

ML - Morris County Fair Housing Council
v. Benton Twp

3/12/79

Request for production of documents by Δ
Rockaway Twp

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for Id.
5/9/79
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MORRISTOWN, NEW JERSEY 07960
(201) 539-1313

ATTORNEYS FOR Defendant, Township of Rockaway and
the Common Defense Committee

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

MORRIS COUNTY FAIR HOUSING COUNCIL, :
MORRIS COUNTY BRANCH OF THE NATIONAL :
ASSOCIATION FOR THE ADVANCEMENT OF :
COLORED PEOPLE and STANLEY C. VAN NESS, :
PUBLIC ADVOCATE OF THE STATE OF NEW :
JERSEY, :

Plaintiffs,

Civil Action

v.

REQUEST FOR PRODUCTION
OF DOCUMENTS

BOONTON TOWNSHIP, CHATHAM TOWNSHIP, :
CHESTER TOWNSHIP, DENVILLE TOWNSHIP, :
EAST HANOVER TOWNSHIP, FLORHAM PARK :
BOROUGH, HANOVER TOWNSHIP, HARDING :
TOWNSHIP, JEFFERSON TOWNSHIP, KINNELON :
BOROUGH, LINCOLN PARK BOROUGH, MADISON :
BOROUGH, MENDHAM BOROUGH, MENDHAM TOWN- :
SHIP, MONTVILLE TOWNSHIP, MORRIS TOWN- :
SHIP, MORRIS PLAINS BOROUGH, MOUNTAIN :
LAKES BOROUGH, MOUNT OLIVE TOWNSHIP, :
PARSIPPANY-TROY HILLS TOWNSHIP, :
PASSAIC TOWNSHIP, PEQUANNOCK TOWNSHIP, :
RANDOLPH TOWNSHIP, RIVERDALE BOROUGH, :
ROCKAWAY TOWNSHIP, ROXBURY TOWNSHIP :
and WASHINGTON TOWNSHIP, :

Defendants.

To: STANLEY C. VAN NESS, PUBLIC ADVOCATE
DIVISION OF PUBLIC INTEREST ADVOCACY
520 EAST STATE STREET
TRENTON, NEW JERSEY 08625

SIR:

PLEASE TAKE NOTICE that in accordance with Rule 4:18 of the New Jersey Rules of Civil Practice and Procedure, defendant Township of Rockaway and the Common Defense Committee hereby request that plaintiffs produce and permit defendants or their attorneys to inspect and copy all documents which are in the possession, custody or control of plaintiff or its agents, officers or representatives, such as any written, recorded, or graphic matter however produced or reproduced, including by way of illustration but without limitation, all papers, books, letters (sent or received), records, notes, receipts, telegrams, memoranda, transcripts, analyses, work papers, computer printouts, manuals, brochures, posters, files, drawings, graphs, illustrations, lists, photographs, charts, drafts, order forms, invoices and all copies thereof, tape recordings or other electronic or mechanical recordings and any log and/or transcript thereof, and any other tangible thing of a similar nature relating to the subject matter of this action, including but not limited to the following:

As used herein:

A. "Document" or "documents" means any writing or record of any type or description, including but not limited to the original and any nonidentical copy, regardless

of origin or location, of any correspondence, records, tables, charts, analyses, graphs, schedules, reports, memoranda, notes, diaries, letters, telegrams, messages (including, but not limited to, reports of telephone conversations and conferences), studies, books, periodicals, magazines, booklets, circulars, bulletins, instructions, minutes, other communications (including, but not limited to, inter- and intra-office communications), questionnaires, surveys, contracts, options to purchase, memoranda of agreements, assignments, licenses, statements, vouchers, notebooks, data sheets, data processing cards, photographs, photographic negatives, phonorecords, tape recordings, wire recordings, transcripts of recordings, drawings, catalogues, brochures, all other written or printed matter of any kind, or any other and all other data, compilations from which information can be obtained and translated if necessary.

B. Each request for a document or documents shall be deemed to call for the production of the original document or documents, to the extent that they are in or subject to, directly or indirectly the control of defendant. In addition, each request should be considered as including all copies and to the extent applicable, preliminary drafts of documents which, as to content, differ in any respect from the original or final draft or from each other (e.g., by reason of handwritten notes or comments having been added to one copy of a document but not on the original or final draft or from each other (e.g., by reason of handwritten notes or comments having been added to one copy of a document but not on the original or other copies thereto).

1. Any document referred to in plaintiff's pleadings, but not annexed thereto or recited verbatim therein, including but not limited to the land use plans and ordinances of each of the defendant municipalities; those documents or writings pursuant to which the New Jersey Judicial, Legislative and Executive Branches have allegedly reiterated the mandate upon municipalities to provide, by their land use regulations and plans, for their fair share of the regional housing need and to remove those restrictions which allegedly effectively bar the provision of low and moderate income housing opportunities; Executive Order No. 35, April

*has been
referred to
in
plaintiff's
pleadings*

*Att. Gen.
Mushinski
1977
re: land
use laws
D. v. State
1977
H357-446
Dep. + 1
L. v. + 1*

OCA
Available
Available Just
1976; Preliminary Statewide Housing Allocation Plan; Revised Statewide Allocation Plan; those documents constituting the alleged definitive decisions and actions of the New Jersey Judiciary, Legislature and Governor referred to in paragraph 18 of the Complaint in Lieu of Prerogative Writ; those documents pursuant to which the Morris County Planning Board, Community Development Department and Regional Planning Agency have allegedly apprised the defendants of the shortage in Morris County of a variety of suitable housing affordable to persons of all income levels, which writings or documents have allegedly urged revision of the defendant's land use plans and ordinances in order to expand low and moderate income housing opportunities throughout Morris County; Initial Housing Element of the Morris County Planning Board dated September 1969; Housing Work Program submission by the Morris County Planning Board to the United States Department of Housing and Urban Development of August 1974, Morris County Master Plan of 1975; those documents constituting annual assessments since 1975 of the housing assistance needs in Morris County by the Morris County Community Development Department; those documents related to participation by Morris County as an urban county in the Community Development Block Grant Program; those documents constituting publication of review criteria by the Tri-State Regional Planning Commission allegedly requiring all localities which received federal housing funds to seek to provide housing opportunities for

persons of lower or moderate incomes in accordance with the mandates of the Housing and Community Development Act; those documents constituting investigations and reports of the State of New Jersey allegedly documenting serious housing crises throughout the state characterized by, among other factors, wide patterns of exclusionary land use regulations in the suburban areas outside of the urban centers; Housing in New Jersey 1968; The Housing Crisis in New Jersey 1970; Land Use Regulation; The Residential Land Supply, 1972; relevant messages to the State Legislature by Governor Cahill; A Blueprint for Housing in New Jersey, 1970; New Horizons in Housing, 1972, and all work papers relating to and amendments or revisions to said documents and writings. Notwithstanding anything in this Notice to Produce to the contrary, defendant Township of Rockaway demands, pursuant to Rule 4:18-2, copies of such documents within five (5) days of the date of this Notice.

2. All constating documents of the Morris County Fair Housing Council, including the Certificate of Incorporation Bylaws and Minutes; and memoranda, reports and other documents of Morris County Fair Housing Council related to the subject matter of the within litigation, the land use plans and zoning ordinances of the defendant municipalities, and the provision of housing for persons of low and moderate income in the defendant municipalities.

3. All constating documents of the Morris County Branch of the National Association for the Advancement of

Colored People, including the Charter and Bylaws thereof; and minutes, memoranda, and other documents of Morris County Fair Housing Council related to the subject matter of the within litigation, the land use plans and zoning ordinances of the defendant municipalities, and the provision of housing for persons of low and moderate income in the defendant municipalities.

4. All documents which the plaintiff would propose to introduce into evidence at trial or make reference to or mark for identification at depositions of witnesses in this matter.

5. All documents related to plaintiff's allegation that the defendant's land use plans and ordinances are invalid and unenforceable insofar as they unlawfully exclude or substantially hinder the provision of needed housing opportunities for persons of low and moderate income.

6. All documents relating to plaintiff's demand that defendants process and approve all proposed developments and developable areas for needed low and moderate income housing which would be built at minimum standards consistent with the protection of public health, safety and the general welfare until such time as the Court has adjudged that defendants have taken necessary and advisable action to satisfy their respective shares of the regional needs for low and moderate income housing.

7. All correspondence to defendant municipalities by the plaintiff with respect to the subject matter of the

within litigation, whether sent or received prior or subsequent to the commencement of said litigation.

8. All documents related to Plaintiff's allegation that defendants have knowingly and arbitrarily excluded or unnecessarily constrained the construction of housing affordable to low, moderate, and even middle-income persons.

9. All documents related to the plaintiff's allegation that defendant's action has precluded persons of low and moderate incomes from securing needed housing in the defendant municipalities and from sharing in their growth and development.

10. All documents related to plaintiff's allegation that the defendant municipalities, through their land use plans and ordinances, have misused their delegated municipal authority and have created, by design and effect, upper class, predominantly white communities in Morris County.

11. All documents upon which the Public Advocate of the State of New Jersey has based his decision to commence the within action and all documents received subsequent thereto, which allegedly support said decision.

12. All documents relating to plaintiff's allegation that Morris County is a "ring" county of the New York metropolitan area, which has recently experienced and is continuing to experience substantial residential, commercial, and industrial growth.

13. All documents relating to plaintiff's allegation that growth in Morris County is a function of the expansion

of the New York metropolitan area, the construction of a highway road system extending through the county, the relocation of commerce and industry into the county, and the scarcity of vacant, developable land in areas more approximate to the urban areas.

14. All documents relating to plaintiff's allegation that each of the defendant municipalities is a developing municipality which is experiencing, sharing, and benefiting from a growth and development of Morris County and the region as a whole.

15. All documents relating to plaintiff's allegation that in response to growth pressures, the defendant municipalities have elected to utilize state enabling legislation in order to plan for and control development.

16. All documents relating to plaintiff's allegation that defendant municipalities' land use plans and ordinances have been designed to insure that only a selective type of growth and development would occur within the respective municipal borders.

17. All documents relating to plaintiff's allegation that the defendant municipalities have encouraged and welcomed industrial and commercial growth and limited residential housing opportunities primarily to large single family homes and large lots which are within the financial reach of only higher income persons.

18. All documents relating to plaintiff's allegation that each defendant municipality has sufficient vacant land

appropriate for development to enable it to provide needed housing opportunities for low and moderate income persons.

19. All documents relating to plaintiff's allegation that needed housing opportunities for low and moderate income persons have not been and are not being created.

20. All documents relating to plaintiff's allegation that there exists a severe housing crisis in Morris County and its region for persons who have low, moderate, and even middle incomes, and that defendants alleged refusal to include housing opportunities for low and moderate income persons within their land use plans and ordinances has contributed significantly thereto.

21. All documents relating to plaintiff's allegation that defendant municipalities alleged refusal to include housing opportunities for low and moderate income persons within their land use plans and ordinances has fostered polarization of economic and racial groups and undermined an effort to create an equal housing opportunity in a decent environment and the provision of suitable housing for all citizens regardless of economic status or race.

22. All documents relating to plaintiff's allegation that defendants have longstanding knowledge that their land use planning and zoning ordinances are patently unconstitutional and illegal.

23. All documents relating to plaintiff's allegation that each of the defendant municipalities bears an affirmative

obligation to plan and provide for a share of regional need for low and moderate income housing.

24. All documents relating to plaintiff's allegation that the defendant municipalities have been apprised, at least since 1975, of the alleged constitutional or legal obligation provided for low and moderate income housing.

Said production shall take place no later than 30 days from the date hereof, at the Morris Township Municipal Building, 50 Woodland Avenue, Convent Station, New Jersey.

WILEY, MALEHORN AND SIROTA
Attorneys for defendant,
Township of Rockaway and the
Common Defense Committee

By: 

Fredric J. Sirota

Dated: March 12, 1979