

ML - Morris County Fair Housing Council v.

Boonton

- Mountain Lakes

~ 1980

Defendant, Borough of Mountain Lakes, Response to Plaintiff's
proposed finding of facts and proposed counter findings

ps. 12

ML0006356

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY
DOCKET NO. L-6001-78 P.W.

MORRIS COUNTY FAIR HOUSING
COUNCIL, et als.

Plaintiffs,

Civil Action

vs.

DEFENDANT, BOROUGH OF MOUNTAIN
LAKES' RESPONSES TO PLAINTIFF'S
PROPOSED FINDING OF FACTS AND
PROPOSED COUNTERFINDINGS

BOONTON TOWNSHIP, et als.,

Defendants.

In accordance with the terms of the Pre-trial Order dated March 19, 1980 and as amended by the Order dated June 12, 1980, the defendant, Borough of Mountain Lakes does make the following responses to the stated factual contentions of the plaintiff:

i. Denied

a. Denied as to Mountain Lakes, admitted as to Morris County.

1.-11. Admitted as accurate quotations, but neither admitted nor denied as to accuracy of content, since they are largely predictions or estimates.

12.-14. Admitted as to the existing state of facts, but neither admitted nor denied as to accuracy of the predictions.

15. Admitted.

16. Admitted as to existing state of facts; neither admitted nor denied as to the accuracy of the prediction.

17. Admitted.

18. Denied.

b. Neither admitted nor denied, as meaning is unclear. What is "residential growth and development," as opposed to "population growth?"

1.-18. Incorporate by reference answers to paragraphs i-a-1. to 18.

c. Denied as to Mountain Lakes, admitted as to Morris County.

1.-2. Admitted as to accuracy of quotations, but neither admitted nor denied as to accuracy of content, since they are largely predictions of future events.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted

7.-10. Admitted as to accuracy of quotations, but neither admitted nor denied as to accuracy of content, since they are largely predictions of future events.

d. Denied as to Mountain Lakes; neither admitted nor denied as to Morris County.

1. Admitted.

2. Denied. This is not an accurate quote and had been edited and paraphrased by plaintiff with a resultant change in substantive content.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

e. Neither admitted nor denied as stated, since the contention is vague and conclusory. The words "attractive" and "extensively linked" are purely subjective.

1. Admitted.

2. Admitted

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted, but mis-cited. Should be page 41.
- f. (No proposition labeled "f" appears in plaintiffs' submission).
- g. Neither admitted nor denied as stated since the contention is vague and conclusory.
- 1.-3. Incorporate by reference answers to paragraphs i-a-1,2 and 4.
4. Admitted.
5. Admitted.
- ii. Denied.
- a. Neither admitted nor denied as stated, since the contention is vague and conclusory.
- 1.-5. Incorporate by reference answers to paragraphs i-g-1. to 5.
- b. Denied. An arbitrary conclusion.
- 1.-7. Incorporate by reference answers to paragraphs i-e-1. to 7.
- c. Denied. An arbitrary conclusion.
- 1.-18. Incorporate by reference answers to paragraphs i-a-1. to 18.
- d. Denied. An arbitrary conclusion.
- 1.-10. Incorporate by reference answers to paragraphs i-c-1. to 10.
- e. Denied. The proposition is entirely unrelated to the sub-propositions 1.-6.
- 1.-6. Incorporate by reference paragraphs i-d-1. to 6.

- iii. Denied as to Mountain Lakes, neither admitted nor denied as to "the region" or as to Morris County.
 - b. Denied as to Mountain Lakes, neither admitted nor denied as to Morris County.
 - 1.-10. Incorporate by reference paragraphs i-c-1-10.
 - c. Denied as to Mountain Lakes, neither admitted nor denied as to "the region" or as to Morris County.
 - 1.-7. Admitted
 - 8. Neither admitted nor denied--incorrect citation--can't locate it.
 - 9. Admitted.
 - 10. Admitted.
- iv. Denied. Vague and conclusory; opinion rather than fact.
 - a. (No proposition labeled "a" appears).
 - b. Denied.
 - 1. Admitted that "a defendant municipality can [perform the mathematical function described]" but denied that such an exercise is either useful or appropriate to any legitimate objective of government.
 - 2. Admitted that the computations are attached, but denied as to any imputed value or significance.

v. Denied.

a. Denied.

1. Admitted.

2. Admitted.

b. Denied.

1.-3. Neither admitted nor denied, pending identification of cited source.

Plaintiff has been asked to provide the documents cited.

4. Denied in that these are by no means accurate quotations.

5. Neither admitted nor denied, pending a more specific citation; (provide a page No.)

6. Incorporate by reference answer to paragraph iii-c-7.

7. Denied. It is also denied that the material contained in section V-B of the cited source is properly characterized as "planning techniques."

8.-15. Denied. All consist of legal conclusions, not facts.

c. Denied.

1. Denied.

2. Admitted

3. Denied.

4.-9. Incorporate by reference answers to paragraphs v-bl. to 6.

10.-18. Denied. All Consist of legal conclusions, not facts.

d. Denied.

1.-9. Incorporate by reference answers to paragraphs iii-c-1. to 9.

10. Admitted.

PROPOSED COUNTERFINDINGS

(NOTE: The numbering system used is designed to relate generally to that employed by Plaintiff in its Proposed Findings. Although this Defendant submits that Plaintiff's numbering system does not follow the format prescribed by paragraph 5. of the Order Directing Pretrial Submission and Amending Pretrial Order, entered June 17, 1980, it is felt that Defendant can best comply with the spirit of that Order by relating to Plaintiff's numbers as called for by paragraph 2.(3.) and 2.(4.) of the Pretrial Order of March 19, 1980)

serious threat of harm to the environment posed by effluent from land uses already existing in 1975. It was designed and built to meet only that pre-existing need, and not to accommodate future growth. Testimony of Carl Denzler and William F. O'Brien.

- ii. The proper region for planning purposes is one which relates to "journey-to-work" time, as affected by employment distribution and available transportation.
- iii. The Borough of Mountain Lakes does not contain any significant numbers of employment opportunities for low and moderate income families, such as to create a need for such housing in the Borough. The available vacant land is neither sufficient nor suitable for construction of low and moderate income housing on a scale adequate to significantly serve the "regional" need.

Testimony of Tore Hultgren; 1979 Borough Master Plan, p. 5; Geonics Study, 40-43.

- iv. b. The New Jersey Department of Community Affairs Statewide Housing Allocation Plan is neither conservative nor useful as a tool for "fair share planning" by the Borough, since it proceeds purely as a quantitative mathematical apportionment of figures (which are themselves of

questionable validity), without regard to qualitative features of land, housing, or the needs of the people who are to be served. A proper analysis of a "fair share housing" obligation takes into account the factors of employment, population, and vacant land, and should utilize the most recent fact sources available.

- vi. The land-use goals expressed in the 1979 Master Plan of the Borough are consistent with the policies expressed by the State of New Jersey in the State Development Guide Plan, Revision of May, 1980, published by the N.J. Department of Community Affairs (hereinafter, "Guide Plan, 1980").
- a. The Borough lies within the area designated by the D.C.A. as the "Rockaway Corridor Growth Area". Guide Plan, 1980, pp. 51, 53.
- b. The vacant land area along U.S. Route 46 is recognized by the Borough Master Plan as environmentally sensitive, in accordance with geological studies identifying that area as an important regional water resource.
- 1979 Master Plan, pp. 7-8; Geonics Study pp. 9, 13-16, 26-27, i-ii and Plates 1 and 2.
- c. The policy of the State is to restrict development in sensitive areas, such as could pose potential

storm water runoff or other impacts affecting the Rockaway Watershed. Guide Plan 1980, at 54. This policy is entirely consistent with the recommendations growing out of a geological study of the area in question, and with the Borough's Master Plan.

Geonics Study, pp. ii, 31-47, 55-57;

Testimony of Fred Fox; Testimony of Andrew Paszkowski; 1979 Master Plan, 3-4, 9-10.

- d. The policy of the State with respect to development of suburban growth areas is to encourage gradual "in-filling" of areas with ready access to public facilities, rather than increasing suburban sprawl.

Guide Plan, 1980, at 83-84.

This policy is entirely consistent with the Borough's Master Plan.

1979 Master Plan, 9, 12.

3. The policies expressed in the Guide Plan 1980 are those espoused by the preponderance of responsible planners, and are directly at odds with the numerical allocations sought to be impressed by plaintiff upon this and other defendants.

Testimony of Tore Hultgren, Fred Fox, and Andrew Paszkowski.