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General

6-5-85

Letter from John Payne  
explaining the "plans" for the  
ML archives at Rutgers.

- w/ response from Court Clerk 6-25-85

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THE STATE UNIVERSITY OF NEW JERSEY  
**RUTGERS**

ML000972L

SUPERIOR COURT OF N. J.  
**REC'D**

School of Law - Newark  
Office of the Dean - S.I. Newhouse Center for Law and Justice  
15 Washington Street - Newark - New Jersey - 07102 - 201/648-5551

JUN 12 1985

JOHN M. MAYSON  
Clerk

June 5, 1985

Mr. Stephen W. Townsend  
Clerk of the Supreme Court  
CN 970  
Trenton, New Jersey 08625

Re: Rutgers Mount Laurel Archives Project

Dear Mr. Townsend:

It was a pleasure to meet with you last week and to explain my plans for the Mount Laurel Archive that has been created at Rutgers. As you know, the Archive was proposed last year by President Bloustein and Dean Simmons of Rutgers, and was generously endorsed by the Chief Justice and by Bob Lipscher. I very much appreciated your helpful advice on how to proceed, and at your suggestion I am writing now to detail the types of materials that I hope the court system can supply. Also at your suggestion, I am copying this letter to the three Mount Laurel judges and the Clerk of the Superior Court, John Mayson, since the Archive Project will undoubtedly be requesting their assistance and advice once active collection begins.

Background. I hardly need mention that the Mount Laurel doctrine is singular as a judicial initiative in tackling the problem of lower income housing production, and as such is of as much concern nationally as it is to New Jersey practitioners. Because the initiative has been confined thus far to this state alone, however, the informal distribution of information about the cases has not been as widespread as one would normally expect. Even within New Jersey, the rapidity of new developments in implementing Mount Laurel II, and the relative dearth of published opinions, has left attorneys and planners in need of a ready clearinghouse for information. Lacking any such mechanism, it is my understanding that the three Mount Laurel judges have experienced an unusually heavy level of requests for copies and other information about pending cases and that this has become a heavy burden on the resources of their Courts.

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As a first step, therefore, the Archives seeks to assemble as completely as possible the public record of the cases now in litigation, as well as those that have been concluded, including cases that were litigated prior to Mount Laurel II. While our long-range goals are more extensive, our immediate objective is to possess a working collection that can be offered to users, both locally and nationally, so that they can rapidly and reliably follow current developments in the implementation of Mount Laurel II. Having taken the past year to work out tentative internal arrangements, and to secure a modest budget for "hard" costs such as photocopying, we are now ready to begin the actual collection of documents. That, in turn, brings me to you and to the Court.

The "historical" record. In our discussion the other day, you mentioned that your files include multiple copies of the records and briefs in Mount Laurel II itself, and that the Archive might have a complete set. You also mentioned that we might copy the records and briefs in other cases that had reached the Supreme Court, including Mount Laurel I itself, Oakwood at Madison, Fobe Associates and Pascack Association. It would be invaluable to have one set of as much of this material as exists for the Archives, and I hereby formally request that you arrange this if possible.

Eventually, we should like to assemble a complete record of all the pre-Mount Laurel II cases, including the much larger number that did not ever reach the Supreme Court on appeal. It is my understanding that such records as have been retained would be in the keeping of the Clerk of the Superior Court, John Mayson, who I will be contacting directly.

Current cases. Our most immediate interest, as I have indicated, is to assemble a working collection of current cases. Ideally, we should like to have all of the documents in the public record that are filed with any of the three Mount Laurel judges. Accomplishing this requires that we devise a method both to copy the papers already filed and to assure that we receive future filings as they occur.

As to the future, the simplest procedure in many ways would be to require of the parties that an additional copy of all papers be filed with the Court to be deposited in the Archives. However, as you explained to me, this might involve difficulties from the perspective of your office that outweighed its convenience.

As an alternative, we might work out an arrangement that would permit the Archive to photocopy from time to time the relevant

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papers as they are received by the Mount Laurel courts. A photocopying agreement would be necessary in any event to access the large volume of documents that have been filed since January, 1983.

My principal concern in this is cost. As I noted above, we have been able to secure a small working budget for the Archives, but our resources would soon be exhausted if we had to pay for copying at anything approaching the commercial rate for doing so. I imagine also that the volume of copying necessary is more than could be feasibly handled by your own facilities.

On the other hand, Rutgers has excellent copying capacity at the law school (both equipment and staff) and there are periods in the academic-year cycle when the demand on these facilities is very light, particularly during the summer. Thus, if it were possible to arrange short term borrowing privileges from the Court's files, we could guarantee rapid, secure turn-around (on a daily basis, if necessary) and acquire a duplicate file for essentially the cost of the paper, with minimum burden on either Central Files or the staffs of the three Mount Laurel courts.

I offer this suggestion with some trepidation, because I can readily appreciate your concern to maintain the integrity of the Court's files. If we were to begin with a pilot program, however, I believe that you would quickly be assured of the reliability of our arrangements. Considering that the Archive would then be in a position to handle many information requests that now go to the trial courts, I hope that you will agree that this solution is of advantage to you as well as to us.

Concluded cases. Cases litigated under the doctrines of Mount Laurel II are now coming to conclusion (Mahwah is the one that comes first to mind) and the question arises about disposition of the voluminous case files. It is my understanding that the Court retains only a portion of the total record in its own permanent files, returning such items as trial exhibits, experts' reports and discovery matters to the parties. While many of these cases will not reach the Supreme Court, I raise the matter with you because it may be necessary to have the Court's approval for any general change in your disposition policy.

If a satisfactory copying program can be arranged, we should already have acquired the same documents that are retained by the court system, but the remainder of the record would be invaluable additions to our archive collection, particularly for long-term research purposes. An ideal arrangement would be for the courts

Mr. Stephen W. Townsend  
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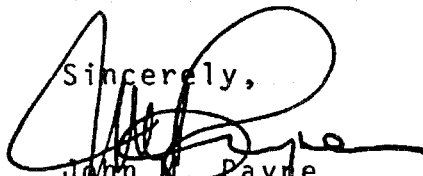
to routinely deposit these materials with the Archive when the case is closed, with notice to the parties that they may instead require return of the materials to their originators. In most cases, I would expect that the parties would be glad to be relieved of the storage or disposition problem; where not, the Archive should have copying privileges before disposition. (I am advised, I should add, that there would be no tax advantage to the parties in donating such papers under most circumstances, but we would of course cooperate in an appropriate tax arrangement if possible.)

I did not think to ask whether your disposition policy also covers ancillary matter that is not part of the formal record, such as correspondence with the Court concerning the case. Inclusion of these papers in the Archives will be of long-range value to the historical record, and they should be included in the disposition arrangement to the extent possible.

Public information records. Through the courtesy of Catherine Arnone, I have received copies of the informal docket summaries that Public Information has prepared from time to time, and I have made arrangements to copy (at Rutgers) her complete Mount Laurel newspaper clipping file. I trust that we can from time to time update this information in the same way.

Once again, I appreciate (as does Dean Simmons) your willingness to work with us on the Mount Laurel Archives project, and I look forward to hearing from you at your convenience as to the next steps we may take.

Sincerely,

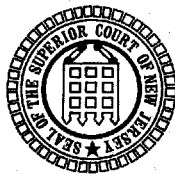


John K. Payne  
Professor of Law

cc: Hon. L. Anthony Gibson, J.S.C.  
Hon. Eugene D. Serpentelli, A.J.S.C.  
Hon. Stephen Skillman, J.S.C.  
John M. Mayson ✓

SUPERIOR COURT OF NEW JERSEY

JOHN M. MAYSON  
CLERK



OFFICE OF THE CLERK  
CN 971  
TRENTON, N.J. 08625

June 25, 1985

John M. Payne, Professor of Law  
The State University of New Jersey  
Rutgers Campus  
School of Law-Newark  
S.I. Newhouse Center  
for Law and Justice  
15 Washington Street  
Newark, NJ 07102-3192

RE: Rutgers Mount Laurel Archives Project

Dear Professor Payne:

I received a copy of your letter of June 5, 1985 to Stephen Townsend concerning the Rutgers Mount Laurel Archives Project. I am forwarding this correspondence to Mr. Robert Wagner, Deputy Clerk of the Superior Court, to acquaint him with this project in order that he may assist you in the future when active collection begins.

You may contact him directly whenever the project begins.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John M. Mayson", is written over a horizontal line. Below the line, the name "John M. Mayson, Clerk" is printed in a standard font.

John M. Mayson, Clerk

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cc: Robert C. Wagner