

U.L. v. Carteret, Piscataway

1/21/1985

- Cover letter to deputy clerk re enclosed copies of "Brief and Appendix in Opposition to Motion For Leave to Appeal an Interlocutory Order and Stay Enforcement Pending Appeal" (not enclosed)
- Attch: Supplemental memorandum of Plaintiffs/Respondents in Lieu of Brief

Pgs. 3

Pi. 1067

CA 000 ~~786~~L
805

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS
 Campus at Newark

RECEIVED

JAN 24 1985

School of Law-Newark • Constitutional Litigation Clinic
 S.I. Newhouse Center For Law and Justice
 15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

JUDGE SERPENTELLI'S CHAMBERS

January 21, 1985

Mr. Stephen W. Townsend
 Clerk
 New Jersey Supreme Court
 Hughes Justice Complex CN 970
 Trenton, N.J. 08625

Attention: Mr. Keith Endo, Deputy Clerk

Re: Urban League, et al. v. Carteret, et al.

Dear Mr. Endo:

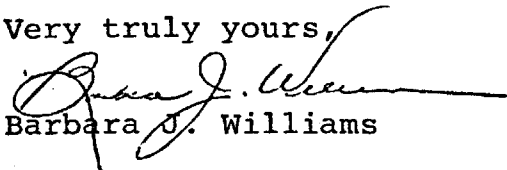
I am enclosing nine (9) copies of the "Brief and Appendix in Opposition to Motion for Leave to Appeal an Interlocutory Order and Stay Enforcement Pending Appeal" filed on behalf of the Urban League with the Appellate Division in relation to the above-referenced matter. The Urban League relies on this "Brief and Appendix" in opposition to the Notice of Motion currently pending before the New Jersey Supreme Court.

On January 18, 1985 at 3:30 PM, we received copies of the Notice of Motion and documents filed by the Township of Piscataway. Those documents reflected, in addition to items filed with the Appellate Division by the Township of Piscataway, an affidavit of Phillip Lewis Paley, Esq. Plaintiffs/Respondents have replied to this additional submission by means of a "Supplemental Memorandum of Plaintiffs/Respondents in Lieu of Brief" and I am enclosing the original and eight (8) copies of this document.

I would appreciate copies of our "Brief and Appendix" and the "Supplemental Memorandum" being filed and distributed to the Justices of the Supreme Court at your earliest opportunity.

I thank you very much for the assistance you have rendered with respect to this matter.

Very truly yours,


 Barbara J. Williams

encls

cc/Hon. Melvin P. Antell, App. Div.
 Hon. James H. Coleman, App. Div.
 Hon. Arthur J. Simpson, Jr., App. Div.
 Hon. Eugene D. Serpentelli, J.S.C., Ocean Cty
 Phillip L. Paley, Esq.

JOHN M. PAYNE, ESQ.
BARBARA J. WILLIAMS, ESQ.
Rutgers Constitutional Litigation Clinic
15 Washington St., Newark, N.J. 07102
201/648-5687
ATTORNEYS FOR PLAINTIFFS/RESPONDENTS

URBAN LEAGUE OF GREATER]	SUPREME COURT OF NEW JERSEY
NEW BRUNSWICK, et al.,]	
]	Docket No.
Plaintiffs/Respondents,]	
]	Civil Action
vs.]	
]	
THE MAYOR AND COUNCIL OF]	
THE BOROUGH OF CARTERET,]	
et al.,]	SUPPLEMENTAL MEMORANDUM OF
]	PLAINTIFFS/RESPONDENTS IN
Defendants/Petitioners.]	LIEU OF BRIEF

The Township of Piscataway has supplemented its Appellate Division presentation with Mr. Paley's affidavit of January 18, 1985. As a result, the Urban League plaintiffs will, by means of this Letter Memorandum in Lieu of Brief, briefly address the assertions made therein. However, nothing contained in the affidavit changes the factual posture of the case as heard by the Appellate Division, and accordingly we submit that the extraordinary relief of leave to file an interlocutory Mount Laurel appeal in the Supreme Court should be denied.

Mr. Paley's affidavit touches on three areas:

Paragraphs 6-9 assert, as does the Urban League in its brief in the Appellate Division, that the Township of Piscataway has insufficient land to meet the fair share that would be allocated to it under the AMG methodology. It is precisely because of the unavailability of land that the Urban League has

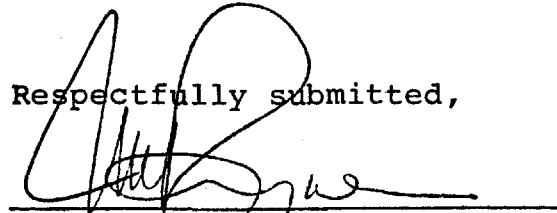
been compelled to preserve the few remaining sites until the conclusion of this litigation.

Paragraphs 10-12 question the correctness of the conclusions of Ms. Lerman's November 10, 1984 report as to several sites. The report, however, represents the professional judgment of an independent expert, retained by and answerable to the Court, not any party to the litigation. As such, and without more, it affords an ample basis for restraints that seek to briefly preserve the status quo, until the report can be tested on its merits in the adversarial proceeding scheduled to begin on January 28, 1985.

Paragraph 13 reiterates the position of the Township of Piscataway on the issue of credits, which is dealt with more fully in the Urban League's Appellate Division brief at pages 15 and 16. For the reasons set forth there, it is unlikely in the extreme that Piscataway will receive credit sufficient to offset its entire fair share, which it would have to do in order to render the vacant land issue moot.

Accordingly, nothing in the affidavit suggests that either the Trial Court or the Appellate Division were in error in their determinations as to this interlocutory issue. Leave to appeal should be denied.

Respectfully submitted,



JOHN M. PAYNE, ESQ.
ATTORNEY FOR PLAINTIFFS/RESPONDENTS

Dated: 1/21/85