

ML2 - general (multiple twps)

12/2/85

Certification of Steven L. Sacks-Wilner,
attorney representing NJ Senate Minority
in negotiations resulting in final version
of Fair Housing Act
+ exhibits

p 23

MLW4970

Steven L. Sacks-Wilner
Chief Counsel to Senate Minority-
New Jersey Senate
State House, Room 223
Trenton, New Jersey 08625
(609) 292-5199
Attorney for Movants,
New Jersey Senate and General Assembly Minorities

THE HILLS DEVELOPMENT COMPANY,
Plaintiff-Respondent,

vs.

THE TOWNSHIP OF BERNARDS, in the
COUNTY OF SOMERSET, et al.,
Defendants-Appellants.

HELEN MOTZENBECKER,
Plaintiff-Respondent,

vs.

MAYOR AND COUNCIL OF THE BOROUGH OF
BERNARDSVILLE AND THE BOROUGH OF
BERNARDSVILLE
Defendants-Appellants.

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al.,
Plaintiffs,

vs.

THE MAYOR AND COUNCIL OF THE
BOROUGH OF CARTERET, et al.,
Defendants.

IN THE
SUPREME COURT OF NEW JERSEY

Civil Actions
Mt. Laurel Litigation

ON APPEAL FROM INTERLOCUTORY
ORDERS OF SUPERIOR COURTS
OF NEW JERSEY, LAW DIVISION

Sat Below:
Eugene D. Serpentelli, A.J.S.C.,
Stephen Skillman, J.S.C.

CERTIFICATION OF
STEVEN L. SACKS-WILNER

DOCKET NO. 24,780
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-030039-84 P.W.

DOCKET NO. 24,781
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET/OCEAN COUNTIES
DOCKET NO. L-37125-83

DOCKET NO. 24,782
SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY
DOCKET NO. C-4122-73

LAWRENCE ZIRINSKY,
Plaintiff-Respondent,

vs.

THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CRANBURY, A MUNICIPAL CORPORATION
and THE PLANNING BOARD OF THE TOWNSHIP
OF CRANBURY,
Defendants-Appellants.

DOCKET NO. 24,782
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-079309-83 P.W.

JOSEPH MORRIS and ROBERT MORRIS,
Plaintiffs-Respondents,

vs.

TOWNSHIP OF CRANBURY IN THE COUNTY
OF MIDDLESEX, a municipal corporation
of the State of New Jersey,
Defendant-Appellant.

DOCKET NO. 24,782
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-054117-83

CRANBURY LAND COMPANY, A New Jersey
Limited Partnership,
Plaintiff-Respondent,

vs.

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

DOCKET NO. 24,782
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-070841-83 P.W.

GARFIELD & COMPANY,
Plaintiff-Respondent,

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-Appellants.

DOCKET NO. 24,782
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-055956-83 P.W.

CRANBURY DEVELOPMENT CORPORATION
a corporation of the State of
New Jersey,
Plaintiff-Respondent,

DOCKET NO. 24,782
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-59643-83

vs.

CRANBURY TOWNSHIP PLANNING BOARD
and the TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CRANBURY,
Defendants-Appellants•

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
the State of New Jersey,
Plaintiffs-Respondents,

DOCKET NO. 24,782
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-058046-83

vs.

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

TOLL BROTHERS INC.,
Plaintiff-Respondent,

DOCKET NO. 24,782
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-005652-84

vs.

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 TOWNSHIP OF CRANBURY.
Defendants-Appellants.

MORRIS COUNTY FAIR HOUSING COUNCIL,
et al.,
Plaintiffs,

vs.

BOONTON TOWNSHIP, et al.,
Defendant.

DOCKET NO. 24,783
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MORRIS COUNTY
DOCKET NO. L-6001-78 P.W.

AFFORDABLE LIVING CORPORATION, INC.,
a New Jersey Corporation,
Plaintiff-Respondent,

vs.

MAYOR AND COUNCIL OF THE TOWNSHIP OF
DENVILLE,
Defendant-Appellant.

DOCKET NO. 24,783
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MORRIS COUNTY
DOCKET NO. L-42898-84 P.W.

ANGELO CALI,
Plaintiff-Respondent,

vs.

THE TOWNSHIP OF DENVILLE, etc.,
et al.,
Defendants-Appellants.

DOCKET NO. 24,783
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MORRIS COUNTY
DOCKET NO. L-55343-85 P.W.

SIEGLER ASSOCIATES, etc.,
Plaintiff-Respondent,

vs.

MAYOR AND COUNCIL OF THE TOWNSHIP OF
DENVILLE,
Defendant-Appellant.

DOCKET NO. 24,783
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MORRIS COUNTY
DOCKET NO. L-29176-84 P.W.

MAURICE SOUSSA AND ESTER H. SOUSSA,
Plaintiffs-Respondents,

vs.

THE TOWNSHIP OF DENVILLE, et al.,
Defendants-Appellants.

DOCKET NO. 24,783
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MORRIS COUNTY
DOCKET NO. L-38694-84 P.W.

STONEHENGE ASSOCIATES,
Plaintiff-Respondent,

vs.

THE TOWNSHIP OF DENVILLE, etc., et al.,
Defendants-Appellants.

DOCKET NO. 24,783
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MORRIS COUNTY
DOCKET NO. L-86053-84 P.W.

REAL ESTATE EQUITIES, INC.,
Plaintiff-Respondent,

vs.

MAYOR AND COUNCIL OF THE TOWNSHIP
OF HOLMDEL, et al.,
Defendants-Appellants•

DOCKET NO. 24,784
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MONMOUTH COUNTY
DOCKET NO. L-15209-84 P.W.

NEW BRUNSWICK HAMPTON, INC.,
Plaintiff-Respondent,

vs.

MAYOR AND COUNCIL OF THE TOWNSHIP OF
HOLMDEL, et al.,
Defendants-Appellants.

DOCKET NO. 24,784
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MONMOUTH COUNTY
DOCKET NO. L-33910-84 P.W.

GIDEON ADLER, etc., et al.,
Plaintiffs-Respondents,

vs.

MAYOR AND COUNCIL OF THE TOWNSHIP OF
HOLMDEL, et al.,
Defendants-Appellants.

DOCKET NO. 24,784
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MONMOUTH COUNTY
DOCKET NO. L-54998-84 P.W.

TOWNSHIP OF HAZLET,
Plaintiff-Respondent,

vs.

MAYOR AND COUNCIL OF THE TOWNSHIP OF
HOLMDEL,
Defendant-Appellant.

DOCKET NO. 24,784
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MONMOUTH COUNTY
DOCKET NO. L-67502-84 P.W.

URBAN LEAGUE OF GREATER NEW BRUNSWICK,
et al.,
Plaintiffs-Respondents

vs.

THE MAYOR AND COUNCIL OF THE BOROUGH
OF CARTERET, et al.,
Defendant.

DOCKET NO. 24,785
SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, MIDDLESEX COUNTY
DOCKET NO. C-4122-73

MONROE DEVELOPMENT ASSOCIATES,
Plaintiff-Respondent,

vs.

MONROE TOWNSHIP,
Defendant-Appellant.

DOCKET NO. 24,785
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-076030-83 P.W.

LORI ASSOCIATES, A New Jersey
Partnership, et al.,
Plaintiffs-Respondents,

vs.

MONROE TOWNSHIP, etc.,
Defendant-Appellant.

DOCKET NO. 24,785
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-28288-84

GREAT MEADOWS COMPANY, etc., et al.,
Plaintiffs-Respondents,

vs.

MONROE TOWNSHIP, etc.,
Defendant-Appellant.

DOCKET NO. 24,785
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. L-32638-84 P.W.

MORRIS COUNTY FAIR HOUSING COUNCIL
et al.,
Plaintiffs,

vs.

BOONTON TOWNSHIP, et al.,
Defendants.

DOCKET NO. 24,786
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MORRIS COUNTY
DOCKET NO. L-6001-78 P.W.

RANDOLPH MOUNTAIN INDUSTRIAL COMPLEX
a New Jersey Partnership*
Plaintiff-Respondent,

vs.

THE BOARD OF ADJUSTMENT OF THE
TOWNSHIP OF RANDOLPH and THE
TOWNSHIP OF RANDOLPH, a municipal
corporation of the County of Morris,
State of New Jersey,
Defendants-Appellants.

DOCKET NO. 24,786
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MORRIS COUNTY
DOCKET NO. L-59128-85 P.W.

URBAN LEAGUE OF GREATER NEW BRUNSWICK,
et al.,
Plaintiffs-Respondents,

vs.

THE MAYOR AND COUNCIL OF THE BOROUGH
OF CARTERET, et al.,
Defendants.

and

THE TOWNSHIP OF PISCATAWAY, etc.,
Defendant-Appellant.

DOCKET NO. 24,787
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX/OCEAN COUNTIES
DOCKET NO. C-4122-73

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et al.,
Plaintiffs-Respondents,

vs.

THE MAYOR AND COUNCIL OF THE
BOROUGH OF CARTERET, et al.,
Defendants.

vs.

BOROUGH OF SOUTH PLAINFIELD BY ITS
MAYOR AND COUNCIL, et al.,
Defendants-Appellants.

DOCKET NO. 24,788
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY
DOCKET NO. C-4122-73
DOCKET NO. L-56349-81

AMG REALTY COMPANY and SKYTOP LAND CORPORATION.

Plaintiffs-Respondents,

vs.

JOHN H. FACEY, et al.,

Intervenors,

vs.

THE TOWNSHIP OF WARREN,

Defendant-Appellant.

Consolidated with

TIMBER PROPERTIES

Plaintiff-Respondent,

vs.

THE TOWNSHIP OF WARREN, et als.,

Defendant-Appellant.

ROBERT E. RIVELL,

Plaintiff-Appellant,

vs.

TOWNSHIP OF TEWKSBURY, a municipal corporation located in Hunterdon County, New Jersey,

Defendant-Respondent.

J.W. FIELD COMPANY, INC., and JACK W. FIELD,

Plaintiffs-Respondents

vs.

TOWNSHIP OF FRANKLIN, et al.,

Defendants-Appellants.

DOCKET NO. 24,789

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION

SOMMERSET COUNTY

DOCKET NO. L-23277-80 P.W.

L-67820-80 P.W.

DOCKET NO. 24,790

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION, HUNTERDON COUNTY

DOCKET NO. L-40993-84 P.W.

DOCKET NO. 24,799

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION, SOMERSET COUNTY

DOCKET NO. L-6583-84 P.W.

JZR ASSOCIATES, INC.,
Plaintiff-Respondent

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants.

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-7917-84 P.W.

FLAMA CONSTRUCTION CORPORATION,
Plaintiff-Respondent

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants.

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-14096-84 P.W.

WOODBROOK DEVELOPMENT CORPORATION,
Plaintiff-Respondent

vs

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants.

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-19811-84 P.W.

WHITESTONE CONSTRUCTION, INC.
Plaintiff-Respondent,

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants,

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-21370-84

BRENER ASSOCIATES,
Plaintiff-Respondent

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-22951-84 P.W.

RAKECO DEVELOPERS, INC.,
Plaintiff-Respondent,

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants.

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-25303-84 P.W.

JOHN H. VAN CLEEF, SR., et al.,
Plaintiffs-Respondents,

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants.

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-26294-84 P.W.

LEO MINDEL,
Plaintiff-Respondent,

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants.

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-33174-84 P.W.

R.A.S. LAND DEVELOPMENT COMPANY, INC.
Plaintiff-Respondent,

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants.

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-49096-84 P.W.

JOPS COMPANY,
Plaintiff-Respondent,

vs.

TOWNSHIP OF FRANKLIN, et al.,
Defendants-Appellants.

DOCKET NO. 24,799
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NO. L-51892-84 P.W.

I, STEVEN L. SACKS-WILNER, hereby certify:

1. I am an attorney at law in the State of New Jersey and am Chief Counsel to the New Jersey Senate Minority.

2. I have personally represented the New Jersey Senate Minority in negotiations which resulted in the final version of the "Fair Housing Act", P.L. 1985, ch. 222.

3. Collectively, the New Jersey Senate and Assembly Minorities, seventeen of the forty New Jersey Senators, and thirty-six of the eighty New Jersey Assemblymen were intimately involved in the negotiations which led to the Fair Housing Act. They are:

The New Jersey Senate:

The Honorable S. Thomas Gagliano, Minority Leader,
Senator - 12th District
The Honorable James R. Hurley, Assistant Minority Leader,
Senator - 1st District
The Honorable John H. Dorsey, Assistant Minority Leader,
Senator - 25th District
The Honorable Gerald Cardinale, Minority Whip,
Senator - 39th District
The Honorable Joseph L. Bubba, Assistant Minority Whip,
Senator - 34th District
The Honorable Walter F. Foran, Minority Budget Officer
Senator - 23rd District
The Honorable C. Louis Bassano
Senator - 21st District
The Honorable Leanna Brown
Senator - 26th District
The Honorable Leonard T. Connors
Senator - 9th District
The Honorable Donald T. DiFrancesco
Senator - 22nd District
The Honorable Wayne Dumont, Jr.
Senator - 24th District
The Honorable John H. Ewing
Senator - 16th District
The Honorable Peter P. Garibaldi
Senator - 18th District
The Honorable William L. Gormley
Senator - 2nd District
The Honorable C. William Haines
Senator - 8th District
The Honorable Lee Laskin
Senator - 6th District
The Honorable Hank McNamara
Senator - 40th District

The New Jersey General Assembly:

The Honorable Chuck Hardwick - Minority Leader
Assemblyman - 21st District

The Honorable Chuck Haytaian - Assistant Minority Leader
Assemblyman - 24th District

The Honorable John Hendrickson - Assistant Minority Leader
Assemblyman - 9th District

The Honorable Walter Kavanaugh - Assistant Minority Leader
Assemblyman - 16th District

The Honorable Joseph Palaia - Minority Whip
Assemblyman - 11th District

The Honorable Louis Kosco - Assistant Minority Whip
Assemblyman - 38th District

The Honorable John Rocco - Assistant Minority Whip
Assemblyman - 6th District

The Honorable Maureen Ogden - Assistant Minority Whip
Assemblywoman - 22nd District

The Honorable Walter Kern - Minority Parliamentarian
Assemblyman - 40th District

The Honorable Arthur Albohn
Assemblyman - 25th District

The Honorable John Bennett
Assemblyman - 12th District

The Honorable Joseph Chinnici
Assemblyman - 1st District

The Honorable Harold Colburn
Assemblyman - 8th District

The Honorable Dolores Cooper
Assemblywoman - 2nd District

The Honorable Nicholas Felice
Assemblyman - 40th District

The Honorable Robert Franks
Assemblyman - 22nd District

The Honorable Rodney Frelinghuysen
Assemblyman - 25th District

The Honorable Peter Genova
Assemblyman - 21st District

The Honorable John E. Kline
Assemblyman - 2nd District

The Honorable Robert Littell
Assemblyman - 24th District

The Honorable Ralph Loveys
Assemblyman - 26th District

The Honorable Robert J. Martin
Assemblyman - 26th District

The Honorable Newton Miller
Assemblyman - 34th District

The Honorable Marie S. Muhler
Assemblywoman - 12th District
The Honorable Guy F. Muziani
Assemblyman - 1st District
The Honorable John Penn
Assemblyman - 16th District
The Honorable Angela Perun
Assemblywoman - 17th District
The Honorable Lisa Randall
Assemblywoman - 39th District
The Honorable John E. Rooney
Assemblyman - 39th District
The Honorable William Schuber
Assemblyman - 38th District
The Honorable Robert Shinn
Assemblyman - 8th District
The Honorable Thomas Shusted
Assemblyman - 6th District
The Honorable Anthony Villane
Assemblyman - 11th District
The Honorable Karl Weidel
Assemblyman - 23rd District
The Honorable Gerald Zecker
Assemblyman - 34th District
The Honorable Richard Zimmer
Assemblyman - 23rd District

4. The Assembly Committee Amendments of February 28, 1985 deleted language which would have required exhaustion of the bill's administrative remedies "unless the court determines that transfer of the case to the council is likely to facilitate and expedite provision of a realistic opportunity for low and moderate housing." The committee inserted the "manifest injustice" test for transfer which survived to passage and which is at issue herein. A copy of the Committee Statement is annexed hereto as Exhibit A.

The final version of the moratorium on the "builder's remedy" originated in Senate amendments adopted to conform the bill with the governor's recommendations contained in his conditional veto of the committee substitute. The Governor's conditional veto recommended replacement of the initial moratorium section with a new section. The Governor's conditional veto was received in the Senate on May 2, 1985; the committee substitute was amended to conform therewith on May 13, 1985.

5. The New Jersey Senate Minority represents 15 of the 21 vote majority enacting Senate Committee Substitute for S-2046/2344 into law [see copy of the official voting record of June 24, 1985 annexed hereto as Exhibit B].

6. The New Jersey Assembly Minority represents 33 of the 44 vote majority enacting Senate Committee Substitute for S-2046/2344 into law [see copy of the official voting record of June 27, 1985 annexed hereto as Exhibit C].

7. My clients' Legislative Districts include and their Legislative responsibilities comprehend representation of many of the municipalities who are parties to these appeals.

On information and belief, the following summarizes transfer motions heard in this State:

<u>Municipality</u>	<u>Type</u>	<u>Date(s) Filed</u>	<u>Hearing/Order Date</u>	<u>Disposition</u>
<u>Judge Skillman</u>				
Denville Cases**	§16"a"		9/23-10/28/85	Den/App
Washington Township	§16"a ^u		9/23-10/28/85	Denied
Randolph**	§16"a"		9/23-10/28/85	Den/App
Tewksbury**	§16"a"*	6/19/84	9/23-10/28/85	Granted/App
Roseland	§16b*		9/23-10/28/85	Granted
<u>Judge Serpentelli</u>				
Piscataway**	§16 ⁿ "a"		10/2/-10/11/85	Den/App 10/23
Cranbury**	§16"a"		10/2/-10/11/85	Den/App 10/28
Monroe**	§16"a"		10/2/-10/11/85	Den/App 10/28
S. Plainfield**	§16"a"		10/2/-10/11/85	Den/App 10/28
Warren**	§16"a"		10/2/-10/15/85	Den/App 10/29
Manalapan	§16"a"		10/4/-10/25/85	Denied
Bernards**	§16 ^{if} "a"		10/4/-10/16/85	Den/App
Watchung	§16 ^M "a"	12/84	10/4/- (10/9) 11/1/85	Denied
Bernardsville**	§16"a"		10/11/-10/25/85	Den/App
Holmdel**	§16"a"		10/11/-10/28/85	Den/App
Franklin**	§16"a"		10/23-11/8/85	Den/App
Scotch Plains	§16"a"*	Feb. '85	10/25-11/7/85	Granted
Hillsborough	§16"a"		11/4-12/2/85	Denied
Green Brook & Warren	(Warren is 3rd party defendant & movant) /			
	/§16"a"	10/11/84	TBA	Undecided
Millstone			TBA	Undecided
Wash. Twp (Mercer)			TBA	Undecided
<u>Judge Gibson</u>				
Cherry Hill	[Hybrid case		9/20-9/25/85	Denied
	[Mot. Reconsid. above		12/6/85	Undecided
	§16b*	5/22/85	9/20-9/25/85	Granted
Moorestown	§16"a"		12/9/85	Undecided

*Cases filed after 5/3/85 must go to the Council under §16b.

**Certified directly to the Supreme Court

8. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are intentionally false, I am subject to punishment.


 Steven L. Sacks-Wilner, Esq.

Dated: December 2, 1985

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 2046 and 2334

[OFFICIAL COPY BEPRIWT]

STATE OF NEW JERSEY

DATED: FEBRUARY 28, 1985

This bill provides for a legislative response to the Mt. Laurel II decision. The bill encompasses a comprehensive housing planning and financing assistance mechanism which provides an alternative to the planning mechanisms and remedies currently being enforced by the courts. The Assembly committee amendments would:

1. Provide for a 12 month moratorium period, during which the imposition of the builder's remedy by the courts would be prohibited.

2. Require the Attorney General to seek a declaratory judgment within 30 days of the effective date as to the constitutionality of the moratorium.

3. Extend the time which a municipality has to file its housing plan with the council from 10 months to 12 months within the protected period of the planning process.

4. Clarify that the legislation does not require a municipality to raise or expend its revenues in order to provide housing.

5. Establish that a court in determining whether to transfer pending lawsuits to the council must consider whether or not a manifest injustice to a party to the suit would result, and not just whether or not the provision of low and moderate income housing would be expedited by the transfer.

6. Clarify that municipal fair share is determined after crediting the municipality for adequate low and moderate income housing currently provided.

7. Clarify that regional housing need estimates must be adjusted by the council as municipal fair shares are adjusted based on available land, infrastructure considerations, or environmental or historic preservation factors.

8. Declare the State's preference for the review and mediation process, rather than litigation, for resolving exclusionary zoning disputes, and the Legislature's intent to provide in the act alternatives to the use of the builder's remedy.

9. Require council determinations regarding certification to be in writing.

10. Provide for a more extensive role for the proposed State Planning Commission in assisting the council and for the New Jersey Mortgage and Housing Finance Agency in reviewing housing project plans and administering resale controls.

The committee reported the bill favorably.

MINORITY STATEMENT

By Assemblymen Kline and Colburn

Although we are pleased that the committee accepted many of the suggestions offered by the Republicans, we cannot accept this bill, as amended, because it fails to remove the courts from Mount Laurel-like litigation.

This bill does not prevent the courts from continuing in their current direction. Pending Mount Laurel cases may continue to be litigated, ridiculous housing quotas established in the Warren township decision and builder's remedy may still be applied to municipalities throughout New Jersey, and the decisions of the State Housing Council, as established by this bill, may be negated by the courts.

The Republicans offered an amendment that tied this bill to the Legislature's positive action to place a constitutional amendment (*ACR-145—Albokn*) on the ballot. This amendment guarantees that the courts will no longer be able to interfere in local zoning the way the Supreme Court did in its Mount Laurel II decision. Nothing short of a constitutional amendment would achieve this goal. This amendment also would bar imposition on the builder's remedy should the proposed moratorium be struck down by any court decision.

The Republicans also offered an amendment that required the courts, to transfer all pending litigation to the Housing Council. The language, as amended, is a step in the right direction, but does not go far enough. It is patently unfair to set up two bodies which can establish two separate housing standards. This bill could create that very situation.

It is also unfair that municipalities, which already have settled Mount Laurel cases, to now find themselves in the position of having accepted unreasonable quotas set by the courts, while a Housing Council generates new and less burdensome quotas. This bill does nothing to protect or reward those municipalities which have met far more than their obligation. Specifically, the Republican amendment protected these settled municipalities from further suits for the 12-year period following the enactment of this legislation.

figures While the adopted amendments allow the municipalities to adjust the given to them by the Housing Council in accordance with important factors, such as environmental concerns and historic preservation, the adjustment does not take into account farmland preserva-

tion and the adequacy of existing public facilities. The Republican amendment included these necessary factors in any adjustment of housing quotas.

Finally, it must be underscored that there is nothing in this bill that prevents the Housing Council from using the same housing formula and imposing the same outlandish housing quotas as the courts did in the Mt. Laurel II decision and the subsequent Warren township decision.

The Republican amendment gave the Housing Council clear direction in the way the council must develop its formula. This direction uses realistic definitions of "prospective need," thereby ensuring that ephemeral projections and equations do not determine the future housing needs of a municipality.

This bill, no doubt, will be touted as the majority party's answer to Mount Laurel XL It may be a partial answer, but it is our belief that it is woefully inadequate. Even worse, we believe that this solution may turn out to be as bad as the Mount Laurel II decision. Should this occur, however, the members voting in favor of this bill will no longer be able to point their fingers at the courts. They will have to accept responsibility for the mess they created.

(66)

ROLL CALL

- YHAS M-V NAYS
- ADURATO, M.---
- ADURATO, S.---
- ALP.DHM-----
- BAER-----
- BENNETT-----
- BIOCCINI-----
- BROWN-----
- BRYANT-----
- CHARLES-----*
- CHIN, ICI-----
- COLBURN-----
- COOPER-----
- CUPROWSKI-----
- OfcVfcrLN-----
- OOPIA-----
- DOYLE-----
- FELT CE-----
- F-LYNV-----
- FGIU-i-----
- FORTUNATO-----

- YEAS N-V NAYS
- FOY-----
- FRANKS-----
- FRELINGHUYSEN-
- GARVIN-----
- GENOVA-----
- GIRGENTI-----
- GORMAN-----
- HARDWICK-----
- HAYTAIAN-----
- HENORICKSON-----
- HERMAN-----
- HOLLENUECK-----
- KALIK-----
- KARCHER----->
- KAVANAUGH-----
- KERN-----
- KLINE-----
- KOSCO-----
- LAROCCA-----
- LITTELL-----

- YEAS N-V NAYS
- LONG-----
- LOVEYS-----
- MARSELLA-----
- MARTIN--^-----
- MAZUR-----
- MC ENR^t-----
- MILLER-----
- MUHLER-----
- MUZ I AN I-----
- NAPLES --^-----
- OGDEN --^-----
- OTLOWS^i-----
- PALAIA-----
- PANKOK-----
- PATERNITI-----
- PATERO-----
- PELLECCHIA-----
- PELLY-----
- PENN-----
- PERUN-----

- YEAS N-V NAYS
- RANDALL-----
- RANIEf*-----
- RILEY-----
- ROCCO-----
- ROD.-----
- RODNEY-----
- SCHUBER-----
- SCHWARTZ-----
- SHINN-----
- SHUSTED-----
- THO.MPST:-----
- VAIMif RI-----
- VILLANT:-----
- VISOTC*Y-----
- WALKER-----
- WATSON-----
- WEIDEL-----
- ZAMGAK%-----
- ZECKER-----
- ZIMMER-----

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AUTHOR *K. J. ARTZ*

SUBJECT *52946/2334 scs w/6/R*

YEA *44*

CALL OF THE HOUSE

NAY *36*

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--3 3--	--3 3--	• -3 3--
4 4--	--4 4--	--4 4--
--5 5--	--5 5--	--5 5--
--6 6--	--6 6--*	--6 6--
--7 7--	--7 7--	--7 7--
--8 8--	--a B--	--a 8--
--9 9--	--9 9--	--9 9--

HOUSE	SENATE	BILL	RESO.	DA If	1--
SENATE	SENATE	RESO.	RESO.	JAN	<?--
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--500		--50	5--	• - juf.	4--
--EMHR-1	--600	--60	6--	--JUL	0--
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