

CA - Cranbury

11/21/85

letter-brief ~~request~~ asking ct not to
issue any stay beyond January due
to prior delays

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November 21, 1985

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New Jersey Supreme Court
 c/o Stephen W. Townsend, Clerk
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RE: Township of Cranbury v. Urban League of Greater
 New Brunswick, et al; Supreme Court;
Docket No. A-124 (#24,782)

Dear Honorable Justices of the Supreme Court:

We represent Lawrence Zirinsky, one of three plaintiff land owners seeking a builders remedy in ongoing litigation against the Township of Cranbury. On November 15, 1985, the Court directly certified the appeal of Cranbury, concerning the denial of the trial court to transfer this matter to the Fair Housing Council, as established by Chapter 266 of the laws of 1985. In its Order, the Court asked that briefs be filed on the substantive issue of the transfer by December 2, 1985.

In view of the fact that Judge Eugene Serpentelli has established December 2 as the first date of a long delayed compliance hearing in this matter, Cranbury has sought a stay from the Court pending a disposition of the transfer question by the Court. By this letter, we wish to join with the other plaintiffs in the Cranbury litigation in consenting to the stay for a period no later than January 1986. We do so only because we recognize that the transfer issue is a novel one and should be disposed of by the Court as quickly as possible, without the need for further proceedings in a trial court in the interim.

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However, we would respectfully urge the Court not to issue any stay beyond January because of the extraordinary delay which this case has already received to date. As the Court knows, the original action against Cranbury Township was filed on July 23, 1974 and resulted in a judgment declaring the zoning of that Township to be exclusionary. 142 N.J. Super. 11, 28-29 (Ch. Div. 1976). As part of its Mount Laurel II decision, this Court remanded the Cranbury case back to Judge Serpentelli on January 20, 1983, see 92 N.J. 350-351.

In reliance upon Mount Laurel II, we filed a complaint with Judge Serpentelli in December 1983, on behalf of Lawrence Zirinsky, the optionee of 771 acres in the western section of Cranbury Township, seeking a builder's remedy. During April and May 1984, an 18 day trial was conducted before Judge Serpentelli dealing with questions such as farmland preservation, historic preservation and the Township's region and fair-share allocation. On July 27, 1984, Judge Serpentelli declared the Township's fair-share of low and moderate income housing to be 816 units. In that same opinion, the Township was given 90 days to revise its land use ordinance. Cranbury Township did not comply with this order until December 28, 1984, when it submitted a plan which essentially preserved its current exclusionary zoning scheme. Even though Mr. Zirinsky submitted a detailed plan to develop 144 acres of his holdings for construction of higher density housing, including a 20% component for low and moderate income housing and presented that plan to Cranbury in September 1984, our clients' plans were not even mentioned in Cranbury's response. In May 1985, the Special Master appointed by the Court, Philip Caton, issued his own recommendation to Judge Serpentelli. While there was a slight delay in submitting responding reports by the plaintiffs, all of the delay encountered to date has been principally caused by Cranbury Township which is adamantly opposed to any reasonable amount of low and moderate income housing.

I believe that this Court should therefore not construe the consent to a stay as any acknowledgment on a part of our clients but further unnecessary delay should be encountered in realizing the objectives of Mount Laurel II.

Respectfully submitted,

STERNS, HERBERT & WEINROTH
Attorneys for Plaintiff,
Lawrence Zirinsky

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MICHAEL J. HERBERT

MJH:lip
cc: All counsel