

Attorneys fees

10-28-83

OL v. Carter

- Conference results, summarized

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Superior Court of New Jersey

CHAMBERS OF
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE
C. N. 2191
TOMS RIVER, N. J. 08753

November 28, 1983

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Re: Urban League of Greater New Brunswick
v. Carteret - Middlesex County - C-4122-73

This will serve to confirm the results of a conference held on Friday, November 18, 1983 which was brought about by virtue of the motion brought by Mr. Moran to consolidate the suits of Garfield Company, Joseph Morris and Robert Morris, Browning-Ferris Industries et al and Cranbury Development Corp. with the Urban League v. Carteret action. I have also treated the motion as seeking to consolidate the Cranbury Land suit brought by Mr. Bisgaier.

I have decided to permit the consolidation of the five cases mentioned above subject to the conditions of the case management procedures which follow:

1. With regard to Garfield, Morris, Browning Ferris and Cranbury Development and Cranbury Land, (hereinafter "new cases"), all experts reports shall be filed on or before January 23, 1984.
2. With regard to the new cases, all interrogatories, except those relating to the new cases experts reports, shall be propounded within 60 days of November 18, 1983.
3. With regard to the new cases, depositions and interrogatories concerning the experts reports shall be completed by February 21, 1984.
4. An additional case management conference shall be held on Tuesday, January 24, 1984, at 10:30 a.m.

For the purpose of trial, the issues involved in this litigation shall be handled in the following order:

1. Determination of region and fair share.
2. Compliance hearings concerning each municipality. The order of proceeding as among the municipalities shall be decided at the time of pretrial or at the case management conference.
3. As to Cranbury's compliance hearing, the order of proofs shall be as follows:
 - a. A summary hearing on the validity of the TDC aspects of the ordinance.
 - b. Notwithstanding the Court's ruling as to validity of the TDC, there shall be a hearing following the summary hearing which shall determine whether the TDC is arbitrary and capricious as applied to the individual plaintiffs who challenge it.
 - c. There shall follow a hearing as to whether the zoning ordinance, aside from the TDC aspect, is arbitrary and capricious as applied to the plaintiffs.

d. That hearing will be followed by a hearing as to whether the zoning ordinance, including its TDC aspect, complies with Mount Laurel II.

e. The issues concerning the alleged section 1983 violations shall be severed and heard at a date to be set by the Court.

f. In the event the Court finds the TDC aspect of the ordinance to be ultra vires, the Court will consider the severing of the Morris action so that an appeal may be immediately pursued.

4. In the event of a finding of invalidity of any of the zoning ordinances of the seven municipalities involved, any plaintiff, whether or not the plaintiff has raised a Mount Laurel claim, shall have the right to participate in any subsequent proceedings which involve the appointment of a master in connection with the zoning ordinance revision.

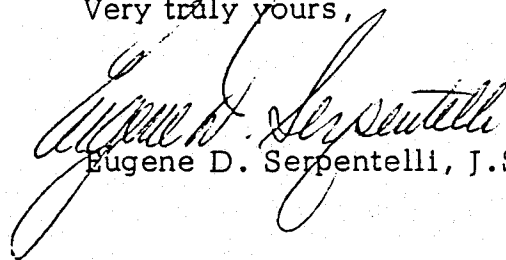
Mr. Moran is hereby requested to submit a simple order merely stating that his motion for consolidation, which is deemed amended to include the Cranbury Land suit, is granted subject to the terms and conditions set forth in the Court's letter of November 28, 1983. The order need not recite the terms of the letter.

A copy of this letter is being sent to Ms. Carla Lerman so that she is aware of the developments in this matter and also so that she may provide a copy of her report to the four new plaintiffs currently involved (Messrs. Bisgaler, Schatzman, Litwin and Buchsbaum - Mr. Farino has previously received a copy of the report). It was agreed at the conference that any party shall have 30 days from receipt of Ms. Lerman's report to submit to the Court any questions relating to that report for which clarification is sought from Ms. Lerman.

An additional copy of this letter is being sent to Frank Petrino, Esquire who has written to the Court on behalf of Ziransky by letter of November 15, 1983 indicating that an additional complaint is about to be filed on behalf of Mr. Ziransky which will somewhat track the pleadings in Garfield and Cranbury Land. Presuming that such a complaint is promptly filed with the Court, and assuming Mr. Petrino's willingness to abide by the terms and conditions of this letter, I would direct Mr. Petrino to file, both his complaint and an order for consolidation under the five day rule, which order would recite that the application is granted subject to compliance with the terms and conditions of this letter. I would, of course, entertain any objections to the proposed order which may be appropriate.

I wish to commend all counsel in this matter for the professional manner in which they have approached this difficult litigation and the cooperation that they have evidenced at our conference. I reiterate my willingness to be available to assist in any settlement efforts and my desire to deal with the problems which may develop in meeting the deadlines set forth in this letter.

Very truly yours,


Eugene D. Serpentelli, J.S.C.

EDS:RDH

CC: Carla Lerman

Frank Petrino, Esquire