

~~West Windsor~~ West Windsor
Affordable Living v.

1986

- Cover letter between Counsel re phone conversation
- Attach: Order Denying Partial Summary judgment

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March 24, 1986

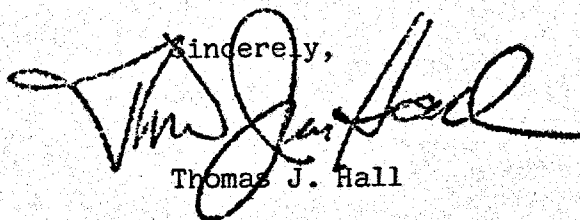
FILE NO.

Eric Neisser, Esquire
Rutgers School of Law
Constitutional Litigation Clinic
15 Washington Street - 3rd Floor
Newark, NJ 07102-3192

Dear Eric:

Pursuant to our telephone conversation, please find enclosed the May, 1985 opinion in the West Windsor case.

Sincerely,



Thomas J. Hall

TJH/ss
Enclosure

FILED MAY 13 1985
IN CHAMBERS
EUGENE D. SERPENTELLI, A.J.S.C.

RECEIVED

MAY 13 1985

JUDGE SERPENTELLI'S CHAMBERS

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MERCER/OCEAN COUNTY
DOCKET NO. L-017812-84 (P.W.)

AFFORDABLE LIVING CORPORATION, INC., a
New Jersey Corporation, and
MANEELY, INC., a New Jersey Corporation,

Plaintiffs,

vs.

WEST WINDSOR TOWNSHIP, a municipal
corporation of the State of New Jersey,
located in Mercer County, New Jersey,

Defendants.

Civil Action

ORDER DENYING
PARTIAL SUMMARY
JUDGMENT

This matter being opened to the Court on the motion of Gebhardt and Kiefer, Attorneys for the intervening plaintiff, Maneely, Inc. (James H. Knox appearing), and in the presence of Schragger, Schragger & Lavine, Attorneys for defendant West Windsor Township, (Bruce M. Schragger and Lucille E. Davy appearing), and Bisgaler & Pancotto, Attorneys for plaintiff Affordable Living Corporation, Inc., (Carl Bisgaler appearing), for an Order granting partial summary

judgment to plaintiff Maneely, Inc. with respect to the issues of the validity and interpretation of the Preliminary A approval granted to Maneely, Inc. by the West Windsor Township Planning Board and referred to in the complaint filed by Maneely, Inc; and the Court having considered the matter and having heard arguments of counsel and for good cause appearing;

It is on this 15 day of May, 1985:

ORDERED that the motion by Maneely, Inc. for partial summary judgment that the Preliminary A approval is a fully valid preliminary approval under the Municipal Land Use Law and vests Maneely, Inc. with all of the rights described in connection therewith is hereby denied, the Court having found that the Preliminary A approval does not vest such rights and is the functional equivalent of conceptual review per N.J.S.A. 40:55D-10.1; and it is further

ORDERED that the parties be permitted to submit supplemental briefs on or before May 14, 1985, with respect to the issues of whether or not the West Windsor Planning Board could amend or waive a Township Ordinance by resolution by permitting, as Maneely, Inc. alleges it did, any modification of a requirement that 15% of the units constructed by Maneely, Inc. be affordable to lower income households and whether any argument of reliance by Maneely, Inc. on actions taken by the Planning Board could vest any rights in Maneely, Inc.; and it is further

ORDERED that a copy of this Order shall be served upon counsel for all parties within ten days of the date hereof.


EUGENE D. SERPENTE, A.J.S.C.