

COUNTRYSIDE PROPERTIES, INC. )  
& WALLACE & CZURA LAND CO., )

Plaintiffs, )

v. )

MAYOR AND COUNCIL OF THE )  
BOROUGH OF RINGWOOD, )

Defendants. )

COUNCIL ON AFFORDABLE HOUSING  
DOCKET NO.

Civil Action

OPINION

This matter comes before the Council on Affordable Housing (Council) upon the motion of plaintiff Countryside Properties, Inc. (Countryside) for an Order granting Countryside a 45-day extension of the objection period in which to supplement its objections and for an Order compelling the Borough of Ringwood (Ringwood) to supply Countryside with certain documents.

The relevant facts of this matter are as follows. Ringwood filed a housing element and fair share plan with the Council on January 5, 1987. Ringwood is a court transferred case and as such it is deemed to have petitioned for substantive certification as of the date it filed its housing element and fair share plan. See N.J.A.C. 5:91-4.2. Ringwood published notice of its petition for substantive certification pursuant to N.J.S.A. 52:27D-313 on January 5, 1987. Pursuant to N.J.S.A. 52:27D-314, Countryside filed timely objections to Ringwood's housing element by letter dated February 6, 1987. Countryside's objections challenge, among other things, many of the credits and adjustments claimed by Ringwood in its housing element. Countryside's objections are such

that the Council will engage in the mediation process between Ringwood and Countryside.

Countryside claims that it attempted to secure copies of the documents requested directly from Ringwood and that Ringwood refused to comply with its requests. Ringwood's attorney, Lawrence D. Katz, Esq., claims that he never received requests for the documents detailed in Countryside's motion and that he promptly provided Countryside with all documents requested. Mr. Katz further claims that Countryside has never requested of him the documentation detailed in this motion. For reasons which will be discussed subsequently, the Council need not resolve the above-described dispute since said dispute is irrelevant to the decision of this motion.

The first issue presented to the Council is whether a party who has filed a timely objection to a municipality's housing element and fair share plan may be granted an extension of the 45-day objection period in order to supplement its objections. After careful review and consideration of the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (Act) and the Council's procedural rules, N.J.A.C. 5:91-1.1 et seq., the Council must conclude that such an extension is not permitted.

N.J.S.A. 52:27D-314 states that the Council must proceed with its review of a municipality's petition for substantive certification if an objection to the petition has not been filed with the Council within 45 days of publication of notice of a

municipality's petition. If an objection has been received within that 45-day period, the Council is required to engage in the mediation and review process with the municipality and the objectors. N.J.S.A. 52:27D-315.

In furtherance of these mandates, the Council has promulgated procedural rules which govern how the Council is to proceed with petitions for substantive certification. The rules provide for very definite time periods when objectors are involved and the matter is referred for mediation. N.J.A.C. 5:91-7.3(e) states that "Mediation before the Council or its designated mediator may be conducted for a period of not more than 60 days after the time for the receipt of objections to a petition for substantive certification has expired..." Thus, as required by the Council's rules, the time for mediation begins immediately upon the expiration of the 45-day objection period and generally is to be conducted for only 60 days. N.J.A.C. 5:91-7.2(a) states that "... within 10 days after a matter is referred to the Council for mediation, the Council, or its designee, shall meet with representatives of the municipality and objector and shall establish a schedule for mediation..." By virtue of N.J.A.C. 5:91-7.3(e), the matter will be referred to the Council for mediation immediately upon the expiration of the 45-day objection period if there are objectors. Thus, a mediation schedule must be established within 10 days of the expiration of the 45-day objection period. Neither the Act nor the rules provide for an extension of time before the Council will

commence mediation. In fact, the mandatory language used in both the Act and the rules indicate that such an extension is not possible. Accordingly, Countryside's request for an extension of time in order to supplement its objections must be denied.

Countryside also is requesting the Council to compel Ringwood to supply it with certain documents. Countryside claims it needs these documents in order to prepare its case for mediation. Such a request is not proper at this time.

The purpose of mediation is to resolve disputes between the municipality and the objectors, if possible, while at the same time ensuring that the municipality's housing element and fair share plan is consistent with the Council's rules and criteria and provides a realistic opportunity for that municipality to provide it fair share of low and moderate income housing. Mediation necessarily will involve the exchange of information and ideas between the parties. In order to facilitate this exchange of information and ideas, the Council's rules empower the mediator to request and receive information, reports, studies or other documentation which may be necessary to the mediation. N.J.A.C. 5:91-7.3(b). Thus, any relevant information sought may be produced directly through the mediation process.

In this case, the Council sees no need at this time to compel Ringwood to supply the documents and information Countryside requests. The mediation process in this instance has just begun and Countryside may very well receive all of the information it is

requesting as a result of mediation. Thus, there is no need for the Council to consider Ringwood's or Countryside's claims regarding why Countryside did not receive the requested information. In any case, all of the information and documents requested, if relevant, may be secured through the mediation process and, accordingly, Countryside's request for an Order requiring Ringwood to produce certain documents and information is denied.

An appropriate order embodying this opinion has been entered.

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Arthur R. Kondrup, Chairman  
Council on Affordable Housing

Dated: