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Proposed course order

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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

April 8, 1985

The Honorable Eugene D. Serpentelli
Judge, Superior Court
Ocean County Court House
Toms River, New Jersey 08753

Re: Society Hill at Piscataway

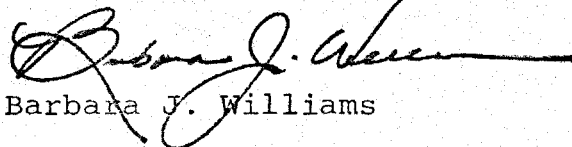
Dear Judge Serpentelli:

I am enclosing a copy of a proposed Consent Order which I have executed and forwarded to the National Committee Against Discrimination in Housing for review and signature in relation to the above referenced matter.

In submitting the proposed Order to other counsel, the Urban League is concerned that the one hundred and nine (109) units which constitute the fair share of low and moderate income units attributed to the Hovnanian project be accurately reflected in the ultimate fair share of Piscataway to be determined by the Court. It is respectfully submitted that the subject property should be included in the vacant land inventory of Piscataway with a fair share credit granted with respect thereto or, alternatively, the property not be included and not credited.

The Order executed by all of the parties will be submitted to your Honor in due course. We did, however, wish to bring the foregoing issue to the attention of the Court at the earliest opportunity.

Respectfully submitted,


Barbara J. Williams

encls

cc/Donald Daines, Esq.
Phillip Paley, Esq.
Michele Donato, Esq.
Martin Sloan, Esq.
Chris Nelson, Esq.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION MIDDLESEX COUNTY

URBAN LEAGUE OF GREATER NEW)
BRUNSWICK, etc., et al.)

Plaintiffs,)

v.)

THE MAYOR AND COUNCIL OF THE)
BOROUGH OF CARTERET, et al.)

Defendants.)

Docket No. C-4122-73

CONSENT ORDER

THIS MATTER having been opened to the Court by the undersigned attorneys for the plaintiffs and having been remanded for trial by the Supreme Court on the issues of redetermination of region and fair share as those concepts were explicated by Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 58 (1983) ("Mt. Laurel II") and for judicially supervised revision of the defendant's zoning ordinance, the parties agree as follows:

WHEREAS, the plaintiffs moved the Court on November 14, 1984 for and did receive from this Court a Temporary Restraining Order providing, among other things, that any approvals granted by the Township of Piscataway shall not create any vested use or zoning rights or give rise to a claim of reliance against a claim by the Urban League plaintiffs or an Order of this Court for revision of the Piscataway Township zoning ordinances, if the Urban League shall claim or the Court shall order rezoning necessary to satisfy the Township of Piscataway's obligation under Mt. Laurel II to provide opportunities for the development of its fair share of the regional need for low and moderate income housing; and

WHEREAS, on January 9, 1985, Piscataway voted to approve Hovnanian's aforementioned applications and memorialized such approvals by Resolution dated January 9, 1985, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, plaintiffs and Hovnanian did subsequently resolve the remaining items concerning the Plan and have ultimately agreed upon the version of the Plan attached hereto as Exhibit "B"; and

WHEREAS, the parties agree that the terms of the approvals for Society Hill at Piscataway and the provisions of the Plan fulfill the precepts and goals of Mt. Laurel II and that Piscataway should receive full credit towards its fair share obligation for the 109 lower income homes being developed as part of Society Hill at Piscataway.

NOW, THEREFORE, it is this _____ day of _____, 1985, ORDERED, and ADJUDGED: 1 - The Township of Piscataway, K. Hovnanian Companies of New Jersey, Inc., K. Hovnanian at Piscataway, Inc. and their successors and assigns, have, by virtue of the Township of Piscataway's approvals of the applications 84-PB-124; 84-PB-125; 84-PB-126; 84-PB-127C; and 84-PB-128 on January 9, 1985, as memorialized by the Resolution dated January 9, 1985 attached as Exhibit A, vested rights against any claim by the Urban League plaintiffs or this Court seeking to revise the ordinances of the Township of Piscataway in a manner which abrogates, diminishes, or affects such approvals received by K. Hovnanian Companies of New Jersey, Inc. and K. Hovnanian at Piscataway, Inc. for the development known as Society Hill at Piscataway in order to satisfy the Township of Piscataway's obligation under Mt. Laurel II.

2 - The Township of Piscataway shall receive full credit towards its fair share obligation for the 55 moderate income homes and the 54 low

WHEREAS, on November 14, 1984, K. Hovnanian Companies of New Jersey, Inc. and its wholly owned subsidiary K. Hovnanian at Piscataway, Inc. (Hovnanian), appeared before the Court and informed the Court and plaintiffs that they were the applicants on Applications 84-PB-124, 84-PB-125, 84-PB-126, 84-PB-127C and 84-PB-128 seeking approvals from Piscataway necessary to construct a residential development called Society Hill at Piscataway upon the approximately 55 acre parcel referred to as Site #46 - Gerickont Farm, Block 744, Lot 2 in the November 9, 1984 report entitled "Site Analysis: Township of Piscataway", prepared by Carla L. Lerman, P.P. and submitted to the Court by letter dated November 10, 1984; and

WHEREAS, Hovnanian informed the Court and plaintiffs that its applications sought to develop a 545 residential unit multi-family development, including 55 moderate income homes and 54 low income homes and that such 109 homes represented 20% set aside for low and moderate income housing and such 109 homes were to be sold, occupied, used and resold in accordance with the provisions of the Affordable Housing Plan for Society Hill at Piscataway ("Plan") which would serve as the mechanism whereby these 109 homes would remain in the pool of lower income homes; and

WHEREAS, plaintiffs acknowledged to the Court that they had reviewed said Plan and had been working with Hovnanian in order to revise the Plan so that it met with their approval and achieved the goals of Mt. Laurel II and further represented to the Court that there were then only a few specific items yet remaining to be resolved; and

WHEREAS, the plaintiffs agreed that a Consent Order would be entered giving Hovnanian and Piscataway vested rights against the plaintiffs with respect to the above referenced applications and further giving Piscataway credit for these 109 lower income homes to be applied towards their fair share obligation upon plaintiffs and Hovnanian resolving the specific items remaining to be resolved of the Plan; and

income homes which are to be built as part of the development known as Society Hill at Piscataway so long as such lower income homes are actually sold and resold in accordance with the approvals of the Township of Piscataway and the Affordable Housing Plan for Society Hill at Piscataway attached as Exhibit B.

3 - The Township of Piscataway shall serve notice upon the Urban League plaintiffs in the event that an application to amend or revise the approvals or the Affordable Housing Plan for Society Hill at Piscataway is submitted to the Planning Board pursuant to paragraph 5 of the Affordable Housing Plan, such notice to be served within ten (10) business days of the filing of such application.

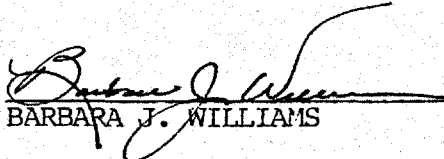
EUGENE SERPENTELLI, J.S.C.

We hereby consent to the form, substance, and entry of this Consent Order.

Rutgers University Law School,
Constitutional Litigation Clinic,
et al., Attorneys for the
Plaintiffs

Attorneys for the Defendant,
Township of East Brunswick

BY:


BARBARA J. WILLIAMS

BY:

PHILLIP PALEY

Urban League of Greater
New Brunswick, The National
Committee Against Discrimination
in Housing

BY:

CHRIS A. NELSON

BY:

BY:

MICHELLE DONATO