

# ***Restrictive Zoning Is Upset in Jersey***

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NEW BRUNSWICK, N. J., Oct. 29 — In a ruling hailed by organizations striving to open suburban areas to lower-income housing, a State Superior Court judge has struck down the entire local zoning ordinance of a Middlesex County community on the ground that it ignored "the desperate housing needs" of urban New Jersey.

The decision, by Judge David D. Furman, was described here today by the Suburban Action Institute, a nonprofit organization seeking to gain housing for the poor, "as the breakthrough we have been waiting for."

According to Paul Davidoff,

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# A Jersey Housing Code Is Upset For Ignoring Low-Income Needs

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the institute's co-director, the ruling here may be the first of its kind in the country and is certainly the first in New Jersey, to strike down an entire local zoning ordinance that allegedly excludes lower-income families on the ground of regional responsibilities.

The decision yesterday involves Madison Township, a community near here that has grown from 7,000 people in 1950 to 50,000 this year and which generally reflect the economic and social strata of Middle America.

Madison Township, in the explosive growth that shot out from the cities after World War II, provides moderately priced development homes on small lots for thousands of working-class and white-collar families that could not afford the higher prices in more affluent suburbs.

However, in 1970, Madison Township officials apparently concluded that the community could no longer afford the continued influx and adopted a zoning ordinance restricting new housing development to one-acre and two-acre lots.

And to ensure that the homes on them would be expensive, Madison Township followed the example of many other New Jersey communities by mandating floor space requirements that the court said would result in housing that would cost at least \$45,000.

Moreover, apartments that would accommodate families with children were virtually outlawed, while changes were enacted that would inspire new industry to move in.

## 'Classic Exclusionary'

"It's a classic exclusionary zoning case and an extraordinary court response," Mr. Davidoff said today.

An official of the National Committee Against Discrimination in Housing said the decision "sounded like another progressive step in attacking exclusionary zoning, practices in the United States."

Richard F. Plechner, the attorney for the township, said the decision would be appealed. In the meantime, its provisions apply only to Madison Township.

Gov. William T. Cahill told the Legislature last year that the courts would wipe out New Jersey's restrictive local zoning laws one by one unless the state stepped in with a code that would apply statewide and meet growing demands for a more equitable distribution of housing and jobs.

In his decision, Judge Furman said: "In pursuing the valid zoning purpose of a balanced community, a municipality must not ignore housing needs, that is, its fair proportion of the obligation to meet the housing needs of its own population and of the region.

"Housing needs are encompassed within the general welfare. The general welfare does not stop at each municipal boundary. Large areas of vacant and developable land should not be zoned, as Madison Township has, into such minimum lot sizes and with such other restrictions that regional as

well as local housing needs are shunted aside."

In the meantime, the judge said, "population continues to expand rapidly. New housing is in short supply. Congestion is worsening under deplorable living conditions in the central cities, both of the county and nearby.

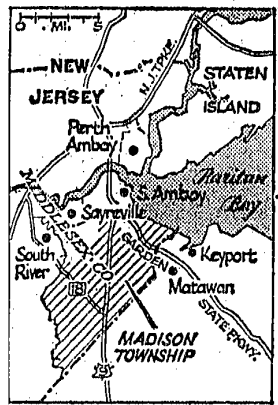
"The ghetto population to an increasing extent is trapped, unable to find or afford adequate housing in the suburbs because of restrictive zoning."

"In Madison Township's approach to the objective of balance," he continued, "its attempted cure is a worse malady than whatever imbalance existed. About 800 acres of land, apparently primed for low or moderate income housing development, has been taken out of the reach of 90 per cent of the population, prohibitive in land and construction costs.

"The acreage available for multifamily apartments because minuscule. Families with more than one child are barred from multifamily apartments because of the one- and two-bedroom restrictions, restrictions without any guise of health or safety purposes.

"The exclusionary approach in the ordinance under attack coincides in time with desperate housing needs in the county and region and expanding programs, Federal and state, for subsidized housing for low-income families."

The challenge to Madison Township's ordinance was originally instituted by Nathan



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Kaplan, a developer who had pledged himself to providing a substantial proportion of two projects he plans for Madison Township for low-income residents.

The suit was widened and made into a class suit representing five black and one white resident of New Jersey cities. They were put forth as representing the 90 per cent of New Jersey's seven million residents who, according to state housing statistics, cannot afford the housing that is currently being built in the state.

The suit also attacked the 1928 state law that allowed individual municipalities to adopt their own zoning laws.

In defense of its zoning practices, Madison said it was merely trying to "catch its breath" under the enormous population pressures there that have overtaxed municipal services and that have threatened to overwhelm its public schools.