

U. L. v. Carteret

20 May 1987

Old Bridge

Letter w/ letter of Flutt + Certification  
of Halpern attached  
re: approval of Kerman

Pgs 8

CA000149 V



School of Law-Newark • Constitutional Litigation Clinic  
S.I. Newhouse Center For Law and Justice  
15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

May 20, 1987

VIA LAWYERS SERVICE

Mr. C. Roy Epps, President  
Civic League of Greater New Brunswick  
47-49 Throop Avenue  
New Brunswick, NJ 08901

Dear Roy:

Enclosed please find letter of Stewart Hutt, Esq.  
dated May 15, 1987 and Certification of Sam Halpern.  
I was advised this morning that there will be a  
telephone conference this Friday at 3 PM, pursuant to  
Stewie's request. Please telephone me if you have  
any comments.

Sincerely,

encls

cc/Payne, Neisser (w/encls)

*Law Offices*  
*Hutt, Berkow & Jankowski*

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*Gordon Berkow*  
*Stewart M. Hutt*  
*Joseph J. Jankowski*  
*Janice K. Scherer*  
*Ronald L. Shimanowitz*  
*Walter G. Luger*  
*Susan Brown Peitz*  
*Mark Williams*  
*Michael J. Sonnella*  
*Michael F. Kaelber*

*Park Professional Bldg.*  
*459 Amboy Avenue*  
*P. O. Box 648*  
*Woodbridge, N.J. 07095*

*Reply to*  
*P. O. Box 648*  
  
*(201) 634-6400*  
*Our File #*

May 15, 1987

The Honorable Eugene D. Serpentelli  
Superior Court of New Jersey  
Court House  
CN-2191  
Toms River, New Jersey 08754

Re: Woodhaven Village, Inc.  
O & Y Old Bridge Development  
Corp. - Old Bridge Township

Dear Judge Serpentelli:

I am in receipt of letter dated May 7, 1987 from Jerry Convery, Esq. and a letter dated May 12, 1987 from Thomas Hall, Esq., re: the above captioned matter. At the outset, I would like to advise you that when I received Thomas Hall's letter, I spoke to him, and he advised that when he wrote that he joins in Mr. Convery's request for a hearing on this matter, he did not intend to imply that he agreed with Mr. Convery's delineation of what the hearing should encompass, but only that this matter should be expedited.

Frankly, I was shocked at Mr. Convery's position that there should be a hearing concerning the delineation of the wetlands. As this Court knows, wetlands delineation is within the sole jurisdiction of the Army Corps. of Engineers, and the municipality. Therefore, it is unimportant what the developer's experts say are the wetlands, or what the municipalities expert's say are the wetlands, and certainly not a matter for Your Honor to determine.

In regard to the other matters set forth in Convery's letter, for which he wants to have experts' testimony such as the outline of the transportation system, and whether or not the

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The Honorable Eugene D. Serpentelli  
May 15, 1987  
Page -2-

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building of the properties constitutes good planning, etc.; these issues are certainly not the subject of a Motion to set aside the Settlement and Judgment.

These issues will arise when, as and if new settlement plans are presented to the planning board and the planning board will then determine whether they meet the Land Use Ordinance and the Settlement and Judgment.

V-B.3 (Approval Procedures) on Page 14 of the Settlement Agreement provides that in the event that the Planning Board does not approve a developer's Plat, (Plan the Court shall refer the matter to the Master for recommendations, and shall, thereafter, schedule hearings to determine what modifications, if any, would be necessary in order to make the plate acceptable to the Court. It goes on to provide as follows:

"The Master shall provide the Court with recommendations, and the Court shall base its decision on the record before the Planning Board, materials supplied to the Master, and the Master's recommendations. No testimony, other than the Master's reports, shall be taken before the Court."

(emphasis supplied)

In short, I do not conceive of any testimony before Your Honor on the return date of the Motion with the possible exception of a verbal report and questioning by the Court, of Ms. Lerman, the Master. Even if we were at the stage where the planning board had turned down or modified new revised applications by the developer, and the developers wished to contest the denial or recommendations of the planning board, the Settlement Agreement makes it perfectly clear that there should be no plenary hearings before Your Honor, but rather, that the above described procedures would be followed. A fortiori, since there has been no plan presented to the planning board and, accordingly, there has been no denial of a plan by the planning board, pursuant to the terms of the Settlement Agreement, a plenary hearing before Your Honor, with expert testimony about plans yet to be submitted, is clearly premature.

In regards to the rest of Mr. Hall's letter, I agree that

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The Honorable Eugene D. Serpentelli  
May 15, 1987  
Page -3-

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this Court should rule as soon as possible on Ms. Lerman's status, regarding the so called "potential conflict of interest". We are submitting with this letter, or soon thereafter, a Certification from our client as to this matter, that should clear it up.

Our client is meeting with the Army Corps. of Engineers at the site, on Tuesday, May 19, 1987, and hopefully the Army Corps. will give us its opinion shortly thereafter as to the extent of the wetlands.

While I am anxious to dispose of this matter, along with everyone else involved, it seems silly to set any deadlines for hearings, unless and until you have received Ms. Lerman's report.

I might also add that I will be out of the state from June 1, 1987 to June 9, 1987, and since Tom Hall has advised that he will be out of state from July 16, 1987 to July 23, 1987, I would think that a realistic return date of the Motions would be sometime in July.

Prior to that time, I would have no objection, if it suits Your Honor's desires, to have either an in person or telephone status conference, concerning the diversion of views in this matter, so that when a return date is decided upon, all the parties concerned will know the parameters.

Thank you for your kind attention to this matter.

Respectfully yours,

STEWART M. HUTT  
For the Firm

SMH:lp

cc: Attached Service List

Service List - Old Bridge

Thomas Norman, Esquire  
Norman & Kingsbury  
Jackson Commons A-2  
30 Jackson Road  
Medford, NJ 08055

Jerome J. Convery, Esquire  
151 Route 516  
P.O. Box 872  
Old Bridge, NJ 08857

Stewart Hutt, Esquire  
Hutt, Berkow & Jankowski  
459 Amboy Avenue  
P.O. Box 648  
Woodbridge, NJ 07095

Dean Gaver, Esquire  
Hannoch Weisman  
4 Becker Farm Road  
Roseland, NJ 07068

Barbara Stark, Esquire  
Rutgers School of Law  
Constitutional Litigation Clinic  
15 Washington Street  
Newark, NJ 07102-3192

William Flynn, Esquire  
Antonio & Flynn  
255 Highway 516  
P.O. Box 515  
Old Bridge, NJ 08857

~~Frederick C. Mezey, Esquire  
Mezey & Mezey  
93 Bayard Street  
P.O. Box 238  
New Brunswick, NJ 08903~~

Lloyd Brown  
Executive Vice President  
O&Y Old Bridge Development Corp.  
760 Highway 18  
East Brunswick, NJ 08816

Thomas Hall, Esq.  
Brener, Wallack & Hill  
210 Carnegie Center  
Princeton, New Jersey 08543

Carla Lerman - Master  
413 West Englewood Drive  
Teaneck, N.J. 07666

HUTT, BERKOW & JANKOWSKI  
A PROFESSIONAL CORPORATION  
459 AMBOY AVENUE  
P.O. BOX 648  
WOODBRIDGE, NEW JERSEY 07095  
ATTORNEYS FOR PLAINTIFF, WOODHAVEN VILLAGE, INC.

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URBAN LEAGUE OF GREATER NEW NEW BRUNSWICK, et al.	)	SUPERIOR COURT OF NEW JERSEY
	)	CHANCERY DIVISION
	)	MIDDLESEX COUNTY/ OCEAN COUNTY
Plaintiffs,	)	( <u>Mount Laurel II</u> )
vs.	)	
THE MAYOR AND COUNCIL of the BOROUGH OF CARTERET, et al.	)	DOCKET NO. C-4122-73
Defendants,	)	
and	)	
O & Y OLD BRIDGE DEVELOPMENT CORPORATION, a Delaware Corporation,	)	SUPERIOR COURT OF NEW JERSEY
	)	CHANCERY DIVISION
	)	MIDDLESEX COUNTY/ OCEAN COUNTY
and	)	( <u>Mount Laurel II</u> )
WOODHAVEN VILLAGE, INC., a New Jersey Corporation,	)	DOCKET NO. L-009837-84 PW and NO. L-036734-84 PW
Plaintiffs,	)	
vs.	)	
THE TOWNSHIP OF OLD BRIDGE in the COUNTY of MIDDLESEX, a Municipal Corporation of the State of New Jersey, THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF OLD BRIDGE, THE MUNICIPAL UTILITIES AUTHORITY OF THE TOWNSHIP OF OLD BRIDGE, THE SEWERAGE AUTHORITY OF THE TOWNSHIP OF OLD BRIDGE and THE PLANNING BOARD OF THE TOWNSHIP OF OLD BRIDGE,	)	CIVIL ACTION
Defendants.	)	CERTIFICATION OF SAM HALPERN

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I, SAM HALPERN, of full age, do hereby certify as follows:

1. I am the President of Woodhaven Village, Inc. and a principal of the Halpern Organization which includes various and numerous entities involved in the land development industry. As such, I am completely familiar with the factual circumstances of the within lawsuit as well as the operations of the numerous other Halpern Organization entities.

2. I have received and reviewed a copy of Carla Lerman's letter of April 13, 1987 and Thomas Norman's letter of April 30, 1987 both of which concern an alleged conflict of interest on the part of Carla Lerman as a result of the sale of property owned by Ms. Lerman to Leo Stahl's son and daughter-in-law. I make this certification in response to the aforesaid Thomas Norman's letter of April 30, 1987.

3. Leo Stahl is not now and has never been employed by, owned an interest in, or in any way associated with Woodhaven Village, Inc.

4. Leo Stahl has had and still has a minor interest in a few of the numerous entities which comprise the Halpern Organization. Leo Stahl has had and still has no major decision making power in any of these entities. The entities in which Leo Stahl has had and now has a minor interest do not include Woodhaven Village, Inc. or any entity remotely associated with Woodhaven Village, Inc. In addition, the entities in which Leo Stahl has had or now has an interest are not located in Old Bridge Township.

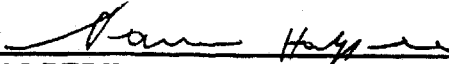


5. Leo Stahl first became associated with certain entities of the Halpern Organization in the year 1963 and, as stated above, continues to have a minor interest in certain entities which are not associated with Woodhaven Village, Inc. and which are not doing business in Old Bridge Township.

6. To the best of my knowledge, Leo Stahl has never maintained a business office of his own and, accordingly, has utilized the Halpern Organization telephone number and mailing address solely as a matter of convenience.

7. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: May 15, 1987  
RLS:al  
5/13/87  
W:0347A

  
\_\_\_\_\_  
SAM HALPERN