

Motion for stay Pending Appeal, Brief and Appendix on Behalf of
Defendants Township of Randolph, Randolph Township planning board,
Randolph Township Board of Adjustment and
Randolph Township Municipal Utilities Authority

~~signed~~

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pg. 31

MORRIS COUNTY FAIR HOUSING COUNCIL, et. al.)	SUPERIOR COURT OF NEW JERSEY
)	APPELLATE DIVISION
Plaintiff-Respondent)	DOCKET NO. L-59128-85 P.W.
)	L-6001-78 P.W.

vs

CIVIL ACTION

THE TOWNSHIP OF BOONTON, a Municipal Corporation of the County of Morris and State of New Jersey, et. al.,)	MOTION FOR STAY OF TRIAL PROCEEDING PENDING DISPOSITION BY THIS COURT ON THE INTERLOCUTORY APPEAL OF DEFENDANTS FROM THE TRIAL COURT'S JOINDER OF ADDITIONAL DEFENDANTS MORRIS COUNTY/MIDDLESEX COUNTY
Defendant-Appellant)	(MOUNT LAUREL II LITIGATION)
<u>RANDOLPH MOUNTAIN INDUSTRIAL COMPLEX, A New Jersey Partnership</u>)	
Plaintiff-Respondent)	

vs.

SAT BELOW:

THE TOWNSHIP OF RANDOLPH, A Municipal Corporation of the County of Morris and State of New Jersey, et. al.)	HONORABLE STEPHEN SKILLMAN J.S.C.
Defendant-Appellant)	

MOTION FOR STAY PENDING APPEAL, BRIEF AND APPENDIX ON BEHALF OF DEFENDANTS TOWNSHIP OF RANDOLPH, RANDOLPH TOWNSHIP PLANNING BOARD, RANDOLPH TOWNSHIP BOARD OF ADJUSTMENT AND RANDOLPH TOWNSHIP MUNICIPAL UTILITIES AUTHORITY

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Attorney for Defendant Appellants, Township of Randolph, Randolph Township Planning Board, Randolph Township Municipal Utilities Authority and Randolph Township Board of Adjustment

On the Brief:
Edward J. Buzak, Esq.

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MOTION FOR STAY PENDING APPEAL

TO: ELIZABETH McLAUGHLIN, CLERK
Appellate Division - Clerk's Office
Hughes Justice Complex
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25 Market Street
Trenton, NJ 08625

HONORABLE STEPHEN SKILLMAN, J.S.C.
Superior Court of New Jersey
Middlesex County Court House
New Brunswick, New Jersey 08903

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ALL COUNSEL ON ATTACHED LIST.

Dear Sirs:

PLEASE TAKE NOTICE that the undersigned attorney
for Defendant-Appellants, Township of Randolph, Randolph
Township Planning Board, Randolph Township Board of
Adjustment and Randolph Township Municipal Utilities
Authority, hereby moves before the Superior Court --
Appellate Division, to stay all further proceedings before
the Honorable Stephen Skillman in the above captioned cases
pending the disposition by this Court of the motion for
leave to appeal filed by Defendant-Appellants of the trial
court's order entered May 29, 1986 joining the Randolph
Township Planning Board, the Randolph Township Board of
Adjustment and the Randolph Township Municipal Utilities
Authority as additional party defendants in the above
captioned cases. The motion for leave to appeal was filed
with the Appellate Division on June 11, 1986.
Simultaneously a motion for stay was filed with the

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Honorable Stephen Skillman who denied the same on June 17, 1986. Pursuant to New Jersey Court Rule 2:9-5(a), this Motion for a Stay is being directed to the Appellate Court.

In support of said motion, the undersigned will rely upon the Brief and Appendix, all made a part hereof.

EDWARD J. BUZAK, ESQ.
Attorney for Defendant-
Appellants, Township of
Randolph, Randolph Township
Planning Board, Randolph
Township Board of Adjustment
and Randolph Township
Municipal Utilities Authority

By _____
Edward J. Buzak, Esq.

Dated: June 25, 1986.

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BRIEF IN SUPPORT OF MOTION

PROCEDURAL HISTORY

On or about October 13, 1978, the Public Advocate of the State of New Jersey on behalf of himself and others filed an exclusionary zoning suit against Randolph Township and twenty-six other municipalities in Morris County. An unsuccessful appeal was taken by Randolph and several other Defendants in the case challenging the Public Advocate's involvement in the lawsuit. Morris Plains, et. al. v. Department of Public Advocate, 169 N.J. Super. 403 (App. Div. 1979), certif. den. 81 N.J. 411 (1979).

Subsequently, the Supreme Court stayed any further proceedings in this case pending their decision in several Mt. Laurel cases then before the Court. After the Supreme Court rendered its opinion in Mt. Laurel II, So. Burlington County NAACP v. Mt. Laurel Township, 92 N.J. 158 (1983), the stay was lifted and the case was assigned to the Honorable Stephen Skillman, the "Mt. Laurel Judge" for the northern part of the State. Further discovery took place and several settlements were tentatively effected, subject to subsequent judicial review and approval.

On July 2, 1984, the trial in the matter commenced against the Township of Denville, the Township of Randolph and the Township of Parsippany Troy-Hills on all issues relating to the calculation of a fair-share obligation. On or about July 20, 1984, the Township of

Randolph entered into a tentative settlement of the entire litigation, which settlement was never effectuated.

On July 2, 1985, Governor Thomas Kean signed Ch. 222 P.L. 1985, the Fair Housing Act ("Act") and on or about September 9, 1985, the Township of Randolph filed a Motion to transfer the cases sub judice to the Council on Affordable Housing pursuant to Section 16 of the Act. Oral argument was advanced before the Honorable Stephen Skillman on September 23, 1985 and on October 28, 1985 the Judge entered an order denying the transfer of these cases to the Council.

On or about November 8, 1985 the Defendant filed a motion for leave to appeal the said interlocutory order which was certified pursuant to R.2:12-1 to the Supreme Court by order dated November 13, 1985. Briefs were submitted and oral argument held by the Supreme Court on January 6 and January 7, 1986.

On February 20, 1986, the Supreme Court issued its opinion in this case and several other related cases under the name The Hills Development Co. v. Township of Bernards, (A-122-85) ___ N.J. ___ (1986) reversing the order of the Honorable Stephen Skillman and transferring the cases to the Council subject to such conditions as the trial court might impose in accordance with the terms of the opinion to conserve "scarce resources". Supra at 87.

On March 21, 1986 the Public Advocate filed a notice of motion to place conditions upon the transfer of the litigation which included a request to join the Randolph Township Planning Board, Board of Adjustment, Municipal Utilities Authority and the Rockaway Valley Regional Sewerage Authority ("RVRSA") as parties to the proceeding and to issue ". . .such further interlocutory restraints. . . to preserve the ability of Randolph Township to meet its constitutional obligations to provide sufficient realistic housing opportunities. . . ." (Da-la). No brief or supporting affidavit was filed with that motion.

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Judge Skillman bifurcated the motion and first took briefs and heard oral argument on the issue of joining additional parties. At oral argument on May 14, 1986, the Advocate dropped his request to join the RVRSA. On May 29, 1986 the Honorable Stephen Skillman entered an order to join, among others, the Defendant Planning Board, Board of Adjustment and Municipal Utilities Authority. (Da-3a).

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On or about June 11, 1986, the Defendants Township of Randolph, Randolph Township Planning Board, Randolph Township Board of Adjustment and the Randolph Township Municipal utilities Authority, filed a Motion for Leave to Appeal the May 29, 1986 Order of Judge Skillman joining the Randolph Township Planning Board, the Randolph Township Board of Adjustment and the Randolph Township Municipal Utilities Authority to this

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action in the Superior Court - Appellate Division. (Da-7)

On or about the same time the Defendants filed a motion in the Superior Court - Law Division requesting a stay of the trial court's proceedings pending the disposition of Defendant-Appellants' Motion for Leave to Appeal from the May 29, 1986 order. (Da-8--Da-9).

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On June 17, 1986 the Honorable Stephen Skillman denied Defendant-Appellants' Motion to Stay the trial court proceeding pending the disposition of Defendants' Motion for Leave to Appeal Judge Skillman's order joining the additional Defendants to this action. (Da-10--Da-11).

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Pursuant to R.2:9-5(a) the Defendants make this Motion for a Stay of the trial court proceedings pending disposition of the Defendants' Notice of Motion for Leave to Appeal from the Honorable Stephen Skillman's May 29, 1986 Order joining the additional Defendants to this action.

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STATEMENT OF FACTS

In addition to those facts as set forth in the Procedural History portion of this brief, the facts as they relate to this application for a stay, are as follows.

Defendant Township of Randolph, Randolph Township Planning Board, Randolph Township Board of Adjustment and Randolph Township Municipal Utilities Authority have filed a Motion for Leave to Appeal the May 29, 1986 Order of the trial court joining the Planning Board, Board of Adjustment and Municipal Utilities Authority to this action. The joinder was made for the purposes of binding said additional Defendants to the injunctive relief sought by Plaintiff Public Advocate which includes an injunction preventing the Planning Board from granting any preliminary or final approvals on the growth area as designated under the State Development Guide Plan ("SDGP") unless the development is a Mt. Laurel development, enjoining the Board of Adjustment from granting any use variances unless the same involves a Mt. Laurel development and enjoining the Municipal Utilities Authority from granting any sewerage allocation unless it is for a Mt. Laurel development or to relieve an existing health hazard. The Public Advocate has filed a motion to impose such conditions, which motion was filed on March 21, 1986 and on April 17, 1986 filed a letter brief supporting

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documentation in connection with the motion. The Court ordered that the Advocate file supplementary data by May 23, 1986, which was not received until June 9, 1986. Defendant Appellants were given an extension to June 20, 1986 to file a response.

In light of the motion being made to the Appellate Division by Defendants, it is respectfully requested that this Court stay further proceedings on the issue of conditions until such time as the Appellate Division disposes of Defendants' motion. If Defendants' motion is granted and they successfully challenge the Order entered by the trial court on May 29, 1986 joining additional parties, the relief requested in its present form by the Plaintiff cannot be granted and therefore any proceedings held in connection therewith would be moot. To avoid the loss of judicial time and to further prevent needless filings and activity resulting in additional documentation and expenses, it is respectfully requested that this Court issue a stay pending the disposition of the motion. As has been stated in the past, Plaintiff had 7 and one-half years to add these parties and it is not until now that they have felt the need. Surely an additional short waiting period to permit the Appellate Division to dispose of the motion would do no harm to the Plaintiffs.

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LEGAL ARGUMENT

THIS COURT SHOULD STAY ALL FURTHER TRIAL PROCEEDINGS AND ACTIVITY IN THE CAPTIONED CASES BECAUSE THE FAILURE TO DO SO MAY CAUSE IRREPARABLE INJURY TO THE DEFENDANT AND THE PUBLIC, THE BENEFIT OF THE STAY OUTWEIGHS THE HARM WHICH MIGHT BE IMPOSED, THE DENIAL OF A STAY WILL RENDER IT IMPOSSIBLE FOR THIS APPELLATE COURT TO SET THE APPELLANT RIGHT AND NO HARDSHIP, PREJUDICE OR INCONVENIENCE WOULD RESULT TO THE ONE AGAINST WHOM THE STAY IS SOUGHT.

The grounds for the entering of a stay are set forth in various precedents. Yakus v. United States, 321 U.S. 414, 88 L. Ed. 834, 64 S. Ct. 660 (1944); Ammond v. McGahn, 532 F. 2d 325, 329 (3rd Cir., 1976); Jewett v. Dringer, 29 N.J. Eq. 199 (1878); New Jersey State Bar Association v. Northeast Mortgage Association, 22 N.J. 184 (1956); Accident Index Bureau, Inc. v. Male, 95 N.J. Super. 39 (App. Div. 1967), appeal dismissed 393 U.S. 530, 21 L. Ed. 2d 754, 89 S. Ct. 872 (1969). The moving party must show that it is likely to suffer immediate and irreparable injury if relief is not granted and that the public interest favors the granting of the relief requested. In weighing the effect of the relief, the benefit of the relief requested must outweigh the harm such relief will cause to the other interested parties. Moreover, if the enforcement of the judgment would render it impossible to set the appellant right if he is successful in his appeal,

it is clear that a stay should be granted. Finally, such a stay should be granted if the appellant has a substantial likelihood of prevailing on the merits.

In the case at bar, Defendants contend that all the grounds for granting of a stay are satisfied. As was the case when the Defendants herein sought leave to appeal the trial court's denial of Defendants' motion to transfer these matters to the Council on Affordable Housing, the focus of Defendants' position pierces the heart of the jurisdiction of the trial court in this matter. Defendants contend that the trial court lacks the jurisdiction to join the parties it has joined, based upon the Supreme Court's decision in The Hills Development Company v. Township of Bernards, (A-122-85) __ N.J. __ (1986). There, the Supreme Court afforded the trial court the limited jurisdiction to consider the imposition of conditions to preserve scarce resources. The motion brought by the Advocate and Plaintiff Randolph Mountain Industrial Complex to join additional parties and its granting by the trial court carries the matter beyond the trial court's limited jurisdiction as conferred by the Supreme Court in The Hills case. If Defendants are successful, the trial court will be unable to grant the type of conditions being sought by Plaintiffs in this case since the Defendants against whom they are sought will not be parties to this litigation.

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Accordingly, for the trial court to continue the proceedings and consider the imposition of these conditions which might turn out to be moot if Defendants are successful before the Appellate Division suggests that the stay be granted. The expense of the proceedings and the effect of the proposed conditions on the parties and, even more substantially on non-parties who have applications pending before the various Defendants against whom the injunction is sought support this Court's exercise of its discretion to grant the stay pending the outcome of the Defendants' motion for leave to appeal the joinder of these parties.

It is respectfully submitted that the benefit of the relief requested outweighs any harm that will be caused to other interested parties. It is anticipated that the Appellate Division will expeditiously rule on the Motion for Leave to Appeal this important issue. The issue raised to the Appellate Division is of significant public importance and is one of first impression to the Appellate Division. Recognizing the importance of this case and its impact on the citizens of the Township of Randolph, as well as the citizens of this State, it is suggested that little actual delay will be experienced if the stay is granted. Any delay that might be caused as a result of the entry of the stay should be minimal and is far outweighed by the benefit that will accrue to the public by the entry of such

stay. The fact that the Advocate did not move before the trial court in seven and one-half years to obtain the type of relief it is now attempting to obtain is testimony to the validity of the contention that the benefit far outweighs the burdens.

Moreover, the Council on Affordable Housing has promulgated an initial number establishing the Township of Randolph's obligation under the Fair Housing Act. That fair share number is 452, almost 50% less than the figure as suggested by Plaintiffs and the Court appointed expert (872) and almost one-third less than the figure tentatively settled upon by the parties. If the Advocate was satisfied that the Township could realistically provide the opportunity for the construction of 634 units of low and moderate income housing, there is little to support the proposition that it cannot satisfy an obligation of 452 units. The supporting documentation to the Advocate's motion was prepared and developed prior to the tentative settlement wherein the Advocate agreed that the Township of Randolph could realistically satisfy an obligation of 634 units. Nothing new has been thus far submitted and consequently it is maintained that there will be no harm experienced by the Plaintiff if this stay is granted.

Furthermore, if this Court fails to grant the stay pending the outcome of the appeal, and the trial court conducts the hearing as anticipated, Defendants will be in a position of not being able to ever be made whole as the

trial court will have ruled in a case where Defendants might not be proper parties, to the extreme prejudice of said parties. It would seem to be a much more cautious course of action to suspend further proceedings on the conditions pending the outcome of Defendants' Motion for Leave to Appeal the joinder of these additional parties.

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Finally, for the reasons as set forth in the brief accompanying the Motion for Leave to Appeal which has been filed with this Court and all parties, it is respectfully submitted that Defendants have a substantial likelihood of prevailing on the merits and having the trial court's jurisdiction to join additional parties to the litigation obviated.

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It can also be argued that although most courts have agreed that a Motion for a Stay is the type of interlocutory injunctive relief which should be granted only if the standards for the issuance of an interlocutory injunction have been satisfied, it has also been written that the standards for a stay are less than those which apply to the granting of an interlocutory injunction. Typically, an interlocutory injunction applies against certain non-judicial actions that are anticipated to be undertaken by an opposing party. The stay sought herein is a stay of the judicial proceedings pending the determinations by the Appellate Court of the very

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jurisdiction of the trial court as conferred by the Supreme Court in The Hills case. For example, the Supreme Court in Devlin v. National Broadcasting Co., Inc., 47 N.J. 126 (1966) has indicated that the power to grant a stay is unquestioned and that in that particular case, ". . .the circumstances equitably call for such action." In Devlin, the issue is whether a New Jersey proceeding would be stayed pending the termination of a California action involving multi-state communications. The Chancery Division in Insurance Company of North America v. Allied Crude Vegetable Oil, 89 N.J. Super. 518 (1965) stated at 541:

"Our decisions indicate that a stay of an action, like many other forms of preliminary injunction, is to be sparingly granted [citations omitted]. The basic applicable principle is that no stay is to be granted unless no hardship, prejudice or inconvenience would result to the one against whom the stay is sought."

In the case sub judice, it is respectfully maintained that no hardship, prejudice or inconvenience will result to the parties to the action against whom the stay is sought. In no way are the parties prejudiced by the stay. No hardship is worked on the Plaintiffs, especially in view of the fact that Plaintiffs failed to bring any application to add parties to the litigation for over seven and one-half years from its inception and now,

at the eleventh hour, when the matter is closest to being resolved, he now attempts to add parties to the case.

Likewise, the Plaintiffs cannot now be heard to argue that they would be inconvenienced by the stay when they waited seven and one-half years to bring their application.

For all the foregoing reasons, it is respectfully requested that this Court grant a stay of all further trial activity, including the submission of responding documentation pending the Appellate Division's determination on the Motion for Leave to Appeal the Interlocutory Order joining additional Defendants entered by the trial court on May 29, 1986.

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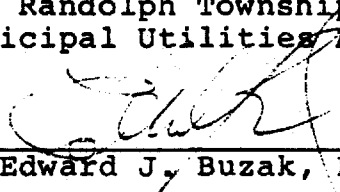
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CONCLUSION

In light of the foregoing, it is respectfully
requested that this Court grant a stay with respect to all
further proceedings at the trial court level in this matter
pending the disposition of Defendants' Motion for Leave to
Appeal the Interlocutory Order entered by the trial court
on May 29, 1986 joining additional parties Defendant.

Respectfully submitted,

EDWARD J. BUZAK, ESQ.,
Attorney for Township of
Randolph, Randolph Township
Planning Board, Randolph
Township Board of Adjustment
and Randolph Township
Municipal Utilities Authority

By 
Edward J. Buzak, Esq.

Dated: June 25, 1986

SUPERIOR COURT OF N. J.

REC'D

MAR 21 1986

ALFRED A. SLOCUM, PUBLIC ADVOCATE
DEPARTMENT OF THE PUBLIC ADVOCATE
BY: STEPHEN EISDORFER
Assistant Deputy Public Advocate
DIVISION OF PUBLIC INTEREST ADVOCACY
CN 850
TRENTON, NEW JERSEY 08625

REC-1
MAYSON
CLERK

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

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MORRIS COUNTY FAIR HOUSING
COUNCIL, et al.

Plaintiffs,

vs.

BOONTON TOWNSHIP, et al.,

Defendants,

and consolidated cases.

:
:
: Civil Action
: (Mt. Laurel Action)

:
: NOTICE OF
: APPLICATION FOR CONDITIONS
: UPON TRANSFER TO THE COUNCIL
: ON AFFORDABLE HOUSING

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To: HON. STEPHEN SKILLMAN, J.S.C.
Superior Court of New Jersey
Middlesex County Court House
New Brunswick, New Jersey 08903

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SEARS, PENDLETON & SWEENEY
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CLERK OF THE COURT
Superior Court of New Jersey
Law Division
Richard J. Hughes Complex
Trenton, New Jersey 08625

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PLEASE TAKE NOTICE that plaintiffs Morris County Fair Housing Council et al. will apply to the Law Division, Middlesex County at the Middlesex County Court House in New Brunswick, New Jersey at such time and date as the Court may designate for an order:

1) placing conditions upon transfer of this litigation, insofar as it concerns Randolph Township, to the Council on Affordable Housing;

2) joining the Randolph Township Planning Board of Adjustment, Randolph Township Municipal Utilities Authority, and Rockaway Valley Regional Sewerage Authority as parties to this proceeding;

3) issuing such further interlocutory restraints against the parties pending final disposition of this matter by the Council on Affordable Housing as may be necessary or desirable and appropriate to preserve the ability of Randolph Township to meet its constitutional obligations to provide sufficient realistic housing opportunities for safe, decent housing affordable to lower income households to meet the needs of its indigenous poor and its fair share of the needs of the region's poor.

ALFRED A. SLOCUM
Public Advocate of New Jersey

By: Stephen Eisdorfer
STEPHEN EISDORFER
Assistant Deputy Public Advocate

March 21, 1986

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FILED

MAY 29 1988

STEPHEN SKILLMAN, J.S.C.

ALFRED A. SLOCUM
PUBLIC ADVOCATE OF NEW JERSEY
DEPARTMENT OF THE PUBLIC ADVOCATE
BY: STEPHEN EISDORFER
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Attorney for Plaintiffs

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX/MORRIS
COUNTIES
DOCKET NOS. L 6001-78 P.W.
L 59128-85 P.W.

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MORRIS COUNTY FAIR HOUSING
COUNCIL, et al.,

Plaintiffs,

vs.

BOONTON TOWNSHIP, et al.,

Defendants,

and Consolidated Cases,

RANDOLPH MOUNTAIN INDUSTRIAL
COMPLEX,

Plaintiff,

vs.

BOARD OF ADJUSTMENT OF THE
TOWNSHIP OF RANDOLPH, et al.,

Defendants.

Civil Action
(Mt. Laurel)

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ORDER FOR JOINDER
OF ADDITIONAL PARTIES

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This matter having been heard by this Court on May 14, 1986, on the application of plaintiffs Morris County Fair Housing Council et al. and Randolph Mountain Industrial Complex to join additional parties, and in the presence of counsel for plaintiffs Morris County Fair Housing Council et al., plaintiff Randolph Mountain Industrial Complex, defendant Township of Denville, defendant Denville Township Planning Board, defendant Township of Randolph, Denville Township Board of Adjustment, defendant Randolph Township Board of Adjustment, ~~and Randolph Township Municipal Utilities Authority, and Rockaway Valley Regional Sewerage Authority,~~ ^(Randolph Township Planning Board) and ~~the motion to join Rockaway Valley Sewerage Authority having been withdrawn on the record;~~ 20

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The Court having considered the briefs and arguments of counsel; and

The Court having determined, for the reasons set forth in its oral opinion, that the applications were timely and satisfied the requirement of R. 1:6, that the Court has the jurisdiction and power to grant relief against the Denville Township Board of Adjustment, Randolph Township Planning Board, Randolph Township Board of Adjustment, and Randolph Township Municipal Utilities Authority, and that the application to join these parties should be granted,

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It is on this 29th day of May, 1986, hereby ORDERED:

1. The Denville Township Board of Adjustment, Randolph Township Planning Board, Randolph Township Board of Adjustment, and Randolph Township Municipal Utilities Authority are joined as parties in Morris County Fair Housing Council et al. v. Boonton Township et al. for the limited purpose of binding them

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to any order that this Court may grant in connection with imposition of conditions upon the transfer of so much of this case as concerns Denville and Randolph Townships to the Council on Affordable Housing.

2. The Denville Township Planning Board is a defendant in a case consolidated with Morris County Fair Housing Council et al v. Boonton Township et al. and is thus already properly before the Court in connection with any orders which the Court may order in connection with imposition of conditions upon transfer to the Council on Affordable Housing.

3. The Randolph Township Municipal Utilities Authority is joined as a party in Randolph Mountain Industrial Complex v. Board of Adjustment of the Township of Randolph for the limited purpose of binding it to any order that this Court may issue in connection with imposition of conditions upon transfer of this case to the Council on Affordable Housing.

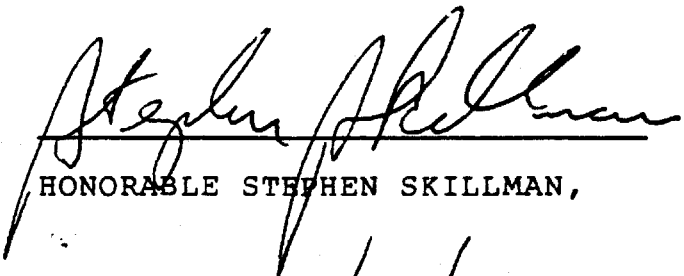
4. (a) Plaintiffs in the above entitled matters shall file and serve any additional briefs or other papers in support of applications for imposition of conditions on or before May 23, 1986. These papers shall include all additional exhibits and affidavits setting forth in full all testimony upon which plaintiffs intend to rely.

(b) Parties opposing imposition of conditions upon transfer shall file and serve all briefs and other papers on or before June 11, 1986. These papers shall include all exhibits and affidavits setting forth in full all testimony upon which these parties intend to rely. If any party opposing imposition

of conditions desires to present oral testimony of any witness, it shall file and serve, in addition to the affidavit setting forth the testimony in full, a written statement setting forth with specificity its reasons.

(c) Plaintiffs shall file and serve any briefs or other papers in reply on or before June 18, 1986. Such papers shall include all exhibits and affidavits setting forth in full the testimony of all witness upon which plaintiffs intend to rely in rebuttal. If any plaintiff seeks to cross-examine any defense witness, it shall so state. If any plaintiff seeks to present oral testimony, it shall file and serve, in addition to an affidavit setting forth that testimony in full, a written statement setting forth with specificity its reasons.

5. Briefs by all parties on the issue of whether, and in what manner, notice should be given to nonparties who may indirectly be affected by any orders that this Court might issue in connection with imposition of conditions upon transfer, shall be served and filed on or before May 23, 1986.


HONORABLE STEPHEN SKILLMAN,

Dated: 5/29/86

MOTION FOR LEAVE TO APPEAL

TO: Elizabeth M. McLaughlin, Clerk
Superior Court of New Jersey
Appellate Division
Richard J. Hughes Justice Complex
Trenton, New Jersey 08625

Honorable Stephen Skillman
Middlesex County Courthouse
New Brunswick, New Jersey 08903

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All Counsel on Attached List

Sir/Madam:

PLEASE TAKE NOTICE that the undersigned Attorney
for Defendants Appellants Township of Randolph, Randolph
Township Planning Board, Randolph Township Municipal
Utilities Authority and Randolph Township Board of
Adjustment hereby moves before the Superior Court of New
Jersey, Appellate Division, for Leave to Appeal from the
interlocutory order of the Honorable Stephen Skillman
signed and filed on May 29, 1986 in the cases of Morris
County Fair Housing Council et. al., v. Boonton Township,
et. al., Docket No. L-6001-78 P.W. and Randolph Mountain
Industrial Complex v. The Board of Adjustment of the
Township of Randolph et. al., Docket No. L-59128-85 P.W.

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In support of said motion the undersigned will
rely upon the attached Brief and Appendix.

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EDWARD J. BUZAK, ESQ.
Attorney for Defendants
Township of Randolph,
Randolph Township Planning
Board, and Randolph Township
Municipal Utilities
Authority

KENNETH H. GINSBERG, ESQ.
Attorney for Randolph Township
Board of Adjustment

By Kenneth H. Ginsberg
Kenneth H. Glasberg, Esq.

By Edward J. Buzak, Esq.

Dated: June 5, 1986

EDWARD J. BUZAK, ESQ.
MONTVILLE OFFICE PARK
150 RIVER ROAD SUITE A-4
MONTVILLE, NEW JERSEY 07045
(201) 335-0600

ATTORNEY FOR Defendants, Township of Randolph, Randolph Township Planning Board
Randolph Township Municipal Utilities Authority & Randolph Township
Board of Adjustment 10

Plaintiff

MORRIS COUNTY FAIR HOUSING COUNCIL, et. al.

vs.

Defendant

THE TOWNSHIP OF BOONTON, a Municipal Corporation
of the County of Morris and State of New Jersey,
et. al.,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MORRIS COUNTY/MIDDLESEX COUNTY
(MT. LAUREL LITIGATION)

Docket No. L-59128-85 P.W.
L-6001078 P.W.

CIVIL ACTION 30

Plaintiff,

RANDOLPH MOUNTAIN INDUSTRIAL COMPLEX, a New
Jersey Partnership,

vs.

Defendant,

THE TOWNSHIP OF RANDOLPH, a Municipal Corporation
of the County of Morris and State of New Jersey

NOTICE OF MOTION TO STAY
FURTHER PROCEEDINGS PENDING
THE DISPOSITION OF DEFENDANT'S
MOTION FOR LEAVE TO APPEAL
THE TRIAL COURT'S JOINDER
OF ADDITIONAL DEFENDANTS

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TO: THE HONORABLE STEPHEN SKILLMAN
Middlesex County Court House
New Brunswick, New Jersey 08903

ALL COUNSEL ON ATTACHED LIST

SIR/MADAM:

PLEASE TAKE NOTICE that the undersigned will move before the
Honorable Stephen Skillman as follows:

DATE: To Be Set By Court
TIME: To Be Set By Court
PLACE: Middlesex County Courthouse, New Brunswick,
New Jersey

RELIEF SOUGHT: To stay further proceedings in the above captioned
pending the disposition of Defendants' Motion
for Leave to Appeal the Interlocutory Order
of the Honorable Stephen Skillman entered May 29,
1986 joining additional parties Defendant.

GROUND: Defendants contend that immediate and irreparable
injury will occur to Defendants if the Court
continues to consider the imposition of conditions
upon the transfer of this case to the Council on
Affordable Housing. The Motion for Leave to
Appeal the Interlocutory Order is based upon the
allegation that the trial court lacked jurisdiction
to join parties to this litigation and if
appellant is successful, the scope of conditions
being requested by the Advocate cannot be granted
and the proceedings thereon will therefore
be moot.

ORAL ARGUMENT REQUESTED: Yes.
PRE-TRIAL CONFERENCE: Several status conferences have been held.
CALENDAR CALL: None.
TRIAL DATE: N/A

A proposed Order is attached hereto. Defendant will rely upon the
Brief submitted simultaneously herewith.

Dated: June 11, 1986

EDWARD J. BUZAK, ESQ., Attorney for Defendants,
Township of Randolph, Randolph Township Planning
Board, Randolph Township Municipal Utilities
Authority and Randolph Township Board of Adjustment

By


Edward J. Buzak

9.

FILED

JUN 17 1986

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STEPHEN SKILLMAN, J.S.C.

EDWARD J. BUZAK, ESQ.
MONTVILLE OFFICE PARK
150 RIVER ROAD SUITE A-4
MONTVILLE, NEW JERSEY 07045
(201) 335-0600

ATTORNEY FOR Defendants, Township of Randolph, Randolph Township Planning Board,
Randolph Township Municipal Utilities Authority and Randolph Township Board
of Adjustment 20

Plaintiff
MORRIS COUNTY FAIR HOUSING COUNCIL, et. al.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MORRIS COUNTY/MIDDLESEX COUNTY
(MT. LAUREL LITIGATION)

vs.

Docket No. L-59128-85 P.W.
L-6001078 P.W.

Defendant
THE TOWNSHIP OF BOONTON, a Municipal Corporation
of the County of Morris and State of New Jersey,
et. al.,

CIVIL ACTION 30

Plaintiff,

ORDER DENYING A STAY OF FURTHER
PROCEEDINGS PENDING THE
) DISPOSITION OF THE APPELLATE
DIVISION ON MOTION FOR LEAVE
) TO APPEAL THE JOINDER OF
ADDITIONAL PARTIES DEFENDANT

RANDOLPH MOUNTAIN INDUSTRIAL COMPLEX, a New
Jersey Partnership,

vs.

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Defendant,

THE TOWNSHIP OF RANDOLPH, a Municipal Corporation
of the County of Morris and State of New Jersey

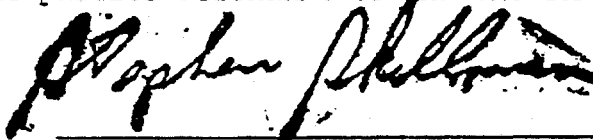
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This matter having been opened to the Court by Edward J. Buzak, Esq., Attorney for Defendants, Township of Randolph, Randolph Township Planning Board, Randolph Township Board of Adjustment and Randolph Township Municipal Utilities Authority for a stay pending the Appellate Division disposition on said Defendants' motion for leave to appeal this Court's May 29, 1986 order joining additional parties Defendant, and the Court having determined that such a motion for a stay should be denied,

It is on this 17th day of June, 1986

ORDERED that the motion of Defendants Township of Randolph, Randolph Township Planning Board, Randolph Township Board of Adjustment and Randolph Township Municipal Utilities Authority for a stay of further proceedings pending the disposition of Defendants' motion for leave to appeal this Court's interlocutory order joining additional parties Defendant be and the same is hereby denied.



Honorable Stephen Skillman, J.S.C.

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