

CA

Cranbury

1-3-84

(State Development Guide Plan)
Letter re: SDGP¹ designations of
Cranbury & P's rebuttal of 12-22-83
letter by D.

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BISGAIER AND PANCOTTO

ATTORNEYS AT LAW
510 PARK BLVD.
CHERRY HILL, N.J. 08034
TEL (609) 665-1911

CARL S. BISGAIER
LINDA PANCOTTO

January 3, 1984

HONORABLE EUGENE D. SERPENTELLI, J.S.C.
Ocean County Court House
CN 2191
Toms River, New Jersey 08753

Dear Judge Serpentelli:

Re: Browning Ferris Industries, et al., v. Cranbury Tp.
Docket No. L-058064-83
Morris v. Tp. of Cranbury - Docket No. L-054117-83
Garfield & Co. v. Tp. of Cranbury
Docket No. L-055956-83
Cranbury Development Corp. v. Tp. of Cranbury
Docket No. L-59643-83
Urban League v. Carteret, et al., Docket No. C-4122-73
Cranbury Land Co. v. Tp. of Cranbury
Docket No. L-070840-83

This is in response to Mr. Moran's letter of December 22, 1983, to you regarding the possibility of having a separate hearing on the SDGP growth designations for Cranbury. While I believe there are circumstances in which such a hearing is advisable, I do not believe this is one.

The nature and extent of the proper SDGP designations is relevant as to three possible issues:

1. Whether any fair share number should be allocated to a municipality;
2. Whether a fair share allocation should be modified due to the absence of adequate lands in growth areas to accommodate it;
3. Whether a particular builder's remedy should be granted given the location of the site vis-a-vis SDGP growth designations.

January 3, 1984

The first issue is not implicated since Cranbury does not question that it is, at least in part, appropriately designated by the SDGP for "growth". Thus, in an initial allocation, it will clearly receive a fair share number.

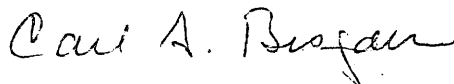
The second issue is less clear but probably does not warrant the sort of hearing contemplated. Certainly, Cranbury has ample lands which are vacant and which it would admit are appropriately designated for growth. If nothing else, this is reflected by the large areas designated for Industrial, Office Research, Commercial-Highway and Light Industrial uses. The land could clearly accommodate whatever fair share is allocated to Cranbury and, therefore, the locus of any line, for fair share purposes, is not particularly relevant.

The third issue is clearly remedial in nature. While the legitimacy of the builder's remedy in any particular instance may depend in part on SDGP designations, it will also involve many other factors, some of which will be related to the SDGP issue.

I believe that, all things being considered, it makes more sense to proceed with this matter as you have previously directed. The SDGP proofs could come as Cranbury and we put on our respective cases. This will not prejudice the other defendants and will probably maximize judicial economy by having all site-related proofs come in at the same time.

In any event, I would suggest a conference, in court, before making a decision to hold such a hearing. My experience in other cases is that such a hearing does result in a substantial amount of work for everyone concerned. I think you can expect extensive expert reports and testimony on the subject.

Respectfully yours,



CARL S. BISGAIER

CSB:emm

cc: all counsel of record
Michael Herbert, Esquire