

UL v. Carteret, Old Bridge

June 2, 1987

Letter to judge re: scheduling of a conference to
replace Lerman with a new Court Master

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June 2, 1987

FILE NO.

FEDERAL EXPRESS

Honorable Eugene D. Serpentelli, A.J.S.C.
Superior Court of New Jersey
Ocean County Court House
Toms River, New Jersey

Re: Old Bridge Township: Mount Laurel Compliance

Dear Judge Serpentelli:

As a result of the telephone conference call between the parties in the Old Bridge matter on Friday, May 22nd, and as a result of your encouraging the parties to meet to ascertain if any negotiations were possible, the master and representatives of all parties met on Tuesday, May 26, 1987. The parties included Carla Lerman; Barbara Stark and John Payne, representing the Urban League; Stewart Hutt, representing Woodhaven Village Inc.; Jerry Convery, representing the Township; Thomas Norman, representing the Planning Board; and myself on behalf of O&Y Old Bridge Development Corp.

Somewhat to our amazement, the parties were able to agree on a set of proposals, which were to be submitted to the Planning Board and to the governing body, and which, if acceptable to the Township, would be redrafted and sent to Your Honor for your consideration. The proposals, if ratified by the Township, would have permitted the two developers to go forward with their projects, the Township to receive the apparent relief it was seeking; and the Urban League's clients to obtain all the affordable housing which could have been built under current market conditions as quickly as possible.

As a result of the Township governing body and Planning Board actions, discussed below, the proposals are non-operational. However, for the record, the attorneys agreed, on May 26th, that the target for affordable housing (1668 lower income housing units) was unattainable under the present conditions. If the two large builders (O&Y and Woodhaven) began construction immediately, they would not attain the production levels of market housing contemplated in the Settlement Agreement until late 1988 at the earliest, because of the need to make substantial infrastructure investments.

However, the parties concluded that if the developers did begin the process of construction, and that if the 10% set aside requirement remained in force on all other builder-developers in Old Bridge Township, then the Urban League's client would, as a practical matter, receive the benefit of as much lower income housing as market forces could generate in Old Bridge Township.

Old Bridge Township's attorneys agreed that they would maintain the 10% set aside, and the developers agreed that the O&Y and Woodhaven projects, once resubmitted to the Planning Board, would show the impact of the federally regulated wetlands on each project, and that no building would take place on such wetlands, unless the Army Corps of Engineers granted appropriate permits.

At the end of the meeting, the parties also discussed a proposal which would have permitted the two larger developers to provide cash in lieu of housing, in a manner similar to that permitted in the present ordinance for smaller developers, which, if acceptable to all parties, could have provided immediate rental opportunities or a fund of money for rehabilitation. This item seemed to be generally acceptable and worthy of further exploration.

Thus, due in no small part to the cooperation of Urban League and the attorneys for Old Bridge Township, and with the assistance provided by the court-appointed master, we came to agreement on the terms of a proposal which was discussed with the Old Bridge Township Planning Board and the Old Bridge Township governing body, after which, as I noted, we contemplated bringing it to Your Honor.

To our surprise, the Planning Board and the governing body chose not only to reject the proposal, but also to request the immediate dismissal of the court-appointed master, on the grounds of the appearance of a conflict of interest. I am attaching hereto newspaper articles which have reported the events in Old Bridge Township. As far as O&Y Old Bridge Development Corp. is concerned, we feel the action of the Township with respect to the master is outrageous; but we can well understand if the master would choose not to continue to work under these conditions.

Under these circumstances, we believe that this matter must be referred to Your Honor for your immediate attention. If Your Honor wishes to schedule a conference on this matter, we would suggest it could occur towards the end of the second week in June. It is my understanding that Mr. Hutt is away from New Jersey during the first week of June, and I will be out of state during the third week of June.

We will be requesting Your Honor to schedule a return date on the Township's motion to set aside the judgment, but recognize that Your Honor will not have had the opportunity to review the factual basis of the current dispute in Old Bridge. We would suggest, therefore, that the issues to be discussed during the conference should include, at least, the following:

(1) The need for a court-appointed master in Old Bridge Township, and, if Ms. Lerman is to be replaced, the appointment of her replacement.

(2) Scheduling of factual reports by the master; and scheduling of the return date on the Old Bridge motion.

Honorable Eugene D. Serpentelli, A.J.S.C.

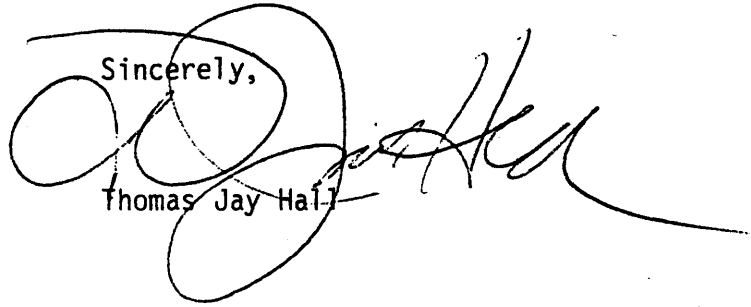
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(3) Setting forth the time when reply briefs on the Old Bridge Township motion, and responses thereto, would be required.

On behalf of O&Y Old Bridge Development Corp., I regret this turn of events. Under the circumstances, I do not believe we have any choice but to request this court's immediate attention to the resolution of this urgent problem.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Thomas Jay Hall". The signature is written over the printed name and extends to the right.

Thomas Jay Hall

TJH/sls
Enclosures

cc: All parties on service list

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Old Bridge officials want master planner removed

By K.J. COCUZZO

News Tribune staff writer

OLD BRIDGE — Township officials want court-appointed master planner Carla Lerman removed from Old Bridge's Mount Laurel case because of an alleged conflict of interest, officials said Friday.

The Township Council and Planning Board, in separate private meetings last week, voted unanimously on resolutions seeking Ms. Lerman's ouster.

It is possible that Ms. Lerman may have been in conflict, township officials said, when she sold a Teaneck home to the relatives of a man who used to work for Samuel Halpern, a principal in Woodhaven Village Inc.

The Woodbridge-based company is one of two builders involved in Old Bridge's January 1986 court-approved Mount Laurel agreement that Ms. Lerman helped negotiate.

"There's nothing to defend because I have done nothing that needs defense," Ms. Lerman said

Friday. "I explained the situation completely to all parties. I haven't heard from the township, or its attorney on what action they've taken. "I will let the judge decide (on the removal). It's his decision since he appointed me."

State Superior Court Judge Eugene Serpentelli named Ms. Lerman, an employee with the state Department of Community Affairs, as the court's master planner here in 1984.

Her job was to assist in negotiating a Mount Laurel compliance package between Old Bridge, Woodhaven, Olympia & York and the Civic League of Greater New Brunswick.

Township Law Director Jerome Convery and Planning Board Attorney Thomas Norman, in a series of letters earlier this year, asked Ms. Lerman for information concerning the house sale. She complied.

In the correspondence, Ms. Lerman indicated she learned by accident about the possible connection

between the buyers and Woodhaven.

She informed Serpentelli about the possible conflict sometime between Nov. 24 and Dec. 5, 1986. He advised Ms. Lerman to notify all the lawyers involved in Old Bridge's Mount Laurel case.

A sale agreement for the five-bedroom unfinished home was executed on Dec. 30, and the closing took place March 2 of this year. The sale price was \$275,000.

Council members Barbara Cannon and Arthur Haney publicly accused Convery last Thursday of withholding information about Ms. Lerman's possible conflict — a charge he denied as "ludicrous."

"When I have something of substance I go to the council, but not for day-to-day, routine work. When I got all the correspondence (on Ms. Lerman), I brought it to the council — and that was Thursday," Convery said.

He declined to discuss the merits of the township's action on the conflict issue.

Mrs. Cannon and Haney said they were concerned even if we're just talking about the appearance of a conflict of interest."

"We spent a lot of hours with Ms. Lerman talking about the O&Y-Woodhaven agreement. She sat in on sensitive negotiations," Mrs. Cannon said.

Lloyd Brown, executive vice president of O&Y Old Bridge Development Corp. in East Brunswick, said he was surprised by the move to oust Ms. Lerman.

"When we go out to lunch as a group — our lawyers and the township's lawyers — we'd pick up the tab. Carla would pay her own way. Nobody would worry about it but her, and you couldn't argue with her," Brown said. "Carla Lerman is as straight as they go."

"She'll probably be replaced with another planner (because of Old Bridge's protest)," he said. "In the overall picture, it won't make any difference."

Region

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THE HOME NEWS

CLASSIFIED C2-10

SATURDAY, MAY 30, 1987

Town seeks planner's dismissal finds roles conflict

By **LENNY MELISURGO**
and **JOE SABO**
Home News staff writers

OLD BRIDGE— The Township Council wants Carla Lerman to be dismissed as the court-appointed master who oversees the town's Mount Laurel II compliance plan because Lerman allegedly sold property to someone affiliated with a developer involved in the affordable-housing litigation, officials said yesterday.

The council, at a private session Thursday night, unanimously approved a resolution calling for state Superior Court Judge Eugene Serpentelli to remove Lerman from her master planner post because of a "possible appearance of conflict of interest," officials said.

The Old Bridge Planning Board took similar action at a private meeting earlier this week, said several sources who asked not to be identified.

According to the sources, Lerman has sold a piece of property in Bergen County to a person affiliated with Woodhaven Village Inc. of Woodbridge.

Woodhaven Village is one of two large development firms that filed suit against Old Bridge in 1984, contending that the township had failed to comply with the state's Mount Laurel II ruling. The ruling requires developing New Jersey municipalities to provide a "fair share" of housing for families with low and moderate incomes.

seeking to nullify its Mount Laurel settlement because of the discovery of environmentally sensitive property slated for development. A court hearing on the motion is expected to be scheduled within the next two weeks.

Lerman was appointed by Serpentelli to supervise the negotiations among Old Bridge, the state, Woodhaven Village, and Olympia & York, another development firm that plans to build thousands of homes in the township.

Lerman could not be reached for comment yesterday.

Township Attorney Jerome J. Convery and Planning Board Chairwoman Joan George said that as a matter of policy, they do not comment on issues discussed in private session.

Planning Board Attorney Thomas Norman was not available for comment.