

RULES - AD - 1984 - 260

8/3/84

o Orders finalizing denials of SJ. at 7/20/84
hearing

- v/letter to judge

- v/letter from D to judge -
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Pgs. 5

Notes:

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And the court having considered the Affidavits, Certifications, and Briefs submitted, and the arguments of counsel, and having determined that:

(i) Plaintiff has failed to prove the absence of any genuine issue of material fact as to the alleged facial invalidity of the Township of Bernards Land Development Ordinance;

(ii) Defendants have failed to prove the absence of any genuine issue of material fact as to alleged improper threats by plaintiff of Mt. Laurel-type litigation and as to the alleged lack of standing on the part of plaintiff;

(iii) Defendants' request to discover plaintiff's financial information is premature because financial information would be relevant primarily to the remedial phase of the case, if any; and

(iv) Plaintiff is not entitled to take discovery from Harvey Moskowitz unless and until he is designated by defendants as a proposed expert witness;

IT IS, on this 3 day of August, 1984, ORDERED that:

(1) Plaintiff's motion for summary judgment be and it hereby is denied; and further,

(2) Defendants' motion for summary judgment be and it hereby is denied; and further,

(3) Defendants' discovery requests, insofar as they seek to discover financial records of plaintiff, be and they hereby are suppressed as being premature, without prejudice; and further,

(4) Defendants' application for a protective order prohibiting plaintiff from deposing and taking discovery from Harvey Moskowitz be and it hereby is granted, provided, however, that all defendants are hereby ORDERED to serve notice upon counsel for plaintiff, ^{by} 9/20/84 ~~days after issuance of this court's written opinion in the case of AMO v. Township of Warren,~~ as to whether or not each of them proposes to use Harvey Moskowitz as an expert witness at trial, and provided further that if Harvey Moskowitz is designated as a proposed expert witness, this paragraph (4) shall, without further Order, be vacated.


EUGENE D. SERENTE, J.S.C.

BRENER, WALLACK & HILL

ATTORNEYS AT LAW

2-4 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540

(609) 924-0808

CABLE "PRINLAW" PRINCETON
TELECOPIER: (609) 924-6239
TELEX: 837652

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

GULIET D. HIRSCH
GERARD H. HANSON
J. CHARLES SHEAK**
EDWARD D. PENN†
NATHAN M. EDELSTEIN†
THOMAS L. HOFSTETTER**
ROBERT W. BACSO, JR.†
EDWARD M. BERNSTEIN‡
MARILYN S. SILVIA
THOMAS J. HALL
SUZANNE M. LAROBARDIER
ROCKY L. PETERSON
VICKI JAN ISLER
MICHAEL J. FEEHAN

* MEMBER OF N. J. & D. C. BAR
** MEMBER OF N. J. & PA. BAR
† MEMBER OF N. J. & N. Y. BAR
‡ MEMBER OF N. J. & FLA. BAR

FILE NO.

August 7, 1984

RECEIVED

AUG 8 1984

JUDGE SERPENTELLI'S CHAMBERS

file
10/8
The Honorable Eugene D. Serpentelli
Judge, Superior Court of New Jersey
Ocean County Courthouse
Toms River, NJ 08753

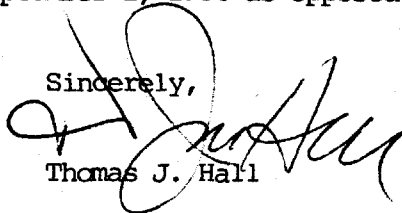
Re: Hills Development Company v. Township of Bernards
Docket No: L-030039-84 P.W.

Dear Judge Serpentelli:

We have received a copy of James Davidson's letter to you of July 25. In it, Mr. Davidson requests that a decision with respect to Harvey Moskowitz be deferred until September 20, 1984.

We would like to move this case forward as quickly as feasible, and believe that the period from July 20 to September 1 will provide adequate time for the Township to reach a decision on this matter. We would suggest that the deadline date be September 1, 1984 as opposed to September 20, 1984.

Sincerely,



Thomas J. Hall

TJH:te

cc: Arthur Garvin, Esq.
James Davidson, Esq.

Held to 8/2

FARRELL, CURTIS, CARLIN & DAVIDSON

ATTORNEYS AT LAW

43 MAPLE AVENUE

P. O. BOX 145

MORRISTOWN, N. J. 07960

(201) 267-8130

OF COUNSEL
FRANK J. VALGENTI, JR.

EDWARD J. FARRELL
CLINTON J. CURTIS
JOHN J. CARLIN, JR.
JAMES E. DAVIDSON
DONALD J. MAIZYS
LOUIS P. RAGO

171 NEWKIRK STREET
JERSEY CITY, N. J. 07306
(201) 795-4227

LISA J. POLLAK
HOWARD P. SHAW
CYNTHIA H. REINHARD
MARTIN G. CRONIN

July 25, 1984

RECEIVED

JUL 26 1984

JUDGE SERPENTELLI'S CHAMBERS

Honorable Eugene D. Serpentelli, J.S.C.
Court House, CN-2191
Toms River, New Jersey 08754

Re: The Hills Development Company
-v- The Township of Bernards, et al.
Docket No. L-030039-84 P.W.

Dear Judge Serpentelli:

Enclosed are an original and two copies of a proposed form of Order memorializing Your Honor's rulings at the July 20 return date of motions in this case.

At that hearing, Your Honor directed defendants to determine, within 20 days after the Warren opinion is issued, whether Harvey Moskowitz will be used as an expert witness. We later realized that such timing would cause great difficulties due to summer vacation schedules of myself, my associate, and township officials, which will interfere with conferences and consultations that will have to be undertaken in order to make the required decision as to use of Mr. Moskowitz as a witness. I understand that plaintiff's attorney, Mr. Hill, also will be away during part of that period.

Consequently, we respectfully request that the deadline for serving notice of defendants' decision in this regard be changed to September 20, 1984. In paragraph (4) of the enclosed Order, we have left a blank space for inserting the number of days that will be allowed for service of such notice. Alternatively, we suggest that by way of an insertion the pertinent phrase could recite: "within 20 days after issuance of this Court's written opinion in the case of AMG v. Township of Warren, or by September 20, 1984, whichever is later."

9/2/84

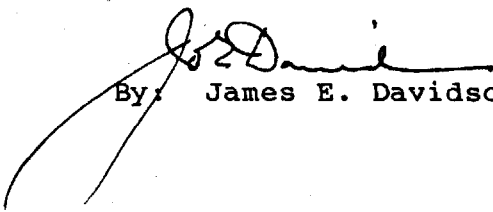
Honorable Eugene D. Serpentelli
July 25, 1984
Page Two

If there is no objection as to form by counsel for plaintiff, we respectfully request that the enclosed Order -- modified as above if there is no objection -- be entered and filed, and that a conformed copy be returned to us in the enclosed postpaid envelope.

This Order is being submitted under the five-day rule, R. 4:42-1(b).

Respectfully yours,

FARRELL, CURTIS, CARLIN & DAVIDSON


By: James E. Davidson

JED/kld
enclosures
cc: (with enclosure)
Henry A. Hill, Jr., Esq.
Arthur H. Garvin, III, Esq.