

CA-Piscataway

7-May-84

Certification of Chris A. Nelson in opposition filing
of an amended complaint

PS. 5

CA 002455 V

VENEZIA & NOLAN

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(201) 634-8700
ATTORNEYS FOR

Defendant,
Planning Bd. of the Twp. of Piscataway

Plaintiff

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al.,

vs.

Defendant

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

SUPERIOR COURT
of
NEW JERSEY
Chancery Division
Middlesex County

C 4122-73

CIVIL ACTION

CERTIFICATION OF
CHRIS A. NELSON

STATE OF NEW JERSEY
COUNTY OF MIDDLESEX: ss

CHRIS A. NELSON, of full age does hereby certify
as follows:

1. I am a member of the firm of Venezia and Nolan, Esqs., 306 Main Street, Woodbridge, New Jersey, 07095, which firm represents the Planning Board of the Township of Piscataway.

2. I submit this Certification in opposition to Plaintiff's Motion for Leave to File an Amended Complaint and in addition thereto seeking a Temporary Restraining Order and an Interlocutory Injunction.

3. Mr. Gelber's Affidavit in support of the Plaintiff's Motion makes reference to three (3) specific parcels of land which are currently the subject of development applications.

4. The first of the three (3) application to which he refers is the 50.28 acre tract designated as Lot 3 of Block 497 as shown on the Tax Map of the Township of Piscataway.

5. The application currently pending before the Planning Board is for preliminary subdivision approval. There is no application pending for site plan approval.

6. The decision of the Planning Board may increase the number of lots which comprise the area currently designated Lot 3 of Block 497, but it can not, assuming that the Board rules favorably on the application, vest the Applicant with any rights to construct on the subject premises which it does not already have.

7. The second application to which Mr. Gelber refers in his Affidavit is the 35.6 acre tract being comprised of several lots in Block 408-410 and Lots 1 and 3 of Block 413 as shown on the Tax Map of the Township of Piscataway.

8. Again the application pending before the Board is for subdivision approval. The affect of an approval, if that is the decision of the Planning Board, would be to divide the applicant's property into two (2) parcels. One parcel would be occupied by the applicants existing chemical manufacturing facility, while the second would for the most part be vacant land. There is no application pending before the Board for the development of this second tract, and as pointed out previously, if approval is given the Applicant they will have no greater right to develop the subject property than that which currently exists.

9. The third application to which Mr. Gelber refers in his affidavit is a 4 acre tract of land designated as Lot 5A of Block 560 as shown on the Tax Map of the Township of Piscataway.

10. Again, the application pending before the Board is for subdivision division approval only. The affect of an approval would be that the applicant would have twelve building lots upon which he could construct single family dwellings.

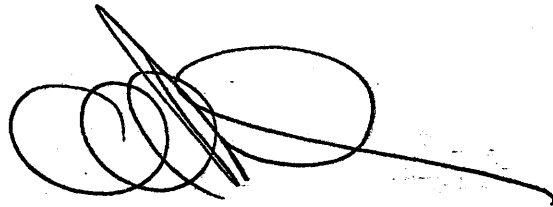
11. Throughout Mr. Gelber's affidavit there is the recurring assumption that the Township of Piscataway does not have sufficient land to provide for its fair share of low and moderate income housing as proscribed under Mount Laurel II. His Affidavit lacks any substantiation for such an assertion. In fact, large tracts of vacant land within the municipality were recently re-zoned in order to provide sufficient areas for Piscataway's low and moderate income housing obligations.

12. N.J.S.A. 40:55D-46, 47, 48 and 50 impose upon the Planning Board certain time constraints. If the Board should fail to render a decision upon the application within the proscribed period, the above referenced sections of the Municipal Land Use Law act to grant the applicant an automatic approval of its development application. N.J.S.A. 40:55D-21 does not apply since that statute is applicable only during the period of approval and the intent of the statute is clearly to protect the developer and not the municipality.

13. To grant the Plaintiff's application would result in a virtual moratorium on development within the municipality until this action is finally adjudicated. In the present instant, the Plaintiff has sought to enjoin the development of a four (4) acre site, how small must the site be before the Plaintiff will not feel as though all the available land is being swallowed up. Plaintiff would require that the Planning Board accept an application for development, thereby

starting the statutory clock running, then refer the application to them and then wait again to see if they will object to the application. That doesn't include the time involved should either the Board or the applicant disagree with the Plaintiff's position and seek redress with the Court.

14 Finally, the Court can not ignore the tremendous burden that will be placed upon the applicants should Plaintiff's Motion be granted. Not all applicants can afford the delays occasioned should the Plaintiff decide that their site is suitable for low and moderate housing. The cost in time and money to the applicant and the prospective occupant can be overwhelming.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Chris A. Nelson

DATED: MAY 7, 1984.