

ML-Randolph Mountain Industrial Complex

8/6/86

v. Bd. of Adjustment of Twp of Randolph

Order imposing conditions upon transfer of
Case to Council on Affordable Housing

P⁴

ML000955J

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FILED

AUG - 6 1986

STEPHEN SKILLMAN, *JSC*

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX/MORRIS
COUNTIES
DOCKET NO. L-6001-78 P.W.
L-89128-85 P.W.

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

Plaintiffs,

vs.

BOONTON TOWNSHIP, *et al.*,

Defendants.

Civil Action
(Mt. Laurel Action)

ORDER IMPOSING CONDITIONS
UPON TRANSFER OF CASE TO
COUNCIL ON AFFORDABLE
HOUSING

RANDOLPH MOUNTAIN INDUSTRIAL
COMPLEX,

Plaintiff,

vs.

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

Defendants.

This matter having come to be heard on July 23, 1986, in the presence of counsel for plaintiffs the Morris County Fair Housing Council *et al.* and Randolph Mountain Industrial Complex, defendants Randolph Township, Planning Board of Randolph Township, Board of Adjustment of Randolph Township, and Randolph Township Municipal Utilities Authority, and Council for the New

Jersey Council on Affordable Housing, on applications of plaintiffs Morris County Fair Housing Council et al. and plaintiff Randolph Mountain Industrial Complex for imposition of conditions upon the transfer of these proceedings by Randolph Township to the Council on Affordable Housing; and

The Court having considered the briefs and exhibits submitted by the various parties and the arguments of counsel; and *for the reasons expressed in this court's oral opinion of July 23, 1986,* ~~The Court having made the findings of fact and conclusions as set forth in its oral opinion, which are incorporated herein by reference and~~

~~The Court having determined that the public sanitary sewage treatment capacity is a scarce resource in Randolph Township which it is necessary and feasible to preserve, that diminution of this scarce resource is likely to substantially impair the ability of Randolph Township to meet its constitutional obligation to create equitable housing opportunities for lower income persons and which impermissibly burdens income persons, and that imposition of conditions upon the transfer of this matter to the Council on Affordable Housing to preserve this scarce resource is justified and within the jurisdiction and power of this Court:~~

It is on this *6th* day of *August* 1986, ORDERED:

1. The Township of Randolph, the Randolph Municipal Utilities Authority, and their officers, agents, employees, and attorneys are hereby enjoined from permitting any additional connection to the public sanitary sewage system, or increased

usage by parties presently connected to the system, which would utilize or diminish sewage treatment capacity in the "municipal growth reserve" allocated to Randolph Township under the terms of the plan approved by the court in Department of Health v. City of Jersey City, Docket No. C-3447-87 (Ch. Div., Morris Cty.), granting any rights to future connection or increases in usage utilizing or diminishing the "municipal growth reserve," or taking any other action that would diminish or impair, directly or indirectly, the future availability of the "municipal growth reserve."

2. Nothing in this order is intended to limit any power which Randolph Township or the Randolph Township Municipal Utilities Authority might otherwise lawfully exercise to:

a) engage in planning concerning the allocation of sewage treatment capacity;

b) permit connections to the sanitary sewage system, or increases in usage, which do not utilize or diminish sewage treatment capacity in the Township's "municipal growth reserve."

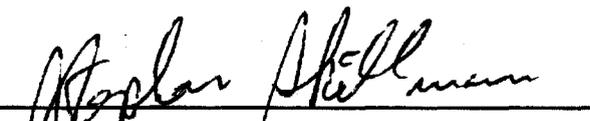
c) receive and process, short of approval, applications for connection to the sanitary sewage system, or increases in usage, which may utilize or diminish the "municipal growth reserve."

3. If plaintiffs Morris County Fair Housing Council, et al., or any other party, makes application on or before August 11, 1986, to the Council on Affordable Housing, in compliance with relevant regulations of the Council on Affordable Housing,

for a restraining order to preserve scarce resources in Randolph Township, and request that the matter be heard on the earliest available return day, this order shall remain in effect until the Council acts on the merits of such application or applications. Otherwise this order shall automatically expire after August 11, 1986.

4. The applications of plaintiffs for imposition of conditions are in all other respects denied without prejudice.

5. The applications by the Randolph Township Planning Board and the Randolph Township Board of Adjustment to be dismissed from this case are denied.



HON. STEPHEN SKILLMAN, J.S.C.

Dated: 8/6/86