

v. Boonton

- Denville

Supplementary letter Brief to Judge re: creation of  
sewage reserve and the number of housing  
units it can support

pg. 3

WL 000856 B

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MAY 23 1986

JUDGE STEPHEN SKILLMAN

May 22, 1986

FILE NO. 3340-0002

The Honorable Stephen Skillman  
Judge, Superior Court of New Jersey  
Middlesex County Court House  
New Brunswick, New Jersey 08901

Re: Morris County Fair Housing Council, et al. v.  
Boonton Township (Denville), et al.; Docket No. L-6001-78 P.W.

Dear Judge Skillman:

Please accept the following supplementary letter-brief and affidavit submitted on behalf of Stonehedge Associates in support of the previously filed motion to impose conditions on transfer.

As indicated in the attached Affidavit, Judge Gascoyne rendered a decision from the bench on May 9, 1986 allocating the available sewage treatment capacity in the Rockaway Valley Regional Sewerage Authority ("RVRSA") sewage treatment plant among member municipalities. Three categories of sewage reserve were created pursuant to Judge Gascoyne's decision, including:

1. Committed Flow Reserve. Approximately 900,000 gallons of sewage treatment is allocated to the committed flow category and designed to provide for capacity created by signed CP-1 applications or court orders. This capacity is available until 1993, at which time the remaining capacity will then become available for units on septic systems on a first come-first serve basis;
2. Septic System Reserve. The septic system reserve is designed to remedy failing septic systems in units with certificates of occupancy issued before 12/30/85. Approximately 1.2 M.G.D. is allocated to this category. Capacity must be used by 1993 or similarly it is transferred to the septic reserve and available on a first come-first serve basis;

3. Municipal Growth Reserve. The third category created is a municipal growth reserve of 1.6 M.G.D. available for future development, including Mt. Laurel setaside projects. Allocations are reserved for each municipality and the allocation to Denville Township is set at 215,547 gallons (See "Schedule C" of RVRSA Resolution annexed as Exhibit A to Affidavit).

An estimate of the maximum number of dwelling units, including lower income setaside units, which could be sewerred through the municipal growth reserve for Denville Township depends upon the sewage flow rates assumed per unit. Using the R.V.R.S.A. schedule (see Exhibit B to Affidavit) a maximum of 1,960 dwelling units, including a 20% setaside of 392 lower income units could be served. This calculation assumes all units are one (1) bedroom apartments. A more reasonable bedroom mix which would include two (2) and three (3) bedroom apartments would result in a capacity for a lesser number of dwelling units and a proportionately lower number of lower income setaside units.

If the New Jersey Department of Environmental Protection schedule is utilized (see Exhibit C to Affidavit), a maximum of 2,395 dwelling units, including a 20% setaside of 479 lower income units could be served. Again, a more reasonable bedroom mix such as 49% one (1) bedroom apartments, 48% two (2) bedroom apartments and 3% three (3) bedroom apartments (ie: 15% of a 20% setaside) would allow only 1,866 units to be served including 373 lower income units.

Therefore, the feasible range of lower income units to be served by the Denville Township growth reserve is approximately 373 to 479 households.

By comparison, the Council on Affordable Housing has recently determined that Denville's unadjusted pre-credit fair share is 417 lower income units (see Exhibit D to Affidavit). Assuming that the credit for 41 units previously approved by this Court were accepted by the Council on Affordable Housing, a fair share of 376 lower income units would result.

The sewage growth reserve in RVRSA for Denville Township is clearly a scarce resource since if the 215,547 gallons of capacity is used entirely for lower income setaside projects, no capacity will be available for other future uses. Thus, in accordance with our previous brief in support of motion to impose conditions on transfer, we hereby request that the entirety of the 215,547 gallon growth reserve for Denville Township be preserved until action can be taken by the Council on Affordable Housing to extend this Court's order.

Respectfully submitted,

  
Guliet D. Hirsch

GDH/sr

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