

9/18/85

Monroe 1985

~~Response~~ letter to Judge

pg 2

no pii.

ML000192 W

CLAPP & EISENBERG

ALFRED C. CLAPP
GEORGE S. FISCHLER
ARNOLD K. MYTELKA
STUART L. PACHMAN
ROGER B. CLAPP
WILLIAM J. O'SHAUGHNESSY
EDWARD N. FITZPATRICK
MICHAEL A. BACKER
GERALD H. LITWIN
JEFFREY W. LORELL
LAWRENCE B. MINK
DOROTHY G. BLACK
MICHAEL L. MESSER
RONALD H. JANIS
SALVATORE T. ALFANO
JEFFREY M. SCHWARTZ
FREDERIC S. KESSLER

OF COUNSEL
JEROME C. EISENBERG

A PROFESSIONAL CORPORATION

COUNSELLORS AT LAW

80 PARK PLAZA

NEWARK, N.J. 07102

(201) 642-3900 (212) 571-0240

CABLE CLAPPEISEN

TWX 7109954409

TELECOPIER (201) 642-7413

ATLANTIC CITY OFFICE

1421 ATLANTIC AVENUE

ATLANTIC CITY, N.J. 08401

(609) 347-7330

MARK FALK
ROBERT A. MARSICO
FREDA L. WOLFSON
JOHN A. AVERY
FRANCINE A. SCHOTT
RICHARD KLEINMANN
PETER R. YAREM
KATHY M. HOOKE
BRYNA L. EDWARDS
GAIL L. MENYUK
ALAN RUBIN
SHARON ADAMS BOSSEMEYER
JAMES P. BRUNO
JOHN L. CONOVER
JEFFREY L. KANTOWITZ
AGNES I. RYMER
DAVID A. PERSING
RICHARD M. SKOLLER

September 18, 1985

Honorable Eugene D. Serpentelli
Ocean County Court House
CN-2191
Toms River, New Jersey 08754

* Re: Monroe Development Associates
v. Monroe Township

Dear Judge Serpentelli:

This will respond to Monroe Township's motion, return-
able September 27, to transfer this exclusionary zoning
case to the Council on Affordable Housing pursuant to P.L.
1985, c.222, §16.* On behalf of plaintiffs Lori Associates
and HABD Associates, we oppose Monroe's request.

Does Monroe's motion pass the classic "hee-haw" test?
We think not. Where litigants have labored for more than
eleven years to achieve a result that simple morality should
have compelled at the outset, where hundreds of hours of
trial and appellate time have been expended on essentially
frivolous defenses, where a recalcitrant municipality has
used every conceivable means (including the present motion)
to dodge and deflect its clear legal obligations, where

*There are constitutional problems with this section.
In our view, however, they need not be reached.

Honorable Eugene D. Serpentelli

Page 2

final judgment day at last appears to be in sight, it is patently absurd to claim that plaintiffs herein will not sustain "manifest injustice" if the case is transferred to a brand new, as yet unorganized agency for a proceeding that is likely to start from scratch.

Of course, as Monroe's letter-brief (the 11th unpaginated page) states: "The Township's Mayor and Council have not been opposed to the idea of providing for a realistic opportunity for low and moderate income housing in the Township." Indeed, they have been trying to provide for the poor and near-poor for eleven years now. These things just take time.

We agree with only one sentence in Monroe's letter-brief (also at the 11th page): "This Honorable Court should focus on what will allow for the quickest and best planned construction of low and moderate income housing in the Township." For this reason, Monroe Township's ludicrous motion should be denied.

Respectfully,

CLAPP & EISENBERG

By: *And Kayella*

AKM:lls

cc: Eric Neisser, Esq. ✓
Carl S. Bisgaier, Esq.
Stewart M. Hutt, Esq.
Mario Apuzzo, Esq.
Carl D. Silverman, Esq.
Ms. Carla Lerman, Esq.

CLAPP & EISENBERG

A PROFESSIONAL CORPORATION