

Monroe (1987)

11/2/87

Mediation Report & recommendation of adjudication  
↳ no settlement

pgs = 14

no p.i.

CA000428P

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IN RE: MEDIATION OF THE  
HOUSING ELEMENT AND FAIR SHARE  
PLAN OF MONROE TOWNSHIP,  
MIDDLESEX COUNTY

OBJECTORS:

CIVIC LEAGUE OF GREATER NEW  
BRUNSWICK, INC.  
MONROE DEVELOPMENT ASSOCIATION  
BOROUGH OF JAMESBURG  
LORI ASSOCIATES AND HADB ASSOCIATES:  
MONROE MANOR INC.  
CENTRAL MONROE HOMEOWNERS'  
ASSOCIATION

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NEW JERSEY COUNCIL  
ON AFFORDABLE HOUSING

PETITION FOR  
SUBSTANTIVE CERTIFICATION

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**MEDIATOR'S REPORT AND RECOMMENDATION**

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Mediator

CA000428P

## INTRODUCTION

The within matter stems from one of the oldest pending Mt. Laurel actions, Urban League of Greater New Brunswick et al vs. Carteret, initiated on July 23, 1974. An overview of the various court proceedings in this case is contained in the Hills Development Company vs. Bernards Township, 103 N.J. 1, 71-72 (1986). This matter was directly transferred to the Council on Affordable Housing by the New Jersey Supreme Court in the Hills decision.

On May 7, 1987, Monroe Township submitted an amended Housing Element and Fair Share Plan to the Council on Affordable Housing. Mediation commenced on June 25, 1987, and was twice extended for additional periods of time until November 2, 1987. Mediation included joint sessions with all parties, individual telephone calls and meetings, or "caucuses," and meetings with representatives of both Monroe Township and Jamesburg Borough. Additionally, the Executive Director of the Monroe Township Municipal Utilities Authority also participated in mediation. The objectors in this case included three developers, Lori Associates, HABD Associates, and Monroe Manor Inc. The Civic League of Greater New Brunswick also participated, as did the Central Monroe Homeowners' Association.

Monroe Township's precredited housing obligation is 184, of which 57 may be rehabilitated and 127 may be addressed in an inclusionary development. The Township seeks credit for 12 units and accordingly has proposed the following housing plan to address its Mt. Laurel obligation:

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Monroe Township Housing Plan

<u>Site</u>	<u>Acres</u>	<u>Units/Acres</u>	<u>Total Units</u>	<u>Low/Mod. Units</u>
5	14A	8u/A	122	22
6 (a)	49A	6.2u/A	305	61
(b)	25A	---	19 (single family)	--
6A	6A	---	24	5
8	31A	7u/A	<u>196</u>	<u>39</u>
	19% Set-Aside		666	127

The Borough of Jamesburg is completely surrounded by Monroe Township, in typical "hole in the donut" fashion. The housing sites selected by Monroe Township also encircle the Borough. Two of the sites, Sites 5 and 8, are continuations of multifamily housing developments presently under construction or occupied within the Borough of Jamesburg. Infrastructure and traffic access would accordingly be provided through the existing developments within the Borough.

Site 6, however, is a proposed new development which includes single family housing as well as a multifamily component. Site 6A, to be developed in conjunction with Site 6, calls for the razing of existing abandoned buildings and the construction of new two-family dwellings within a severely deteriorated area of Monroe Township.

The developers Lori Associates, HABD Associates, and Monroe Manor Inc. all alternatively propose to satisfy Monroe Township's Mt. Laurel obligation through sizeable inclusionary developments located elsewhere throughout the Township, and designated as Sites 1, 2 and 9 in the Township's Housing Element. Sites 1 and 2 presently do not have sewer service available, although it is projected that sewer will be available within the

next two years.<sup>1</sup> Site 9 has sewer service available to it.

Mediation initially focused upon the suitability and developability of the Township's proposed housing sites. Accordingly, the impact of the proposed Housing Plan upon the Borough of Jamesburg has been a significant factor throughout the course of mediation. However, the Borough's position regarding Monroe's Housing Plan has not been consistent, thus affecting the progress of mediation.

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<sup>1</sup>In fact, Monroe Township originally included Site 1 within its Housing Element but was apparently instructed by Council staff to identify other sites which were already serviced by adequate sewer facilities.

## PROGRESS OF MEDIATION

Mediation in this matter began slowly when, at the initial session, the Civic League indicated that it could not afford to participate in mediation if it were to assume a share of the costs associated with mediation. Accordingly, the Civic League petitioned the Council on Affordable Housing for relief from the Council's rules apportioning costs among all participants. After the Council granted the Civic League's request, mediation could begin in earnest.

The initial objections raised to Monroe Township's proposed Housing Plan focused upon the Plan's failure, for each Site, to identify a developer and whether basic infrastructure was available. Thereafter, early meetings with Township representatives concentrated on obtaining, in broader detail, more information on the various elements of its proposal.

Up to that point, the Borough of Jamesburg had not participated in any mediation or caucus sessions, despite several efforts to involve the Borough. Nonetheless, objections regarding the impact of the Plan upon Jamesburg Borough were raised by the Civic League. The League's objections were summarized as follows in its initial written submission:

. . . [t]he Civic League objects on the further basis, that when the plan is viewed in totality, the Township of Monroe has provided sites which will have public road access only through another municipality, Jamesburg, and will not be accessible from any point in Monroe Township which has presented the plan. The ultimate impact is therefore on the roads of Jamesburg and upon the infrastructure of Jamesburg, such as the Jamesburg Pumping Station. The result is that while Monroe has presented the plan, the resources needed to deal with its results will be required to emanate from Jamesburg, which has fewer resources to deal with the consequences of the plan as it is presently constituted. [Objection at page 10]

Finally, at the joint mediation session conducted on September 3, 1987, Jamesburg Borough appeared, represented by James Main, Council President and Mayor Tonkery. At that session, Monroe Township delivered an overview of its proposed Housing Plan and

received comments from the various objectors. In essence, Jamesburg Borough adopted the comments and position expressed by the Civic League, and felt that the location of the proposed housing sites along its borders would have an adverse affect upon Jamesburg Borough.

Questions regarding adequate infrastructure and access were also discussed at this joint mediation session. The Monroe Township Municipal Utilities Authority, in attendance at this and other mediation sessions, agreed to submit a report regarding adequate sewer capacity. Finally, copies of concept plans of the proposed developments, and information regarding the status of related construction in Jamesburg Borough, were provided to the parties.

Shortly thereafter, on September 9, 1987, Mr. Main submitted a letter following up the mediation session and reiterating the Borough's objections to Monroe Township's proposed Housing Plan. This submission incorporated and adopted the initial objections submitted by the Civic League.

Thereafter, individual caucus sessions were convened, either by telephone or in person, with the parties to determine if some common ground for negotiation existed. It was hoped that a compromise could be struck whereby some of the Township's original Housing Plan would remain intact, while a portion of the obligation was to be addressed in an inclusionary development located elsewhere within the municipality. Obviously, the impact of the Township's proposed Housing Plan upon Jamesburg was of primary importance, coupled with the question of available infrastructure to service both the Township's sites and the sites proposed by the inclusionary developers.

After discussing various alternatives to Monroe Township's Housing Plan with the objectors, a caucus session with Monroe Township was sought. On October 14, 1987, a meeting with representatives of the Township was convened and, somewhat surprisingly, also in attendance was Mayor Tonkery of Jamesburg and the Jamesburg Tax Assessor. Mr.



Main, the Borough Council President, was notably absent. More surprising, however, Mayor Tonkery informed the meeting that Jamesburg Borough had now withdrawn all of its objections to the Monroe Township Housing Plan. Further, Mayor Tonkery declared that the September 9, 1987 submission made by Mr. Main was unauthorized, and did not express the viewpoint of the Borough. The Mayor indicated that formal action reflecting this determination would be taken by the Borough Council in short order.

Apparently, however, Council President Main was unaware that Jamesburg Borough had withdrawn its objections in this matter and submitted a reply to the sewer and water study compiled by the Monroe Township Municipal Utilities Authority. Indeed, Mr. Main informed the mediator that Mayor Tonkery's actions conflicted with resolutions adopted by the Borough Council, supporting Jamesburg's continued participation in this matter as an objector. Jamesburg's position in this matter remains unclear.<sup>2</sup>

In any event, the inconsistent approach adopted by Jamesburg, coupled with the continuing objections of the inclusionary developers, indicates that mediation cannot be successfully resolved. Accordingly this Report recommends that this matter be adjudicated as a contested case.

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<sup>2</sup>Indeed most recently, on October 28, 1987, Mr. Main informed me that the Borough had reaffirmed its objections to Monroe's housing plan.

## ISSUES IN DISPUTE

Prior to Jamesburg's withdrawal of its objections to the Monroe Township Housing Plan, the principal criticisms of the Plan concentrated upon the adverse impact the development of the Township's sites would have upon Jamesburg. Moreover, serious questions were raised regarding the adequacy of the infrastructure to service the housing proposed by Monroe Township.

The following is a summary of the Housing Plan proposed by Monroe Township, and the criticisms regarding the sites which remained even after the Township's more detailed presentation of September 3, 1987:

### Rehabilitation Component

The rehabilitation component of Monroe Township's fair share obligation is 57 units. Monroe seeks credit for 12 units and proposes to rehabilitate the remaining 45 units over a six-year period, where seven units are to be rehabilitated per year over the first five years and 10 to be rehabilitated in the sixth year. Although Monroe has indicated the funding will be provided for this program through the Middlesex County Housing Preservation Loan Program, questions remain as to whether the levels of funding will be adequate. In this regard, it should be noted that the inclusionary developers have offered to make cash contributions to facilitate such a rehabilitation program, or to actually undertake the rehabilitation on behalf of the Township. These offers have been generally rebuffed by Monroe Township.

Little time in mediation was devoted towards the consideration of the rehabilitation plan, inasmuch as the inclusionary component of the Township's Housing Plan could dramatically affect how Monroe would undertake rehabilitation or finance the cost.

Accordingly, discussion of the rehabilitation component was reserved until such time as progress would have been made on the inclusionary element of the Housing Plan.

#### Inclusionary Component

Monroe Township proposes to provide for its inclusionary obligation of 127 units in four sites, generally located on the Monroe border with Jamesburg Borough.

#### Site 5

Site 5 consists of 14 acres, and is proposed to be developed at a density of eight units to the acre, producing a total of 112 units with 22 units, or approximately 19.6%, set aside for low and moderate income housing. The project is located within the Manalapan Sewer District and the owner/developer is George Petti of GGP Industries in South Plainfield. This project would be developed in conjunction with an adjacent 19 acres in Jamesburg which was rezoned by Jamesburg to accommodate development at eight units to the acre. Water and sewer is proposed to be provided through the Jamesburg system, and principal access to and from the site would also be through Jamesburg.

Objections to this site question whether adequate sewer capacity is available as well as whether suitable access to the site is provided.

#### Site 8

Site 8 consists of approximately 31.9 acres of which 28 acres is considered developable. Monroe Township proposes that the site be developed at seven units to the acre, producing 196 units with 39, or 19.9%, reserved for low and moderate income persons. The owner/developer of the site is John Gulya of Edison, who is currently building the adjacent Beaver Brook Run development in Jamesburg, consisting of approximately 250 units, some of which are now occupied. This proposal would be an extension of the Beaver Brook Run development, with utilities provided through that project. Some access would be provided in Monroe Township, however, the principal means of access would remain through the existing development in Jamesburg.

This site also lies within the Manalapan drainage basin, again raising questions of whether adequate sewer capacity exists to service this development.

#### Site 6

Site 6 consists of 84 acres, which is essentially divided into two parcels by approximately 20 acres of wetlands. The rear parcel, consisting of 49 acres, is proposed to be developed at a density of 6.3 units to the acre, producing 305 units of which 61, or 20%, will be reserved for low and moderate income persons. The front parcel of this property is to be developed for single-family housing into 19 separate lots. The developer is Meyer Gold of Nutley, and the site is located in the Manalapan Sewer District. A 2,900 foot line to the Jamesburg Pumping Station is required in order to provide sewer service to the site, and access through New Street, State Street, and State Home Road in Monroe Township.

Objections generally reflect the criticism that inadequate sewer capacity exists and that access is inadequate or insufficient to accommodate this development. Additionally, environmental questions linger in view of the substantial wetlands on this site.

#### Site 6A

Site 6A is adjacent to Site 6, and is an older, developed section of the Township which contains numerous substandard, burned out or vacant lots. Under the Township's plan, the developer of Site 6 will acquire approximately six acres in Site 6A, undertake necessary demolition, make necessary street and sewer improvements, and construct two-family housing at a proposed density of four units to the acre, totalling a minimum of 24 units, five of which would be set aside for low and moderate income persons. The properties to be acquired are all owned by William Tate, who has expressed a willingness to convey them to Mr. Gold, the developer of Site 6. Mr. Gold, in turn, has apparently agreed to undertake the improvements required by the Township as a condition of his approvals to develop Site 6.

The objectors contend that, while the intent of the Housing Plan is laudable, it is not well thought out. Moreover, serious questions regarding the installation of sewer lines remain, and no firm contract has been entered into between Mr. Tate and Mr. Gold.

#### Infrastructure

Monroe Township is divided into three regions by the Monroe Municipal Utilities Authority for purpose of administering sewer service. The southerly section of the Township lies within the Millstone Drainage Basin which currently has no capacity but plans to expand in the near future, by converting a sewage treatment plant into a pumping station, which would make additional capacity available. The Authority anticipates that this project will be completed in approximately 2-1/2 years.

The middle portion of the Township is serviced by the Manalapan Drainage Basin which has limited capacity available. All of the Township's proposed housing sites lie within this Basin, and it is imperative that any housing plan take into account the limited availability of sewer capacity in this region.

The northern region of the Township is served by the Matchaponix Drainage Basin, which has significant unused capacity available.

## RECOMMENDATION

The Monroe Township Housing Plan poses several unanswered questions, particularly with respect to the availability of sewer capacity and whether adequate access to all of the sites exist. Additionally, specific and unique considerations pertain to the development of Site 6A, which will require that the Township submit far more detailed information regarding the feasible development of that Site than it has to this point.

However, the most difficult problem posed in this mediation has been whether the Township's proposed Housing Plan presents a realistic opportunity for low and moderate income housing in view of its location along the Jamesburg border and the confused reaction of the Jamesburg representatives. Clearly, the Monroe Housing Plan will likely have a dramatic affect upon Jamesburg, ranging from increased traffic and congestion to further demands upon the infrastructure and emergency services. Nonetheless, if Jamesburg in fact supports the proposed Housing Plan, then the opportunity for low and moderate income housing is certainly "realistic." Yet, at this time, Jamesburg has failed to adopt a consistent position, and further mediation will serve little purpose.

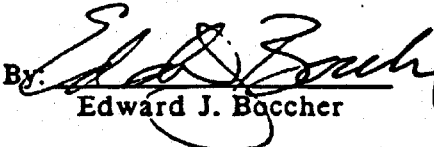
Moreover, irrespective of the position Jamesburg ultimately adopts, the remaining objectors, notably the Civic League, Lori Associates, HABD Associates, and Monroe Manor Inc., all continue to oppose the Housing Plan offered by Monroe Township. Indeed, the inclusionary developers are ready, willing and able to proceed, and have offered to finance needed infrastructure costs as well as provide for the rehabilitation component of Monroe's housing obligation. Accordingly, particularly in light of the uncertainty which attends Monroe Township's Housing Plan, these objectors must be afforded an opportunity

to be heard, at least on the issue of site suitability.

Therefore, because mediation did not result in a settlement of this Mt. Laurel dispute, it is respectfully recommended that the Council on Affordable Housing transfer this matter to the Office of Administrative Law for adjudication as a contested case.

Respectfully submitted,

STEINBERG & BOCCHER  
A Professional Corporation

By:   
Edward J. Boccher

Dated: November 2, 1987

EJB/slgo