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(South Plainfield)

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24-June-1985

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Transcript of Judge's Decision
directing the Planning Board
of South Plainfield to
address ordinance at issue.

ML000968J

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION - MIDDLESEX COUNTY
CIVIL ACTION NO. C-4122-73

X - - - - - X

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al, :

Plaintiffs, :

vs. :

THE MAYOR & COUNCIL OF :
THE BOROUGH OF CARTERET,
et al, :

Defendants. :

X - - - - - X

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. 56349-81

X - - - - - X

ELDERLODGE, INC., :

Plaintiff, :

vs. :

SOUTH PLAINFIELD BOARD
OF ADJUSTMENT, et al, :

Defendants. :

TRANSCRIPT

OF

JUDGE'S DECISION

X - - - - - X

June 24, 1985
Toms River, New Jersey

B E F O R E :

HONORABLE EUGENE D. SERPENTELLI, J.S.C.

GAYLE GARRABRANDT, C.S.R.
Official Court Reporter

REPRODUCED FROM THE ORIGINAL FILED IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT, MIDDLESEX COUNTY, NEW JERSEY, ON 07/05/85

A P P E A R A N C E S :

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ERIC NEISSER, ESQUIRE
and
BARBARA J. WILLIAMS, ESQUIRE
For Urban League

FRANK A. SANTORO, ESQUIRE
For South Plainfield

WILLIAM V. LANE, ESQUIRE
For Board of Adjustment of South Plainfield

JOHN GEORGE, ESQUIRE
For Larry Massaro

* * * *

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2 THE COURT: I think the way to approach this
3 is to get the ordinance passed -- okay? -- and stop
4 fooling around. And I am afraid that we are going
5 to have to set some deadlines here in terms of adoption.

6 The last correspondence from Ms. Williams
7 does not seem so difficult to deal with as to cause
8 a substantial delay. There are only a couple of
9 issues raised in that May 3rd letter, and the govern-
10 ing body is going to have to make a judgment as to
11 whether they agree or disagree, so that the ordinance
12 can get passed. But it should get passed.

13 Now, of course, if the -- if they disagree,
14 and the Court also disagrees with them, then the
15 ordinance is going to be found noncomplying, so it
16 would be best, if possible, for the Urban League and
17 the community to concur on all of the amendments,
18 so as to avoid the necessity of a protracted com-
19 pliance hearing, and then the Court having to correct
20 any defects.

21 The Planning Board, if it hasn't already acted,
22 should act immediately with regard to these few
23 changes that are requested.

24 I am going to direct that the Planning Board
25 act within a period of ten days; that within ten days

1 thereafter -- and they will, all of those dates
2 will run from today, and you can put the actual dates
3 in. If they fall on a weekend, then advance it to
4 the following Monday.

5 Within ten days thereafter, the governing
6 body shall introduce the ordinance, if it need be,
7 on first reading, and then, in accordance with law,
8 that it act on second reading not more than fifteen
9 days after the introduction of the first reading.

10 In the absence of these time schedules being
11 complied with, any one of them, the Urban League
12 may apply to the Court for an order directing that
13 the master be assigned the responsibility of sub-
14 mitting to the Court a compliant ordinance, and the
15 Court will, after appropriate hearing, reserve the
16 right to direct that the ordinance be considered
17 the applicable ordinance of the community. I trust
18 that we will not have to reach that.

19 In the interim, I am going to restrain the
20 issuance of any building permits in the community
21 for non-Mount Laurel development. Any permit for --
22 which would include Mount Laurel development and that
23 the Town intends to issue could not be issued until
24 the Urban League is notified of their intent to issue
25 it at least ten days in advance, so as to give Urban

1 League an opportunity to review the proposed Mount
2 Laurel development and ascertain or confirm that it
3 is, in fact, in compliance with Mount Laurel II.

4 The restraints shall continue pending further
5 order of the Court. In addition, I will restrain
6 the municipality from engaging in any further land
7 sales, or consummating any existing contracts for
8 the sale of land, pending further order of the Court.

9 There will be no relief granted today with
10 respect to any monetary judgment, or any other direct
11 relief. I think that's premature, perhaps not ap-
12 propriate under the circumstances, but I need not rule
13 on that today.

14 All right. Anything further?

15 MR. NEISSER: Yes, Your Honor. I thought I
16 heard Mr. Santoro say -- and I understand he's not
17 the attorney for the Planning Board, but I thought he
18 said that the Planning Board may, at its June 18th
19 meeting, which I believe was last Tuesday, have al-
20 ready passed -- if that's the case, can we have the
21 order requiring the Town to act within ten days
22 starting from today, if that is the case?

23 THE COURT: If the Planning Board has acted
24 already.

25 MR. NEISSER: That's what I am saying, so we

1 don't have a ten-day for nothing, if it is, in fact,
2 already completed.

3 THE COURT: Yeah, you may.

4 MR. NEISSER: Further, I won't -- and I don't
5 know if this should be in the form of order, but
6 perhaps it's best that we have a formal -- or some
7 form of inventory from the Town as to sales that
8 either have taken place, or approvals have taken
9 place or are pending with regard to whatever auctions,
10 bids, with regard to any of the blocks and lots
11 specified in the judgment, because there is some
12 unclarity in our papers, due to the rush of time to
13 get them together, as to whether three pieces have
14 been sold, or six, or some number in between.

15 And I want to know exactly where they are and
16 who stands where in terms of building permits and
17 prior actions.

18 THE COURT: Yeah. I don't think it has to be
19 in the order, but could I ask Mr. Santoro to specif-
20 ically advise by letter, within a period of ten days,
21 as to the status of each of the parcels referred to
22 in the moving papers, and also to advise the Urban
23 League whether there are any existing municipal lands
24 that are in the process of being sold?

25 Of course, that process is now restrained as

of today, so it doesn't make any difference.

MR. NEISSER: One last request I think probably should be in is that in whatever form the Planning Board recommends action, that we get a copy of it prior to being considered by the Borough Council, so that if in fact there are any remaining disputes or questions on the part of the Urban League, that it can be resolved, as Your Honor indicated, in advance of even the first reading.

THE COURT: Well, that's all right, but I don't want the process held up because you now raise other objections; you understand?

MR. NEISSER: No.

THE COURT: I think the municipality now is going to have to go ahead and adopt it.

MR. NEISSER: Sure.

THE COURT: And they will run the risk of having it found to be non-compliant; however, if you can help them, and they're agreeable, I see no problem with that. So whatever the Planning Board has recommended, or will recommend, the Urban League should be provided with notice of that so that they can perhaps pick up any technical errors or other omissions or corrections. All right?

Anything further?

1 MR. SANTORO: Just a clarification. The
2 Court today is restraining the issuance of all
3 building permits for all properties in South
4 Plainfield, be they for single-family, two-family,
5 or anything else?

6 THE COURT: That's right.

7 MR. SANTORO: Does that include commercial
8 and industrial as well?

9 THE COURT: Everything.

10 MR. SANTORO: Everything? Also, restraining
11 any land sales, or the closing of any pending land
12 sales, until further order of the Court, that is a
13 temporary measure only until the ordinance is
14 adopted?

15 THE COURT: That's municipal land sales.

16 MR. SANTORO: Oh, obviously, yes. I'm sorry.

17 THE COURT: I only have jurisdiction over
18 those people.

19 MR. SANTORO: And the last item is that if the
20 Planning Board has already reviewed that last re-
21 vision, that the ten days to introduce will begin
22 today?

23 THE COURT: That's right.

24 MR. SANTORO: Do I infer that that means that
25 if there's no meeting ten days from today, that we

1 should, forty-eight hours prior, make it our business
2 as the governing body to have a special meeting on
3 this, or can this be done at our regularly scheduled
4 July 1 and/or July 8th meeting?

5 We are talking about introducing, now, at
6 this point.

7 THE COURT: Your question is, can you act at
8 your July 1 meeting if the Planning Board has already
9 acted?

10 MR. SANTORO: If the Planning Board has al-
11 ready acted.

12 THE COURT: That's within the ten-day period,
13 so there'd be no problem with that. With respect
14 to July 8th, you'd be out of the ten days, wouldn't
15 you?

16 MR. SANTORO: Then I'm inferring that the
17 Court is saying that if you can't do it on July 1st,
18 you do it as quickly as you can after July 1st, but
19 within the ten-day time frame.

20 THE COURT: That's right. And you may need a
21 notice of your meeting, or you will need a notice of
22 every meeting.

23 MR. SANTORO: Is there anything further as
24 far as I can tell Mr. Dalto and Elderlodge, or the
25 Court isn't even going to consider the issues?

1 THE COURT: Well, that's a problem. If the
2 municipality has chosen its own remand, and the
3 Urban League thinks it's feasible, he's got a problem,
4 I guess.

5 MR. NEISSER: Just one clarification on what
6 Mr. Santoro said. The restraints against municipal
7 land sales or consummation of existing land contracts
8 he said was pending passage of the ordinance. I
9 thought Your Honor said: pending further order of
10 this Court.

11 THE COURT: Yes, it's pending further order
12 of the Court. I may want to review the ordinance.
13 I will want to review the ordinance. I don't want
14 anything sold in that interim.

15 MR. NEISSER: Thank you, Your Honor.

16 THE COURT: All right, fine. Thank you.
17 Have a good day.

18 MR. NEISSER: We will draft an order, submit
19 it under the five-day order, Your Honor.

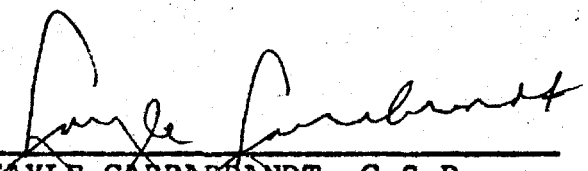
20 (End of proceedings.)

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C E R T I F I C A T E

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I, GAYLE GARRABRANDT, a Certified Shorthand Reporter of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the proceedings as taken by me stenographically on the date hereinbefore mentioned.



GAYLE GARRABRANDT, C.S.R.
Official Court Reporter

DATE: 7-8-85

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