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, Gerickart v. Piscataway

9-July-84

Letter brief to Judge re Opposition to the Piscataway's motion for summary judgment

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July 9, 1984

Honorable Eugene D. Serpentelli
Judge of Superior Court of New Jersey
Ocean County Court House CN-2191
Toms River, New Jersey 08753

Re: Gerickont, et al v.
Township of Piscataway
Docket No. L-032501-84PW

My dear Judge Serpentelli:

I am in receipt of a letter brief submitted by the Urban League, in opposition to the motion brought by Piscataway Township for summary judgment in this matter. Kindly consider this as a reply thereto.

The Urban League initially argues that Piscataway[1] s application should have been designated an application for partial summary judgment on the question of entitlement to a builders[1] remedy. My understanding of the effect of this Court's order granting limited consolidation is that the only viable issue available for the Gerickonts

to argue in this cause is their entitlement to a builders[1] remedy. As such, summary judgment is clearly appropriate to dispose of the only issue remaining in contravention between the parties, in this suit, all other issues raised by the Gerickonts[1] complaint having been effectively disposed of by the limited terms of the consolidation order.

The Urban League further contends that Piscataway's application is inappropriately timed, in light of the Court's designation of an expert to review the availability of vacant developable land within the Township. Piscataway respectfully submits that the appointment of the expert should have no bearing on the ruling on its motion. Piscataway contends that, at a minimum, a builder entitled to a builders[1] remedy must have participated in all salient phases of the trial. This the Gerickonts clearly did not do. If the Urban League's argument is to be interpreted as suggesting that the limited available vacant land in Piscataway makes it likely that the Court appointed expert would designate the Gerickont's property as appropriate for rezoning, it is unclear exactly what advantage there would be to any party by continuing this litigation; the

corollary to the argument is that the Gerickonts[1] property will be recommended for rezoning outside the parameters of the Gerickont litigation. If true, this contention supports the granting of Piscataway[1]s motion, in the interests of judicial administration of this most complex matter.

The further contention that this Court should defer consideration of Piscataway[1]s motion until it considers the related legal issues involving the builders[1] remedy claims in other municipalities is inapt. The Urban League did not argue, when Cranbury moved to dismiss the builders[1] remedy claims put forth by four separate developer-plaintiffs, that this Court should defer consideration of Cranbury[1]s motion until analogous motions in all municipalities could be heard simultaneously. If Piscataway is entitled to a dismissal of the Gerickont's complaint by law, how is the interest of any party to this litigation served by deferring that decision?

Lastly, Piscataway takes considerable objection to the assertion that all parties have apparently agreed that all vacant land in Piscataway should be rezoned to

accomodate Mount Laurel housing, in light of the limited availability of vacant land. While all plaintiffs may share this notion, Piscataway certainly does not, for reasons to be articulated at the hearing to be held following receipt of the expert's report.

Respectfully,

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