

UL v. Cartnet, Old Bridge

May 15, 1987

- Letter to judge re: proposed conference to appoint
Master
- Certification of Sam Halpern

pg. 7

CA 002386 L

*Law Offices**Hutt, Berkow & Jankowski*

A PROFESSIONAL CORPORATION

*Gordon Berkow
Stewart M. Hutt
Joseph J. Jankowski
Janice K. Scherer
Ronald L. Shimanowitz
Walter G. Luger
Susan Brown Peitz
Mark Williams
Michael J. Gonnella
Michael F. Kaerber*

*Park Professional Bldg.
459 Amboy Avenue
P. O. Box 648
Woodbridge, N.J. 07095*

*Reply to
P. O. Box 648
(201) 634-6400
Our File #*

May 15, 1987

The Honorable Eugene D. Serpentelli
Superior Court of New Jersey
Court House
CN-2191
Toms River, New Jersey 08754

Re: Woodhaven Village, Inc.
O & Y Old Bridge Development
Corp. - Old Bridge Township

Dear Judge Serpentelli:

I am in receipt of letter dated May 7, 1987 from Jerry Convery, Esq. and a letter dated May 12, 1987 from Thomas Hall, Esq., re: the above captioned matter. At the outset, I would like to advise you that when I received Thomas Hall's letter, I spoke to him, and he advised that when he wrote that he joins in Mr. Convery's request for a hearing on this matter, he did not intend to imply that he agreed with Mr. Convery's delineation of what the hearing should encompass, but only that this matter should be expedited.

Frankly, I was shocked at Mr. Convery's position that there should be a hearing concerning the delineation of the wetlands. As this Court knows, wetlands delineation is within the sole jurisdiction of the Army Corps. of Engineers, and the municipality. Therefore, it is unimportant what the developer's experts say are the wetlands, or what the municipalities expert's say are the wetlands, and certainly not a matter for Your Honor to determine.

In regard to the other matters set forth in Convery's letter, for which he wants to have experts' testimony such as the outline of the transportation system, and whether or not the

Hutt, Berkow & Jankowski

A PROFESSIONAL CORPORATION

The Honorable Eugene D. Serpentelli
May 15, 1987
Page -2-

building of the properties constitutes good planning, etc.; these issues are certainly not the subject of a Motion to set aside the Settlement and Judgment.

These issues will arise when, as and if new settlement plans are presented to the planning board and the planning board will then determine whether they meet the Land Use Ordinance and the Settlement and Judgment.

V-B.3 (Approval Procedures) on Page 14 of the Settlement Agreement provides that in the event that the Planning Board does not approve a developer's Plat, (Plan the Court shall refer the matter to the Master for recommendations, and shall, thereafter, schedule hearings to determine what modifications, if any, would be necessary in order to make the plate acceptable to the Court. It goes on to provide as follows:

"The Master shall provide the Court with recommendations, and the Court shall base its decision on the record before the Planning Board, materials supplied to the Master, and the Master's recommendations. No testimony, other than the Master's reports, shall be taken before the Court."
(emphasis supplied)

In short, I do not conceive of any testimony before Your Honor on the return date of the Motion with the possible exception of a verbal report and questioning by the Court, of Ms. Lerman, the Master. Even if we were at the stage where the planning board had turned down or modified new revised applications by the developer, and the developers wished to contest the denial or recommendations of the planning board, the Settlement Agreement makes it perfectly clear that there should be no plenary hearings before Your Honor, but rather, that the above described procedures would be followed. A fortiori, since there has been no plan presented to the planning board and, accordingly, there has been no denial of a plan by the planning board, pursuant to the terms of the Settlement Agreement, a plenary hearing before Your Honor, with expert testimony about plans yet to be submitted, is clearly premature.

In regards to the rest of Mr. Hall's letter, I agree that

Hutt, Berkow & Jankowski

A PROFESSIONAL CORPORATION

The Honorable Eugene D. Serpentelli
May 15, 1987
Page -3-

this Court should rule as soon as possible on Ms. Lerman's status, regarding the so called "potential conflict of interest". We are submitting with this letter, or soon thereafter, a Certification from our client as to this matter, that should clear it up.

Our client is meeting with the Army Corps. of Engineers at the site, on Tuesday, May 19, 1987, and hopefully the Army Corps. will give us its opinion shortly thereafter as to the extent of the wetlands.

While I am anxious to dispose of this matter, along with everyone else involved, it seems silly to set any deadlines for hearings, unless and until you have received Ms. Lerman's report.

I might also add that I will be out of the state from June 1, 1987 to June 9, 1987, and since Tom Hall has advised that he will be out of state from July 16, 1987 to July 23, 1987, I would think that a realistic return date of the Motions would be sometime in July.

Prior to that time, I would have no objection, if it suits Your Honor's desires, to have either an in person or telephone status conference, concerning the diversion of views in this matter, so that when a return date is decided upon, all the parties concerned will know the parameters.

Thank you for your kind attention to this matter.

Respectfully yours,

STEWART M. HUTT
For the Firm

SMH:lp

cc: Attached Service List

Service List - Old Bridge

Thomas Norman, Esquire
Norman & Kingsbury
Jackson Commons A-2
30 Jackson Road
Medford, NJ 08055

Jerome J. Convery, Esquire
151 Route 516
P.O. Box 872
Old Bridge, NJ 08857

Stewart Hutt, Esquire
Hutt, Berkow & Jankowski
459 Amboy Avenue
P.O. Box 648
Woodbridge, NJ 07095

Dean Gaver, Esquire
Hannoch Weisman
4 Becker Farm Road
Roseland, NJ 07068

Barbara Stark, Esquire
Rutgers School of Law
Constitutional Litigation Clinic
15 Washington Street
Newark, NJ 07102-3192

William Flynn, Esquire
Antonio & Flynn
255 Highway 516
P.O. Box 515
Old Bridge, NJ 08857

~~Frederick C. Mezey, Esquire
Mezey & Mezey
93 Bayard Street
P.O. Box 238
New Brunswick, NJ 08903~~

Lloyd Brown
Executive Vice President
O&Y Old Bridge Development Corp.
760 Highway 18
East Brunswick, NJ 08816

Thomas Hall, Esq.
Brener, Wallack & Hill
210 Carnegie Center
Princeton, New Jersey 08543

Carla Lerman - Master
413 West Englewood Drive
Teaneck, N.J. 07666

HUTT, BERKOW & JANKOWSKI
A PROFESSIONAL CORPORATION
459 AMBOY AVENUE
P.O. BOX 648
WOODBIDGE, NEW JERSEY 07095
ATTORNEYS FOR PLAINTIFF, WOODHAVEN VILLAGE, INC.

URBAN LEAGUE OF GREATER NEW
NEW BRUNSWICK, et al.

Plaintiffs,

vs.

THE MAYOR AND COUNCIL of the
BOROUGH OF CARTERET, et al.

Defendants,

and

O & Y OLD BRIDGE DEVELOPMENT
CORPORATION, a Delaware
Corporation,

and

WOODHAVEN VILLAGE, INC., a New
Jersey Corporation,

Plaintiffs,

vs.

THE TOWNSHIP OF OLD BRIDGE in the
COUNTY of MIDDLESEX, a Municipal
Corporation of the State of New
Jersey, THE TOWNSHIP COUNCIL OF
THE TOWNSHIP OF OLD BRIDGE, THE
MUNICIPAL UTILITIES AUTHORITY OF
THE TOWNSHIP OF OLD BRIDGE, THE
SEWERAGE AUTHORITY OF THE TOWNSHIP
OF OLD BRIDGE and THE PLANNING
BOARD OF THE TOWNSHIP OF OLD
BRIDGE,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY/
OCEAN COUNTY
(Mount Laurel II)

DOCKET NO. C-4122-73

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY/
OCEAN COUNTY
(Mount Laurel II)

DOCKET NO. L-009837-84 PW
and NO. L-036734-84 PW

CIVIL ACTION

CERTIFICATION OF
SAM HALPERN

I, SAM HALPERN, of full age, do hereby certify as follows:

1. I am the President of Woodhaven Village, Inc. and a principal of the Halpern Organization which includes various and numerous entities involved in the land development industry. As such, I am completely familiar with the factual circumstances of the within lawsuit as well as the operations of the numerous other Halpern Organization entities.

2. I have received and reviewed a copy of Carla Lerman's letter of April 13, 1987 and Thomas Norman's letter of April 30, 1987 both of which concern an alleged conflict of interest on the part of Carla Lerman as a result of the sale of property owned by Ms. Lerman to Leo Stahl's son and daughter-in-law. I make this certification in response to the aforesaid Thomas Norman's letter of April 30, 1987.

3. Leo Stahl is not now and has never been employed by, owned an interest in, or in any way associated with Woodhaven Village, Inc.

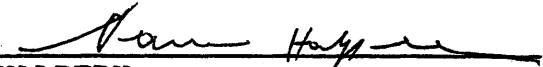
4. Leo Stahl has had and still has a minor interest in a few of the numerous entities which comprise the Halpern Organization. Leo Stahl has had and still has no major decision making power in any of these entities. The entities in which Leo Stahl has had and now has a minor interest do not include Woodhaven Village, Inc. or any entity remotely associated with Woodhaven Village, Inc. In addition, the entities in which Leo Stahl has had or now has an interest are not located in Old Bridge Township.

5. Leo Stahl first became associated with certain entities of the Halpern Organization in the year 1963 and, as stated above, continues to have a minor interest in certain entities which are not associated with Woodhaven Village, Inc. and which are not doing business in Old Bridge Township.

6. To the best of my knowledge, Leo Stahl has never maintained a business office of his own and, accordingly, has utilized the Halpern Organization telephone number and mailing address solely as a matter of convenience.

7. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: May 15, 1987
RLS:al
5/13/87
W:0347A



SAM HALPERN