

CA - In the Matter of Mount Laurel II
(Cranbury)

April 2, 1985

Respondent Cranbury Land Company
Brief and Supporting
 Affidavit ~~in~~ In Opposition to Application to File
 petition and for a Stay Petitioner Cranbury's
 of Carl S. Bisgauer

pg. 24

CA 002552B

TOWNSHIP OF CRANBURY, : SUPREME COURT OF NEW JERSEY
 Petitioner, : DOCKET NO. _____
 vs. : CIVIL ACTION
 URBAN LEAGUE OF GREATER :
 NEW BRUNSWICK AND GARFIELD : IN THE MATTER OF MOUNT LAUREL II
 AND COMPANY; CRANBURY LAND : 92 N.J. 158 (1983)
 COMPANY; LAWRENCE ZIRINSKY; :
 TOLL BROTHERS, INC., :
 Respondents. :

RESPONDENT CRANBURY LAND COMPANY'S
 BRIEF AND AFFIDAVIT IN OPPOSITION
 TO APPLICATION TO FILE PETITION
 AND FOR A STAY

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On the Brief:

CARL S. BISGAIER, ESQUIRE

INTRODUCTION

This brief has been done in such a short time and under such great pressure that it does not conform in several respects to the Rules of Court. Counsel has attempted primarily to bring certain facts to the Court's attention in light of the many misstatements and omissions in Petitioner's papers. Counsel for all Respondents have conferred by phone and have discussed the response. We were unable to meet and properly divide the work. Counsel will rely on the positions taken by other Respondents as well as that presented herein.

COUNTER-STATEMENT OF FACTS

The papers submitted on behalf of Petitioner in support of its application for a stay present a factual picture so misleading as to border on a patent misrepresentation. It is one thing to address the media in such a fashion but quite another to do so in a judicial forum.

Cranbury is portrayed as a bucolic, rural historic village, totally disconnected from urbanizing pressures. Cranbury is portrayed as an entity fighting to save its agricultural and historic identity while falling victim to a judicial mandate which, if unchecked, will destroy it.

In fact, Cranbury is a prototypical exclusionary community. Its ordinances have been subject to judicial invalidation for almost a decade. It did not even argue the issue of non-compliance before the court below. While "preserving" its historic village and agriculture, Cranbury has been continuing to encourage low density, expensive, single-family detached units and non-residential growth. Thousands of acres of agricultural lands have been voluntarily zoned for industrial, commercial, office-research and residential uses.

In the context of this motion, one can hardly present a complete record. There is a record below; however, Petitioner has chosen not to bring it before this Court. The attached

affidavit of Carl S. Bisgaier, Esquire, sets forth some of the relevant facts.

1. Its 1979 Master Plan acknowledges that Cranbury is "on the cutting edge of intensive urbanization. The pressures emanate from all directions ..."

2. A major goal of the Master Plan is to "(e)ncourage development of industrial, office, research, commercial, and service uses ... (to) increase the tax base ..." and to "(u)se the leverage offered by Cranbury's unique existing and prospective character to attract office-research development ..."

3. Over 2,000 agricultural acres east of the Village have been zoned for non-agricultural uses. Not as a result of Mt. Laurel I or II, but as part of a municipal strategy to attract employment. It was only in response to Mt. Laurel II that some of this acreage was zoned for higher density residential uses.

4. There were, as of 1980, 691 dwellings and 3273 "covered" employees. An employee to household ratio of 1:.2. The 1980 State ratio was 1:1 and the Middlesex County ratio was 1:.8. Using these ratios, had Cranbury achieved a similar jobs/housing balance, it would have had 3273 households using the State ratio and 2612 using the County ratio.

5. Cranbury's Master Plan projects a capacity of between 5450 to 11,370 employees. This would result in a similar range of households using the State ratio (5450 to 11,370) or County ratio (4360 to 9096).

6. As of a 1982 survey, only 90 local employees were directly engaged in agriculture, while 70% were in office research jobs.

7. The Township is circled by or directly proximate to five townships whose populations have increased in the past decade by 25,162 people and covered employment increased by 17,728 jobs.

8. Cranbury is incredibly well-located with regard to major transportation arteries and proximity to major employment centers.

9. Non-agricultural zoning in Cranbury, according to the Master Plan, accounts for almost 4400 vacant, developable acres.

10. Cranbury's own planner estimated a fair share responsibility of approximately 600 units and acknowledged the non-compliance of its ordinance.

11. Cranbury was offered and rejected a settlement at the 600 number. The settlement would have implicated less than 500 total acres, at least 200 of which were in zones previously designated for higher density residential uses.

12. Cranbury Land Company sought to build subsidized housing in Cranbury as early as 1970, reiterated its desire to do so in 1972, 1973 (by way of lawsuit), 1974 and 1976. It was always rebuffed. Its 1976 request was rejected because of the imminence of Cranbury's appeal of the Urban League decision. CLC has presented Cranbury with numerous development proposals, the most recent in 1984, consisting of a concept plan and 28-page suitability report.

This short recitation of fact at least begins to portray the reality of Cranbury: an exclusionary municipality. It is one which is seeking expensive, employment-generating ratables and a selective type of growth while hiding behind the skirts of its historic village and agricultural setting when convenient and then only to justify its discrimination against the poor.

The question presented by Cranbury is not whether it will grow but whether its growth will accomodate the poor. There is no question that absent judicial action it would only have accomodated the wealthy and non-residential ratables.

The same can most likely be said for other municipalities represented by affidavit. The affidavit attached hereto addresses Holmdel and sets forth a far different factual perspective than presented by Petitioner's papers. The Court should note that while Petitioner's affidavits and brief constantly bemoan the 4:1 ratio "required" by Mt. Laurel II, Holmdel's own proposed compliance program which it has adopted could generate its full fair share at less than a 1:1 ratio. * This is omitted in its papers before the Court.

The paucity of a record here should give caution to the Court. Petitioner has presented little of the factual record below. It has chosen not to bring that record before the Court. With good reason. The facts are devastating to Cranbury; while half-truths and quarter-truths continue to serve it well.

Legal Argument

Respondent apologizes for the lack of thoroughness in this brief. It will rely substantially on papers filed by the Urban League and others. The following is an outline of its legal position.

* Respondent is not suggesting that Holmdel's compliance program has been accepted by the trial court or should be. The only point being made is that Holmdel's planner has testified that if its compliance program were accepted, it could generate lower income units at a less than 1:1 ratio.

I. PETITIONER'S INVOCATION OF THE COURT'S ORIGINAL JURISDICTION IS IMPROPER

This is not a matter relating to the Court's rule-making powers or control over the practice of law. Nor is it a pending matter before this Court. The remand was without a retention of jurisdiction. Original jurisdiction does not exist. In re Li Volsi, 85 N.J. 576, 582-584 (1981).

II. THE MATTER IF TREATED AS AN INTERLOCUTORY APPEAL MUST BE REJECTED

Mt. Laurel II, 92 N.J. 158, 285 (1983) provides that trial court proceedings and decisions are interlocutory until a final judgment on all phases is rendered and that there is no right to appeal. However, while an appeal as of right is not permitted, a party can always seek the discretion of the court to appeal.

Petitioner has not even sought a trial court ruling from which to appeal and, if it is appealing from any ruling, this Court should be provided with the record below.

III. PETITIONER LACKS STANDING TO SEEK THE RELIEF REQUESTED AND NECESSARY PARTIES HAVE NEITHER BEEN JOINED NOR NOTICED

Petitioner seeks a stay of all pending Mt. Laurel II actions. Affidavits are submitted on behalf of townships engaged

in Mt. Laurel II actions. The numerous parties in those actions have not been joined although clearly required by R.4:28. Petitioner apparently did not even give them the courtesy of notice. Further, Petitioner is not a party, nor an interested person, in any of those cases. It has not moved for consolidation or intervention. It clearly has no standing to seek a stay.

IV. THE IMMINENCE OF LEGISLATION
DOES NOT WARRANT A STAY

First, there is absolutely no way to know whether any legislation will be signed by the Governor. Second, the legislation being considered would have little or no impact on Cranbury (or Holmdel). It would not preclude completion of the present cases; nor the ultimate award of a builder's remedy.

V. REVISION OF THE SDGP

This Court has completely dealt with how its trial courts should address SDGP issues in the absence of a revision. Mt. Laurel II, supra, 92 N.J. at 240, 242-243, 244 and 244 fn. 17. Further, the SDGP issues in Cranbury were fully litigated below. The position set forth in Petitioner's brief completely ignores both of these facts. There is simply no need for further judicial review.

VI. THE BUILDER'S REMEDY

Nothing has been the subject of more misstatements than the effect of the builder's remedy. First, this Court has given municipalities the best defense to the remedy: compliance. Second, the court below has given non-compliant municipalities which wish to voluntarily rezone, protection from developer litigation. Third, where developers sue, the court below has given municipalities which wish to comply protection from other developer suits. Fourth, numerous suits are settling without the "horrors" depicted by Cranbury.

Most importantly, this Court gave ample protection from the improper award of a builder's remedy as to protection of the environment and sound planning principles. The fact is the court below has not reviewed site suitability issues and, thus, has not finally awarded the remedy to any of the developer litigants. The Petitioner's fears are, at best, being prematurely brought to the Court.

VII. IMPACT ON URBAN AREAS

The Petitioner's brief on this point is totally without merit relying on the affidavit of a planner for Long Branch. Reliance will be placed on the response by the Urban League

VIII. A STAY SHOULD BE DENIED

There is simply no basis for a stay. There is nothing happening or about to happen in this litigation which is not completely in furtherance of Mt. Laurel II. The damage to the Respondents would be severe. The anticipated legislation may never be signed. Legislation which is adopted and signed may have no impact on the litigation.

IX. MOTION FOR ADMISSION
PRO HAC VICE

Reliance is placed on the position taken by Garfield and this Respondent joins in that position. While Petitioner may be entitled to counsel of choice, some effort should be made to assure counsel for Respondents and the Court that papers similar to those which support this Petition are never filed again.

X. MOTION TO APPEAR
AS AMICUS CURIAE

This motion should be denied. Virtually all of the members of this group are defendants in Mt. Laurel II litigation. Their proper course is intervention or consolidation with notice to all parties in their relevant litigation.

CONCLUSION

For the foregoing reasons, Petitioner's application to invoke the Court's jurisdiction and for a stay should be denied. If granted, Respondent reserves the right to file an Answer to the Petition.

Carl S. Bisgairer

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Attorney for Cranbury Land Company

Dated: April 2, 1985

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Land Company

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|-------------------------------------|---|--------------------------------------|
| TOWNSHIP OF CRANBURY, | : | SUPREME COURT OF NEW JERSEY |
| Petitioner, | : | DOCKET NO. _____ |
| v. | : | Civil Action |
| URBAN LEAGUE OF GREATER NEW | : | IN THE MATTER OF |
| BRUNSWICK and GARFIELD AND COMPANY; | : | MOUNT LAUREL II |
| CRANBURY LAND COMPANY; LAWRENCE | : | 92 N.J. 158 (1983) |
| ZIRINSKY; TOLL BROTHERS, INC., | : | |
| Respondents. | : | <u>AFFIDAVIT OF CARL S. BISGAIER</u> |

CARL S. BISGAIER, being of full age and duly sworn
according to law, deposes and says:

1. I am an attorney-at-law of the State of New Jersey
and represent the Cranbury Land Company (CLC) in the above-
captioned matter.

2. I also represented CLC in its litigation against
Cranbury, Cranbury Land Company v. Cranbury Township, L-070841-83PW

(Middlesex/Monmouth), filed November 10, 1983, and participated in all aspects of that litigation, including, but not limited to, the fair share hearing before the Honorable Eugene D. Serpentelli, AJSC, on this and consolidated cases addressing the issue of fair share.

3. The 1980 State Development Guide Plan (SDGP) designations for Cranbury are for Limited Growth and Growth areas. A proposal in January 1981 to change the Limited Growth designation to Agriculture (with minor boundary adjustments) was never adopted. The legitimacy of using the SDGP, in its original 1980 form, was fully litigated before the trial court with extensive testimony taken from numerous witnesses including Richard Ginman, who was Director of the Division responsible for the SDGP at all relevant times.

4. The Cranbury Master Plan was adopted on September 9, 1982. The following can be gleaned from the Master Plan:

a. the following statement introduces the discussion of the Land Use Plan:

On the surface, Cranbury has the appearance of a tranquil, remote agricultural community focused on a historic village by-passed by time. In its regional context, however, the community finds itself on the cutting edge of intensive urbanization. The pressures emanate from all directions: north from Trenton, east from Princeton, and south along the New Jersey Turnpike.

Master Plan, III-1. While there follows a discussion of farmland preservation, the Master Plan later discusses how these "pressures" can be harnessed for economic development.

b. the following statements appear on page III-4 of the Master Plan:

Goals: Encourage development of industrial, office, research, commercial, and service uses, selected and regulated so as to preclude land use incompatibilities and in an amount that, while not disturbing the fragile residential-agricultural balance in the rest of the Township, would nevertheless increase the tax base which supports the local government and the public school system.

Policies: Set aside areas specially suited for office-research and industrial uses by reason of accessibility to transportation.

Use the leverage offered by Cranbury's unique existing and prospective character to attract office-research development of the highest quality, and seek to achieve such quality by means of appropriate design standards.

c. The Master Plan indicated that there were 5030 acres in agricultural use: 2800 west of the Village, 2090 east of the Village and the remainder in the Village.

d. The present zoning ordinance of Cranbury was adopted during the summer of 1983, after Mt. Laurel II was decided. Under that and the prior ordinance (in effect at the time of the initial trial court decision by Judge Furhman and the Supreme

Court decision), virtually all of the agricultural acreage east of the Village, over 2,00 acres were designated ultimately for non-agricultural land uses. The major zoning change after Mt. Laurel II was the redesignation of certain non-residential lands for higher density residential uses. The designation of these lands for ultimate non-agricultural uses was supported by the Master Plan, SDGP and County Master Plan, Master Plan, III-6, 15, 22.

e. Under the old ordinance, there was, according to the Master Plan, a development potential in Cranbury for 1846 dwellings and between 2,480 and 15,360 employees. Master Plan, II-22. Under the 1983 ordinance revisions, there was a development potential of between 3355 and 3890 dwellings. An increase of between 2620 and 3155 over the then existing 735 dwellings. Master Plan III-20. Further, as a result of the 1983 ordinance, the potential exists for between 3230 and 9170 new employees over the 2200 which then worked in Cranbury; yielding a total of between 5,450 and 11,370 employees. Master Plan, III-21.

f. the employee-housing ratio in New Jersey as of 1980 was one to one (1:1); that is, for each covered employee in the State, there was one household; for Middlesex County, it was 1:.8; that is, for each covered employee in the county, there were .8 households.* As of 1980, there were 3,273 covered employees in Cranbury and 691 households; a ratio of 1:.2, that is, for each covered employee, there were .2 households.

* In 1980, there were 2,469,807 covered employees in New Jersey and 2,548,594 households. There were 236,560 covered employees in Middlesex County and 196,708 households.

If Cranbury had held to the State ratio, it would have provided for 3273 households. If Cranbury had held to the County ratio, it would have provided for 2612 households.*

g. The Master Plan projects a capacity of between 5450 and 11,370 employees. Using the State employee to household ratio that would yield a need for between 5450 and 11,370 households; using the County ratio, it would yield a need for between 4360 and 9096 households.

h. The Master Plan revealed that a miniscule percentage of employees in Cranbury were engaged in jobs directly related to agriculture. Of 2238 employees surveyed, only 90 (or 4%) were so characterized; whereas 70% of the employees worked in office research jobs. Master Plan, II-11.

5. George M. Raymond, P.P. is the principal planner for Cranbury, whose firm prepared the Master Plan and who testified for Cranbury at the fair share hearing. Mr. Raymond testified that a reasonable fair share for Cranbury was approximately 599 units and acknowledged that its 1983 zoning ordinance would only accommodate between 167-200 units. Raymond Report, "Region, Housing Needs and Fair Share Allocation for Cranbury, New Jersey", dated March 19, 1984. "DC-2" in evidence, page 17.

* Using the actual 1982 covered employment figure of 3716, Cranbury under the State ratio would have had 3716 households, and under the county ratio would have had 2973 households.

6. Mr. Raymond offered an additional report, "Cranbury Township's Mount Laurel Obligation", dated May 10, 1984, "DC-3" in evidence. On page 9, Mr. Raymond surveyed the various methodologies and concluded (as corrected by testimony) that:

a. for a five-county region the reallocated present and prospective fair share ranged from 569 to 762 or, as he calculated, a "mid-point" of 665; and

b. for a six-county region, the reallocated present and prospective fair share ranged from 496 to 679 or, as he calculated, a "mid-point" of 587.

To all figures must be added an indigenous need of 28 units. This yields "mid-points" of 693 and 615 respectively.*

7. The Raymond Report of May 10, 1984, "DC-3" at page A-3 indicates that covered employment in Cranbury rose from 2774 jobs in 1972 to 3716 in 1982, an increase of 942 jobs or 34%.

8. Subsequent to the hearing on fair share, Cranbury, through its attorney, stipulated to the non-compliance of its 1983 zoning ordinance.

9. Cranbury Land Company (CLC) has been actively involved in promoting the construction of lower-income housing in Cranbury since before the filing of the original Mt. Laurel complaint. Documents in evidence, PMD-3 recite this history.

*As the Township attorney notes in his affidavit, Cranbury was offered and rejected a full settlement for a fair share at their expert's number. The settlement would have implicated less than 500 acres, 200 of which were lands previously zoned by Cranbury for "high" density uses.

a. by letter of December 30, 1970, CLC proposed a 564-unit development of subsidized housing. If accepted, this would have yielded such housing without the need for any conventional units. It was rejected;

b. by letter of December 4, 1972, CLC (through a joint venture, "Millbury Joint Venture") proposed a 900-unit development of which 693 units would be subsidized for low and middle income households. It was rejected;

c. CLC sued Cranbury on February 14, 1973 (Millbury Joint Venture v. Tp. of Cranbury, Docket No. C-17032-72 P.W. [Middlesex Co.]) attacking the legality of its zoning ordinance and seeking, among other things, the required adoption of a "resolution of need" to obtain subsidies. The suit was withdrawn because of the alleged imminence of rezoning;

d. by letter of October 17, 1974, CLC sought to meet with Township officials, citing Mt. Laurel obligations and housing needs to develop its lands for those purposes. The meeting was rejected because of "pending litigation"; i.e. the Urban League case;

e. by letter of May 14, 1976, CLC sought again to meet since Judge Fuhman's decision in Urban League had been rendered. On May 26, 1976, defendant's counsel indicated that the defendant had yet to decide on a course of action on the ruling; and

f. after Mt. Laurel II was decided and the defendant enacted its 1983 zoning ordinance, CLC filed its complaint against the defendant seeking a finding of invalidity and a builder's remedy.

10. Subsequent to the determination of fair share and stipulation of invalidity, CLC presented to Cranbury and the court-appointed master a concept plan for its development and a 28-page site suitability report addressing all relevant site specific issues including the lack of serious impact on agriculture or the historic village.

11. The properties of the three developers who appear now to be "entitled" to the builder's remedy consume less than 500 acres.* This should be compared to the Master Plan and 1983 rezoning which provided 530 vacant, developable acres in the HDPD zone (high density planned development), 135 vacant, developable acres in the MDPD zone (medium density planned development) and 1510 vacant, developable acres in non-agricultural, residential zones. Master Plan, III-20. Furthermore, 2190 additional vacant, developable acres are set aside for non-residential, non-agricultural uses;; i.e. corporate office and research, light impact industrial and industrial. Master Plan, III-21.

12. Cranbury is located between exits 8 and 8A of the New Jersey Turnpike which transects it on the east. U.S. Route 130, running parallel to the Turnpike, also transects the Township, and it is proximate to U. S. Route 1 on the west.

13. Cranbury is surrounded by Plainsboro, East Windsor, Monroe and South Brunswick Townships and virtually adjacent to West Windsor Township. The following are relevant census and Department of Labor data concerning those Townships:

* Of which 200 are lands previously zoned by Cranbury for "high" density residential uses.

POPULATION

| <u>Township</u> | <u>1970</u> | <u>1980</u> | <u>Increase</u> |
|-----------------|---------------|---------------|-----------------|
| E. Windsor | 11,736 | 21,041 | 9,305 |
| Monroe | 9,138 | 15,858 | 6,720 |
| Plainsboro | 1,648 | 5,605 | 3,957 |
| S. Brunswick | 14,058 | 17,127 | 3,069 |
| W. Windsor | 6,431 | 8,542 | 2,111 |
| TOTALS | 43,011 | 68,173 | 25,162 |

COVERED EMPLOYMENT

| <u>Township</u> | <u>1972</u> | <u>1982</u> | <u>Increase</u> |
|-----------------|--------------|---------------|-----------------|
| E. Windsor | 2,230 | 7,113 | 4,883 |
| Monroe | 170 | 1,006 | 836 |
| Plainsboro | 666 | 2,941 | 2,275 |
| S. Brunswick | 4,000 | 9,417 | 5,417 |
| W. Windsor | 2,116 | 6,433 | 4,317 |
| TOTALS | 9,182 | 26,910 | 17,728 |

14. I am also the attorney for Real Estate Equities, Inc. (REE) and I am representing them in the matter of Real Estate Equities, Inc. v. Holmdel Tp., Docket No. L-15209-84PW (Monmouth/Ocean). I have reviewed the affidavit of John P. Waddington dated March 25, 1985, submitted by Petitioners. In light of statements made by Mr. Waddington, additional information should be brought to the Court's attention.

15. On May 15, 1975, the Superior Court held that Holmdel's zoning ordinance violated Mt. Laurel I. Middle Union Assocs. v. Zoning Board of Adjustment of Tp. of Holmdel, Docket

No. L-1148-72 PW (Monmouth, 1975). While the fair share finding of 2100 units and other affirmative measures were set aside, the Appellate Division affirmed the finding of invalidity. Middle Union Assocs. v. Mayor and Tp. Comm. of the Tp. of Holmdel, Docket Nos. A-3155-74; A-3257-74 (App. Div. 4-2-77).

16. The REE complaint was filed on March 2, 1984. In August of 1984, shortly before trial, Holmdel amended its zoning ordinance. At the pre-trial conference, it stipulated to the invalidity under Mt. Laurel II of its prior zoning scheme. Pre-trial Order, para. 18.

17. The REE complaint indicated the following: between 1960 and 1970, Holmdel's population increased 107%, from 2959 to 6117 and from 1970 to 1980 by 38% (four times the county rate), from 6117 to 8447. Covered employment rose by 3747 or 52% from 7229 in 1972 to 10,976 in 1982.

18. In 1980 Holmdel's median family income was over \$40,000.00, more than twice the State median.

19. Holmdel is transected by the Garden State Parkway, N.J. Routes 34 and 35 and has access to commuter rail and public bus transportation.

20. Holmdel's principal planner is William Queale, Jr., P.P., A.I.C.P. He testified that Holmdel was an employment center. A witness called by Holmdel, Prof. Edwin S. Mills of Princeton University testified that lower-income housing opportunities should be located in or near employment centers.

21. Queale indicated that Holmdel's 1990 fair share should be 1035 and its year 2000 should be 1664, Queale Report, 8/84, "Defense of Holmdel's Responses to Mt. Laurel II" . Malcolm Kasler, P.P. testified for Holmdel that its 1990 fair share should be 1120, DT-11 in evidence.

22. Dr. Harvey Moskowitz, testifying for REE, indicated a 1990 fair share of 2294 units. PR-2 in evidence, p. 41. His report also noted six new non-residential projects in Holmdel for 924,000 square feet which could generate 3700 new jobs and a minimum of 1000 vacant, non-residential acres which could generate 7.5 million square feet of new space or 30,000 new jobs . Pp. 44-45.

23. Petitioner's arguments regarding the 4-1 ratio of conventional to lower-income housing development in all townships is belied by Holmdel's own zoning response. Assuming its validity, Mr. Queale indicated it could generate between 4582 to 5748 new units of which between 1776 to 3087 would be lower-income or 39% and 54% respectively, ratios not of 4:1 but of 1.6:1 and .9:1 respectively. PR-6 in evidence. Despite this fact, as evidenced by its own ordinance, representatives of Holmdel and petitioners insist on maintaining that "compliance" necessitates construction of four conventional units for each lower-income unit.

24. As of 1980, Holmdel had 10,362 covered employees and 2,229 households. A ratio of 1:.2. The State ratio was 1:1 and the Monmouth County ratio was 1:1.3 (126,165 covered employees and 170,130 households). Given the 1980 Holmdel covered employment, had it provided for households at the State ratio, it would have had 10,362 households; at the County ratio, it would have had 13,471 households.

25. REE's expert Moskowitz indicated that it was reasonable, conservatively, to estimate that at least 20% of employees were lower-income. The percentage of households which are lower-income approximates 40%. Moskowitz Report, PR-2, pp. 11 and 45. These percentages applied to the figures generated above in paragraphs 4f, 4g and 24 above would indicate lower income households which would have been generated given the application of State and County employee-household ratios to Cranbury and Holmdel.

26. I have reviewed the pending legislation adopted by the New Jersey Senate and Assembly. There is no provision in the legislation, assuming it is otherwise lawful or constitutional, which has any necessary immediate impact on the Cranbury or Holmdel cases. There is no exhaustion requirement as to such pending litigation and the builder's remedy moratorium does not affect the Urban League plaintiff in Cranbury or the rights of the developer-plaintiffs to pursue their substantive causes of action against Cranbury or Holmdel.

27. The status of the Cranbury case is as follows:
a fair share determination has been made, the compliance process completed subject only to the filing of the master's report and a hearing on ordinance compliance and site suitability.

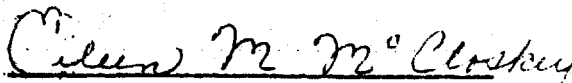
28. The status of the Holmdel case is as follows:
a hearing on fair share has been completed but for the testimony of the court-appointed expert and a decision due shortly, the compliance process will then commence.

29. Plaintiffs in both cases have undertaken an enormous commitment of money, time and energy in prosecuting Mt. Laurel II claims. Any further delay will result in substantial prejudice and hardship to them.



CARL S. BISGAIER (L.S.)

Sworn to and Subscribed
Before me this 2nd day
of April, 1985.



HELEN M. McCLOSKEY
A Notary Public of New Jersey
My Commission Expires Oct. 7, 1987