

Municipalities Motions to Transfer
UL. v. Carteret, Monroe

9/18/85

- Letter to Judge in opposition to Monroe's Motion to Transfer

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September 18, 1985

Honorable Eugene D. Serpentelli
Ocean County Court House
CN-2191
Toms River, New Jersey 08754

* Re: Monroe Development Associates
v. Monroe Township

Dear Judge Serpentelli:

This will respond to Monroe Township's motion, returnable September 27, to transfer this exclusionary zoning case to the Council on Affordable Housing pursuant to P.L. 1985, c.222, §16.* On behalf of plaintiffs Lori Associates and HADB Associates, we oppose Monroe's request.

Does Monroe's motion pass the classic "hee-haw" test? We think not. Where litigants have labored for more than eleven years to achieve a result that simple morality should have compelled at the outset, where hundreds of hours of trial and appellate time have been expended on essentially frivolous defenses, where a recalcitrant municipality has used every conceivable means (including the present motion) to dodge and deflect its clear legal obligations, where

*There are constitutional problems with this section. In our view, however, they need not be reached.

Honorable Eugene D. Serpentelli

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final judgment day at last appears to be in sight, it is patently absurd to claim that plaintiffs herein will not sustain "manifest injustice" if the case is transferred to a brand new, as yet unorganized agency for a proceeding that is likely to start from scratch.

Of course, as Monroe's letter-brief (the 11th unpaginated page) states: "The Township's Mayor and Council have not been opposed to the idea of providing for a realistic opportunity for low and moderate income housing in the Township." Indeed, they have been trying to provide for the poor and near-poor for eleven years now. These things just take time.

We agree with only one sentence in Monroe's letter-brief (also at the 11th page): "This Honorable Court should focus on what will allow for the quickest and best planned construction of low and moderate income housing in the Township." For this reason, Monroe Township's ludicrous motion should be denied.

Respectfully,

CLAPP & EISENBERG

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