

CA - Old Bridge

4/20/89

letter with brief in lieu of formal
brief on behalf of Woodhaven Village, Inc
in opposition to motion of Civic
League for stay and temporary
remand

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Our File #

April 20, 1989

FEDERAL EXPRESS

Emile Cox, Acting Clerk
Appellate Division
Superior Court of New Jersey
Hughes Justice Complex
CN 006
Trenton, NJ 08625

Re: Urban League, et al. v. Carteret, et al. (Old Bridge)
Woodhaven Village, Inc. v. Twp. of Old Bridge, et al.
Consolidated Appeals - Docket Nos. A-4335-87T3,
A-4572-87T3 and A-4752-87T3

Dear Honorable Judges of the Appellate Division:

Please accept this Letter Brief in lieu of formal brief on behalf of appellant Woodhaven Village, Inc. (hereinafter "Woodhaven") in opposition to Motion of Civic League for Stay and Temporary Remand.

PROCEDURAL HISTORY AND STATEMENT OF FACTS

The procedural history and facts in this matter are set forth at length in Brief and Appendix of plaintiff-appellant

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Woodhaven Village, Inc. (WPb 1 to 20) and are therefore not repeated herein. In addition, Woodhaven generally accepts the Statement of Facts as set forth in the Civic League Brief (CLPb 3 to 5). However, Woodhaven takes no position as to those facts alleged by Civic League which regard plaintiff-appellant O & Y Old Bridge Development Corporation (hereinafter "O&Y").

LEGAL ARGUMENT

The within Motion of Civic League for Stay and Temporary Remand must be denied.

Civic League seeks to stay the Orders dated October 6, 1987 (WPa 44) and April 21, 1988 (WPa 46) insofar as such Orders permit defendant Old Bridge Planning Board to consider applications of O&Y and Woodhaven. Said Orders have been in effect for eighteen months and twelve months respectively. During these extended periods of time, Civic League did not see fit to request the stay which is now sought. Civic League could have immediately requested a stay from the trial court but chose not to do so. Now that the parties have relied upon the efficacy of the Orders for some eighteen months it would be unfair, at this late date, to stay the effect of same.

Civic League has slept on its rights and, therefore, should not be entitled to a stay. The Old Bridge Township Planning Board conducted four public hearings on the O&Y General Development Plan which was approved on January 9, 1989. Civic League apparently

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did not participate in or object to the O&Y application for General Development Plan. Now, after said plan was approved at great expense to O&Y and the public, the Civic League requests a stay of all applications by O&Y before the Planning Board. Since the Civic League had the opportunity to object to the O&Y application, and did not do so, there is no reason to stay further O&Y Planning Board applications.

Woodhaven has filed an application with the Old Bridge Township Planning Board for a General Development Plan (GDP) Approval on its landholdings. The first public hearing, with notice given pursuant to the Old Bridge Township Land Development Regulations and the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), was held on April 17, 1989. The next hearing is scheduled for April 27, 1989. During the April 17, 1989 public hearing an attorney from the Public Advocate's office appeared to present its objection to the Woodhaven application. Such an objection and the right of any interested party to appeal the ultimate decision of the Planning Board is no doubt sufficient protection of the public's interest without the need for a stay. The denial of this Motion for a stay would not, therefore, prejudice the rights of Civic League with regard to the Woodhaven development. The granting of a stay however, would prejudice Woodhaven in that a substantial amount of time and money has been expended in order to submit the GDP application, participate in public hearing on same and commence the engineering design for the next stage of

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applications such as subdivision and site plan approvals.

In short, the Civic League's Motion for Stay is brought too late. Even if the Motion had been more timely filed, the Motion should be denied since Civic League's interests are protected by land development application notice requirements and provisions for appealing decisions of municipal bodies. The Motion for Stay must be denied.

Thanking you for your consideration of the above, I am

Respectfully yours,



RONALD L. SHIMANOWITZ

For the Firm

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