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~~WLU~~ Old Bridge. -

05/16/88

(Urban lease of greater N. Brunswick Borough of Carteret + Old Bridge devel. + woodhaven village v. Top of Old Bridge)

Civil appeal case info statement.

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CA 002421Z

CIVIL APPEAL CASE INFORMATION STATEMENT

TITLE IN FULL: Urban League of Greater New Brunswick, et al v. The Mayor & Council of the Borough of Carteret, et al. and O & Y Old Bridge Development Corp. and Woodhaven Village, Inc. v. The Township of Old Bridge, et al. (SEE FULL CAPTION ATTACHED HERETO)		FOR OFFICIAL USE ONLY Appeal Docket No. Notice of Appeal Filed: Date Sent:	
APPELLANT'S ATTORNEY(S):	<input checked="" type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant	<input type="checkbox"/> Other (Specify)
Name STEWART M. HUTT	Address Hutt & Berkow 459 Amboy Ave Woodbridge, NJ 07095	Telephone (201) 634-6400	Client Woodhaven Village, Inc.
RESPONDENT'S ATTORNEY(S)*:			
Name	Address	Telephone	Client
SEE ATTACHED, Paragraph A.			
(*INDICATE WHICH PARTIES, IF ANY, DID NOT PARTICIPATE BELOW OR WHO WERE NO LONGER PARTY TO THE ACTION AT THE TIME OF ENTRY OF THE ORDER/JUDGMENT BEING APPEALED.)			
GIVE DATE AND SUMMARY OF TERMS OF JUDGMENT ENTERED BELOW: Order entered by Hon. Eugene D. Serpentelli, A.J.S.C. on October 6, 1987, which Order vacated an Order and Judgment of Repose dated January 24, 1986 and which Order transferred this matter to the Council on Affordable Housing. Order entered by Hon. Eugene D. Serpentelli, A.J.S.C. denying Reconsideration and Rehearing of October 6, 1987 Order.			
Does this determination dispose of <i>all issues as to all parties</i> ?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
If not, has it been certified as final pursuant to R.4:42-2? (If not, leave to appeal must be sought. R.2:2-4, 2:5-6.)		Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Is the validity of a statute, executive order, franchise or constitutional provision of the state questioned? (R.2:5-1(h)).		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:			
SEE ATTACHED, Paragraph B.			
TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THIS APPEAL, AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R.2:6-2(a)(5). Appellant or cross appellant only.			
SEE ATTACHED, Paragraph C.			

All civil appeals will be screened under the Civil Appeals Settlement Program to determine their potential for settlement or, in the alternative, a simplification of issues, abbreviation of transcript and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question.

State whether you think this case may benefit from a conference. Yes No
A negative response will not necessarily rule out the scheduling of a pre-argument conference.

Explain your answer:

1. Possibility of simplifying issues prior to briefing.
2. Woodhaven Village, Inc. is willing to modify its development plan to some extent in an effort to satisfy the needs of both appellant and defendants.

IS THERE ANY CASE NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

- (A) Arises from substantially the same case or controversy as this appeal? Yes No *
- (B) Involves an issue that is substantially the same, similiar or related to an issue in this appeal? Yes No

IF YES, STATE:

Case Name:

Docket No:

*but see, consolidated cases as per attached caption.

DO YOU EXPECT TO FILE A LETTER BRIEF (Rule 2:6-2(b))? Yes No

The time in which to file your brief and appendix is governed by court rule *unless modified by court order*. If any circumstances exist which might justify a shorter or longer period of time within which to file your brief and appendix other than that provided by Rule 2:6-11, give a detailed explanation. Your answer does *not* alter the time limit set forth in the *Rules of Court*.

This case has a very substantial record, including many exhibits and transcripts stemming from years of litigation by this appellant, in addition to years of related Mount Laurel litigation by other parties. The legal issues presented are novel and of constitutional dimension. Because of the complexity of the record and the difficulties involved in managing this particular appeal, this appellant may request an extension of time to file its brief.

In the event there is any change with respect to any entry on the Case Information Statement, appellant shall have a continuing obligation to file an amended Case Information Statement on the prescribed form.

Woodhaven Village, Inc.

Name of Appellant or Respondent

May 16, 1988

Date

Stewart M. Hutt (Hutt & Berkow, P.C.)

Name of Counsel of Record



Signature of Counsel of Record

STEWART M. HITT

ATTACHMENT TO CIVIL APPEAL CASE INFORMATION SHEET

HUTT & BERKOW
A PROFESSIONAL CORPORATION
459 AMBOY AVENUE
P.O. BOX 648
WOODBIDGE, NEW JERSEY 07095
(201) 634-6400
ATTORNEYS FOR PLAINTIFF, Woodhaven Village, Inc.

URBAN LEAGUE OF GREATER NEW BRUNSWICK, et al.

Plaintiffs,

v.

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

Defendants,

and

O & Y OLD BRIDGE DEVELOPMENT CORPORATION,
a Delaware Corp.,

and

WOODHAVEN VILLAGE, INC., a New Jersey Corp.

Plaintiffs

v.

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
) LAW DIVISION
) MIDDLESEX COUNTY/OCEAN COUNTY
) (Mount Laurel II)

) DOCKET NO. L-009837-84 P.W.
) & DOCKET NO. L-036734-84 P.W.

ment or
osition

ATTACHMENT TO CIVIL APPEAL CASE INFORMATION STATEMENT

NAME	ADDRESS	TELEPHONE NO.	CLIENT
Glenn J. Berman, Esq.	196 Main Street South River, NJ 08882	(201) 257-9720	Twp. of Old Bridge
James M. Colaprico, Esq.	997 Lenox Drive Lawrenceville, NJ 08648	(609) 896-3600	Pl. Bd of Old Bridge
William E. Flynn, Esq.	18 Throckmorton Lane Old Bridge, NJ 08857	(201) 679-1221	OBMUA

B. GIVE BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

Case involves consolidated Complaints attacking Township of Old Bridge, et. al. for failure to comply with MOUNT LAUREL obligation to provide a realistic opportunity for the provision of the Township's fair share of low and moderate income housing. After approximately two years of litigation and settlement negotiations the case was settled by agreement of the parties. Said settlement is embodied in Order and Judgment of Reposed entered by the Hon. Eugene D. Serpentelli, A.J.S.C. on January 24, 1986. Pursuant to joint motions of defendants Township of Old Bridge and Planning Board, the aforesaid Order and Judgment of Repose was vacated by Order entered by the Hon. Eugene D. Serpentelli, A.J.S.C. on October 6, 1987. The Motion of plaintiff Woodhaven Village, Inc. for Reconsideration and Rehearing filed on October 15, 1987 was denied by Order entered by Hon. Eugene D. Serpentelli on April 21, 1988. Plaintiff Woodhaven Village, Inc. appeals from aforesaid Order entered October 6, 1987 and Order entered April 21, 1988. (This appeal is brought within the 45-day period provided by R. 2:4-1(a), which was tolled by the filing the Motion for Reconsideration pursuant to R. 2:4-3(3).)

C. PROPOSED ISSUES TO BE RAISED ON THIS APPEAL.

The trial court erred in vacating the Judgment on the basis of R. 4:50-1 since the concept plans embodied in the plates were neither condition precedent nor subsequent to the Judgment.

The trial court erred in vacating the Judgment on the basis of R. 4:50-1 since there has been no mistake or newly discovered evidence.

The trial court erred in vacating the Judgment on the basis of R. 4:50-1 since Township and Planning Board will be getting the benefit of their bargain.

The trial court erred in vacating the Judgment on the basis of R. 4:50-1 since the Reopening Clause in the Judgment requires a modification not a vacation.

The trial court erred in vacating the Judgment on the basis of R. 4:50-1 as to

Woodhaven since the Judgment/Contract (Settlement) was several and plaintiffs developments were not integrated.

The trial court erred in not conducting a hearing with full testimony from and cross examination of the court appointed master.

JEROME J. CONVERY, ESQ.
151 Route 516
P.O. Box 642
Old Bridge, NJ 08857
(201) 679-0010
Attorney for Township of Old Bridge

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al,

Plaintiffs,

v.

THE MAYOR AND COUNCIL OF THE
BOROUGH OF CARTERET, et al,

Defendants,

and

O & Y OLD BRIDGE DEVELOPMENT
CORPORATION, A Delaware
Corporation, Plaintiff,
and
WOODHAVEN VILLAGE, INC. a
New Jersey corporation
Plaintiff,

v.

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
(Old Bridge)

Docket No. C 4122-73

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY/OCEAN COUNTY

Docket No. L009837-84 PW

and No. L036734-84 PW

Civil Action

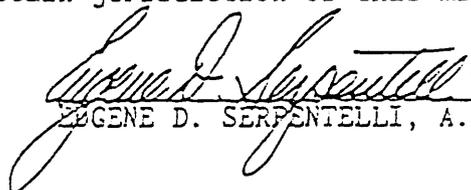
ORDER

This matter having been opened to the Court on the Motion of the Township of Old Bridge, Jerome J. Convery, Esq. appearing; and on Motion of the Planning Board of the Township of Old Bridge, Thomas Norman, Esq. appearing, and a Cross Motion having been filed by the Urban (now Civic) League of Greater New Brunswick, Barbara Stark, Esq. appearing, in the presence of Plaintiff, O & Y Old Bridge Development Corp., Thomas J. Hall, Esq. and Dean A. Gaver, Esq. appearing, and in the presence of Woodhaven Village Inc., Stewart Hutt, Esq. appearing, and the Court having reviewed the Motion papers, Briefs and Memoranda, Supporting Affidavits and reports submitted on behalf of all parties hereto; and the Court having heard oral argument and good cause having been shown,

IT IS ON THIS 6 day of *October*, 1987,

ORDERED:

1. That the Order and Judgment of Repose granted by this Court by Order dated January 24, 1986, is hereby vacated for the reasons stated by this Court in its oral opinion rendered September 14, 1987.
2. This matter is hereby transferred to the Council on Affordable Housing.
3. The Cross Motion filed by the Civil League of Greater New Brunswick for enforcement of the Order and Judgment of Repose, dated January 24, 1986, is hereby denied for the reasons stated by this Court in its oral opinion rendered September 14, 1987.
4. This Court does not retain jurisdiction of this matter.


EUGENE D. SERPENTE, A.J.S.C.

JEROME J. CONVERY, ESQ.
151 Route 516
P.O. Box 642
Old Bridge, NJ 08857
(201) 679-0010
Attorney for Def. Township of Old Bridge

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al,

Plaintiffs,

v.

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,

v.

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
: LAW DIVISION
: MIDDLESEX COUNTY/OCEAN COUNTY
: (Mount Laurel II)

: DOCKET NO. L-009837-84 P.W.
: and No. L-036734-84P.W.

: CIVIL ACTION

: ORDER

This matter having been opened to the Court on the Motion for Reconsideration of the Plaintiff, WOODHAVEN VILLAGE, INC., a New Jersey Corporation, Stewart Hutt, Esq. appearing, and in the presence of the URBAN (now CIVIC) LEAGUE OF GREATER NEW BRUNSWICK, Barbara Stark, Esq. appearing, and in the presence of Plaintiff, O & Y OLD BRIDGE DEVELOPMENT CORPORATION, Thomas J. Hall, Esq. appearing, and in the presence of the TOWNSHIP OF OLD BRIDGE PLANNING BOARD, Thomas Norman, Esq. appearing, and in the presence of the TOWNSHIP OF OLD BRIDGE, Jerome J. Convery, Esq. appearing; and the Court having reviewed the Motion papers, Briefs and supporting documents submitted on behalf of all parties hereto; and the Court having heard oral argument and good cause having been shown,

IT IS ON THIS 21 day of April, 1988,

ORDERED that the Motion for Reconsideration of the Court decision rendered September 14, 1987, in the above referenced matter, is hereby denied.



EUGENE D. SERPENTELLI, A.J.S.C.