

RULS-AD-1986-210

4/4/86

Notice of Appeal

pgs 6

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JUN 4 1986

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ATTORNEYS AT LAW

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PRINCETON, NEW JERSEY 08540

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JUDGE SERPENTELLI'S CHAMBERS  
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Δ CERTIFIED CIVIL

RULS - AD - 1986 - 210

June 4, 1986

FILE NO. 3000-

*Truman*

Ms. Elizabeth McLaughlin, Clerk  
Superior Court of New Jersey  
Appellate Division  
Hughes Justice Complex  
CN-006  
Trenton, NJ 08625

RE: The Hills Development Company v. The Township of Bernards et al.;  
Docket No.

Dear Ms. McLaughlin:

Enclosed please find the original and two copies of a Notice of Appeal and Case Information Statement to be filed in connection with the above-captioned matter. Also enclosed is a check in the amount of \$20.00 in satisfaction of the filing fee for this appeal.

Kindly mark one copy of the enclosed Notice of Appeal and Case Information Statement as "filed" and return same to me in the enclosed self-addressed, stamped envelope.

Thank you for your attention in this matter.

Very truly yours,

*Thomas F. Carroll*  
Thomas F. Carroll

TFC:klp

enclosures

CC: ✓ The Honorable Eugene D. Serpenteili, A.J.S.C. (w/enclosures)  
James E. Davidson, Esq. (w/enclosures)  
Arthur H. Garvin, III, Esq. (w/enclosures)

CIVIL CASE INFORMATION STATEMENT

JUN 6 - 1986

TITLE IN FULL: THE HILLS DEVELOPMENT COMPANY v. THE TOWNSHIP OF BERNARDS in the COUNTY OF SOMERSET, a municipal corporation of the State of New Jersey, THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BERNARDS, THE PLANNING BOARD OF THE TOWNSHIP OF BERNARDS and the SEWERAGE AUTHORITY OF THE TOWNSHIP OF BERNARDS. APPELLANT'S ATTORNEY(S): x Plaintiff Defendant Other (Specify)

JUDGE SERRENTELLI'S CHAMBERS FOR OFFICIAL USE ONLY APPEAL DOCKET NO.

NOTICE OF APPEAL FILED: DATE SENT:

NAME ADDRESS TELEPHONE CLIENT Thomas F. Carroll, Esq. 2-4 Chambers Street (609) - The Hills Development BRENER, WALLACK & HILL Princeton, NJ 08540 924-0808 Company

RESPONDENT'S ATTORNEY(S):\* James E. Davidson, Esq. 43 Maple Ave., Morristown, NJ 07960 1-201-267-8130 Tp. of Bernards; Tp. Cte. and Sewerage Authority of Bernards Arthur H. Garvin, III, Esq. 9 DeForest Ave., Summit, NJ 07901 1-201-273-1212 Planning Board of Tp. of Bernards

\*[INDICATE WHICH PARTIES, IF ANY, DID NOT PARTICIPATE BELOW OR WHO WERE NO LONGER PARTY TO THE ACTION AT THE TIME OF ENTRY OF THE ORDER/JUDGMENT BEING APPEALED.]

GIVE DATE AND SUMMARY OF TERMS OF JUDGMENT ENTERED BELOW: May 19, 1986. Plaintiff's motion to enforce the parties' settlement agreement and equitably estop Defendant from repealing Plaintiff's zoning was denied as a matter of law, without benefit of any factual hearing and a Final Order was entered.

Does this determination dispose of all issues as to all parties? \* YES xx NO If not, has it been certified as final pursuant to R.4:42-2? YES NO (If not, leave to appeal must be sought. R.2:2-4, 2:5-6.) Is the validity of a statute, executive order, franchise or constitutional provision of the state questioned? (R.2:5-2(h)). YES NO xx

GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY: Plaintiff filed exclusionary zoning litigation against Defendant municipality in May, 1984. Defendants offered to settle the litigation and ordinance amendments were adopted to effectuate the settlement. Plaintiff undertook a series of extensive developmental activities in reliance. All issues between the parties were resolved as of June, 1985 and agreed upon by the parties. Defendants repudiated the settlement and sought transfer to the Council on Affordable Housing which was granted by the Supreme Court with the proviso that Plaintiff was entitled to raise the issues addressed on this appeal. The trial court denied Plaintiff's request for relief as a matter of law and entered the final order appealed herein.

TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THIS APPEAL, AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R.2:6(a)(5). Appellant or cross appellant only.

The parties' agreement to settle this litigation in its entirety should be enforced.

The parties' agreement to settle the essential parameters of this lawsuit, as reflected in ordinance amendments adopted by Defendant municipality, should be enforced.

Due to Plaintiff's extensive expenditures and other items of reliance, Defendants should be equitably estopped from repealing the zoning previously applicable to Plaintiff's property.

\* The litigation in which this appeal arose has been "transferred" to the Council on Affordable Housing by way of New Jersey Supreme Court Order dated February 20, 1986. Said Order also remanded this matter to the trial court below for adjudication of the issues which resulted in the Final Order which is appealed herein. A copy of the Final Order is attached hereto. Plaintiff is also involved in zoning litigation with the Defendants herein, with the exception of Defendant Sewerage Authority, venued in the Law Division, Somerset County which litigation involves issues which the trial court ruled was beyond its jurisdiction.

All civil appeals will be screened under the Civil Appeals Settlement Program to determine their potential for settlement or, in the alternative, a simplification of issues, abbreviation of transcript and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question.

State whether you think this case may benefit from a conference.  
A negative response will not necessarily rule out the scheduling of a pre-argument conference.

YES \_\_\_\_\_ NO xx

Explain your answer: This appeal arose from Defendants' repudiation of a settlement. A conference is not likely to foster settlement. The issues and record are not so complex as to require a conference.

---

IS THERE ANY CASE NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

(A) Arises from substantially the same case or controversy as this appeal?

YES \_\_\_\_\_ NO xx

(B) Involves an issue that is substantially the same, similar or related to an issue in this appeal?

YES \_\_\_\_\_ NO xx

IF YES, STATE:

CASE NAME

DOCKET NO.

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DO YOU EXPECT TO FILE A LETTER BRIEF (R.2:6-2(b))?

YES \_\_\_\_\_ NO xx

The time in which to file your brief and appendix is governed by court rule unless modified by court order. If any circumstances exist which might justify a shorter or longer period of time within which to file your brief and appendix other than that provided by R.2:6-11, give a detailed explanation. Your answer does not alter the time limit set forth in the Rules of Court.

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In the event there is any change with respect to any entry on the Case Information Statement, appellant shall have a continuing obligation to file an amended Case Information Statement on the prescribed form.

THE HILLS DEVELOPMENT COMPANY

Name of Appellant

THOMAS F. CARROLL

Name of Counsel of Record

June 4, 1986

Date



Signature of Counsel of Record

NOTICE OF APPEAL

PLEASE PRINT OR TYPE

SUPERIOR COURT OF NEW JERSEY - APPELLATE DIVISION

TITLE OF ACTION AS CAPTIONED BELOW:

THE HILLS DEVELOPMENT COMPANY,

Plaintiff

v.

THE TOWNSHIP OF BERNARDS in the COUNTY OF SOMERSET, a municipal corporation of the State of New Jersey, THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BERNARDS, THE PLANNING BOARD OF THE TOWNSHIP OF BERNARDS and the SEWERAGE AUTHORITY OF THE TOWNSHIP OF BERNARDS,

Defendants.

NOTICE IS HEREBY GIVEN THAT Plaintiff - The Hills Development Company

APPEALS TO THE SUPERIOR COURT OF N. J., APPELLATE DIVISION, FROM THE JUDGMENT ( ) ORDER (X)

OTHER (SPECIFY) ( )

ENTERED IN THIS ACTION ON May 19 19 86 IN FAVOR OF Defendants

IF APPEAL IS FROM LESS THAN THE WHOLE, SPECIFY WHAT PARTS OR PARAGRAPHS ARE BEING APPEALED

Paragraphs 1 and 2 of Final Order (denying request to enforce settlement agreement and equitably estop Defendants from repealing zoning)

ARE ALL ISSUES AS TO ALL PARTIES DISPOSED OF IN THE ACTION BEING APPEALED? \*YES (X) NO ( )

IF NOT, IS THERE A CERTIFICATION OF FINAL JUDGMENT ENTERED PURSUANT TO R. 4-42-2? YES ( ) NO ( )

PRIORITY UNDER R. 1:2-5 YES (X) NO ( ) APPLICABLE SECTION UNDER THE RULE (1)

IN CRIMINAL, QUASI-CRIMINAL, AND JUVENILE CASES. NOT INCARCERATED ( ) INCARCERATED ( )

CONFINED AT

GIVE A CONCISE STATEMENT OF THE OFFENSE AND OF THE JUDGMENT, DATE ENTERED AND ANY SENTENCE OR DISPOSITION IMPOSED

\* See Case Information Statement for full description of procedural context.

ATTORNEY OF RECORD

NAME Thomas F. Carroll

ADDRESS Brener, Wallack & Hill, 2-4 Chambers Street Princeton, NJ 08540

PHONE NO. (609) 924-0808

ATTORNEY FOR Plaintiff

ON APPEAL FROM:

Law Division

TRIAL COURT STATE AGENCY

L-030039-84 P.W.

TRIAL DOCKET OR INDICTMENT NUMBER

Honorable Eugene D. Serpentelli

TRIAL COURT JUDGE

CIVIL (X) CRIMINAL ( ) JUVENILE ( )

**1** NOTICE OF APPEAL HAS BEEN SERVED ON:

NAME	DATE OF SERVICE	TYPE OF SERVICE
TRIAL COURT JUDGE Honorable Eugene D. Serpentelli	6/4/86	U.S. Mail
TRIAL COURT CLERK STATE AGENCY		
ATTORNEY GENERAL OR GOVERNMENTAL OFFICE UNDER R. 2:5-1 (h)		
OTHER PARTIES:		
NAME AND DESIGNATION	ATTORNEY NAME ADDRESS & TELEPHONE NO.	DATE OF SERVICE
Township of Bernards		
Township Committee of	James E. Davidson, Esq.	6/4/86
the Township of Bernards	FARRELL, CURTIS, CARLIN & DAVIDSON	
and the Sewerage Authority	43 Maple Avenue	
of the Township of Bernards	Morristown, NJ 07960	
	1-201-267-8130	
The Planning Board of the Township of Bernards	Arthur H. Garvin, III, Esq.	6/4/86
	KERBY, COOPER, SCHAUL & GARVIN	
	9 DeForest Avenue	
	Summit, NJ 07901	
	1-201-273-1212	

I HEREBY CERTIFY THAT I HAVE SERVED A COPY OF THIS NOTICE OF APPEAL ON EACH OF THE PERSONS REQUIRED AS INDICATED ABOVE.

June 4 19 86

*Thomas F. Carroll*  
 THOMAS F. CARROLL  
 SIGNATURE OF ATTORNEY OF RECORD

**2** PRESCRIBED TRANSCRIPT REQUEST FORM HAS BEEN SERVED ON:  
 (ALSO INDICATE IF SOUND RECORDED)

NAME	DATE OF SERVICE	AMOUNT OF DEPOSIT
ADMINISTRATIVE OFFICE OF THE COURTS CHIEF COURT REPORTING SERVICES	N/A (Transcript in Possession	
COURT REPORTER'S SUPERVISOR	of Counsel)	
CLERK OF COUNTY OR AGENCY		
COURT REPORTER		

I HEREBY CERTIFY THAT I SERVED THE PRESCRIBED COURT TRANSCRIPT REQUEST FORM ON EACH OF THE ABOVE PERSONS AND PAID THE DEPOSIT AS REQUIRED BY R. 2:5-3(d).

19

SIGNATURE OF ATTORNEY OF RECORD

**3** I HEREBY CERTIFY THAT:

( ) THERE IS NO VERBATIM RECORD.

( X ) TRANSCRIPT IS IN THE POSSESSION OF THE ATTORNEY OF RECORD.

( ) A MOTION FOR ABBREVIATION OF TRANSCRIPT HAS BEEN FILED WITH THE COURT OR AGENCY BELOW.

( ) A MOTION FOR FREE TRANSCRIPT HAS BEEN FILED WITH THE COURT BELOW.

June 4 19 86

*Thomas F. Carroll*  
 THOMAS F. CARROLL  
 SIGNATURE OF ATTORNEY OF RECORD

# Superior Court of New Jersey .

CHAMBERS OF  
JUDGE EUGENE D. SERPENTELLI  
ASSIGNMENT JUDGE



OCEAN COUNTY COURT HOUSE  
C.N. 2191  
TOMS RIVER, N.J. 08754

September 12, 1986

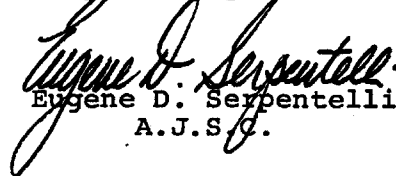
Mr. William J. Wintermute  
Civil Part Case Manager  
Somerset County Court House  
P. O. Box 3000  
Somerville, New Jersey 08876

Re: Spring Ridge Association  
et al. v. Township Committee  
of Bernards et al.

Dear Mr. Wintermute:

Enclosed find this Court's file in the  
above-referenced matter. This case is being forwarded to  
Somerset County pursuant to my Order of July 22, 1986, all  
Mt. Laurel matters having been disposed of.

Very truly yours,

  
Eugene D. Serpentelli  
A.J.S.C.

EDS:toc