

NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING

DOCKET NO. 87-8a

Civil Action
ORDER

IN THE MATTER OF)
THE BOROUGH OF)
SOUTH PLAINFIELD)

1. This matter was initiated by a suit filed in the Superior Court of New Jersey, Chancery Division, Middlesex/Ocean County, and captioned 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.

2. In a Judgment dated May 22, 1984, the Honorable Eugene D. Serpentelli, J.S.C. ordered that the Borough of South Plainfield (the Borough) rezone certain specified sites for low and moderate income housing. The list was comprised of the following properties:

- 1) Harris Steel Site: Block 459; Lot 1
Block 460; Lot 1
Block 461; Lots 1-3
Block 462; Lot 2
Block 465; Lot 1
Block 466; Lot 1
Block 467; Lots 1,3,4,5,21
- 2) Coppola Farm site: Block 528; Lot 43
- 3) Pomponio Avenue site: Block 448; Lots 2.01, 4.01

Block 427; Lot 1.01

- 4) Universal Avenue site: Block 255; Lots 14,33,34
- 5) Frederick Avenue site: Block 308; Lot 34
Block 310; Lots 1.01, 4.01, 5-7, 9,
11,13-15,17,18
Block 311; Lots 16-36
- 6) Morris Avenue site: Block 111; Lots 1-4
Block 112; Lots 1,2.01
Block 113; Lots 1.01, 2,4,5.01
Block 115; Lots 1,2,2.01, 3
- 7) Archdiocese of Metuchen site: Block 12; Lots 9,16,17
- 8) Elderlodge site: Block 259; Lots 5,6.01,6.02, 7,12

The Pomponio Avenue, Frederick Avenue and Morris Avenue sites were owned by the Borough.

3. By order dated July 9, 1985 and amended July 19, 1985, the Court ordered in part that: i) the Borough be enjoined from issuing any building permits (with certain minor exceptions) without the consent of the plaintiff Urban League; and ii) the Borough be enjoined from making any land sales or consummating any existing land sale contracts.

4. By order dated August 9, 1985, the Court: i) dissolved the restraint on the Borough's issuing of building permits, except as to those sites listed in paragraph 2 above, for which the restraint continued; and ii) continued in force the injunction on Borough land sales of any kind.

5. The case was ordered transferred to the Council on Affordable Housing (the Council) by the Supreme Court in Hills Dev. Co. v. Bernards Tp. in Somerset Cty., 103 N.J. 1 (1986). On May 21, 1986, the Court ordered that: i) the Borough be permitted to close title on current pending outstanding land sales,

provided that the proceeds be held in an escrow account pending further order of the Court or Council; ii) the restraint on further sales of Borough land be continued pending order of the Court or Council; and iii) the prior restraints on issuing permits as to those sites listed in paragraph 2 above be continued until further order of the Court of Council.

6. On January 5, 1987, the Borough submitted to the Council a final housing element and fair share plan. Mediation was conducted between the Borough and the Civic League of Greater New Brunswick (formerly the Urban League). Mediation concluded on July 8, 1987 with all matters in dispute being resolved.

7. The Council has concluded that the housing element and fair share plan agreed to in mediation meets all of the requirements for substantive certification contained in N.J.S.A. 52:27D-314. The fair share plan includes rezoning of those sites listed in paragraph 2 above for low and moderate income housing, with the exception of Pomponio Avenue, Block 448, Lot 2.01; Pomponio Avenue, Block 427, portions of Lot 1.01 (including that section to be subdivided and designated as 1.07 and 1.08); and all Frederick Avenue sites. In addition, the Borough will fund construction of a 100 unit low and moderate income senior citizen project on the Morris Avenue site. On September 28, 1987, the Borough adopted its fair share plan by enacting ordinances 1090, 1092, 1096 and 1097. Further, the parties have reached agreement on the proper disbursement of the funds now held in escrow pursuant to the Order of the Superior Court dated May 21, 1986 and referred to in paragraph 5 above, which agreement has also been reviewed by the Council.

Thus, the Council having reviewed all of the above, as well as all previous submissions by the parties:

It is on this ^{19th} day of October, 1987

ORDERED that:

The restraints imposed by the Superior Court on the Borough of South Plainfield by Order dated May 21, 1986, enjoining the Borough from any sales of land owned by the Borough; and further enjoining the Borough from issuing any permits, specifically, as to those sites listed in paragraph 2 above, are hereby dissolved as of the date of this Order.

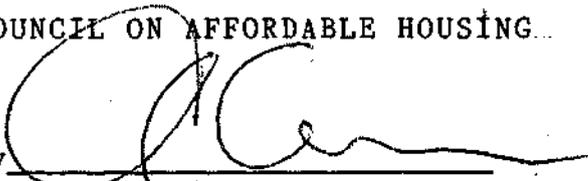
With regard to those funds presently held in escrow pursuant to the Order of the Superior Court dated May 21, 1986, the restraints are hereby lifted, effective as of the date of this order, to release the sum of \$500,000.00. The remaining funds held in escrow shall be released subject to the following conditions and in agreement with the following schedule:

(i) The Borough shall, at its meeting of October 26, 1987 pass a resolution confirming that the Borough shall utilize its bonding capacity to provide the funding for the construction of the low and moderate income senior citizen housing project on the Morris Avenue site, in the event such funding becomes necessary for completion of the project. The Borough shall send by certified mail to the Civic League and the Council a certification as to the passage of said resolution. The Civic League and Council shall have a period of five days from receipt of the certification in which to object to the release of funds. If no objection is received by the Borough within the five day period, the restraints shall be lifted as to the sum of \$500,000.00. If bonding must be utilized, any bonding ordinance shall be enacted and bonding be in place on or before June 1, 1988. A certified copy of such ordinance shall be sent by certified mail to the Civic League and the Council.

(ii) The Borough shall notify the Civic League and the Council by certified mail at the time that 50% of construction of the Morris Avenue senior citizen housing project is completed. The Civic League and the Council shall have a period of 15 days from receipt of the notice to object to the release of funds. If no objection is received by the Borough within the 15 day period, the restraints shall be lifted as to the remainder of all sums held in escrow, including all interest.

COUNCIL ON AFFORDABLE HOUSING

By


Arthur R. Kondrup
Chairman