

Manroe, VIL. v. Cardrot

2/4 (1985)

(~~1984~~)

Certification of William R. Tipper

4 pgs

CA000362V

CERTIFICATION

WILLIAM R. TIPPER, residing at 338N Narragansett Lane, Rossmoor, Township of Monroe, New Jersey, hereby certifies as follows:

1. I am a member of the governing body of the Township of Monroe, County of Middlesex, New Jersey, and, in addition, am presently serving as President of the Council of the Township of Monroe. In that capacity, I am thoroughly familiar with the subject litigation involving a challenge to the Zoning Ordinances of the Township of Monroe which litigation resulted in an Order of this Court dated August 13, 1984, which, among other things, invalidated the Zoning Ordinances of the Township of Monroe and required that the Township of Monroe revise its Zoning Ordinances to comply with Mt. Laurel II.

2. Following the Letter Opinion of this Court dated July 27, 1984, in which the Land Use Regulations of the Township of Monroe were declared invalid under Mt. Laurel II guidelines, the governing body of the Township of Monroe at a special meeting held on September 12, 1984, voted unanimously to support Mayor Peter P. Garibaldi in his efforts to resist the imposition of the Mt. Laurel housing decision as it would impact upon the Township of Monroe.

3. On September 18, 1984, the undersigned and Councilman Michael Leibowitz, along with Thomas R. Farino, Jr., Township Attorney, appeared before the Hon. Eugene D. Serpentelli, at which time the Court explained the various remedies available to it for non-compliance by the municipality.

4. Following this meeting with the Court, the governing body of the Township of Monroe conducted an emergency session on September 24, 1984, to reconsider its initial position. Following renewed deliberations, the governing body of the Township of Monroe unanimously agreed to reverse its earlier position and to comply with the Order of the Court dated August 13, 1984, and to expeditiously initiate efforts aimed at re-zoning so as to accommodate low and moderate income housing.

5. The aforesaid position was embraced in a resolution of the governing body dated September 24, 1984, which resolution authorized a re-zoning, UNDER PROTEST, so as to preserve the Township's right to appeal the Order of the Court.

6. Following this decision of the governing body to undertake efforts to comply with the Order of the Court, Mayor Peter P. Garibaldi reaffirmed his position to defy the Order of the Court and, in addition, directed all municipal professionals to include the Township Attorney, Township Engineer and Township Planner, to refrain from assisting the governing body in its deliberations aimed at re-zoning to comply with the Order of the Court.

7. Following its decision to undertake efforts to re-zone, the governing body scheduled several special meetings on Saturdays and week nights for this purpose. At these meetings, the only professional in attendance was the Township Attorney, Thomas R. Farino, Jr. The Township Engineer, Harry C. Applegate, III, and the Township Planner, Peter Tolischus,

elected to heed the Mayor's directive and to refrain from assisting the governing body.

8. Inasmuch as the task before the governing body, namely a re-zoning to achieve compliance with Mt. Laurel II, consisted of many engineering and planning issues, the absence of the Township Engineer and Township Planner at Council deliberations placed the Council at an extreme disadvantage. The Council found itself relying heavily upon Carla Lerman, the Court-appointed Master in this matter.

9. While Carla Lerman and the Township Attorney, Thomas R. Farino, Jr., provided valuable professional input with regard to the Council's re-zoning task, many issues fell outside the area of Mr. Farino's expertise, such as planning and zoning. In addition, while Ms. Lerman provided valuable planning counsel, by virtue of her being the Court-appointed Planner, it is felt that the Council requires a certain degree of independent planning advice at this posture of its deliberations.

10. Presently, the governing body has reached a consensus with regard to re-zoning and site selection aimed at complying with the Order of the Court.

11. At a special meeting of the governing body conducted on January 28, 1985, the governing body authorized the retention of Carl Hintz, a Professional Planner, for the purpose of preparing the Township's compliance package for submission to the Court. Upon learning of this action, Mayor Garibaldi advised the governing body that its actions were illegal and that only his office had the authority to enter into such

contracts. As has been the Mayor's position from the outset, he has indicated that he will not authorize payment for any professional services rendered in connection with the efforts of the governing body aimed at compliance with the Order of the Court. These professional services would include the Township Attorney, Mr. Hintz and Carla Lerman. While Ms. Lerman has submitted her billing statement to the Township for its proportionate share of her services during the trial phase of this matter, the Mayor has refused to authorize payment of same.

12. While the actual issue of payment of billing statements to be submitted by the Township Attorney, Ms. Lerman and Carl Hintz will be addressed at some future date, the governing body is requesting an Order from the Court to authorize the retention and use of professional services at this point in time so as to avoid future confrontations with the Mayor regarding questions of legality and authority as to professional services needed by the Council concerning Mt. Laurel II activities.

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 wilfully false, I am subject to punishment.


WILLIAM R. TIPPER

DATED: February 4, 1985