

Lackland v. Piscataway

30 June 1986

Answer & Separate Defenses

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ATTORNEYS FOR Defendant

Plaintiff

LACKLAND BROTHERS, INC.,
a New Jersey corporation

vs.

Defendant

BOARD OF ADJUSTMENT OF THE
TOWNSHIP OF PISCATAWAY

SUPERIOR COURT OF
NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

Docket No. L-056878-86 PW

CIVIL ACTION

ANSWER AND SEPARATE
DEFENSES

Defendant, Piscataway Township Zoning Board of Adjustment,
with offices located at 505 Sidney Road, in the Township of
Piscataway, County of Middlesex, State of New Jersey, by way of
Answer to the Complaint, says:

FIRST COUNT

1. Defendant admits the allegations in paragraph 1.
2. Defendant admits the allegations in paragraph 2.
3. Defendant admits the allegations in paragraph 3.

4. Defendant admits the allegations in paragraph 4.
5. Defendant admits the allegations in paragraph 5.
6. Defendant denies the allegations in paragraph 6.
7. Defendant denies the allegations in paragraph 7.
8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 and leaves plaintiff to its proof.

9. Defendant denies the allegations in paragraph 9 except that defendant admits that there was a rescission of the previous approval and this rescission was memorialized by Resolution.

10. Defendant denies the allegations in paragraph 10.

SECOND COUNT

1. Defendant repeats its answers to the allegations in the First Count of the Complaint.

2. Defendant denies the allegations in paragraph 2.

THIRD COUNT

1. Defendant repeats its answers to the allegations in the First and Second Counts of the Complaint.

2. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 and leaves plaintiff to its proof.

3. Defendant denies the allegations in paragraph 3.

4. Defendant denies the allegations in paragraph 4.

FIRST SEPARATE DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

The factual findings and conclusions of the Piscataway Township Zoning Board of Adjustment concerning the rescission of the approval are entitled to a presumption of correctness and are supported by the record developed in this case.

THIRD SEPARATE DEFENSE

Defendant's approval of plaintiff's request for a use variance was based upon a mistake of fact, i.e. that the property in question was not subject to certain restraints imposed by the Superior Court of New Jersey in the Piscataway - Mt. Laurel litigation.

FOURTH SEPARATE DEFENSE

The approval given to plaintiff violated a restraint affecting the property in question because the approval did not include any set aside for low and moderate income housing.

FIFTH SEPARATE DEFENSE

Defendant lacked the requisite authority to approve plaintiff's request for a variance, without a 20 percent set

aside for low and moderate income housing since plaintiff's property was subject to the restraining order of the Superior Court of New Jersey in the Piscataway - Mt. Laurel litigation.

WHEREFORE, defendant demands judgment dismissing the plaintiff's Complaint and awarding costs to defendant.

BORRUS, GOLDIN, FOLEY,
VIGNUOLO, HYMAN & STAHL, P.C.
Attorneys for Defendant

BY:



JAMES F. CLARKIN III

DATED: June 30, 1986

CERTIFICATION

I hereby certify that the original Answer and Separate Defenses was filed with the Clerk, Superior Court of New Jersey, Trenton, New Jersey, and a copy was sent to Howard Gran, Esq., attorney for plaintiff, by regular mail within the time prescribed by the Rules of Court.

I further certify that this matter is not the subject of any other action pending in any court or of a pending arbitration proceeding and no other action or arbitration proceeding is contemplated.

BORRUS, GOLDIN, FOLEY,
VIGNUOLO, HYMAN & STAHL, P.C.
Attorneys for Defendant

BY:



JAMES F. CLARKIN III

DATED: June 30, 1986