

UL v. Certbet (Monroe)

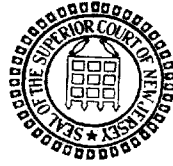
4/14 (1987)

later about

Emergency hearing notification, application
to stay an appellate court decision in
above matter

20 pgs

CA000423L

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISIONCHAMBERS OF
PHILIP A. GRUCCIO
JUDGE1201 BACHARACH BOULEVARD
COURT HOUSE-ROOM 200
ATLANTIC CITY, NEW JERSEY 08401

April 14, 1987

Hon. James J. Petrella
Court Plaza North, 5th Floor
25 Main Street
Hackensack, New Jersey 07601-7015Re: Urban League, et al. v. Mayor and Council of
Carteret, et al.
Docket No. A-4020-85T7

Dear Judge Petrella:

This matter was filed with Part F today for an emergent hearing. Judge Greenberg determined that it should be referred to your Part for disposition.

Very truly yours,

PHILIP A. GRUCCIO, J.A.D.

PAG/gm

cc: Hon. Robert E. Gaynor
Hon. Nicholas Scalera
Hon. Morton I. Greenberg
Mario Apuzzo, Esq.
William P. Isele, Esq.
Ms. Carla Lerman ✓
Thomas R. Farino, Esq.

MARIO APUZZO
ATTORNEY AT LAW
81 EAST RAILROAD AVENUE
JAMESBURG, NEW JERSEY 08831

(201) 521-1900

April 13, 1987

The Honorable Philip A. Gruccio
Atlantic County Superior Court
1201 Bacharach Blvd.
Atlantic City, NJ 08401

Re: Urban League et als. v. Mayor and Council
of the Borough of Carteret et als.
Docket No. A-4020-85T7

Dear Judge Gruccio:

I will be appearing before Your Honor on April 14, 1987 at 2:00 p.m. for an application on emergent basis to stay an appellate court decision in the above matter. Please find the following documents:

1. Original and two copies of Notice of Motion;
2. Copy of Notice of Appeal to the Appellate Division;
3. Copy of Order of May 13, 1985 signed by the Hon. Eugene Serpentelli which is the subject of this appeal;
4. Copy of Appellate Court decision filed March 20, 1987 affirming the May 13, 1985 Order and which is the subject of this emergent basis application for a stay pending certification petition to the Supreme Court;

5. Original and three copies of proposed Order.

Thank you for your anticipated attention in this matter.

Respectfully yours,

MARIO APUZZO

cc: Hon. Morton I. Greenberg w/enc.
Hon. Richard S. Cohen w/enc.
William P. Isele, Esq. w/enc.
Thomas R. Farino, Esq. Pro Se w/enc.
Carla Lerman, Pro Se w/enc.
Mayor Peter P. Garibaldi w/o enc.
Mary Carroll for Council Members w/o enc.

MARIO APUZZO, ESQ.
81 East Railroad Avenue
Jamesburg, NJ 08831
(201) 521-1900
Attorney for Defendant

	X	
	:	SUPERIOR COURT OF NEW JERSEY
Urban League of Greater	:	
New Brunswick, et als.,	:	APPELLATE DIVISION
	:	
Plaintiff,	:	Docket No. A-4020-85T7
	:	
v.	:	CIVIL ACTION
	:	
Mayor and Council of the	:	NOTICE OF MOTION OF
Borough of Carteret, et als.	:	APPLICATION ON EMERGENT
	:	BASIS OF APPELLATE COURT
Defendant.	:	DECISION
	X	

TO: William P. Isele, Esq.
Carla Lerman, Pro Se
Thomas R. Farino, Esq.

SIRS: PLEASE TAKE NOTICE, that on Tuesday, April 14, 1987 at 2:00 p.m. or as soon thereafter as counsel may be heard, the undersigned will apply to the Hon. Philip A. Gruccio, sitting at the Court House, Atlantic City, New Jersey, for an Order to stay a law division order signed May 13, 1985 by the Hon. Eugene D. Serpentelli and the appellate division decision in the matter entered March 20, 1987.

In support of the within application, the undersigned will rely upon the annexed documents and oral argument.

Dated: April 13, 1987

MARIO APUZZO, ESQ.

CERTIFICATION

I certify that I sent copies of this Notice of Motion with all the attached documents to the Honorables Philip A. Gruccio in Atlantic City, New Jersey; Morton I. Greenberg in Trenton, New Jersey; and Richard S. Cohen in New Brunswick, New Jersey, by overnight Federal Express picked up at my office on April 13, 1987. Copies were also mailed to Mr. Isele at Brier Hill Ct., Box 188, East Brunswick, NJ 08816; Ms. Lerman at 413 West Englewood Drive, Teaneck, NJ 07666; and Mr. Farino at Appelgarth and Half Acre Road, Cranbury, NJ 08512, by regular mail on April 13, 1987.

This is also to certify that I gave telephone notice of this motion to Mr. Isele (representing Mr. Hintz), Mr. Farino, and Barbara Stark (representing Urban League) on April 20, 1987 and to Carla Lerman on April 13, 1987.

Dated: April 13, 1987


MARIO APUZZO, ESQ.

RECEIVED
APPELLATE DIVISION
APR 7 4 23 PM '86
SUPERIOR COURT
OF NEW JERSEY

NOTICE OF APPEAL
SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

Title of action as captioned below:

Attorney of Record

Name: Mario Apuzzo, Director of Law

Address: Township of Monroe, County of Middlesex

Municipal Complex, Perrineville Rd., Jamesburg, NJ 08831

Phone No.: (201) 521-4400

Attorney for: Monroe Township

On Appeal From:

Trial Court/State Agency:
Superior Court of New Jersey, Law Division

Trial Docket or Indictment Number:
(See Attachment A)

Trial Court Judge:
Civil [x] Criminal [] Juvenile []

Notice is hereby given that Monroe Township appeals to the Superior Court of N. J. Appellate Division, from the judgement [x] order [] other (specify) [] entered in this action on May 13, 1985, in favor of Thomas R. Farino, Jr., Carl E. Hintz, and (date) Carla Lerman.

If appeal is from less than the whole, specify what parts or paragraphs are being appealed: Appeal is being taken from the Order dated May 13, 1985 ordering payment by Monroe Township to Thomas R. Farino, Jr., Esq., in the amount of \$23,893.00 and to Carl E. Hintz in the amount of \$10,248.42 and to Carla Lerman in the amount of \$6,839.55. This was an Interlocutory Order which is now final due to the Supreme Court's Decision in this matter decided on February 20, 1986.

Are all issues as to all parties disposed of in the action being appealed? Yes [x] No [] If not, is there a certification of final judgment entered pursuant to R. 4:42-2? Yes [] No []

In criminal, quasi-criminal and juvenile cases . . . not incarcerated [] incarcerated [] confined at _____
Give a concise statement of the offense and of the judgment, date entered and any sentences or disposition imposed: _____

1. Notice of Appeal has been served on:

<u>Name</u>	<u>Date of Service</u>	<u>Type of Service</u>
Trial Court Judge <u>Eugene D. Serpentelli</u>	<u>4/7/86</u>	<u>Ord. Mail</u>
Trial Court Clerk/State Agency <u>John Mayson</u>	<u>4/7/86</u>	<u>Cert. Mail</u>

Attorney General or governmental office
under R. 2:5-1(h) W. Cary Edwards, c/o Daniel Reynolds, Deputy Attorney General

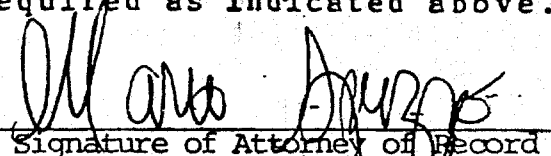
	<u>4/7/86</u>	<u>Ord. Mail</u>
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Other parties:

	<u>Name and Designation</u>	<u>Attorney Name, Address & Telephone No.</u>	<u>Date of Service</u>	<u>Type of Service</u>
(609) 655-2700	(1) <u>Thomas R. Farino, Jr., Esq.</u>	<u>pro se Applegarth & Halfacre Rd., Cranbury, NJ 08512</u>	<u>4/7/86</u>	<u>Ord. Mail</u>
(609) 737-1930	(2) <u>Carl E. Hintz</u>	<u>Carl Hintz, Hintz/Neleson Associates, P.C., 12 North Main Street, Pennington, NJ 08534</u>	<u>4/7/86</u>	<u>Ord. Mail</u>
	(3) <u>Carla Lerman</u>	<u>Carla Lerman 413 West Englewood Drive Teaneck, NJ 07666</u>	<u>4/7/86</u>	<u>Ord. Mail</u>
(201) 648-5687	(4) <u>Urban League of Greater Brunswick</u>	<u>Barbara Stark, Esq. New Constitutional Litigation Clinic, Rutgers Law School 15 Washington Street, Rm. 338, Newark, NJ 07102</u>	<u>4/7/86</u>	<u>Ord. Mail</u>
	(5) _____	_____	_____	_____

I hereby certify that I have served a copy of this Notice of Appeal on each of the persons required as indicated above.

April 7, 1986
(date)


Signature of Attorney of Record

NOTICE OF APPEAL
PAGE 3

2. Prescribed Transcript Request Form has been served on:

<u>Name</u>	<u>Date of Service</u>	<u>Amount of Deposit</u>
Administrative office of the Courts Chief, Court Reporting Service_____	_____	_____
_____	_____	_____
Court Reporter's Supervisor/Clerk of Court or Agency_____	_____	_____
_____	_____	_____
Court Reporter_____	_____	_____
_____	_____	_____
_____	_____	_____

I hereby certify that I served the Prescribed Court Transcript Request Form on each of the above persons and paid the deposit as required by R. 2:5-3(d).

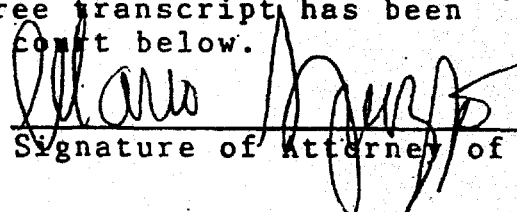
(date)

Signature of Attorney of Record

3. I hereby certify that:

- There is no verbatim record.
- Transcript is in the possession of the Attorney of Record.
- A motion for abbreviation of transcript has been filed with the court or agency below.
- A motion for free transcript has been filed with the court below.

April 7, 1986
(date)



Signature of Attorney of Record

ATTACHMENT A

Urban League Of Greater New Brunswick et al vs.
The Mayor and Council Of The Borough Of Carteret,
et al

Docket No. C-4122-73

Monroe Development Associates vs. Monroe Township
Docket No. L-076030-83 PW

Lori Associates, A New Jersey Partnership; and
HABD Associates, A New Jersey Partnership vs.
Monroe Township, A Municipal Corporation Of The State
of New Jersey, located in Middlesex County, New Jersey
Docket No. L-28288-84

Great Meadows Company, A New Jersey Partnership;
Monroe Greens Associates, As Tenants In Common; and
Guaranteed Realty Associates, Inc., a New Jersey
Corporation vs. Monroe Township, a Municipal Corporation
of the State of New Jersey, located in the State of
New Jersey, Middlesex County, New Jersey
Docket No. L-32638-84 P.W.

THOMAS R. FARINO, JR.
Cor. Applegarth & Prospect Plains Roads
Cranbury, New Jersey 08512
(609) 655-2700
Attorney for Township of Monroe

RECEIVED
JUN 24 1985

MONROE TWP. CLERK'S OFFICE

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

Civil Action

URBAN LEAGUE OF GREATER NEW BRUNSWICK
et al,

Plaintiff,
vs.

THE MAYOR and COUNCIL OF THE
BOROUGH OF CARTERET, et al,
Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. C-4122-73

JOSEPH MORRIS and ROBERT MORRIS,
Plaintiffs,
vs.

TOWNSHIP OF CRANBURY IN THE COUNTY
OF MIDDLESEX, A Municipal
Corporation of the State of New
Jersey,
Defendant

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L054117-83

GARFIELD & COMPANY
Plaintiff,
vs.

MAYOR and THE TOWNSHIP COMMITTEE
OF THE TOWNSHIP OF CRANBURY, a
Municipal Corporation, and the
members thereof; PLANNING BOARD
OF THE TOWNSHIP OF CRANBURY, and
the members thereof,
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L055956-83 P.W.

BROWNING-FERRIS INDUSTRIES OF
SOUTH JERSEY, INC., A Corporation
of the State of New Jersey,
RICHCRETE CONCRETE COMPANY, a
Corporation of the State of New
Jersey, and MID-STATE FILIGREE
SYSTEMS, INC., a Corporation of

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO: L-058046-83 P.W.

the State of New Jersey,
Plaintiff,
vs.

CRANBURY TOWNSHIP PLANNING BOARD
and TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CRANBURY,
Defendants.

CRANBURY DEVELOPMENT CORPORATION, SUPERIOR COURT OF NEW JERSEY
A Corporation of the State of New Jersey, LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L-59643-83
Plaintiff,
vs.

CRANBURY TOWNSHIP PLANNING BOARD
AND THE TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CRANBURY,
Defendant.

CRANBURY LAND COMPANY, A New Jersey Limited Partnership, SUPERIOR COURT OF NEW JERSEY
Plaintiff, LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO: L-070841-83
vs.

CRANBURY TOWNSHIP, A Municipal Corporation of the State of New Jersey located in Middlesex County, New Jersey,
Defendant.

MONROE DEVELOPMENT ASSOCIATES, SUPERIOR COURT OF NEW JERSEY
Plaintiff, LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L-076030-83 PW
vs.
MONROE TOWNSHIP,
Defendant.

ZIRINSKY, SUPERIOR COURT OF NEW JERSEY
Plaintiff, LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L079309-83 PW
vs.

THE TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CRANBURY, a
Municipal Corporation, and THE
PLANNING BOARD OF THE TOWNSHIP
OF CRANBURY,
Defendants.

TOLL BROTHERS, INC., A SUPERIOR COURT OF NEW JERSEY

Pennsylvania Corporation,
Plaintiff,
vs.

LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L005652-84

THE TOWNSHIP OF CRANBURY IN
THE COUNTY OF MIDDLESEX, A
Municipal Corporation of the
State of New Jersey, THE
TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CRANBURY and the
PLANNING BOARD OF THE TOWN-
SHIP OF CRANBURY,
Defendants.

LORI ASSOCIATES, A New Jersey
Partnership; and HADB
ASSOCIATES, a New Jersey
Partnership,
Plaintiffs,
vs.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L-28288-84

MONROE TOWNSHIP, A municipal
corporation of the State of
New Jersey, located in
Middlesex County, New Jersey,
Defendant.

GREAT MEADOWS COMPANY, A New
Jersey Partnership; MONROE
GREENS ASSOCIATES, as tenants
in common; and GUARANTEED
REALTY ASSOCIATES, INC., a
New Jersey Corporation,
Plaintiffs.
vs.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L-32638-84 P.W.

MONROE TOWNSHIP, a municipal
corporation of the State of
New Jersey, located in the
State of New Jersey, located
in Middlesex County, New
Jersey,
Defendant.

ORDER AND JUDGMENT

THIS MATTER having been opened to the Court by Thomas R.
Farino, Jr., Esq., attorney for defendant, MAYOR AND COUNCIL OF

THE TOWNSHIP OF MONROE, Middlesex County, New Jersey, on an application for an Order directing payment for legal and professional planning services rendered with regard to the activities of the governing body of the Township of Monroe in effecting compliance with the Order of this Court dated August 13, 1984, and,

IT APPEARING that legal services were performed by Thomas R. Farino, Jr., Attorney for the defendant, MAYOR AND COUNCIL OF THE TOWNSHIP OF MONROE, the payment for which has been authorized by resolution of the Township Council; and

IT FURTHER APPEARING that professional planning services were rendered by Carl E. Hintz aimed at producing a compliance package for submission to the Court, the payment for which has been authorized by resolution of the Township Council; and

IT FURTHER APPEARING that Carla Lerman, Court-appointed Master, has performed certain planning services with regard to the Township's compliance efforts, the payment for which has been authorized by resolution of the Township Council; and

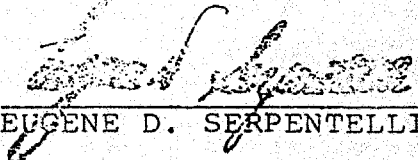
IT FURTHER APPEARING that the Mayor of the Township of Monroe has refused to authorize payment in connection with the aforesaid professional services associated with the Township's Mt. Laurel II compliance efforts and good cause appearing for the entry of this Order;

IT IS on this 13 day of May, 1985,

ORDERED that payment to Thomas R. Farino, Jr., Esq., in the amount of \$23,893.00 and to Carl E. Hintz, in the amount of \$10,248.42 and to Carla Lerman, in the amount of \$6,839.55 is hereby authorized and the Township of Monroe is hereby directed to immediately make payment to these individuals in the aforesaid amounts; and

IT IS FURTHER ORDERED that the Township Treasurer shall prepare the appropriate municipal drafts to effect the aforesaid payments to Thomas R. Farino, Jr., Esq., Carl E. Hintz and Carla Lerman; and

IT IS FURTHER ORDERED that in the event the appropriate representative of the Monroe Township Department of Administration refuses to endorse the aforesaid drafts as prepared by the Township Treasurer, then, in that event, the President of the Monroe Township Council is hereby authorized to execute said drafts in order to effect the aforesaid payments for professional services rendered to the governing body of the Township of Monroe with regard to its efforts in complying with the Order of this Court dated August 13, 1984.


EUGENE D. SERPENTELLI A.J.S.C.

RECEIVED
MAR 30 1987

NOT FOR PUBLICATION WITHOUT THE APPROVAL
OF THE COMMITTEE ON OPINIONS

MONROE TWP. CLERK'S O.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-4020-85T7

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et als,

Plaintiffs,

v.

THE MAYOR AND COUNCIL OF
THE BOROUGH OF CARTERET,
et als,

Defendants.

ORIGINAL FILED

MAR 20 1987

JOHN J. MUSEWICZ, ESQ.
Acting Clerk

Submitted: March 2, 1987 - Decided

MAR 20 1987

Before Judges Petrella, Gaynor and Scalera.

On appeal from the Superior Court
of New Jersey, Law Division,
Middlesex/Ocean Counties.

Mario Apuzzo, attorney for
appellant, Monroe Township.

Gross and Novak, attorneys for
respondent, Carl E. Hintz
(William P. Isele, on the letter
brief).

No brief was filed on behalf of
respondents, Thomas R. Farino, Jr.,
Carla Lerman, or any other named
respondent.

PER CURIAM

This appeal by Monroe Township (Monroe) stems from
several consolidated lawsuits against numerous municipalities
arising from the New Jersey Supreme Court's decision in the

case which is commonly referred to as Mount Laurel II.¹ The litigation was assigned to Judge Eugene D. Serpentelli for disposition and was being handled, on behalf of Monroe, by attorney Thomas R. Farino, Jr. During the course of the suit, Monroe was ordered to submit a compliance plan. Thereafter, respondent Carla Lerman was appointed by Judge Serpentelli to serve as a special master to assist the township in developing the plan and respondent, Carl E. Hintz, a principal of Hintz, Neleson Associates, P.C., a professional planner, was retained to assist in preparing that plan.

When Monroe refused to pay the bill for services submitted on behalf of these three individuals, Mr. Farino made application to the court for an order compelling payment. On May 13, 1985 Judge Serpentelli entered an order requiring the township to make payment to Mr. Farino, Ms. Lerman and Mr. Hintz for the services rendered in connection with the litigation. When Monroe sought to appeal from that order the appeal was dismissed by order of this court dated December 13, 1985. Specifically, the order noted that, if the appeal was one from "an interlocutory order, it was brought without leave" and if from "a final judgment, the appeal was, in any event, out of time." On April 7, 1986 the township filed the instant appeal from Judge Serpentelli's order, asserting that,

Point I The court's orders of December 13, 1985 dismissing the appeal of the May 13, 1985 order do not

¹Southern Burlington County NAACP, et als. v. Tp of Mt. Laurel, et als, 92 N.J. 158 (1983).

preclude the refiling of this appeal which was done on April 7, 1986.

Point II The trial court lacked the authority to issue an order requiring the Township of Monroe to make payments of monies as directed therein because to comply with the local budget law (N.J.S.A. 40:A4-1 to 87), neither the council nor the mayor can expend any money to pay for the services performed by Thomas R. Farino, Carla Lerman, or Carl E. Hintz, for to do so would involve an expenditure of money for a purpose for which no appropriation was previously provided.

Point III The May 13, 1985 order for payments should be voided because the defendant Township of Monroe was not afforded notice of and an opportunity to be heard in the motion proceedings which produced the order.

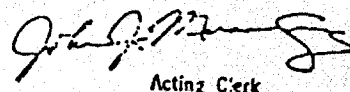
We have carefully considered the contentions of the appellant as set forth in Points II and III and conclude that they are clearly without merit. R.2:11-3(e) (A) and (E). There can be no question of the inherent power of the court to issue an otherwise valid order requiring a governmental unit to make payment under the circumstances presented here, notwithstanding the requirements of the law pertaining to municipal appropriations. Essex County Board of Taxation v. Newark, 73 N.J. 69 (1977). Cf. Mount Laurel Township v. Local Finance Board, 166 N.J. Super. 254 (App. Div. 1978), aff'd 79 N.J. 397 (1979). Nor is there any support in the record to warrant a conclusion that notice of the application was not properly made on appellant through service on the

municipal clerk. R.1:5-1(a). See also R.4:4-4(g).

In light of the conclusion heretofore stated, we see no reason to entertain the jurisdictional issue raised in appellant's first point.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on file
in my office.



Acting Clerk

MARIO APUZZO, ESQ.
81 East Railroad Avenue
Jamesburg, NJ 08831
(201) 521-1900
Attorney for Defendant

Urban League of Greater New Brunswick, et als.,	:	SUPERIOR COURT OF NEW JERSEY
	:	APPELLATE DIVISION
Plaintiff,	:	Docket No. A-4020-85T7
	:	
v.	:	CIVIL ACTION
	:	
Mayor and Council of the Borough of Carteret, et als.	:	ORDER GRANTING STAY
	:	
Defendant.	:	

This matter having been heard by the court upon the emergent application of the defendant, Township of Monroe, for a stay of the order and decision pending the petition for certification of Monroe Township to the New Jersey Supreme Court, and it appearing to the court that such a stay is justified,

It is on this _____ day of _____, 19____, ordered that the performance and enforcement of the trial court order and affirming decision heretofore entered by this court on March 20, 1987 be stayed pending a determination and disposition of the petition for certification by the defendant, Monroe Township, to the Supreme Court of New Jersey.

It is further ordered that the defendant, Township of Monroe, shall be exempt pursuant to R. 2:9-6(b) from having to

post any bond, obligation or other security, the Township being a political subdivision of the State of New Jersey.
