

Real Estate Equities v. Holmdel 5/10 (1984)

Support that Δ is using financial pressures
to undermine Π /client

↳ 3 newspaper articles

Pgs = 4 no P.i.

ML000081L

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MAY 11 1984

CARL S. BISGAIER
LINDA PANCOTTO

May 10, 1984

JUDGE SERPENTELLI'S CHAMBERS

HONORABLE EUGENE D. SERPENTELLI, J.S.C.
Ocean County Court House
118 Washington Street
Toms River, New Jersey 08753

ML000081L

Dear Judge Serpentelli:

Re: Real Estate Equities, Inc. v. Holmdel Tp.
Docket No. L-15209-84 PW

The defendant in the above-referenced matter has determined to utilize financial pressures to undermine the viability of my client's development and, indirectly, my client itself. Enclosed are three newspaper articles which reveal how this is being done.

While I believe the conduct of the defendant and some of its officials, if accurately reported, is unlawful, represents a tortious interference with my client and a conspiracy to violate a constitutional mandate, I am more concerned at the moment with its impact on Mount Laurel II litigation. I believe it is essential that the court act quickly to address this concern.

In light of your request that we attempt to resolve issues relating to this case informally, a case management conference should be held as soon as possible. At that conference, I will seek the issuance of an order scheduling this matter for trial immediately.

I do not believe this request is extraordinary or unworkable. I am unaware of any municipality doing what the defendant has done here. The fact that it has occurred after Mount Laurel II and in the context of Mount Laurel litigation is outrageous. Unless checked by a swift judicial response, it could have a tremendous negative impact on developers throughout the state and undermine the very incentive which the Supreme Court hoped to create.

If you believe that a more formal procedure is appropriate, I will gladly file the relevant motion papers. In any event, time is of the essence, and I respectfully request that this been handled as expeditiously as possible.

Respectfully yours,


CARL S. BISGAIER

CSB:emm
Enc.

cc: Hon. S. Thomas Gagliano

HOLMDEL PULLS \$10.5 million out of S&L

THE MORNING NEWS
Wed., May 2, 1984

By STEVE CHAMBERS
Press Staff Writer

HOLMDEL TOWNSHIP — The township treasurer has withdrawn about \$10.5 million in short-term investments from a savings and loan because the Township Committee suspects the financial institution may be indirectly assisting a developer with a lawsuit against the township.

Mayor Vincent Popolo said Real Estate Equities Inc., Middletown Township, is suing the township for denying approval of a proposed housing development.

Township officials refused to name the financial institution until they can confirm a link to the developer.

But City Federal Savings & Loan officials confirmed yesterday the Elizabeth-based company is the one in question. They said they could not comment on the savings and loan's investment dealings.

Real Estate Equities is suing the township for refusing approval of a 1,836-unit housing development on Route 35.

The developer claims the refusal constitutes a violation of the state Supreme Court's Mount Laurel II decision, which requires low- and middle-income housing in designated growth areas.

Township officials say they think the savings and loan may be functioning as more than a lender on the project.

"It all depends on whether the bank is

a partner in a joint venture or simply a lending institution," said John P. Wadington, township clerk and treasurer. "It could be a technical legal link. We want to know if they are a money lender or if they have actually invested money (in the development company)."

Mayor Popolo and other township officials refused to identify the institution until a title search of the 99-acre development tract, ordered by township attorney S. Thomas Gagliano, is completed.

"We don't want to do anything injurious to the bank if there's no basis for it," Popolo said. "On the other hand, if there is a basis, we want to make other municipalities (affected by the Mount Laurel II decision) aware that (the savings and loan institution) is doing more than a community service."

Popolo said he sent a Mailgram to the financial institution.

"We got a denial from the bank," he said. "But the way it was worded, it's obvious there is an opportunity for the bank to make some decisions (in the development project)."

Wadington said if the "financial institution" is a partner of the developer, it "basically is suing us."

"We're giving them money (for investment) with one hand, and paying the lawyer (to represent the township in the lawsuit) with the other," he said.

A telephone check of the financial institutions where the township invests revealed that City Federal was the institution from which money was withdrawn.

Wadington said he was ordered by the committee to stop making short-term investments with City Federal and to withdraw current investments as they matured.

He said he withdrew about \$7 million April 25 and made three withdrawals totaling \$3,527,000 yesterday.

The money is surplus in various accounts. Wadington said it would be impossible to track down where the \$10.5 million came from without a thorough search of township financial records.

Wadington said about \$6 million was from a bond sale last month. He said some of the money was from school taxes collected six months before the municipality had to pay the school board.

He said the township normally has \$4 million to \$5 million available to invest. He said the \$7 million he initially withdrew was an unusually large figure and had been invested for only a day.

Wadington said the township made \$1 million through investment in 1982 and \$300,000 last year.

"I think we've got their (City Federal's) attention," he said. "It will definitely have an impact on them. If the evidence indicates that they are supporting the developer, we'll try to get other municipalities to withdraw their money."

City Federal is the largest savings and loan institution in the state, with 1983 assets of \$6.8 billion.

In response to the lawsuit, the township is considering an amendment to its zoning ordinance that would allow construction of developments with a density of seven units per acre.

Real Estate Equities proposes a density of 18.3 units per acre for its development near the Hazlet Township boundary.

The committee is expected to continue its discussion of the amendment Monday.

MIDDLETOWN

HOLMDEL

HIGHLANDS

ATLANTIC HIGHLANDS

Low-income housing vote delayed

BY MICHAEL W. SUTKOWSKI

HOLMDEL — The Township Committee last night postponed until May 21 — “at the earliest” — voting on a controversial low-income housing ordinance.

Reasons cited were three “substantial” amendments to the proposed ordinance, as well as a Hazlet Committee request to reconsider how much of the development may be allowed along the their border.

The amendments will introduced May 7, with voting to take place “probably” on May 21, according to Township Attorney S. Thomas Tagliano, also a state senator. The original ordinance was introduced a month ago, and its adoption was scheduled to be voted on last night. A public hearing on the ordinance, which began last night, was recessed until May 7.

In a related matter, the committee approved the Crestmont Federal Savings and Loan Association and the Howard Savings Bank for township business.

Mayor Joseph V. Popolo charged that a bank holding “\$4 to \$5 million” in township investments is an equity owner in a firm suing the

township to allow low income housing. As soon as it is confirmed, those investments will “come out” when they mature, he said.

The township has been under pressure by both a state Supreme Court mandate — the Mount Laurel II decision — and a lawsuit by a local developer to facilitate low-income housing.

In 1975, the court ordered “growth” communities to zone for low-income housing. It reaffirmed its decision last year, ordering a “fair share” of low-income housing in such communities.

Real Estate Equity, a Middletown developer, is suing the township to allow the construction of 1,836 dwelling units on a 100-acre tract at the corner of Route 35 and Laurel Avenue. Under the township’s proposed ordinance, 350 units would be permitted. Of those, 70 would be targeted for low-and moderate-income families.

The three amendments were decided upon last night in a workshop session before the committee’s regular meeting, according to Mayor Joseph V. Popolo. The first amendment would move a proposed maximum density

area from the corner of Hillcrest Avenue and Bethany Road to the east side of Laurel Avenue at Route 35.

Hillcrest Avenue residents last night presented the committee with a petition requesting reconsideration of the zoning.

The second amendment would require a developer to prove cost reductions in design. For example, those resulting from the elimination of curbing would go toward low-income housing in a development.

The third amendment applies to a section of the ordinance that would allow construction of one single family dwelling per acre, instead of .8 per acre.

Popolo read a resolution passed by the Hazlet Township Committee “to postpone adoption of the amendatory ordinances that relate to the Mount Laurel decision.”

Last week, Hazlet Mayor Paul A. Stallone appealed to the Holmdel Committee for postponement of the vote. He said the proposed development along the Hazlet border would strain municipal services. Hazlet, under an agreement with Holmdel, provides fire and police protection to the area.



Register photo by Larry Perna

HOT TOPIC — Holmdel Township Committee addresses controversial low-income housing ordinance before a packed house last night. The committee postponed its decision until next month.

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MIDDLETOWN

HOLMDEL

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Mayor seeks delay of Mount Laurel vote

BY MICHAEL W. SUTKOWSKI

HOLMDEL — Hazlet Mayor Paul A. Stallone last night appealed to the Holmdel Township Committee to postpone Monday's upcoming vote on a low-income housing ordinance.

"But what will the courts say?" replied Holmdel Mayor Joseph V. Popolo. "We run the risk of being portrayed as doing nothing."

The proposed ordinance is a response to the state Supreme Court's Mount Laurel II ruling and a lawsuit brought yesterday before Superior Court Judge Eugene D. Serpentelli in Tom's River, the mayor said. Serpentelli postponed the trial until the fall.

In 1975, the state Supreme Court, what is known as the original Mount Laurel decision, ordered developing suburban and rural communities to zone for low-income housing. In a related decision last year, Mount Laurel II, a court ordered a "fair share" of

lower-income housing be zoned for in such communities.

Two weeks ago, the Township Committee introduced a 17-page Holmdel Lower Income Housing Development Ordinance. The committee scheduled a public hearing for Monday.

The proposed ordinance specifies six districts in the north and northeast section of the township for "bonus densities." These densi-

ties call for seven dwelling units per acre, and 10 units for senior citizens.

"It's too fast, too much," said Stallone at a joint meeting of the committee and planning board. Stallone said proposed development in northern Holmdel along the Hazlet border would strain municipal services. Hazlet, under an agreement with Holmdel, provides fire and police protection to the

area.

"I agree with you," Popolo said. "It's too much, too soon. But it was a matter of getting the courts to agree," he said. Because of the lawsuit by Real Estate Equity Inc. against Holmdel, the ordinance is necessary, he said.

Real Estate Equity has proposed building 1,836 dwelling units on a 99-acre tract on Laurel Avenue and Route 35.

Approximately 750 units would be allowed under the proposed ordinance. Of those, 75 units would be allocated for low-income families, and 75 for moderate income.

Stallone also asked why the Holmdel committee chose the area adjacent to the Hazlet border for the rezoning.

Popolo replied that sewer service, required for high density housing areas, is available only in the northern part of the township.

State Sen. S. Thomas Gagliano, township attorney, pointed out that 47 percent of Holmdel, slightly more than the area north of the Garden State Parkway, has been defined as a growth area by the state. The parkway intersects the northeastern third of the township.

Growth areas in the state were defined around 10 years ago by the state Department of Community Affairs. Although the state Legislature refused to adopt the plan, the state Supreme Court used it in formulating its Mount Laurel decision.



S. THOMAS GAGLIANO

Allegiance of bank questioned

HOLMDEL — Mayor Joseph V. Popolo charged last night that a "major financial institution" has an "interest" in Real Estate Equity Inc., a firm suing the township to allow the construction of 1,836 housing units.

Popolo has "reason to believe" that "a major New Jersey financial institution is financing Real Estate Equity." The remarks were made during last night's information

meeting, held by the township committee and planning board, to explain the ramifications of the state Supreme Court Mount Laurel II to the community.

"We've got almost a million bucks in that bank, and if it's confirmed it's coming out the next day," Popolo said after the meeting.

Neither Popolo or State Sen. S. Thomas Gagliano, township at-

torney, would reveal the name of the bank.

"If they're actually an equity owner, that would make people in the township very upset," Gagliano said.

Popolo said he sent a mailgram yesterday asking the bank to confirm its holdings in Real Estate Equity. He said he expects a reply by Monday.