Brunswick and Perth Amboy. The plan shall also require the developer to notify the following agencies on a regular basis of the availability of any low or moderate income units: The Civic League of Greater New Brunswick, the Housing Coalition of Middlesex County, The Middlesex County Office of Community Development, and other fair housing centers, housing referral organizations, and government social service and public welfare departments located in the eleven-county present housing need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984.

ARTICLE VIII - MARKETING

900 Affordable Housing Agency
901 Creation and Purpose

ARTICLE IX - AGENCY

There is hereby created an Affordable Housing Agency ("Agency") whose purpose and responsibilities shall be as follows:

(a) To create a body of rules and regulations to implement the policies and goals of this section specifically to ensure that housing units designated as low or moderate income units are constructed, shall remain affordable and be occupied by low or moderate income households.

(b) To ensure the continued availability of low or moderate income units by: (1) reviewing the qualifications of prospective purchasers and tenants to ensure that they qualify as low or moderate income households; (2) determining the maximum sale, resale, and rental charges for low and moderate income units to ensure that the units are affordable to low or moderate income households; (3) requiring that a covenant be recorded with each deed restricting the resale of low or moderate income units to low or moderate income households; and (4) where appropriate, maintaining a waiting list of persons who have been qualified as low or moderate income households and are eligible to rent or purchase a low or moderate income unit.

(c) To restrict the installation of improvements or amenities within or as a part of a low or moderate income units which would unduly increase the resale price or rental charge of such units above the amount considered by the Agency to be affordable by low or moderate income households, and to limit the low or moderate income unit resale price adjustments for homeowner installed improvements.

(d) To undertake efforts to ensure that units designated as low or moderate income units do not thereafter become available to low or moderate income households by virtue of their resale.

(e) To monitor the marketing practices of developers of low and moderate income units to ensure that they comply with the affirmative marketing requirements set forth in subsection 800 of this Ordinance.

902 Composition

(a) The Agency shall consist of seven (7) regular members and two (2) alternate members. Five (5) members shall constitute a quorum.

(b) The Mayor shall appoint two (2) regular members of the Agency and one (1) alternate. The Municipal Council shall appoint five (5) members of the Agency and one (1) alternate.

(c) Alternate members shall be designated at the time of appointment and the Mayor shall designate his/her alternate as "Alternate No. 1" and the Council shall designate their alternate as "Alternate No. 2".

(d) The initial terms of the Mayor's appointments shall be one (1) year and four (4) years for the regular members and two (2) years for the alternate member. The terms of the Council's appointments shall be one (1) year, two (2) years, two (2) three (3) year terms and one (1) four (4) year term and two (2) term of each alternate member shall be two (2) years.

(e) No member may hold any elective office or position under the municipality. No member of the Agency shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if he requests it, be removed by the governing body for cause. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

(f) The Agency shall elect a chairman and vice-chairman from its members and select a secretary who may or may not be a member of the Agency.

(g) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be deferred in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

(h) All members must be residents of South Plainfield.

903 Powers

903.1 The Agency is hereby granted and shall have and exercise, in addition to the other powers hereby granted, all the powers necessary and appropriate to carry out and execute the purposes of this Ordinance.

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LEGAL NOTICES

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Ordinance, including but not limited to the following:
 (a) To prepare and forward to the Borough Council such rules and regulations as it deems necessary or appropriate to implement the purposes of this Ordinance. Said rules and regulations shall be filed with the Clerk and shall be subject to the review and modification by the Borough Council.
 (b) To supply information to developers and low or moderate income households to help them comply with the provisions of this Ordinance; and
 (c) To review applications upon due notice and adjudicate applications of individuals or families who believe themselves to be low or moderate income households.
 §93.2 The Affordable Housing Agency shall give ten (10) days written notice of any hearing to all parties involved, and shall give all interested persons an opportunity to be heard.

ARTICLE X - TABLES

1000 Table I
 PRICING OF SALES UNITS AFFORDABLE TO LOW AND MODERATE INCOME HOUSEHOLDS IN SOUTH PLAINFIELD.

Low Income	Efficiency	1 Bedroom	2 Bedrooms	3 Bedrooms
Household Size	1	2	3	4
Ceiling Income	\$10,750	\$12,300	\$13,550	\$16,600
28% of Income	3,010	3,444	3,805	4,648
INTEREST RATE: MAXIMUM AFFORDABLE PRICE - CONDOMINIUM UNITS (See Note 1)				
9%	20,900	23,900	26,500	32,200
10	19,700	22,500	24,500	30,400
11	18,600	21,300	23,500	29,000
12	17,600	20,100	22,500	27,700
13	16,700	19,100	21,500	26,700
14	15,800	18,100	20,400	24,500
MAXIMUM AFFORDABLE PRICE - FEE SIMPLE UNITS (See Note 2)				
9%	23,600	27,000	30,400	36,400
10	22,100	25,200	29,400	34,100
11	20,700	23,700	28,000	32,000
12	19,500	22,300	26,100	30,100
13	18,400	21,000	24,700	28,400
14	17,400	19,900	22,400	26,600

Notes 1 and 2 - see notes on 'moderate income' pricing table at numbers rounded to nearest \$100.00

1001 Table II
 PRICING OF SALES UNITS AFFORDABLE TO LOW & MODERATE INCOME HOUSEHOLDS IN SOUTH PLAINFIELD.

PRICING SHOULD NOT EXCEED AFFORDABILITY TO HOUSEHOLD EARNING 90% CEILING INCOME FOR CATEGORY SPENDING 28% MORTGAGE, TAXES, INSURANCE AND HOMEOWNERS ASSOCIATION FEES

Moderate Income	Efficiency	1 Bedroom	2 Bedrooms	3 Bedrooms
Household Size	1	2	3	4
Ceiling Income	\$17,200	\$19,650	\$22,150	\$26,100
28% of Income	4,816	5,502	6,202	7,308
INTEREST RATE: MAXIMUM AFFORDABLE PRICE - CONDOMINIUM UNITS (See Note 1)				
9%	33,400	38,150	42,000	50,600
10	31,500	35,900	40,500	47,700
11	29,700	34,000	38,500	45,100
12	28,100	32,150	36,200	42,700
13	26,700	30,500	34,000	40,500
14	25,300	29,000	32,500	38,500
MAXIMUM AFFORDABLE PRICE - FEE SIMPLE UNITS (See Note 2)				
9%	37,700	43,100	48,500	57,200
10	35,300	40,300	45,500	53,600
11	33,100	37,900	42,700	50,500
12	31,200	35,600	40,100	47,500
13	29,400	33,400	37,500	44,500
14	27,800	31,700	35,500	42,200

Note 1 - shelter costs for condominium units include homeowners association fee @ estimated \$150 per \$10,000 house value; e.g., \$50/month for a \$40,000 unit. If fees to be waived for low income unit, affordability can be calculated on the basis of the 'fee simple' table, with further adjustment if hazard insurance is included within the (waived) homeowners association fee.

Note 2 - shelter costs include mortgage payment, taxes @ 2.4%, market value and insurance @ \$40.00 per \$10,000 house value.

1002 Table III
 AFFORDABLE RENT LEVELS FOR LOW AND MODERATE INCOME HOUSEHOLDS IN MIDDLESEX COUNTY (BASED ON 1983 MEDIAN INCOMES FOR 11-COUNTY REGION)

UNIT TYPE	STUDIO	1 BEDROOM	2 BEDROOMS	3 BEDROOMS
Household Size	1	2	3	4
MODERATE INCOME HOUSEHOLDS				
1. Median Income	\$17,200	\$19,650	\$22,150	\$26,100
2. x .30 (Note 1)	5,160	5,895	6,645	7,830
3. x .50 (Note 2)	4,644	5,395	6,085	7,047
4. Monthly Gross Rent Affordable (Row 3 - 12)	387	442	498	587
5. Less Estimated (See Note 3) Utilities	(40)	(50)	(70)	(90)
6. Monthly Net Rent Affordable	347	392	428	497
LOW INCOME HOUSEHOLDS				
1. Median Income	10,750	12,300	13,550	16,600
2. x .30 (See Note 1)	3,225	3,690	4,065	4,980
3. x .50 (See Note 2)	2,902	3,321	3,740	4,482
4. Monthly Gross Rent	242	277	312	374
5. Less Utilities (See Note 3)	(40)	(50)	(70)	(90)
6. Monthly Net Rent Affordable	202	227	242	284

NOTES:
 (1) 30% of gross income. This row represents the maximum that a household at the beginning of the income category can afford to spend for rent including utilities.
 (2) Maximum rent should not exceed rent that a family earning 90% of the income ceiling can afford to pay.
 (3) Based on general estimates for utility costs for units of varying size, where more precise information is available, it should be applied rather than these estimates.

ARTICLE XI - EFFECTIVE DATE

1100 This Ordinance shall become effective upon passage according to law.

NOTICE

TAKE NOTICE that the foregoing ordinance was introduced and passed on first reading by title at a regular meeting of the Mayor and Council held on July 8, 1985 and will be further considered for final passage at a meeting of the Mayor and Council to be held on July 29, 1985 at 8:00 p.m. in the Municipal Building, South Plainfield, New Jersey.

s/William T. DeSabato,
 Borough Clerk

1 Time: 7:18.85
 Fee: \$397.11

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

RECEIVED

JUN 4 1984

JUDGE SERPENTELLI'S CHAMBERS

TO: Honorable Eugene D. Serpentelli
FROM: Carla L. Lerman, P.P. *CL*
DATE: May 30, 1984
SUBJECT: Urban League of Greater New Brunswick v. Carteret, et al:
Review of Stipulation between Plaintiff and
Borough of South Plainfield, signed and dated May 10, 1984.

I have reviewed the Stipulation between the Urban League and South Plainfield and feel that the terms expressed therein are reasonable, in regard to the fair share allocation, the designation of sites for multi-family housing, and the procedures for marketing and affordability controls.

In the light of the limited amount of vacant land suitable for residential development, the reduction of the fair share allocation from that indicated in my report to the Court of 1725 units, to a total of 900 units is a reasonable reduction, which will be consistent with both good planning and the goal of providing housing for low and moderate income households.

There are several items in the Stipulation and the Court Order that might be amplified to facilitate compliance by South Plainfield.

Item 22 in Stipulation (6 in Court Order): In addition to applying for funds for rehabilitation, an aggressive program of code enforcement could aid in identifying deficient housing units, and through cooperation with the County Community Development Program, owners could be encouraged to rehabilitate their properties. In addition to the Borough making application for funds to subsidize housing, and in addition to the Borough encouraging private developers to do likewise, the Borough should encourage non-profit entities to apply for subsidies, particularly for Section 202 funds for housing for elderly or handicapped.

Item 26 in Stipulation (5 in Court Order): These two sections specify time restrictions on resale of housing units to other than low and moderate income buyers. No length of time is specified for the affordability of rental units to low and moderate income households. The Affordable Housing Ordinance to be adopted by the Borough should include a length of time during which affordability would be guaranteed. Thirty years would be a reasonable period of time, and would reflect the restrictions on resale of the sales units.

EXHIBIT B

Item 17 in Stipulation (3F in Court Order): Compliance with the terms of this item in the Stipulation might be facilitated if the nature and extent of the required financial support by the Borough were clarified. The assumption would be that subsidy of the type provided by the Section 202 program of the Department of Housing and Urban Development would be required to provide units affordable to low and moderate elderly households. If that is the intent, then all of the units provided could be affordable to low income households.

Item 18 in Stipulation (3G in Court Order): The question of possible use by the Archdiocese of Metuchen of the Tompkins Avenue site for cemetery use could be clarified in the Court Order, and brought into conformance with the stipulation, if the last sentence of the Court Order were extended to include the phrase, "absent any application by the Archdiocese of Metuchen during that period."

Item 27 in Stipulation (3L of Court Order): Both the Stipulation and Court Order might facilitate the provisions required to be adopted by the Borough if a more specific definition of "housing needs" were included. The intent in these items is clearly to ensure a distribution of units of sizes that reflect the full range of need in the population, as opposed to only one bedroom units, for example. However, clarification of how to determine the appropriate distribution would be useful.

Other than these five items, which are proposed more for clarification than for alteration of the intent, I find the Stipulation to be reasonable in all its terms.

TO WHOM IT MAY CONCERN:

At a regular meeting of the Mayor and Common Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey held on May 14, 1984, I was directed to advertise the fact that the Mayor and Council will meet in the Municipal Building, 2480 Plainfield Avenue, South Plainfield, New Jersey, on June 11, 1984 at 8:00 p.m. to expose and sell at a public sale to the highest bidder, according to terms of sale on file with the Borough Clerk, the property described below.

Take further notice that the Mayor and Council have, by resolution and pursuant to law, fixed the minimum price at which said property will be sold together with all other details pertinent, said minimum price being as shown below, plus costs of preparing deeds and advertising this sale.

Take further notice that at set sale or any date or place to which it may be adjourned, the Mayor and Council reserve the right in its discretion to reject any or all bids and to sell said property to such bidder as it may select, due regard being given to terms and manner of payment in case one or more minimum bids shall be received.

Upon acceptance of the minimum bid or bid above minimum, by the Council and the payment thereof by the purchaser according to the manner of purchase in accordance with terms of sale on file, the Borough will deliver a Bargain and Sale Deed for said premises.

William T. DeSabato, Borough Clerk
 Bids to be advertised in The Reporter on May 24, 1984 and June 1, 1984 to be sold on June 11, 1984 at the Municipal Building, 2480 Plainfield Avenue, South Plainfield, New Jersey at 8:00 p.m.

Block	Lots p/o	Name	Street	Amt of Bid
	4.01	D. DiGian & Son		
448	(1) p/o 4.01	Construction Co., Inc. D. DiGian & Son	Second Pl.	\$12,500.00
448	(2) p/o 4.01	Construction Co., Inc. METES AND BOUNDS DESCRIPTION PART OF BLOCK 448, LOT 4.01 PARCEL 1	Second Pl.	\$12,500.00

BOROUGH OF SOUTH PLAINFIELD NEW JERSEY
 BEGINNING at a point of intersection formed by the northerly sideline of POMPONIO AVENUE (formerly MIDDLESEX AVENUE), having a 50' R.O.W. and the westerly sideline of SECOND PLACE (formerly SECOND STREET), having a 50' R.O.W. as shown on the Tax Assessment Maps of the Borough of South Plainfield, revised December 30, 1983, and running thence:

- (1) N. 85° - 15' W. along the northerly sideline of POMPONIO AVENUE, a distance of 100.00 feet to a point; thence
- (2) N. 4° - 45' E. a distance of 100.00 feet to a point; thence
- (3) S. 85° - 15' E. a distance of 100.00 feet to a point on the westerly sideline of SECOND PLACE; thence
- (4) S. 4° - 45' W. along the westerly sideline of SECOND PLACE a distance of 100.00 feet to the point and place of BEGINNING.

Being further described and designated as Lots 388 through 391, inclusive, all in Block I, as shown on a map entitled, "SOUTH PLAINFIELD HEIGHTS," filed July 3, 1968, in the Middlesex County Clerk's Office, as Map No. 474, in File No. 23.

NOTICE OF SALE OF LAND, METES & BOUNDS DESCRIPTION
 LMC-15-84
 PART OF BLOCK 448, LOT 4.01
 PARCEL 2

BOROUGH OF SOUTH PLAINFIELD, NEW JERSEY
 BEGINNING at a point of intersection by the northerly sideline of WEST AVENUE (formerly PLAINFIELD BOULEVARD), having a 50' R.O.W. and the westerly sideline of SECOND PLACE (formerly SECOND STREET), having a 50' R.O.W., as shown on the Tax Assessment Maps of the Borough of South Plainfield, revised December 30, 1983, and running thence:

- (1) N. 85° - 15' W. along the northerly sideline of WEST AVENUE, a distance of 100.00 feet to a point; thence
- (2) N. 4° - 45' E. a distance of 100.00 feet to a point; thence
- (3) S. 85° - 15' E. a distance of 100.00 feet to a point on the westerly sideline of SECOND PLACE; thence
- (4) S. 4° - 45' W. along the westerly sideline of SECOND PLACE, a distance of 100.00 feet to the point and place of BEGINNING.

Being further described and designated as Lots 211 through 214, inclusive, all in Block I, as shown on a map entitled, "South Plainfield Heights," filed July 3, 1968, in the Middlesex County Clerk's Office as Map No. 474, in File No. 23.

Sale of the property described above will be made subject to the following conditions:

1. The conveyance by the Borough of South Plainfield shall be by bargain and sale deed, without covenants, and without representations as to the marketability of title. In the event the purchaser shall determine that title to the property in question shall not be good and marketable, any questions as to marketability of title shall be submitted to the Borough Clerks Office within 45 days of the date of sale. In the event said questions have not been raised within said 45 day period, then and in that event all questions relating to the marketability of title shall be deemed waived and this matter shall proceed to closing of title within 90 days of the date of sale.
 2. Easements, both of record and not of record.
 3. Restrictions of record.
 4. Zoning ordinance of the Borough of South Plainfield as presently constituted without representations as to the use to which said property can be put.
 5. In the event that the purchaser fails or refuses to close title and/or pay the consideration therefor within the time period stated herein, then in that event, the Borough of South Plainfield may, at its own option, exercise any or all of the following rights:
 - (a) Declare the transaction null and void.
 - (b) Charge the purchaser with stipulated damages to include interest on the purchase price at the rate of 8% (per cent) per year plus \$1.00 per day to be computed from the date of the sale to the date of closing of title or date of rescission by the Borough.
 - (c) Any other rights as provided by law which may be available to the Borough.
 6. The cost of advertising, preparation and filing of the deed shall be paid by the purchaser.
 7. The purchaser shall make application for any required subdivision.
 8. All costs of subdivision, including but not limited to on site and of site improvements as required by appropriate Borough Boards Agencies and Officers, shall be paid by the purchaser.
- 2 Times: 5-24-84 and 6-1-84
 Fee: \$79.04

AFFIDAVIT OF PUBLICATION

STATE OF NEW JERSEY, }
 COUNTY OF MIDDLESEX. } ss.

JAMES V. ECKERT

of full age, being duly sworn, on his/her oath, that he/she is the Publisher of THE REPORTER, a newspaper published in the Borough of South Plainfield, Middlesex County, and State of New Jersey, and that a notice of which the annexed is a true copy, was published in said paper for the term of two (2) weeks, once in each week successively, viz May 24, 1984 & June 1, 1984, commencing on the 24th day of May

Sworn and subscribed before me this 4th day of June, 1984 A.D.

James V. Eckert

John M. [Signature]
 Notary Public of New Jersey

NOTARY PUBLIC OF NEW JERSEY
 My Commission Expires May 23, 1989

Be it resolved, by the Mayor and Council of the Borough of South Plainfield, New Jersey, that:

The bid of D. DiGian & Son Construction Co., Inc. in the amount of \$12,500.00 for property known as part of lot 4.01 (parcel 1) in block 448 be accepted, said property being owned by the Borough of South Plainfield and not needed for public purpose or use, sale being made subject to the conditions advertised.

2,500.00
1,250.00
174.04
87.02

(SEAL)
William DeSantis
Clerk of the Borough of South Plainfield

Approved June 11, 1984
Richard English
Mayor of the Borough of South Plainfield

I certify the foregoing to be a true and correct abstract of a resolution regularly passed at a meeting of the Common Council of the Borough of South Plainfield, held

Offella
Addie Denise
James Hoggins 6/11/84
COMMITTEE

..... June 11, 1984
and in that respect a true and correct copy of its minutes.
William DeSantis
Clerk of the Borough of South Plainfield

Handwritten mark

Be it resolved, by the Mayor and Council of the Borough of South Plainfield, New Jersey, that:

The bid of D. DiGian & Son Construction Co., Inc. in the amount of \$12,500.00 for property known as part of lot 4.01 (parcel 2) in block 448 be accepted, said property being owned by the Borough of South Plainfield and not needed for public purpose or use, sale being made subject to the conditions advertised.

2,500.00
1,250.00
174.04
87.02

(SEAL)

Will DeLoe
Clerk of the Borough of South Plainfield

Approved June 11, 1984

Michael Engler
Mayor of the Borough of South Plainfield

I certify the foregoing to be a true and correct abstract of a resolution regularly passed at a meeting of the Common Council of the Borough of South Plainfield, held

Bernard G...
W. Kelly
Tom Borzillo Jr. 6/11/84
COMMITTEE

..... June 11, 1984.....
and in that respect a true and correct copy of its minutes.
Will DeLoe
Clerk of the Borough of South Plainfield

Be it resolved, by the Mayor and Council of the Borough of South Plainfield,
New Jersey, that:

The bid of D. DiGian & Son Construction Co., Inc.
in the amount of \$6,250.00 for property known as part of lot
4.01 in block 448 as more particularly described in Schedule "A"
attached hereto, be accepted, said property being owned by the
Borough of South Plainfield and not needed for public purpose or
use, sale being made subject to conditions advertised.

(SEAL)

Will De Lehto
.....
Clerk of the Borough of South Plainfield

Approved November 13, 1984

Richard Engel
.....
Mayor of the Borough of South Plainfield

I certify the foregoing to be a true and correct
abstract of a resolution regularly passed at a meet-
ing of the Common Council of the Borough of
South Plainfield, held

..... November 13, 1984

and in that respect a true and correct copy of
its minutes.

Will De Lehto
.....
Clerk of the Borough of South Plainfield

J. H. Hallahan
Thomas J. ...
Joanna ...
.....
COMMITTEE

SPECIAL PLANNING BOARD MEETING

APRIL 16, 1985

The meeting was called to order by Chairman Kelly at 7:30 P.M. Adequate notice of this meeting had been provided for under the Open Public Meetings Act. Present in addition to Mr. Kelly were Messrs. Diana, Westrick, Fitzsimmons, Acrin, Spisso, Naberezny, Peter Calderone, Esq., and Robert Rosa, Planning Consultant.

This special meeting had been called to discuss the Urban League's proposed amendments to Ordinance No. 1009 with the Board's consultant. The matter had been referred to the Board by the Borough Attorney and was requested to make its recommendations to the Mayor and Council.

Mr. Kelly read the nine proposed amendments as outlined in a letter dated March 8, 1985 from Barbara Williams, Co-Counsel for the Urban League and the following responses were made:

1. Section 5, 516.1(3), page 3 - Mr. Rosa stated that this change merely clarifies the section and doesn't change anything.
2. Section 5, 516.1(f), page 4 - Mr. Rosa commented that this provision was never discussed at the time of his meetings with the Urban League. Discussion ensued as to what age constitutes a senior citizen. Board members decided that age fifty-five should replace proposed age sixty-two in this sentence.
3. Section 7, 711.b(1)(f)(6), page 7 - Mr. Rosa stated that he had no problem with this amended text. This is more of a design change.
4. Section 7, 711.2d, page 8 - Typographical error is corrected for provision number.
5. Section 7, 711.2c(1)(f)(8), page 9 - This is a duplication of change also being requested in 711.b(1)(f)(6) on page 7.
6. Section 7, 711.2d(1)(f)(9), page 9 - Mr. Rosa felt that this provision should remain in the ordinance and Board members concurred.
7. Section 7, 711.4b(2), page 11 - Mr. Rosa stated that there was no problem with this additional sentence.
8. Section 7, 712.2a, page 15 - Mr. Rosa felt that the change from 15 to 12 units per acre was to the Borough's advantage and Board members concurred.
9. Section 7, 713.2a, page 15 - Mr. Rosa stated that the word should have been deleted in the original ordinance.

The following motion was made by Mr. Westrick, seconded by Mr. Fitzsimmons, and on roll call was passed "under protest" with Mr. Acrin abstaining:

"To recommend to the Mayor and Council that the changes as outlined in a letter dated 3/8/85 from Barbara Williams, Co-Counsel for the Urban League be incorporated into Ordinance #1009 with those exceptions as noted."

Meeting was adjourned at 7:55 P.M.

APRIL 16, 1985

Mr. Kelly called the meeting to order at 8:10 P.M. Adequate notice of this meeting had been provided for under the Open Public Meetings Act by posting notice thereof on the Bulletin Board in Borough Hall, by sending a copy thereof to the Reporter, the Home News, and the Courier News, and by filing a copy thereof with the Borough Clerk, all on January 3, 1985. Present in addition to the Chairman were Messrs. Spisso, Acrin, Diana, Westrick, Fitzsimons, Naberezny, and Peter Calderone, Esq.

A motion to approve the minutes of the April 3, 1985 meeting was made by Mr. Diana, seconded by Mr. Westrick, and was unanimously passed.

During the Audience Comments portion of the meeting, the Chairman recognized Raymond Miller, Esq., who wished to discuss a matter pertaining to Application #84-13/V. He was advised that this would be brought up under New Business. There being no further comments made, the Chairman closed this portion of the meeting.

The following resolutions, hereto attached and made a part of these minutes, were accepted as to form on a motion by Mr. Diana, seconded by Mr. Spisso, and on roll call was unanimously passed:

- #84-2/V GALLO & RINKER - CHRISTOPHER ESTATES
Block 437, Lots 2.01, 2.02, 2.03
- #84-13/V D. DICIAN & SON - MATIS STREET
Block 396, Lots 1 thru 7
Block 404, Lots 8, 9, 10, 11, 14
- #85-3/V DISPENSA - WOODLAND AVENUE
Block 74, Lot 1
- #A/366 SOMERSET TRUST COMPANY - STELTON ROAD
Block 528, Lot 67
- SOUTH PLAINFIELD RECREATION - PITT STREET PARK

The following current files were discussed:

- #84-2/V GALLO & RINKER - CHRISTOPHER ESTATES
Block 437, lots 2.01, 2.02, 2.03

The final subdivision maps have been signed by the Chairman and Secretary of the Board.

- #85-4 SANITATION TRUCK REPAIR CO., INC. - ROOSEVELT AVENUE
Block 303, lot 1

This subdivision involves two lots in the M-3 zone. The applicant wishes to

#85-4

Cont.

construct a warehouse on the newly created lot.

The following motion was made by Mr. Spisso, seconded by Mr. Westrick, and on roll call was unanimously passed:

"To classify Application #85-4 as a major subdivision and to advise the applicant to proceed to the next step of the Ordinance."

#85-5

SEIDER - O'DONOHUE AVENUE
Block 29, Lot 8

This subdivision, located in the R-7.5 zone, involves two lots. The applicant wishes to convey the newly created lot to daughter.

Mr. Frederick Coppola, professional engineer retained by the applicant, in a letter dated April 10, 1985 recommended that the Board classify this application as a minor subdivision as same is located on a fully improved street and no extension of municipal improvements would be required. He requested, on behalf of his client, that the Board waive all the additional items required by the Borough Engineer in his April 8, 1985 report.

Mr. Naberezny stated that Mr. Coppola suggested that when the applicant wishes to build on the newly created lot in the future, a building permit would not be issued until the required grading plan is submitted. Mr. Naberezny mentioned that such items as site triangles, location of utilities, etc. should be shown on the sketch plat. If the applicant received minor subdivision approval, he would be permitted to file by deed and not be required to submit any further maps for the subdivision.

The following motion was made by Mr. Diana, seconded by Mr. Spisso, and on roll call was unanimously passed:

"To classify Application #85-5 as a minor subdivision. The applicant will be notified to comply with the Borough Engineer's check list of items missing from the sketch plat and/or request waivers of certain requirements. Once this data is received, the Board will further consider this application."

#85-6/V

PERRY - NEW YORK AVENUE
Block 427, Lot 5

This subdivision, located in the R-10 zone, involves two lots. The applicant wishes to sell the newly created lot. Variance approval is being sought for insufficient frontage and setback.

The following motion was made by Mr. Westrick, seconded by Mr. Fitzsimmons, and on roll call was unanimously passed:

#85-6/V

Cont.

"To classify Application #85-6/V as a major subdivision and to advise the applicant to proceed to the next step of the Subdivision Ordinance."

The following public hearings were held:

#84-20

TONSAR CORP. - SECOND PLACE
Block 448, Lot 4.01

This subdivision involves four lots in the R-1-2 zone. The applicant wishes to construct houses for sale.

Correspondence noted: April 1 Engineer's report indicating that sight easements must be dedicated to the Borough, the applicant must secure Freehold Soil Conservation District approval as well as new lot numbers being designated by the Borough Tax Assessor, post the required performance guarantees and engineering/inspection fees, and show the roof leader discharge points on the plan.

Mr. Raymond Miller, Esq., was present to represent the applicant. The submitted affidavits of service and publication were in order. The attorney submitted a copy of Freehold Soil Conservation District approval received on April 12, 1985 for this development. He also stated that the file map will indicate the site easements. He introduced the applicant.

Upon being sworn in Mr. Don DiGiandomenico stated that he will show the roof leader discharge points and all other items will be complied to. He requested that the Board waive the sidewalk requirement for this project but that he will put in required shade trees. He commented that there are no sidewalks in the area of Second, West, or Barone. Houses will be two-family type which he will retain ownership of and rent out.

At this point, the Chairman opened the public portion of the meeting. He recognized Richard Curcio, residing at New York Avenue. Upon being sworn in, he inquired what type of provision has been made for storm water drainage. He has an existing water problem and does not wish it to get worse. Mr. DiGiandomenico stated he will be installing catch basins on Barone and Pomponio to take excess discharge.

Debra McCullen, resident in the area, was sworn in. She expressed her view that sidewalks are a necessary especially in residential areas where there are many young children living. She also felt that if Pomponio becomes a thru street, many more trucks and cars will be using same from Hamilton Boulevard and traveling at a greater speed than 25 mph.

There being no further comments made, the Chairman closed the public portion of the meeting.

Board members discussed whether or not to waive all or partial sidewalks for

this development. Mr. Fitzsimmons indicated that full sidewalks should be installed.

The following motion was made by Mr. Diana, seconded by Mr. Spisso, and on roll call was unanimously passed:

"To grant preliminary approval for Application #84-20 subject to:

1. Borough Engineer's comments as set forth in his April 1, 1985 report dealing with (A) Engineering and (D) Performance Guarantees & Engineering/Inspection Fees;
2. the applicant will provide for shade trees and sidewalks will be install along all frontages of subject property."

#84-28/V

PELMONT BUILDERS - RANDOLPH & OAKLAND AVENUES
Block 272, Lot 8

Mr. Spisso disqualified himself from this case.

The applicant is seeking preliminary subdivision approval to subdivide into two lots to sell the newly created lot. Subject property is located in the R-10 zone. Variance approval is sought on both lots which would lack required front footage and square footage, the new lot would have insufficient sideyard and the existing lot would continue to have insufficient setback.

Correspondence noted: Mr. Naberezny's March 7, 1985 report. Mr. Naberezny indicated that in addition to his engineering comments, he recommends that the applicant provide a "B" type inlet for maintenance purposes at the point of connection into the public storm system.

Mr. Raymond Miller, Esq., was present to represent the applicant. The submitted affidavits of service and publication were in order. He introduced Mrs. Florence Pornovetz, owner of subject property.

Upon being sworn in Mrs. Pornovetz stated that she and her husband have owned the property for twenty years. Due to the physical handicaps of her husband and financial need, they have chosen to sell the property. It is also difficult to maintain subject property. She and her husband would remain in the existing house. Applicant would only sell lot to Pelmont Builders.

Mr. Miller noted that subject property which is 100' x 100' would be subdivided into two 50' x 100' lots. There are several 50' x 100' lots in the area, two located presently across from subject property on Oakland Avenue. Subdivided lot would be a corner lot.

He introduced Virginia Romano who is employed as Secretary of Pelmont Builders.

Mr. Kelly called the meeting to order at 8:01 P.M. Adequate notice of this meeting had been provided for under the Open Public Meetings Act by posting notice thereof on the Bulletin Board in Borough Hall, by sending a copy thereof to The Reporter, the Home News, and the Courier News, and by filing a copy thereof with the Borough Clerk, all on January 3, 1985. Present in addition to the Chairman were Messrs. Spisso, Graf, English, Acrin, Hogan, Naberezny, and Peter Calderone, Esq.

A motion to approve the minutes of the April 16, 1985 meeting was made by Mr. Spisso, seconded by Mr. Acrin, and was carried with Mr. Hogan abstaining and Mayor English not present to vote.

During the Audience Comments portion of the meeting, the Chairman recognized a representative of Kromedge Distributing Company (Silvatrim Corp.), who requested that the Board permit a change from the planting of arborvitae as a screen/buffer to the installation of a cedar stockade fence. After discussion, Mr. Graf made the following motion, which was seconded by Mr. Spisso, and was unanimously passed with Mayor English not present to vote:

"To permit the applicant to substitute a cedar stockade fence in the place of the originally approved arborvitae planting, subject to the receipt of approval from Mr. Jackson, an adjoining property owner, and the placing of the smooth side of the fence toward the adjoining property."

The Planning Board received a communication from Angelo Dalto, Esq., attorney for Robert Baker, et als, "Middlesex Business Center" regarding Lot 46.22 or 46.23, in Block 528, in connection with the application for site plan approval with variances, asking for the setting of a public hearing date for May 21, 1985. Mr. Naberezny indicated the plans were substantially complete. After discussion, the following motion was made by Mr. Graf, seconded by Mr. Spisso, and on roll call was unanimously passed with Mayor English not present to vote:

"To set a public hearing date for Application #370/V for May 21, 1985."

There being no further comments made, the Chairman closed that portion of the meeting.

The following resolutions, hereto attached and made a part of these minutes were accepted as to form on a motion by Mr. Spisso, seconded by Mr. Acrin, and on roll call was passed with Mr. Graf abstaining and Mayor English not present to vote:

#84-20

TONSAR CORP. - SECOND PLACE
Block 448, Lot 4.01

#84-28/V

PELMONT BUILDERS - RANDOLPH & OAKLAND AVENUES
Block 272, Lot 8

RESOLUTION

PLANNING BOARD

BOROUGH OF SOUTH PLAINFIELD

BE IT RESOLVED by the Planning Board of the Borough of South Plainfield that:

WHEREAS, Tonsar Corporation, represented by Raymond Miller, Esq., has made application for a four lot subdivision in Block 448, Lot 4.01, an R-1-2 zone;

WHEREAS, a public hearing was held on April 16, 1985 and the Borough Engineer's April 1, 1985 Report was read into the record; and

WHEREAS, the Board having heard the testimony found:

1. The proposed subdivision has provided adequate drainage features.
2. Sidewalks are required under the development ordinance, they are beneficial for this type of residential development and there is insufficient basis for a waiver of this requirement.
3. The applicant has complied with the subdivision requirements.

NOW, THEREFORE, preliminary subdivision approval is granted subject to:

1. Borough Engineer's recommendations as set forth in his April 1, 1985 Report under (A) Engineering and (B) Performance Guarantees Engineering/Inspection Fees.
2. The waiver request for shade trees and sidewalks is denied.

THOSE IN FAVOR: Messrs. Kelly, Spinso, Archi, Diana, Westrick, Fitzsimmons.

THOSE IN OPPOSITION: None.

THE FOREGOING IS A TRUE COPY OF A RESOLUTION ADOPTED BY THE PLANNING BOARD AT ITS MEETING HELD ON APRIL 16, 1985.

DATE

May 2, 1985

Barbara C. Cicone
BARBARA C. CIGONE, CLERK, PLANNING BOARD,
BOROUGH OF SOUTH PLAINFIELD, COUNTY OF
MIDDLESEX, STATE OF NEW JERSEY

10/18/85
sent
copying

DEED

Prepared by: (Print signer's name below signature)

Frank A. Santoro
FRANK A. SANTORO, ESQ.
An Attorney at Law of New Jersey

This Deed is made on May 13, 1985.

BETWEEN BOROUGH OF SOUTH PLAINFIELD, a Municipal Corporation of the State of New Jersey,

having its principal office at 2480 Plainfield Avenue, South Plainfield, New Jersey, referred to as the Grantor.

AND Di GIAN & SON CONSTRUCTION CO., INC.

whose post office address is P. O. Box 181, South Plainfield, New Jersey, referred to as the Grantee.

The word "Grantee" shall mean all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of THIRTY-ONE THOUSAND TWO HUNDRED FIFTY AND 00/100-----(\$31,250.00)-----DOLLARS. The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-2.1) Municipality of South Plainfield
Block No. 448 P/O Lot No. 4.01 Account No.

No property tax identification number is available on the date of this Deed. (Check box if applicable.)

Property. The property consists of the land and all the buildings and structures on the land in the Borough of South Plainfield County of Middlesex and State of New Jersey. The legal description is:

TRACT I:

BEGINNING at a point on the westerly sideline of Second Place (50' R.O.W.), formerly Second Street. Said point being N. 4° -45' E., distant 100.00 feet from the intersection of the aforementioned sideline with the northerly sideline of Pomponio Avenue (50' R.O.W.), formerly Middlesex Avenue, as shown on the Tax Assessment Maps of the Borough of South Plainfield, revised December 30, 1983 and running thence:

- (1) N. 85° - 15' W. a distance of 100.00 feet to a point; thence
- (2) N. 4° - 45' E. a distance of 50.00 feet to a point; thence
- (3) S. 85° - 15' E. a distance of 100.00 feet to a point on the westerly sideline of Second Place; thence
- (4) S. 4° -45' W. along the westerly sideline of Second Place, a distance of 50.00 feet to the point and place of BEGINNING.

Being further shown and designated as Lots 294 and 295 in Block I on a map entitled, "South Plainfield Heights", filed in the Middlesex County Clerk's Office on July 3, 1908, as Map No. 474 in File No. 23.

Containing 5,000 square feet.

Being now known and designated as P/O Lot 4.04, Block 448 on the Tax and Assessment Maps of the Borough of South Plainfield.

TRACT II:

BEGINNING at a point of intersection formed by the northerly sideline of Pomponio Avenue (formerly Middlesex Avenue), having a 50' R.O.W. and the westerly sideline of Second Place (formerly Second Street), having a 50' R.O.W., as shown on the Tax Assessment Maps of the Borough of South Plainfield, revised December 30, 1983, and running thence:

- (1) N. 85° - 15' W. along the northerly sideline of Pomponio Avenue, a distance of 100.00 feet to a point; thence
- (2) N. 4° - 45' E. a distance of 100.00 feet to a point; thence
- (3) S. 85° - 15' E. a distance of 100.00 feet to a point on the westerly sideline of Second Place; thence
- (4) S. 4° - 45' W. along the westerly sideline of Second Place, a distance of 100.00 feet to the point and place of BEGINNING.

Being further described and designated as Lots 388 through 391, inclusive, all in Block I, as shown on a map entitled, "South Plainfield Heights", filed July 3, 1908, in the Middlesex County Clerk's Office, as Map No. 474, in File No. 23.

Containing 10,000 square feet.

Being now known and designated as Lot 4.03, Block 448 on the Tax and Assessment Maps of the Borough of South Plainfield.

TRACT III:

BEGINNING at a point of intersection by the northerly sideline of West Avenue (formerly Plainfield Boulevard), having a 50' R.O.W. and the westerly sideline of Second Place (formerly Second Street), having a 50' R.O.W., as shown on the Tax Assessment Maps of the Borough of South Plainfield, revised December 30, 1983, and running thence:

- (1) N. 85° - 15' W. along the northerly sideline of West Avenue, a distance of 100.00 feet to a point; thence
- (2) N. 4° - 45' E. a distance of 100.00 feet to a point; thence
- (3) S. 85° - 15' E. a distance of 100.00 feet to a point on the westerly sideline of Second Place; thence
- (4) S. 4° - 45' W. along the westerly sideline of Second Place, a distance of 100.00 feet to the point and place of BEGINNING.

Being further described and designated as Lots 211 through 214, inclusive, all in Block H, as shown on a map entitled, "South Plainfield Heights", filed July 3, 1908, in the Middlesex County Clerk's Office as Map No. 474, in File No. 23.

Containing 10,000 square feet.

Being now known and designated as Lot 4.05, Block 448 on the Tax and Assessment Maps of the Borough of South Plainfield.
The above metes and bounds descriptions and the within conveyance are in accordance with Resolutions of the Mayor and Council of the Borough of South Plainfield, dated June 11, 1984 and November 13, 1984.

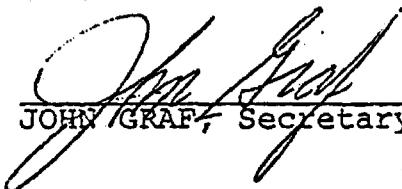
The above described Tract I, Tract II and Tract III are now known as Lots 4.04, 4.03 & 4.05, in Block 448 on the Tax Assessment Maps of the Borough of South Plainfield.

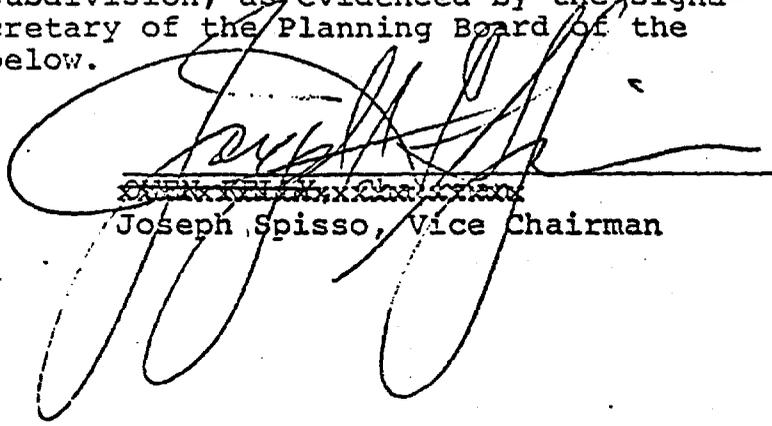
The within conveyance is subject to:

1. Easements, both of record and not of record;
2. Restrictions of record;
3. Zoning Ordinance of the Borough of South Plainfield, as presently constituted without representations as to the use to which said property can be put.

The above described premises, Tract I, Tract II and Tract III, were created as a result of subdivision, as evidenced by the signatures of the Chairman and Secretary of the Planning Board of the Borough of South Plainfield below.

ATTEST:

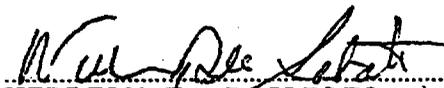

JOHN GRAF, Secretary


~~Chairman~~
Joseph Spisso, Vice Chairman

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. This Deed is signed and attested to by the Grantor's proper corporate officers as of the date at the top of the first page. Its corporate seal is affixed.

Attested by:


WILLIAM T. DeSABATO ~~Secretary~~
Borough Clerk

By: 
MICHAEL ENGLISH, Mayor ~~President~~

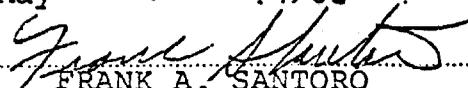
STATE OF NEW JERSEY, COUNTY OF MIDDLESEX SS.:
I CERTIFY that on May 13, 1985

WILLIAM T. DeSABATO

personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk ~~xxxxxx~~ of the Borough of South Plainfield the corporation named in this Dec
- (b) this person is the attesting witness to the signing of this Deed by the proper corporate officer who MICHAEL ENGLISH the Mayor ~~President~~ of the corporatic
- (c) this Deed was signed and delivered by the corporation as its voluntary act duly authorized by a pro resolution of its Board of Directors;
- (d) this person knows the proper seal of the corporation which was affixed to this Deed;
- (e) this person signed this proof to attest to the truth of these facts; and
- (f) the full and actual consideration paid or to be paid for the transfer of title is \$ 31,250.00 (Such consideration is defined in N.J.S.A. 46:15-5.)

Signed and sworn to before me on
May 13, 1985


FRANK A. SANTORO

An Attorney at Law of New Jersey


(Print name of attesting witness below signature)
WILLIAM T. DeSABATO

DEED

Dated: May 13, 19 85

BOROUGH OF SOUTH PLAINFIELD,
a Municipal Corporation of the
State of New Jersey,

Grantor.

TO

Di GIAN & SON CONSTRUCTION CO.,
INC.

Grantee.

Record and return to:

Raymond S. Miller, Esq.
2301 Maple Avenue
South Plainfield, New Jersey 07080

A. IDENTIFICATION

APPLICANT - Complete unshaded areas only When changing contractors, notify this office

Owner D'Geroni Construction Co Inc Contractor _____
 Address P.O. Box 181 Address Same
South Plainfield, NJ 07080
 Tel. (201) 753-0292 Tel. (____) _____
 Work Site Address 1855-1890 Second Place Lic. No. 01694
South Plainfield, N.J. Federal Emp. No. 22-2057741

CERTIFICATION IN LIEU OF OATH:
 (Complete for Minor Work and Small Job Only)

I hereby certify that the proposed work is authorized by the owner of record and I have been authorized by the owner to make this application as his agent.

AGENT SIGNATURE _____

B. TECHNICAL SITE DATA

DESCRIPTION OF WORK
 Give detail description including materials used, dimensions, etc.

New Home - 2 Family w/ 1 CAR GARAGE

TYPE OF WORK:

- New Building
- Addition
- Alteration/Renovation
 - Roofing
 - Siding
 - Other State
- Demolition
- Miscellaneous
 - Fence
 - Sign
 - Pool
 - Elevator
 - Other C.O.

Fee Basis	Fee
	\$ <u>325</u>
	<u>21</u>
	<u>25</u>
SUBTOTAL	\$ <u>368</u>
Minimum Building Fee (if applicable)	\$ _____
Total Building Fee (Greater of Minimum or Subtotal)	\$ <u>368</u>

See Plans

C. BUILDING CHARACTERISTICS

USE GROUP: R3B Present _____ Proposed

No. of Stories 2 Total Building Area - All Floors 2244 Sq. Ft.
 Height of Structure 16 Ft. Volume of Structure 35762 Cu. Ft.
 Area - Largest Floor 1,164 Sq. Ft. Total Land Area Disturbed _____ Sq. Ft.
 Estimated Cost of Building Work: \$ 50,000

D. COMMENTS

RECEIVED
 MAY 2 - 1985

Partial Releases Prototype Processing



PERMIT NO. 107A
 DATE ISSUED 5/16/85
 REVISION DATE _____
 Block 448 Lot 403404
 Subdivision Pl. Sec. III

A. IDENTIFICATION

APPLICANT - Complete unshaded areas only When changing contractors, notify this office

Owner Dixian Sun Constr Co Inc Contractor _____
 Address P.O. Box 181 Address Same
South Plainfield, NJ 07080
 Tel. (____) _____ Tel. (____) _____
 Work Site Address 1882-1884 Second Place Lic. No. 01694
South Plainfield, NJ 07080 Federal Emp. No. 22-2057741

CERTIFICATION IN LIEU OF OATH:
 (Complete for Minor Work and Small Job Only)

I hereby certify that the proposed work is authorized by the owner of record and I have been authorized by the owner to make this application as his agent.

AGENT SIGNATURE _____

B. TECHNICAL SITE DATA Constr. Class _____

DESCRIPTION OF WORK
Give detail description including materials used, dimensions, etc.

New Home - 2 Family
1 Car each

TYPE OF WORK:
 New Building
 Addition
 Alteration/Renovation
 Roofing
 Siding
 Other Stake
 Demolition
 Miscellaneous
 Fence
 Sign
 Pool
 Elevator
 Other C.O.

Fee Basis	Fee
	\$ <u>322</u>
	<u>21</u>
	<u>25</u>
SUBTOTAL	\$ <u>368</u>
Minimum Building Fee (if applicable)	\$ _____
Total Building Fee (Greater of Minimum or Subtotal)	\$ <u>368</u>

See Plans

C. BUILDING CHARACTERISTICS

USE GROUP: R3B Present _____ Proposed

No. of Stories 2 Total Building Area - All Floors 2244 Sq. Ft.
 Height of Structure 16 Ft. Volume of Structure 35763 Cu. Ft.
 Area - Largest Floor 1164 Sq. Ft. Total Land Area Disturbed _____ Sq. Ft.
 Estimated Cost of Building Work: \$ 50,000

D. COMMENTS

RECEIVED 5/17/85
 RECEIVED
 MAY 2 - 1985

Partial Releases Prototype Processing



PERMIT NO. _____
DATE ISSUED 5/16/15
REVISION DATE _____
Block 448 Lot 405
Subdivision A M-SEC. III

A. IDENTIFICATION

APPLICANT - Complete unshaded areas only When changing contractors, notify this office

Owner Diligan Son Constr Co Inc Contractor _____
Address P.O. Box 181 Address Same
South Plainfield, NJ 07080
Tel. (201) 753-0292 Tel. (____) _____
Work Site Address 1820 1822 Second Place Lic. No. 01694
South Plainfield, N.J. Federal Emp. No. 22-2057741

CERTIFICATION IN LIEU OF OATH:
(Complete for Minor Work and Small Job Only)

I hereby certify that the proposed work is authorized by the owner of record and I have been authorized by the owner to make this application as his agent.

AGENT SIGNATURE _____

B. TECHNICAL SITE DATA Constr. Class _____

DESCRIPTION OF WORK
Give detail description including materials used, dimensions, etc.

New Home - 2 Family w/ one car garage

TYPE OF WORK:
 New Building
 Addition
 Alteration/Renovation
 Roofing
 Siding
 Other stade
 Demolition
 Miscellaneous
 Fence
 Sign
 Pool
 Elevator
 Other C.O.

Fee Basis	Fee
	<u>322</u>
	<u>21</u>
	<u>25</u>
SUBTOTAL	<u>368</u>
Minimum Building Fee (if applicable)	
Total Building Fee (Greater of Minimum or Subtotal)	

See Plans

C. BUILDING CHARACTERISTICS

USE GROUP: R3B Present _____ Proposed _____

No. of Stories 2 Total Building Area - All Floors 2244 Sq. Ft.
 Height of Structure 16 Ft. Volume of Structure 35762 1282 Cu. Ft.
 Area - Largest Floor 1164 Sq. Ft. Total Land Area Disturbed _____ Sq. Ft.
 Estimated Cost of Building Work: \$ 50,000.

D. COMMENTS

RECEIVED RECEIVED.....
 MAY 2 - 15

Partial Releases Prototype Processing

PLANNING BOARD PUBLIC MEETING

MAY 21, 1985

Mr. Kelly called the meeting to order at 8:00 P.M. Adequate notice of this meeting had been provided for under the Open Public Meetings Act by posting notice thereof on the Bulletin Board in Borough Hall, by sending a copy thereof to The Reporter, the Home News, and the Courier News, and by filing a copy thereof with the Borough Clerk, all on January 3, 1985. Present in addition to the Chairman were Messrs. Spisso, Graf, Acrin, Diana, Westrick, Ackerman, Fitzsimmons, Naberezny, and Peter Calderone, Esq.

A motion to approve the minutes of the May 1 meeting was made by Mr. Spisso, seconded by Mr. Graf, and was carried with Messrs. Diana, Westrick, Ackerman, and Fitzsimmons abstaining.

During the Audience Comments portion of the meeting the Chairman recognized Mr. Steven Bernstein, Esq., representing J.B. Developers (App. #83-18). The applicant's approval was conditioned that no c.o.'s would be issued until the storm water detention system was complete. The applicant is requesting that the Board waive this condition in light of the fact that most of the detention system is in, remaining work is bonded, and there are half of the houses already built and awaiting the closing of title.

At this point of the discussion, Mr. Kelly disqualified himself and Mr. Spisso served as Chairman.

Mr. Robert Bengivenga, applicant was present and sworn in. He requested that c.o.'s be issued for at least those houses built. The detention system as it presently exists serve its purposed stated Mr. Bengivenga. It consists of a 40' x 5' basin.

Mr. Naberezny commented that the system at present merely ponds in the basin with no provision for the water to bleed out at a controlled flow. Mr. Spisso also commented on the safety hazard without any type of protective fencing around the large basin if small children are in the area.

The following motion was made by Mr. Graf, seconded by Mr. Diana, and on roll call was carried with Messrs. Spisso, Graf, and Diana voting "yes", Messrs. Acrin, Westrick, and Fitzsimmons voting "no", and Mr. Ackerman abstaining:

"Temporary certificates of occupancy will be released for this development with the approval of the Borough Engineer on an individual basis so as to insure the proper and complete installation of the storm water detention system."

Mr. Kelly recognizes Mrs. James Hunt, representing Fairfield-Metuchen Joint Venture (App. #A/345). The applicant is seeking a waiver from the specifications for on-site paving. He submitted sealed verifications from Mr. Frank Lehr, Civil Engineer, as to the proposed alternate paving specifications which are sufficient for the purpose intended. Mr. Naberezny commented that the specifications were in order.

The following motion was made by Mr. Graf, seconded by Mr. Ackerman, and on roll call was unanimously passed:

"The Board grants the applicant's request for a waiver of the paving specifications for onsite paving with respect to the truck area and automobile area."

Mr. Cyril Meyers (App. #81-18/V) was recognized. In 1982 preliminary approval was granted for his subdivision. Personal problems prevented his completing the final approval requirements. A final application was filed however in 1983 but was never pursued. Several changes have occurred due to County requirements and Mr. Meyers wishes to find out if such changes from the preliminary approval are of a minor nature or if he will be required to resubmit his application once again.

The following motion was made by Mr. Diana, seconded by Mr. Westrick, and on roll call was unanimously passed:

"The Planning Board has determined that the proposed deviation for the above referenced final application is minor in nature and will be permitted for submission on the final map."

Mr. Richard Curcio, residing at New York Avenue, was recognized. He complained that he has 8" to 10" of water in his yard and feels that it is the result of the proposed development of the Gallo-Rinker development. Mr. Naberezny stated that he will contact Messrs. Gallo and Rinker and instruct them to open up the ditches currently on the development. Once the detention system is completed, Mr. Curcio's problem should be eliminated.

There being no further comments made, the Chairman closed that portion of the meeting.

The following resolutions hereto attached and made a part of these minutes were accepted as to form on a motion made by Mr. Spisso, seconded by Mr. Acrin, and on roll call was carried with Messrs. Kelly, Spisso, Graf, and Acrin voting "yes":

- #84-20 TONSAR CORP. - SECOND PLACE ✓
Block 448, Lot 4.01
- #85-5 SEIDER - O'DONOHUE AVENUE
Block 29, Lot 8
- #332/V KROMEDGE - SOUTH AVENUE
Block 518, Lot 1
Block 522, Lot 2
- #364/V PACER TOOL - MONTROSE AVENUE
Block 398, Lot 2.01

The following current files were discussed:

RESOLUTION
PLANNING BOARD
BOROUGH OF SOUTH PLAINFIELD

BE IT RESOLVED by the Planning Board of the Borough of South Plainfield that:

WHEREAS, Tonsar Corporation has requested final subdivision approval in Block 448, Lot 4.01; and

WHEREAS, the applicant has complied with the preliminary subdivision conditions and the requirements of N.J.S.A. 40:55D-1 et seq.

NOW, THEREFORE, final subdivision approval is granted.

THOSE IN FAVOR: Messrs. Kelly, Spisso, Graf, Acrin.

THOSE IN OPPOSITION: None.

THOSE ABSTAINING: Messrs. English and Hogan.

THE FOREGOING IS A TRUE COPY OF A RESOLUTION ADOPTED BY THE PLANNING BOARD AT ITS MEETING HELD ON MAY 1, 1985.

DATE

May 23 1985

Barbara Ciccione
BARBARA CICCONE, CLERK, PLANNING BOARD,
BOROUGH OF SOUTH PLAINFIELD, COUNTY OF
MIDDLESEX, STATE OF NEW JERSEY

PLANNING BOARD PUBLIC MEETING

AUGUST 20, 1985

Mr. Kelly called the meeting to order at 8:00 P.M. Adequate notice of this meeting had been provided for under the Open Public Meetings Act by posting notice thereof on the Bulletin Board in Borough Hall, by sending a copy thereof to the Reporter, the Home News, and the Courier News, and by filing a copy thereof with the Borough Clerk, all on January 3, 1985. Present in addition to the Chairman were Messrs. Spisso, Graf, Acrin, Hogan, Fitzsimmons, Skolnick, Naberezny, and Peter Calderone, Esq.

A motion to approve the minutes of the July 16, 1985 meeting was made by Mr. Hogan, seconded by Mr. Graf, and was carried with Messrs. Spisso and Acrin abstaining.

During the Audience Comments portion of the meeting the Chairman recognized Edward Santoro, Jr., Esq., who requested that the site plan application filed for Sacred Heart Church be considered under New Business. Mr. Kelly stated that Mr. Santoro's request would be granted.

The following resolutions hereto attached and made a part of these minutes were accepted as to form on a motion made by Mr. Graf, seconded by Mr. Fitzsimmons and was unanimously passed with Messrs. Kelly, Graf, Hogan, Fitzsimmons, and Skolnick:

- #76-24/V DUNMORE, INC. - WOODEN, ARLINGTON, ZWOLAK (SEC.III)
Block 406, Lots 2, 3, 4, 6
- #354/V KAPLAN & SONS - DURHAM AVENUE
Block 528, Lot 86
- #368/V IMFELD & BUTTERY - SOUTH CLINTON AVENUE
Block 449, Lot 2
- #371/V LAVAL OIL - PULASKI STREET
Block 332, Lots 10 & 11.01

The following current files were discussed:

- #353 JERSEY CONCRETE - HOLLYWOOD AVENUE
Block 388, Lot 5

The site plan maps have been signed by the Chairman and Secretary of the Board.

- #84-20 TONSAR CORP. - SECOND PLACE
Block 448, Lot 4.01

Subdivision maps have been signed by the Chairman and Secretary of the Board.

Be it resolved, by the Mayor and Council of the Borough of South Plainfield,
New Jersey, that:

The bid of Michael Gallo and Marshall Rinker, 207 Manning Avenue, South Plainfield, N. J. in the amount of \$37,500.00 for property known as part of lot 1.01 in block 427 as more particularly described in Schedule "A" attached hereto be accepted, said property being owned by the Borough of South Plainfield and not needed for public purpose or use, sale being made subject to the conditions advertised.

3,750
245.80

(SEAL)

William DeSisto
.....
Clerk of the Borough of South Plainfield

Approved March 26, 19 84

Michael English
.....
Mayor of the Borough of South Plainfield

I certify the foregoing to be a true and correct abstract of a resolution regularly passed at a meeting of the Common Council of the Borough of South Plainfield, held

..... March 26, 1984

and in that respect a true and correct copy of its minutes.

William DeSisto
.....
Clerk of the Borough of South Plainfield

Joann Gyg
Eddie Levine
D. Galligan
} COMMITTEE

EXHIBIT D

Handwritten mark

Be it resolved, by the Mayor and Council of the Borough of South Plainfield,
New Jersey, that:

The bid of Michael Gallo and Marshall Rinker in the amount of \$25,000.00 for property known as part of lot 1.01 in block 427 be accepted, said property being owned by the Borough of South Plainfield and not needed for public purpose or use, sale being made subject to the conditions advertised.

2,500.00

18236

(SEAL)

Willie DeLoe
Clerk of the Borough of South Plainfield

Approved June 11, 1984

Michael Crisp
Mayor of the Borough of South Plainfield

I certify the foregoing to be a true and correct abstract of a resolution regularly passed at a meeting of the Common Council of the Borough of South Plainfield, held

Bernard [unclear]
Eddie [unclear]
[unclear] } COMMITTEE

..... June 11, 1984

and in that respect a true and correct copy of its minutes.

Willie DeLoe
Clerk of the Borough of South Plainfield

Be it resolved, by the Mayor and Council of the Borough of South Plainfield,
New Jersey, that:

The bid of D. DiGian & Son Construction Co., Inc. in
the amount of \$21,325.00 for property known as part of lot 1.01
in block 427 be accepted, said property being owned by the
Borough of South Plainfield and not needed for public purpose
or use, sale being made subject to the conditions advertised.

2,132.50
244.76.

(SEAL)

Will DeLotto
Clerk of the Borough of South Plainfield

Approved June 11, 1984

Michael P. ...
Mayor of the Borough of South Plainfield

I certify the foregoing to be a true and correct
abstract of a resolution regularly passed at a meet-
ing of the Common Council of the Borough of
South Plainfield, held

Bernard ...
D. Halla ...
...
COMMITTEE

..... June 11, 1984.....

and in that respect a true and correct copy of
its minutes.

Will DeLotto
Clerk of the Borough of South Plainfield

JUNE 18, 1985

185

Mr. Kelly called the meeting to order at 8:05 P.M. Adequate notice of this meeting had been provided for under the Open Public Meetings Act by posting notice thereof on the Bulletin Board in Borough Hall, by sending a copy thereof to the Reporter, the Home News, and the Courier News, and by filing a copy thereof with the Borough Clerk, all on January 3, 1985. Present in addition to the Chairman were Messrs. Spisso, Graf, Acrin, Diana, Hogan, Naberezny, and Peter Calderone, Esq.

A motion to accept the minutes of the May 21, 1985 meeting was made by Mr. Graf, seconded by Mr. Spisso, and was carried with Mr. Hogan abstaining.

During the Audience Comments portion of the meeting, the Clerk read a letter from Mr. James Hunt, dated June 17, 1985, whereby he requested that App. #A/345 (Fairfield-Metuchen Joint Venture - Hadley Road) be amended for an alternate concrete curb specification to be utilized. Mr. Naberezny commented that there would be no problem with such a change.

The following motion was made by Mr. Graf, seconded by Mr. Hogan, and on roll call was unanimously passed:

"To accept the revision for on site curbing for Application #A/345 as outlined in Mr. Hunt's June 17, 1985 letter."

Mr. Acrin stated that in the minutes of the May 21 meeting, the motion to approve a request by Mr. Bengivenga (App. #84-18 - J.B. Developers - Day Street) ended with 3 votes in favor, 3 votes in opposition, and one member abstaining. The motion, therefore, did not pass. Mr. Diana motioned, was seconded by Mr. Graf, and was unanimously passed to correct this portion of the May 21 minutes and therefore, the resolution listed for this case on the agenda will be deleted.

There being no further comments made, the Chairman closed this portion of the meeting.

The following resolutions hereto attached and made a part of these minutes were accepted as to form on a motion by Mr. Diana, seconded by Mr. Graf, and on roll call was unanimously passed with Mr. Hogan not voting:

- #84-22 MAIORINO - SMITH & TREMONT
 Block 398, Lot 2.01
- #A/345 FAIRFIELD-METUCHEN JOINT VENTURE - HADLEY RD. & CORP. BLVD.
 Block 528, Lot 46.08-1
- #353 JERSEY CONCRETE - HOLLYWOOD AVENUE
 Block 388, Lot 5
- #359 BIEBER-FAERBER - SOUTH CLINTON AVENUE
 Block 476, Lot 12
- #370/V BAKER, ET ALS - CORPORATE BOULEVARD
 Block 528, Lot 46.22

This area will be investigated further stated Mr. Calderone by the Borough's Attorney.

The following motion was made by Mr. Graf, seconded by Mr. Acrin, and on roll call was unanimously passed with Mr. Spisso not voting:

"To grant final subdivision approval for Application #84-28/V subject to:

1. submission of a deed to the Borough of South Plainfield for the site triangle;
2. the posting of the necessary performance guarantee.

This subdivision may be filed by deed."

#84-7

GAL-KER - CHRISTOPHER AVENUE
Block 427, Lots 1.01, 1.02, 1.03, 1.04

Mr. Kelly disqualified himself from this case.

The applicants are seeking final subdivision approval to subdivide into five lots to construct houses for sale.

Mr. Naberezny stated that the application and maps were in order. Bonds have been posted as well as engineering/inspection fees.

Mr. Leonard Selenser, Esq., was present to represent the applicants.

Mr. Calderone noted for the record that he had been contacted by Ms. Barbara Williams, Esq., counsel for the Urban League. She indicated that subject property falls within the judgement handed down by Judge Serpentelli in the Mt. Laurel case. Discussion ensued whereby the Board felt that subject property was not involved but that some type of clarification should be secured by the applicant from the Urban League that is not included in the judgement.

The following motion was made by Mr. Graf, seconded by Mr. Diana, and on roll call was unanimously passed with Mr. Kelly not voting:

"To grant final subdivision approval for Application #84-7 subject to the applicant being responsible to see that subject property is not part of the Mt. Laurel judgement."

#84-23/V

WOOD UNITED BUILDERS - MARSH AVENUE
Block 50, Lot 9

The applicant is seeking preliminary and final subdivision approval to subdivide into three lots to construct houses for sale. Subject property is located in the R-15 zone. Variance approval is sought for the three lots which lack sufficient width, depth, and area.

JULY 16, 1985

Mr. Kelly called the meeting to order at 8:05 P.M. Adequate notice of this meeting had been provided for under the Open Public Meetings Act by posting notice thereof on the Bulletin Board in Borough Hall, by sending a copy thereof to the Reporter, the Home News, and the Courier News, and by filing a copy thereof with the Borough Clerk, all on January 3, 1985. Present in addition to the Chairman were Messrs. Graf, Hogan, Robert Ackerman, Fitzsimmons, Skolnick, Peter Ackerman, Naberezny, and Peter Calderone, Esq.

Mr. Kelly introduced the two new members to the Board: Norman Skolnick will serve as Alternate I and Peter Ackerman will serve as Alternate II. John Hogan has become a regular member replacing the vacancy left by Frank Diana.

A motion to approve the minutes of the June 13, 1985 meeting was made by Mr. Ackerman, seconded Hogan, and was carried.

During the Audience Comments portion of the meeting, the Chairman recognized Angelo Dalto, Esq., representing Kaplan & Sons (#354/V). The applicant is requesting final site plan approval. Mr. Dalto spoke to Mr. Naberezny, the plans are complete, and apparently there was an oversight in not having the case listed on the Board's agenda this evening. He was advised that the case would be heard at the end of all other agenda items and would be conditioned upon Ms. Barbara Williams verification that subject property is not involved in the Urban League Judgement.

Mr. Cyril Meyers (#81-18/V) was recognized. Mr. Meyers stated that he has a passbook to cover the amount required for his application which takes the place of the original letter of credit not renewed. He requested that the Board grant a release for the issuance of building permits so he can proceed. It was pointed out to Mr. Meyers that the final maps have not been signed. Said maps must indicate the change of name for the proposed cul-de-sac and also that N.J D.E.P. approval must be secured for the sanitary sewers.

Mr. Dalto was again recognized. The attorney stated that Item 7A on the agenda would not be heard this evening:

#84-23/V WOOD UNITED BUILDERS - MARSH AVENUE
Block 50, Lot 9

A letter was read from Jane Castner, Esq., requesting the rescheduling of the hearing. Improper service was made.

The following motion was made by Mr. Graf, seconded by Mr. Ackerman, and on roll call was unanimously passed:

"To reschedule the public hearing for Application
#84-23/V to August 20, 1985."

Those people present for the hearing were advised that no testimony or comments would be made this evening and that they would be notified again of the new date.

There being no further comments made, the Chairman closed that portion of the hearing.

The following resolutions hereto attached and made a part of these minutes were accepted as to form on a motion by Mr. Graf, seconded by Mr. Hogan, and on roll call was carried with Messrs. Kelly, Graf, and Hogan voting "yes" and all other members abstaining:

- #80-5/V DELUCCIA - DURHAM AVE. & NEW BROOKLYN RD.
Block 552, Lot 4
- #81-18/V MEYERS - CLINTON AVENUE
Block 3, Lot 41
- #84-7 CAL-KER - CHRISTOPHER AVENUE
Block 427, Lots 1.01, 1.02, 1.03, 1.04
- #84-28/V PELMONT BUILDERS - OAKLAND & RANDOLPH
Block 272, Lot 8
- #85-7/V MANAGEMENET EDUCATION ASSOCIATES - MEISTER AVENUE
Block 6, Lot 5
- #85-10 MUCLIA - DAY STREET
Block 392, Lot 9
- #85-11 CONNELLY - ARLINGTON AVENUE
Block 405, Lots 11 & 13
- #A/345 FAIRFIELD-METUCHEN JOINT VENTURE - HADLEY & CORP. BLVD.
Block 528, Lot 46.08-1
- #362/V BALDASARRE - HAMILTON BOULEVARD
Block 476, Lot 8
- #372 SUPERMARKET GENERAL CORP. - HELEN STREET
Block 480, Lot 1
- #83-18 J.B. DEVELOPERS - DAY STREET
Block 394, Lot 1.01
Block 395, Lots 1.01, 2

The following current files were discussed:

- #359 BIEBER-FAERBER - SOUTH CLINTON AVENUE
Block 476, Lot 12

The site plan maps have been signed by the Chairman and Secretary of the Board.

RESOLUTION
PLANNING BOARD
BOROUGH OF SOUTH PLAINFIELD

BE IT RESOLVED by the Planning Board of the Borough of South Plainfield that:

WHEREAS, Cal-Ker, Inc., represented by Leonard Selenser, Esq., has made application for final subdivision approval in Block 427, Lots 1.01, 1.02, 1.03 and 1.04;

WHEREAS, a hearing was held on June 18, 1985;

WHEREAS, the applicant has complied with the requirements for final approval; and

WHEREAS, the applicant has been advised that Board approval is subject to any rights of plaintiffs in litigation entitled Urban League v. Carteret, et al., 04122-73, and the effect of orders in that suit.

NOW, THEREFORE, final subdivision approval is granted subject to any rights or effects based on Urban League v. Carteret, et al.

THOSE IN FAVOR: Messrs. Spisso, Graf, Aeria, Diana, Hogan.

THOSE IN OPPOSITION: None.

THOSE DISQUALIFIED: Mr. Kelly.

THE FOREGOING IS A TRUE COPY OF A RESOLUTION ADOPTED BY THE PLANNING BOARD AT ITS MEETING HELD ON JUNE 18, 1985.

DATE: July 17, 1985

Barbara Ciccone
BARBARA CICCONI, CLERK, PLANNING BOARD,
BOROUGH OF SOUTH PLAINFIELD, COUNTY OF
MIDDLESEX, STATE OF NEW JERSEY

Law Offices

FRANK A. SANTORO

1500 PARK AVENUE, SUITE ONE

P. O. BOX 272

SOUTH PLAINFIELD, NEW JERSEY 07080

MEMBER
NEW JERSEY BAR
U.S. PATENT BAR

AREA CODE 201
561-6868

June 26, 1985

Eric Neisser, Esq.
Constitutional Litigation Clinic
Rutgers Law School
15 Washington Street
Newark, New Jersey 07102

Re: Urban League v. Carteret (South Plainfield)
No. C-4122-73

Dear Mr. Neisser:

Under separate cover you received a copy of my letter to Judge Serpentelli regarding my objections to the form of the Order. This letter is in regard to your letter to me of June 25, 1985, which I received June 26, concerning the lot and block on Morris Avenue and owned by Buccellato.

By copy of this letter, I am requesting that the Chairman of the Economic Development Committee, Councilman Donald Acrin, contact forthwith the Chairman of the Land Management Advisory Committee and have them supply me with information that you have requested concerning the Morris Avenue site.

In regard to the sales and approval information requested by Judge Serpentelli, I enclose herewith a copy of the property sales inventory sheet showing all property sales occurring from January, 1984, through the present, with the notations of the Borough Clerk/Administrator as to lot, block, amount of consideration and the notation as to whether the consideration has been paid. Please be advised that notations as to where the consideration has been paid is an indication that closing of title has taken place and the lands have been transferred.

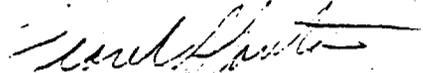
Hopefully, this information will be of assistance to you in regard to your inquiries concerning the "Mount Laurel Inventoried Lands".

EXHIBIT E

Eric Neisser, Esq.
Page 2
June 26, 1985

If you have any questions, please advise.

Very truly yours,


FRANK A. SANTORO

FAS:sr

Enclosure

cc: Honorable Eugene D. Serpentelli
Mayor and Council, Borough of South Plainfield
Councilman Donald Acrin
Chairman John Shaw, Economic Development Committee

NOTICE OF SALE OF LAND
LMC-61-83

TO WHOM IT MAY CONCERN:

At a regular meeting of the Mayor and Common Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey held on February 27, 1984, I was directed to advertise the fact that the Mayor and Council will meet in the Municipal Building, 2480 Plainfield Avenue, South Plainfield, New Jersey, on March 26, 1984 at 8:00 p.m., to expose and sell at a public sale to the highest bidder, according to terms of sale on file with the Borough Clerk, the property described below.

Take further notice that the Mayor and Council have, by resolution and pursuant to law, fixed the minimum price at which said property will be sold together with all other details pertinent, said minimum price being as shown below, plus costs of preparing deeds and advertising this sale.

Take further notice that at set sale or any date or place to which it may be adjourned, the Mayor and Council reserve the right in its discretion to reject any or all bids and to sell said property to such bidder as it may select, due regard being given to terms and manner of payment in case one or more minimum bids shall be received.

Upon acceptance of the minimum bid or bid above minimum, by the Council and the payment thereof by the purchaser according to the manner of purchase in accordance with terms of sale on file, the Borough will deliver a Bargain and Sale Deed for said premises.

William T. DeSabalio, Borough Clerk
Bids to be advertised in The Recorder on March 8, 1984 and March 15, 1984 to be sold on March 26, 1984 at the Municipal Building, 2480 Plainfield Avenue, South Plainfield, New Jersey at 8:00 p.m.

Block	Lots	Name	Street	Am't of Bid
427	p/o 1.01	Michael Gallo & Marshall Rinker	Rush & Christopher	\$37,500.00

SCHEDULE "A"

METES AND BOUNDS DESCRIPTION OF A PORTION
OF LOT 1.01 IN BLOCK 427
BOROUGH OF SOUTH PLAINFIELD
MIDDLESEX COUNTY, NEW JERSEY

distance of 100.00 feet to a point thence

BEGINNING at a point of intersection formed by the southerly sideline of CHRISTOPHER AVENUE (40' R.O.W.) and the westerly sideline of RUSH STREET (40' R.O.W.), formerly MAPLE STREET, as shown on the Tax Assessment Map of the Borough of South Plainfield, revised December 30, 1983, and running thence:

- (1) S. 8°-36' W. along the westerly sideline of RUSH STREET, a distance of 55.00 feet to a point; thence
- (2) N. 81°-24' W. a distance of 5.00 feet to a point; thence
- (3) S. 8°-36' W. a distance of 50.00 feet to a point; thence
- (4) N. 81°-24' W. a distance of 300.00 feet to a point; thence
- (5) N. 8°-36' E. a distance of 105.00 feet to a point on the southerly sideline of CHRISTOPHER AVENUE; thence
- (6) S. 81°-24' E. along the southerly sideline of CHRISTOPHER AVENUE a distance of 305.00 feet to the point and place of BEGINNING.

Excepting therefrom, a strip of land for road widening purposes 5 feet in width contiguous to the southerly sideline of CHRISTOPHER AVENUE and the westerly sideline of RUSH STREET containing 1775 square feet described as follows:

BEGINNING at a point of intersection formed by the southerly sideline of CHRISTOPHER AVENUE (40' R.O.W.) and the westerly sideline of RUSH STREET (40' R.O.W.) formerly, MAPLE STREET, as shown on the Tax Assessment Map of the Borough of South Plainfield, revised December 30, 1983, and running thence:

- (1) S. 8°-24' W. along the present westerly sideline of RUSH STREET a distance of 55.00 feet to a point; thence
- (2) N. °-24' W. a distance of 5.00 feet to a point; thence
- (3) N. 8°-36' E. creating a new westerly sideline of RUSH STREET a distance of 50.00 feet to a point; thence
- (4) N. °-24' W. creating a new southerly sideline of CHRISTOPHER AVENUE a distance of 300.00 feet to a point; thence
- (5) N. 8°-36' E. a distance of 5.00 feet to a point on the present southerly sideline of CHRISTOPHER AVENUE; thence
- (6) S. 81°-24' E. along the present southerly sideline of CHRISTOPHER AVENUE a distance of 305.00 feet to the point and place of BEGINNING.

Being further described and designated as portions of Lots 15 through 27 inclusive in Block 4, as shown on a map entitled Plainfield Park South filed in the Middlesex County Clerk's Office on April 8, 1912, as Map No. 676, in File No. 488 containing 30,000 square feet of land.

Sale of the property described above will be made subject to the following conditions:

1. That conveyance by the Borough of South Plainfield shall be by bargain and sale deed, without covenants, and without representations as to the marketability of title, in the event the purchaser shall determine that title to the property in question shall not be good and marketable, any questions as to marketability of title shall be submitted to the Borough Clerks Office within 45 days of the date of sale. In the event said questions have not been raised within said 45 day period, then and in that event all questions relating to the marketability of title shall be deemed waived and this matter shall proceed to closing of title within 90 days of the date of sale.
2. Easements, both of record and not of record.
3. Restrictions of record.
4. Zoning ordinance of the Borough of South Plainfield as presently constituted without representations as to the use to which said property can be put.
5. In the event that the purchaser fails or refuses to close title and/or pay the consideration therefor within the time period stated herein, then in that event, the Borough of South Plainfield may, at its own option, exercise any or all of the following rights:
 - (a) Declare the transaction null and void.
 - (b) Charge the purchaser with stipulated damages to include interest on the purchase price at the rate of 8% (per cent) per year plus \$1.00 per day to be computed from the date of the sale to the date of closing of title or date of rescission by the Borough.
 - (c) Any other rights as provided by law which may be available to the Borough.

6. The cost of advertising, preparation and filing of the deed shall be paid by the purchaser.

2 Times: 3-8-84 and 3-15-84

Fee 150.80

AFFIDAVIT OF PUBLICATION

STATE OF NEW JERSEY, } ss.
COUNTY OF MIDDLESEX. }

JAMES V. ECKERT

of full age, being duly sworn, on his/~~her~~ oath, that he/~~she~~ is the Publisher of THE REPORTER, a newspaper published in the Borough of South Plainfield, Middlesex County, and State of New Jersey, and that a notice of which the annexed is a true copy, was published in said paper for the term of ~~two weeks~~ once in each week successively, viz .. ~~March 8, 1984 & March 15, 1984~~ ... commencing on the ~~3th~~ day of ~~March~~ Sworn and subscribed before me this ~~19th~~ day of ~~March~~ A.D., 1984.

James V. Eckert

[Signature]
Notary Public of New Jersey
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 23, 1984

**NOTICE OF SALE OF LAND
LMC-18-84**

TO WHOM IT MAY CONCERN:

At a regular meeting of the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey, held on May 14, 1984, I was directed to advise the fact that the Mayor and Council will meet in the Municipal Building, 2480 Plainfield Avenue, South Plainfield, New Jersey, on June 11, 1984 at 8:00 p.m. to expose and sell at a public sale to the highest bidder, according to the terms of sale on file with the Borough Clerk, the property described below.

Take further notice that the Mayor and Council have, by resolution and ordinance, fixed the minimum price at which said property will be sold together with other details pertinent, said minimum price being as shown below, plus costs of preparing deeds and advertising its sale.

Take further notice that at set sale or any date or place to which it may be adjourned, the Mayor and Council reserve the right in its discretion to reject any or all bids and to sell said property to such bidder as it may select. As regard being given to terms and manner of payment in case one or more minimum bids shall be received.

Upon acceptance of the minimum bid or bid above minimum, by the Council and the payment thereof by the purchaser according to the manner of purchase in accordance with terms of sale on file, the Borough will deliver a Bargain and Sale Deed for said premises.

s/William T. DeSabato, Borough Clerk

Bids to be advertised in The Reporter on May 24, 1984 and June 1, 1984 to be sold on June 11, 1984 at the Municipal Building, 2480 Plainfield Avenue, South Plainfield, New Jersey at 8:00 p.m.

Block	Lots	Name	Street	Amt of Bid
427	20	Martha Rinker & Michael Gallo	Christopher Avenue	\$25,000.00

**METES AND BOUNDS DESCRIPTION
OF PART OF BLOCK 427, LOT 101
TO BE DEDICATED FOR ROAD WIDENING
IN THE BOROUGH OF SOUTH PLAINFIELD
MIDDLESEX COUNTY, NEW JERSEY**

BEGINNING at a point on the southerly sideline of CHRISTOPHER AVENUE (40' R.O.W.); Said point being N. 81° - 24' W. distant 305.00 feet from the westerly sideline of RUSH STREET, formerly MAPLE STREET (40' R.O.W.), as shown on the Tax Assessment Maps of the Borough of South Plainfield, revised December 30, 1983 and running thence:

- (1) S. 81° - 36' W. a distance of 5.00 feet to a point; thence
- (2) N. 81° - 24' W. creating a new southerly sideline of CHRISTOPHER AVENUE a distance of 200.00 feet to a point; thence
- (3) N. 81° - 36' E. a distance of 5.00 feet to a point on the present southerly sideline of CHRISTOPHER AVENUE; thence
- (4) S. 81° - 24' E. along the present southerly sideline of CHRISTOPHER AVENUE a distance of 200.00 feet to the point and place of BEGINNING.

The foregoing description being intended to describe for road widening purposes, a 5.00 foot wide strip of land containing 1,000 square feet contiguous to the southerly sideline of CHRISTOPHER AVENUE. Being further described as portions of Lots 7 through 15, in Block 4 as shown on a map entitled "Plainfield Part (South)", filed in the Middlesex County Clerk's Office, April 8, 1912 as Map No. 676 in File 463.

**METES AND BOUNDS DESCRIPTION
OF A PART OF BLOCK 427, LOT 101
IN THE BOROUGH OF SOUTH PLAINFIELD
MIDDLESEX COUNTY, NEW JERSEY**

BEGINNING at a point on the southerly sideline of CHRISTOPHER AVENUE (40' R.O.W.); Said point being N. 81° - 24' W. distant 305.00 feet from the westerly sideline of RUSH STREET, formerly MAPLE STREET (40' R.O.W.), as shown on the Tax Assessment Maps of the

Borough of South Plainfield, revised December 30, 1983 and running thence:

- (1) S. 81° - 36' W. a distance of 105.00 feet to a point; thence
- (2) N. 81° - 24' W. a distance of 200.00 feet to a point; thence
- (3) N. 81° - 36' E. a distance of 105.00 feet to a point; on the southerly sideline of CHRISTOPHER AVENUE; thence
- (4) S. 81° - 24' E. along the southerly of CHRISTOPHER AVENUE a distance of 200.00 feet to the point and place of BEGINNING.

Excepting therefrom a strip of land for road widening purposes, 5 feet in width, contiguous to the southerly sideline of CHRISTOPHER AVENUE, containing 1,000 square feet, more particularly described as follows:

BEGINNING at a point on the southerly sideline of CHRISTOPHER AVENUE (40' R.O.W.); Said point being N. 81° - 24' W. distant 305.00 feet from the westerly sideline of RUSH STREET, formerly MAPLE STREET (40' R.O.W.), as shown on the Tax Assessment Maps of the Borough of South Plainfield, revised December 30, 1983 and running thence:

- (1) S. 81° - 36' W. a distance of 5.00 feet to a point; thence
- (2) N. 81° - 24' W. creating a new southerly sideline of CHRISTOPHER AVENUE, a distance of 200.00 feet to a point; thence
- (3) N. 81° - 36' E. a distance of 5.00 feet to a point on the present southerly sideline of CHRISTOPHER AVENUE; thence
- (4) S. 81° - 24' E. along the present southerly sideline of CHRISTOPHER AVENUE a distance of 200.00 feet to the point and place of BEGINNING.

Being further described and designated as portions of Lots 7 through 15 in Block 4, as shown on a map entitled "Plainfield Park (South)", filed in the Middlesex County Clerk's Office, April 8, 1912, as map No. 676 in File No. 469.

1. The conveyance by the Borough of South Plainfield shall be by bargain and sale deed, without covenants, and without representations as to the marketability of title. In the event the purchaser shall determine that title to the property in question shall not be good and marketable, any questions as to marketability of title shall be submitted to the Borough Clerk's Office within 45 days of the date of sale. In the event said questions have not been raised within said 45 day period, then and in that event all questions relating to the marketability of title shall be deemed waived and this matter shall proceed to closing of title within 90 days of the date of sale.
2. Easements, both of record and not of record.
3. Restrictions of record.
4. Zoning ordinance of the Borough of South Plainfield as presently constituted without representations as to the use to which said property can be put.
5. In the event that the purchaser fails or refuses to close title and/or pay the consideration therefor within the time period stated herein, then in that event, the Borough of South Plainfield may, at its own option, exercise any or all of the following rights:

- (a) Declare the transaction null and void.
- (b) Charge the purchaser with stipulated damages to include interest on the purchase price at the rate of 8% (per cent) per year plus \$1.00 per day to be computed from the date of the sale to the date of closing of title or date of rescission by the Borough.
- (c) Any other rights as provided by law which may be available to the Borough.

6. The cost of advertising, preparation and filing of the deed shall be paid by the purchaser.
 7. The purchaser shall make application for any required subdivision.
- 2 Times; 5-24-84 and 6-8-83
Fee: \$87.36

AFFIDAVIT OF PUBLICATION

STATE OF NEW JERSEY,
COUNTY OF MIDDLESEX.

ss.

JAMES V. TOBERT

of full age, being duly sworn, on his/her oath, that he/she is the Publisher of THE REPORTER, a newspaper published in the Borough of South Plainfield, Middlesex County, and State of New Jersey, and that a notice of which the annexed is a true copy, was published in said paper for the term of two weeks (2) once in each week successively, viz May 24, 1984 & June 1, 1984 commencing on the 21th day of May Sworn and subscribed before me this 4th day of June A.D., 1984

James V. Tobert

James M. [Signature]
Notary Public of New Jersey
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 23, 1989

PROPERTY SALES

2,097,642

984	LOT	BLOCK	BOOK RECEIVED	BOOK CONVEYED	
984					
PN 9	GEO. DENKER	1	438		1812500
23	TOMMASO GRASSO	1	379		1000000
27	P. J. PANZARELLA	Ord 978		L2 B 113	2500000
AP 12	PHILIP CAMPANA	9	427		1250000
12	DOMINGO LAURIA	7	329		645000
R 26	GALLO-RINKER	101	427		3750000
9	A. A. V. G. BLDG	10.01	357		2100000
23	J. M. WHITE	6	29		3000000
AI 13	PATRICK ENGLISH	14.01	365		1615000
WE 11	R. BENVENUSA	102	397		1250000
11	D. DIGIAN TSON	101	427		2132500
11	RINKER GALLO	101	427		2500000
11	D. DIGIAN TSON	101	448		2500000
11	R. BENVENUSA	102	397		4996200
11	L. MASSARO	106 1026	438 310		15932500
11	JOSEPH SPASSO	2	366		7500000
11	E. SIKANOWICZ	Ord 990		L 33, B 318 L 21, B 310	2475000
11	WM MACELLARA	Ord 991		L 37, B 311 L 2, B 310	2703500
11	D. DIGIAN	Ord 992		L 3, B 111 L 31, B 316	2777500
WE 25	FRANK BENAK	Ord 993		L 3, B 335	625000
41 9	VINCENTORAZI	102.01	398		2500000
9	ATTILIO GRASSO	101-9	353		4600000
9	DIGIAN TSON	Ord. 994		ORD A, B, F, D.	13125000
9	CHAS. ERRICKSON	11	449		2010000
16 13	L. MASSARO	104.01 101	448 427		127031850
13	ALAN CESARE	24	110		440000
PT 10	PAT CONNOLLY	1013	405		1124250
10	FRANK ESICK	ORD 997	CANCELLED	L 06, B 341	NONE
IT 9	A. MONDORO	ORD 1002			750000
OV 13	D. DIGIAN	5	396		700000
13	D. DIGIAN	104.01	448		625000
13	TOTT-DABRIO	21	128		1223500

PROPERTY SALES

1985		LOT #	BLOCK #	BOROUGH RECEIVED	BOROUGH CONVEYED	AMOUNT
JAN 14	RUNKER	13	345			14770.00
28	RUNKER	Plo 6	399			12500.00
28	JAMES CARDANO	Plo 6	315			23000.00
FEB 11	ZENA MEADOR	30	404			42500.00
11	ROBERT BENVENUTI	Plo 2.01 (A)	404			32000.00
11	"	Plo 2.01 (B)	404			25860.00
MAR 25	JOS. DEANREA	Plo 8.01	347			15000.00
25	RALPH PASTORE	1.01	525			14000.00
25	ZENA MEADOR	Plo 3.01	363			28000.00
25	RALPH PASTORE	Plo 2	367			29750.00
25	RALPH PASTORE	Plo 6.01	525			11000.00
25	PAUL D. DARIO	1/2 2	108			1500.00
25	HAROLD WILSON	1/2 2	108		7,106	1500.00
APR 8	D. DIGLIASON CUST	ORD #	1017	L1-524 L5-377 L1-524	Plo 1.01-404 Plo 2.01-404	14450.50
22	ZENA MEADOR	Plo 3.01	363			31000.00
22	PATRICK FAMULANO	Plo 8.01	347			12500.00
22	ZENA MEADOR	Plo 3.01	363			60000.00
22	WALTER KURILEW	9	330		726,131	11000.00

Law Offices
FRANK A. SANTORO
1500 PARK AVENUE, SUITE ONE
P. O. BOX 272
SOUTH PLAINFIELD, NEW JERSEY 07080

MEMBER
NEW JERSEY BAR
U.S. PATENT BAR

AREA CODE 201
561-6868

September 17, 1985

Eric Neisser, Esq.
Constitutional Litigation Clinic
Rutgers Law School
15 Washington Street
Newark, New Jersey 07102

Re: Urban League, et al. vs. Carteret, et al.
(South Plainfield) - Docket No. C 4122-73

Dear Eric:

It has taken me some time to accumulate the various documentations, which you requested in your letter of September 5, 1985, but having now finally put together the package, I enclose the following items:

1. Notices of Public Bids, Council Resolutions of Acceptances and, where applicable, Deed(s) to Borough land which has conveyed certain of the "Mount Laurel" inventoried properties to third parties.

It is important to note that only six sales of the "inventoried land" have taken place from January 1, 1984 to the present and of the six sales, Deed(s) of conveyance were given for only one of those sales, to wit, P/O Lot 4.01, Block 448 (see copy of Deed enclosed). From a review of this Deed, it is obvious that only 20,000 square feet have been transferred by Deed of the total inventoried lands.

The Judgment as to South Plainfield required the rezoning of the following tracts:

- A. Block 459, Lot 1; Block 460, Lot 1, Block 461, Lots 1-3; Block 462, Lot 2; Block 465, Lot 1; Block 466, Lot 1; Block 467, Lots 1, 3, 4, 5 and 21, representing 84.8 acres.
- B. Block 528, Lot 43, or 27 acres.
- C. Block 448, Lots 2.01 and 4.01 and Block 427, Lot 1.01, or 25 acres.
- D. Block 255, Lots 14, 33 and 34.

E. Block 308, Lot 34; Block 310, Lots 1.01, 4.01, 5-7, 9, 11, 13-15, 17 and 18; and Block 311, Lots 16-36, or a total of 12.25 acres.

F. Morris Avenue site known as Block 111, Lots 1-4; Block 112, Lots 1 and 1.01; Block 113, Lots 1.01, 2, 4 and 5.01; and Block 115, Lots 1, 2, 2.01 and 3, a total of 6.15 acres.

G. Block 12, Lots 9, 16 and 17, a total of 7.25 acres.

H. Block 259, Lots 5, 6.01, 6.02, 7 and 12, the "Elderlodge site" or 1.46 acres.

The grand total of the required rezoned Mount Laurel areas, as per the Judgment, was 163.91 acres.

The amount transferred by the aforementioned Deed is 20,000 square feet or approximately 0.5 acres. Hence the reduction of the "inventoried" lands is less than 0.3%.

2. In response to the previous inquiry of Barbara Williams (letter of July 10, 1985), please be advised as follows:

A. The July 9, 1984, sale to D. DiGian in the amount of \$131,250.00 was for the lands described in Schedule A of Ordinance #994 (copy attached) and provides for the transfer to D. DiGian of P/O Lot 2.01, Block 396, P/O Lot 18.01, Block 404 and P/O Lot 23.01, Block 404. None of these lots and blocks are included in the Judgment.

B. The March 25, 1985, sale to D. DiGian in the amount of \$144,525.00 was for the lands described in Schedules A and B of Ordinance #1014 (copy attached) and provides for the transfer to D. DiGian of P/O Lot 18.01, Block 404 and P/O Lot 23.01, Block 404. Again, none of these lots and blocks are included in the Judgment.

C. I have enclosed a copy of Ordinance #1002, which involved a land exchange with A. Mondoro and which clearly shows that no property from the Judgment was conveyed.

3. Responsive to your paragraph 1), c) of your letter of September 5, 1985, concerning the land sale moratorium, be advised as follows:

No formal Resolution was adopted by the Council imposing the moratorium, rather it was by voice vote (4-2) at an Executive Session of the Council held on March 4, 1985.

Eric Neisser, Esq.
Page 3
September 17, 1985

I have enclosed the minutes of the Land Management Advisory Committee meetings of March 14, 1985 and March 28, 1985, which discuss among other matters the land sale moratorium approved by the Council on March 4, 1985.

As Municipal Attorney, I hereby certify that no Notice of Sale of Land, acceptance Resolutions, Contracts for Sale or closings have occurred since the April 22, 1985 date set forth on the previously supplied "Property Sales" list.

4. With reference to subdivision of lots within the Judgment, be advised as follows:

I have enclosed for your perusal copies of all Planning Board minutes of meetings from January 1, 1984 to the present. I have reviewed same and can assure you and certify that the only subdivision of "inventoried" lands (other than P/O Lot 4.01, Block 448) receiving a final subdivision approval was Block 427, Lot 1.01 (which as you know was subdivided into Lots 1.01, 1.02, 1.03 and 1.04 of Block 427). The property which received subdivision approval and which has not been transferred to date is the portion of the original Lot 1.01, Block 427, comprising some 30,000 square feet, the intended purchasers being Gallo and Rinker.

By sale dated June 11, 1984, another portion of Lot 1.01, Block 427 was intended to be conveyed to D. DiGian & Son Construction Co. (see copies of Notice and acceptance of Resolution attached). Title to this parcel has not closed.

Final subdivision approval for P/O Lot 4.01, Block 448 has been obtained, as per August 20, 1985 Planning Board action. Tonsar Corp. was the applicant and is the successor to D. DiGian & Son Construction Co. I have already discussed above the fact that title to this portion of Lot 4.01, Block 448 was transferred. I have enclosed copies of the building permits issued for those lots created by the aforementioned subdivision.

5. Responsive to your inquiry contained in paragraph 2), c) of your letter of September 5, 1985, please be advised as follows:

Lot 1.01, Block 427, as contained in the Judgment, comprises some 3.66 acres. Lot 2.01, Block 448, which was shown as a separate lot on Tax Maps, Page 38, dated June 30, 1965, illustrating the parcel known as Lot 2.01, having approximately 201 x 225 feet. After Acker Avenue and the realignment of Pomponio Avenue was accomplished by street vacations, this lot was then incorporated into Lot 4.01 of Block 448. Lot 4.01 of Block 448 originally contained 20.49 acres; however, with the inclusion of the aforementioned lot 2.01 within it, the new Lot 4.01 of Block 448 contains a total of 22.42 acres. As

Eric Neisser, Esq.
Page 4
September 17, 1985

for the representation that these parcels comprised originally some 32 acres from the calculations of the above set forth acreage, the total is only 26.08 acres.

6. The Morris Avenue Senior Citizens Site. With reference to your inquiries contained in paragraph 3) of your letter of September 5, 1985, I have investigated the status of the ownership of these parcels and find that the Borough still owns all of the previously stipulated to lands, save the irregularly shaped site owned by Buccellato. My review of the correspondence of the Land Management Advisory Committee indicates only that at some point and for some reason (unknown to me at this time) the owners of this parcel were advised that the town was no longer interested in acquiring title to same. I spoke with Mr. Joseph Buccellato on September 16, 1985, and advised him that the town obviously was still interested (since it is contained in the Judgment and Stipulation) in acquiring his property located within the site. I also on that date advised Councilman Acrin of the Economic Development Committee to pursue this matter on an "as soon as possible" basis.

With reference to other planning or development efforts to date by the Borough regarding the intended or thought to be intended Senior Citizens project, only the establishment of a non-profit corporation entitled "South Plainfield Senior Citizen Housing Finance Committee, Inc." has been accomplished for this purpose.

To summarize then, as stated before, of all of the "inventoried" lands, only that portion of Lot 4.01, Block 448 transferred to Tonsar Corp. and amounting to some 20,000 square feet, have been removed from the "inventoried" lands. This represents, as stated above, less than 0.3% of the original 163.91 acres.

I trust that the within and supporting enclosed documentation is responsive to all of your inquiries.

Very truly yours,



FRANK A. SANTORO

FAS:sr
Enclosures
cc: Judge Serpentelli
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September 5, 1985

Frank Santoro, Esq.
1500 Park Avenue
South Plainfield, New Jersey 07080

Re: Urban League, et al. vs. Carteret, et al.
(South Plainfield) - No. C 4122-73

Dear Frank,

This is to confirm our conversation of this morning in which we discussed the remaining documents needed to determine compliance with the Judgment and Orders as to South Plainfield, and which I detail below. You agreed to supply them to me before the September 27 return date of your transfer motion. I would request that they be served at latest eight days before the return date, that is, by Thursday, September 19, as is generally required for motion responses. As I explained, to comply the Borough still must adopt the resolution described in Paragraph 6 of the Judgment of May 22, 1984, committing the Borough to apply for, and to encourage private developers to apply for, any available federal, state or county funds for rehabilitation or subsidy of construction or rents. I suggested that this resolution could be considered at any Council meeting(s) between now and September 27. Finally, as I indicated on the phone, I have written the Judge today, copy attached, asking that Ms. Lerman, the Master, be directed to report to the Court on the acceptability of the zoning and affordable housing ordinances by September 23, so that if the Court denies transfer on the 27th it will be in a position to move forward immediately to complete action concerning South Plainfield.

The documents we agreed upon fall into three categories:

1) Borough Sale of Land Within Judgment

a) Notices of public bids, Council resolutions of acceptances, and, where applicable, deeds concerning any Borough sale or proposed or contracted sale, since January 1, 1984, of land within the blocks and lots listed in the Judgment, or within any new lots derived from the specified lots as a result of subdivision (see item 2 below). As I explained, from the inventory you supplied, we have to date identified six such sales, although our request obviously applies to any additional sales of which we are not yet aware;

b) Clarification of the illegible parts of the previously supplied inventory, as requested in Ms. Williams letter to you of July 10;

c) The Council resolution imposing a moratorium on further land sales and a statement from the Chair of the Economic Development Committee, or other responsible official, that pursuant to that moratorium, no further public bids, acceptance resolutions, contracts for sale, or closings have occurred since April 22, 1985. In this connection, please be sure that the inventory ending April 22, 1985 that you previously supplied reflects, or that you provide an update that reflects, any action short of closing, e.g. notice of bid, relating to other pieces of land that occurred before that date.

2) Subdivision of Lots within Judgment

a) Documentation of any subdivision or other creation of new lot numbers, since January 1, 1984, within lots specified in the Judgment. I suggested that the easiest way to do this might be to send me a copy of all Planning Board minutes from January 1, 1984 to the present, accompanied by a statement of a responsible official, such as the Planning Board Secretary, as to when subdivisions of the relevant lots occurred. We already know, for example, that Block 427 Lot 1.01 was subdivided into four lots (1.01, 1.02, 1.03, and 1.04). We need to know of any other such action affecting land within the Judgment.

b) Any Planning Board or other official approval (including building permits) of developments on land within the Judgment. (I forgot to mention this on the phone, but this would inevitably be part of the matters in a) above, and could easily be covered through production of the noted Planning Board minutes plus building permits for any finally approved projects on these lots.)

c) A breakdown of the precise acreage of the land within Block 448 Lots 2.01 and 4.01 and Block 427 Lot 1.01, the land specified in Paragraph 3(C) of the Judgment as the Pomponio Avenue site, as originally constituted, and within the lots that now comprise that area. You will recall that originally we were told and given discovery suggesting that there were only 25 acres in the specified lots but later learned that there were some 32 acres.

3) Morris Avenue Senior Citizen Project Site

a) A statement of ownership status, from January 1, 1984 to the present, of all parcels listed in Paragraph 3(F) of the Judgment as comprising the Morris Avenue site. This site was represented in the Stipulation and Judgment as "municipally owned" although, as you confirmed today, at least one parcel, the Buccellato site, is still privately owned today. Where applicable, please provide contracts for purchase and deeds to the Borough.

b) All correspondence or internal documents of the Economic Development and Land Management Committees, the Council or other official bodies concerning possible purchase of any of these parcels. As indicated, Mr. Buccellato informed me that at one point he had written the Borough about selling the land but had been told that there was no interest in purchasing it.

c) Documentation of efforts to date, if any, towards planning or development of the senior citizen center at that site. If, as you indicated on the phone, nothing at all has been done to date, then please provide a statement from the responsible official detailing any plans currently in existence for future action.

As noted several times, plaintiffs consider this material crucial to final determination of the litigation as to South Plainfield and at least relevant to the transfer motion now pending before the Court. In reliance on your promise to produce these materials prior to the return date, I am not at this time applying for a formal court order to this effect.

Thank you for your anticipated cooperation.

Sincerely yours,



Eric Neisser
Counsel for Urban League
Plaintiffs

cc/Judge Serpentelli
Carla Lerman
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October 7, 1985

Frank Santoro, Esq.
1500 Park Avenue
South Plainfield, New Jersey 07080

Re: Urban League v. Carteret, No. C 4122-73

Dear Frank,

This is to confirm my oral inquiry of Wednesday about your letter of September 17 and some of the materials provided with it.

First, with regard to land sales, your letter states that only 20,000 square feet were transferred yet the Deed dated May 13, 1985 which you provided states that 3 tracts totalling 25,000 square feet were involved. Is the Deed correct or are you asserting that not all three of the parcels were within the Judgment? I note in this regard that your letter states that deeds have been executed conveying only one of the six sales of inventoried lands. Page 1. Yet the Deed provided covers, as far as I can tell, three of the six sales for which you provided Council resolutions of acceptance of bids. With regard to those resolutions, please provide copies of the "Schedules" referred to in the March 26, August 13, and November 13, 1984 resolutions and information or documents permitting us to distinguish and identify "parcel 1" from parcel 2" in the two June 11, 1984 resolutions. Moreover, the copy of the first page of the Deed you provided clipped off the handwritten note on the upper left corner. Please provide a new copy of that page so I can read that note.

With regard to the three parcels mentioned in the May 13, 1985 Deed, it appears that they were originally part of Block 448, Lot 4.01 and were subsequently subdivided into Lots 4.03, 4.04 and 4.05. The three building permits you provided are for the latter numbered lots. Yet nowhere in the Planning Board materials provided does it indicate that the latter three lots were subdivided out of 4.01 or what remains of 4.01. Please

EXHIBIT F

Counsel: Frank Askin-Jonathan M. Hyman (Administrative Director) - Eric Neisser

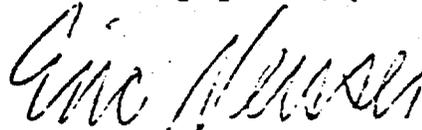
confirm that it was a subdivision of lots 4.03, 4.04, and 4.05 within Block 448 and either provide me with the appropriate documentation or confirmation that the subdivision that effected this change was the Planning Board's approval of application 84-20 that was preliminarily approved on April 16, 1985 and finally approved on May 21, 1985, as reflected in the Planning Board minutes and subsequent resolutions for those dates.

My uncertainty and concern in this regard derive from the following discrepancies: the Deed executed by the Mayor and Borough Clerk in your presence on May 13, 1985 says that the lots thereby deeded "were created as a result of subdivision, as evidenced by the signatures of the Chairman and Secretary of the Planning Board of the Borough of South Plainfield below." Page 3. Neither the Chairman's nor the Secretary's signature appears on the Deed. Moreover, the minutes of the Planning Board show that final subdivision approval did not occur until May 21, 1985 and that the subdivision maps were not signed by the Chairman and Secretary until August 20, 1985. Yet building permits for those three subdivided lots were issued on May 16, 1985. My understanding is that the law does not permit issuance of building permits until after the subdivision maps are signed. Please let me know if I am incorrect in this assumption or if there was some special circumstance justifying this unusual deviation from standard practice.

Finally, with regard to the Morris Avenue site, I note that in the recitation of the lots covered by the Judgment in Paragraph 1(F) of your letter, page 2, you state that the lots within Block 112 are Lots 1 and 1.01. However, the Judgment clearly states that it is Lots 1 and 2.01. This discrepancy takes on substantive importance because in Paragraph 6 of your letter, page 4, you state that you have investigated the ownership status of the parcels within the Morris Avenue site and "find that the Borough still owns all of the previously stipulated to lands" except for the Buccellato site. I would, therefore, appreciate your checking the ownership status of Block 112, Lot 2.01 and certifying whether the Township owns it. Also, you make reference in that paragraph to correspondence of the Land Management Advisory Committee with regard to the site owned by Mr. Buccellato. Because this directly involves the Township's compliance with the Judgment of May 22, 1984, I would request again, as I did in my last letter, copies of that correspondence and any minutes or other internal documents bearing on the Township's conduct vis-a-vis that parcel. Lastly, I would appreciate a copy of the incorporation papers relating to the South Plainfield Senior Citizen Housing Finance Committee, Inc., and of any Council meeting agendas at which action was taken or the senior citizen project was discussed.

In closing, let me note my appreciation for your timely and nearly complete response to my prior letter and my hope that we will be able to resolve this matter promptly.

Sincerely yours,



Eric Neisser

cc/South Plainfield Service List



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October 23, 1985

Frank A. Santoro, Esq.
1500 Park Avenue
South Plainfield, NJ 07080

Re: Urban League v. Carteret, No. C 4122-73

Dear Frank:

The judge has set the South Plainfield compliance hearing for Tuesday, November 12. I must, therefore, ask that you provide me with the information which we agreed upon orally in court on October 2 and which is embodied in my letter to you of October 7, as well as the tax maps showing the precise acreage of the Pomponio Avenue site, immediately.

Thank you for your anticipated cooperation.

Sincerely yours,


ERIC NEISSER

cc/Carla Lerman
South Plainfield Service List

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October 9, 1985

TO: ATTORNEYS for ALL TOWNSHIPS in URBAN LEAGUE V. CARTERET,
ET AL.

FROM: Eric Neisser *EN*

RE: New Jersey Housing and Mortgage Finance Agency's
Affordable Housing Program

Enclosed for each of you is a copy of the September 23, 1985 letter to Alan Mallach from the Executive Director of the New Jersey Housing & Mortgage Finance Agency and the attached two-page summary and complete 26-page 9/19/85 Draft of the Agency's Affordable Housing Program. Please note that only municipalities can apply for funding, page 5, and that the deadline for applications, for what now appears will be the only competitive round of funding, is mid-January. Given that practically all settlements and orders in this case involve fundable projects, I thought it best to forward these materials immediately to all township counsel in this case. We would encourage your planning officials and consultants to consult with Alan Mallach on plans for such an application and, in any case, would expect to receive copies of any submitted applications or other interactions with the agency affecting compliance with the relevant Order affecting your town.

I am forwarding copies of this memorandum, Ms. O'Connor's letter, and the two page summary to all other counsel with the suggestion that they contact the Agency directly if they wish to obtain the complete Draft Program or other materials.

CC: Judge Serpentelli
Carla Lerman, Master
Philip Caton, Master
All Service Lists
Alan Mallach

EXHIBIT G

Counsel: Frank Askin-Jonathan M. Hyman (Administrative Director) - Eric Neisser

New Jersey Housing & Mortgage Finance Agency

September 23, 1985

Alan Mallach
15 Pine Drive
Roosevelt, NJ 08555

Dear *Alan*:

On September 19, 1985 the members of the New Jersey Housing and Mortgage Finance Agency Board approved a second set of draft guidelines for the "Affordable Housing Program" authorized by the Fair Housing Act of 1985. The agency initially had proposed to adopt final guidelines in September, but given the significance of the program and the need for the broadest possible discussion, the agency has instead responded to concerns about the initially shorter time constraints by revising the draft and extending the comment period. The most important changes include:

- * A lengthened time frame. The HMFA now expects to adopt final guidelines at the next board meeting, with an application deadline in mid-January and project selection in early 1986.
- * One competitive round of funding instead of three. The HMFA will make \$5 million of the grant and loan funding, along with bond financing, available for the first round. After that, the agency will evaluate the program to determine future funding demand.

The draft also clarifies the HMFA's policy objective, which is to foster creation of both rental and owner-occupied housing for families at a range of incomes below the 80 percent of median line.

Attached is a copy of the revised draft "Affordable Housing Program". If you have questions or comments on the new proposal or have a potential project you would like to discuss, please contact Susan Kimball at the phone number below.

Sincerely,

NEW JERSEY HOUSING &
MORTGAGE FINANCE AGENCY

Feather O'Connor

Feather O'Connor
Executive Director

LS/dw/S2/019

The Fair Housing Act of 1985 (P. L. 1985, c. 222) directs the New Jersey Housing & Mortgage Finance Agency to create a program to help communities meet their obligation to develop housing for low- and moderate-income families. On August 1st, the HMFA adopted draft program guidelines, which were circulated to interested parties throughout the state. Following receipt of comments, the HMFA in September adopted a revised draft of the program guidelines. Briefly, the program now includes:

TIMETABLE

The final program is expected to be adopted by the HMFA in November, 1985. Questions and comments on the program or potential projects should be directed to the attention of Susan Kimball, NJHMFA, 3625 Quakerbridge Road, CN 18550, Trenton, NJ 08650-2085.

FUNDING

The funding level remains unchanged:

- + \$ 15 million in grants and loans.
- + \$111 million in lower-interest rate mortgages for home purchases.
- + Unlimited lower-interest rate financing for rental housing.

AVAILABILITY

The HMFA plans an initial competitive round of funding, with \$5 million in grants and loans, more than \$20 million in home purchase mortgage money and unlimited financing for rental housing available. After that, the HMFA will evaluate demand and either establish additional competitive rounds or accept applications on a continuous basis, creating a pipeline of projects.

Round 1: Application deadline, mid-January; project selection, early 1986.

TYPES OF PROJECTS

Purchase

- + Single-family construction--detached, ~~condominium or townhouse style.~~
- + Rehabilitation of owner-occupied, 2-, 3-, 4-unit buildings.
- + Lease-purchase programs.

Rental

- + Rental developments of five ~~or more units,~~ at least 23% of the units reserved for low- and moderate-income families.
- + In-fill, scattered site, high-rise, garden apartment or townhouse developments.

Grants and Loans

(averaging \$7,000 per unit,
higher averages for 3- and
4-bedroom units)

- + Land acquisition
- + Closing cost assistance for families
- + Interest rate reductions
- + Direct capital contributions
- + Construction financing

Mortgage Financing

- + Permanent mortgages for home purchases.
- + Construction and permanent financing for rental housing.

HMFA Affordable Housing Corporation

At municipal request, HMFA's subsidiary corporation can undertake project development, including land acquisition, construction and management.

APPLICATIONS AND CRITERIA

Municipalities are eligible either directly or on behalf of others for HMFA assistance. Innovation is encouraged, and proposals other than those specifically listed will be considered. However, programs must be directed toward meeting a municipality's fair share obligation. Resale controls or rental restrictions on the affordable units may be imposed for 20 years, and in instances where a grant-assisted unit is being sold on the open market, the sale will be subject to the HMFA's recapture of the grant. All applicants will be required to detail a strategy for affirmatively marketing units.

Applications will be judged on:

- + Contribution by municipality.
- + Project feasibility.
- + Geographic distribution among regions in the state.
- + Significance of the application in resolving litigation.
- + Distribution between rental and purchase housing.
- + Per-unit subsidy requested and distribution between low- and moderate-income housing.
- + Comments by the Council on Affordable Housing.
- + Projected time frame for delivery of housing.
- + Innovative design, providing housing for special households (such as the handicapped or single-parent families)

NEIGHBORHOOD PRESERVATION PROGRAM

Development funding also is available from the Department of Community Affairs' Neighborhood Preservation Program. For more information, contact Stewart Bressler, Bureau of Housing and Community Development, Department of Community Affairs, CN 806, Trenton, NJ 08625.

09/20/85
LS/dw/S3/037

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

AFFORDABLE HOUSING

PROGRAM

3625 Quakerbridge Road
CN 18550
Trenton, NJ 08650-2085

(609) 890-8900

September 19, 1985

Rev. #7

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

AFFORDABLE HOUSING

PROGRAM

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AFFORDABLE HOUSING
PROGRAM

SECTION I

INTRODUCTION

The New Jersey Housing and Mortgage Finance Agency (NJHMFA) was created in 1984 by the merger of the Housing Finance Agency and the Mortgage Finance Agency, in order to provide "a strong, unified advocate for housing production, finance and improvement..." To that end, it was given new powers which will be utilized to assist in the production of affordable housing.

The Agency combines almost 20 years of housing experience of both Agencies making it the principal source of affordable financing for moderate income homebuyers and renters in New Jersey. The HMFA's achievements include:

- financing, production and oversight of more than 33,000 units of rental housing in 18 counties throughout the State.
- financing of over 40,000 home purchases and home improvement loans in all 21 counties throughout the State.
- financing for life-safety improvement loans for boarding houses totalling \$5,500,000.
- an active commitment to the State's urban areas, through reservation of funds for Target Areas, and development of special projects to encourage urban reinvestment.
- working relationships with the State's municipalities, builders, developers and lending community.

SECTION II

PURPOSE AND OBJECTIVES

A. Authority

The NJHMFA is given additional responsibilities under the Fair Housing Act (P.L. 1985, c.222) to assist municipalities in the achievement of low and moderate income housing goals.

B. Summary of the Fair Housing Act

Among its findings in the Act, the Legislature declared that "The interest of all citizens, including low and moderate income families in need of affordable housing, would be best served by a comprehensive planning and implementation response" to the constitutional obligation of every municipality in growth areas to "provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families."

The legislation creates a planning mechanism with the establishment of the Council on Affordable Housing, and appropriates funds to support the implementation of affordable housing programs. While pursuing the planning process through the Council, or litigating outstanding zoning suits, a municipality can also submit applications for affordable housing programs to the HMFA to further its housing goals.

Role of the Council on Affordable Housing

The Council, established in, but not of, the Department of Community Affairs, will consist of nine members appointed by the Governor with the advice and consent of the Senate. The Executive Director of the HMFA serves, ex-officio, as a voting member of the Council. In brief, the Council is charged with the following duties:

- 1) Determining housing regions of the State.
 - 2) Estimating the present and prospective need for low and moderate income housing at the State and regional level.
 - 3) Adopting guidelines and criteria for:
 - (a) municipal determination of its present and prospective housing needs;
 - (b) municipal adjustment of the present and prospective fair share ~~based upon available vacant and developable land,~~ infrastructure considerations or environmental or historic preservation factors; and
 - (c) phasing of present and prospective fair share housing requirements.
 - 4) Providing population and household projections for the State and housing regions.
-

- 5) Certifying housing elements prepared by municipalities which provide a reasonable approach to the provision of their low and moderate income housing needs.

Municipal Housing Plans

By adopting a Resolution of Participation within four months after the effective date of the Act, a municipality may notify the Council of its intent to submit its fair share housing plan. Within five months after the Council's adoption of guidelines as mentioned above, a municipality shall prepare and file with the Council, a housing element and any fair share housing ordinance which implements the housing element. The municipality may then (at any time during a six year period following the filing of the housing element) petition the Council for a substantive certification of its element and ordinances or institute an action for declaratory judgement granting it a six year repose in Superior Court.

The Council will also be empowered with mediation and review procedures and with the authority to approve regional contribution agreements (in the case of transfers of fair share obligations from one municipality to another).

Municipalities may also elect not to present a housing element to the Council for certification, and continue to litigate pending suits which may result in the establishment of affordable housing goals by the Court.

The Agency's Affordable Housing Program

Under the Act, the Agency is charged with establishing "affordable housing programs to assist municipalities in meeting the obligation of developing communities to provide low and moderate income housing." The Agency is specifically authorized to award assistance to programs in municipalities whose housing elements have received substantive certification from the Council (or which have been subject to a builder's remedy or which further an approved regional contribution agreement). However, in recognition that the Council will not immediately be operational and will take time to prepare the necessary guidelines, review and approve housing plans, the Agency is authorized to give assistance to programs located in communities which have not yet received substantive certification of their housing elements.

The general types of assistance to be provided are:

- 1) Permanent mortgage loans for the purchase of owner-occupied housing;
- 2) Construction and/or permanent loans for multifamily rental housing;
- 3) Grants or loans to make either the home purchases or multifamily rental housing more affordable.
- 4) The new NJHMFA Affordable Housing Corporation recently established by the Agency can, on a demonstration basis, undertake housing development as a developer on behalf of municipalities.

Additional administrative responsibilities given to the Agency by the Fair Housing Act are:

- 1) Establishing procedures and guidelines governing the qualifications of applicants, application procedures and criteria for awarding grants and loans for affordable housing and standards for establishing the amount, terms and conditions of each grant or loan.
- 2) Providing advisory, consultation, housing and educational services to assist in the planning, construction, rehabilitation and operation of housing.
- 3) Encouraging research in and demonstration projects to develop better techniques for increasing the supply, types and financing of housing.
- 4) In consultation with the Council, establishing requirements and controls to insure that housing assisted under the act will continue to be affordable to low and moderate income households.
- 5) Administering resale controls and rental limits in municipalities where no appropriate agency exists, and the municipality requests such assistance.
- 6) Reviewing proposed Regional Contribution Agreements for feasibility, and evaluating progress reports filed in connection with executed agreements.
- 7) Reporting to the Governor and the Legislature on the effects of the Act in promoting low and moderate income housing.

The Role of the Department of Community Affairs

The Fair Housing Act provides an appropriation of \$2,000,000 plus an estimated \$8,000,000 annually from an increase in the real estate transfer tax dedicated to the Department of Community Affairs' (DCA) Neighborhood Preservation Fund. DCA's Neighborhood Preservation Program will be expanded to provide grants and loans both to municipalities which are required to provide their fair share of low and moderate income housing, as well as to "receiving municipalities" where a regional contribution agreement is approved. The Neighborhood Preservation Fund may be applied to such purposes as:

- 1) rehabilitation of substandard units, construction of new units or conversion of nonresidential units, for low and moderate income households;
- 2) costs of studies, plans, architectural, engineering and other technical services; costs of land or property acquisition; demolition, infrastructure projects, and other activities related to the creation of low and moderate income housing units.

Assistance from DCA may also be provided from its Housing Demonstration Program which provides technical assistance, grants and loans for innovative housing projects.

The Agency and DCA will coordinate their response to applications from municipalities so the applicants can be assured of "one-stop shopping" as well as effective delivery of State assistance.

C. Assistance Available from NJHMFA for Affordable Housing Programs

The Agency will allocate at least 25% of its mortgage revenue bond authority for use in conjunction with housing constructed or rehabilitated with assistance under the Fair Housing Act. The Agency will make available immediately at least \$20 million for below market rate mortgages for home purchasers. As the need for additional capital is evidenced, the Agency will issue bonds to raise the needed capital.

The Agency will also make financing available for the construction or rehabilitation of multifamily rental housing. Thus, this additional resource is made available to communities and/or housing sponsors wishing to participate in the Affordable Housing Program.

The Act provides an appropriation of \$15,000,000 to be used by the Agency to provide assistance in the form of grants or loans for affordable housing programs. The Agency will seek a balance between rental and owner-occupied housing. In general, awards will not exceed an average of \$7,000 per assisted unit except where a housing proposal provides for larger units (3 or 4 bedrooms) in which case a larger amount of funding may be allocated.

Affordable housing programs which may be financed or assisted under the Agency may include, but are not limited to:

- 1) Assistance for home purchase and improvement including interest rate assistance, down payment and closing cost assistance, and direct grants for principal reduction;
- 2) Rental programs including loans or grants for developments containing low and moderate income housing, moderate rehabilitation of existing rental housing, congregate care and retirement facilities;
- 3) Financial assistance for the conversion of nonresidential space to residences;
- 4) Other assistance, including grants or loans for infrastructure and construction loans to be taken out with permanent financing provided for the Agency.

D. Eligible Applicants

Municipalities are the only eligible applicant for affordable housing programs. In the initial funding period, a municipality's application may take the form of a letter conveying an application on behalf of nonprofit groups, private developers or individuals, or it may propose a program to be administered directly by the municipality or its instrumentality. The Agency's subsidiary corporation is also an eligible recipient of assistance for affordable housing programs it may undertake.

All applications must include an indication of support from the municipality indicating that the proposal will meet all or part of its fair housing obligation.

E. Program Schedule

The Agency intends to make available a portion of the \$15 million appropriated under the Fair Housing Act in an initial Round of funding, thereby enabling projects which are in the final stages of readiness to apply for financing immediately. Projects in earlier stages of planning may also apply for preliminary review and conditional commitments at this time. The Agency will build a "pipeline" of applications which can be considered for formal financing and assistance commitments as they reach a stage of readiness for funding.

Round I

In the initial round of applications, the following funding will be available.

- 1) Permanent financing for purchase of single-family (including townhouse and multifamily condominium) dwellings which can be closed by a deadline to be determined. At least \$20 million dollars will be made available with additional funding to be made available to accommodate additional demand for later closing dates.
- 2) Construction and permanent financing for multifamily rental housing developments provided that at least 23% of the units are at rentals affordable by low and moderate income tenants.
- 3) Up to \$5,000,000 from the Fair Housing Act appropriation (approximately \$7,000 per unit for assisted units) for any of the various program options listed herein.

It is anticipated that the application period for the first round of funding will begin some time in November, with initial first round project selection in early 1986.

The above listed time frame is subject to change should federal tax law changes necessitate a modification thereof. ~~Appropriate notice would be~~ furnished to each municipality.

After projects have been selected for Round I funding, the program will be evaluated and the need for modifications will be assessed. The Agency will, in consultation with the Council on Affordable Housing, consider a programmatic or "categorical" grant funding approach to the program (e.g., separate set-asides of funds for down-payment assistance; infrastructure; rehab loans; etc.) Depending on projected demand, the Agency will establish additional competitive rounds, or fund projects with initial approvals as they reach funding readiness (see Section IVB).

SECTION III
TYPES OF ASSISTANCE

A. Program Overview

To assist developing communities in meeting their obligation to provide low and moderate income housing, the Agency can provide financing and/or award assistance to projects which either include a portion of the units as affordable or where all of the units are made affordable to eligible low/moderate income homebuyers or tenants.

The Agency will be responsive to innovative and cost efficient proposals; an affordable housing application may request one or a combination of the types of assistance listed below. In addition, the Agency will give consideration to new ideas and, to the extent permissible under the State statutes, will review and consider all such submissions where financial feasibility is evidenced.

Detailed program requirements are described in Sections IV and V. The listing below is not intended to be a priority listing of program options; rather the Agency is seeking a balance of applications between rental and homeownership projects - in fact, the Agency encourages applications which contain both types of housing in a single development. Furthermore, the Agency is seeking a balance between housing to serve the elderly and families. Applicants must certify that their applications will fulfill all or a part of their fair share housing obligations.

1) LOWER INTEREST RATE SINGLE-FAMILY MORTGAGE LOANS

The Agency will provide mortgage financing for the purchase of owner-occupied homes by prospective low and moderate income homebuyers. The commitments will be made to specific developments through a participating lender for a specified period of time. In addition to developments which combine assisted and market rate units, the Agency will consider proposals involving lease-purchase programs and purchase-rehabilitation programs.

2) MULTIFAMILY RENTAL HOUSING

Applications for construction and/or permanent financing for multifamily rental housing or continuing care retirement communities involving at least five (5) units of housing may be submitted to the Agency for consideration. To qualify for tax-exempt bond financing through the NJHMFA, no less than 23% of the units must be occupied by households of low and moderate income. The project may involve one of the following:

- (a) acquisition and moderate rehabilitation or repairs;
- (b) acquisition and substantial rehabilitation; or
- (c) new construction.

The Agency will consider financing as a rental project units contained in a larger development of owner-occupied housing.

Procedures governing the financing of housing projects and continuing care retirement communities are available from the Agency; upon request and are included in the Agency's "development package".

3) GRANT OR LOAN ASSISTANCE

Funds from the Fair Housing Act appropriation may be used in conjunction with the above program options, or as a separate program to assist low and moderate income households. The applicant need not request Agency financing in order to apply for this assistance.

Grants and loans specifically to achieve the low and moderate income goals of the Fair Housing Act may be used for any of the following:

- (a) Assistance for home purchase and improvement including interest rate assistance, down payment and closing cost assistance, and direct grants for principal reduction;
- (b) Rental programs including loans or grants for developments containing low and moderate income housing, moderate rehabilitation of existing rental housing, congregate care and retirement facilities;
- (c) Financial assistance for the conversion of nonresidential space to residences;
- (d) Other assistance, including grants or loans for infrastructure and construction loans to be taken out with permanent financing provided by the Agency.

Funds appropriated from this source will be subject to a recapture provision if and when the unit is lost to the low/moderate housing stock.

B. Technical Assistance

~~For communities planning to apply to the Agency for financing, the HMFA and the Department of Community Affairs will provide technical assistance to municipalities to promote affordable housing programs.~~ The assistance may take the form of site plan or architectural plan review, cost estimation, or general development assistance. Program development ("seed money") funding is also available through the Agency's seed money program in connection with multifamily rental projects which are likely to receive financing from the Agency, or through the DCA's Demonstration Loan and Grant Program.

C. Assistance Provided by Municipalities

The Fair Housing Act enumerates several ways in which a community can provide assistance to affordable housing. This assistance will be considered in the evaluation of proposals.

- 1) Rezoning for densities which will make it economically feasible to include low and moderate income housing as part of larger developments.
 - 2) Modifying local development regulations to promote "fast track" processing of site plan applications for affordable housing projects; modifications of development standards in such projects lessen the cost of construction and site improvements.
 - 3) Planning for infrastructure expansion or rehabilitation if necessary, to assure the community's ability to provide its fair share of low and moderate income housing.
 - 4) Donating municipally owned land in order to provide the needed housing.
 - 5) Providing tax abatement where permitted to enhance the feasibility of housing units.
 - 6) Utilization of municipal funds including state or federal funds such as CDBG or Small Cities funds to facilitate the construction of low and moderate income housing.
 - 7) Improvement of municipal services to low and moderate income neighborhoods.
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SECTION IV
POLICIES AND PROCEDURES

A. Eligible Applicants

Eligible applicants include any municipality, acting independently or in conjunction with nonprofit groups, private developers and/or individuals who wish to sponsor a housing proposal in furtherance of the community's fair share housing obligation. A resolution passed by the local governing body should accompany an application.

Where settlements have been reached with developers, requirements which are inconsistent with this program's policies will not disqualify an applicant from consideration.

B. Types of Financing Commitments

Two commitment stages have been established for the Affordable Housing Program:

- 1) Conditional Commitment - provides the applicant with the Agency's approval of the proposed housing program so that the application may be processed in a "pipeline" of projects which the Agency intends to finance. No funds are set-aside for the program, and funding will depend on the availability of funds when the project is ready for firm commitment.
- 2) Firm Commitment & Funds Reservation - provides the applicant with a reservation of funding for the proposal or project in cases where it has been sufficiently demonstrated that the program is feasible and has received all other necessary local (or State) approvals.

It is anticipated that proposals for which applications are received in Round I will be in the final stages of planning. Projects which demonstrate sufficient readiness may proceed directly to the Firm Commitment and Funds Reservation stage upon initial submission of the application. This commitment allocation will provide the sponsor with a firm reservation of a specific amount of funding to carry out their affordable housing program.

All commitments will require sponsors to adhere to firm timetables and Agency staff will be assigned to assist applicants in processing their applications through the "pipeline".

The following section outlines the commitment stages which the Agency will utilize when awarding assistance to successful applications.