CHALLENGES TO ZONING ORDINANCES

1. PRESUMPTION OF CORRECTNESS

Euclid v. Ambler Realty Co., 272 U.S. 365 (1926)
http://scholar.google.com/scholar_case?case=8376015914752485063&q=Euclid+v.+Ambler+Realty+Co.&hl=en&as_sdt=2,31
Zoning is constitutional exercise of government power.

Thornton v. Village of Ridgewood, 17 N.J. 499 (1955)
http://scholar.google.com/scholar_case?case=2214091318078639670&q=Thornton+v.+Village+of+Ridgewood&hl=en&as_sdt=2,31

Bibb v. Navajo Freight Lines, 359 U.S. 520 (1959)
http://scholar.google.com/scholar_case?case=6371682157977652912&q=Bibb+v.+Navajo+Freight+Lines&hl=en&as_sdt=2,31
If legislation is enacted within the municipality's police power it is presumed to be constitutionally valid.

Kramer v. Board of Adjustment, 45 N.J. 268 (1965)
http://scholar.google.com/scholar_case?case=3698557451558798993&q=Kramer+v.+Board+of+Adjustment&hl=en&as_sdt=2,31
Actions taken by municipalities are presumed to be valid.

Bow & Arrow Manor v. Town of West Orange, 63 N.J. 335 (1973)
http://scholar.google.com/scholar_case?case=16812911035367785879&q=Bow+%26+Arrow+Manor+v.+Town+of+West+Orange&hl=en&as_sdt=2,31
Municipality is presumed to be correct.

Zilinsky v. Zoning Bd. of Adj. of Verona, 105 N.J. 363 (1987)
http://scholar.google.com/scholar_case?case=2970629748743087593&q=Zilinsky+v.+Zoning+Bd.+of+Adj.+of+Verona&hl=en&as_sdt=2,31

Sod Farm Associates v. Springfield Twp. Planning Board, 297 N.J. Super. 584 (App. Div. 1996), *certif. denied*, 149 N.J. 36 (1997)
http://scholar.google.com/scholar_case?case=2672695426086563527&q=Sod+Farm+Associates+v.+Springfield+Twp.+Planning+Board&hl=en&as_sdt=2,31
Municipality's decision to exclude plaintiff's property from the wastewater management plan and thus from sewer and water connections was permissible, even though this decision was inconsistent with the master plan. Municipality demonstrated that they had compelling reasons for doing so.

Gallo v. Mayor and Twp. Council, Lawrence Twp., 328 N.J. Super. 117 (App. Div. 2000)
http://scholar.google.com/scholar_case?case=12380573655259931333&q=Gallo+v.+Mayor+and+Twp.+Council,+Lawrence+Twp.,+&hl=en&as_sdt=2,31

Kirby v. Twp. Committee of Bedminster, 341 N.J. Super. 276 (App. Div. 2000)
http://scholar.google.com/scholar_case?case=13862343508254168284&q=Kirby+v.+Twp.+Committee+of+Bedminster&hl=en&as_sdt=2,31
Validity of two ordinances that changed the minimum lot area requirement from three to ten acres sustained where substantial evidence supporting the conclusion that changes are prudent planning

measures in aid of valid municipal purposes and goals.

Garretson v. The Borough of West Long Branch, A-5506-98T5 (App. Div. 2000)
Rezoning of property from commercial to residential was presumed to be reasonable.

Victor Recchia Res. Const. Corp. v. Zoning Bd. of Adjust, Twp. of Cedar Grove, 338 N.J. Super. 242 (App. Div. 2001)
http://scholar.google.com/scholar_case?case=4568300361346299636&q=Victor+Recchia+v.+Cedar+Grove&hl=en&as_sdt=4,31

Pheasant Bridge Corp. v. Township of Warren, 169 N.J. 282 (2001), *cert. den.*, 535 U.S. 1077 (2002)
http://scholar.google.com/scholar_case?case=7629936155511401158&q=Pheasant+Bridge+Corp.+v.+Township+of+Warren&hl=en&as_sdt=4,31

Manzo and Morgan Estates, L.L.C. v. Township of Marlboro, 365 N.J. Super. 186 (Law Div. 2002)
http://scholar.google.com/scholar_case?case=15706997970390658186&q=Manzo+and+Morgan+Estates,+L.L.C.+v.+Township+of+Marlboro&hl=en&as_sdt=4,31
Stated reason for the new zone which lowered density, *i.e.*, to protect a brook and reservoir, served a valid zoning purpose, was not inconsistent with the Township's master plan, and court would not disturb it if there was any reasonable basis to uphold it.

Rumson Estates v. Mayor of Fair Haven, 177 N.J. 338 (2003)
http://scholar.google.com/scholar_case?case=14262657760722724648&q=Rumson+Estates+v.+Mayor+of+Fair+Haven&hl=en&as_sdt=4,31

Bailes v. Twp. of East Brunswick, 380 N.J. Super. 336 (App. Div. 2005)
http://scholar.google.com/scholar_case?case=13145725938585386156&q=Bailes+v.+Twp.+of+East+Brunswick&hl=en&as_sdt=4,31
Presumption of validity overcome where down zoning of property not shown to serve the stated purposes of the ordinance and does not reflect the reasonable consideration of the character of the areas surrounding plaintiffs' property and not required to implement state zoning plan.

Salem Management Co. v. Township of Lopatcong, 387 N.J. Super. 573 (App. Div. 2006)
http://scholar.google.com/scholar_case?case=7956970064640989603&q=Salem+Management+Co.+v.+Township+of+Lopatcong&hl=en&as_sdt=2,31
Rent control ordinance presumed to be valid. Plaintiff failed to meet the burden to establish lack of rational basis for township's determination that the unregulated competition in the rental housing market was not operating in the public interest. Application of rent control to vacant units was rational and constitutionally sustainable.

Riya Finnegan, LLC v. Twp. Council of South Brunswick, 394 N.J. Super. 303 (App. Div. 2007)
http://scholar.google.com/scholar_case?case=14581236812914556022&q=Riya+Finnegan,+LLC+v.+Twp.+Council+of+South+Brunswick&hl=en&as_sdt=2,31
Zoning ordinances are presumed valid, unless an opponent establishes that they are "clearly arbitrary, capricious, or unreasonable, or plainly contrary to fundamental principles of zoning or the [zoning] statute." "Because the enactment of, or amendment to, a zoning ordinance is a legislative act, the Township's governing body is permitted to enact an amendment in response to objections to a proposed use of land as long as the amendment is consistent with the Municipal Land Use Law." In contrast to a zoning board which performs a quasi-judicial function, a township

council in performing a purely legislative function, such as the enactment of a zoning ordinance, is entitled to rely on the sentiments of its constituency and does not need to rely upon expert testimony.

New Jersey Shore Builders Association v. Twp. of Jackson, 199 N.J. 38 (2009)
http://scholar.google.com/scholar_case?case=5363690394281202616&q=New+Jersey+Shore+Builders+Association+v.+Twp.+of+Jackson&hl=en&as_sdt=2,31
The proper test for the validity of an ordinance enacted pursuant to the police power is the "rational basis" test. "The police power does not have its genesis in a written constitution. It is an element of the social compact, an attribute of sovereignty itself, possessed by the states before the adoption of the Federal Constitution." citing, Roselle v. Wright, 21 N.J. 400 (1965). "N.J. Const. Art. IV serves only to lift a limit that had been judicially imposed upon the exercise of the police power, which remains the wellspring from which the power to plan and zone flows." Tree removal ordinance enacted pursuant to the police power, which has as its purpose the amelioration of the evils of tree cutting, and also the maintenance of the biomass of the municipality with benefits to habitat, tree canopy and oxygen production found to be valid – it is a generic environmental regulation, and not a planning or zoning initiative – and not subject to the limits of the MLUL. "Factual support for the legislative judgment will be presumed and, absent a sufficient showing to the contrary, it will be assumed that the statute rested 'upon some rational basis within the knowledge and experience of the Legislature." citing, Burton v. Sills, 53 N.J. 86, 95 (1968). "The presumption of validity can only be overcome by proofs that preclude the possibility that there could have been any set of facts known or assumed to be known by the drafters that would, in the exercise of reason and common sense, have allowed them to conclude that the enactment would advance the interest sought to be achieved."

Hillsborough Properties, L.L.C. v. Twp. of Hillsborough, A-2209-13T2 (June 23, 2015)
https://scholar.google.com/scholar_case?case=13910392512516641901&q=Hillsborough+Properties&hl=en&as_sdt=4,31
Twenty-five acre zoning as applied to plaintiff's property invalidated as not consistent with the Township's rationale for its implementation where the uses permitted in the new zone are similar to those in other zoning districts where the required lot size range from one to five acres. However, the trial court erred in ordering the Township to adopt a five-acre minimum lot size because the matter should be remanded to the Township for its determination, "in the first instance," what minimum lot size is reasonable to achieve the purpose and goals of the zone.

The Matheny School and Hospital, Inc. v. The Land Use Board of the Bor. of Peapack and Gladstone, A-5008-13T1 (Jan. 24, 2017)
https://scholar.google.com/scholar_case?case=10985856370004990735&q=A-5008-13T1&hl=en&as_sdt=4,31
A board's interpretation of an ordinance is entitled to limited deference and is reviewed by the court de novo.

Cona v. Township of Washington, A-5067-15T3, A-5615-15T3, A-0443-16T3 (Aug. 29, 2018)
https://scholar.google.com/scholar_case?case=12486020922954749700&q=Cona+v+township&hl=en&as_sdt=4,31
Ordinances requiring fees for rental properties upheld as reasonably related to the municipalities' exercise of their obligation to promote the safety and welfare of their residents because they covered the cost of inspection of the rentals before they were occupied by a new tenant. Timber Glen distinguished.