

ML - Morris County Fair Housing Council  
v. Boonton

Aug. 20, 1984

Final Judgment as to Morris Township

pgs. 5

notes: double-sided pages

ML00000240

REC'D

*Judge Skillman*

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J-27

STEPHEN SKILLMAN, J.S.C. JOHN M. MAYSON  
JOSEPH H. RODRIGUEZ, PUBLIC ADVOCATE CLERK  
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MIDDLESEX COUNTY CLERK

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION-MORRIS/MIDDLESEX COUNTIES  
DOCKET NO. L-6001-78 P.W.

MORRIS COUNTY FAIR HOUSING :  
COUNCIL, et al.,

Plaintiffs,

vs.

BOONTON TOWNSHIP, et al.,

Defendants.

: CIVIL ACTION  
: (Mt. Laurel Action)

: FINAL JUDGMENT AS TO  
: MORRIS TOWNSHIP

This matter having come before this Court on the joint application of plaintiffs and defendant Morris Township for entry of a final judgment of compliance as to Morris Township based upon a proposed settlement agreement between the parties, and

This Court having determined that the settlement agreement is, subject to certain conditions set forth in the Court's Order of July 30, 1984, fair, adequate and reasonable, and

Defendant Morris Township having agreed and undertaken to comply with the conditions set forth in the Order of July 30, 1984, namely,

- 1) To amend the language of its zoning ordinance in accordance with paragraphs 2(b) and 2(c) of the Order of July 30, 1984,
- 2) To provide the Court and plaintiffs with statements annually and on or before April 15, 1987, in accordance with paragraph 2(d) of the Order of July 30, 1984, and

3) In the event that residential developments in R#-5 and R#-16 zones providing at least 300 units of low and moderate income housing have not received General Development Plan or preliminary site plan approvals on or before April 15, 1987, the defendant shall rezone on or before July 15, 1987 sufficient additional vacant developable land R#-5 or R#-16 to realistically accommodate residential development containing a number of housing units affordable to low and moderate income households equal to the difference between 335 and the number of such units which have General Development Plan approval as of July 15, 1987, and

This Court having determined that entry of a final judgment of compliance is justified and within the powers of this Court,

It is on this 20<sup>th</sup> day of August 1984, ORDERED and ADJUDGED, that

1. The settlement agreement annexed as Attachment A and incorporated herein by reference, as modified by the Court's Order of July 30, 1984, is fair, adequate and reasonable.

2. Defendant Morris Township has agreed and undertaken to comply with the conditions set forth in the Court's Order of July 30, 1984.

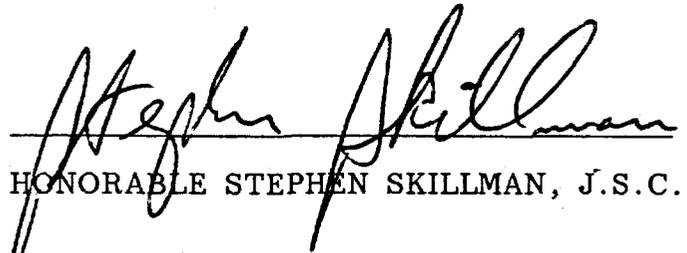
3. Defendant Morris Township, by implementing the settlement agreement set forth in Attachment A, as modified by this Court's Order of July 30, 1984, is complying with its constitutional obligation to provide realistic opportunities for creation of sufficient, safe, decent housing affordable to low and moderate income households to meet its indigenous need and its fair share of the present and prospective regional need.

4. Final judgment is hereby entered in favor of defendant Morris Township as to all claims made by plaintiffs. All counterclaims made by defendant Morris Township are dismissed with prejudice.

5. The agreement annexed as Attachment A, as modified by this Court's Order of July 30, 1984, shall, in accordance with its terms and provisions, be effective immediately upon entry of this ~~order~~ for judgment and shall be implemented by the parties.

6. Costs shall not be taxed against either party.

7. It is certified <sup>(pursuant to R 4:42-2)</sup> that this judgment is a complete adjudication of all of the rights and liabilities asserted in this litigation as to Morris Township and there is no just reason for delay of entry of final judgment.

  
HONORABLE STEPHEN SKILLMAN, J.S.C.

DATED: 8/20/84

Revised: March 29, 1984

THIS AGREEMENT, made this 29th. day of March  
1984, by and between

THE TOWNSHIP OF MORRIS,

a Municipal Corporation of the State of New Jersey,  
and

The Morris County Branch of the National Association  
for the Advancement of Colored People;

The Morris County Fair Housing Council; and

Joseph H. Rodriguez, Public Advocate of the State  
of New Jersey;

hereinafter collectively designated as "Plaintiffs."

WHEREAS, the Plaintiffs on October 13, 1978,  
instituted a certain action in the Superior Court, Law Division,  
Morris County, bearing docket number L-6001-78 P.W., against  
the Township and other parties; and

WHEREAS, the parties hereto are desirous of entering  
into an agreement of settlement to resolve their differences  
in the aforesaid litigation;

NOW, THEREFORE, in consideration of the mutual  
covenants, promises, terms and conditions hereinafter  
provided, it is agreed by and between the Township and the  
Plaintiffs as follows:

1. This agreement is reached after due deliberation  
by all parties and upon the considered judgment of all parties  
that it is in the best interest of the public good and welfare

to settle the aforesaid litigation upon the terms and conditions contained herein so as to fully meet the fair share obligation of the Township.

2. The parties have agreed that 535 units represents the Township's fair share, through the year 1990, of affordable housing.

3. (a) In accordance with the law, the Township has amended the zoning ordinance and the Land Development Ordinance of the Township to establish affordable housing zones as set forth in Exhibit "A" attached hereto and made part hereof. The coverage of these zones are limited to lands specified in Exhibit "A", and provide for 335 affordable housing units.

(b) In accordance with the law, the Township has further amended the zoning ordinance and land development ordinance to allow existing single family houses to be converted to include a second dwelling unit as a permitted accessory use as set forth in exhibit "B" attached hereto and made a part hereof, which will provide 100 affordable housing units, which ordinance will be amended to delete Section III therefrom, and which amendment was introduced and passed on first reading at a meeting held on March 28, 1984, and will be finally adopted at a meeting to be held on April 11, 1984.

4. One hundred (100) units of publicly subsidized senior citizen housing already constructed in the Township shall count toward meeting the fair share assessment agreed upon in paragraph two (2) above. It is therefore agreed that the Township's obligation on the date of this agreement shall be 435 additional units of low and moderate income housing, which are provided for by the methods set forth in paragraph 3(a) and 3(b).

5. On or before March 1, 1990 the Township shall, through its normal planning process, assess its fair share of housing needs to determine whether an opportunity for additional low and moderate income units is necessary and, if so, to create such additional opportunity.

6. In the event that additional publicly subsidized housing for low or moderate income households is constructed in the Township on or before March 1, 1990, the Township shall receive credit for each unit towards satisfaction of its fair share obligation.

7. In addition to the provisions in Exhibits "A" and "B", the municipality shall take all reasonable steps to foster development of the units affordable to low and moderate households called for by paragraphs 2, 3(a) and 3(b), including but not limited to:

- a) adoption of such resolutions of need, execution of payment in-lieu-of taxes resolutions, or public housing cooperation agreements as may be necessary to facilitate a developer in obtaining public subsidies for the construction of housing affordable to low and moderate income households;
- b) expedited disposition of site plan applications and municipal approvals by a developer in the affordable housing zone;
- c) cooperation with a developer in the affordable housing zone in obtaining sewage and water connections;
- d) cooperation with the needs of a developer and the requirements of State and Federal agencies concerning the administration of resale price controls.

8. The Township shall provide written notice to plaintiffs of any applications for conceptual, preliminary, or final approval by developers in the affordable housing zone, and of any preliminary or final approvals or denials, whether conditional or unconditional.

9. This settlement shall not be effective until an entry of a final judgment of compliance by the courts pursuant to Southern Burlington County N.A.A.C.P. v. Mt.

Laurel Tp., 92 N.J. 158 at 291. Plaintiffs agree to support any attempt by defendant to obtain such a final judgment of compliance.

10. Upon receipt of a Judgment of Compliance by the Courts, the parties shall enter a stipulation of dismissal of this complaint with prejudice incorporating this agreement.

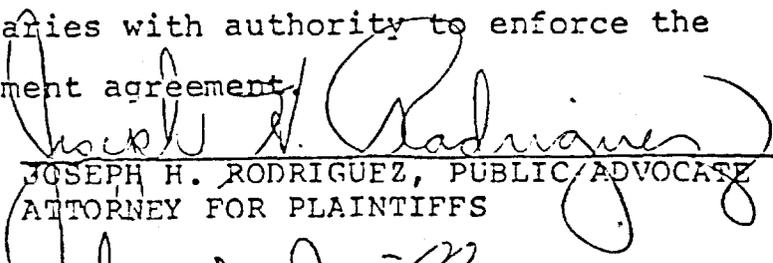
11. Upon the construction and occupancy of sufficient units affordable to low and moderate income households under the ordinances set forth in Exhibits "A" and "B" to satisfy the municipality's fair share under paragraphs 2, 3, and 6 of this agreement and upon written notice to plaintiffs, the municipality may repeal or amend the ordinances set forth in Exhibits "A" and "B".

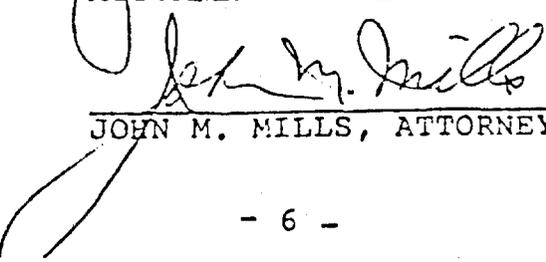
12. In the event that any site rezoned under this agreement ceases to be available for development pursuant to the provisions adopted under section 3(a) of this agreement because of development for other purposes, condemnation, state or federal prohibitions or restrictions upon development or any other reason, the municipality upon written notice to and with the approval of plaintiffs, shall rezone sufficient other developable land pursuant to this provision to make it realistically likely that a sufficient number of units affordable to low and moderate income households will be constructed to satisfy the municipality's fair share.

13. The municipality shall not zone, rezone, grant variances, or grant any preliminary or final site plan approval for townhouses, garden apartments, or condominiums residential uses at gross densities higher than 4 units/acre unless:

- a. the development is subject to a mandatory set aside for units affordable to low and moderate income households identical to that contained in Exhibit A, or
- b. the municipality has met its fair share obligation.

14. The low and moderate income housing amendments as set forth in Exhibits "A" and "B" shall not be repealed, amended, or modified without the express consent of the plaintiffs, through their counsel, the Department of the Public Advocate, except as provided for elsewhere in this agreement. In the event of any breach of any provision of this agreement the plaintiffs may seek relief by way of any remedy provided by law. The owners or assignees of the lands which are rezoned by this amendment are also recognized as third party beneficiaries with authority to enforce the terms of this settlement agreement.

  
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JOSEPH H. RODRIGUEZ, PUBLIC ADVOCATE  
ATTORNEY FOR PLAINTIFFS

  
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JOHN M. MILLS, ATTORNEY FOR MORRIS TOWNSHIP