

Monroe 1985

9/26/85

letter Brief to the court

pgs. 23

ML000196W

GROSS & NOVAK, P.A.
ATTORNEYS AT LAW

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WILLIAM P. ISELE
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September 26, 1985

The Honorable Judges
of the Appellate Division
Hughes Justice Complex
CN-006
Trenton, NJ 08625

RE: Urban League of Greater New Brunswick, et als.
Vs. Monroe Township, et als.
Docket No. A-5394-84T1

Dear Honorable Judges:

Please accept this letter brief in lieu of a more formal brief pursuant to R.2:6-2(b) and R.2:6-5. This letter brief is submitted in support of the respondent, Carl E. Hintz's motion to dismiss the instant appeal.

The Urban League of Greater New Brunswick and others are parties in a suit against the Township of Monroe and other municipalities, which resulted in the directives of the New Jersey Supreme Court as set forth in the decision commonly referred to as "Mt. Laurel II". On remand from the Supreme Court, the Honorable Eugene D. Serpentelli, Judge of the Superior Court, issued a letter opinion on July 27, 1984, finding that the land use regulations of Monroe Township were invalid under the guidelines set forth by the Supreme Court in Mt. Laurel II. On January 28, 1985, the council of the Township of Monroe met in special meeting for purposes of discussing the services of a professional planner to try to put together a compliance package which would be satisfactory to the courts. (Ha-6 to Ha-11)

* Southern Burlington County N.A.A.C.P., et al. v. Township of Mt. Laurel, et als., 92 N.J. 158 (1983). One of the consolidated appeals in that decision was Urban League of Greater New Brunswick, et al. v. Borough of Carteret, et als., No. A-4; See: 92 N.J. at 339-350.

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At that meeting, which was closed to the public, the council of Monroe Township retained the professional planning service of Carl E. Hintz for the purpose of preparing the Township's compliance package. It was agreed that Mr. Hintz's firm would be paid at an hourly rate of \$75.00 per hour for regular services and \$90.00 per hour for court appearances. (Ha-8) Mr. Hintz's firm rendered services, but the Township refused to pay for same after they were rendered. (The Township also refused to pay for the services of others, who are co-respondents in this appeal, but are not represented by the undersigned.) An order was sought to compel payment, and Judge Serpentelli granted that order on May 13, 1985, directing that payment should be made. (Ha-1 to Ha-5). Appellant, Township of Monroe, has appealed from that order.

The Appellant did not seek reconsideration by Judge Serpentelli, or in any other way take steps to toll the time for taking an appeal. Appellant filed its notice of appeal by mailing it to the Clerk of the Appellate Division on July 23, 1985, more than 70 days after Judge Serpentelli's order. (Ha-12).

This Respondent respectfully submits that Judge Serpentelli's order was an interlocutory order. This was not a final judgment in the case, adjudicating whether Monroe Township's development plan conforms with the dictates of Mt. Laurel II. Rather, this was simply an order to pay certain of the professionals engaged by the Township to develop that plan.

In Adams v. Adams, 53 N.J. Super. 424 at 429, cert. den. 30 N.J. 151 (1959), this court stated that:

. . . An interlocutory judgment is defined as one "given in the middle of a cause on some plea, proceeding or default which is only intermediate and does not finally determine or complete the suit. Such orders or decrees relate to questions of law or practice settling

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only some intervening matter, collateral to the issue and not touching the merits of the action."

Certainly, the payment of professionals in this matter is only collateral to the basic issue in the case, i.e. the Township's compliance with Mt. Laurel II, and, therefore, Judge Serpentelli's order is interlocutory in nature and subject to appeal only upon leave pursuant to R.2:4-1(c) and pursuant to the provisions of R.2:5-6.

This being the case, application for leave to appeal should have been made within 15 days after entry of Judge Serpentelli's order, i.e. by May 28, 1985. No such motion was made within that time period, nor was leave to appeal ever granted. There having been no leave to appeal given, this appeal is improper, and should be dismissed.

Even assuming, however, that Judge Serpentelli's order might somehow be construed as a final order, this appeal is still out of time. R.2:4-1(a) clearly states that "appeals from final judgments of courts . . . shall be taken within 45 days of their entry." Appellant's notice of appeal was not filed until more than 70 days after the entry of Judge Serpentelli's order. None of the events listed in R.2:4-3 which would toll the time for taking an appeal has occurred, nor has an extension been granted pursuant to R.2:4-4. Since R.2:4-4 makes it clear that the time within which an appeal may be taken may not be extended except upon motion in accordance with the provisions thereof, this appeal must be dismissed as untimely.

As stated by this court In Re Appeal of Syby, 66 N.J. Super. 460 at 464:

"Our experience the last few years indicates that unfortunately many attorneys construe R.R. 1:27B [the predecessor and source rule of R.2:4-4] as meaning, for all practical purposes, that the period for filing an

GROSS & NOVAK

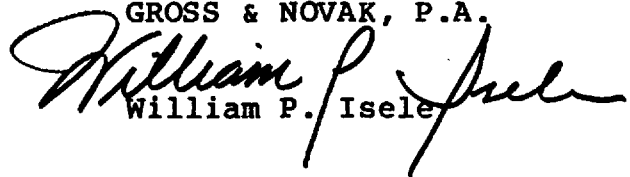
September 26, 1985
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appeal is 75 rather than 45 days. This is a serious misconception. The fundamental policy consideration of the need for assurance to litigants to finality in litigation and its relation to the expiration of the time allowed for appeal . . . are neither dissolved nor depreciated by the grace provision of R.R. 1:27B. An extension under that rule is an extraordinary remedy, invocable only when a genuinely excusable mischance has prevented the filing of the appeal in time, the adverse party is not prejudiced and the question involved is shown to be substantial and meritorious. These are conjunctive, not disjunctive requirements. . . . Mere negligent overlooking of the time requirements is not excusable neglect or mischance.

In light of all the foregoing, the Respondent, Carl E. Hintz, respectfully requests that the appeal docketed as #A-5394-34T1 be dismissed, with prejudice, as having been filed out of time. The Court may act summarily, as these issues do not require further briefs, and there is no relevant record except as appended hereto. R.2:8-3.

Respectfully submitted,

GROSS & NOVAK, P.A.


William P. Isele

WPI/sn

cc: Mr. Carl E. Hintz
cc: Mario Apuzzo, Esq.
cc: Thomas R. Farino, Jr., Esq.

GROSS & NOVAK

APPENDIX

<u>Document</u>	<u>No.</u>
Order of 5/13/85.....	Ha-1 to Ha-5
Council of the Township of Monroe Minutes: Special Meeting - January 28, 1985.....	Ha-6 to Ha-11
Notice of Appeal.....	Ha-12 to Ha-19

SUPERIOR COURT OF N. J.
FILED

MAY 21 1985

SUPERIOR COURT OF N. J.
REC'D

MAY 21 1985

J-12
JOHN M. MAYSON
CLERK

THOMAS R. FARINO, JR.
Cor. Applegarth & Prospect Plains Roads
Cranbury, New Jersey 08512
(609) 655-2700
Attorney for Township of Monroe

J-5
JOHN M. MAYSON
CLERK

Put Fee

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY / *OCEAN COUNTY*

Civil Action

Rm

URBAN LEAGUE OF GREATER NEW BRUNSWICK
et al,
Plaintiff,
vs.
THE MAYOR and COUNCIL OF THE
BOROUGH OF CARTERET, et al,
Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. C-4122-73

JOSEPH MORRIS and ROBERT MORRIS,
Plaintiffs,
vs.
TOWNSHIP OF CRANBURY IN THE COUNTY
OF MIDDLESEX, A Municipal
Corporation of the State of New
Jersey,
Defendant

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L054117-83

GO ORDER authorizing Release of funds

GARFIELD & COMPANY
Plaintiff,
vs.
MAYOR and THE TOWNSHIP COMMITTEE
OF THE TOWNSHIP OF CRANBURY, a
Municipal Corporation, and the
members thereof; PLANNING BOARD
OF THE TOWNSHIP OF CRANBURY, and
the members thereof,
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L055956-83 P.W.

BROWNING-FERRIS INDUSTRIES OF
SOUTH JERSEY, INC., A Corporation
of the State of New Jersey,
RICHCRETE CONCRETE COMPANY, a
Corporation of the State of New
Jersey, and MID-STATE FILIGREE
SYSTEMS, INC., a Corporation of

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO: L-058046-83 P.W.

the State of New Jersey,
Plaintiff,
vs.

CRANBURY TOWNSHIP PLANNING BOARD
and TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CRANBURY,
Defendants.

CRANBURY DEVELOPMENT CORPORATION, SUPERIOR COURT OF NEW JERSEY
A Corporation of the State of New Jersey, LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
Plaintiff, DOCKET NO. L-59643-83
vs.

CRANBURY TOWNSHIP PLANNING BOARD
AND THE TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CRANBURY,
Defendant.

CRANBURY LAND COMPANY, A New Jersey Limited Partnership, SUPERIOR COURT OF NEW JERSEY
Plaintiff, LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
vs. DOCKET NO: L-070841-83

CRANBURY TOWNSHIP, A Municipal Corporation of the State of New Jersey located in Middlesex County, New Jersey,
Defendant.

MONROE DEVELOPMENT ASSOCIATES, SUPERIOR COURT OF NEW JERSEY
Plaintiff, LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
vs. DOCKET NO. L-076030-83 PW
MONROE TOWNSHIP, Defendant.

ZIRINSKY, SUPERIOR COURT OF NEW JERSEY
Plaintiff, LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
vs. DOCKET NO. L079309-83 PW
LAWRENCE

THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY, a Municipal Corporation, and THE PLANNING BOARD OF THE TOWNSHIP OF CRANBURY,
Defendants.

TOLL BROTHERS, INC., A SUPERIOR COURT OF NEW JERSEY

Pennsylvania Corporation,
Plaintiff,
vs.

LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L005652-84

THE TOWNSHIP OF CRANBURY IN
THE COUNTY OF MIDDLESEX, A
Municipal Corporation of the
State of New Jersey, THE
TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CRANBURY and the
PLANNING BOARD OF THE TOWN-
SHIP OF CRANBURY,
Defendants.

LORI ASSOCIATES, A New Jersey
Partnership; and HABD
ASSOCIATES, a New Jersey
Partnership,
Plaintiffs,
vs.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L-28288-84

MONROE TOWNSHIP, A municipal
corporation of the State of
New Jersey, located in
Middlesex County, New Jersey,
Defendant.

GREAT MEADOWS COMPANY, A New
Jersey Partnership; MONROE
GREENS ASSOCIATES, as tenants
in common; and GUARANTEED
REALTY ASSOCIATES, INC., a
New Jersey Corporation,
Plaintiffs.
vs.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. L-32638-84 P.W.

MONROE TOWNSHIP, a municipal
corporation of the State of
New Jersey, located in the
State of New Jersey, located
in Middlesex County, New
Jersey,
Defendant.

ORDER AND JUDGMENT

THIS MATTER having been opened to the Court by Thomas R.
Farino, Jr., Esq., attorney for defendant, MAYOR AND COUNCIL OF

THE TOWNSHIP OF MONROE, Middlesex County, New Jersey, on an application for an Order directing payment for legal and professional planning services rendered with regard to the activities of the governing body of the Township of Monroe in effecting compliance with the Order of this Court dated August 13, 1984, and,

IT APPEARING that legal services were performed by Thomas R. Farino, Jr., Attorney for the defendant, MAYOR AND COUNCIL OF THE TOWNSHIP OF MONROE, the payment for which has been authorized by resolution of the Township Council; and

IT FURTHER APPEARING that professional planning services were rendered by Carl E. Hintz aimed at producing a compliance package for submission to the Court, the payment for which has been authorized by resolution of the Township Council; and

IT FURTHER APPEARING that Carla Lerman, Court-appointed Master, has performed certain planning services with regard to the Township's compliance efforts, the payment for which has been authorized by resolution of the Township Council; and

IT FURTHER APPEARING that the Mayor of the Township of Monroe has refused to authorize payment in connection with the aforesaid professional services associated with the Township's Mt. Laurel II compliance efforts and good cause appearing for the entry of this Order;

IT IS on this 13 day of May, 1985,

ORDERED that payment to Thomas R. Farino, Jr., Esq., in the amount of \$23,893.00 and to Carl E. Hintz, in the amount of \$10,248.42 and to Carla Lerman, in the amount of \$6,839.55 is hereby authorized and the Township of Monroe is hereby directed to immediately make payment to these individuals in the aforesaid amounts; and

IT IS FURTHER ORDERED that the Township Treasurer shall prepare the appropriate municipal drafts to effect the aforesaid payments to Thomas R. Farino, Jr., Esq., Carl E. Hintz and Carla Lerman; and

IT IS FURTHER ORDERED that in the event the appropriate representative of the Monroe Township Department of Administration refuses to endorse the aforesaid drafts as prepared by the Township Treasurer, then, in that event, the President of the Monroe Township Council is hereby authorized to execute said drafts in order to effect the aforesaid payments for professional services rendered to the governing body of the Township of Monroe with regard to its efforts in complying with the Order of this Court dated August 13, 1984.


EUGENE D. SERPENTE, J.S.C.

MINUTES

SPECIAL MEETING--JANUARY 28, 1985

The Council of the Township of Monroe met in the Municipal Complex, Perrineville Road, for a Special Meeting.

The Special Meeting was Called to Order at 8:15 P.M. by Council President William R. Tipper with a Salute to the Flag.

UPON ROLL CALL by the Municipal Clerk the following members of the Council were present: Councilmen Michael J. Dipierro and Albert Levinson and Council President William R. Tipper.

Council Vice-President David Rothman arrived at 8:20 P.M.

ALSO PRESENT for the Council were Attorney Thomas R. Farino, Jr. and Planner Carl A. Hintz. Master Carla Lerman arrived at 8:30 P.M.

ABSENT from this meeting was Councilman Michael Leibowitz.

Council President William R. Tipper read the following SUNSHINE LAW:

In accordance with the Open Public Meetings Act, it is hereby announced and shall be entered into the Minutes of this meeting that adequate notice of this meeting has been provided by the following:

1. Posted on January 24th, 1985 on the bulletin board of the Office of the Township Clerk, Municipal Complex, Perrineville Road, Jamesburg, New Jersey and remains posted at that location.
2. Communicated to the New Brunswick HOME NEWS and CRANBURY PRESS on January 26th, 1985.
3. Filed on January 24, 1985 with the Deputy Municipal Clerk at the Municipal Complex, Perrineville Road, Jamesburg, New Jersey and remains on file for public inspection; and
4. Sent to those individuals who have requested personal notice.

Council President William R. Tipper announced the purpose of this Special Meeting was to discuss the services of the proposed Planner and try to put together the Compliance Package for the Courts regarding MT. LAUREL II. Council President Tipper introduced Mr. Carl Hintz. Attorney Thomas R. Farino, Jr. advised that there was only one Developer that must be considered for the Compliance Package.

Attorney Farino outlined that the Compliance Package must consist of two components: Entitlement and Prioritization. Monroe Township must only concern itself with Entitlement because there was only one developer who filed in concurrence with the MT. LAUREL II URBAN LEAGUE SUIT; that was Monroe Developers. Even though other developers filed suits later, they are not to be considered as "Entitled" under the jurisdiction of Judge Serpentelli in his determination of other municipalities that have had this same problem. The "Builder's Remedy" consideration under the "Entitlement" provision must be realized for only those developers who filed suit at the time of MT. LAUREL II's initial litigation. Other considerations for the presentations that were made are that the developer will provide substantial low/moderate income housing and that his site is suitable for compliance.

This directive has defined the developer that must be considered by our Township for the mandatory "Builder's Remedy"; i.e., only Monroe Developers.

UPON MOTION made by Council President William R. Tipper and seconded by Councilman Albert Levinson, a Resolution was adopted to Close the meeting to the public in order to discuss the services of Mr. Hintz, as hereinbelow set forth.

ROLL CALL: Councilman Michael J. Dipierro : Aye
 Councilman Albert Levinson Aye
 Council President William R. Tipper Aye

Attorney Farino read the RESOLUTION as follows:

RESOLUTION AUTHORIZING CLOSED PORTION OF PUBLIC MEETING

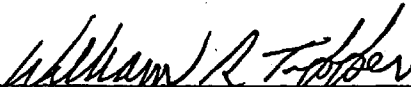
WHEREAS, the Open Public Meetings Act permits the governing body to close to the public those portions of its meetings at which certain designated subjects are discussed; and

WHEREAS, one such subject involves pending litigation; and

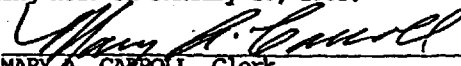
WHEREAS, the Council is now desirous of discussing certain aspects of the Mt. Laurel litigation entitled "Urban League vs. The Township of Monroe," which litigation is presently pending in the Law Division of the New Jersey Superior Court; and

WHEREAS, the contents of this closed discussion will be revealed to the public upon the conclusion of this closed session;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Monroe that it hereby authorizes the following portion of this public meeting to be closed to the public.


WILLIAM R. TIPPER, President

I hereby certify the above to be a true copy of a resolution adopted by the Monroe Township Council at a meeting held on January 28, 1985.


MARY A. CARROLL, Clerk

Copy of Resolution duly filed.
R-1-85-48

Council President Tipper opened a discussion on Mr. Hintz's proposed Contract fee schedule. (Council Vice-President Rothman had arrived at this time.) Council President Tipper reviewed the proposed fee schedule which outlined Mr. Hintz's wish to received \$75.00 per hour for regular services to attend meetings and \$100.00 per hour for any Court appearances and usual clerical, staffing, draftsmen fees outlined. Three Councilmen advised that the proposed fees seemed concurrent with the going rate. Council Vice-President Rothman felt the same but requested that the Court time fee be reconsidered. Mr. Hintz advised that he has reduced the rate in some instances so he would agree to \$90.00 per hour. His time so far has been approximately 15 to 20 hours to prepare the draft "Preliminary Evaluation of Site Suitability for MT. LAUREL II Compliance" that he then presented along with an outline "Site Selection Criteria for MT. LAUREL II COMPONENT" which had been completed over the past weekend after his review of the material that he had picked up from the Clerk's office during the week. Councilman Dipierro was concerned as to how we can pay this Firm even if we are totally satisfied with his performance. Attorney Farino outlined that the Judge had assured him that this will be addressed in the Compliance Order. Council President Tipper advised that we must augment the Budget to include this at Budget deliberations. This item will be part of the "in cap" considerations and will have to reflect the expenses now being incurred. Mr. Hintz related how he compiled the information this evening, and Councilman Dipierro advised that he felt that the Planner was being utilized to put the verbiage in writing. Attorney Farino advised that the "Compliance

Package" must outline and substantiate why and why not a presentation would be considered. Master Carla Lerman advised that that was why we must have substantiation from Oak Realty before we can consider the site; it must be plausible; we need information from Bradgate and Patron before this site can be even considered as possible. No information has been received as yet, but she was assured that we would receive some definite information. Councilman Dipierro felt we should go with the area but not get involved with any particular builder; we should outline the area and not worry as to who will come up with the wherewithall. Councilman Levinson agreed and that also, we should include the Tornopsky site which adjoins Oak. Reconsideration of the sites that have been proposed would be addressed this evening. The deadline of February 8th was incorrect; we have only until the 31st of January to comply. It is necessary to ask for another extension because this will not be finished tonight. Attorney Farino advised that the litigants of the adversary nature are complaining now to the Judge to stop giving Monroe additional time. The Judge realizes the constraints that have been imposed on us, but he feels we must get this accomplished in a timely manner. The Councilmen would like to accommodate everyone, even themselves, and get this over tonight, but if it takes more time, it will have to; they are working in good faith.

Council President Tipper then addressed the service fees of Mr. Hintz, and it was necessary to adopt a Resolution agreeing to the proposed rates and appoint Mr. Hintz the Planner for their perusal during MT. LAUREL II. Besides, the Site Selection Criteria outline presented this evening must be reviewed.

UPON MOTION made by Councilman Albert Levinson and seconded by Council President William R. Tipper, a Resolution was adopted appointing HINTZ-NELESSEN ASSOCIATES, P. C. as the MT. LAUREL II Planner. (with the hourly rates being \$75.00 for regular services to attend meetings and \$90.00 for Court appearances).

ROLL CALL: Councilman Michael J. Dipierro Aye
Councilman Albert Levinson Aye
Council Vice-President David Rothman Aye
Council President William R. Tipper Aye

RESOLUTION as follows:

RESOLUTION AUTHORIZING RETENTION OF PROFESSIONAL PLANNING SERVICES

WHEREAS, the governing body of the Township of Monroe is presently engaged in the process of attempting to effect a compliant zoning ordinance pursuant to the Letter Opinion of the Hon. Eugene D. Serpentelli, J.S.C., dated July 27, 1984, which ruled that the Land Use Regulations of the Township of Monroe are invalid under Mt. Laurel II guidelines; and

WHEREAS, the professional planning services of the Township Planner have been unavailable to the governing body during this entire ordinance revision process; and

WHEREAS, the governing body of the Township of Monroe has now reached that stage of its deliberations at which the services of a professional planner are deemed of utmost importance in order to draft the appropriate zoning language to effectuate the compliant zoning ordinance; and

WHEREAS, the Council has interviewed Professional Planner Carl E. Hintz for the purpose of preparing a compliance package for submission to the Court;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Monroe that it hereby retains the professional planning services of Carl E. Hintz for the purpose of preparing the Township's compliance package for submission to the Court regarding the pending Mt. Laurel litigation.


WILLIAM R. TIPPER, President

I hereby certify the above to be a true copy of a resolution adopted by the Monroe Township Council at a meeting held on January 28, 1985.


MARY K. CARROLL, Clerk

Copy of Resolution duly filed.
R-1-85-49

Mr. Hintz then proceeded to explain the documents he had presented the Council this evening. The "Preliminary Evaluation of Site Suitability for MT. LAUREL II Compliance" draft was discussed. On Page #8, there was a Table that contained 17 points outlining criteria for the applications, and a point system of 1 to 10 would be used for the Council's opinions of how the application complied; a minus 1 to 10 would be used for the worst opinions of an application. Each application would be assessed to justify either the approval of the site by the Council or to justify non-consideration of the Council for a site. This criteria point system would be necessary for the Compliance Package presentation to the Court and for any further litigation that might become necessary to defend a denial.

Mr. Hintz outlined the Developers on his sketch and assigned a letter to each for rating as follows:

- A Tornopsky Site
- B Monroe Developers
- B2 Kaufman
- C1 Monroe Greens
- C2
- D Oak Realty
- E Ballantrae
- F Lori Associates
- G Caton
- H Mobile Home Site - RULED OUT
- I Camelot
- J H&B
- K Hobart Hills
- L Caleb
- M Smirti
- N Docks Corner-Browns Corner

Each application was discussed as to its rating in relation to the 17 points. Items #1 through 12 had been discussed for all of the presentations, and it was apparent that when considering one applicant, when you got to the last applicant, another extenuating circumstance would re-arrange your thinking in the rating. Also, the Council agreed to rule out the ITEM H MOBILE HOME SITE completely, and others might not even qualify even in the barest areas (such as Smirti-M). It was obvious that to accomplish this completely this evening was impossible, therefore, the Council requested that Mr. Hintz advise them of his ratings inasmuch as he was more aware of what was desired and in view of his experience with other municipalities that he had been working on regarding MT. LAUREL II. It was now going onto 11:00 P.M. and the Council felt that the main objective to determine this evening was to outline the positive locations in order to justify their decisions; have Mr. Hintz draw up a draft Ordinance for consideration; meet the deadline imposed by the Courts to show good faith (it is apparent that we are now going to need additional time); and set up public meetings to get this accomplished. The first order of business was to

adopt a resolution requesting another extension.

UPON MOTION made by Council President William R. Tipper and seconded by Council Vice-President David Rothman, a motion was carried to request the extension.

ROLL CALL: Councilman Michael J. Dipierro Aye
 Councilman Albert Levinson Aye
 Council Vice-President David Rothman Aye
 Council President William R. Tipper Aye

RESOLUTION as follows:

RESOLUTION AUTHORIZING REQUEST FOR EXTENSION OF TIME TO COMPLY WITH MT. LAUREL
ORDER OF JUDGE SERPENTELLI

WHEREAS, by Letter Opinion dated July 27, 1984, the Hon. Eugene D. Serpentelli, J.S.C. ruled that the Land Use Regulations of the Township of Monroe are invalid under Mt. Laurel II guidelines and further ordered the Township of Monroe to revise its Land Use Regulations within ninety days of the filing of that Opinion; and

WHEREAS, the governing body of the Township of Monroe by resolution dated October 20, 1984, petitioned the Court for a thirty-day extension of the Order of the Court so as to permit the governing body to continue to expeditiously attempt to effect a compliant zoning ordinance; and

WHEREAS, by letter dated October 30, 1984, the Court extended the compliance period to December 1, 1984; and

WHEREAS, by letter of the Hon. Eugene D. Serpentelli, J.S.C., dated December 6, 1984, the aforesaid compliance period was further extended for an additional period of thirty days; and

WHEREAS, by letter dated January 21, 1985, the Hon. Eugene D. Serpentelli, J.S.C., extended the aforesaid compliance period for an additional thirty-day period to January 31, 1985; and

WHEREAS, the Council has retained the professional planning services of Carl E. Hintz to assist in preparing the Township's compliance package for submission to the Court; and

WHEREAS, the Council met in closed session with Planner Hintz on January 28, 1985, at which time a consensus was achieved on site selection based upon various planning criteria; and

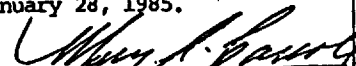
WHEREAS, Planner Hintz has indicated that he will require approximately two to three additional weeks to complete his preparation of the compliance package for submission to the Court;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Monroe

that it hereby petitions the Hon. Eugene D. Serpentelli, J.S.C., for an additional thirty-day extension of the Order of the Court dated July 27, 1984, so as to permit the governing body and its recently appointed Professional Planner to continue to effect a compliant zoning ordinance pursuant to the Letter Opinion of the Court dated July 27, 1984.


WILLIAM R. TIPPER, President

I hereby certify the above to be a true copy of a resolution adopted by the Monroe Township Council at a meeting held on January 28, 1985.


MARY A. CARROLL, Clerk

Copy of Resolution duly filed.
R-1-85-50


The Council felt that they were going "back to the drawing board" when decisions had been more or less agreed upon, with the possibilities being addressed. The most negative effect was considered in the previous deliberations with the least amount of homes having to be absorbed in the Compliance Package. The discussion evolved around the previous reasoning, with the possible donation of \$1,000,000.00 by RH Development for their fair share in lieu of the 20% set aside of their PCD, and it seemed we had a very good stance for the public and the Courts.

The appeal process was discussed further. The six-year repose begins with the acceptance of the Compliance Package, whether or not we appeal. The six years will include the appeal time according to Master Carla Lerman. No construction can commence while the appeal is being considered. The creation of a Housing Authority was discussed again to handle any monies that would be donated in lieu of the 20% set aside. Additional information on this should be forthcoming from the Planner. Master Lerman advised that she has not received any information regarding Bradgate and will wait until another week has expired before she can advise as to the acceptance of Oak or not in the Compliance Package.

It goes without saying that additional meetings are necessary, and the Council will decide when they can take place. Council Vice-President Rothman outlined that he will be out of Town the week of February 24th to March 1st.

UPON MOTION made by Council President William R. Tipper and seconded by Councilman Albert Levinson, the meeting was opened and adjourned at 12:15 P.M.

ROLL CALL:	Councilman Michael J. Dipierro	Aye
	Councilman Albert Levinson	Aye
	Council Vice-President David Rothman	Aye
	Council President William R. Tipper	Aye


MARY A. CARROLL, Clerk

WILLIAM R. TIPPER, President



Township of Monroe
County of Middlesex

PETER P. GARIBALDI
Mayor

MARIO APUZZO
Director of Law

DEPARTMENT OF LAW: Municipal Complex
Perrineville Road
Jamesburg, N.J. 08831
(201) 521-4400

July 23, 1985

Elizabeth McLaughlin, Clerk
Superior Court of New Jersey
Appellate Division
Hughes Justice Complex
Trenton, NJ 08625

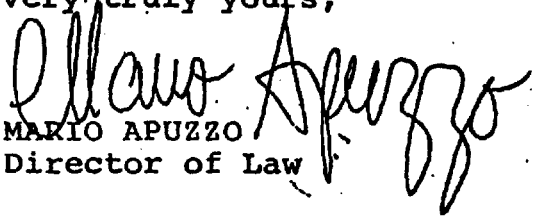
Re: Mt. Laurel Litigation - Payment for
Professional Services - Docket Nos.
C-4122-73, L-076030-83 PW, L-28288-84,
and L-32638-84 P.W.

Dear Ms. McLaughlin:

Enclosed herewith please find for filing, an original and two copies of a Notice of Appeal and Case Information Statement in connection with the above-referenced matters.

I also enclose herein a check in the amount of \$20.00 to cover filing fees.

Very truly yours,


MARIO APUZZO
Director of Law

MA:ap
Encls.

cc: See Attached Mailing List

NOTICE OF APPEAL
SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

Title of action as captioned below: Urban League of Greater New Brunswick, et al vs. Monroe Township, et al
Attorney of Record

Name: Mario Apuzzo , Director of Law

Address: Township of Monroe, County of Middlesex
Municipal Complex, Perrineville Rd, Jamesburg, NJ
08831

Phone No.: (201) 521-4400

Attorney for: Monroe Township

On Appeal From:

Trial Court/State Agency:

Superior Court of New Jersey, Law Division

Trial Docket or Indictment Number:

C-4122-73, L-076030-83 PW, L-28288-84, and L-32638-84 P.W.

Trial Court Judge:

Civil [] Criminal [] Juvenile []

Notice is hereby given that Monroe Township appeals to the Superior Court of N. J. Appellate Division, from the judgement [] order [] other (specify) [] entered in this action on May 13, 1985, in favor of Thomas R. Farino, Jr., Esq., Carl E. Hintz, (date) and Carla Lerman.

If appeal is from less than the whole, specify what parts or paragraphs are being appealed: Appeal is being taken from the Order dated May 13, 1985 ordering payment by Monroe Township to

Thomas R. Farino, Jr., Esq., in the amount of \$23,893.00 and to Carl E. Hintz in the amount of \$10,248.42 and to Carla Lerman in the amount of \$6,839.55.

Are all issues as to all parties disposed of in the action being appealed? Yes [] No [] If not, is there a certification of final judgment entered

NOTICE OF APPEAL
PAGE 2

In criminal, quasi-criminal and juvenile cases . . . not incarcerated [] incarcerated [] confined at _____ Give a concise statement of the offense and of the judgment, date entered and any sentences or disposition imposed: _____

1. Notice of Appeal has been served on:

Name	Date of Service	Type of Service
Trial Court Judge <u>Eugene D. Serpentelli</u>	<u>7/26/85</u>	<u>Ord. Mail</u>
Trial Court Clerk/State Agency <u>John Mayson</u>	<u>7/26/85</u>	<u>Cert. Mail</u>
Attorney General or governmental office under R. 2:5-1(h) <u>Irwin I. Kimmelman</u>	<u>7/26/85</u>	<u>Ord. Mail</u>
Other parties:		
Name and Designation	Attorney Name, Address & Telephone No.	Date of Service
(1) <u>Thomas R.</u>	<u>Thomas R. Farino, Jr., Esq.</u> (serve this party with transcript) <u>Applegarth & Farino, Jr., Esq. Halfacre Rd, Cranbury, N.J. 08512</u>	<u>7/26/85</u>
(2) <u>Carl E. Hintz</u>		<u>7/26/85</u>
(3) <u>Carla Lerman</u>		<u>7/26/85</u>
(4) <u>State of NJ</u> <u>Dept. of Community Affairs</u> <u>Div. of Local Government Services</u>		<u>7/26/85</u>
(5) <u>363 West State Street, CN 803</u> <u>Trenton, New Jersey 08625-0803</u>		

I hereby certify that I have served a copy of this Notice of Appeal on each of the persons required as indicated above.

7/18/85

NOTICE OF APPEAL
PAGE 3

2. Prescribed Transcript Request Form has been served on

Name	Date of Service	Amount of Deposit
Administrative office of the Courts Chief, Court Reporting Service		
Court Reporter's Supervisor/Clerk of Court or Agency		
Court Reporter		

I hereby certify that I served the Prescribed Court Transcript Request Form on each of the above persons and paid the deposit as required by R. 2:5-3(d).

(date)

Signature of Attorney of Record

3. I hereby certify that:

- [X] There is no verbatim record.
- [] Transcript is in the possession of the Attorney of Record.
- [] A motion for abbreviation of transcript has been filed with the court or agency below.
- [] A motion for free transcript has been filed with the court below.

7/26/85
(date)

[Signature]
Signature of Attorney of Record

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

CIVIL APPEAL CASE INFORMATION STATEMENT

TITLE IN FULL: Urban League of Greater New Brunswick, et al vs. Monroe Township, et al	FOR OFFICIAL USE ONLY		
	Appeal Docket No.		
	Notice of Appeal Filed:		
	Date Sent:		

APPELLANT'S ATTORNEY(S):	<input type="checkbox"/> Plaintiff	<input checked="" type="checkbox"/> Defendant	<input type="checkbox"/> Other (Specify)
Name	Address	Telephone	Client
Mario Apuzzo, Director of Law Township of Monroe County of Middlesex, Perrineville Road, Jamesburg, NJ 08831.		(201) 521-4400	Monroe Township

RESPONDENT'S ATTORNEY(S)*:	Address	Telephone	Client
Thomas R. Farino, Jr., Esq.	Applegarth & Halfacre Road, Cranbury, NJ 08512	(609) 655-2700	Thomas R. Farino, Jr., Esq.

*INDICATE WHICH PARTIES, IF ANY, DID NOT PARTICIPATE BELOW OR WHO WERE NO LONGER PARTY TO THE ACTION AT THE TIME OF ENTRY OF THE ORDER/JUDGMENT BEING APPEALED.)

GIVE DATE AND SUMMARY OF TERMS OF JUDGMENT ENTERED BELOW: On May 13, 1985, Appellant Monroe Township was ordered to pay Thomas R. Farino, Jr., Esq. the amount of \$23,893.00, to pay Carl E. Hintz the amount of \$10,248.42 and to pay Carla Lerman the amount of \$6,839.55 for their services rendered in connection with the Township's Mt. Laurel II litigation.

Does this determination dispose of all issues as to all parties? Yes No

If not, has it been certified as final pursuant to R.4:42-2? Yes No

(If not, leave to appeal must be sought. R.2:2-4, 2:5-6.)

Is the validity of a statute, executive order, franchise or constitutional provision of the state questioned? (R.2:5-1(h)). Yes No

GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY: As a result of the court Order dated August 13, 1984, professional, planning, and legal services were rendered by Thomas R. Farino, Jr., Esq., Carl E. Hintz, Planner, and Carla Lerman, Court Appointed Master. Upon the refusal of the Mayor of the Township of Monroe to authorize payment for these professional services, an Order was sought directing such payment. The Order granted May 13, 1985 directed that should the Township Administration refuse to endorse payment, then the President of the Monroe Township Council be ordered to effect such payment.

TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THIS APPEAL, AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R.2:6-2(a)(5). Appellant or cross appellant only. Given the requirements of N.J.S.A. 40A:4-57, which declares void municipal expenditures without prior appropriations, whether the Court has the authority to order the Township of Monroe to pay for professional services when the liability to pay for those services was incurred at a time when no appropriation had been made by the Township for said services.

All civil appeals will be screened under the Civil Appeals Settlement Program to determine their potential for settlement or, in the alternative, a simplification of issues, abbreviation of transcript and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question.

State whether you think this case may benefit from a conference. Yes No

A negative response will not necessarily rule out the scheduling of a pre-argument conference.

Explain your answer:

IS THERE ANY CASE NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

(A) Arises from substantially the same case or controversy as this appeal? Yes No

(B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? Yes No

IF YES, STATE:

Case Name:

Docket No:

DO YOU EXPECT TO FILE A LETTER BRIEF (Rule 2:6-2(b))? Yes No

The time in which to file your brief and appendix is governed by court rule unless modified by court order. If any circumstances exist which might justify a shorter or longer period of time within which to file your brief and appendix other than that provided by Rule 2:6-11, give a detailed explanation. Your answer does not alter the time limit set forth in the rules of Court.

In the event there is any change with respect to any entry on the Case Information Statement, appellant shall have a continuing obligation to file an amended Case Information Statement on the prescribed form.

Township of Monroe

Attorney of Appellant or Respondent

Mario Apuzzo

Name of Counsel of Record

Mario Apuzzo

July 23, 1985

MAILING LIST (continued)

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Brener, Wallack & Hill
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Clapp & Eisenberg
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Newark, NJ 07102

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Cranbury, NJ 08512

Peter P. Garibaldi, Mayor
Township of Monroe
County of Middlesex
Municipal Complex
Perrineville Road
Jamesburg, NJ 08831

Monroe Township Council
c/o Mary Carroll
Township of Monroe
County of Middlesex
Municipal Complex
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Jamesburg, NJ 08831