

ML

Old Bridge  
(Radinelli)

5-Jun-1986

Plaintiff Radinelli's Answer to  
Defendant's Counter Claim

pgs = 4

ML CC 525A



inasmuch as the Plaintiff was not a party to the action set forth in Paragraph 1 of the counter claim and have insufficient knowledge to form a response as to what was or what was not intended.

4. The Plaintiff admits that the Order of January 24, 1986 provides language as set forth in the counter claim and denies the balance of the allegations set forth therein.
5. The Plaintiff neither admits nor denies the allegations contained in Paragraph 5 and leaves the Defendant to its proofs.

#### **FIRST SEPARATE DEFENSE**

The counter claim of the Defendant should be dismissed inasmuch as it fails to state a cause of action for which affirmative relief may be granted.

#### **SECOND SEPARATE DEFENSE**

The Defendant's action is barred by the Doctrine of Laches.

#### **THIRD SEPARATE DEFENSE**

The Plaintiffs filed for its application for a use variance permitting the use of the property in accordance with a General Development Plan in the spring of 1985. After legal notice and public hearings in April and through September 1985, the Defendant, Urban League failed to raise any objections

as to the granting of variances granted to the Plaintiff, the approval of the General Development Plan in accordance with the Municipal Land Use Law and the Zoning Ordinance of the Township of Old Bridge. Furthermore, It has not taken any appeal from said approval within the statutory 45 day period.

Defendants are hereby estopped for raising any claim or cause of action against the Plaintiff at the present time.

#### **FOURTH SEPARATE DEFENSE**

The Plaintiffs were not party to the action cited in Paragraph 1 of the counter claim and should be excluded from any Order, or effect thereof, to which it did not specifically consent.

#### **FIFTH SEPARATE DEFENSE**

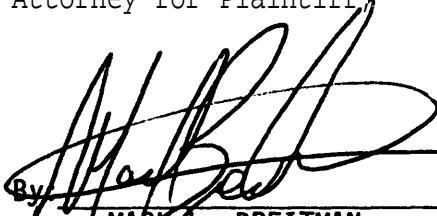
The Plaintiff in filing for its General Development Plan sought and obtained extended vesting in accordance with the Township of Old Bridge Land Development Ordinances which has the effect of a contract between the Township and the developer which provides there be no alteration of the terms and conditions of the approvals granted. Said vesting was granted with the full force and effect of preliminary approval as provided in the Township Ordinances and under the Municipal Land Use Law which was prior to December 19, 1985. Inasmuch as the Plaintiff had received preliminary approval, the Order of January 24, 1986 or any subsequent zoning change has no effect upon the Plaintiff during the period approved by the Board of Adjustment pursuant to Plaintiff's extended vesting.

SIXTH SEPARATE DEFENSE

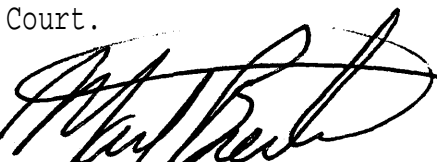
The Plaintiff received its approval pursuant to a use variance which use variance confers upon Plaintiff certain legal rights, the effect of which, could not be overridden by a subsequent Ordinance change.

LEVY, SCHLESINGER & BREITMAN, P.A.

Attorney for Plaintiff,

By   
MARK L. BREITMAN

I hereby certify that the within Pleading has been filed and served in accordance with the rules of the Court.

  
MARK L. BREITMAN