

RULS-AD-1981-10

1/30/81

Notice of Motion for Intervention

Notice of Motion

Affidavit (1/14/81)

Pgs - 9

1.30.81 Maria Demich

P-8
5-7364

RULES - AD - 1981 - 10

X

BRENER, WALLACK, ROSNER & HILL
15 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540
(609) 924-0808
ATTORNEYS FOR Defendant-Intervenor

Plaintiff

LEONARD DOBBS,

vs.

Defendant

TOWNSHIP OF BEDMINSTER,
a Municipal Corporation

SUPERIOR COURT OF
NEW JERSEY
LAW DIVISION
SOMERSET COUNTY

Docket No. L-12502-80

CIVIL ACTION

NOTICE OF MOTION
FOR INTERVENTION
(R. 4:33-1, R. 4:33-2)

To: WINNE, BANTA, RIZZI & HARRINGTON
25 East Salem Street
Hackensack, New Jersey 07602

McCARTER & ENGLISH
550 Broad Street
Newark, New Jersey 07102

SIRS:

PLEASE TAKE NOTICE that the undersigned attorneys
for The Hills Development Company, shall make application on

Friday, the 30th day of January, 1981, at 9:00 A.M. o'clock
or as soon thereafter as counsel may be heard, at the Somerset
County Court House, Somerville, New Jersey, before the Superior
Court of New Jersey, Law Division, Somerset County, for an
Order pursuant to R. 4:33-1 or R. 4:33-2 permitting the movant,
The Hills Development Company, to intervene in the within action
as a Defendant. The movant will rely upon the Affidavit hereto
annexed, and in accordance with R. 4:33-3 submits the annexed
Answer setting forth the claim for which intervention is hereby
sought.

BRENER, WALLACK, ROSNER & HILL
Attorneys for Defendant-Intervenor

By: 

Guliet D. Hirsch

Dated:

Attorney(s): Brener, Wallack, Rosner & Hill
Office Address & Tel. No.: 15 Chambers Street
Princeton, New Jersey 08540 (609) 924-0808
Attorney(s) for Defendant-Intervenor

LEONARD DOBBS,)
) Plaintiff(s)
 vs.)
 TOWNSHIP OF BEDMINSTER, a Municipal)
 Corporation) Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY

Docket No. L-12502-80

CIVIL ACTION

NOTICE OF MOTION

A copy of the within Notice of Motion has been filed with the Clerk of the County of Somerset
at 110 Administration Bldg., Somerville New Jersey

Guliet D. Hirsch
Attorney(s) for Defendant-Intervenor

The original of the within Notice of Motion has been filed with the Clerk of the Superior Court in Trenton, New Jersey.

Guliet D. Hirsch
Attorney(s) for Defendant-Intervenor

Service of the within

is hereby acknowledged this _____ day of _____ 19____

Attorney(s) for _____

I hereby certify that a copy of the within Answer was served within the time prescribed by Rule 4:6.

Attorney(s) for _____

PROOF OF MAILING: On January _____ 1981, I, the undersigned, mailed to
WINNE, BANTA, RIZZI & HARRINGTON McCARTER & ENGLISH
25 East Salem Street 550 Broad Street
Hackensack, New Jersey 07602 Newark, New Jersey 07102
by regular mail, return receipt requested, the following:

NOTICE OF MOTION

R. 1:5-3 ~~The return receipt card is attached to the enclosed document.~~

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Dated: January _____ 1981

BRENER, WALLACK, ROSNER & HILL
15 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540
(609) 924-0808
ATTORNEYS FOR Defendant-Intervenor

Plaintiff

LEONARD DOBBS,

Defendant

TOWNSHIP OF BEDMINSTER,
a Municipal Corporation

STATE OF NEW JERSEY

COUNTY OF MERCER

vs.

ss:

SUPERIOR COURT OF
NEW JERSEY
LAW DIVISION
SOMERSET COUNTY

Docket No. 1-12502-80

CIVIL ACTION

AFFIDAVIT

JOHN H. KERWIN, of full age, having been duly sworn according to law, upon his oath deposes and says:

1. I am President of The Hills Development Company, the proposed Intervenor in the above-captioned matter and make this Affidavit in support of the movant's application for an

Order granting leave to intervyene in the above-captioned matter.

2. For the following reasons the movant has an interest relating to the transaction which is the subject of the within action, and is so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest:

- a. The Hills Development Company is the successor in title to the Allan-Deane Corporation, the Plaintiff in the action referred to in Paragraph 3, Count One of the Complaint. The Hills Development Company is a New Jersey partnership consisting of the Allan-Deane Corporation and Ligone Corporation as the partners. The Land Development Ordinance of the Township of Bedminster was adopted by the Township of Bedminster in order to bring the Township into compliance with Court Orders issued in the case of Allan-Deane Corporation, et al v. Township of Bedminster, et al, referred to in Paragraph 3 of Count One of the Complaint.
- b. Plaintiff in the within action contests the specific location of zones which permit commercial and/or retail uses (see Paragraph 8 of Count One of the Complaint). The Hills Development Company

(the movant), owns a substantial quantity of land which is zoned for planned unit development, of which 20% may be developed for commercial and/or retail uses under Section 606D of the Land Development Ordinance (June, 1980). On November 19, 1980, The Hills Development Company submitted a complete application for site plan approval to the Defendant Township's Planning Board, said site plan including commercial uses. If Plaintiff is successful in the within action, a Court Order to shift the commercial/retail zoning from the planned unit development zone to Plaintiff's property would adversely affect the progress of the planned unit development proposed by The Hills Development Company, applications for which are currently pending before the Bedminster Township Planning Board.

- c. Paragraph 14 of Count One of Plaintiff's Complaint declares the entire zoning scheme of the Township of Bedminster to be uncomprehensive in scope because of the alleged failure to provide for commercial uses necessary to serve residentially zoned areas. Any Court Order in this case which

permits Bedminster Township to reduce the quantity of lands zoned for residential use (and/or densities permitted thereon) as an alternative to zoning additional land for commercial/retail uses would delay or prevent the implementation of the development currently proposed by The Hills Development Company.

- d. One form of relief requested in all Counts of the Complaint is invalidation of the entire Land Development Ordinance. If Plaintiff is successful in this case and this remedy is granted, The Hills Development Company could be substantially delayed and perhaps barred from pursuing the planned unit development, applications for which are currently pending before the Bedminster Township Planning Board.
- e. The Hills Development Company has conducted extensive market studies to determine the commercial and service needs of the potential residential population of Bedminster Township under the new zoning in order to plan for the proper development of the commercial areas within the Planned

Development Zone and can assist the Court in measuring those needs.

3. The movant's interest is not adequately represented by the existing parties for the following reasons:

- a. Plaintiff's interest is in obtaining a Court Order requiring the rezoning of the entire Township of Bedminster. The movant's interest is in retaining the current Land Development Ordinance intact.
- b. Although Defendant's interest certainly is in defending its present land use scheme, (the product of many years of litigation), Defendants have no pecuniary or other interest in the efficient and timely processing of The Hills Development Company planned unit development application since this proposed development will substantially change the rural character of the Township.

4. This Application is both timely and prompt.


5. As a result of the movant's promptness in bringing this Application, if leave to intervene is granted, there will be no resultant delay since the period for pretrial discovery has just recently commenced.

6. If the movant is granted leave to intervene in the within action, subsequent litigation will be prevented

which might otherwise result if Defendant Township of Bedminster is ordered to rezone any portion of The Hills Development Company property.


7. If permission to intervene is granted to The Hills Development Company, the within litigation will not be further complicated and will, in fact, be simplified since the movant was an active participant in the rezoning process which generated the Zoning Ordinance in issue herein.

8. For all of the aforementioned reasons the movant, The Hills Development Company, should be granted permission to intervene in the Leonard Dobbs v. Township of Bedminster suit as a matter of right.



John H. Kerwin

Sworn to and Subscribed
before me this *14th* day
of *January*, 1981.



VALESKA W. ANDREN
A Notary Public of New Jersey
My Commission Expires July 28, 1985