

ML - Morris County Fair Housing Council
vs. Boonton

Dec. 8, 1983

- Denville

- Affidavit John A. Dysken, Russell B. Lindsay, Jeffrey A. Biggs,
Thomas J. Grady and Joseph J. Lowell Jr.

pgs. 9

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HARPER & HANSBURY, P.A.

736 SPEEDWELL AVENUE
 P. O. BOX 198
 MORRIS PLAINS, NEW JERSEY 07950
 (201) 540-9500
 ATTORNEYS FOR Defendant, Denville Township

MORRIS COUNTY FAIR HOUSING COUNCIL, et al.,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: MORRIS COUNTY
Plaintiffs,	:	DOCKET NO. L-6001-78 P.W.
v.	:	
BOONTON TOWNSHIP, et al.,	:	Civil Action
Defendants.	:	AFFIDAVIT OF JOHN A. DYKSEN
	:	

I, JOHN A. DYKSEN, of full age and being duly sworn according to law deposes and says:

1. I am employed by defendant, Township of Denville, and am familiar with certain facts surrounding the filing of the Complaint in the above-entitled litigation. I am a licensed tax assessor and have served as Denville's Tax Assessor since July, 1974. In that capacity I assess and value all real property within the Township of Denville.

2. Between July 1, 1982 and June 30, 1983 there have been 177 sales of residential property within Denville.

The average sale price during that period was \$89,452.00.

The average sales price includes both new and old residential properties. The range of sales price for the 177 sales was between \$40,000.00 and \$305,000.00.

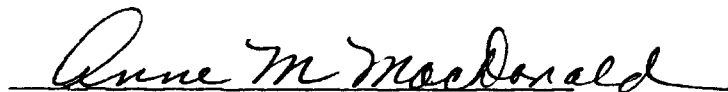
3. In assessing properties in Denville we use a standard formula of ratio of sales to the market value. The 1983 average assessment ratio is 31% of the market value.

4. Presently, there are approximately 40 new houses under construction, the sale price of which ranges between \$150,000.00 and \$200,000.00.

DATED: December 8, 1983


JOHN A. DYKSEN

Sworn to and Subscribed
before me this 8th day
of December, 1983



Anne M. MacDonald
Notary Public State of New Jersey
My Commission Expires March 15, 1984

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MORRIS COUNTY FAIR HOUSING COUNCIL, et al.,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: MORRIS COUNTY
Plaintiffs,	:	
	:	DOCKET NO. L-6001-78 P.W.
vs.	:	Civil Action
BOONTON TOWNSHIP, et al.,	:	
Defendants.	:	AFFIDAVIT OF RUSSELL B. LINDSAY

This Affidavit is submitted on behalf of defendant Township of Denville in the above-captioned matter.

I, RUSSELL B. LINDSAY, of full age and being duly sworn according to law upon my oath deposes and says:

1. I am employed by defendant, Township of Denville and am familiar with certain facts surrounding the filing of the Complaint in the above entitled litigation. I have served as the uniform construction officer for eight years and in that capacity administer all construction permits related to

building construction, provide inspection services for the same and issue all certificates of occupancy within Denville.

I also oversee the heating and plumbing officials of Denville as well as the electrical officials. I am the Zoning official and in that capacity enforce zoning ordinances and make final decisions in regard to the same.

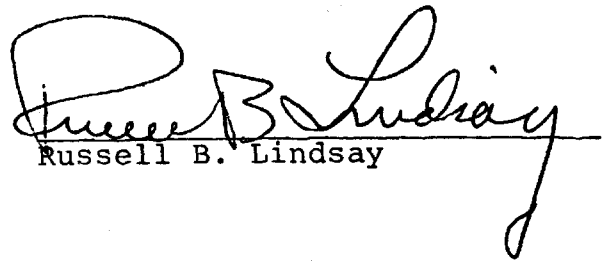
2. The Township of Denville is limited in the availability of land for new construction as follows:

A. 90% of the new construction will be South of Route 10 in the R-1 Zone. Available in this area are 1 acre lots for homes in the \$150,000 - \$300,000 range;

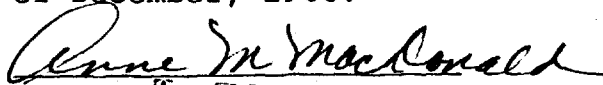
B. In the central portion of Denville there are very few lots remaining. The lots located in the central portion are 5,000 square feet and 4,000 square feet respectively. Among these, within the R-4 Zone, are lots zoned for two family houses . There are approximately ten lots available within the R-4 Zone upon which two family houses could be constructed;

C. In the North end of town within the C Zone are lots 2 acres in size. The reason for the 2 acre lots size is that it is located in a conservation area consisting of land not suitable for high density development.

DATED: December 8, 1983


Russell B. Lindsay

Sworn to and Subscribed
before me this 8th day
of December, 1983.



Anne M. MacDonald
Notary Public State of New Jersey
My Commission Expires March 15, 1984

HARPER & HANSBURY, P.A.

736 SPEEDWELL AVENUE

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MORRIS PLAINS, NEW JERSEY 07950

(201) 540-9500

ATTORNEYS FOR Defendant, Denville Township

MORRIS COUNTY FAIR HOUSING
COUNCIL, et al.,

Plaintiffs,

v.

BOONTON TOWNSHIP, et al.,

Defendants.

: SUPERIOR COURT OF
NEW JERSEY
: LAW DIVISION: MORRIS
COUNTY
:
DOCKET NO. L-6001-78 P.W.
:
Civil Action
:
AFFIDAVIT OF
JEFFREY A. BIGGS

This Affidavit is submitted on behalf of defendant Township of Denville in the above-captioned matter.

I, JEFFREY A. BIGGS, of full age and being duly sworn according to law upon my oath, deposes and says:

1. I am employed by defendant, Township of Denville and am familiar with certain facts surrounding the filing of the Complaint in the above-entitled litigation. I have served as Township Engineer of Denville since March 27, 1978. I became a licensed engineer in 1976 and a licensed planner in 1978. I am a past President of the Morris County Chapter of

New Jersey Society of Professional Engineers and currently the Vice President of the New Jersey Society of Municipal Engineers. In my capacity as Township Engineer of Denville I review development plans and inspect the quality of their implementation. In addition, I have the responsibility of enforcing the township ordinances relating to development plans and their implementation. I design municipal improvements such as sanitary sewers, storm sewers, road reconstruction, resurfacing, etc. and plan for future improvements in the above areas.

2. The Denville area has many lakes, steep slopes and inadequate septic systems. The community originally developed as a seasonal summer community having its municipal improvements constructed with less than currently acceptable design standards. Specifically, the original seasonal community was designed and constructed with substandard street widths varying from 10 to 20 feet, without curbs, sidewalks, or minimal right of way clearings. As a result of this substandard infra-structure the Township of Denville has since continually dealt with problems of drainage, erosion, traffic and inadequate septic systems. It is my opinion that the reduced infra-structure as suggested by the Mt. Laurel II decision could only result in future inadequacies of the same type throughout the Township of Denville.

3. Due to the health, safety and welfare problems caused by the high density septic system, Denville has replaced those septics with sewers. Due to the same health,

safety and welfare problems, Denville is currently planning for sewers in portions of the Cedar Lake and Arrowhead Lake areas.

4. The remaining undeveloped land in the township has steep slopes while other large parts of the township are composed of aquifer recharge areas, wetlands flood plains and watershed areas. These areas all have unique limitations for high density development. The critical areas map delineates the areas with development restrictions. In addition, the flood plain along the Rockaway River is a major problem for inner areas of Denville when considering development. A major flood, such as the January 1979 flood, causes inner areas and the center of town to become flooded. Increased development in the flood plain can and has had adverse effects on residents of Denville and high density development in these areas would continue to exasperbate any existing problems due to rising flood heights created. Reference is hereby made to the flood plain delineation on the critical areas map.

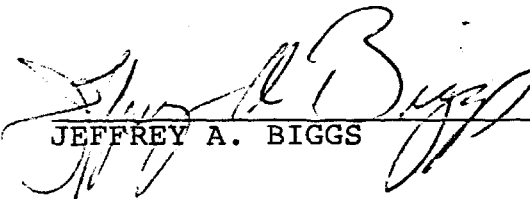
5. Some of the limitations for critical areas as delineated would include excessive and uncontrollable erosion in areas of steep slopes. As a result of increased impervious construction there would be loss of aquifer recharge capability to the potable water supply.

6. Additional restrictions and limitations to development in the flood plain and wetlands is recognized by the Federal Government in their environmental reports and

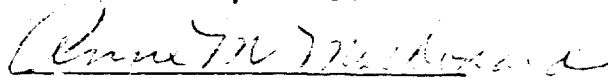
restrictions for laying sewers in these areas. Specifically, by agreement with the Federal Government and the Rockaway Valley Regional Sewer Authority the Township of Denville is obligated to restrict the laying of sewers in the flood plain and wetland areas.

7. Vehicular traffic is a primary and fundamental concern to deal with when planning any high density development. Due to the existence of the substandard infra-structure surrounding many state highways in Denville, it becomes necessary that major traffic improvements are needed off site to support high density development.

DATED: December 8, 1983


JEFFREY A. BIGGS

Sworn to and subscribed
before me this 8th day
of December, 1983.


Anne M. MacDonell
Notary Public State of New Jersey
My Commission Expires March 1, 1984

HARPER & HANSBURY, P.A.
736 Speedwell Avenue
P.O. Box 198
Morris Plains, NJ 07950
(201) 540-9500
Attorneys for Defendant, Denville Township

MORRIS COUNTY FAIR HOUSING	:	SUPERIOR COURT OF NEW
COUNCIL, et al,	:	JERSEY
	:	LAW DIVISION: MORRIS
Plaintiffs,	:	COUNTY
	:	Docket #L-6001-78 P.W.
v.	:	Civil Action
	:	
BOONTON TOWNSHIP, et al.,	:	AFFIDAVIT OF THOMAS J.
	:	GRADY
Defendants	:	

This Affidavit is submitted on behalf of defendant,
Township of Denville in the above captioned matter.

I, THOMAS J. GRADY, of full age and being duly sworn
according to law, deposes and says:

1. I am employed by defendant, Township of Denville
and am familiar with certain facts surrounding the filing of
the complaint in the above entitled litigation. I have served
as Business Administrator for almost eight years, and in that
capacity, am involved with the planning and development of
the Township of Denville. I have been involved with municipi-
pal government for over thirty-years.

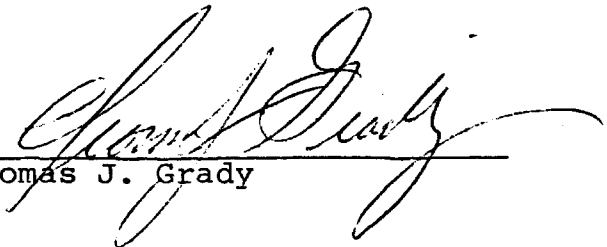
2. The Township of Denville is one of nine Towns in the State of New Jersey operating for about fourteen years under a sewer ban imposed by Consent Judgment in Department of Health State of New Jersey et al v. City of Jersey City, et al, Docket #C3447-67, 1968. From that judgment the Jersey City Plan, now Rockaway Valley Regional Sewer Authority, serves nine towns (including Denville) and is controlled by the Rockaway Valley Regional Sewer Authority. Pursuant to that Judgment all sewage gallonage applications must be approved: 1) By the Rockaway Valley Regional Sewage Authority and 2) By Court appropriation of gallonage by motion before the Honorable Jacques Gascoyne, Superior Court of New Jersey, Law Division, Morris County. The only gallonage available is reserved gallonage of which Judge Gascoyne has complete jurisdiction. This reserved gallonage is appropriated exclusively for health reasons.

3. Presently, the Rockaway Valley Sewage Authority Plant in Parsippany, does not have adequate daily gallonage to meet the needs of the nine municipalities within the sewer ban. The present capacity of the plant facilities is eight million gallons. On or about July 1, 1983 a 27 million dollar grant for new plant facilities was approved to expand the plants capacity to twelve million gallons. This plant will not be completed until late 1986, early 1987. The additional four million gallon capacity of the new plant will help alleviate a need presently existing for sewage gallonage. In order to fullfil the number of applicants presently seeking sewage gallonage, including

seven hundred homes in Denville operating on an inadequate and health hazardous septic system, the entire additional four million gallons would have to be appropriated to these applicants.

4. The Township of Denville has a cooperative agreement and letter of intent with the Morris County Housing Authority. This agreement provides for one hundred twenty units of middle-low income housing; one hundred of which is for senior citizens. The Morris County Housing Authority has not received sufficient units from HUD to be able to fund the Denville proposal.

Dated: December 8, 1983


Thomas J. Grady

Sworn to and Subscribed
Before me this 8th day of
December, 1983



DONNA I. COSTELLO
A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Feb. 7, 1985

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Plaintiffs,	:	DOCKET NO. L-6001-78 P.W.
vs.	:	
BOONTON TOWNSHIP, et al.,	:	Civil Action
Defendants.	:	AFFIDAVIT OF JOSEPH J. LOWELL, JR.
	:	

I, JOSEPH J. LOWELL, JR., of full age and being duly sworn according to law deposes and says:

1. I am employed by defendant, Township of Denville, and am familiar with certain facts surrounding the filing of the Complaint in the above-entitled litigation. I have served as Superintendent of the Denville Water and Sewer Department for four and one-half years and in that capacity am responsible for operation and maintenance for sewer and water utilities. I am in charge of planning and constructing

improvements to upgrade the sewer and water utilities, maintaining accurate records and preparing reports as required by the state. I am also a member of the sewer ban committee.

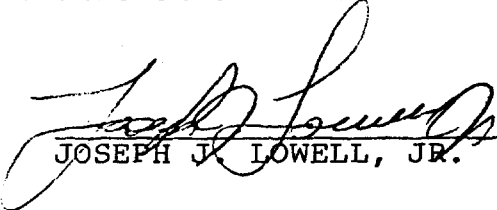
2. The Township of Denville has a sound operating system for water distribution servicing its own needs and certain water needs of the Township of Boonton, Parsippany, Randolph and Mountain Lakes. The ground water supply source is six wells, one of which is sealed and not in operation. (See Exhibits A & B attached and annexed hereto.) Denville has five ground storage tanks and three pressure zones feeding the supply and demand for water.

3. The diversion rights of the township are authorized by the State of New Jersey which limits the amount of water diverted from each well. The total diversions right is 70 million gallons per month. (See Exhibit B attached and annexed hereto.) The approximate maximum amount of water diverted is 60 million gallons during the summer months. Thus, Denville has been able to meet the current water demands of the five serviced townships. It is anticipated, however, in view of the increase in higher density development throughout the townships, that the water supply and demand will attain the 70 million gallon limitation. For example, Denville presently has plans for the construction of 400 new homes. Accordingly, a new tank is planned to be constructed to supply the Shongum Mountain area currently under development.

4. In order for Denville to receive an increase in Diversion Rights, authorization must be received by the state. Denville has been advised that said diversion rights will be increased to 90 million gallons per month conditional upon completion of new facilities for the Rockaway Valley Regional Sewer Authority. It is my understanding that the new facilities will not be operational until late 1986 or early 1987.

5. Denville's water system develops under guidelines of a Master Distribution Plan. Each year the system is upgraded by adding tanks and new lines. There are plans for an additional tank to service the Shongum Mountain area currently under development. There are also plans to install approximately 3,500 12 inch water mains in order to utilize a tank located in the Beacon Hill Section of Denville. Upgrading plans also include replacing all less than six inch water mains which are in violation of state law.

DATED: December 8, 1983

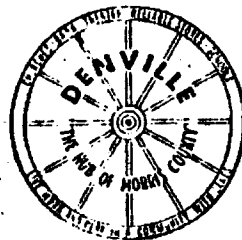

JOSEPH J. LOWELL, JR.

Sworn to and Subscribed
before me this 8th day
of December, 1983.


Anne M. MacDonald

Notary Public State of New Jersey
My Commission Expires March 15, 1984

TOWNSHIP OF DENVILLE



OFFICE OF SUPERINTENDENT
ROADS, PARKS AND PLAYGROUNDS

NEW JERSEY

December 5, 1979

State of New Jersey
Department of Environmental Protection
Division of Water Resources
P. O. Box 2809
Trenton, New Jersey 08625

Attention: Mr. Raymond Webster

Dear Mr. Webster:

Late in 1978, we had the diversion rights from our abandon well #2 applied to our newly drilled well #6.

Since we cannot use well #6 because of high manganese (.16 content), we are carrying the load on this side of town with well #3 and exceeding the diversion rights for this well. We would like to have the diversion rights from well #2, which was put on well #6, switched to well #3 and the diversion rights of well #3 given to well #6.

Very truly yours,

John H. Cramsey
Superintendent
Dept. of Public Works

JHC:mh

directed by the Water Policy and Supply Council, notice of public hearing and application was advertised and proofs of advertising were filed. Public hearing was held in Trenton, New Jersey on October 27, 1971, at which all persons, corporations, municipal corporations and other civil divisions of the State affected by the proposed plans who desired to be heard were heard.

The Council having examined the said plans, and having considered the testimony and argument presented at the hearing does hereby decide that the plans proposed by the TOWNSHIP OF DENVILLE as set forth in the application and the testimony presented at said hearing are justified by public necessity, that they provide for the proper and safe construction of all work connected therewith, that they provide for the proper protection of the supply from contamination, and that such plans are just and equitable to the other municipalities and civil divisions of the State affected thereby and to the inhabitants thereof.

The Water Policy and Supply Council does therefore approve the application of the TOWNSHIP OF DENVILLE as herein modified, and hereby consents to the diversion of water from wells as proposed therein, subject, however, to the following limitations, terms, and conditions:

1. The applicant shall pay to the State such annual charge for the diversion of water as is now made or may hereafter be authorized by law. Said applicant shall keep accurate records by meter or other approved method of the amount of water diverted and shall report the same quarter-yearly to the Bureau of Water Control of the Division.

2. The total amount of water which may be diverted under this approval from five existing wells, each screened in the glacial moraine aquifer, shall not exceed:

3-28-80 diversion rights changed

a. 15,500,000 gallons during any month from Well No. 1, 116 feet deep;

b. ~~31,000,000~~ gallons during any month from Well No. ~~2~~, 136 feet deep;

c. ^{31,000,000} ~~29,300,000~~ gallons during any month from Well No. 3, 132 feet deep;

d. 15,500,000 gallons during any month from Well No. 4, 116 feet deep;

e. 37,200,000 gallons during any month from Well No. 5, 198 feet deep;

well # 6 - 9,333,000 gallons

f. Total diversion from all of the aforesaid sources shall not exceed 70,000,000 gallons during any month until the regional sewage treatment facilities have been completed and are operational.

g. When the applicant has filed with the Bureau of Water Control of the Division documentary evidence that the regional sewage treatment facilities are operational, the total diversion from all sources may be increased but shall not exceed 90,000,000 gallons during any month.

h. Applicant agrees to pay to the State of New Jersey an amount to be charged at a rate of \$1000.00 per million gallons for all water diverted during any month in excess of the limitation imposed herein. Such charge shall not apply if the excess diversion is due to fire, broken water main, or any similar extraordinary demand which has been reported to and reviewed and determined to be an extraordinary demand by the Water Policy and Supply Council.

*well # 2
31,000,000
divided +
scaled 11-*