

CA - Old Bridge

5/25/84

Affidavit of Convey in opposition to
motion to exclude evidence.

pgs - 4

CA 002335A

JEROME J. CONVERY, ESQ.
 Old Bridge Township Attorney
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 P.O. 872
 Old Bridge, N.J. 08857
 (201) 679-0010
 Attorney for Defendants

URBAN LEAGUE OF GREATER	:	SUPERIOR COURT OF NEW JERSEY
NEW BRUNSWICK, et al.,	:	CHANCERY DIVISION - MIDDLESEX COUNTY
	:	
Plaintiffs,	:	DOCKET NO. C 4122-73
	:	
vs.	:	<u>Civil Action</u>
	:	
MAYOR AND COUNCIL OF THE	:	AFFIDAVIT IN OPPOSITION TO MOTION
BOROUGH OF CARTERET,	:	TO EXCLUDE EVIDENCE
et al.,	:	
	:	
Defendants.	:	
	:	

STATE OF NEW JERSEY)
 COUNTY OF MIDDLESEX) SS.:

JEROME J. CONVERY, being duly sworn, upon his oath, according to law,
 deposes and says:

1. I am now the attorney of record for the Township of Old Bridge
 in the above referenced matter. I became the Township Attorney on
 January 2, 1984. Michael A. Noto is the Assistant Township Attorney and
 also took office on January 2, 1984. The former Township Attorney is
 Richard F. Plechner, Esq., of Metuchen, New Jersey. Upon taking office

-----, Esq., the former Secretary has no recollection of

in early January, Mr. Noto and I met with Mr. Plechner and a great number of files were turned over to our new Department of Law. Due to a previous commitment on my part, I assigned Mr. Noto to the Urban League matter, which was scheduled for Motion on January 6, 1984. Mr. Noto retained the Urban League file until Olympia & York Development Corporation, Inc. filed their complaint, pursuant to Mt. Laurel II for a builder's remedy. At that point a decision was made to consolidate the handling of these two matters, and that I, as Township Attorney, would be the attorney of record. It is noteworthy that Olympia & York filed suit against the Old Bridge Township Planning Board and that Thomas Norman, Esq. became actively involved in this matter as Planning Board Attorney. Mr. Norman, as an attorney with extensive experience regarding land-use matters, has been actively involved in Mt. Laurel II litigation in South Jersey and thereupon, for all intents and purposes, became my co-counsel in these Mt. Laurel ii matters.

2. On or about May 21, 1984, I received a copy of the Notice of Motion To Exclude Evidence, filed by Eric Neisser, Esq., on behalf of the Urban League. Immediately upon reading the Motion and Affidavit, I asked Michael Noto, Esq. whether or not he had retained the Interrogatories in this matter. Mr. Noto and his secretary both confirmed that they had not received Interrogatories in this matter and that the file that they had received from Mr. Plechner did not contain any Interrogatories. I thereafter called Mr. Plechner's office and spoke to his secretary. Mr. Plechner was not available. Mr. Plechner's secretary searched their file cabinet and indicated that they had absolutely no documents from the Urban League matter, and that the entire file had been turned over to Michael Noto, Esq. Mr. Plechner's secretary has no recollection or knowledge of the receipt of Interrogatories served on behalf of the Urban

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during November 1983. In essence, she indicated that whatever Mr. Plechner had regarding the Urban League case had been turned over to Mr. Noto as an original file.

3. Upon realizing that the representatives of the Township of Old Bridge did not have copies of the Interrogatories allegedly served by the Urban League, I contacted Eric Neisser, Esq. and indicated same to him. I indicated to Mr. Neisser that the Township, of course, would agree to answer the Interrogatories, but upon receipt of same. I suggested to him that he mail me one set of Interrogatories Express Mail to expedite the matter. I further indicated that the Township would undertake to answer the Interrogatories as soon as possible.

4. On Thursday, May 24, 1984, I received one set of Interrogatories by Express Mail. It appears that the Interrogatories are quite extensive and require much information from the Township since 1976. This is noteworthy because E. Fletcher Davis, former Township Planner, was not re-hired as of January 1, 1984. Furthermore, the Township of Old Bridge is in the process of interviewing to fill a full-time Planner position. The Township of Old Bridge, therefore, had to hire an outside Planning Consultant, Carl Hintz, in regard to these Mt. Laurel II matters. Mr. Hintz, though well qualified as a Planner, certainly can not answer many of the questions regarding Old Bridge matters between 1976 and 1984. Answers to these questions will require research on behalf of the Township Engineer, Harvey P. Goldie, in conjunction with Carl Hintz.

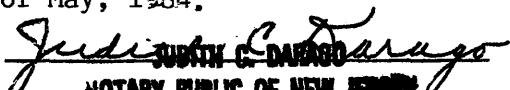
5. On May 24, 1984, I met with Thomas Norman, Esq. to review the Interrogatories which had been served on the Township of Old Bridge. Mr. Norman and I also went over a voluminous set of Interrogatories which had been served upon the Township and the Township Planning Board by

Henry Hill, Esq. on behalf of O & Y Development Corporation, Inc. It appears that many of the questions are the same or similar regarding Mt. Laurel II issues. Mr. Norman and I immediately made three additional copies of the Urban League Interrogatories with the understanding that Mr. Norman would meet with Carl Hintz, as soon as possible, to prepare draft answers. I agreed to meet with Harvey P. Goldie, Township Engineer, as soon as possible, to also prepare draft answers regarding prior Township actions. I, in fact, served a copy of these Interrogatories upon Harvey P. Goldie on May 25, 1984. It would appear that the Township of Old Bridge will need a period of four weeks to prepare complete answers to Interrogatories, in conjunction with the research that is being done by Carl Hintz concerning Old Bridge's fair share estimate.

6. Although the Township of Old Bridge will, in good faith, provide answers to Interrogatories in this matter, as soon as possible, the Township of Old Bridge respectfully requests that the Court rule that the answers to Interrogatories be provided by June 24, 1984.

7. The Township of Old Bridge believes that the burden is upon the attorneys for the Urban League to provide an acknowledgment of receipt of the set of Interrogatories allegedly mailed to Richard Plechner, Esq. In the alternative, the plaintiffs' attorneys should provide proof of return receipt of mail. In the alternative, the attorneys for the Urban League should provide an Affidavit of Mailing by someone who is in a position to indicate under oath that said Interrogatories were, in fact, placed in the mail. Absent proof of this nature, the Township of Old Bridge should not be held responsible for filing answers to Interrogatories which it never received.

Sworn and subscribed to
before me this 25th day
of May, 1984.


JUSTIN C. DAVAGO
NOTARY PUBLIC OF NEW JERSEY
My Comm. Expires Jan. 23, 1985


JEROME J. CONVERY,
Old Bridge Township Attorney