

U.L. v. Cateret, Cranbury Twp. 6/11 1985

● Letters discussing appropriateness of expert reports

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June 11, 1985

Hon. Eugene D. Serpentelli, A.J.S.C.
Ocean County Courthouse
CN 2191
Toms River, New Jersey 08754

Re: Urban League of Greater New Brunswick
v. Borough of Carteret [Cranbury]

Dear Judge Serpentelli:

I am writing to express my great concern about the delays which have occurred in exchanging experts' reports in Cranbury. As Your Honor will recall, at the case management conference on May 3, the plaintiffs were to submit reports within twenty days, that is, by May 23, if possible, and the Township was to submit its responsive report thereafter. The expectation was that all reports would be in hand by the middle of June, and that the compliance hearing might begin late in June if the Court's schedule permitted.

The Urban League's report has now been submitted and I am advised by Mr. Bisgaier that his report in behalf of Cranbury Land Company was mailed today, June 11. I am also advised by Mr. Herbert that by a letter which has not yet arrived he has requested permission to submit reports in behalf of Lawrence Zirinsky on June 21. While I would have preferred that Mr. Herbert had apprised the Court and the parties of his delay at an earlier date, I will not object to his submission by June 21 because, as a practical matter, the Cranbury litigation cannot be resolved fairly without expert testimony on Mr. Zirinsky's site. Needless to say, I would strongly oppose any extension beyond that date.

I am most troubled to learn, however, that Garfield and Company has, as yet, not even begun to prepare an expert report. Mr. Warren informs me that there has been an exchange of correspondence between himself, Mr. Moran and the Court concerning the definition of the density issue on Garfield's site, that Mr. Warren has

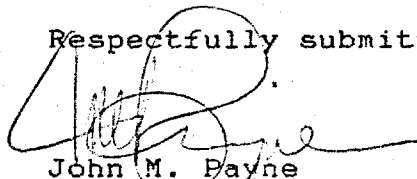
Hon. Eugene D. Serpentelli, A.J.S.C.
June 11, 1985
Page 2

requested a ruling from the Court, and that Garfield cannot prepare its report until such ruling is made. I am at a loss to understand how this issue could have been presented to the Court without notice to the other parties, and I strenuously object to Mr. Warren's unilateral assumption that the case management schedule could be delayed in this manner.

Accordingly, I request on behalf of the Urban League plaintiffs that Garfield and Company be directed to submit its expert's report no later than June 21, 1985, the date the Mr. Zirinsky requests, or be precluded from presenting expert testimony. (The Garfield report should take alternate positions, if necessary, to deal with the contingencies on density.) I further request that in light of the extensive delay, and the extended time that Cranbury has had to evaluate its position, that any further report of the township's expert, Mr. Raymond, be submitted no later than July 1, 1985. If the Court is willing to establish these deadlines, I believe that it would also be possible to establish now a trial date in early July or as soon thereafter as the calendar permits.

Finally, I would request that Mr. Warren furnish the parties with the full correspondence on the density issue so that we may advise the Court of our position in this matter.

Respectfully submitted,



John M. Payne
Attorney for the Urban
League Plaintiffs

JMP/id

Copy: All Cranbury Counsel

BISGAIER AND PANCOTTO

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CARL S. BISGAIER
LINDA PANCOTTO

May 31, 1985

HON. EUGENE D. SERPENTELLI, A.J.S.C.
Ocean County Court House
CN 2191
Toms River, New Jersey 08754

Re: Cranbury Land Company v. Cranbury Tp.

Dear Judge Serpentelli:

Plaintiff's expert reports in the above-referenced matter are virtually complete. I expect that they will be filed on or before June 7, 1985.

Respectfully yours,

CARL S. BISGAIER

CSB:emm
cc: all counsel of record

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July 2, 1985

The Honorable Eugene D. Serpentelli, A.J.S.C.
Ocean County Court House, CN 2191
Toms River, New Jersey 08754

Re: Urban League of Greater New Brunswick v. Carteret, et al.
No. C 4122-73 (Cranbury)

Dear Judge Serpentelli:

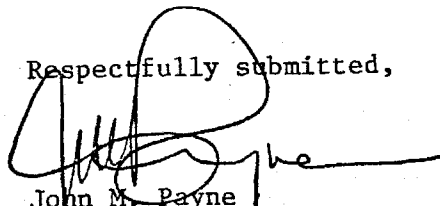
I am writing with regard to the scheduling of the Cranbury compliance hearing.

In accordance with Your Honor's letter of June 19, all plaintiffs' experts' reports were filed by June 24, 1985, and the sole remaining report, that of Cranbury Township in reply, is due no later than July 24, 1985. Since this date is firm, we respectfully urge that the Court set a hearing date for as soon thereafter as possible.

The Urban League plaintiffs' expert, Alan Mallach, will be unavailable between July 20 and August 4, but thereafter generally available during August and September. Either Eric Neisser or I will be available at all times after July 23. Because this hearing was initially planned for early summer, we recognize that other counsel or the Court may have scheduling difficulties in August; if an August hearing is impracticable, we would request a firm date immediately after Labor Day.

In requesting a hearing date, we do not overlook the recently-enacted Mount Laurel legislation, but we understand it to have no application to our suit, which was filed (to say the least) well before January 20, 1983. If other parties seek to interpose the legislation as a bar to a hearing at this time, we would suggest that this be called to the attention of the Court immediately, so that any question can be briefed and argued during July, rather than engendering a further de facto delay.

Respectfully submitted,



John M. Payne
Co-Counsel for the Urban League Plaintiffs,
on behalf of the American Civil
Liberties Union of New Jersey

cc/All Cranbury Counsel

HUFF, MORAN & BALINT

COUNSELLORS AT LAW

CRANBURY-SOUTH RIVER ROAD

CRANBURY, NEW JERSEY 08512

J. SCHUYLER HUFF
WILLIAM C. MORAN, JR.
MICHAEL P. BALINT

TELEPHONE
(609) 655-3600

June 12, 1985

DAVID E. ORRON

Honorable Eugene D. Serpentelli, A.J.S.C.
Ocean County Court House
CN 2191
Toms River, New Jersey 08754

Re: Urban League vs. Cranbury Township

Dear Judge Serpentelli:

The day after I received your request for notification as to when the various parties will be ready for trial in the above matter, I received correspondence from both Mr. Bisgaier and Mr. Herbert. Mr. Bisgaier's correspondence was a copy of a letter addressed to you, enclosing copies of various expert reports. As Your Honor is aware since you have seen them, the reports are quite extensive.

The correspondence from Mr. Herbert was a copy of a letter addressed to you, in which he indicated that he expected to have reports from his five experts, together with an additional expert on historic restoration, by Monday June 24, 1985.

Your Honor may recall that at the case management meeting which was held on Friday, May 3, 1985, all plaintiffs were given thirty days to submit any expert reports. The Township was then to be given an additional thirty days in which to submit any responses. Those thirty days were up on June 2, 1985, therefore Mr. Bisgaier's reports were submitted and received by me approximately ten days late, and if Mr. Herbert is able to follow his schedule, his reports will be submitted approximately three weeks late. I am not writing for the purpose of being critical of their failure to meet the time deadlines as outlined by the Court. I, if anyone, am sensitive to the difficulties in trying to get out extensive planning studies in short periods of time. However, I would like to reserve the thirty days which were originally given to me from the date these reports were submitted, prior to the start of trial.

The reports submitted by Mr. Bisgaier, particularly the report by Mr. Hunter, go into great detail on issues which up until now have only been hinted at. Obviously, I have not completed a detailed review of all of Mr. Bisgaier's reports, and am therefore not in a position to comment as to the extent to which they require a response. Similarly, I cannot make any such comment about the reports to be submitted by Mr. Zirinsky's experts. I can say that in response to part of Mr. Bisgaier's report, the Township tentatively intends to call upon the services of Mr. Warner Thurlow, Middlesex County's Agricultural Agent, and several farmers in their thirties and forties who are actively farming in Cranbury Township. Until I have had a chance to meet with these gentlemen and discuss what their testimony may be, I will not be in a position to submit reports by them or to even know how much time I will need to prepare.

For this reason, I am requesting again that the Township be given the full thirty days from the date of the submission of the last of the plaintiff's expert reports, to submit its reports and be prepared for trial.

Respectfully submitted,



WILLIAM C. MORAN, JR.

WCM/ah

cc: All counsel of record

BISGAIER AND PANCOTTO

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CARL S. BISGAIER
LINDA PANCOTTO

June 11, 1985

Honorable Eugene D. Serpentelli, A.J.S.C.
Ocean County Court House
CN 2191
Toms River, New Jersey 08754

Re: Cranbury Land Company v. Cranbury Tp.

Dear Judge Serpentelli:

I am in receipt of a copy of Alan Mallach's report in the Urban League case dated May, 1985. That report contains, among other elements, a section on phasing entitled "Phasing of Development". I would like clarification as to whether the phasing issue will be addressed during the hearings on site suitability.

My understanding was that only site specific issues would be addressed. Phasing was thought to be one of the compliance issues which would be addressed at a subsequent hearing. Plaintiff has not submitted a report on phasing but intends to do so at the appropriate time. Please let me know when the issue will be heard.

Respectfully yours,

CARL S. BISGAIER

CSB:emm
cc: all counsel of record