

ML - Cranbury  
(Morris v. Cranbury)

12 - June - 1984

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Letter Brief in support of allowing Morris to seek remedy

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ML000460B

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## National Committee Against Discrimination

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June 12, 1984

Honorable Eugene D. Serpentelli, J.S.C.  
Superior Court of Ocean County  
Ocean County Court House  
CN 2191  
Toms River, New Jersey 08754

Re: Urban League of Greater New  
Brunswick, et. al. v. Borough  
of Carteret, et. al., Docket  
No. C-4122-73

Dear Judge Serpentelli:

Please accept this letter in lieu of a formal brief stating the position of the Urban League of Greater New Brunswick with respect to the application of Joseph and Robert Morris for leave to amend their complaint and state a claim for a builder's remedy against Cranbury Township.

Consistent with the position taken by the Urban League regarding the motions for consolidation submitted on behalf of Lori and Habd Associates, Great Meadows Company, and Joseph and George Gerickont, we do not oppose the granting of the motion to the extent that it would allow Morris Brothers to assert a desire to construct Mount Laurel housing and participate, on a limited basis, in the remedial phase of this litigation. Such an order is likely to further judicial economy, will ensure that the Morris Brothers<sup>1</sup> site is given site-specific consideration during the remedy stage of the proceeding, and may increase the likelihood that Mount Laurel housing will actually be built in Cranbury.

Nevertheless, serious questions remain as to whether the Morris Brothers<sup>1</sup> late conversion to the Mount Laurel cause is so out of time as to warrant denial of any "entitlement" to a builder's

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remedy or, if not, how the question of timeliness should effect their priority among the competitors for the right to develop Cranbury's fair share of Mount Laurel housing. Your Honor has indicated an intention to hear argument on these questions, which have been fully briefed in our Memorandum of Law Concerning Builder Remedy Priorities dated May 23, 1984. In this regard, we direct the Court's attention to page 9, footnote 2 of the memorandum, which suggests why the builder's remedy should be categorically denied to plaintiffs who, like Morris Brothers, do not participate at all in the trial phase of a Mount Laurel lawsuit. As we noted there, awarding a developer who does not participate in a trial a builder's remedy on an equal footing with developers who do actively participate in trial will create a disincentive against timely filing and full participation by subsequent developer-plaintiffs and, therefore, would be inconsistent with the goal of Mount Laurel II to encourage enforcement of the constitutional obligation. Accordingly, when the issue is reached, our position will be that Joseph and Robert Morris and others in a like position are not entitled to a builder's remedy since they did not participate in the trial of this case.

Sincerely,



Bruce S. Gelber  
General Counsel

BSG:vb

cc: All counsel of record