

CA - Cranbury

2/12/85

Letter in lieu of formal brief on behalf of
Zirinsky and in opposition to the application
of Silbert, Adoff, + ~~Robert~~ Silberstein to
intervene in matter for purposes of
seeking a builder's remedy against
Cranbury Twp

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February 12, 1985

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Honorable Eugene D. Serpentelli, J.S.C.
 Ocean County Court House
 CN 2191
 Toms River, New Jersey 08754

Re: Zirinsky v. Township Committee of the Township
 of Cranbury, et al; Docket No. L-079309-83P.W.;
 Motion to Intervene by Silbert, et als

Dear Judge Serpentelli:

Please accept this letter in lieu of a formal brief on behalf of Lawrence Zirinsky and in opposition to the application of S. Richard Silbert, Norman Adolf and Janet Silberstein to intervene in the above-captioned matter for purposes of seeking a builder's remedy against Cranbury Township. We concur with the positions previously taken by William Warren and Carl Bisgaier on behalf of the plaintiffs Garfield and Company and Cranbury Land Company in opposing this application and adopt the comments made by those plaintiffs.

However, perhaps this is an appropriate time to once again voice my concern over the protracted delay that has occurred since the court issued an Order on July 27, 1984, directing the Township of Cranbury to revise its zoning ordinance within 90 days. In that Order, the Township was also directed to assess the suitability of the sites of Lawrence Zirinsky, as well as the three other plaintiffs, represented by Mr. Warren and Bisgaier, as well as the site of Toll Brothers, represented by Guliet Hirsch of the firm of Brenner, Wallach and Hill. After a delay of two months, the plaintiffs were given the opportunity to present their plans to the court-appointed Master and to the Township and Planning Board on September 26th. By that time, the defendants had developed a priority criteria for the assessment of sites, which among other things dealt with "policy considerations", which virtually eliminated the sites of all of the plaintiffs except for Garfield and Company. Those policy criteria

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included the preservation of agriculture and the "historic preservation" of the Cranbury Village area. In addition, there began a virtual "Oklahoma land rush" of an entire host of property owners in Cranbury who were actively encouraged by the defendants to submit their plans, resulting in an extraordinary delay in the assessment of the plaintiffs' sites. This process is best illustrated by the Motion to Intervene by property owners S. Richard Silbert, Norman Adolf and Janet Silberstein (hereinafter "Silbert"). As other plaintiffs' counsel have pointed out, the proposed plaintiffs did not participate in the trial and did not even attempt to intervene in this case until after the passage of a year of extensive discovery, trial, and related motions, as well as the assumption of extraordinary expenses by all of the plaintiffs.


The application of the Silberts appears to assume that the "housing compliance" proposal produced by the defendants will somehow gain sanction by this court. Obviously, Cranbury Land, Toll Brothers and Lawrence Zirinsky would point out that that document totally ignores the controlling principles of Mt. Laurel II, as well as the recent decision by this court in J.W. Field Company, Inc., et al v. Township of Franklin (Docket No. L-6583-84P.W., decided January 3, 1985). The Franklin decision would grant entitlement to a builders' remedy for the present party litigants, to the exclusion of Silbert and a number of other property owners in Cranbury who now seek to exploit the earlier efforts of others. Also, as the letter brief of the Morris Brothers in opposition to this Motion to Intervene points out, that non-Mt. Laurel II plaintiff was already denied intervention to participate in the award of a builder's remedy, as early as August 3, 1984.

In conclusion, we would strongly oppose the Motion for Intervention by the Silberts and would urge this court to issue specific guidelines consistent with its Franklin Township decision which would foreclose parties such as this seeking builders' remedies in preference to plaintiffs who could more than absorb the entire fair share of Cranbury Township on their own sites.

Respectfully submitted,

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By


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cc: All Counsel of Record
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