

Lori n Monroe

Aug. 15, 1984

Letter from Myrtle to Judge responding to
Bisgainer's letter.

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August 15, 1984

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Hon. Eugene D. Serpentelli, J.S.C.
Ocean County Court House
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RECEIVED

AUG 16 1984

Re: Lori Associates & Habd Associates
v. Monroe Township JUDGE SERPENTELLI'S CHAMBERS

Dear Judge Serpentelli:

On behalf of Lori Associates and Habd Associates, we respond briefly to Mr. Bisgaier's letter of August 10, 1984. We express no position as to whether the master should be directed to make recommendations as to the relative suitability of each plaintiff's site. However, we take issue with Mr. Bisgaier's a priori conclusion that (i) his client is entitled to a builder's remedy and (ii) the other plaintiffs in Monroe are not.

Your Honor's letter-opinion of July 27, 1984 regarding Monroe and Cranbury states: "The right to a builder's remedy relating to both municipalities is reserved pending the revision process." The opinion did not carve a special exception for Mr. Bisgaier's client. Similarly, in denying

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Hon. Eugene D. Serpentelli, J.S.C.

August 15, 1984

Piscataway's summary judgment motion last month, Your Honor recognized that the builder's remedy issue was premature and should be considered at a later date with all of the builder-plaintiffs participating.

In keeping with Your Honor's decision to defer consideration of the builder's remedy issue, we will not respond at length to the substance of Mr. Bisgaier's letter. Suffice it to say that there are many factors to be considered in determining whether to grant a builder's remedy. Participation in fair share and compliance hearings, assuming arguendo it is a factor, cannot be the sole criterion -- particularly in a case such as this which was commenced by an institutional plaintiff many years earlier. The Court's ultimate objective in granting a builder's remedy should be to ensure that low and moderate income housing is actually built.

For these reasons, we submit that Mr. Bisgaier's arguments are premature and of doubtful validity. They should not be considered at this time.

Respectfully,

Arnold K. Mytelka

Arnold K. Mytelka

AKM:jk
c: All counsel