

Adler v. Holmdel

3/24

24 March 1986

Affidavit in Support of Motion For Imposition of
Conditions on Transfer To The Affordable
Housing Council.

PI # 5191

Pgs 4

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 successors in interest

Plaintiff	:	SUPERIOR COURT OF NEW
	:	JERSEY
Real Estate Equities, Inc., et al.	:	LAW DIVISION
	:	MONMOUTH/OCEAN COUNTY
vs.	:	
	:	
Defendant	:	Docket No. L-015209-84PW
	:	
Holmdel Township, et al.	:	CIVIL ACTION
	:	(MOUNT LAUREL)
<hr/>		
Plaintiff	:	
	:	
New Brunswick Hampton, Inc.,	:	Docket No. L-33910-84PW
	:	
vs.	:	
	:	
Defendant	:	
	:	
Township of Holmdel, et al.	:	
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Plaintiff	:	
	:	
Gideon Adler, et al., trading under the name of Palmer Associates	:	Docket No. L-54998-84PW
	:	
vs.	:	
	:	
Defendant	:	AFFIDAVIT IN SUPPORT OF
	:	MOTION FOR IMPOSITION OF
	:	CONDITIONS ON TRANSFER TO
	:	THE AFFORDABLE HOUSING
Holmdel Township	:	COUNCIL
	:	

STATE OF NEW JERSEY

ss:

COUNTY OF MIDDLESEX

RONALD ACQUAVIVA, of full age, being duly sworn, deposes and says:

1. I am part owner of the property on which plaintiffs Gideon Adler et al. filed suit seeking a builder's remedy in order to build an inclusionary development.
2. I have investigated the availability of water supply in Holmdel Township. As part of that investigation, I met with Michael Walsh, an executive with the West Keansburg Water Company. (Hereinafter Keansburg)
3. The West Keansburg Water Company supplies water to northern Holmdel Township and to Hazlet. The West Keansburg service area almost exactly, but not precisely, covers the growth area in Holmdel Township.
4. The West Keansburg Water Company is facing critical difficulties in providing potential new customers with water. First, it is virtually at peak capacity, based upon its present diversion rights. Second, the New Jersey Department of Environmental Protection has denied its request for an increased allocation which would, if granted, have allowed it to increase the amount of water which it could divert from the aquifer. Third, the New Jersey Department of Environmental Protection has ordered Keansburg to reduce its existing water diversion from the aquifer by 50% as soon as possible, but in no event later than the date that the Manasquan River project is completed.
5. The New Jersey Water Supply Authority is expected to complete the Manasquan River project by 1990. This will produce 500,000,000 g.p.d. of water when completed. However, according to the terms of the bond issue financing this project, all of this water is intended to be replacement water, to be used to reduce the extraction by Keansburg and other water companies of water from the aquifer. State policy is to reduce diversion from the aquifer system by 500,000,000 g.p.d. once Manasquan is complete. As a result of this policy decision by the state, none of this water from Manasquan will be available for new customers of Keansburg.
6. Keansburg presently has unreserved water capacity for only 300 units of single family detached housing.

7. Once that water supply is committed, Keansburg has no plans as to how or when it can provide additional water for new developments. As stated above, water from the Manasquan project is unavailable for this purpose. Keansburg has explored the possibility of buying water elsewhere, but without success. Monmouth Consolidated Water Company presently is experiencing a water deficit and has no water to sell. Other water utilities in the area are confronted with the same D.E.P. order mandating a reduction in diversion rights that Keansburg faces, and therefore also have no excess capacity. In short, Keansburg has no answer as to how it will furnish water to potential new developments once its present supply is exhausted.


8. Although Keansburg supplies both Hazlet and Holmdel, the vast majority of potential new customers are located in Holmdel. This is the case because Holmdel has large amounts of vacant land, while Hazlet is 94% developed.

9. Although Keansburg's position is that it has only unreserved capacity for 300 single family units, its remaining capacity could provide water for more than 500 inclusionary townhouses or condominiums. This is because higher density Mount Laurel developments have smaller sized units than traditional single family detached developments and hence have fewer occupants per unit; moreover units in inclusionary developments have smaller lawns and are much less likely to have sprinkler systems which increase peak water demand. Thus, for example, the Western Monmouth Utilities Authority is projecting that a unit in a Mount Laurel inclusionary development will use only .625 of the amount of water that a single family home uses. Further, based upon data from The Hills in Bedminster, W.M.U.A. acknowledges that an inclusionary unit may in fact average less than half the daily water usage of a conventional single family detached home. I conclude that, if water conservation measures are used by a Mount Laurel developer, a water quantity which serves only 300 single family homes will satisfy the water needs of 500 to 600 higher density inclusionary units.

10. Keansburg permits a developer to seek water capacity from it once it obtains approval from the Holmdel Planning Board. Planning Board approval is a prerequisite for applying to Keansburg. No Mount Laurel developer can apply to Keansburg until he receives Planning Board approval.

11. If the remaining Keansburg water is used for Mount Laurel developments, at least 100 to 120 low and moderate income units can be provided in Holmdel. If, however, the Holmdel Planning Board grants approvals to conventional single family developers in the Keansburg franchise area, the remaining limited water supply will be committed and used for

that purpose. Unless this Court enters a protective order there will be no water supply for Mount Laurel developers in Holmdel, and no plan for providing such water in the future. Mt. Laurel developers and the lower income households they are trying to assist face irreparable injury unless a protective order is entered.



Ronald Acquaviva

Subscribed and Sworn to
before me this 24 day of
MARCH 1986.

