

Old Bridge (1987)

Report to Judge

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CA 000179L



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

September 17, 1987

Re: Oakwood at Madison

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

Dear Roy:

Enclosed please find report of George Raymond
in connection with the above matter.

Sincerely,



encls

cc/Payne, Neisser (w/encls)

EDWARD J. RYBCZYK

GEORGE M. RAYMOND, A.I.C.P., A.I.A., Chairman

BERNARD J. BULLER, P.E., A.I.C.P.
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PATRICIA KELLY
NOEL SHAW JR., R.A., A.I.A.
CSABA TEGLAS, A.I.C.P., C.I.P.
DIANE C. TOOLAN

September 14, 1987

Hon. Eugene D. Serpentelli, J.S.C.
Superior Court of New Jersey
Ocean County Court House
100 Hooper Avenue
Toms River, New Jersey 08753

Re: Urban League/Oakwood at Madison, Inc.

My dear Judge Serpentelli:

By letter dated September 3, 1987, Frederick C. Mezey, Esq., attorney for Oakwood at Madison, Inc., informed me that on May 26, 1986, the Old Bridge Township Planning Board had approved an application by Oaks Development Corporation (The Oaks) for a Planned Development consisting of 1,735 residential units and a variety of non-residential uses. This project will be built on the Brunetti site which, in the January 24, 1986 settlement (The Settlement), was relied upon to produce 174 lower income housing units. Because this project is ready to proceed immediately, Mr. Mezey claims that it would "put the Oakwood project at an obvious and significant disadvantage in regard to the pricing of their units."

A cursory review of the conditions attached by the Planning Board to its approvals of the two projects suggests that the off-site exactions affecting The Oaks project are considerably less onerous than those attached to the Board's August 23, 1979 final approval of the Oakwood development. This, combined with the 50% greater proportionate Mount Laurel burden allocated to Oakwood, does seem to reduce that development's potential profit margin if (1) all other design and amenity aspects of the two developments will be identical, (2) they will be marketed at the same time, and (3) similar units in both projects will be priced the same.

The possibility that other projects (including The Oaks) might be marketed simultaneously with Oakwood was inherent in The Settlement with which, however, Oakwood did not concur.

To satisfy the timing requirements of the Mount Laurel doctrine, the 174 units to be contributed by The Oaks development as well as the 283 units assigned to Oakwood would have to be constructed prior to the end of 1992. The Oaks approval by the Planning Board was for 15 years, with a provision authorizing its extension for an additional 5-year period. As indicated in my August 3, 1987 letter-report, the Oakwood approval will lapse in 1989 and will have to be renewed for at least ten more years to permit completion of the project. The lower income unit phasing formula proposed in the Oakwood settlement would permit the postponement of production of lower income units in a way that would seem to almost preclude their provision of any such units prior to 1992 assuming a reasonably normal overall production schedule.

In view of the above, the current status of the compliance package incorporated in The Settlement casts serious doubt upon the possibility of 1,668 units being built within the next 4½ years. On the other hand, despite the reduction in scale due to the new delineation of wetlands, full application of the Township's Ordinance 55-85 10% set-aside requirement to the Woodhaven development would result in increasing the number of units it could be expected to generate from 260 units, as per The Settlement, to 528. Even allowing for major attrition, the residual increase would probably exceed the 80-unit reduction requested by Oakwood. Therefore, if the period of compliance is extended, as seems to be inevitable, the numbers contemplated in The Settlement would be achievable even if Oakwood's application were granted.

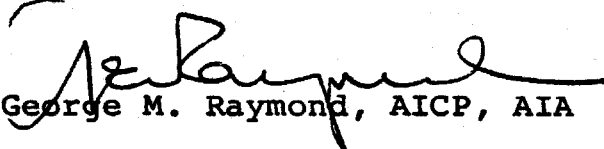
I am not totally convinced that the reasonable profitability of the Oakwood project would be precluded by more burdensome Mount Laurel requirements compared with those affecting a direct competitor. Nevertheless, given the near-impossibility of demonstrating the opposite, based on the new information supplied by Oakwood, I feel compelled to modify the recommendations offered in my August 3, 1987 report to read as follows:

1. That the Mount Laurel set-aside for Oakwood be reduced to 183 units.
2. That Oakwood be made subject to all housing-related requirements of The Settlement, specifically including the Section 4-8:1.d. phasing requirements and to the Section 4-8:1.h physical dispersion requirements of Ordinance No. 55-85, as amended by Ordinance No. 4-86.

3. If not already guaranteed by the terms of The Settlement, that the Township be precluded from modifying Ordinances 54-85 and 55-85 without Court approval prior to the provision of 1,668 lower income units, substantially as contemplated in Section 2 of The Settlement, in addition to any units that may be required after 1992 pursuant to whatever rules and regulations may be then in effect; and that no units required to satisfy the 1,668-units requirement be permitted to be offered prior thereto toward the satisfaction of any such other requirement.

I wish to note that these recommendations are substantially in accord with the basic position of the Civic (formerly Urban) League.

Respectfully submitted,


George M. Raymond, AICP, AIA

GMR:kfv

cc: Jerome T. Convery, Esq.
William Flynn, Esq.
Thomas Hall, Esq.
Stewart Hutt, Esq.
Frederick C. Mezey, Esq.
Thomas Norman, Esq.
Barbara Stark, Esq.