

U. L. v. Carteret

9/15

1986

Piscataway

Letter from Paley to Kandrup (9/15/86) 4 pgs.

& Barbara to Kandrup (9/18/86)

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September 15, 1986

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Mr. Arthur R. Kondrup
Chairman
New Jersey Council on Affordable Housing
375 West State Street
CN 813
Trenton, New Jersey 08625-0813

Re: Township of Piscataway
Urban League et al. vs. Carteret et al.
C-4122-73

Dear Mr. Kondrup:

This will acknowledge receipt of a letter from Barbara Stark, Esq., of the Rutgers Constitutional Litigation Clinic, dated September 11, 1986. In order to place Ms. Stark's letter in proper perspective, I believe that some brief recitation of procedural history of this matter is appropriate.

Factually, the Urban League has been represented by the Constitutional Litigation Clinic of Rutgers, the State University, before Judge Serpentelli, at virtually all times since January 1983. Attorneys representing the Constitutional Litigation Clinic participated actively as co-counsel or lead Trial counsel throughout those proceedings.

In addition, with respect to Piscataway Township, the Council should note that more than 10% of Piscataway's land area is owned, and actively used, for University purposes, by Rutgers, the State University. This matter was specifically brought to Judge Serpentelli's attention when a parcel of vacant land owned by Rutgers and intended for non-residential development was classified as non-suitable for residential purposes with the consent of the Constitutional Litigation Clinic's attorneys.

Piscataway argued that no impartial party could conclude that the position taken by the Constitutional Litigation Clinic was a sincere expression of the Clinic's view or of the view of its client, the Urban League, when the concession which was made involved land belonging to the employers of the advocates. Therefore, Piscataway asserted an appearance of conflict was presented which should have been resolved by the Clinic's withdrawal as counsel.

Because of the substantial land ownership of Rutgers, the State University, in Piscataway Township, putting all other issues aside, it is highly questionable whether the Constitutional Litigation Clinic of Rutgers, the State University, should be involved in any Mount Laurel proceedings; Piscataway maintains that the Clinic should be barred from proceeding further.

Following the decision of the Supreme Court validating the constitutionality of the Fair Housing Act in February, 1986,

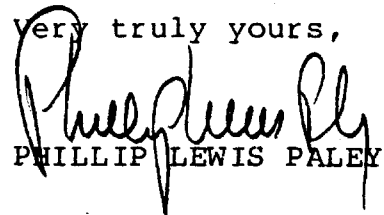
the Constitutional Litigation Clinic attorneys moved before Judge Serpentelli for Orders imposing conditions against the four remaining municipalities in the Urban League's litigation - Cranbury, Monroe, Piscataway and South Plainfield. As part of that relief, the Clinic asked Judge Serpentelli to enter an Order extending to the Clinic leave to appear before the Affordable Housing Council. The municipalities opposed that application, principally because, in our view, the mandate extended to Judge Serpentelli by the Supreme Court did not extend to such matters. Judge Serpentelli properly decided that he had no jurisdiction to address the issue, and denied the application, without prejudice.

Piscataway argued that the Constitutional Litigation Clinic is barred from proceeding before the Council, because of the very statute cited by Ms. Stark in her September 11, 1986, letter. Other statutes may also be brought to bear to reach the same conclusion. It will be Piscataway's position that the Constitutional Litigation Clinic cannot appear before the Council in any way, shape or form.

Therefore, the Civic League, to the extent that it continues to be represented by the Constitutional Litigation Clinic, has no right to file objections, comments or otherwise participate in proceedings before the Council. Piscataway will object to any involvement by the Constitutional Litigation Clinic before the Council now or in the future.

The Council should note parenthetically that the Constitutional Litigation Clinic has not forwarded to this office, or any other municipal attorney's office, a copy of its application for the Executive Commission on Ethical Standards nor of its request for an advisory opinion. By copy of this letter, I am respectfully requesting that such application be provided this office forthwith.

Very truly yours,



PHILLIP LEWIS PALEY

PLP:pmmn

cc: Barbara Stark, Esq.

bcc: Mario Apuzzo, Esq.
William C. Moran, Jr., Esq.
Ronald Reisner, Esq.
Frank A. Santoro, Esq.

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS
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September 18, 1986

Mr. Arthur R. Kondrup
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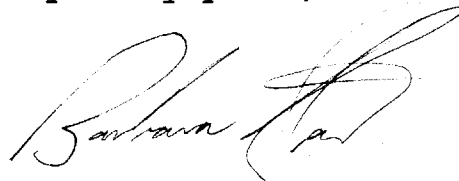
Re: Township of Piscataway
Urban League, et al. vs. Carteret, et al.
C-4122-73

Dear Mr. Kondrup:

This is by way of brief reply to the letter of Phillip Paley dated September 15, 1986. As Mr. Paley is surely aware, there is no rule requiring a party requesting an advisory opinion from the Executive Commission on Ethical Standards to provide copies of its request to anyone but the Commission itself. Such requests are not, for obvious reasons, matters of public record. We have been advised by John Donnelly, Esq., Director of the Commission, that requests become part of the Commission's investigatory file and are not released. Under these circumstances, we cannot accede to Mr. Paley's demand.

It is apparently Mr. Paley's desire to transform a matter, concededly within the Commission's jurisdiction, into an adversarial proceeding. Mr. Paley neglects to advise the Council of the failure of Piscataway's last attempt to have the Civic League's attorneys disqualified in such a proceeding.

Very truly yours,



cc/John Donnelly, Esq.
Phillip Paley, Esq.