

Cranbury 1985

4/1/85

re: Monroe Devel. v. Monroe Township

pgs = 10

no p.i.

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ADDENDUM TO
EFFECT OF TRANSFERRING CRANBURY TOWNSHIP'S
MT. LAUREL CASE TO AFFORDABLE HOUSING
COUNCIL ON CRANBURY LAND COMPANY:

EFFECT OF TRANSFERRING MONROE TOWNSHIP'S
MT. LAUREL CASE TO AFFORDABLE HOUSING
COUNCIL ON MONROE DEVELOPMENT ASSOCIATES

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September, 1985

ML000031D

TABLE OF CONTENTS

	<u>Page</u>
I. <u>INTRODUCTION</u>	1
II. <u>PLANNING AND ECONOMIC IMPACTS OF TRANSFER TO COUNCIL</u>	4
A. DEPLETION OF MUNICIPAL RESOURCES AS WELL AS COMPETITION FROM OTHER DEVELOPMENT DURING THE DELAY MAY AFFECT FEASIBILITY OF SITE FOR <u>MT. LAUREL DEVELOPMENT</u>	4
B. THE DELAY CAUSED BY TRANSFER OF THIS CASE TO THE COUNCIL WOULD WRONGLY EXTEND A SERIES OF MISSED OPPORTUNITIES FOR PRODUCTION OF LOWER INCOME HOUSING IN MONROE	7
C. THE EFFECT ON LOWER-INCOME HOUSEHOLDS	8
III. CONCLUSION	9

I. INTRODUCTION

The Monroe Development Associates (MDA) joined suit against Monroe Township in Middlesex County in December, 1983 and asked for a builder's remedy. Since then, the court has declared Monroe's ordinance invalid and appointed a master, Carla Lerman, who has submitted a compliance program for Monroe. The next step in the case is for the parties to file responses to the compliance program, and then for the court to determine whether the proposed ordinance conforms to the Mount Laurel II doctrine.

Monroe, however, has petitioned the court under the "Fair Housing Act" to be transferred from the court system to the "Council on Affordable Housing" (the Council). The act directs that the court's decision to transfer a case take into consideration whether any party to the litigation will suffer a "manifest injustice".

As discussed in the Abeles Schwartz Associates report entitled Effect of Transferring Cranbury Township's Mt. Laurel Case to Affordable Housing Council on Cranbury Land Company, the "manifest injustice" resulting from transferring the case is principally associated with the delays caused by such a transfer. As the Monroe Development Associates filed suit against Monroe within one month of the Cranbury Land Company's suit against Cranbury, and the MDA and CLC have expended similar amounts of time and resources in litigating their cases, the delay will have a similar effect on the parties to both cases. The planning and economic concepts that were articulated in the Cranbury report to illustrate the extent to which the delay in transferring the case to the Council would affect the parties, thus, are also generally

applicable to MDA's case. Several of these concepts will have nearly the identical impact on the MDA project as on the CLC project. These concepts are described in detail in the Cranbury report and specifically include the following:

1. Housing production typically is prone to building cycles. A delay will place plaintiffs in an unfavorable position within the cycle; and
2. Increases in the cost of capital will force housing prices up during the delay, making the development of Mt. Laurel housing less feasible.

Other concepts although generally relating to both municipalities, but revolving around the unique circumstances of the individual municipalities are discussed in more detail below and include the following:

1. During the delay, municipal resources and land will be depleted by other types of development. This may affect the feasibility of Mt. Laurel development on the plaintiff's site.
2. The effect of further delays in implementing the Mount Laurel II decision is particularly adverse in Monroe's case because of its consistent refusal to provide such lower income housing in the past. Its refusal is even more objectionable because other nearby municipalities have provided such housing.

3. The delay particularly affects Monroe's indigenous need and present need households, who will have to wait an additional two years for affordable housing.

As with the CLC case, these considerations demonstrate that the delays associated with transferring the case to the Council will place the MDA's Monroe Mt. Laurel project in jeopardy. The transfer would, thus, result in a "manifest injustice" to both MDA and to the lower income households represented by MDA, whose housing needs will again be delayed, if not denied.

II. PLANNING AND ECONOMIC IMPACTS OF TRANSFER OF COUNCIL

A. Depletion of Municipal Resources As well As Competition From Other Developments During The Delay May Affect Feasibility of Site For Mt. Laurel Development

The Monroe Development Associates has invested a substantial amount of time and resources to developing a Mt. Laurel project since joining in the suit against Monroe Township in December 1983, under the guidelines of the Mt. Laurel II decision.

The MDA site is a large rectangular tract of cultivated farmland totalling 60 acres. It is located in the western portion of the Township adjacent to the Monroe - Cranbury municipal boundary, four miles southwest of Jamesburg and a mile and a half east of the Cranbury Village area. While the area in which the site is located is characterized by farms and woodlands, the development of three large adult communities, some industrial complexes nearby and proposals for a large new adult community adjacent to the MDA parcel is evidence of the increasing urbanization of western Monroe.

On the basis of environmental and sound planning considerations, the proposed MDA site is well-suited to the type and density of residential development that has been proposed for it.* The MDA site has accessibility to all necessary municipal resources, including public sewers and water services, roadways, and other public resources, and its proposed development is not expected to have a significant impact on them.**

Like Cranbury, Monroe's location places it within an area of tremendous growth. The western section of Monroe, closest to the New Jersey Turnpike (in which the subject parcel is situated) has witnessed an explosion of residential development over the last ten years. A combination of factors are largely responsible for this growth: (1) the proximity of the major north-south roadway - the New Jersey Turnpike and U.S. Route 130; (2) good east-west accessibility provided by State Route 33; (3) an abundance of vacant land suitable for residential development; (4) proximity to the existing downtown centers of Cranbury, Hightstown and Jamesburg; and (5) growth of employment in the Princeton area. Several large residential projects in Monroe, such as Condordia (an adult retirement community), Camelot, Clearbrook and Rossmoor, which have recently been completed or are under construction, illustrate this trend.

* See Suitability Analysis for a Proposed Mt. Laurel II Development on the Monroe Development Associates Site in Monroe Township, New Jersey prepared by Abeles Schwartz Associates, (November 1984).

** With regard to sewerage, according to Mike Rogers, the Executive Director of the Monroe Township Municipal Utilities Authority (MTMUA), the Forsgate Plant which would serve the MDA development, is operating at its designed capacity of 1.5 million gallons per day (MGD). However the plant is approved for and contains sufficient tankage to handle 3.0 MGD. Expansion is needed for additional piping and pumping facilities, but there is sufficient capacity at the Forsgate Plant for the MDA project at present. See Site Suitability Analysis p.6.

In addition to the residential growth, over 22.5 million square feet of major industrial and commercial activity is planned or under construction along the Route 7 corridor in West Windsor, Plainstioro, East Windsor and South Brunswick.* These developments, as well as, a substantial amount of development projected to extend into the non-residential zones in the northwest section of Monroe, will create a large number of new jobs, and, in turn generate a large demand for new housing in Monroe.

The depletion of municipal resources by these competing projects if the case is transferred to the Council will effect the feasibility of the MDA development in several ways. Like the Cranbury Land Company's project in nearby Cranbury, the delay will affect the MDA development from a marketing point of view as other residential projects saturate the market.** In addition, these other projects will deplete municipal resources which have finite capacities, increasing the cost of obtaining municipal resources, and decreasing MDA's ability to obtain adequate municipal resources.***

* See Effect of Transferring Cranbury Township's Mt. Laurel Case to Affordable Housing Council on Cranbury Land Company for more detailed discussion.

** Ibid.

*** Ibid.

With respect to the depletion of municipal resources, the development of other projects during the delay will be particularly critical to the MDA project in two main areas. First, the sewerage capacity at the Forsgate Plant is currently operating at a capacity of 1.5 MGD and contains sufficient capacity to handle 3.0 MGD. As such, there is currently sufficient capacity to accommodate the proposed MDA development. During the delay that would occur if the case is transferred, however, other developments will deplete much of this capacity, and, in fact, may result in severely limiting MDA's ability to obtain adequate municipal resources, increasing MDA's costs in obtaining sewerage, and will also make the proposed development appear less suitable when the case is heard before the Council.* Secondly, while the MDA development is currently not anticipated to have significant traffic impacts on such arterials as Applegarth Road, during the delay in transferring the case, the development of other nearby residential projects will reduce the capacity of these roads. This will affect the feasibility of MDA developing its proposed Mt. Laurel project.

B. THE DELAY CAUSED BY TRANSFER OF THIS CASE TO THE COUNCIL WOULD WRONGLY EXTEND A SERIES OF MISSED OPPORTUNITIES FOR PRODUCTION OF LOWER INCOME HOUSING IN MONROE

Like Cranbury, Monroe has a long history of ignoring the housing needs of lower income households. During the 1960's and 1970 when federal and state housing programs were producing lower income housing throughout the state, no subsidized projects were built in Monroe. In addition, since Mt. Laurel I, Monroe has continued its exclusionary zoning practices and resisted attempts to permit the construction of lower income housing within its borders.

* Ibid.

The delay in transferring the case to the Council, when combined with the normal time needed for development of sizable residential projects, would virtually preclude Monroe from meeting its fair share obligation by 1990. This represents another missed opportunity for Monroe to provide housing for lower income households. In addition, it is inequitable to other municipalities in Monroe's region, which are now addressing their own indigenous and regional fair share obligation, while Monroe will not begin to house its share of lower income households until the 1990's.

C. THE EFFECT ON LOWER-INCOME HOUSEHOLDS

Monroe has an indigenous lower income housing need of 196 units. In addition, its present need region contains over 100,000 substandard units occupied by low income households. MDA is prepared and committed to constructing 168 dwellings units of Mt. Laurel housing as part of its proposed development. Nevertheless, during the delay in transferring the case to the Council, these households will be denied access to habitable, affordable housing which the Mt. Laurel decision sought to provide.

III. CONCLUSION

Currently, MDA is in a highly favorable position to carry-out its proposed Mt. Laurel II project. As discussed in this report, and in the Cranbury Township transfer case report cited above, the delays associated with transferring the case to the Council will have several adverse impacts on the MDA development, as well as on Mt. Laurel projects in general, and may, in fact, make the MDA project infeasible.

Given the amount of time and resources that MDA has invested in this project, and the fact that the court-appointed master has already submitted a proposed compliance program, a transfer to the Council and the resultant delays would constitute a "manifest injustice" to MDA. In addition, the very real possibility that the delay in transferring the case will ultimately preclude the project's development of lower income housing, represents a "manifest injustice" to low and moderate income households.