

RULS - AD - 1986 - 160

4/17/86

Correspondence re: Motion on Remand

Pgs 3

APR 9 1986

BRENER, WALLACK & HILL

ATTORNEYS AT LAW

2-4 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540

(609) 924-0808

JUDGE SERPENTELLI'S CHAMBERS

CABLE "PRINLAW" PRINCETON

TELECOPIER: (609) 924-6239

TELEX: 837652

HARRY BRENER
HENRY A. HILL
MICHAEL D. MASANOFF**
ALAN M. WALLACK*
GERARD H. HANSON*
GULIET D. HIRSCH
J. CHARLES SHEAR**

EDWARD D. PENN*
ROBERT W. SACSO, JR.*
MARILYN S. SILVIA
THOMAS J. HALL*
ROCKY L. PETERSON
MICHAEL J. FEEHAN
MARY JANE NIELSEN**
THOMAS F. CARROLL
MARTIN J. JENNINGS, JR.**
ROBERT J. CURLEY
EDDIE PAGAN, JR.
JOHN C. CHANG
JOSEPH A. VALES
DANIEL J. SCAVONE
MINDEY C. POSER*
DANIEL J. SHERIDAN
MATTHEW H. LUBART*
L. STEPHEN PASTOR**
GUY P. LANDER*
RUSSELL U. SCHENKMAN*

* MEMBER OF N.J. & D.C. BAR
** MEMBER OF N.J. & PA. BAR
* MEMBER OF N.J. & N.Y. BAR
* MEMBER OF N.J. & GA. BAR
* MEMBER OF PA. BAR ONLY
** MEMBER OF CON.
* CERTIFIED CIVIL

RUIS - AD - 1986 - 160

April 17, 1986

FILE NO. 3000-C

James E. Davidson, Esq.
Farrell, Curtis, Carlin & Davidson
43 Maple Avenue
Morristown, NJ 07960

Arthur H. Garvin, III, Esq.
Kerby, Cooper, Schaul & Garvin
9 DeForest Avenue
Summit, NJ 07901

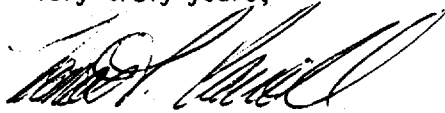
RE: Hills Development Company v. Tp. of Bernards

Gentlemen:

This is in regard to the pending Motion on Remand from the Supreme Court which has been filed on behalf of The Hills Development Company. This will confirm that The Honorable Eugene D. Serpentelli has advised through his law clerk that defendants' reply to said Motion is to be confined to addressing points I and II of the brief filed by Hills in support of the Motion. This will also serve to reconfirm that Judge Serpentelli has set down said Motion for argument on May 8, 1986 at 10:00 a.m.

Thank you for your attention to this matter.

Very truly yours,



Thomas F. Carroll

TFC:klp

CC: The Honorable Eugene D. Serpentelli, A.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*
GERARD H. HANSON*
GULIET D. HIRSCH
J. CHARLES SHEAK**

EDWARD D. PENN.+
ROBERT W. SACCO, JR.+
MARILYN S. SILVIA
THOMAS J. HALL+
ROCKY L. PETERSON
MICHAEL J. FEENAN
MARY JANE NIELSEN++
THOMAS F. CARROLL
MARTIN J. JENNINGS, JR.**
ROBERT J. CURLEY
EDDIE PAGAN, JR.
JOHN O. CHANG
JOSEPH A. VALES
DANIEL J. SCAVONE
MINDEY C. POSER*
DANIEL J. SHERIDAN+
MATTHEW H. LUBART+
L. STEPHEN PASTOR**
GUY P. LANDER*
RUSSELL U. SCHENKMAN+

* MEMBER OF N.J. & D.C. BAR
** MEMBER OF N.J. & PA. BAR
+ MEMBER OF N.J. & N.Y. BAR
++ MEMBER OF N.J. & GA. BAR
* MEMBER OF PA. BAR ONLY
** MEMBER OF CONN. BAR ONLY
Δ CERTIFIED CIVIL TRIAL ATTORNEY

April 9, 1986

FILE NO. 3000-0042

The Honorable Eugene D. Serpentelli
Judge, Superior Court of New Jersey
Ocean County Court House
Toms River, NJ 08753

RE: The Hills Development Co. v. Tp. of Bernards;
Docket No. L-030039-84 P.W.

Dear Judge Serpentelli:

As the Court is aware, The Hills Development Company ("Hills") has filed a Motion on Remand from the Supreme Court the return date of which is to be set by the Court. Since the filing of said motion, the circumstances have changed somewhat as outlined below.

The gist of the Motion on Remand is a request for an adjudication of development rights which Hills alleges it has acquired for a variety of reasons. Notwithstanding the fact that the Supreme Court Order of February 20, 1986 specifically granted to Hills the right to file an application asserting its development rights, the Township of Bernards expeditiously introduced an ordinance for the purpose of downzoning Hills' property from a density of 5.5 dwelling units per acre to a density of 3.0 units per acre. The downzoning ordinance, originally entitled Ordinance 764, was introduced as an "interim" ordinance pursuant to N.J.S.A. 40:55D-90. The pending Hills motion argues that such an interim ordinance is blatantly illegal pursuant to a recent amendment of N.J.S.A. 40:55D-90. Subsequent to the filing of Hills' motion, the Township Committee of the Township of Bernards introduced an amended form of Ordinance 764 in which some of the references to the interim nature of the ordinance were deleted. Substantively, however, Ordinance 764A is identical to Ordinance 764. (Copy of amended Ordinance 764A attached hereto). Ordinance 764A was adopted by the Bernards Township Committee on April 8, 1986.

Notwithstanding the fact that some references to the interim nature of the ordinance have been excised, Hills takes the position that Ordinance 764A is nevertheless an interim ordinance which has been expressly prohibited by the

Handwritten notes:
on way
how
from the
Chgs
5/16
9/1985
10-10-86
SET A FILE IN
1700 104
ST

RECEIVED
APR 16 1986

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*
GERARD H. HANSON*
GULIET D. HIRSCH
J. CHARLES SHEAR**

EDWARD D. PENN.+
ROBERT W. SACCO, JR.+
MARILYN S. SILVIA
THOMAS J. HALL+
ROCKY L. PETERSON
MICHAEL J. FEEMAN
MARY JANE NIELSEN++
THOMAS F. CARROLL
MARTIN J. JENNINGS, JR.**
ROBERT J. GURLEY
EDDIE PAGAN, JR.
JOHN Q. CHANG
JOSEPH A. VALES
DANIEL J. SCAVONE
MINDEY C. POSER*
DANIEL J. SHERIDAN
MATTHEW H. LUBART*
L. STEPHEN PASTOR**
GUY P. LAWDER*
RUSSELL U. SCHENKMAN+

* MEMBER OF N.J. & D.C. BAR
** MEMBER OF N.J. & PA. BAR
* MEMBER OF N.J. & N.Y. BAR
** MEMBER OF N.J. & GA. BAR
* MEMBER OF PA. BAR ONLY
** MEMBER OF CONN. BAR ONLY
+ CERTIFIED CIVIL TRIAL ATTORNEY

April 16, 1986

FILE NO. 3000-0042

James E. Davidson, Esq.
Farrell, Curtis, Carlin
and Davidson
43 Maple Avenue
Morristown, NJ 07960

Arthur H. Garvin, III, Esq.
Kerby, Cooper, Schaul & Garvin
9 DeForest Avenue
Summit, NJ 07901

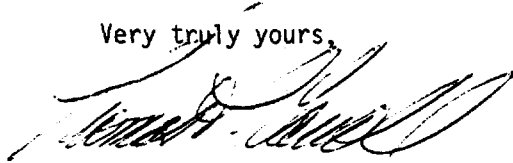
RE: The Hills Development Company v. Tp. of Bernards

Gentlemen:

This will confirm my conversations with your respective offices wherein I indicated that Judge Serpentelli has scheduled The Hills Development Company's pending motion on remand from the Supreme Court for argument on May 8, 1986 at 10:00 a.m. The Judge's chambers will be advising shortly as to which issues raised in said motion will be heard on May 8 if, in fact, the Judge does decide that he will not hear all issues raised by Hills.

Thank you for your attention to this matter.

Very truly yours,


Thomas F. Carroll

Handwritten note: Please advise Murray if you have not already

cc: Honorable Eugene D. Serpentelli, A.J.S.C.