

U.L. v. Carteret

4/25

1986

● Lawyer Notes (4 toms)

pgs. 3

p.i. 1035

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*Notes for argument
on conditions motion
4/25/86*

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General order:

1. Intervention
2. vacant land conditions: Piscataway/S.Pfld
3. infrastructure conditions: Cranbury/Monroe
4. other issues: Master's fee (Monroe); UL appearance before AHC

Intervention motions:

- Caleb/Realty Transfer - Monroe - Julie Hirsch
- Sudler/Howco - Cranbury -- no formal motions to intervene
- Massaro et al -- South Plainfield - John George

No need for formal intervention.

Clutter up the remaining proceedings in this court and on trf

No objection to being heard now - this is what Ct did in
Piscataway and S.Pfld on earlier restraints motions.

VACANT LAND ISSUES

Emphasize narrow issue presented to the Ct

1. Restraints presently exist as to both towns

Supreme Ct clearly intended to reach this type of situation

These specific restraints were clearly before the court in
Hills

2. Hills does not use the words "bad faith" -- it talks abt
"previous actions of the munic and its officials" slip at 89

Both towns have shown that they will preserve land ONLY if obeying orders, and both have even disobeyed orders. Hence continued restraints needed.

3. Piscataway

- Order of Dec. 11, 1984; inconceivable that these orders not presently in effect. Inconsistent w/ Supreme Ct concern

- Fair share will be large

- even if council methodology reduces numbers, Pisc will have a big fair share

- 2200 = 60% of UL methodology

- UL position that vacant land not a cap on fair share

- with \$\$ in fair housing act, small sites are viable for 100% ML housing

- need discovery on current status of parcels in Carla Lerman inventory and other vacant land given up earlier; not bound by those concessions now.

- Pisc says no development activity. Cuts both ways:

- * if so, no real burden on anyone

- * but be realistic: plenty of development if not w/ ML

conditions. Must preserve.

- ties into the Site 3 problem. Need Ct approval of that.

If Ct releases restraints, no doubt that site 3 will develop w/o a ML component or offsetting contribution

4. South Plainfield

- Fair share will be large, so true limit likely to be available land. Not bound by 600/900 concession in June '84 settlement

- Orders of July 19 and August 9, 1985; SPfd does not dispute that these restraints are in force

- Our timely motion to enjoin rescinding of the ZO and Afford Housing ord. Because ct unable to hear, now a fait accompli.

- Two ways to proceed:

* ct order the ordinances back into effect. Past history shows that it will take months, if not years, to get them reenacted; if in being, can be implemented whenever AHC orders

- this also emphasizes that there is some economic use of the land. Less rigorous than restraint

* impose the July/Aug restraints as condition, w/ the usual proviso that can release for ML projects. Also adopt by reference the AFF Hous Ord, even if not in effect. Respects S.Pfld's political preferences and save Ct/AHC from reviewing individual site problems.

- Continue restraints on boro land sales for same reasons, w/ proviso that escrow account will permit sales. Recent order re: Mohan purchase

* lands w/in judgment. \$\$ will permit variety of municipal choices once subst certification granted. Not comitted to 4:1 setback

- Discovery on additional sites. UL gave up some, because a true settlement process. Not bound anymore.

INFRASTRUCTURE ISSUES

These issues are also very narrow