

South Plainfield

19 Oct (1984)

Letter discussing S. Plainfield's intentional
+ unnecessary delay, request to move
promptly on included matters

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October 19, 1984

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JUDGE SERPENTELLI'S CHAMBERS

Hon. Eugene D. Serpentelli
Ocean County Court House
C.N. 2191
Toms River, N.J. 08753

Dear Judge Serpentelli,

I write to set forth plaintiffs' response to your Honor's letters of October 11 to Mr. Diegnan and October 15 to Mr. Dalto.

For the reasons set forth in my October 12 letter to Mr. Diegnan, which was mailed before receipt of your Honor's October 11 letter, plaintiffs consider it wholly unreasonable and contrary to the mandate of Mount Laurel II to delay amendment of a noncompliant zoning ordinance until after revision of the Master Plan. It is particularly inappropriate in a municipality, such as South Plainfield, which all parties agree has very little vacant land remaining that is appropriate for residential development, and where the town has not even raised this concern until after the entire, extended revision period has expired. In any case, the current Master Plan's guidelines were expressly considered during the earlier stages of this litigation leading to the May 22 Judgment As To South Plainfield.

Although we, therefore, believe implementation of the May 22 Judgment should proceed forthwith, plaintiffs emphasize that the areas of difference remaining between the parties are small, as indicated in my letter of October 12 and Mr. Neisser's attached letter of September 5. Given this, we believe it appropriate for your Honor to afford the Borough one last, very brief opportunity to enact a compliant ordinance before proceeding, through a Master, to a court-mandated ordinance. To this end, we suggest that your Honor establish a deadline (we believe two weeks is the maximum time needed), which will permit the Borough Council to hold one properly noticed public meeting at which it could take expedited formal action with regard to a revised zoning ordinance. If it enacts an ordinance revision, and plaintiffs have any objection, we could then move for the Court to refer the revision and our objections to a master for a prompt review and report to the Court. If the Council refuses to adopt a revised

zoning ordinance, for the reasons stated in Mr. Diegnan's October 4 letter or otherwise, we would move for the Court to refer Mr. Rosa's draft ordinances and Mr. Neisser's objections to the Master for prompt review and report to the Court. Because Ms. Lerman already reviewed the Judgment as to South Plainfield and conferred with Mr. Mallach and Mr. Rosa, we believe that she would be the appropriate Master and could reasonably be asked to report back within 10 days or two weeks. Under either circumstance, we would ask the Court's permission to make our motion for reference to a Master, if necessary, on very short notice.

Finally, because it is clear that the Judgment requires rezoning of the tract that is the subject of the Elderlodge litigation for residential development with a 20 percent Mount Laurel set-aside, see Para. 3(H), we have notified the affected parties of our position and requested notice of any action, including agendas of meetings at which the project might be discussed. We will, if necessary, bring a motion on short notice to prevent any action that would prejudice the Urban League plaintiffs' vested interest in the rezoning of that tract. See enclosed copy of letter to Mr. Dalto and Mr. Lane.

We hope that your Honor will move promptly on this matter to prevent any additional prejudice to plaintiffs' rights by reason of South Plainfield's conscious and unnecessary delay.

Respectfully,

Barbara Williams

Barbara Williams

by GW

cc: Patrick J. Diegnan, Esq.
Angelo H. Dalto, Esq.
William V. Lane, Esq.
Peter J. Calderone, Esq.
Carla L. Lerman, P. P.