

ML - 034 Old Bridge Development Corp.  
v. Old Bridge

April 2, 1984

Township of Old Bridge Answer

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ML 000 940 A

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O & Y OLD BRIDGE DEVELOPMENT CORPORA-  
TION, a DELAWARE CORPORATION

VS.

THE TOWNSHIP OF OLD BRIDGE TOWNSHIP  
IN THE COUNTY OF MIDDLESEX, a Munici-  
pal Corporation of the State of New  
Jersey, THE PLANNING BOARD OF OLD  
BRIDGE TOWNSHIP and THE TOWNSHIP  
COUNCIL OF THE TOWNSHIP OF OLD BRIDGE

:  
: SUPERIOR COURT OF NEW  
: JERSEY  
:  
: LAW DIVISION  
:  
: MIDDLESEX/OCEAN COUNTY  
:  
: DOCKET No. L-009837-84  
:  
: CIVIL ACTION  
:  
: ANSWER  
:  
:

Defendant, Planning Board of the Township of Old Bridge  
by way of Answer to the Complaint of the Plaintiff, says:

FIRST COUNT

1. The allegations contained in paragraph 1 are admitted.
  2. The allegations contained in paragraph 2 are admitted
  3. The allegations contained in paragraph 3 are admitted
- except that the Master Plan does, in fact, contain the rationale  
for the 1983 Land Development Ordinance.

4. The defendant does not have sufficient knowledge to confirm or deny the allegations contained in paragraph 4 and leaves plaintiff to its proofs.

5. The allegations contained in paragraph 5 are admitted.

6. The allegations contained in paragraph 6 are admitted except that this defendant avers that non-profit institutions could also undertake responsibility for construction of least cost housing.

7. The allegations contained in paragraph 7 are admitted.

8. The allegations contained in paragraph 8 are admitted including subparagraphs a through f.

9. The defendant does not have sufficient knowledge to confirm or deny the allegations contained in paragraph 9 and leaves plaintiff to its proofs except that this defendant denies the allegations contained in paragraphs 9 e and 9 f.

10. The allegations contained in paragraph 10 are admitted.

11. The allegations contained in paragraph 11 are admitted including subparagraphs a, b, c and d.

12. The allegations contained in paragraph 12 are admitted.

13. The allegations contained in paragraph 13 are denied.

14. The allegations contained in paragraph 14 are denied.

15. The allegations contained in paragraph 15 are denied.

16. The allegations contained in paragraph 16 are denied.

17. The allegations contained in paragraph 17 are admitted except that this defendant avers that the advice was rescinded upon evidence that the preliminary approval had vested for at least 10 years.

18. The allegations contained in paragraph 18 are admitted including subparagraphs a and b.

19. The allegations contained in paragraph 19 are admitted including subparagraphs 1, 2 and 3.

20. The allegations contained in paragraph 20 are admitted as to factual allegations but denied as to the legal conclusion.

21. The allegations contained in paragraph 21 are denied.

22. The allegations contained in paragraph 22 are admitted.

23. The allegations contained in paragraph 23 are admitted.

24. The allegations contained in paragraph 24 are admitted.

25. The allegations contained in paragraph 25 are admitted.

26. The defendant does not have sufficient knowledge to confirm or deny the allegations contained in paragraph 26 and leaves plaintiff to its proofs.

27. The allegations contained in paragraph 27 are admitted.

28. The allegations contained in paragraph 28 are admitted.

29. The allegations contained in paragraph 29 are admitted.

30. The defendant does not have sufficient knowledge to confirm or deny the allegations contained in paragraph 30 and leaves plaintiff to its proofs.

31. The defendant does not have sufficient knowledge to confirm or deny the allegations contained in paragraph 31 and leaves plaintiff to its proofs.

32. The allegations contained in paragraph 32 are admitted.

33. The allegations contained in paragraph 33 are denied.

34. The allegations contained in paragraph 34 are denied, including subparagraphs a through z and aa through dd.

35. The allegations contained in paragraph 35 are denied including subparagraphs a through v.

36. The allegations contained in paragraph 36 are denied.

37. The allegations contained in paragraph 37 are denied including subparagraphs a through e.

38. The allegations contained in paragraph 38 are denied.

39. The allegations contained in paragraph 39 are denied.

40. The allegations contained in paragraph 40 are admitted except that this defendant also avers that additional criteria must be satisfied by a successful developer/litigant in order to warrant a builders remedy. In particular, the law suit cannot represent an unintentional bargaining chip.

41. The allegations contained in paragraph 41 are denied.

42. The allegations contained in paragraph 42 are denied.

43. The defendant does not have sufficient knowledge to confirm or deny the allegations contained in paragraph 43 and leaves plaintiff to its proofs.

44. The defendant does not have sufficient knowledge to confirm or deny the allegations contained in paragraph 44 and leaves plaintiff to its proofs.

45. The defendant does not have sufficient knowledge to confirm or deny the allegations contained in paragraph 45 and leaves plaintiff to its proofs.

46. The allegations contained in paragraph 46 are admitted.

47. The defendant does not have sufficient knowledge to

confirm or deny the allegations contained in paragraphs 47, 48 and 49 and leaves plaintiff to its proofs.

WHEREFOR, this defendant demands:

- (a) dismissal of the suit; and
- (b) cost of suit and counsel fees.

#### SECOND COUNT

1. This defendant repeats the answers to the First Count as if set forth herein at length.
2. The allegations contained in paragraph 2 are denied.
3. The allegations contained in paragraph 3 are denied.
4. The allegations contained in paragraph 4 are denied.
5. The allegations contained in paragraph 5 are denied.
6. The allegations contained in paragraph 6 are denied.
7. The allegations contained in paragraph 7 are denied.
8. The allegations contained in paragraph 8 are denied.
9. The allegations contained in paragraph 9 are denied.
10. The allegations contained in paragraph 10 are denied.
11. See answer to paragraph 8 herein.
12. The allegations contained in paragraphs 12 through 17 are denied.

WHEREFOR, this defendant demands:

- (a) dismissal of the suit; and
- (b) counsel fees and cost of suit.

#### THIRD COUNT

1. This defendant repeats the answers to the First and

Second Counts as if set forth more fully herein at length.

2. The allegations contained in paragraph 2 are denied.
3. The allegations contained in paragraph 3 are denied.
4. The allegations contained in paragraph 4 are denied including subparagraphs a through l.

WHEREFOR, this defendant demands:

- (a) dismissal of the suit; and
- (b) counsel fees and cost of suit.

#### FOURTH COUNT

1. This defendant repeats the answer to the First, Second and Third Counts as if set forth more fully herein at length.
2. The allegations contained in paragraph 2 are denied.
3. The allegations contained in paragraph 3 are admitted.
4. The allegations contained in paragraph 4 are denied including subparagraphs a through i.
5. The allegations contained in paragraph 5 are denied including subparagraphs a through c.
6. The allegations contained in paragraphs 6 and 7 are denied.

WHEREFOR: this defendant demands

- (a) dismissal of the suit; and
- (b) counsel fees and cost of suit.

#### SEPARATE DEFENSES TO ALL COUNTS OF THE COMPLAINT

##### FIRST SEPARATE DEFENSE

This defendant reserves the right, on or before the

trial of this action, to dismiss the complaint on the grounds that the complaint fails to set forth a claim upon which relief can be granted, and also for the reasons set forth in its Separate Defenses.

#### SECOND SEPARATE DEFENSE

Plaintiff's suit is barred by failure to exhaust administrative remedies, Rule 4:69-5. Plaintiff applied for a Planned Unit Development consisting of 10,280 dwelling units, 10% of which specifically satisfied the criteria for Mt. Laurel II housing in order to receive bonus densities. Said application was filed without need for any variances in accordance with appropriate provisions of the newly revised 1983 Land Development Ordinance of the Township of Old Bridge. After five public hearings during which the plaintiff submitted expert testimony supporting its project, but before defendant, Planning Board's consultants could testify or before the defendant, Planning Board opened the general presentation to the public for comment, and before the Planning Board could consider and deliberate upon the entire application, plaintiff arbitrarily and unreasonably refused to grant an extension of time. Defendant, Planning Board, was forced to deny the application without prejudice. Plaintiff's application, on its face, included 1,028 units of Mt. Laurel II type housing. By appropriate request, plaintiff may reinstate its application and continue where it left off and thereby

achieve its desired results, as broadly defined in its complaint, through municipal administrative process without resorting to judicial intervention.

#### THIRD SEPARATE DEFENSE

Plaintiff's suit is barred by the doctrine of estoppel. In good faith, the defendant, Planning Board, entered into a consent agreement resulting in substantial revision of the Land Development Ordinance of the Township of Old Bridge for the purpose of permitting a development of approximately 2500 acres of land by the plaintiff for a Planned Unit Development consisting of 10,280 residential units. Plaintiff had notice of all meetings, proceedings and conferences concerning said revisions and did not object throughout the entire amendment process. Thereafter, plaintiff filed an application pursuant to the amended regulations and suddenly and without reason refused to grant an extension of time to allow the defendant, Planning Board, to conduct additional public hearings. Defendant relied upon the Order of Consent Judgment to revise its zoning regulations and received and reviewed the Planned Unit Development application in accordance with terms accepted by the plaintiff.

Plaintiff, by filing an application for a Planned Unit Development on May 20, 1983, is estopped to assert, and also waived any prior rights that it may have had.

#### FOURTH SEPARATE DEFENSE

This suit is barred by plaintiff's failure to file said suit within the time limit of 45 days set forth in Rule 4:69-6, from the enactment of the 1983 Land Development Ordinance

#### FIFTH SEPARATE DEFENSE

The 1983 Land Development Ordinance and Master Plan are reasonable, valid and reflect and incorporate standards required by the Mt. Laurel II decision.

#### SIXTH SEPARATE DEFENSE

This defendant states that defendant, Old Bridge Township Planning Board has granted preliminary subdivision approval for an application by Oakwood at Madison, Inc. which includes 400 units of housing for low and moderate income families. Further, a zoning variance for 1124 units of garden apartments for low and moderate income families was approved by the Planning Board for Lot 1A, Block 7000 in 1978. An application was filed by the Old Bridge Township Rotarians for approximately 209 units of low income housing financed by New Jersey Housing Finance Agency on August 8, 1979. Said application was approved and constructed during 1981-82 in the Township of Old Bridge and is fully occupied. The Township of Old Bridge has, in fact, satisfied the spirit and letter of the Mt. Laurel I and II decisions during the past 8 years.

#### SEVENTH SEPARATE DEFENSE

Plaintiff has not demonstrated that it intends to construct low or moderate income housing in accordance with the requirements of Mt. Laurel II and is using this suit as an unintentional bargaining chip.

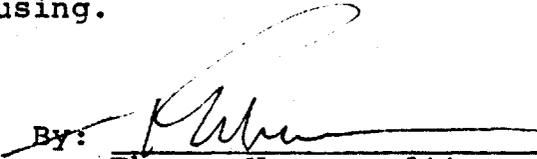
#### EIGHTH SEPARATE DEFENSE

The recently adopted Old Bridge Land Development Ordinance satisfies Mt. Laurel II requirements. The Township of

Old Bridge has significantly overzoned vast amounts of land for Planned Unit Developments in conformance with the standards contained in the Mt. Laurel II decision. Recently adopted zoning provisions governing Planned Unit Development applications provide for a three step application to permit the vesting of rights during the first step in a manner which eliminates significant expenditure of "up front" dollars by developers for engineering and site details in conjunction with large scale Planned Unit Development applications. Said zoning provisions also contain bonus provisions for low and moderate income housing. These provisions have been utilized by builders, are workable and will provide Mt. Laurel II type housing.

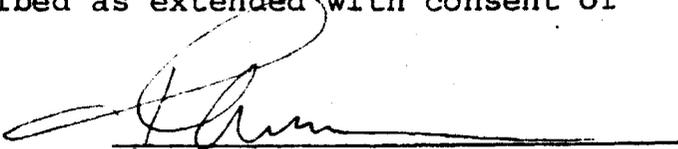
The applications set forth in Exhibit A attached hereto and made a part hereof, represent development approvals granted pursuant to the regulations challenged by the plaintiff. The scored applications represent significant development approvals which total 4872 units of housing.

Dated: April 2, 1984

By: 

Thomas Norman, Attorney for  
Defendant, Planning Board of  
The Township of Old Bridge

I hereby certify that a copy of the within ANSWER was served within the time prescribed as extended with consent of the plaintiff.

  
Thomas Norman

<u>MAP NO.</u>	<u>APPLIC. NO.</u>	<u>NAME OF DEVELOPMENT</u>	<u>TYPE OF DEVELOPMENTS</u>	<u>STATUS</u>
1	8-76P	Highview Estates	95 Single Family	Final Approval ✓
2	13-76P	Green Valley	10 Single Family	Preliminary Approval ✓
3	20-76P	Caggiano Trailer Park	75 Mobile Homes	Final Approval ✓ (reapplied see item #51)
4	7-82P	Hovanian d/b/a Society Hill II	90 Townhouses 90 Patio Homes 180	Denied (reapplied see item #44)
5	44-76P	John J. Brunetti a/k/a Glenwood Run	70 Townhouses	Preliminary Approval ✓
6	45-76P	Oaks-at-Glenwood	1124 Garden Apartment	Withdrawn ✓
7	52-76P	Cottrell Village	35 Single Family	Final Approval ✓
8	60-76P	Winston Associates a/k/a Cedar Ridge	258 Single Family 172 Patio Homes 430	Preliminary Approval ✓ " "
9	61-76P	P & L Trucking Co. a/k/a Kaufman & Broad a/k/a Old Bridge Manor	120 Single Family (sec. 1,2,&3) 130 Single Family (sec. 4,5,&6) 250	Final Approval (U.C.) ✓ " "
10	5-77P	Rotary Club (Senior Citizens)	209 Rental Apartments	Construction Complete ✓
11	28-77P	Meyer Gold a/k/a Greystone Village	81 Single Family	Application Expired (reapplied see item #50)
12	39-77Z	Northwood Manor	62 Two Family	Final Approval ✓
13	33-79Z	Buttonwood Arms	126 Townhouses	Final Approval (U.C.) ✓
14	59-77P	Old Bridge Mews a/k/a Cottrell Estates	16 Patio Homes 36 Single Family 67 Townhouses 119	Construction Complete ✓ " " Under Construction

U.C. = Under Construction

<u>MAP NO.</u>	<u>APPLIC. NO.</u>	<u>NAME OF DEVELOPMENT</u>	<u>TYPE OF DEVELOPMENTS</u>	<u>STATUS</u>
15	70-77P	T.B.S. Enterprises, Inc. a/k/a Hovnanian Society Hill	382 Townhouses	Construction Complete ✓
16	85-77P	Merrit Estates	69 Single Family	Final Approval (U.C.) ✓
17	1-78P	Normandy Woods a/k/a Landing Lane Estates	28 Single Family	Final Approval (U.C.) ✓
18	6-78P	Oakwood at Madison	385 Single Family 275 Cluster Homes 320 Patio Homes 220 Townhouses 1200	Final Approval ✓
19	58-79Z	F.B.S. Corp. a/k/a Deerwood Farms	23 Single Family 42 Townhouses 65	Final Approval ✓
20	72-79P 28-79P	Charlton Village a/k/a Canyon Woods	29 Single Family 244 Townhouses 273	Construction Complete ✓ Final Approval (U.C.) ✓
21	61-78P	Landing Lane Estates	8 Single Family	Construction Complete
22	55-78P	Frank Severino a/k/a The Gables	13 Single Family	Final Approval (U.C.) ✓
23		Woodhaven Village	610 Single Family 1311 Townhouses 140 Garden Apartments 610 Patio Homes 140 Cluster Homes 2811	Pending ✓
24	54-80P	Matchaponix Hills	169 Patio Homes 63 Single Family 232	Preliminary Approval ✓
25	2-79P	Spring Hill Village	145 Townhouses	Final Approval (U.C.) ✓

U.C. = Under Construction

<u>MAP NO.</u>	<u>APPLIC. NO.</u>	<u>NAME OF DEVELOPMENT</u>	<u>TYPE OF DEVELOPMENTS</u>	<u>STATUS</u>
26	40-79P	Whispering Pine Estates	120 Townhouses 122 Patio Homes <u>242</u>	Final Approval (U.C.) ✓ Final Approval
27	53-79P	Deep Run	83 Townhouses	Final Approval (U.C.) ✓
28	61-79P	Foxborough Village	232 Single Family & 290 Townhouses 522 Total Units	Preliminary Approval ✓
			Sect. 1A (65 S.F. & 28 T.H.)	Final Approval ✓
			Sect. 2 (57 S.F. & 68 T.H.)	Final Approval
			Sect. 1B,3,&4 (110 S.F. & 194 T.H.)	No Applic. for Final ✓
	64-79P	Jamie Page Development Co. a/k/a Eifert Estates	30 Townhouses 61 Patio Homes <u>91</u>	Final Approval ✓
30	23-80P	Wolosowski, C. a/k/a Farrington Estates	30 Townhouses	Final Approval (U.C.) ✓
31	30-80P	Cedarview Estates	38 Patio Homes 68 Single Family Cluster <u>106</u>	Withdrawn (reapplied see item #53)
32	57-80P	Clearbrook I	15 Townhouses	Final Approval ✓
33	52-80P	Clearbrook II	12 Single Family	Final Approval ✓
34	34-79Z	Rambling Knolls	47 Townhouses	Construction Complete ✓
35	11-79P	Landing Manor	28 Single Family	Final Approval (U.C.) ✓
36	16-80Z	Whitney Estates	25 Single Family 68 Patio Homes <u>93</u>	Pending
37	75-80P	Woodland Hills a/k/a Ticetown Hills	15 Single Family	Withdrawn
38	68-81P	Woods End	20 Single Family	Preliminary Approval ✓
39	36-81P	Oak Woods Park	92 Townhouses	Denied (reapplied see item #46)

<u>MAP NO.</u>	<u>APPLIC. NO.</u>	<u>NAME OF DEVELOPMENT</u>	<u>TYPE OF DEVELOPMENTS</u>	<u>STATUS</u>
40	28-81P	Rosegate Condominiums	122 Garden Apt. Condominiums	Final Approval (U.C.) ✓
41	14-81P	Bramble Run	62 Townhouses	Final Approval (U.C.) ✓
42	19-82P	Point East Patio a/k/a M. Mondano	43 Patio Homes	Denied (reapplied see item #52)
43	45-83P	Olympia & York	1464 Low Density 3066 Low Medium Density 3690 Medium Density 2040 Medium High Density <u>10,260</u>	<u>Dismissed w/o Prejudice</u>
44	53-83P	Hovnanian d/b/a Society Hill II	119 Townhouses 33 Single Family Cluster 33 Patio Homes 21 Quadruplexes <u>206</u>	Denied (On Appeal)
45	59-82P	Linda Alfonso	17 Single Family	Preliminary Approval ✓
46	1-83P	Oakwoods Park/Gatlif	92 Townhouses	Preliminary Approval ✓
47	2-83P	Melvin Goldberg	5 Single Family	Preliminary Approval
48	23-83Z	South Street Co.	51 Single Family	Denied ( on Appeal)
49	36-83P	William Shanley	5 Single Family	Final Approval
50	58-83P	Greystone Village	45 Duplex (90 Total Units)	Referred to Zoning Beard
51	88-83Z	F. Caggiano	75 Mobile Homes	Reaffirm. of Prior Variance Pending
52	62-82P	Point East	31 Single Family	Final Approval ✓
53	65-82P	Cedar View Estates	30 Patio 66 Single Family <u>96</u>	Preliminary Approval ✓

U.C. = Under Construction