

Atty. Fees
U. Z. v. Carter

9/22/1986

Certification (affidavit?) in opposition to the
Plaintiff's ~~application~~ motion for
attorney's fees and cost

pgs = 18

no p.i.

AF000041 ✓

BUSCH AND BUSCH

99 BAYARD STREET
NEW BRUNSWICK, N. J. 08903
(201) 247-1017

ATTORNEYS FOR Def. Township of
East Brunswick

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al.,

Plaintiffs

-v-

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

Defendants.

SUPERIOR COURT OF
NEW JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN COUNTY

Docket No.

CIVIL ACTION

CERTIFICATION OF
BERTRAM E. BUSCH, ESQ.
IN OPPOSITION TO MOTION
FOR ATTORNEYS'S FEES
AND COST

My name is Bertram E. Busch and I hereby certify as follows:

1. I am the Township Attorney for the Township of East Brunswick and have been since 1974. East Brunswick was names as a Defendant in the above captioned matter and actively participated in the litigation through its various stages up to and including the remand to Judge Serpentelli. I personally am familiar with the negotiations which took place with representatives of the Plaintiff which had sued East Brunswick.

Specifically, I negotiated a settlement with Janet La Bella, Esq. and Bruce Gelber, Esq. John Payne also became involved in later discussions as did Eric Neisser.

This certification is submitted in opposition to the Plaintiff's application for expert fees, attorneys fees and costs as they relate to the Township of East Brunswick.

On March 23, 1984, I submitted a Notice of Motion to Judge Serpentelli with copy to all attorneys in the case, to approve a Consent Order between the Plaintiffs and the Township of East Brunswick. A copy of my letters of March 23, to Judge Serpentelli and Janet La Bella are annexed hereto.

2. Ms. La Bella responded by letter of March 26, 1984 sending me a "slightly revised draft of the Consent Order." Rather than burdening the Court with all the different drafts, I can simply state that none of the drafts either prepared by me or prepared by the Plaintiffs or anyone else ever contained a requirement that the Township of East Brunswick would have to pay for the Plaintiff's legal fees or costs.

3. On March 26, 1984, I was advised that our Motion to Approve a Settlement was adjourned until April 9, 1984. In the meantime we continued to negotiate with representatives of the Plaintiffs over such things as mandatory set aside ordinances, credit for 29 units to be built by Hovnanian and the availability for low and moderate income housing on 98 acres owned by the Diocese of Metuchen. At no time was there any

discussion about paying legal fees or costs. If in fact the Township had been asked to assume such costs, that may very well have adversely affected the Township's willingness to settle.

On or about April 6, 1984, I received the Fair Share Report submitted by Carla Lerman. That report had little bearing on the negotiations in April 1984 with regard to the 98 acres owned by the Diocese of Metuchen and the contingent zone on Dunhams Corner Road.

On April 16, 1984, East Brunswick put its entire settlement on the record in open Court before Judge Serpentelli. On April 25, 1984, I received Janet La Bella's draft Order together with ordinances which would be incorporated within it. Throughout the rest of April 1984 and May 1984 draft of ordinances were forwarded back and forth between our office and the offices of Janet La Bella and John Payne. The final "hang-up" had to do with the language in the mobile home ordinance. I received a memorandum from Carla Lerman dated May 12, 1984 indicating that East Brunswick owed the sum of \$1,572.00 for her services through March 31, 1984. A copy of that correspondence is annexed hereto. I sent a voucher to Ms. Lerman on May 21, 1984, a copy of which correspondence is attached.

4. By letter dated May 31, 1984, a copy of which is attached, Janet La Bella sent me a signed Consent Order subject to the comments of her letter.

5. On July 9, 1984, I sent Bruce Gelber revisions to certain schedules following a conference call which both of us had with Judge Serpentelli. A copy of that letter is also annexed. Judge Serpentelli signed the Consent Order on July 12, 1984.

6. On September 9, 1984, Ms. Lerman sent a letter to me complimenting the work done by the Township of East Brunswick in settling the litigation. She also sent her bill in the amount of \$280.00. Attached is copy of her letter of September 9, 1984, the voucher for \$280.00 which I sent back to her and which resulted in a payment to her and my letter of September 12 responding.

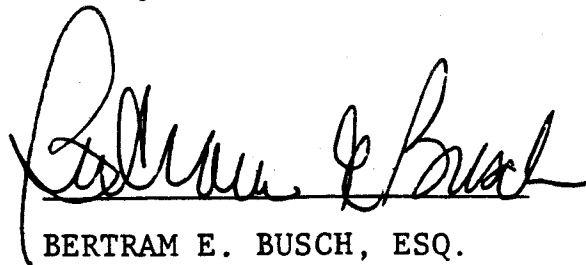
7. East Brunswick was the first municipality in this litigation to settle its case after the remand to Judge Serpentelli. The settlement resulted in a Consent Order and Final Judgment. The Township of East Brunswick, after subjecting itself to tremendous criticism, adopted ordinances to implement the settlement and in fact affordable housing has been built along with other high density development at a record rate. If East Brunswick is required to pay anything else above that which was stipulated to in the Consent Order East Brunswick reserves its right to move to reopen the entire judgment and to either set aside the Consent Order or to

move to transfer to the Affordable Housing Council. East Brunswick also reserves the right to move for costs in connection with this motion.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I may be subject to punishment.

DATED:

9/22/86

A handwritten signature in cursive script, appearing to read "Bertram E. Busch". The signature is written in dark ink and is positioned above the printed name.

BERTRAM E. BUSCH, ESQ.

BUSCH AND BUSCH
COUNSELLORS AT LAW
99 BAYARD STREET
P. O. BOX 33
NEW BRUNSWICK, N. J. 08903

AREA CODE 201
247-1017

LEWIS D. BUSCH
HENRY BUSCH
MALCOLM R. BUSCH
RONALD J. BUSCH
BERTRAM E. BUSCH
MARK N. BUSCH
LEONARD R. BUSCH
C. EDWARD SPEIDEL

March 23, 1984

Janet LaBella, Esq.
National Committee Against
Discrimination in Housing
1425 H Street, N.W.
Washington, D.C. 20005

Re: Urban League
Our File No. EB-183

Dear Ms. LaBella:

Under separate cover you will receive my revised consent order which has been attached to my Notice of Motion returnable March 30, 1984. Since we do not have the ordinances, I indicated that they will be attached to the Order.

Your final addition of new units to be built was inaccurate and I amended it.

We still understand that we will receive credit for 184 units and our range of new development between 1109 and 1542. The total range is between 1293 and 1726. I have discussed the revisions with the Mayor and at this point we do not feel we have to go back to the Council or Planning Board for further authorization. I also have discussed the settlement with the attorney for the developer of the Turnpike Drive-In site. He may be present at the hearing on March 30, 1984.

I look forward to meeting with you at that time.

Very truly yours,

BERTRAM E. BUSCH

BEB/jkm

BUSCH AND BUSCH
COUNSELLORS AT LAW
99 BAYARD STREET
P. O. BOX 33
NEW BRUNSWICK, N. J. 08903

LEWIS D. BUSCH
HENRY BUSCH
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March 23, 1984

Honorable Eugene D. Serpentelli, J.S.C.
Ocean County Court House
CN 2191
Toms River, New Jersey 08753

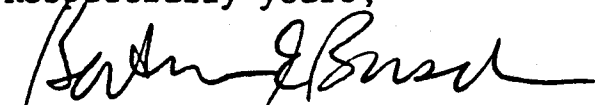
RE: Urban League of Greater New Brunswick
vs Borough of Carteret, et als
Docket No. C-4122-73

Dear Judge Serpentelli:

Enclosed please find Notice of Motion to approve a Consent Order between the Plaintiffs and Defendant, Township of East Brunswick, returnable before Your Honor on March 30, 1984 at 2:00 p.m.

By a copy of this letter, I am forwarding a copy of the within Motion to all counsel of record.

Respectfully yours,

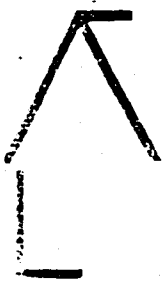


BERTRAM E. BUSCH

gg
encls.

cc: All Counsel of Record

bc: William F. Fox, Mayor
John H. Runyon, Administrator
Carl E. Hintz, Planning Consultant



NCDH
National Committee
Against Discrimination
in Housing

733 15th Street, N.W., Washington, D.C. 20005 • (202) 783-8150

March 26, 1984

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Barbara Wurtzel

EXECUTIVE DIRECTOR
Martin E. Sloane


GENERAL COUNSEL
Bruce S. Gelber

Bertram Busch, Esq.
Busch & Busch
99 Bayard Street
P. O. Box 33
New Brunswick, New Jersey 08903

Dear Bert:

I have enclosed a slightly revised draft of the Consent Order. Do you think it will be possible for you to obtain a Resolution of Approval or a copy of the minutes of the Township Council meeting when the Township approved the settlement so that a formal indication of Township approval may be attached to the Consent Order. I will be in New Jersey on Tuesday and Wednesday and will call you then.

Sincerely,


Janet LaBella
Assistant General
Counsel

JLB:vb

Enclosure

RECEIVED

MAR 29 1984

Busch & Busch

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

TO: ALL COUNSEL in Urban League v. Carteret and Consolidated Cases
FROM: Carla L. Lerman *CL*
DATE: May 12, 1984
RE: Revised Statement for Professional Services

On April 18, 1984, the enclosed statement was submitted to the parties designated in the first court order on this matter. Subsequently, Judge Serpentelli directed that this statement should be submitted to thirteen parties currently involved in the Mt. Laurel aspects of this case.

The total for August 1, 1983 through March 31, 1984 was \$20,440. (292 hours). That amount billed equally to thirteen parties will be:

$$\$20,440 \div 13 = \$1572.31$$

AMOUNT DUE FROM EACH PARTY: \$1572.

If you have any questions regarding this statement, please let me know. Thank you for your consideration in this matter.

*Voucher
Rnt*

encl.
cc: Hon. E.D. Serpentelli

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

April 18, 1984

Professional Planning Services for Urban League of
Greater New Brunswick v. Carteret et al.

Fair Share Report, November, 1983

Research on regional and local trends, statistical
analysis, report writing:

August 28, 1983	4 hours		
" 30, 1983	4 hours	Total	8 hours
Sept. 11, 1983	5 hours		
" 17, 1983	5 hours		
" 25, 1983	5 hours	Total	15 hours
October 1, 1983	7 hours		
" 3, 1983	7 hours		
" 4, 1983	10 hours		
" 15, 1983	6 hours		
" 16, 1983	7 hours		
" 17, 1983	8 hours		
" 23, 1983	8 hours		
" 25, 1983	7 hours		
" 28, 1983	10 hours		
" 29, 1983	8 hours	Total	78 hours
November 4, 1983	10 hours		
" 5, 1983	10 hours		
" 6, 1983	10 hours		
" 9, 1983	7 hours		
" 11, 1983	9 hours	Total	46 hours

Total First Fair Share Report: 147 hours

Response to Judge Serpentelli's questions; preliminary
preparation of responses to counsels' questions, stopped
at Judge Serpentelli's direction

January 2, 1984 10 hours

January 21, 1984 6 hours

Case Management Conference: Ocean County Court House

January 24, 1984 7 hours

Preparation of revised Fair Share Report using Warren Twp.
methodology, as per Judge Serpentelli's direction

January 28, 1984 8 hours Total 31 hours

February 1, 1984 3 hours

February 5, 1984 5 hours

Meeting of Planners' Consensus Group

February 7, 1984 11 hours

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

April 18, 1984

Professional Planning Services for Urban League of
Greater New Brunswick v. Carteret et al., p.2

Meeting of Planners' Consensus Group and preparation
of draft memo for Counsel and Planners

February 13, 1984 10 hours

Meeting with Planners and Counsel

February 14, 1984 6 hours

Preparation of revised Fair Share Report, based on
Consensus Methodology (March 7, 1984 Report)

February 19, 1984 8 hours

" 20, 1984 8 hours

" 25, 1984 10 hours Total 61 hours

March 1, 1984 5 hours

" 4, 1984 8 hours

Meeting of Planners' Consensus Group

March 2, 1984 9 hours

Meeting of Planners' Consensus Group subcommittee

March 8, 1984 5 hours

Memorandum on Median Income and revised Fair Shares

March 10, 1984 5 hours

" 12, 1984 5 hours

Pre-Trial, Ocean County Court House

March 16, 1984 4 hours

Preparation of revised Fair Share Report (April 2, 1984 Report)

March 24, 1984 8 hours

" 31, 1984 4 hours Total 53 hours

Total all revisions and new Fair Share Reports: 145 hours

Total August 1, 1983 through March 31, 1984:

292 hours : \$20,440.

Billed equally to plaintiffs and defendants

\$20,440. - 8 = \$2,555.

AMOUNT DUE FROM EACH PARTY: \$2,555.

May 21, 1984

Ms. Carla L. Lerman
413 W. Englewood Avenue
Teaneck, New Jersey 07666

RE: Urban League of Greater New Brunswick
vs Borough of Carteret, et als
Our File No. EE 183

Dear Ms. Lerman:

I enclose voucher to be signed by you in connection with the
Urban League litigation in the amount of \$1,572.00. Please
sign and return so that we can process the same.

Thank you.

Very truly yours,

BERTRAM E. BUSCH

EE
encl.



NCDH
National Committee
Against Discrimination
in Housing

733 15th Street, N.W., Washington, D.C. 20005 • (202) 783-8150

May 31, 1984

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EXECUTIVE DIRECTOR

Martin E. Sloane

GENERAL COUNSEL

Bruce S. Gelber

Bertram Busch, Esq.
 Busch & Busch
 99 Bayard Street
 P. O. Box 33
 New Brunswick, New Jersey 08903

Dear Bert:

Pursuant to our phone conversation of May 30, 1984, I am enclosing a signed original and one copy of the East Brunswick and Urban League Consent Order, which you have agreed to hold in escrow until the revisions set forth below have been made to the specified ordinances. I understand that you will then forward a revised set of ordinances to Judge Serpentelli and Carla Lerman.

Mobile - Manufactured and Modular -
 Manufactured Housing Ordinance

- ✓ Section 2.B. The definition of municipal service fee should specify that it applies only to mobile home parks.
- ✓ Section 9.C.3. The word "lot" should be changed to "yard".
- ✓ Section 9.D.1. The minimum proximity limits of 20 and 25 feet are inconsistent with the side yard requirements contained in Section 9.C.2. and should be changed to 15 and 17 feet respectively.
- ✓ Section 9.D.4. The requirement that sheds and accessory storage structures be located a minimum of five (5) feet from the mobile home unit is unnecessary, potentially cost producing and restricts flexibility of yard design. This requirement should be eliminated.

Letter to Bertram Busch
May 31, 1984
Page Two

- Section 10. A sentence should be added stating that the Township shall accept the dedication of streets and roads located in mobile and manufactured home subdivisions. ✓
- Section 13.E.1. ✓ A maximum size of 40 square feet is sufficient for identification signs.
- Section 13.F. These sections should only apply to mobile home parks.

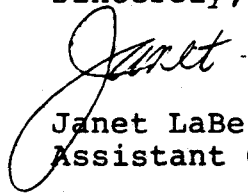
← Should read
40 max
140

Affordable Housing Ordinance

- Section D.1.(b). This phrase should be changed to read: determining the maximum resale prices and rental charges of the Low and Moderately Priced Dwelling Units to assure that the units remain affordable to Families of Low or Moderate Income.

Thank you for your continued cooperation in this matter.

Sincerely,



Janet LaBella
Assistant General Counsel

JLB:vb

Enclosure

cc: Judge Serpentelli
Carla Lerman

BUSCH AND BUSCH
COUNSELLORS AT LAW
99 BAYARD STREET
P. O. BOX 33
NEW BRUNSWICK, N. J. 08903

AREA CODE 201
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LEWIS D. BUSCH
HENRY BUSCH
MALCOLM R. BUSCH
RONALD J. BUSCH
BERTRAM E. BUSCH
MARK N. BUSCH
LEONARD R. BUSCH
C. EDWARD SPEIDEL

July 9, 1984

Bruce S. Gelber, Esq.
National Committee Against Discrimination
In Housing, Inc.
733 15th Street N.W., Suite 1026
Washington, D. C. 20005

RE: Urban League of Greater New Brunswick
vs Borough of Carteret, et al
Our File No. EB 183

Dear Bruce:

Confirming our conference call with Judge Serpentelli, I enclose revisions to Schedule I, Section 132-42.1E and Schedule J, Section 132-42.1F of the attachments to the Consent Order.

I will make certain that a complete set of ordinances will be sent to you when I receive the signed Order.

Very truly yours,

BERTRAM E. BUSCH

gg
encls.

cc: Honorable Eugene D. Serpentelli, J.S.C.
Barbara J. Williams, Esq.
Ms. Carla Lerman

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

September 9, 1984

Bertram E. Busch, Esq.
Busch and Busch
99 Bayard Street
New Brunswick, N.J. 08903

Dear Bert,

I am submitting as follows my statement for professional services performed in connection with the review of East Brunswick's proposed settlement in the case of Urban League of Greater New Brunswick v. Carteret et al.

Review of zoning documents and affordable housing ordinance; review of relevant correspondence; telephone conferences with Alan Mallach and Carl Hintz; response to Hon. Eugene D. Serpentelli

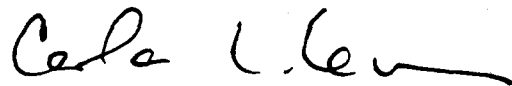
4 hours

\$280.

I would like to congratulate you, Carl Hintz and the Township governing body on accomplishing a creative, diverse and, I hope, effective settlement.

My best wishes to you all in its accomplishment.

Sincerely,



Carla L. Lerman

cc: Hon. Eugene D. Serpentelli, J.S.C.

September 12, 1984

Ms. Carla L. Lerman
413 W. Englewood Avenue
Teaneck, New Jersey 07666

RE: Urban League of Greater New Brunswick
v Borough of Carteret, et als
Our File No. EP 183

Dear Carla:

Thank you for your kind letter of September 9th. I enclose
a voucher for your signature and return.

With best regards,

BERTRAM E. BUSCH

EE
encl.

BILLS ARE APPROVED AT TOWNSHIP COUNCIL MEETINGS ON 2ND AND 4TH MONDAY OF EACH MONTH AND MUST BE RENDERED NO LATER THAN THE MONDAY PRECEDING THE MEETING.

PL CHASE ORDER/VOUCHER
TOWNSHIP OF EAST BRUNSWICK
MIDDLESEX COUNTY, NEW JERSEY
 201 - 254 - 4600

SHIPPING AND RETURN ADDRESS:

TOWNSHIP ATTORNEY
 MUNICIPAL BUILDING
 1 JEAN WALLING CIVIC CENTER
 EAST BRUNSWICK, N.J. 08811

Carla L. Lerman
 413 W. Englewood Avenue
 Teaneck, New Jersey 07666

No. 500 00880

APPROPRIATION No. _____

GENTLEMEN: Please furnish the following to the Township of East Brunswick and be governed by the instructions herein.

QUANTITY ORDER	DESCRIPTION	UNIT PRICE	AMOUNT
	Urban League of Greater New Brunswick vs Borough of Carteret, et als Our File No. EP 183 Court appointed expert As per attached statement		\$280.00

Instructions to Vendor

PURCHASE AUTHORIZED _____

SIGNATURE AND TITLE _____

MUNICIPAL CERTIFICATION

I hereby certify that the claim specified herein is for article received, personal services actually rendered or amounts expended for the Township of East Brunswick, and that the articles received, personal services actually rendered or accounts expended for the Township of East Brunswick, N.J., and that the articles received were in accordance with the specifications and amounts appearing on the purchase requisition.

BERTRAM E. BUSCH *Signature*
 Date _____ Title Director of Law

PAYMENT AUTHORIZED

Ordered Paid at the Meeting of the Township Council held

Date _____

TREASURER

PAYMENT RECORD

DATE _____

CHECK NO. _____

1. RETAIN GOLD COPY FOR YOUR RECORDS.
2. DO NOT CHARGE STATE SALES TAX
3. MAIL SIGNED VOUCHER WITH INVOICE TO RETURN ADDRESS
4. SIGN VENDOR'S CERTIFICATION.

VENDOR SIGN BELOW!

Claimant's (Vendor) Certification

I do solemnly declare and certify under penalties of the law that the within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any person or persons with the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.

CARLA L. LERMAN *Signature*
 Date _____ Title _____

APPROVED

Date _____