

Cranbury 1984

9/19

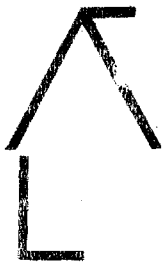
letter re: builder's remedy

pgs = 2

wp.i.

~~CA000299L~~

CA000299L
300



NCDH
National Committee
Against Discrimination
in Housing

733 15th Street, N.W., Washington, D.C. 20005 • (202) 783-8150

September 19, 1984

PRESIDENT

Robert C. Weaver

CHAIRMAN

Harold C. Fleming

VICE PRESIDENTS

Sol Rebkin
Ruth Robbins
Kale A. Williams

SECRETARY

Madison S. Jones

TREASURER

Samuel J. Simmons

ASSISTANT TREASURER

Martin E. Sloane

DIRECTORS

Betty Adams
Arnold Aronson
Ben Barkin
Joseph Battle
Dale F. Bertsch
Philip Brownstein
Herrington Bryce
Yvonne Braithwaite Burke
Adrian De Wind, Esq.
Charles T. Duncan
Robert Embry, Jr.
Christopher E. Edley
Robert Raymond Elliott
Dwight M. Ellis
Margaret Fisher
Herbert Franklin
Fred Freiberg
Jose Garza
Marvin S. Gilman
Donald Harris
LaDonna Harris
Dorothy I. Height
Norman Hill
Karla Irvine
Jay Janis
J. Bruce Llewellyn
Leon Lynch
Myrna Loy
Cyril Magnin
Melvin Mister
William O. Oliver
Lee Porter
William F. Rafsky
Marvin Rich
Dorothy Ridings
James S. Robinson
Patricia Rouse
Dr. Juliet Saltman
Henry Schechter
Althea Simmons
William Tisdale
Glegg Watson
Barbara Wurtzel

EXECUTIVE DIRECTOR

Martin E. Sloane

GENERAL COUNSEL

Bruce S. Gelber

Hon. Eugene D. Serpentelli, J.S.C.
Superior Court of New Jersey
Ocean County Court House
C.N. 2191
Toms River, New Jersey 08754

Re: Urban League of Greater New Brunswick v. Borough of Carteret, et. al.

Dear Judge Serpentelli:

This is in response to your memorandum of September 14th regarding Mr. Hutt's letter of September 12th.

The Urban League's position on a late-filing developer's entitlement to a builder's remedy is set forth in our Memorandum of Law Concerning Builder Remedy Priorities dated May 23, 1984. In footnote 2 of that brief, we expressed the view that developer-plaintiffs are "entitled" to a builder's remedy, if at all, only if they have participated in the trial of the constitutional issues. We added, however, that all developers who propose to build Mount Laurel housing should be allowed to participate fully at the remedy stage to assure that they are given site-specific consideration during the ordinance revision process. This procedure increases the likelihood that Mount Laurel housing will actually be built, while maintaining some degree of differential between those developers who bear the load of litigation and those who do not.

In light of this position, we have no objection to Mr. Hutt's request that Ms. Lerman be instructed to consider evidence and make recommendations regarding the planning suitability

Letter to Hon. Eugene Serpentelli
September 19, 1984
Page Two

of each developer-plaintiff's site and, for that matter, any other site for which a landowner or developer proposes to build Mount Laurel housing. As noted above, it is our belief that such site-specific consideration does not imply an "entitlement" to a builder's remedy. Nevertheless, we firmly believe that it is appropriate for the master to make recommendations regarding the suitability of these sites, since, all else being equal, it is obviously preferable to rezone suitable sites for which developers have expressed an interest in constructing Mount Laurel housing, than to rezone sites for which no such interest has been shown.

Sincerely,



Bruce S. Gelber
General Counsel

BSG:vb

cc: Barbara Williams, Esq.
Stewart M. Hutt, Esq.
Arnold K. Mytelka, Esq.
Carl Bisgaier, Esq.
Thomas Farino, Jr., Esq.
William Moran, Esq.