

UL v. Cateret, Old Bridge

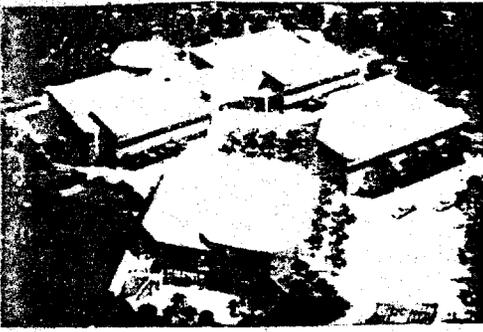
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- Letter Brief to Judge in lieu of formal brief re Opposition
to O & Y's Motion for Restraints Against Further Development Approvals

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Township of Old Bridge

MIDDLESEX COUNTY, N.J.

ONE OLD BRIDGE PLAZA • OLD BRIDGE, N.J. 08857

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April 16, 1985

Honorable Eugene D. Serpentelli, J.S.C.
Ocean County Courthouse
CN 2191
Toms River, N.J. 08753

Re: Urban League, et al
v. Township of Old Bridge
(O & Y's Motion For Restraints)

Dear Judge Serpentelli:

Please accept this letter in lieu of Formal Brief on behalf of the Township of Old Bridge in opposition to O & Y's Motion For Restraints Against Further Development Approvals. This letter is a supplement to the Affidavit in Opposition previously filed by me. First of all, this letter is being submitted solely on behalf of the Township of Old Bridge, with the understanding that the Planning Board and Municipal Utilities Authority have separate counsel in this matter. Specifically in regard to the argument concerning limited water resources, this is an area within the knowledge and understanding of the representatives of the Municipal Utilities authority, and I leave that issue for an appropriate response by the Municipal Utilities Authority.

Secondly, this letter is directed solely to the Motion for Restraints filed by Olympia & York. I have previously filed a letter response concerning the Motion concerning Oakwood at Madison which had been filed by the Urban League. I believe that these are separate Motions primarily because of the history of litigation concerning Oakwood at Madison.

Olympia & York seeks to enjoin the Township of Old Bridge from issuing any Building Permits for any residential, commercial or individual developments. The restraint requested is obviously overly broad and constitutes an attempt by Olympia & York to coerce the Township of Old Bridge into a settlement, regardless of the adverse effect upon the Township, other builders, and individual residents who seek to make improvements to their property. The restraints sought by Olympia & York would literally prevent a homeowner from adding a much needed addition to his house, would prevent clean, light industries with very little demand for water, as well as the commercial development



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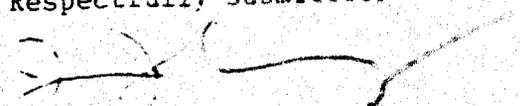
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which had received approval prior to the institution of the Mt. Laurel II lawsuit by Olympia & York.

Counsel for Olympia & York in its Brief, dated April 2, 1985, attempts to make a case against the Township for being "hostile" towards low and moderate income housing. I rely my Affidavit in Opposition concerning this issue. However, it is significant because ultimately Olympia & York is relying upon the "remedies for non-compliance", Mt. Laurel II 92 NJ 158, 285, when seeking to restrain the Township of Old Bridge from issuing any Building Permits. The Township of Old Bridge has negotiated in good faith with the builders in this matter, have reached a tentative agreement with those builders which has been submitted to the Urban League, and submits that there is no basis to the claim by Olympia & York that the Township has reached the stage of non-compliance. Based upon the facts of this case, there is no reason for the Court to consider imposing such a drastic remedy as requested by Olympia & York.

On the other hand, the Township of Old Bridge admits that it has agreed to a proposal with the builders whereby the PD Zone which encompasses approximately 6,000 acres would be subject to a mandatory set aside of 12% regarding low and moderate income housing. The PD Zone obviously includes the O & Y, Woodhaven and Oakwood at Madison properties. To the extent that the Township believes that the PD Zone should be subject to a mandatory set aside, there would seem to be a rational basis for a voluntary restraint by the Township of Old Bridge concerning the issuance of Building Permits for any residential PD Zone Development, pending resolution of the Mt. Laurel II lawsuits. This position by the Township of Old Bridge is based solely upon the fact that it has reached an agreement with the builders concerning a proposal for a set aside within the PD Zone. Furthermore, it would appear to be within the best interest of the Township of Old Bridge to receive credit for any residential development within the PD Zone concerning its Mt Laurel II obligation. The Township of Old Bridge, however, is adamant in its position that there is no rational basis for any restraint concerning anything other than residential PD Zone development.

Respectfully submitted,


Jerome J. Convery,
Township Attorney

JJC/jd
cc: All counsel of record