

ML - ~~UL~~ UL v. Carteret  
(Gerickott v. Piscataway)

July 9, 1984

Letter Brief in

Opposition to the motion for Summary Judgment made by  
Piscataway

PS. 7

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## KIRSTEN, FRIEDMAN &amp; CHERIN

A PROFESSIONAL CORPORATION  
 COUNSELLORS AT LAW  
 17 ACADEMY STREET  
 NEWARK, N. J. 07102  
 (201) 623-3600

RECEIVED

RICHARD E. CHERIN\*  
 HAROLD FRIEDMAN  
 JACK B. KIRSTEN\*  
 PHILLIP LEWIS PALEY\*  
 EDWIN H. STIER  
 DENNIS C. LINKEN

JOSEPH HARRISON (1930-1976)  
 MILTON LOWENSTEIN  
 OF COUNSEL

JUL 12 1984  
 MARGARET E. ZALESKI  
 ERARD K. FRECH\*  
 JOHN K. ENRIGHT  
 SHARON MALONEY-SARLE  
 J. J. FRANK  
 ROBERT T. WINTER  
 FREDERICK P. DE VESA

\*MEMBER N.J. & N.Y. BARS  
 \*MEMBER D.C. BAR

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

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to argue in this cause is their entitlement to a builders' 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' 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' 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

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

The further contention that this Court should defer consideration of Piscataway's motion until it considers the related legal issues involving the builders' remedy claims in other municipalities is inapt. The Urban League did not argue, when Cranbury moved to dismiss the builders' remedy claims put forth by four separate developer-plaintiffs, that this Court should defer consideration of Cranbury'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?

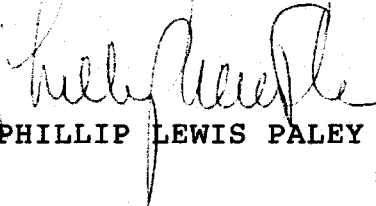
Lastly, Piscataway takes considerable objection to the assertion that all parties have apparently agreed that all vacant land in Piscataway should be rezoned to

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accommodate 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,

KIRSTEN, FRIEDMAN & CHERIN  
A Professional Corporation



PHILLIP LEWIS PALEY

PLP:bhp  
cc: All Counsel

SERVICE LIST

Michael J. Herbert, Esq.  
Sterns, Herbert & Weinroth, P.A.  
186 West State Street  
P.O. Box 1298  
Trenton, New Jersey 08607  
Attorneys for Plaintiff, Lawrence Zirinsky

William C. Moran, Esq.  
Huff, Moran & Balint  
Cranbury-South River Road  
Cranbury, New Jersey 08512  
Attorneys for Defendant, Mayor and The Township Committee of the  
Township of Cranbury, a municipal corporation, and the members thereof

Joseph L. Stonaker, Esq.  
Stonaker & Stonaker, Esqs.  
41 Leigh Avenue  
P.O. Box 570  
Princeton, New Jersey 08540  
Attorneys for defendant, The Planning Board of the Township of Cranbury,  
and the members thereof

Richard Schatzman, Esq.  
McCarthy & Schatzman, P.A.  
6 Charlton Street  
P.O. Box 2329  
Princeton, New Jersey 08540  
Attorneys for Plaintiffs, Joseph Morris and Robert Morris

Thomas R. Farino, Jr., Esq.  
Corner of Applegarth and Half Acre Roads  
Cranbury, New Jersey 08512  
Attorneys for Plaintiff, Cranbury Development Corporation, a  
Corporation of the State of New Jersey

Carl S. Bisgaier, Esq.  
Bisgaier & Loeffler  
510 Park Boulevard  
Cherry Hill, New Jersey 08034  
Attorneys for Plaintiff, Cranbury Land Company, a New Jersey  
Limited Partnership

Bruce S. Gelber, Esq.  
Janet LaBella, Esq.  
National Committee Against Discrimination in Housing  
1425 H. Street NW  
Suite 410  
Washington, D.C. 20005  
Attorney for Plaintiff, Urban League of Greater New Brunswick

Bertram Busch, Esq.  
Busch & Busch, Esqs.  
P.O. Box 33  
New Brunswick, New Jersey 08903  
Attorney for Defendant, Borough of South Plainfield

SERVICE LIST CONT'D.

Stewart M. Hutt, Esq.  
459 Amboy Avenue - Box 648  
Woodbridge, New Jersey 07095

Patrick J. Diegnan, Jr. Esq.  
1308 Durham Avenue  
South Plainfield, New Jersey 07080  
Attorney for Defendant, Township of South Brunswick

Joseph Benedict, Esq.  
247 Livingston Avenue  
New Brunswick, New Jersey 08902  
Attorney for Defendant, Township of South Brunswick

Bernstein, Hoffman & Clark, Esqs.  
336 Park Avenue  
Scotch Plains, New Jersey 07076  
Attorneys for Defendant, Township of Piscataway

Lawrence B. Litwin, Esq.  
Scerbo, Lobin, Litwin & Wolff, Esqs.  
10 Park Place  
Morristown, New Jersey 07960  
Attorneys for Plaintiffs, Bronwing-Ferris Industries of South Jersey, Inc., a corporation of the State of New Jersey, Richcrete Concrete Company, a corporation of the State of New Jersey, and Mid-State Filigree Systems, Inc., a corporation of the State of New Jersey

Barbara J. Williams, Esq.  
John Payne, Esq.  
Constitutional Litigation Clinic, Room 338  
Rutgers Law School  
15 Washington Street  
Newark, New Jersey 07102

Leslie Lefkowitz, Esq.  
1500 Finnegans Lane, P.O. Box 3049  
North Brunswick, New Jersey 08902  
Attorney for Defendant, Township of North Brunswick

Guliet D. Hirsch, Esq.  
Brener, Wallack & Hill  
2-4 Chambers Street  
Princeton, New Jersey 08540  
Attorney for Toll Brothers, Inc.

Michael Noto, Esq.  
151 Route 516  
P.O. Box 607  
Old Bridge, New Jersey 08857  
Attorney for Township of Old Bridge

SERVICE LIST CONT'D.

Arnold K. Mytelka, Esq.  
Clapp & Eisenberg  
80 Park Plaza  
Newark, New Jersey 07102  
Attorneys for Plaintiffs, Lori Associates & Hadb Associates

William L. Warren, Esq.  
Warren, Goldberg, Berman  
& Lubitz  
112 Nassau Street  
P.O. Box 645  
Princeton, New Jersey 08540