

CA - Cranbury

10/20/77

- Statement in Opposition to Motion for Certification of An Appeal Pending Unheard in the Appellate Division
- Cover letter to supreme court clerk

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MARTIN E. SLOANE

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Michael P. Balint

October 20, 1977

Ms. Florence R. Peskoe, Clerk
Supreme Court of New Jersey
State House Annex
Trenton, New Jersey 08625

Re: Urban League of Greater New Brunswick, et al.
vs. The Mayor and Council of the Borough of
Carteret, et al.

Dear Ms. Peskoe:

Please find enclosed for filing in the above captioned case the original and nine copies of Defendant, Township of Cranbury's Statement in Opposition to Motion for Certification of An Appeal Pending Unheard in the Appellate Division. Our check in the sum of \$5.00 is also enclosed.

An additional copy of the Motion and our stamped, self-addressed envelope is provided so that you may return a stamped copy of the Statement to me.

Thank you in advance for your cooperation.

Very truly yours,


William C. Moran, Jr.

WCM/ko's
Enclosures

cc: Superior Court of New Jersey
Appellate Division

SUPREME COURT OF NEW JERSEY

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

Plaintiffs,)

vs.)

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

Defendants.)

DOCKET NO.
TERM 1977

Sat Below:

Hon. David D. Furman, J.S.C.

STATEMENT IN OPPOSITION TO MOTION FOR CERTIFICATION OF
AN APPEAL PENDING UNHEARD IN THE APPELLATE DIVISION

HUFF AND MORAN
Cranbury-South River Road
Cranbury, New Jersey 08512
(609) 655-3600

Attorneys for Defendant,
Township of Cranbury.

To the Honorable Chief Justice and Associate Justices
of the Supreme Court of New Jersey:

The Plaintiff organization and individuals have moved for certification of their appeal and cross-appeal pursuant to R.2:12-2. The Township of Cranbury joins in the statements in opposition to said Motion for Certification already filed on behalf of Defendants Township of Plainsboro and Township of East Brunswick.

In seeking certification the Plaintiffs have alleged the existence of certain issues of first impression in this State and particularly that the characterization of this action as a "regional exclusionary zoning suit" makes this a matter of unique nature and great public importance.

The conduct and record of the proceedings at the trial level indicate, however, that regardless of the manner in which the suit was brought, it has been and must be treated procedurally as if separate suits were instituted against each of the named defendants. This treatment makes the proceedings in this cause no different substantively than those prior cases concerning exclusionary zoning which have already been decided by the Supreme Court. Each defendant therefore must prevail or fall on the merits of its particular situation and the Plaintiffs' decision to proceed simultaneously against all but two of the municipalities situated in Middlesex County does not alter the legal significance of the suit as it affects any particular municipality.

Plaintiffs have also alleged that the "unique nature of this suit makes it inevitable that the parties will ultimately seek review by this Court." Review by the Appellate Division, however, could reasonably be expected to have substantial effect on the form of the suit and particularly the parties thereto which might appear before this Court. Certain defendant municipalities have already been removed from the suit by dismissals at the trial level and others by dismissal by the Appellate Division. To state broadly that "it is inevitable that the parties will ultimately seek review" is an oversimplification of such a possibility at this time since the defendant municipalities which may be parties in such an appeal will be determined largely by Appellate Division disposition of the matter.

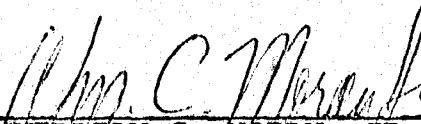
The Defendant Township of Cranbury also submits that despite the general allegations of Plaintiffs, no ongoing injury has been demonstrated, particularly as to Defendant Township of Cranbury, which injury would necessitate bypassing Appellate Division review. There has been no evidence or even allegations submitted to substantiate Plaintiff's assertion that the normal processes of justice would only serve to enhance an injury of constitutional dimension which allegedly has been and continues to be inflicted upon Plaintiffs by the Defendant municipalities.

CONCLUSION

For the reasons stated above, Defendant Township of Cranbury respectfully requests this Court to deny the Motion for Certification made by Plaintiffs pursuant to R.2:12-2.

HUFF AND MORAN
Attorneys for Defendant,
Township of Cranbury

By



WILLIAM C. MORAN, JR.
A Member of the Firm

Dated: October 20, 1977

CERTIFICATION

I hereby certify that service of this Statement in Opposition to Motion For Certification of An Appeal Pending Unheard in the Appellate Division was made by mailing the original and nine copies to the Clerk of the Supreme Court of New Jersey, and two copies of the Statement to counsel for the Plaintiffs listed below:

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Washington, D.C., 20005

and two copies of the Statement to counsel for the Co-Defendants listed below:

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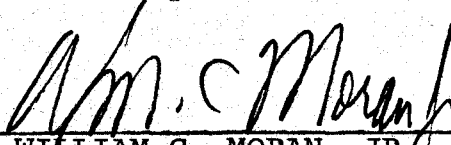
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HUFF AND MORAN
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Township of Cranbury

By



WILLIAM C. MORAN, JR.
A Member of the Firm

Dated: October 20, 1977