

Monroe 1985

7/23

Notice to Judge P's will seek an Order

pgs = 5

no P.I.

CA000363N

CLAPP & EISENBERG

CA000363N

ALFRED C. CLAPP
GEORGE S. FISCHLER
ARNOLD R. MYTELKA
STUART L. PACHMAN
ROGER S. CLAPP
WILLIAM J. O'SHAUGHNESSY
EDWARD N. FITZPATRICK
MICHAEL A. BACHER
GERALD H. LITWIN
JEFFREY W. LORELL
LAWRENCE B. MINK
DOROTHY G. BLACK
MICHAEL L. MESSER
RONALD H. JANIS
SALVATORE T. ALFANO
JEFFREY M. SCHWARTZ
FREDERIC S. KESSLER

OF COUNSEL
JEROME C. EISENBERG

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW

80 PARK PLAZA

NEWARK, N.J. 07102

(201) 642-3900 (212) 571-0240

CABLE CLAPPEISEN

TWX 7109954409

TELECOPIER (201) 642-7413

ATLANTIC CITY OFFICE

1421 ATLANTIC AVENUE

ATLANTIC CITY, N.J. 08401

(609) 347-7330

MARK FALK
ROBERT A. MARSICO
FREDA L. WOLFSON
JOHN A. AVERY
FRANCINE A. SCHOTT
RICHARD KLEINMANN
PETER R. YAREM
KATHY M. HOOKE
BRYNA L. EDWARDS
GAIL L. MENTUR
ALAN RUBIN
SHARON ADAMS BOSSEMAYER
JAMES P. BRUNO
JOHN L. CONOVER
JEFFREY L. KANTOWITZ
AGNES I. RYMER
DAVID A. PERSINO
RICHARD M. SKOLLER

July 23, 1985

Federal Express

Honorable Eugene D. Serpentelli
Superior Court of New Jersey
Court House
CN 2191
Toms River, New Jersey 08754

Re: Urban League v. Carteret
(Monroe Township)

Dear Judge Serpentelli:

The motion brought by the Urban League for injunctive relief has been moved up from August 2 to this Thursday, leaving us little time to address the real issue presented by this motion: Is there a Monroe Township compliance package before this Court?

We say there is none and we submit that an injunction to preserve a status that does not exist is not an injunction to preserve the status quo. The injunction should not be granted and the Court should proceed to the remedial phase of this case without delay.

A

By Order entered almost a year ago, this Court directed Monroe Township to revise its zoning ordinance to comply with Mount Laurel II by October 25, 1984. Order of August 13, 1984, paragraph 6. The deadline was not met. Instead, extensions were sought and granted. By letter of February 6, 1985, Your Honor approved a 10 day extension request "with the understanding that you expect to have completed your work by that date." By letter of March 12, 1985, Your Honor recognized that "there have been numerous extensions in this matter and it is now becoming imperative that the case be brought to a conclusion in fairness to all parties concerned." Your Honor's letter continued with the grant of "an extension of the compliance period to March 18, 1985 with the sincere hope that no additional request for extension will be necessary."

After all that time, Monroe Township mustered only three council votes for an ostensible compliance package. The Mayor voiced vehement opposition. There is zero evidence that any ordinance would carry over his veto. And the August 13, 1984 requirement of an ordinance revision has simply not been met.

We pointed this out to Your Honor in our letter of April 2, 1985. We sought a "declaration of non-compliance." Your Honor nevertheless decided to proceed with

what little Monroe Township offered. Ms. Lerman was asked to review the alleged compliance package and to report. In the interim, the matter was put on hold.

It is in this context that the Urban League seeks injunctive relief.

B

Now Monroe Township has taken definitive action that demonstrates what we stated in our April 2 letter: "that Monroe Township will not voluntarily comply with this Court's Order that the Township revise its zoning ordinance to provide 774 low and moderate income housing units." The definitive action was its approval of Concordia's 2400 age restricted units without the 100 unit set aside for lower income housing provided in the so-called compliance package. As the Urban League's affidavits and exhibits show, the compliance package was not only ignored in fact, but was not even mentioned in the discussions of the Concordia extension. See, e.g., Williams Affidavit at Exhibit H.

In its Memorandum of Law, the Urban League hammers the point home. On page 4, it cites Ms. Lerman for the proposition that, according to township officials, "the township no longer feels bound by the compliance plan because of the recently-enacted Mount Laurel legislation." On page

5, it states that "Monroe Township, by word and deed, has shown that it will not abide the Court's resolution of this litigation...." On page 7, it refers to "the township's manifest willingness to disregard" the compliance plan. And on page 8, it observes that "Monroe is now abandoning its plan...."

Notwithstanding the exquisitely legible handwriting on the wall, the Urban League seeks injunctive relief to preserve a moribund compliance package by ramming Mount Laurel housing down the throat of a developer that does not want it in a town that has an abundance of developers who do.*

C

We will appear on Thursday on behalf of plaintiffs Lori Associates and HABD Associates to oppose the relief requested by the Urban League and to again seek a declaration that Monroe Township has not complied with this Court's Order of August 13, 1984. We ask the Court to call an end

*The Township's planner himself pronounced the Lori site suitable for Mount Laurel compliance. Hintz Report at page 28. Lori would produce 312 lower income units; and any of several other sites, including HABD, could easily give the balance. No municipal cooperation is needed to get this housing built.

Judge Serpentelli
Page 5

to patience in the face of blatant non-cooperation by this
municipality.

Respectfully,

CLAPP & EISENBERG
Attorneys for Lori Associates
and HADB Associates

By: *Arnold K. Myzella*

AKM:cac

cc: Barbara J. Williams, Esq.
Carl S. Bisgaier, Esq.
Steward M. Hutt, Esq.
Mario Apuzzo, Esq. - Federal Express
Carl D. Silverman, Esq.
Douglas Wolfson, Esq.
Ms. Carla Lerman