

ML v Carteret (South Plainfield)

ML2

21 June 1985

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Affidavit in support of  
motion to hold South Plainfield  
in contempt + for restraints.  
+ exhibits

pgs 39

ML000967V

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ATTORNEYS FOR URBAN LEAGUE PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY  
Civil Action  
No. C-4122-73

URBAN LEAGUE OF GREATER  
NEW BRUNSWICK, et al.,  
Plaintiffs,

v.

THE MAYOR AND COUNCIL OF  
THE BOROUGH OF CARTERET,  
et al.,  
Defendants.

ELDERLODGE, INCORPORATED,  
a New Jersey Corporation,  
Plaintiff,

v.

SOUTH PLAINFIELD BOARD OF  
ADJUSTMENT BY ITS MAJORITY  
MEMBERS (Ronald Hepburn,  
Chairman; Carl Abbruzzese;  
Robert Horne; Carl LaFerrara;  
Cynthia GaNun, First  
Alternate); BOROUGH OF SOUTH  
PLAINFIELD BY ITS MAYOR AND  
COUNCIL; JOHN GRAF, BUILDING  
INSPECTOR OF THE BOROUGH OF  
SOUTH PLAINFIELD; and  
PLANNING BOARD OF THE BOROUGH  
OF SOUTH PLAINFIELD,  
Defendants.

LAW DIVISION  
MIDDLESEX COUNTY

No. 56349-81

AFFIDAVIT IN SUPPORT OF MOTION  
TO HOLD SOUTH PLAINFIELD IN  
CONTEMPT AND FOR RESTRAINTS

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

I, BARBARA J. WILLIAMS, being of full age, under oath, depose and say:

1. I am co-counsel for plaintiffs in the above-referenced matter and file this Affidavit in support of Plaintiffs' Motion to hold South Plainfield in contempt and for Restraints returnable before this Court on Monday, June 24, 1985 at 2:00 P.M.

2. This pending Motion is the second time the undersigned has been required to seek the assistance of the Court regarding actions of the Borough of South Plainfield which have been in contravention of the Judgment As To South Plainfield entered by this Court on May 22, 1984.

3. On October 26, 1984, I executed an Affidavit which was filed with the Court in support of a Motion for Restraints against the Borough of South Plainfield. Said Affidavit outlined in detail events which had occurred subsequent to the entry of the Judgment which demonstrated the failure of South Plainfield to comply with the Judgment of this Court. The facts set forth therein included, but were not limited to, the following:

"7. On October 8, 1984, Angelo Dalto, Esq. attorney for the Elderlodge Corporation, informed the Court that the South Plainfield Board of Adjustment had, on October 2, 1984, granted Elderlodge's application to construct Senior Citizen housing as originally submitted. No references to Mount Laurel implications or mandatory set asides were established" (emphasis in original).

A copy of my Affidavit of October 26, 1984 (without exhibits) is attached hereto as Exhibit A and incorporated herein by reference.

4. On or about November 15, 1984, my recollection is that this Court orally entered on the record an Order Restraining the Borough of South Plainfield or any of its agents or officers from granting any approvals, building permits, or taking any other action affecting property within the Borough pending a determination by the Borough as to whether it would comply with the terms of the Judgment and revise its ordinances in accord therewith.

5. After explicit assurances to the Court by legal representatives of the Borough of South Plainfield that it would so comply, the Court on December 13, 1984 entered an Order dissolving the general restraints, but retaining a limited restraint as to Elderlodge; providing for notification to plaintiffs and requiring the Borough to enact the requisite ordinances no later than January 31, 1985. (Exhibit B)

6. On June 17, 1985, I mailed to the Court a letter outlining various facts relating to the zoning ordinances of the Borough not having been enacted in compliance with the Judgment and Order of December 13, 1984, and reflecting no action by the Borough within the last month towards enactment of such ordinances. This letter is annexed as Exhibit C and incorporated herein by reference.

7. My investigation from June 17, 1985 through June 21, 1985 has revealed further action on the part of the Borough of South Plainfield, the South Plainfield Board of Adjustment and the South Plainfield Planning Board in derogation of the terms and conditions of the Judgment of this Court.

Morris Avenue Site

8. Paragraph 3(F) of the Judgment As To South Plainfield states in totality:

"The Borough shall rezone 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 112, Lots 1.01, 2, 4, 5.01 and Block 115 Lots 1, 2, 2.01 and 3, exclusively 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." (Emphasis added.)

9. The May 7, 1985 Agenda of the South Plainfield Board of Adjustment, attached hereto as Exhibit D, reflects an item "Property on Morris Avenue. Block 111 Lot 1, R-10, to erect a one family colonial home. Lot size: 220 X 109 irregular insufficient depth".

10. On June 19, 1985, William V. Lane, Esq., attorney for the Board of Adjustment, confirmed that the variance had in fact been granted. He stated that he "sincerely did not recognize this parcel as being part of the sites in the Judgment." Mr. Lane was unaware as to whether a building permit had been granted. I requested that he immediately advise the appropriate officials of our objection to the grant of a building permit and that no building permit should be granted pending resolution of this matter. He agreed to do so as of the morning of June 20, 1985. According to Mr. Lane's reading of the minutes during our telephone conversation, the applicant, Mr. Joseph Buccellato, had owned the subject property at the time of entry of the Judgment.

Pomponio Avenue Site

11. Paragraph 3(C) of the Judgment As To South Plainfield states in totality:

"The Borough shall rezone 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, exclusively 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, except that the rezoning may provide for a development buffer no more than 200 feet deep on the westernmost portion of the site facing Clinton Avenue."

On June 19, 1984, Mr. Peter Calderone informed me that Block 448 Lots 2.01 and 4.01 was comprised of 32 acres not 25 acres.

12. The Borough of South Plainfield authorized the sale of a 23.33 acre parcel of portions of Block 448 Lots 2.01 and 4.01 and Block 427 Lot 1.01 on June 11, 1984. It was advertised for bid by the Borough on July 26, 1984 and August 2, 1984 and the advertisement reflected a metes and bounds description of the property offered for sale. A copy of the "Notice of Sale of Land" is annexed hereto as Exhibit E. The property was sold to Mr. Larry Massaro on August 13, 1984 for \$1,270,318.50. A certified copy of the Borough resolution of acceptance of the bid is annexed hereto as Exhibit F. Closing of title has not taken place. Mr. Massaro entered into a contract on May 15, 1985 to sell the subject parcel to K. Hovnanian Companies of New Jersey, Inc. K. Hovnanian intends to build low and moderate income housing on said site in accordance with the terms of the Judgment As To South Plainfield dated May 22, 1984.

13. An additional portion of Block 448 Lot 4.01 was authorized for sale by the Borough of South Plainfield on October 9, 1984. It was advertised for

bid on November 1, 1984 and authorized for sale by Resolution of the Borough on November 13, 1984. A certified copy of the Borough resolution accepting the bid is annexed hereto as Exhibit G. D. DiGian & Son Construction Co., Inc. was the purchaser at a minimum bid price of \$6,250.00. The closing, transferring, of this land was held within the last two months.

The "Notice of Sale of Land" annexed hereto as Exhibit H indicates that on May 14, 1984 the Borough of South Plainfield authorized the advertisement for public sale of two parcels of Block 448 Lot 4.01, with the sale to take place on June 11, 1984. The "Notice of Sale of Land" reflects the name of D. DiGian & Son Construction Co., Inc. and \$12,500.00 as the amount of bid as to each of the two parcels. It is unknown to the affiant at this time whether this sale was consummated, or the present status of this property.

The agendas of the Planning Board of the Township of South Plainfield reflect that on April 16, 1985 the Planning Board granted a preliminary subdivision to Tonsar Corporation with respect to Block 448 Lot 4.01 contrary to the explicit terms of paragraph 3(C) of the Judgment (Exhibit I). The agenda of the meeting of May 1, 1985 reflects passage of a Resolution, presumably relating to the grant of preliminary subdivision (Exhibit J). Consideration of final subdivision approval was also on the agenda for the meeting of May 1, 1985. Id. The May 21, 1985 agenda of the Planning Board reflects a Resolution relating to Tonsar Corporation and a notation that final subdivision maps have been signed by the Chairman and Secretary of the Board (Exhibit K). On June 19, 1984, Peter Calderone, Esq., attorney for the Planning Board, informed me no building permits had been

issued. On June 20, 1985, I requested Alan Liebowitz, a student at Rutgers Law School, telephone the Borough of South Plainfield to ascertain if a building permit had been issued. He was informed that permits had been issued on May 16, 1985 to D. DiGian & Son Construction Company for Lots 4.03, 4.04 and 4.05 of Block 448 but not Lot 4.01. Frank Santoro, Esq., attorney for South Plainfield, also indicated to me that a building permit had not been issued yet. At my request, he agreed to immediately notify the appropriate Borough officials that no building permit was to be issued until this matter was resolved. However, later in the day Raymond Miller, Esq. informed me that a building permit had been issued within the last month with respect to the subject property and building had commenced.

14. A portion of Block 427 Lot 1.01 was authorized for sale by the Borough on February 27, 1984. It was advertised for public bid by the Borough on March 8, 1984 and March 15, 1984. On March 26, 1984, the Borough adopted a Resolution accepting the bid. A certified copy of this resolution is annexed hereto as Exhibit L. The purchasers were Michael Gallo and Marshall Rinker. At the present time the property is under contract but cannot be conveyed until subdivision approval is obtained.

The "Notice of Sale of Land" annexed hereto as Exhibit M reflects that on May 14, 1984 the Borough of South Plainfield directed advertisement for sale of a portion of Block 427 Lot 1.01, with the sale to be held on June 11, 1984. It further reflects the names of Marshall Rinker and Michael Gallo and an amount of bid of \$25,000. At this time, I do not know whether this is an additional portion of Block 427 Lot 1.01, whether it was sold, or its present status.



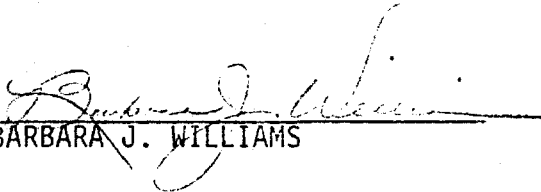
15. The June 18, 1985 agenda of the Planning Board reflects an application by "Gal-Ker-Christopher Avenue" with respect to Block 427 Lots 1.01 which also conflicts with the explicit designation of Block 427 Lots 1.01 as part of paragraph 3(C). This application sought final subdivision approval to subdivide into 5 lots to construct houses for sale (Exhibit N).

16. On June 17, 1985, I wrote to Peter Calderone, Esq., attorney for the Planning Board, objecting to the Planning Board's consideration of this site (Exhibit O). On June 18, 1985, Mr. Calderone agreed to attempt to secure the consent of Gal-Ker for an extension of time pending resolution of this matter or alternatively any approval would not vest against rights of the Urban League. Mr. Leonard H. Selesner, attorney for the applicant Gal-Ker, confirmed to me on June 20, 1985 that the final subdivision had been approved subject to the foregoing restriction, and further advised that the Borough had not previously informed his client of the existence of the Judgment As To South Plainfield.

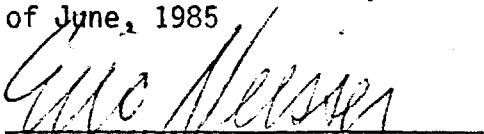
17. On June 19, 1985, Mr. Calderone informed me that Block 427 Lot 1.01 had been split into Lots 1.01, 1.02, 1.03 and 1.04 with Gal-Ker owning Lots 1.01, 1.02, 1.03 and 1.04 and Mr. Massaro owning 1.01 minus the Christopher Avenue frontage owned by Gal-Ker. The Borough had separately sold portions of Lot 1.01 to Mr. Massaro as noted in Paragraph 12 above and Gal-Ker. He indicated there could be other parcels which had been sold by the municipality to other entities or individuals which had not yet applied for subdivision approval.

18. The foregoing provides every indication that notwithstanding the existence of the Judgment of this Court, the Borough of South Plainfield

advertised for bids, passed resolutions, and sold property explicitly subject to the terms of the Judgment without notice to the plaintiffs and without notice to the purchasers of the property as to the terms of the Judgment. It has further been confirmed that as to the property discussed herein the Planning Board and Zoning Board have granted approvals contrary to the Judgment of this Court. Moreover, since it appears "new" Lot Numbers were created in Block 427 out of Lot 1.01 so as to result in Lots 1.02, 1.03, 1.04 it is impossible to ascertain whether any other "new" lots have been created, destroyed or acted upon by the town in a manner contrary to the Judgment and inimical to the interests of the Urban League. Moreover, while all of this action has been occurring the ordinances of the Borough remain not approved over a year after the Judgment was entered by this Court.

  
 BARBARA J. WILLIAMS

SWORN TO and SUBSCRIBED  
 before me this 21st day  
 of June, 1985



Eric Neisser  
 Attorney at Law, State of New Jersey

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ATTORNEYS FOR PLAINTIFFS

URBAN LEAGUE OF GREATER  
NEW BRUNSWICK, et al.,

Plaintiffs,

vs.

THE MAYOR AND COUNCIL OF  
THE BOROUGH OF CARTERET,  
et al.,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY

Docket No. C 4122-73

Civil Action

AFFIDAVIT IN SUPPORT OF MOTION  
FOR CONSOLIDATION, TEMPORARY  
RESTRAINING ORDER AND  
INTERLOCUTORY INJUNCTION,  
APPOINTMENT OF A MASTER AND  
NOTICE TO PLAINTIFF

STATE OF NEW JERSEY)  
:  
COUNTY OF ESSEX )

BARBARA J. WILLIAMS, of full age, being duly sworn  
according to law, upon her oath deposes and says:

1. I am the attorney for plaintiffs in the above  
referenced matter.

2. On or about June 8, 1982, Elderlodge, Inc., a  
New Jersey corporation, filed a suit in Lieu of Prerogative  
Writs against the South Plainfield Board of Adjustment in the

Superior Court of New Jersey, Law Division, Middlesex County, Docket No. L-56349-81, contesting the denial by the South Plainfield Board of Adjustment of Elderlodge's request for a use variance. (Exhibit A)

3. Plaintiffs' complaint in its Third Count is pleaded on a Mt. Laurel theory and seeks Mt. Laurel relief in the form of rezoning for low and moderate income housing.

4. The Honorable Eugene D. Serpentelli, J.S.C., ordered the matter referred to in Paragraphs 2 and 3 above to be remanded to the Board of Adjustment of the Borough of South Plainfield "in order to amplify and supplement the record pursuant to the principles and rules applicable under South Burlington Cty. NAACP v. Twp. of Mt. Laurel, 92 N.J. 158 (1983) (Mt. Laurel II)."  
The Court furthermore ordered that the Board of Adjustment conduct all hearings and render its decision in this matter within 90 days from the date said hearings shall be commenced.

(Exhibit B)

5. On May 22, 1984, the Court entered a Judgment As To South Plainfield which inter alia established the "fair share;" ordered the non-compliant ordinances to be revised; and specified the parcels to be rezoned by the Borough of South Plainfield. Included in the Judgment as a parcel to be rezoned was the Elderlodge site. This site was to be rezoned for a 100 unit multifamily development "with a mandatory set aside of 10% low income and 10% moderate income units ..." (Exhibit C, ¶ 3H)

[emphasis added]

6. On July 9, 1984, William V. Lane, Esq., counsel for the South Plainfield Board of Adjustment, advised Eric Neisser, Esq. that the Elderlodge matter had been "carried at the request of the applicant." (Exhibit D)

7. On October 8, 1984, Angelo Dalto, Esq., attorney for the Elderlodge corporation, informed the Court that the South Plainfield Board of Adjustment had, on October 2, 1984, granted Elderlodge's application to construct Senior Citizen housing as originally submitted. "No references to Mount Laurel implications or mandatory set asides were established." (Exhibit E) [emphasis added]

8. Said approval of the Elderlodge site without a mandatory set aside for low and moderate income housing is in direct contravention of the terms of the Judgment As To South Plainfield previously entered by the Court.

9. On October 15, 1984, Judge Serpentelli reiterated to counsel for Elderlodge that the purpose of the remand was to supplement the record before the Board of Adjustment concerning Mt. Laurel grounds for relief. The Court did not enter the Order dismissing the Elderlodge action as requested in light of the fact that the Borough of South Plainfield had not enacted a compliance ordinance meeting its Mt. Laurel obligation. The Court instructed no municipal official to take any action to authorize construction on the Elderlodge parcel pending resolution of this issue. (Exhibit F)

10. On October 19, 1984 I wrote to Mr. Dalto requesting prompt notice by letter or telephone of any proposed action relating to the Elderlodge site (including Board of Adjustment or other official meetings at which the project might be discussed). I advised him that the Urban League plaintiffs would move on short notice for an injunction against any action in South Plainfield that might prejudice their rights. (Exhibit G)

11. Counsel for plaintiffs has identified a pattern of non-compliance in South Plainfield's response to the judicial orders referenced above. Its conduct with regard to the Elderlodge site exemplifies bad faith on the municipality's part in carrying out the Mt. Laurel objectives agreed to in the May 22, 1984 Judgment:

(a) On August 22, 1984, Mr. Rosa submitted to plaintiffs a copy of a revised proposed draft of ordinances for the Borough of South Plainfield. (Exhibit G-1)

(b) These draft ordinances were reviewed by Mr. Alan Mallach and Eric Neisser, Esq.

(c) On September 5, 1984, Mr. Neisser wrote to Mr. Rosa agreeing to the majority of the proposed ordinances, excepting concerns as to mandatory townhouse and garden apartment mix, the definition of townhouses and condominiums, and certain cost generating features by the proposed ordinances. (Exhibit G-2)

(d) No response was ever received from any representative of South Plainfield as to the three issues left outstanding.

(e) On September 25, 1984, Judge Serpentelli requested Mr. Diegnan inform the Court of the expected completion date of the Court-ordered revision of the zoning ordinances.

(Exhibit H)

(f) Pursuant to the terms of the Judgment As To South Plainfield, the Borough of South Plainfield was required to enact ordinances in compliance with terms of Order no later than 120 days from date of the Judgment. The 120 days expired on October 3, 1984.

(g) By letter dated October 4, 1984, Patrick Diegnan, Esq. responded by advising the Court that revisions to South Plainfield's zoning plan would not be approved until a complete revision of the Master Plan was completed by the Borough's Planner, Robert Rosa Associates. (Exhibit I)

(h) On October 11, 1984, Judge Serpentelli wrote to Mr. Diegnan reiterating the Court's September 25th request for a specific time schedule as to the expected completion date of the zoning ordinance revisions. The Court reminded Mr. Diegnan that the October 3, 1984 deadline for that ordinance revision had passed. (Exhibit J)

(i) On October 12, 1984, I wrote to Mr. Diegnan indicating the dissatisfaction of the Urban League with

South Plainfield's intention to hold up Court-ordered revision of its zoning ordinances until enactment of an updated Master Plan and my intention to request appropriate relief absent an indication from the Borough of intention to comply with Court-ordered enactment of compliant ordinances within 7 days of October 12, 1984. (Exhibit K) I heard nothing from any representative of South Plainfield within the specified time period.

(j) On October 19, 1984, I wrote to the Court expressing the position of the Urban League that it was unreasonable and contrary to the mandate of Mt. Laurel II to delay amendment of the zoning ordinances pending revision of the Master Plan and suggesting it would be appropriate to allow the Borough one last opportunity to enact a compliant ordinance with a deadline of one properly noticed public meeting. (Exhibit L)

(k) On October 22, 1984, a letter to Judge Serpentelli from Patrick Diegnan, Esq. informed the Court that the next scheduled Public Meeting of the Mayor and Council of the Borough of South Plainfield is November 12, 1984. No indication was provided by this communication as to whether ordinance revision would or would not be considered by the Council of the Borough of South Plainfield at that meeting. (Exhibit M)



12. As of the date of this Affidavit, the Borough of South Plainfield has not enacted compliant ordinances nor has it given any indication it will comply with the terms of the Judgment by enacting such ordinances at the November 12, 1984 meeting specified by Mr. Diegnan in his letter of October 22, 1984.

13. The approval granted to the Elderlodge site without a mandatory set aside in violation of the Judgment of May 22, 1984 indicates that the set asides applicable to the other parcels subject to rezoning as a result of the Judgment are also in jeopardy and plaintiffs will be irreparably harmed if the actions of the Borough, its officers and agents which may impair the terms and conditions of the Judgment are not restrained.

14. Any action as to other vacant parcels in the municipality by such governmental entities will also irreparably impair the position of the plaintiffs by reducing the amount of land available for satisfaction of the fair share at a time when the Borough of South Plainfield has not enacted compliant ordinances and has, in at least one instance, violated the terms of the existing Judgment.

15. In the absence of a restraint enjoining such actions as requested by plaintiffs in its motion, plaintiffs will continue to be left in the posture to objecting to actions taken by any entity or individual on behalf of South Plainfield

after-the-fact. The existing status of the Elderlodge matter aptly illustrates the irreparable prejudice that has and will continue to occur to plaintiffs as a result.

16. The consequences to the Borough of South Plainfield of enactment of the requested restraints are minimal in comparison to the harm resulting to plaintiffs, especially when viewed in light of action and inaction of the Borough and its representatives set forth in this Affidavit which have transpired to date.

17. Plaintiffs have succeeded in this matter on the merits. It is no longer a question of the "probability of success" of the party seeking the restraint. The Judgment As To South Plainfield was entered after plaintiffs' Motion for Summary Judgment. Plaintiffs seek this restraint to ensure that the Judgment is not consistently and continually eroded by the Borough of South Plainfield or anyone acting on its behalf.

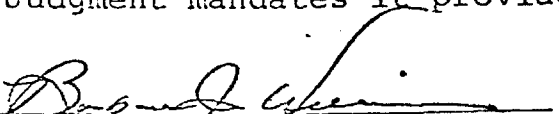
18. The Borough of South Plainfield is out of time for revising its ordinances. The 120 days mandated for revision of the ordinances has long passed. While draft ordinances have been submitted to plaintiffs and commented upon by the Urban League, the defendant has provided both the Court and the plaintiffs with correspondence that conveys virtually nothing as to its intent or its efforts to comply with the existing Judgment. As a result, plaintiffs request that a

Master be immediately appointed by the Court and that the Master's responsibility be to review the proposed South Plainfield draft ordinance and the comments of plaintiff thereon contained in Mr. Neisser's September 5, 1984 letter and, within 15 days, report to the Court as to his or her recommendations for revision of the ordinances of South Plainfield.

19. Consolidation of the Elderlodge and Urban League suits is necessary for the Urban League to be able to properly protect and assert its position within the context of the Elderlodge litigation. Common questions of law and fact exist in both suits. The Elderlodge parcel is the subject of the Court's Judgment of May 22, 1984 in the Urban League case and both suits seek relief on the basis of Mt. Laurel. Resolution of the existing inconsistency of the Borough's action and the Judgment can more efficiently take place in a consolidated action.

20. In order to enable plaintiffs to monitor the proposed actions of all individuals and entities acting on behalf of the Borough of South Plainfield, plaintiffs must have notice of the contemplated actions in advance. Accordingly, plaintiffs further move for an Order requiring that plaintiff be provided with copies of any and all agendas, meeting notices, proposals, etc. that could in any way affect or impact upon the ability of South Plainfield to satisfy its fair share of low and moderate income housing which the Judgment mandates it provide.

SWORN TO and SUBSCRIBED  
before me this 26th day  
of October, 1984.

  
BARBARA J. WILLIAMS

  
Attorney at Law, State of New Jersey

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ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX 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

Civil Action

ORDER

Urban League plaintiffs having moved to consolidate Elderlodge, Inc. v. South Plainfield Board of Adjustment, et al. [hereinafter Elderlodge, Inc., Docket No. L 56349-81] with Urban League of Greater New Brunswick v. The Mayor and Council of the Borough of Carteret, et al., for a Temporary Restraining Order and Interlocutory Injunction, Appointment of a Master, and Notification of Actions of the defendant and its representatives, the Court having reviewed all documents submitted, and having heard the arguments of all interested parties, and for good cause shown:

IT IS ON THIS 13 day of Dec., 1984,

O R D E R E D, that the matters of Elderlodge, Inc. v. South Plainfield Board of Adjustment, et al., Docket No. L 56349-81, and Urban League of Greater New Brunswick et al v. The Mayor and Council of the Borough of Carteret, et al., Docket No. C 4122-73 are hereby consolidated; and

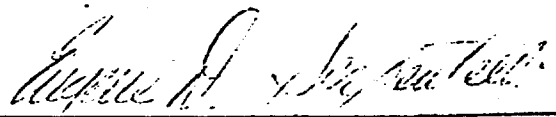
IT IS FURTHER O R D E R E D, that the Borough of South Plainfield and any of its official bodies, officers and agents are specifically prohibited from granting a final use variance or building permit with respect to the property at issue in Elderlodge, Inc. v. Borough of South Plainfield, Docket No. L 56349-81. Said municipal entities are permitted to process and approve any other applications and take any other actions regarding the subject site but such processing, approvals and actions (including, but not limited, to the action of the South Plainfield Planning Board on October 2, 1984) shall not, until further Order of this Court, create any vested use or zoning rights or give rise to a claim of reliance against a claim by the Urban League plaintiffs or an Order of this Court for revision of the South Plainfield zoning ordinances in accord with the obligation of South Plainfield to provide opportunities for the development of its fair share of the regional need for low and moderate income housing; and

IT IS FURTHER O R D E R E D, that the Borough of South Plainfield shall complete the revision of its zoning ordinances and complete the first reading of said ordinances at the first regular meeting in January, 1985, but in no event later than January 10, 1985 and that the second reading and final passage occur no later than January 31, 1985.

IT IS FURTHER O R D E R E D, that the Borough of South

Plainfield and all governmental bodies, officers and agents thereof including, but not limited to, the South Plainfield Zoning Board of Adjustment, South Plainfield Planning Board, and Building Inspector provide counsel for the Urban League plaintiffs with at least fourteen (14) days' written notice, addressed to Bruce Gelber, Esq., at 733 Fifteenth St. NW, Suite 1026, Washington, D.C. 20005 and Barbara J. Williams, Esq., at 15 Washington Street, Newark, N.J. 07102, of the filing, placement on agenda, or other action regarding any application concerning any parcel of vacant land in the Borough of South Plainfield, and plaintiffs are granted permission to file a motion for further relief concerning any such application on five (5) days' notice to counsel for the Borough of South Plainfield, the South Plainfield Zoning Board of Adjustment, and the South Plainfield Planning Board; and

IT IS FURTHER O R D E R E D, that the temporary restraint against the Borough of South Plainfield, Zoning Board of Adjustment and Planning Board ordered by this Court on November 15, 1984 is hereby vacated.

  
EUGENE D. SERPENTE, J.S.C.

School of Law-Newark • Constitutional Litigation Clinic  
S.I. Newhouse Center For Law and Justice  
15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

June 17, 1985

The Honorable Eugene D. Serpentelli  
Judge, Superior Court  
Ocean County Court House  
Toms River, New Jersey 08754

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

Dear Judge Serpentelli:

I am writing to seek the assistance of the Court in passage of ordinances of South Plainfield which have not been passed despite the Order of the Court of December 12, 1984.

The following sequence of events has occurred relevant to the current situation.

On November 19, 1984, Alan Mallach, plaintiffs' expert, and Linda Dodd-Major, a law student at Rutgers, met with Robert Rosa, of Robert E. Rosa Associates, South Plainfield's expert. I was not in attendance due to a death in my family. This meeting resulted in significant changes to the proposed ordinances and major agreement of and between the parties with only a few minor matters remaining in dispute.

Shortly after this meeting, Mr. Rosa entered the hospital until on or about December 14, 1984. On December 12, 1984, I requested Mr. Diegnan to forward to me a copy of the ordinances as revised comporting with the changes made at the November 19, 1984 meeting. Mr. Diegnan responded by letter dated December 19, 1984 indicating that Mr. Rosa had been experiencing a computer breakdown and would forward same. By letter dated December 18, 1984, Mr. Rosa forwarded three separate drafts for consideration of the Planning Board.

I spoke with Mr. Rosa on January 8, 1985 and proposed certain modifications so as to enable the parties to be in total agreement as to the terms of the ordinance. Mr. Rosa indicated that the drafts received contained significant word processing problems and he would forward a new draft with the amendments I proposed if accepted by the Planning Board that evening. On January 9, 1985, I spoke with Mr. Rosa and he indicated the changes were acceptable to the Planning Board and would be incorporated in the ordinance. Mr. Frank Santoro replaced Mr. Diegnan as attorney for South Plainfield on January 1, 1985.

On February 13, 1985, Linda-Dodd Major inquired as to the status of the ordinances. By letter dated February 15, 1985, from William T. DeSabato, Borough Clerk, we were informed the ordinances had been introduced on February 11, 1985 and a public hearing was scheduled for March 11, 1985. He forwarded to us copies of the introduced ordinances. On February 26, 1985, I forwarded the ordinances to Mr. Mallach for review and requested Linda Dodd-Major review the ordinances with respect to compliance with the November 19, 1984 meeting agreements.

On March 7, 1985, Ms. Major reported to me that the ordinances did not comport with the agreements reached at the November 19 meeting and significant discrepancies existed. We attempted to reach Mr. Santoro on March 7, 1985 and March 8, 1985 without success and Ms. Major drafted and I signed a letter to him on March 8, 1985 outlining the matters not reflected in the ordinances but agreed upon. Ms. Major reached Mr. Santoro on March 11, 1985. He had not received our letter, but Ms. Major outlined the discrepancies to him.

On March 12, 1985, I received several telephone calls from Mr. English, Mayor of South Plainfield. I telephoned Mr. Santoro to ascertain whether he wished me to talk with his client directly. I did not speak to Mayor English and we agreed that all communication would be by and between ourselves. He informed me that passage had been delayed pending his analysis of the amendments and action was expected on March 25, 1985.

I received a letter from Mr. Santoro dated March 28, 1985 indicating that on March 18, 1985 the matter had been referred to the Planning Board because he deemed the changes of a substantive nature. Subsequently, I received a letter from Mr. Santoro dated April 4, 1985 indicating that the Planning Board was to advise the Major and Council as to what changes were acceptable or not acceptable in writing so as to expedite passage by Council. I received a letter dated April 18, 1985 from Barbara Ciccone, Planning Board Clerk, reflecting agreement with all but two changes.

On May 2, 1985, I discovered an error had been made with respect to the changes outlined in our March 8 letter; 712.2a had been changed to a density of 12 units per acre in contradiction to paragraph 3c of the Judgment of South Plainfield mandating 15 per. acre. I wrote to Mr. Santoro on May 3, 1985 apprising him of this error and requested Council change the ordinance back as originally drafted. I indicated in that letter that I would be happy to discuss this matter with Council should it be necessary.

I received a telephone call from Mr. Santoro's secretary on or about May 14, 1985 asking whether I could appear at the Council meeting of May 20, 1985. I indicated I would be available and requested Mr. Santoro call me. I reached Mr. Santoro on May 16, 1985 and requested that any such meeting be held in closed session on the basis of "pending litigation" and be limited solely



6/17/85

to the change at issue. He indicated that a joint special meeting of the Planning Board and Council might possibly be held the following Thursday, May 23, 1985 and he would advise me if my presence was necessary for that meeting. Mr. Santoro did not call me back.

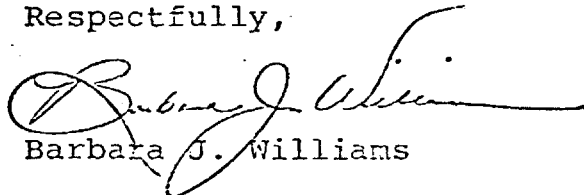
Unable to reach Mr. Santoro by telephone I wrote to him on June 11, 1985 requesting to be advised as to the status of this matter. I was able to reach him by phone on June 14, 1985. I was very surprised to learn at that time that neither the Planning Board nor the Council had done anything since our May 16, 1985 telephone call. While this was purportedly due to the fact that the Planning Board did not meet in May and now is on "summer schedule" and I was assured the matter would be considered by the Planning Board on June 24, 1985 and Council on July 6, 1985, the situation is such that I am not at all sure this will happen without the assistance of the Court.

While the situation has been slightly exacerbated by the error set forth in the proposed amendments, the failure of the ordinances to reflect the agreement of the parties at the point it was originally submitted to the Planning Board and Council was not a situation of our making. To change the ordinance language back to what it originally was should not require a resubmission to the Planning Board which had recommended the original language.

I did not bring this situation to the attention of the Court because I sincerely felt that passage of the ordinances was imminent. This no longer appears to be the case. In the last month, absolutely nothing has happened and continued inaction by South Plainfield can only detrimentally affect my client.

Accordingly, I respectfully request the Court take whatever action it deems advisable to expedite passage of the outstanding ordinances.

Respectfully,



Barbara J. Williams

cc/Frank Santoro, Esq.  
Peter J. Calderone, Esq.  
William V. Lane, Esq.

A G E N D A

PUBLIC HEARING  
May 7, 1985  
8:00 p.m.

7-85 - ALFREDO ANNUNZIATA

Property at 207 Maple Ave.  
Block 198, Lot 4, OBC-2 zone  
Lot size: 50 x 140  
To use existing garage to build  
kitchen cabinets & to enclose  
existing porch for display of  
cabinets  
Non-conforming use  
(continued from April 2, 1985)

12-85 - GIUSEPPE SIVO

Property at 232 Lowden Ave.  
Block 276, Lot 7.01, R-15 zone  
Lot size: 125 x 225  
To convert to two dwellings  
for residence of a family member  
Non-conforming use (continued from  
April 2, 1985)

2-82SP - ELDERLODGE, INC.

Property on Hamilton Blvd.  
Block 259, Lots 5, 6.01, 6.02, 7, 12  
OBC-2 zone/R-7.5 zone  
Lot size: approx. 1.4 acres  
To erect a senior citizen housing  
project  
(Use Variance granted Oct. 2, 1984)  
Insufficient side & rear yards  
Parking interpretation required  
Site Plan (continued from April 2, 1985)

41-84 - THOMAS PIETRZAK

Property on 1877 Bell Place  
Block 407, Lot 43, R-10 zone  
Lot size: 75 x 130  
To erect a deck  
Insufficient setback

13-85 - JOSEPH BUCCELLATO

*Power of Atty  
2232 Park Ave.  
S. Plainfield, NJ 07080  
754-9423*

Property on Morris Avenue  
Block 111, Lot 1, R-10 zone  
To erect a one-family colonial home  
Lot size: 220 x 109 irregular  
Insufficient depth

14-85 - RAYMOND S. MILLER

Property on Rush St.  
Block 315, Lot 7, R-10 zone  
Lot size: 6.9 acres  
To erect 21 two-family residential home  
Non-conforming use

## A G E N D A

PUBLIC HEARING  
 May 7, 1985  
 8:00 p.m.

7-85 - ALFREDO ANNUNZIATA

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 Lot size: 6.9 acres  
 To erect 21 two-family residential hom  
 Non-conforming use

of South Plainfield, County of Middlesex, State of New Jersey, held on June 11, 1984, I was directed to advertise the fact that the Mayor and Council will meet in the Municipal Building, 2480 Clinton Avenue, South Plainfield, New Jersey, on August 13, 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.

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

For further notice that at set sale or any date or place to which it be adjourned, the Mayor and Council reserve the right in their discretion to reject any or all bids and to sell said property to such person 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 Clerk will deliver a Bargain and Sale Deed for said premises.

William T. DeSabato, Borough Clerk  
 Ads to be advertised in The Reporter on July 26, 1984 and August 6, 1984 to be sold on August 13, 1984 at the Municipal Building, 2480 Clinton Avenue, South Plainfield, New Jersey at 8:00 p.m.

Block	Lot	Name	Street	Amt. of Bid
7	p/o 1.01	Lawrence Massaro	Clinton & Pomponio	\$1,270,310.50
8	p/o 4.01			

**SCHEDULE "A"**

LMC-11/84

**METES AND BOUNDS DESCRIPTION  
 PORTION OF LOT 1.01 IN BLOCK 427**

AN

**PORTION OF LOT 4.01 IN BLOCK 448**

BEGINNING at a point on the easterly sideline of SOUTH CLINTON AVENUE (60' R.O.W.) Said point being N. 0° - 17' E, distant 100 feet from the northerly sideline of POMPONIO AVENUE (60' R.O.W.) as shown on the Tax Assessment Maps of the Borough of South Plainfield and running thence:

- N. 0° - 17' E. along the easterly sideline of SOUTH CLINTON AVENUE, a distance of 363.43 feet;
- S. 76° - 52' - 30" E. along the southerly boundaries of Lot 11.02 in Block 449, and Lot 30.01 in Block 308, a distance of 1184.92 feet, more or less, to a point; thence
- S. 85° - 15' E. along the southerly boundaries of Lot 53 in Block 448, Lot 34 in Block 427, and along the rear line of Lots fronting on RICHARDSON AVENUE, a distance of 953.96 feet, more or less, to a point on the westerly sideline of the proposed extension of RUSH STREET (50' R.O.W.); thence the following three courses along the mentioned westerly sideline:
  - Southerly along a curve to the left, having a radius of 325.00 feet, arc length distance of 63.41 feet, more or less, to a point of tangency; thence
  - S. 14° - 59' - 30" E. a distance of 100.00 feet, more or less, to a point of curvature; thence
  - Southerly along a curve to the right, having a radius of 275.00 feet, arc length distance of 94.75 feet, more or less, to a point of tangency on the westerly sideline of SECOND PLACE (50' R.O.W.); thence
- S. 4° - 45' W. along the westerly sideline of SECOND PLACE, a distance of 4.61 feet, more or less, to a point; thence
- N. 85° - 15' W. a distance of 100.00 feet to a point; thence
- S. 4° - 45' W. a distance of 350.00 feet to a point on the northerly sideline of POMPONIO AVENUE (50' R.O.W.); thence
- N. 85° - 15' W. along the northerly sideline of POMPONIO AVENUE, a distance of 410.32 feet, more or less, to a point; thence
- N. 89° - 43' W. still along the northerly sideline of POMPONIO AVENUE, a distance of 275.14 feet, more or less, to a point; thence
- N. 1° - 15' E. a distance of 10.00 feet to a point on the northerly sideline of POMPONIO AVENUE (60' R.O.W.); thence
- N. 89° - 43' W. along the northerly sideline of POMPONIO AVENUE, a distance of 535.86 feet, more or less, to a point; thence
- N. 0° - 17' E. along the easterly boundary of Lot 1 in Block 448, a distance of 530.00 feet to a point; thence
- N. 89° - 43' W. along the northerly boundary of Lot 1 in Block 448, a distance of 815.00 feet to a point on the easterly sideline of SOUTH CLINTON AVENUE, the point and place of BEGINNING.

Being further described as portions of Lot 1.01 in Block 427 and of Lot 4.01 in Block 448. Containing 23.33 acres, more or less, subject to the disclosures of an accurate survey. Subject to all easements of record and not of record, including drainage easements as recorded in Book 381

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

The bid of Lawrence Massaro, 3122 Woodland Avenue, South Plainfield, N. J. in the amount of \$1,270,318.50 for property known as a portion of lot 1.01 in block 427 and a portion 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 the conditions advertised.

(SEAL)  
*William D. ...*  
Clerk of the Borough of South Plainfield

Approved ..... August 13....., 1984

s/ 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

..... August 13, 1984.....

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

.....  
Clerk of the Borough of South Plainfield

.....  
} COMMITTEE  
.....  
.....

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)

*William A. ...*

Clerk of the Borough of South Plainfield

Approved .....

November 13, 1984

*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

.....November 13, 1984.....

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

.....  
Clerk of the Borough of South Plainfield

.....  
} COMMITTEE  
.....  
.....

...of the Mayor and Council will meet in the Municipal Building, ...  
 ...at 10:00 p.m. to expose and sell at a public sale to the highest bidder, ac-  
 ...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.

METES & BOUNDS DESCRIPTION  
 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 SE-  
 COND STREET), having a 50' R.O.W., as shown on the Tax Assess-  
 ment 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, 1908, 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 representa-  
 tions 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 sub-  
 mitted 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 prop-  
 erty 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 op-  
 tion, 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  
 purchaser.  
 (c) Any other rights as provided by law which may be avail-  
 able 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 sub-  
 division.  
 8. All costs of subdivision, including but not limited to on site and off  
 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

William T. DeSabato, Borough Clerk  
 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.

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

PARCEL 1  
 BOROUGH OF SOUTH PLAINFIELD NEW JERSEY  
 BEGINNING at a point of intersection 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 PLAIN-  
 FIELD HEIGHTS," filed July 3, 1908, in the Middlesex County Clerk's  
 Office as Map No. 474, in File No. 23.

PLANNING BOARD  
BOROUGH OF SOUTH PLAINFIELD  
APRIL 16, 1985

A G E N D A

1. ROLL CALL
2. OPEN PUBLIC MEETINGS ACT ACKNOWLEDGMENT
3. APPROVAL OF MINUTES OF THE APRIL 3, 1985 MEETING
4. AUDIENCE COMMENTS: OTHER THAN AGENDA ITEMS
5. RESOLUTIONS:
  - A. #84-2/V - Gallo & Rinker - Christopher Estates  
Block 437, Lots 2.01, 2.02, 2.03 ✓
  - B. #84-13/V - D. DiGian & Son - Matis Street  
Block 396, Lots 1 thru 7 ✓  
Block 404, Lots 8, 9, 10, 11, 14 ✓
  - C. #85-3/V - Dispensa - Woodland Avenue  
Block 74, Lot 1 ✓
  - D. #A/366 - Somerset Trust Company - Stelton Road  
Block 528, Lot 67 ✓
  - E. - South Plainfield Recreation - Pitt Street Park ✓
6. CURRENT FILES:
  - A. #84-2/V - Gallo & Rinker - Christopher Estates  
Block 437, Lots 2.01, 2.02, 2.03 ✓  
Zone: R-1-2  
(Final subdivision maps have been signed by the  
Chairman & Secretary of the Board.)
  - B. #85-4 - Sanitation Truck Repair Co., Inc. - Roosevelt Avenue  
Block 303, Lot 1 ✓  
Zone: M-3  
(Seeking subdivision approval to subdivide into two  
lots to construct warehouse—CLASSIFICATION ONLY.)
  - C. #85-5 - Seider - O'Donohue Avenue  
Block 29, Lot 8 ✓  
Zone: R 7.5  
(Seeking subdivision approval to subdivide into two  
lots to convey one lot to daughter—CLASSIFICATION ONLY.)



6. D. #85-6/V - Perry - New York Avenue  
Block 427, Lot 5  
Zone: R-10  
(Seeking subdivision approval to subdivide into two lots to sell newly created lot and variance approval—  
CLASSIFICATION ONLY.)
7. A. #84-20 - Tonsar Corporation - Second Place  
Block 448, Lot 4.01  
Zone: R-1-2  
(Seeking preliminary subdivision approval to subdivide into four lots to construct houses for sale.)
- B. #84-28/V - Pelmont Builders - Randolph & Oakland Avenues  
Block 272, Lot 8  
Zone: R-10  
(Seeking preliminary subdivision approval to subdivide into two lots to sell newly created lot and variance approval on both lots for insufficient front footage and square footage, new lot would have insufficient side yard and existing lot would continue to have insufficient setback.)
- C. #360/V - J. L. Sullivan Auto Body, Inc. - Hamilton Blvd.  
Block 420, Lot 10  
Zone: M-3  
(Seeking site plan approval to construct a building for use as a warehouse and office and variance approval for insufficient sideyard for proposed and existing buildings and for insufficient front yard for existing building.)
- D. #365/V - Sikanowitz - Roosevelt Avenue  
Block 293, Lot 3  
Zone: M-3  
(Seeking site plan approval to construct a building for storage and fabrication and variance approval for insufficient rear yard, side yard, width, area, depth, and frontage.)

## 8. COMMITTEE REPORTS:

- A. Street Vacation Committee: Mr. Graf
- B. Street Naming Committee: Mr. Diana
- C. Executive & Finance Committee: Mr. Kelly
- D. Route 287 Study Committee: Mr. Spisso
- E. Street Design Review Committee: Mr. Ackerman

PLANNING BOARD

BOROUGH OF SOUTH PLAINFIELD

MAY 1, 1985

A G E N D A

1. ROLL CALL
2. OPEN PUBLIC MEETINGS ACT ACKNOWLEDGEMENT
3. APPROVAL OF MINUTES OF THE APRIL 16, 1985 MEETING
4. AUDIENCE COMMENTS: OTHER THAN AGENDA ITEMS
5. RESOLUTIONS:
  - A. #84-20 - Tonsar Corp. - ~~Second Place~~ ✓  
Block 448, Lot 4.01 ←
  - B. #84-28/V - Pelmont Builders - Randolph & Oakland Avenues  
Block 272, Lot 8 ✓
  - C. #302 - Criscola - Ryan Street  
Block 477, Lot 13A ✓
  - D. #360/V - Sullivan Auto Body - Hamilton Blvd.  
Block 420, Lot 10 ✓
  - E. #365/V - Sikanowitz - Roosevelt Avenue  
Block 293, Lot 3 ✓
6. CURRENT FILES:
  - A. #84-13/V - D. DiGian & Son - Matis Estates II ✓  
Block 396, Lots 1 thru 7  
Block 404, Lots 8, 9, 10, 11, 14  
Zone: R-1-2  
(Final subdivision maps have been signed by the  
Chairman & Secretary of the Board.)
  - B. #83-18 - J.B. Developers - Day Street ✓  
Block 394, Lot 1.01  
Block 395, Lots 1.01 & 1.02  
Zone: R-10  
(Applicant requests certain revisions to the  
storm detention system.)
  - C. #85-5 - Seider - O'Donohue Avenue ✓  
Block 29, Lot 8  
Zone: R-7.5  
(Seeking minor subdivision approval to subdivide  
into two lots to convey one lot to daughter.)
  - D. #84-20 - Tonsar Corp. - Second Place ✓  
Block 448, Lot 4.01

PLANNING BOARD  
BOROUGH OF SOUTH PLAINFIELD

MAY 21, 1985

A G E N D A

1. ROLL CALL
2. OPEN PUBLIC MEETINGS ACT ACKNOWLEDGEMENT
3. APPROVAL OF MINUTES OF MAY 1, 1985 MEETING
4. AUDIENCE COMMENTS: OTHER THAN AGENDA ITEMS
5. RESOLUTIONS:
  - A. #84-20 - Tonsar Corp. - Second Place Block 448, Lot 4.01
  - B. #85-5 ✓ - Seider - O'Donohue Avenue Block 29, Lot 8
  - C. #332/V - Kromedge - South Avenue Block 518, Lot 1 Block 522, Lot 2
  - D. #364/V - Pacer Tool - Montrose Avenue Block 398, Lot 2.01
6. CURRENT FILES:
  - A. #A/317/V - Baker - Corporate Blvd. Block 528, Lot 46.21 Zone: M-2 (Site plan maps have been signed by the Chairman and Secretary of the Board.)
  - B. #84-20 - Tonsar Corp. - Second Place Block 448, Lot 4.01 Zone: R-1-2 (The final subdivision maps have been signed by the Chairman and Secretary of the Board.)
  - C. #84-28/V - Pelmont Builders - Randolph & Oakland Block 272, Lot 8 Zone: R-10 (Applicant requests that data in resolution pertaining to requirement of sidewalk installation on Randolph Avenue be removed as sidewalks already exist.)

Exhibit K :

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.

(SEAL) *William De Soto* Approved  
Clerk of the Borough of South Plainfield

March 26, 19 84  
*Michael Gallo*  
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

..... } COMMITTEE  
..... }  
..... }

March 26, 1984  
and in that respect a true and correct copy of its minutes.  
.....  
Clerk of the Borough of South Plainfield

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, it 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.

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	Amount of Bid
427	1.01	Marshall Rinker & Michael Gatto	Christopher Avenue	\$25,000.00

**METES AND BOUNDS DESCRIPTION OF PART OF BLOCK 427, LOT 1.01 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 S. 8° - 36' W. a distance of 5.00 feet to a point; thence
- N. 81° - 24' W. creating a new southerly sideline of CHRISTOPHER AVENUE a distance of 200.00 feet to a point; thence
- N. 8° - 36' E. a distance of 5.00 feet to a point on the present southerly sideline of CHRISTOPHER AVENUE; thence
- 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 Middlesex County Clerk's Office, April 8, 1912 as Map No. 676 in 489.

**METES AND BOUNDS DESCRIPTION OF A PART OF BLOCK 427, LOT 1.01 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

thence:

- (1) S. 8° - 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. 8° - 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. 8° - 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. 8° - 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 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 5% (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

PLANNING BOARD

BOROUGH OF SOUTH PLAINFIELD

JUNE 18, 1985

A G E N D A

1. ROLL CALL
2. OPEN PUBLIC MEETINGS ACT ACKNOWLEDGEMENT
3. APPROVAL OF MINUTES OF MAY 21, 1985 MEETING
4. AUDIENCE COMMENTS: OTHER THAN AGENDA ITEMS
5. RESOLUTIONS:
  - A. #83-18 - J. B. Developers - Day Street  
Block 394, Lot 1.01 ✓  
Block 395, Lots 1.01, 1.02
  - B. #84-22 - Maiorino - Smith & Tremont ✓  
Block 398, Lot 2.01
  - C. #A/345 - Fairfield-Metuchen Joint Venture - Hadley & Corp. Blvd. ✓  
Block 528, Lot 46.08-1
  - D. #353 - Jersey Concrete - Hollywood Avenue ✓  
Block 388, Lot 5
  - E. #359 - Bieber-Faerber - South Clinton Avenue ✓  
Block 476, Lot 12
  - F. #370/V - Baker, et als - Corporate Boulevard ✓  
Block 528, Lot 46.22
6. CURRENT FILES:
  - A. #80-5/V - Deluccia - Durham Avenue & New Brooklyn Road ✓  
Block 552, Lot 4  
Zone: R-10  
(Preliminary subdivision maps have been signed. Applicant  
now seeking final subdivision approval to subdivide into  
13 lots to construct houses for sale.)
  - B. #81-18/V - Meyers - Clinton Avenue ✓  
Block 3, Lot 41  
Zone: R-10  
(Seeking final subdivision approval to subdivide into  
9 lots to construct houses for sale.)

6. C. #84-28/V - Pelmont Builders - Oakland & Randolph  
Block 272, Lot 8  
Zone: R-10  
(Applicant requests final subdivision approval and permission to file ~~subdivision by deed~~.)
- D. #84-7 - Gal-Ker - Christopher Avenue  
Block 427, Lots 1.01, 1.02, 1.03, 1.04  
Zone: R-1-2  
(Seeking final subdivision approval to subdivide into 5 lots to construct houses for sale.)
- E. #84-23/V - Wood United Builders - Marsh Avenue  
Block 50, Lot 9  
Zone: R-15  
(Seeking preliminary and final subdivision approval to subdivide into 3 lots to construct houses for sale and variance approval for three lots which lack sufficient width, depth, and area - PUBLIC HEARING DATE TO BE SET.)
- F. #85-9/V - Bonmur, Inc. - Sylvania Place  
Block 308, Lot 30.01  
Zone: M-3 (P.I.D.)  
(Seeking subdivision approval to subdivide into 8 lots to develop industrially - CLASSIFICATION ONLY.)
- G. #85-10 - Muglia - Day Street  
Block 392, Lot 9  
Zone: R-10  
(Seeking subdivision approval to subdivide into 2 lots to create conforming lot for existing house - CLASSIFICATION ONLY.)
- H. #85-11 - Connelly - Arlington Avenue  
Block 405, Lots 11 & 13  
Zone: R-1-2  
(Seeking subdivision approval to subdivide into 2 lots to complete land purchase from Borough - CLASSIFICATION ONLY.)
- I. #362/V - Baldassarre - Hamilton Boulevard  
Block 476, Lot 8  
Zone: M-3  
(Applicant requests waivers for all onsite paving and curbing.)
- J. #368/V - Imfeld & BATTERY - So. Clinton Avenue  
Block 449, Lot 2  
Zone: M-3  
(Seeking site plan approval to construct a building for housing equipment, service area, and to provide office space and variance approval for insufficient lot width, depth, front set back and sideyard - PUBLIC HEARING DATE TO BE SET.)

THE STATE UNIVERSITY OF NEW JERSEY  
**RUTGERS**  
Campus at Newark

School of Law-Newark • Constitutional Litigation Clinic  
S.I. Newhouse Center For Law and Justice  
15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5587

June 17, 1985

Via Express Mail

Peter J. Calderone, Esq.  
19 Holly Park Drive  
South Plainfield, N.J. 07080

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

Dear Mr. Calderone:

I am in receipt of the proposed Planning Board agenda for the Borough of South Plainfield for June 18, 1985. Listed on that agenda as No. 84-7 is the Gal-Ker-Christopher Avenue site formerly designated as Block 427, Lots 1.01, 1.02, 1.03, and 1.04. The applicant is seeking a final subdivision approval to subdivide said parcel into five lots to construct houses for sale.

Block 427, Lot 1.01 is a site contained in the Judgment As To South Plainfield filed May 22, 1984 (¶ 3c). Any action by the Planning Board with respect to the subject site is in direct violation and contravention of said Judgment. Please be advised that you are hereby on notice that the Urban League objects to any such consideration by the Planning Board of this site.

I would appreciate your contacting me or Eric Neisser immediately upon receipt of this communication.

Very truly yours,

  
Barbara J. Williams

cc/Frank Santoro, Esq.

cc/Donald Daines, Esq.

Exhibit O