

Gerfield + Company v. Cranbury 2/8

(1985)

Letter in response to Memo of Law submitted  
by UL in opposition to Silbert's motion to intervene

2 pgs

yellow note: 1625

~~ML000030L~~

ML000030L

## WILENTZ, GOLDMAN &amp; SPITZER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

PLAZA 9 BUILDING

900 ROUTE 9

P. O. BOX 10

WOODBRIIDGE, N. J. 07095

(201) 636-8000

TELECOPIER

(201) 636-0860

rec'd 3/11  
March 8, 1985MILTON B. CONFORD  
COUNSEL

DAVID T. WILENTZ  
G. GEORGE GOLDMAN (1922-1950)  
HENRY M. SPITZER  
WARREN W. WILENTZ  
MATTHIAS D. DILEO  
ROBERT A. PETITO  
MORRIS BROWN<sup>o</sup>  
HAROLD G. SMITH  
FREDERIC K. BECKER  
DOUGLAS T. HAGUE  
NICHOLAS L. SANTOWASSO  
ALFRED J. HILL  
FRANCIS X. JOURNICK (1962-1982)  
RICHARD F. LERT  
JOHN A. HOFFMAN  
STANLEY L. BENN

STEPHEN E. BARCAN  
ROBERT J. CIRAFESI  
FRANCIS V. BONELLO  
VINCENT P. MALTESE  
KENNETH B. FALK<sup>o</sup>  
DAVID M. WILDSTEIN  
ALAN M. DARNELL  
GORDON J. GOLUM  
JEROME J. BRUDER  
FRANK M. CIUFFANI  
MARVIN J. BRAUTH  
STUART A. HOBERMAN<sup>o†</sup>  
NICHOLAS W. McCLEAR  
STEPHEN A. SPITZER  
RICHARD R. BONAMO<sup>o</sup>  
HELEN DAVIS CHAITMAN<sup>o</sup>

LAWRENCE J. FREUNDLICH<sup>o</sup>  
FREDERICK J. DENNENY  
PETER C. PARAS  
RICHARD M. BROCKWAY  
BRIAN J. MOLLOY  
ANNE S. BABINEAU<sup>o</sup>  
ROY K. TANZMAN  
RANDALL J. RICHARDS  
CHRISTINE D. PETRUZZELL  
BARRY T. ALBIN<sup>o</sup>  
ROGER B. KAPLAN<sup>o</sup>  
PHILIP A. PAHIGIAN<sup>o†</sup>  
BONNIE M. S. REISS  
SHELDON E. JAFFE<sup>†</sup>  
RICHARD M. HETH  
RICHARD P. DAINGERFIELD<sup>†</sup>

KAREN ANN KUBULAK  
STEVEN J. TRIPP  
RICHARD J. BINDELGLASS  
LINDA LASHBROOK  
CHRISTOPHER M. PLACITELLA  
JAMES E. TRABILSY  
MAUREEN S. BINETTI  
JAMES M. BURNS  
LILIAN MESSINA NUGENT  
JOHN P. PAONE, JR.  
MICHAEL J. BARRETT  
AIMEE L. MANOCCHIO  
PETER C. VISCEGLIA  
ROBERT J. LEVIN  
ANGELO JOHN CIFALDI  
DOUGLAS WATSON LUBIC

<sup>o</sup>CERTIFIED CIVIL TRIAL ATTORNEY  
<sup>o</sup>CERTIFIED CRIMINAL TRIAL ATTORNEY

<sup>†</sup>ALSO ADMITTED IN V.I.  
<sup>†</sup>ALSO ADMITTED IN D.C.  
<sup>†</sup>ALSO ADMITTED IN PA.  
<sup>†</sup>ALSO ADMITTED IN N.Y.

Honorable Eugene D. Serpentelli  
Ocean County Superior Court  
Ocean County Court House  
Toms River, NJ 08753

Re: Garfield and Company v. Township of Cranbury, et al.  
Docket No. L-055936-83

Dear Judge Serpentelli:

I am writing in response to the Memorandum of Law submitted by the Urban League in opposition to Silbert's Motion to Intervene. Mr. Neisser, while conceding that the Silbert tract is "ideally suited for development", contends both that plaintiff-intervenor Silbert is adequately represented by existing parties and that the intervention motion was not filed in a timely fashion. As both of these issues were raised and discussed in the brief submitted in support of Silbert's motion, it is unnecessary to set forth our position at length. However, Mr. Neisser raises several contentions which call for a response at this time.

First, Mr. Neisser urges this Court to conclude that Silbert was "content to stand on the sidelines" and should, therefore, be denied intervention. Quite to the contrary, Silbert, through this office and the office of his real estate agent, participated actively in all phases of the planning process that led to the adoption of Cranbury's Mt. Laurel II Compliance Proposal. My affidavit filed with this Court shows this.

Second, Mr. Neisser claims that Silbert's interests are being adequately represented by the Urban League. The Urban League is certainly a vigorous advocate of expeditious construction of low and moderate income housing in the Cranbury area and, to that extent,

WILENTZ, GOLDMAN & SPITZER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

Honorable Eugene D. Serpentelli

March 8, 1985

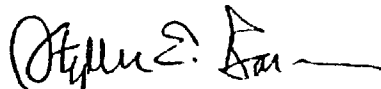
Page -2-

would be expected to raise the arguments against phasing and cost-generating features. In addition, however, Silbert is concerned with the economic feasibility of the development of his specific tract. Unlike the Urban League, then, Silbert has a vital interest in a compliance remedy that allows Silbert to profitably construct a sufficient number of market rate dwellings to adequately subsidize the low and moderate income housing units.

In addition, Silbert is willing to commit substantial financial resources to establishing the suitability of his particular tract while the Urban League's resources are necessarily limited to its broader goal of sufficient development within the general region.

Finally, Mr. Neisser, like other attorneys in this action, concedes that Silbert has a right to party status in the event that this Court upholds the Compliance Proposal. As noted in my earlier letter to this Court, this puts the Court in the position of having to determine the specific suitability of the Silbert tract without the aid of Silbert's participation. This approach essentially asks Silbert to continue to "stand on the sidelines," which is exactly what Mr. Neisser complains Silbert has done up to now.

Respectfully submitted,



STEPHEN E. BARCAN

For The Firm

SEB/sa

cc: Joseph L. Stonaker, Esq.  
Eric Neisser, Esq. ✓  
William Moran, Esq.  
Michael Herbert, Esq.  
Carl S. Bisgaier, Esq.  
William Warren, Esq.  
Richard Schatzman, Esq.