

AMG

Timber

3-18-83

letter re:  
-w/Answering Cert to Ps motion to restore

pgs. 6

Q: # 3244

AM000056V

**KUNZMAN, COLEY, YOSPIN & BERNSTEIN**A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAWEDWIN D. KUNZMAN  
JOHN E. COLEY, JR.  
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IRVING KUNZMAN (1914-1980)  
IRA KUNZMAN (1924-1974)HAROLD DRUSE  
STEVEN A. KUNZMAN15 MOUNTAIN BOULEVARD  
WARREN, N. J. 07060  
(201) 757-7800Please Refer to:  
Our File No. W-47

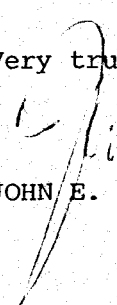
March 18, 1983

Somerset County Motion's Clerk  
Superior Court : Law Division  
P. O. Box 3000  
Somerville, New Jersey 08876Re: Timber Properties vs. Township of Warren, et. als.  
Docket No. L-67820-80 P.W.

Dear Sir:

Enclosed herewith is the original and one copy of Answering Certification to the plaintiff's motion to restore the case to the active list and for summary relief in the above matter. This matter has been scheduled for hearing before The Honorable Arthur S. Meredith on Friday, March 25, 1983 at 11:00 a.m. and I would request that you forward a copy of the Certification to Judge Meredith for his review in this matter.

Very truly yours,

  
JOHN E. COLEY, JR.JEC/ga  
Enclosurecc: Raymond R. Trombadore, Esq.  
Handelman & Jacobs, Esqs.  
J. Albert Mastro, Esq.  
Township Committee  
McDonough, Murray & Korn, Esqs.  
The Honorable Arthur S. Meredith



comply with the principles and obligations of the said Mt. Laurel case and to present a zoning plan in accordance with the said case on or before February 18, 1982.

3. The Township of Warren conducted an in-depth study of its township from a planning point of view through its Municipal Planner, E. Eugene Cross Associates (John T. Chadwick, IV). That study applied to the principles set forth in the Mt. Laurel case and resulted in the preparation of Ordinance No. 82-19, AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER XVI, ENTITLED, "ZONING", OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WARREN, ADOPTED DECEMBER 21, 1972, AS HERETOFORE SUPPLEMENTED AND AMENDED. The said ordinance being passed by the Township Committee on December 2, 1982.

4. On November 17, 1982, the attorney for AMG and Skytop advised Judge Meredith that his clients would be contesting the validity of the above ordinance.

5. On November 24, 1982, the undersigned forwarded to Judge Meredith a copy of Ordinance 82-19 which the Township of Warren had introduced for first reading.

6. Subsequent to the above actions, the plaintiffs in the AMG Realty Company case filed a supplemental complaint in lieu of prerogative writ and the same was answered by the Township of Warren.

7. A Consent Order to file supplemental complaint had been executed by Judge Meredith on January 17, 1983 and set a 120 day discovery period.

8. Discovery in the AMG litigation will be substantial as the township is in the process of obtaining an independent planner and other experts.

9. On March 11, 1983, The Honorable Robert Gaynor heard a motion to intervene in the pending AMG Realty Company litigation by Mykola Bojczuk and May Bojczuk and also Joan H. Facey, et.als. That motion to intervene was

granted by Judge Gaynor for the limited purpose of the intervenor's litigating the "appropriateness of their parcels for high density zoning".

10. The AMG Realty Company litigation is presently proceeding to a full blown hearing on the validity of the revised Warren Township Ordinance set forth above.

11. The specific property owned by the plaintiff in the within matter, Timber Properties, was rezoned by the Township of Warren for a multi-family use in the revised ordinance set forth above.

12. Warren Township Ordinance 82-19 is an entire residential zoning package for the Township of Warren. For the court to grant the present plaintiff's request declaring the ordinance valid only as to the lands of plaintiff, Timber Properties, would amount to basically a "spot zoning" of that property. The zoning plan proposed by the Township of Warren has to be considered in its totality and one individual parcel rezoned therein can not be considered in isolation. I feel that the present plaintiff's request would be inappropriate from a planning point of view and also would "fly in the face" of the court's plan to rezone the Township of Warren relative to the Mt. Laurel standards.

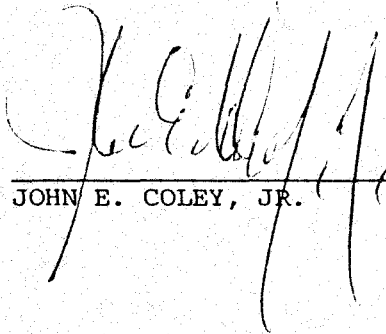
13. In paragraph 9 of Raymond R. Trombadore's Certification in Support of the Present Plaintiff's Motion, he states that his requested relief can be granted without prejudice to the rights of plaintiff AMG Realty Company. It is the undersign's opinion that based upon "fair share" and "region" as set forth in the Mt. Laurel one and two cases (if, in fact, Mt. Laurel two is to be considered in the AMG Realty case) that AMG Realty Company could in fact be prejudiced by the court's determination that the present plaintiff, Timber Properties, was entitled to a multi-family use on its property before the total Warren Township Ordinance was reviewed by the court pursuant to Judge Meredith's

reservation of jurisdiction in the AMG Realty Company case presently pending before the court.

14. The present plaintiff, Timber Properties, requested in the alternative an Order to allow it to intervene in the AMG Realty Company case. As Judge Gaynor has allowed two intervenors to enter the AMG Realty Company case the Township would not have an objection to the said intervention.

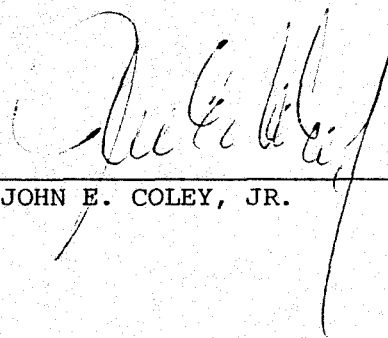
15. I am aware of the penalties for a false certification.

Dated: March 18, 1983

  
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JOHN E. COLEY, JR.

CERTIFICATION

I hereby certify that the original Answering Certification was filed with the Somerset County Motion's Clerk and copies were served upon Raymond R. Trombadore, Esq., Handelman & Jacobs, Esqs., J. Albert Mastro, Esq., McDonough, Murray & Korn, Esqs., The Honorable Arthur S. Meredith and the Township Committee by regular mail.



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JOHN E. COLEY, JR.