

CA

Old Bridge

3-12-87

CL re: return of submitted
reply because R. 2:8-1 prohibits
such.

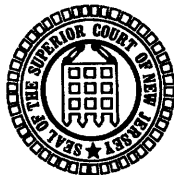
- w/ reply brief

PS 5. 4

CA 002377L

Superior Court of New Jersey

APPELLATE DIVISION

OFFICE OF THE CLERK
CN 006
TRENTON, NJ 08625

March 12, 1987

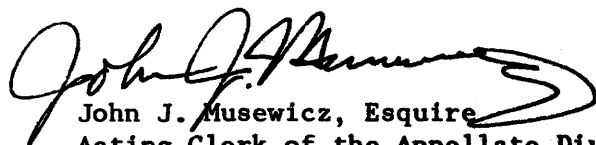
Ms. Barbara Stark
Rutgers Campus at Newark
School of Law-Newark
Constitutional Litigation Clinic
S. I. Newhouse Center For Law and Justice
15 Washington Street
Newark, New Jersey 07102-3192.

Re: URBAN LEAGUE, ET AL. vs. CARTERET, ET AL.
Docket No. A-3795-85T1

Dear Ms. Stark:

Enclosed herein please find your recently submitted reply in reference to the above motion. Same is being returned to you, unfiled, as the Rules Governing The Courts of the State of New Jersey do not provide for the filing of a reply to an answer on a motion (see R. 2:8-1).

Very truly yours,


John J. Musewicz, Esquire
Acting Clerk of the Appellate Division

By: 
Amy Helgott Tarantino
Staff Attorney

/cf
Enclosure

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS
Campus at Newark

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

February 27, 1987

VIA LAWYERS SERVICE

Honorable Judges of the Superior Court
Appellate Division
Hughes Justice Complex
Trenton, NJ 08625

RE: Urban League of Greater New Brunswick, et al.
vs. The Mayor and Council of Carteret, et al.
and Oakwood at Madison, et al.
Docket No.: A-3795-85T1

Dear Honorable Judges :

This letter is respectfully submitted in reply to the answering brief of defendants Oakwood and Beren dated February 17, 1987.

Defendants' brief does not explain their reluctance to participate in the reconsideration of the January 24th Order pending below, although such opportunity is exactly what they demand from this Court by way of remand. While they do not deny that the motions were served on them, they argue :

It is because of Oakwood and Beren's limited participation in the Urban League case, ordered on May 31, 1985, that the Township's and the Planning Board's motions to transfer were not directed to Oakwood and Beren nor were they even noticed upon [sic] this office.

In their main brief, however, defendants insist that they are entitled to a vacation of the January 24th Order precisely because they were not given notice of same. (Db5-6) If, as they now contend, no notice was due because of their "limited participation," they have conceded their own argument and it is respectfully submitted that their appeal should be dismissed on that basis.

In any case, defendants' wilful failure to participate in the proceedings below should at the very least preclude the remand demanded in their appeal. The matter has not yet been set for hearing below because the parties, including the town of Old Bridge, the Planning Board, O&Y Development Corp. and Woodhaven, are in the process of preparing detailed analyses of this complex Mount Laurel matter. Defendants' contention that they can ignore these proceedings, while insisting upon their relitigation before this Court, demonstrates a complete disregard for judicial economy.

Moreover, as evident from the most casual perusal of the motion papers filed below, the complex factual and legal developments in this case clearly distinguish it from a "mere R. 4:50-1" motion. Even if it were such a motion, however, defendants suggest no reason why they should not join in it, since it seeks the very same relief which they demand from this Court. Nor do defendants deny that this matter should be decided by Judge Serpentelli, whose invaluable role in this litigation has already been recognized by the New Jersey Supreme Court. Indeed, there is no justification whatsoever for defendants' failure to join in the motions below and they persist in

this appeal only to exert improper leverage in connection with those proceedings. It is respectfully submitted, accordingly, that defendants' appeal should be dismissed or at the very least stayed pending resolution of the motions below.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Richard Hart", written in black ink.

cc/Old Bridge Service List