

ML - Morris County Fair Housing Council
v. Boonton
- Mount Olive

Jul. 13, 1985

Stipulation

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notes: double-sided pages

MLC006726

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 and VanDalen Associates, Inc.
 Employees Retirement Trust, et
 al

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

Plaintiffs, :

vs. :

BOONTON TOWNSHIP, et al., :

Defendants :

-AND- :

CHESTER AND VAN DALEN ASSOCIATES, :
 INC. EMPLOYEES RETIREMENT TRUST, :
 JOHN CHESTER, GREGORY PLOUSSAS, :
 and JOHN VAN DALEN, as co-trustees, :

Plaintiffs, :

vs. :

MOUNT OLIVE TOWNSHIP, etc., :

Defendant. :

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION
 MIDDLESEX/MORRIS COUNTY
 DOCKET NO. L-6001-78 P.W.

DOCKET NO. L-06504-83 P.W.

Civil Action
 (Mount Laurel)

STIPULATION

WHEREAS, on July 17, 1985, the parties in the above-captioned matter appeared before the Honorable Stephen Skillman, J.S.C., on joint application for an Order approving a settlement entered into on May 14, 1985, and for a Judgment of Compliance with Mount Laurel II; and

WHEREAS, upon consideration of said settlement and the documents submitted and testimony offered in support and consideration thereof, it has been deemed necessary and appropriate to clarify, modify and/or supplement the settlement agreement (identified as J-1 in evidence) and the Ordinance adopted by the Township of Mount Olive in furtherance of compliance (identified as J-4 in evidence):

It is on this the 18th day of July, 1985, stipulated between and among the parties that:

1. Paragraph eleven (11) on page six (6) of the settlement agreement (J-1) is amended by deleting the phrase "Upon enactment of law" and substituting in its place the phrase "Upon the entry of a Judgment of Compliance";

2. Section I, paragraph "a" of the Ordinance (J-4) shall be amended to include the following language after the words "mortgage at prevailing rates.":

An "affordable" low income unit shall be one which is sold or rented at a sales price or rent level computed by utilizing the

aforementioned formula and which is based on the relevant household income of a two (2) person household for a one (1) bedroom unit, a three (3) person household for a two (2) bedroom unit, and a five (5) person household for a three (3) bedroom unit. However, in the R5ML zone only, the computation for a two (2) bedroom unit shall be determined by averaging the relevant income limit for a household of three (3) persons and the income limit for a household of four (4) persons. Except as otherwise provided in this Ordinance or by order of a court of competent jurisdiction "affordable" units shall be occupied by low income households; however, the sales price or rent level for a particular unit shall be determined by the aforementioned methodology and not the income of the household which actually occupies the unit.

3. Section I, paragraph "b" of the Ordinance (J-4) shall be amended by deleting the following language:

However, in the R5ML zone only, the income eligibility for a two bedroom unit shall be determined by averaging the income limit for a household of three (3) persons and the income limit for a household of four (4) persons.

4. Section I, paragraph "c" of the Ordinance (J-4) shall be amended by deleting the present provision and substituting in its place the following language:

c. Low Income Housing: Those dwelling units which are affordable and which, unless otherwise provided in this Ordinance or by order of a court of competent jurisdiction, are occupied by a low income household.

5. Section IV, paragraph "C.1" of the Ordinance (J-4)

shall be amended by:

a. deleting the word "lower" where it appears both in the first and the last clauses and substituting in both places the word "low";

b. deleting the phrase "for the particular category of housing"; and

c. deleting the period after the word "unit" in the first sentence and adding before the words "The subdivision and/or site plan..." the following language:

except as otherwise provided
herein or as ordered by a
court of competent jurisdiction.

6. Section IV, paragraph "C.4" shall be amended by:

a. deleting the second sentence which now reads:

In the R-5ML zone the maximum
income for an occupant of a 2
bedroom unit shall be
calculated by averaging the
maximum income of a 3 person
household and the maximum
income for a 4 person household.

b. deleting the period after the word "trans-
action" at the end of subparagraph "b" and adding the following
language after the word "transaction":

except as otherwise ordered
by a court of competent
jurisdiction.

7. Section IV, paragraph "C.5" shall be amended by:

a. adding after the end of the second sentence and before the start of the third sentence the following language:

Said plan shall be submitted to the New Jersey Department of the Public Advocate for review and comment. Said plan may be approved and implemented at any time subsequent to thirty (30) days of its service on the Public Advocate, unless the developer and the Township agree to an extension of time or the Public Advocate moves within said period of time, before a court of competent jurisdiction for an Order enjoining its implementation. If such a motion is timely filed, said plan shall not be implemented until agreement is reached among the parties and the motion withdrawn, or the court permits its implementation.

b. adding after subparagraph "C", but before the paragraph which commences with the language "All resale prices..." a new paragraph which contains the following language:

Low income units, upon resale, may be sold only to low income households. If, however, no low income purchaser is found within sixty (60) days, the low income unit may be sold to a moderate income household (defined in the same manner as a low income household in Section 1b of this Ordinance except substituting "eighty percent (80%)" for "fifty percent (50%)") or, if none is available, to any interested purchaser. Regardless of the income of the purchaser, the resale controls shall remain in effect for that and subsequent resales.

8. Section IV, paragraph "C.6" shall be amended by deleting the words "and moderate" in the last sentence.

9. Section X shall be amended by adding the following language:

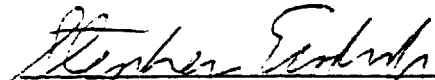
Upon the entry of a Judgment of Compliance neither the Township of Mount Olive, nor any of its agencies or boards shall zone, rezone, grant variances or grant any preliminary or final site plan approval for townhouses, garden apartments, or residential uses at gross densities higher than four (4) units per acre unless:

(a) The development is subject to a mandatory setaside for units affordable to low income households identical to that contained in this Ordinance; or

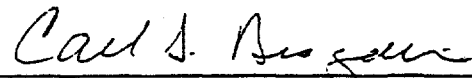
WSE. (b) The Township of Mount Olive has met its fair share obligation, that is, that all units contemplated in the settlement with the Public Advocate, et al., dated 5-14-85, have been constructed.

10. The signing of this Stipulation by counsel for the Public Advocate and Chester and Van Dalen Associates, Inc., etc., et al., shall represent the agreement by those parties to the terms of this Stipulation. The signing of this Stipulation by counsel for the Township of Mount Olive shall represent his belief that the Township of Mount Olive shall agree to said Stipulation which agreement shall be embodied in a Resolution adopted by the Township of Mount Olive at its next scheduled meeting. Said Resolution shall contain a statement of intent to approve the aforementioned changes and to adopt the aforementioned

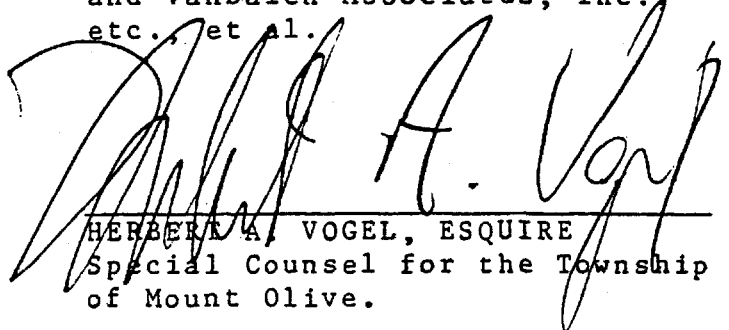
amendments to the Ordinance (J-4) as expeditiously as possible pursuant to law subject only to proper public notice and consideration at public hearings.



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