

CA-South Plainfield

7/22/85

Notice of motion based on order to show cause
why injunction against issuance of building
permits for any purpose levied against
D/S. Plainfield cannot be lifted
w/supporting affidavit

P.6

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RECEIVED

JUL 22 1985

JUDGE SEPPELLI'S CHAMBERS

ABRAMS, DALTO, GRAN, HENDRICKS & REINA

A PROFESSIONAL CORPORATION
1550 PARK AVENUE
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SOUTH PLAINFIELD, NEW JERSEY 07080
(201) 754-9200
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ATTORNEYS FOR

1-22-85

URBAN LEAGUE OF GREATER NEW BRUNSWICK,

SUPERIOR COURT OF NEW JERSEY

et al.,

CHANCERY DIVISION
MIDDLESEX COUNTY
No. C-4122-73

Plaintiffs,

vs.

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

Defendants.

ELDERLODGE, INC., a New Jersey
Corporation,

LAW DIVISION
MIDDLESEX COUNTY
No. 56349-81

Plaintiff,

vs.

Civil Action

SOUTH PLAINFIELD BOARD OF ADJUSTMENT
BY ITS MAJORITY MEMBERS, etc., et als.

NOTICE OF MOTION
BASED ON
ORDER TO SHOW CAUSE

Defendants.

TAKE NOTICE that ROBERT C. BAKER, HARVEY OSHINS, MICHAEL SILVERMAN, LESLIE SUCHMAN, LOUIS MARCH, JOHN SCALA, WILLIAM FERRY and GREGORY STEPIC shall move before the Superior Court, Law Division, on Order to Show Cause before Judge Eugene D. Serpentelli, at the Ocean County Court House, Toms River, New Jersey on July 24, 1985, that the plaintiff, Urban League of Greater New Brunswick, and the defendant, Borough of South Plainfield, show cause why the injunction against the issuance of building permits for any purpose levied against the defendant, Borough of South Plainfield, cannot be lifted as to those properties owned by the moving party, which said properties are not related to the seven (7) sites to be rezoned pursuant to the Judgment of the Superior Court, Law Division, entered on May 22, 1984. The moving party shall rely on the Affidavit of Michael Silverman herewith submitted in support of said Order to Show Cause.

The affected properties are as follows:

Lots 47.02 to 47.08 inclusive;

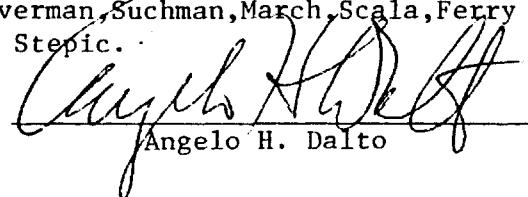
Lots 46.20 to 46.23 inclusive; and

Lots 46.24 and 46.25;

All in Block 528 on the Tax and Assessment Maps for the Borough of South Plainfield.

ABRAMS, DALTO, GRAN, HENDRICKS & REINA
Attorneys for Moving Party; Baker, Oshins,
Silverman, Suchman, March, Scala, Ferry
and Stepic.

By:


Angelo H. Dalto

ABRAMS, DALTO, GRAN, HENDRICKS & REINA

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SOUTH PLAINFIELD BOARD OF ADJUSTMENT
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Defendants.

LAW DIVISION
MIDDLESEX COUNTY
No. 56349-81

Civil Action
AFFIDAVIT

STATE OF NEW JERSEY)
) SS:
COUNTY OF MIDDLESEX)

I, MICHAEL SILVERMAN, of full age, being sworn upon my oath, depose and say:

1. I am one of the owners of the properties described in paragraphs 3 and 4 hereof.

2. On July 3rd, 1985, an Order was entered in the captioned action wherein and whereby Superior Court Judge Eugene D. Serpentelli did enjoin the Borough of South Plainfield from issuing any building permits without the prior consent of the Urban League of Greater New Brunswick.

3. The moving party, Robert C. Baker, Harvey Oshins, Leslie Suchman, Louis March, ^{William Ferry, Michael Silverman} John Scala/ and Gregory Stepic, are the owners of that certain office, industrial and storage complex known as "Middlesex Business Center" and comprised of the following individual lots, both improved and unimproved:

Lots 47.02 to 47.08 inclusive;

Lots 46.20 to 46.23 inclusive; and

Lots 46.24 and 46.25;

All in Block 528 on the Tax and Assessment Maps for the
Borough of South Plainfield

4. Robert C. Baker and Harvey Oshins are the owners of Lot 67, in Block 528, on the Tax and Assessment Maps of the Borough of South Plainfield, on which property a shopping center ("Hadley Plaza") has been constructed and substantially occupied.

5. The moving party has secured all municipal approvals to construct a 47,000 square foot building on Lot 46.22 in Block 528 and Economic Development Authority financing with Midlantic Bank is currently pending the issuance of a Building Permit on the lot in question.

6. With respect to Lot 46.24 in Block 528, three leases have been executed between the owners and Wagner Associates Inc., the New Jersey Education Association, and First Jersey National Bank for portions of the existing building. The moving party has been denied the necessary building permits to complete the interiors of the existing building for occupancy. If the building permit is not issued immediately, the owners are in jeopardy of losing the Economic Development Authority financing.

7. Sterling Electronics Inc. has entered into a lease with the moving party for space in the 60,000 square foot building located on Lot 46.21 in Block 528 and no building permit ^{inspections} can be obtained to make the required interior changes.

8. Somerset Trust Company has entered into a land lease to construct a branch bank on Lot 67, in Block 528, as an incident to the Hadley Plaza Shopping Center, and all municipal approvals have been obtained to construct the branch bank. A building permit has been withheld because of the Order of the Court entered on July 3rd, 1985. In the event the required building permit is not obtained the moving party stands the distinct possibility of losing the governmental approvals incident to the construction and operation of the banking facility. The foregoing representations are on information and belief.

9. All of the properties owned by the moving party and set forth in paragraphs 3 and 4 hereof are unrelated to the properties required to be rezoned for low and moderate income housing under the Judgment of the Superior Court entered on November 22nd, 1984.

10. The moving party has sought to have the affected properties owned by them released by the Urban League by virtue of telephonic discussions with

counsel for the Urban League. Counsel for the moving party has been advised that the Urban League cannot voluntarily consent to the lifting of the building permit injunction.

11. The moving party and the affected leasees will suffer severe and irreparable economic and other damages and losses as a result of the inability to obtain building permits in order to permit construction in accordance with the agreements entered into by and among the moving party and the parties herein noted.

12. The moving party's properties are not a part of any sale of municipal lands which bear upon those properties affected the Judgment dated May 22, 1984.

13. The moving party seeks to have all of the property included in paragraphs 3 and 4 hereof released from the restraints as to the issuance of building permits and to permit said building permits to issue in the normal course of municipal business and in accordance with the applicable law and ordinances pertaining thereto.


14. None of the properties listed in paragraphs 3 and 4 are in any way related to the purposes of the Order entered on July 3, 1985, and to prevent the moving party from securing building permits will have serious consequences to the moving party and to the tenants who are in no way responsible for the consequences sought to be remedied by the Order of July 3rd, 1985.

15. The Order of July 3rd, 1985, has resulted in punitive results on an innocent party rather than on the Borough of South Plainfield, the direct party to the action in question.

SWORN and SUBSCRIBED to

before me this 19th day

of July, 1985.


JEANETTE S. BRENTENBACH
A Notary Public of New Jersey
My Commission Expires on 12/19/87


MICHAEL SILVERMAN