

COAH DOCKET NO.

JACK NEUGARTEN,

CIVIL ACTION

v.

ORDER

BOROUGH OF WEST PATERSON

WHEREAS, by Order adopted on February 6, 1991 the Council on Affordable Housing (COAH) ordered West Paterson Borough within 60 days to revise its plan so as to include objector Jack Neugarten's site in its plan in a manner consistent with the decision of the Administrative Law Judge which COAH accepted; and

WHEREAS, in the aforementioned Order, COAH further ordered West Paterson to submit within ten days a duly adopted resolution of the governing body indicating its intent to comply or not to comply with the February 6, 1991 Order; and

WHEREAS, West Paterson did not submit any resolution to COAH nor did it contact COAH to indicate its intent; and

WHEREAS, while it was COAH's decision that 60 days was a reasonable period of time for West Paterson to amend its housing element to include Neugarten's site and to address the balance of its fair share obligation COAH also decided that it was appropriate to require West Paterson to indicate its intent to comply or not comply with this Order within 10 business days of entering the Order in order to avoid losing the full 60 days if West Paterson was not going to abide by COAH's Order; and

WHEREAS, the aforementioned Order further stated that failure of West Paterson to submit the required resolution would result in COAH returning the case to the jurisdiction of the Superior Court, Law Division; and

WHEREAS, this matter was transferred from the Superior Court, Law Division by order of the Honorable Stephen Skillman, J.S.C. dated May 27, 1987 in which the court specifically stated that it retained jurisdiction over the underlying exclusionary zoning lawsuit; and

WHEREAS, in light of West Paterson's failure to comply with the terms of COAH's February 6, 1991 Order and the fact that the court specifically retained jurisdiction over this matter, COAH finds that it is appropriate to return the case to the court; and

WHEREAS, while COAH is returning this case to the jurisdiction of the court, COAH respectfully requests the court to consider the following facts in its review of West Paterson's plan:

1. COAH required West Paterson to use Jack Neugarten's site as part of its plan and a factual hearing was held in which it was determined that the site was suitable for a density of eight dwelling units per acre and 20 percent set-aside;
2. West Paterson has a fair share obligation of 159 units and the plan in its present form does not address that full obligation;
3. COAH has prepared a COAH Compliance Report dated February 6, 1991, amended March 6, 1991 which discusses West Paterson's plan and COAH asks the court to consider this report; and

WHEREAS, COAH respectfully requests that any Judgment of Compliance issued by the court be consistent with COAH's rules and policies; and

WHEREAS, COAH is willing to undertake the monitoring and tracking of the compliance plan.

IT IS on this 6th day of March, 1991

ORDERED that COAH no longer shall retain jurisdiction over this matter and the case is hereby returned to the Superior Court, Law Division.



Charles Griffiths, Chairman

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