

~~AD - Bedminster~~

Sept. 29, 1983

AD - Bedminster

Notice of Motion for Substitution of Real Party in Interest

- Affidavit
- Letter to judge

PS. 6

AD00003<sup>5</sup>N

**BRENER, WALLACK & HILL**

2-4 CHAMBERS STREET  
 PRINCETON, NEW JERSEY 08540  
 (609) 924-0808  
 ATTORNEYS FOR **Plaintiff**

*Plaintiff*

**ALLAN-DEANE CORPORATION, et al.**

*vs.**Defendant*

**TOWNSHIP OF BEDMINSTER, et al.**

SUPERIOR COURT OF  
 NEW JERSEY  
 LAW DIVISION-  
 SOMERSET COUNTY

*Docket No.*

L-36896-70 P.W. and  
 L-28061-71 P.W.

*CIVIL ACTION*

NOTICE OF MOTION FOR  
 SUBSTITUTION OF REAL  
 PARTY IN INTEREST

TO: ALFRED L. FERGUSON  
 McCarter & English  
 550 Broad Street  
 Newark, NJ 07102

KENNETH MEISER  
 Public Advocate  
 Hughes Complex  
 CN 850  
 Trenton, NJ 08625

SIRS:

PLEASE TAKE NOTICE that the undersigned attorneys for the plaintiff Allan-Deane Corporation shall make application on Friday, the 21st of October 1983 at 9:00 a.m. o'clock or as soon thereafter as counsel may be heard before Judge Serpentelli

at the Monmouth County Court House, Freehold, New Jersey, for an order substituting the Hills Development Company for the Allan-Deane Corporation as plaintiff and real party in interest in the above referenced proceeding. In accordance with R.1:6-2, movant hereby waives oral argument and consents to disposition on the papers. Movant will rely upon the annexed affidavit of John H. Kerwin and a proposed form of order is submitted herewith.

BRENER, WALLACK & HILL  
Attorneys for Hills Dev. Co.

By: *Guliet D. Hirsch*  
Guliet D. Hirsch

Dated: September 27, 1983

State of New Jersey :  
                              : ss:  
County of Mercer     :

JOHN H. KERWIN, being duly sworn according to law, upon his oath deposes and says:

1. I am President of the Hills Development Company, a joint venture general partnership organized under the laws of the State of New Jersey.

2. Prior to my appointment as President of the Hills Development Company I served as Vice-President of the Allan-Deane Corporation, a wholly owned subsidiary of Johns Manville Properties, a subsidiary of the Manville Corporation.

3. On November 20, 1980, the following events took place:

a. The Allan-Deane Corporation sold 50 percent of its interest in residentially zoned land in Bedminster and Benards Townships, Somerset County, New Jersey to Ligone, Incorporated, a Netherlands Antilles Corporation.

b. Ligone, Incorporated and Allan-Deane formed a joint venture general partnership, known as the Hills Development Company, for the purpose of developing the properties in Benards and Bedminster Townships, Somerset County, New Jersey.

c. Allan-Deane and Ligone each contributed their land to the joint venture general partnership, as capital contributions.

4. At that point, the Hills Development Company became the successor-in-interest to Allan-Deane and Ligone for all business purposes.

5. Policy making for the Hills Development Company has been directed by representatives from each of the two companies, who together formed a partnership management committee.

The preceding represents an accurate description of the organization and status of the Hills Development Company, successor in interest to the rights, title and interest in the Allan-Deane Corporation in Benards and Bedminister, New Jersey.

John H. Kerwin  
John H. Kerwin, President  
The Hills Development Company

Dated: Sept 14, 1983

Sworn to and Subscribed  
before me this 14<sup>th</sup>  
day of September, 1983

Gloria J. Fischer

GLORIA J. FISCHER  
A Notary Public of New Jersey  
My Commission Expires Feb. 10, 1987



**BRENER, WALLACK & HILL**

**ATTORNEYS AT LAW**

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**\*MEMBER OF N.J. & N.Y. BAR**

**\*MEMBER OF N.J. & FLA. BAR**

**September 27, 1983**

**HARRY BRENER  
HENRY A. HILL  
MICHAEL D. MASANOFF\*\*  
ALAN M. WALLACK\***

**GULIET D. HIRSCH  
GERARD H. HANSON  
J. CHARLES SNEAK\*\*  
PATRICK J. CERILLO  
EDWARD D. PENN+**

**ALLEN V. BROWN  
KENNETH I. HYMAN  
NATHAN M. EDELSTEIN  
THOMAS L. HOFSTETTER\*\*  
ROBERT W. SACCO, JR.+  
EDWARD M. BERNSTEIN^**

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**OCT 4 1983**

**JUDGE SERPENTELLI'S CHAMBERS**

The Honorable Eugene D. Serpentelli  
Monmouth County Court House  
Freehold, N.J. 07728

RE: The Allan-Deane Corporation, et al. v. The Township  
of Bedminster, et al.  
Docket Nos. L-36896-70 P.W. and L-28061-71 P.W.

Dear Judge Serpentelli,

Please accept the following in support of the Allan-Deane Corporation's motion for substitution of the Hills Development Company as the real party in interest in the above captioned litigation. As indicated in the annexed affidavit of John H. Kerwin, the property which is the subject of this litigation is now owned by the Hills Development Company as a result of several transactions which occurred on November 20, 1980, including the sale of a 50% interest in the residential portion of the property to Ligone Inc. and the formation of a joint venture general partnership between Ligone and the Allan-Deane Corporation.

Both the Allan-Deane Corporation and Ligone Inc. contributed land to the joint venture general partnership as capital contributions and the Hills Development Company thus became the successor in interest to Allan Deane for all business purposes. Additionally, the Law Division in its Order For Final Judgment On The Issue Of Defendant's Zoning Obligations And Order For Specific Corporate Relief entered March 20, 1981, made all previous court orders binding on the Hills Development Company, as Allan-Deane's successor in title.

Substitution of the Hills Development Company for the Allan-Deane Corporation will not only result in a more accurate reflection of the real party in interest in this litigation, but will also alleviate any confusion which may be caused by the fact that a stay of all litigation against the Manville Corporation and all its subsidiaries, including the Allan-Deane Corporation

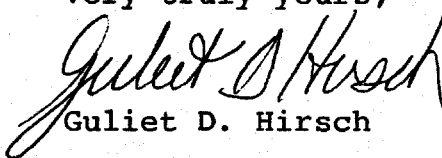
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I spoke  
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O.C.

The Honorable Eugene D. Serpentelli  
September 27, 1983  
Page 2

has been imposed as a result of the petition for reorganization filed by the Manville Corporation and its subsidiaries.<sup>1</sup>

For the above mentioned reasons, the Hills Development Company should be substituted for the Allan-Deane Corporation as plaintiff in the Allan-Deane Corporation v. The Township of Bedminster.

Very truly yours,



Guliet D. Hirsch

GDH/vs  
Enclosures

cc: Alfred L. Ferguson  
Kenneth Meiser

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<sup>1</sup> If the Department of Public Advocate or Bedminster Township is arguing that the Allan-Deane Corporation should disgorge any profits resulting from the re-zoning or otherwise use any money which it may have made prior to the filing of the Petition for Reorganization in order to build lower income housing, Allan-Deane takes the position that the federal district court order bars such a determination. A copy of the federal district court restraining order is included as the last exhibit to the affidavit of John H. Kerwin.