

AMG

Timber

6-1-82

Letter re:

- w/ Cert in opposition to motion to dismiss
- w/ proposed order

ISS. 5

pi # 3241

AM00051V

REC'D AT CHAMBERS
JUN 3 1982
JUDGE MEREDITH

RAYMOND R. & ANN W. TROMBADORE

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
33 EAST HIGH STREET

SOMERVILLE, NEW JERSEY 08876

TELEPHONE
(201) 722-7555

RAYMOND R. TROMBADORE

ANN WILKIN TROMBADORE
OF COUNSEL

MARILYN RHYNE HERR

June 1, 1982

W. Lewis Bambrick, Clerk
Superior Court of New Jersey
Box 1300, State House Annex
Trenton, New Jersey 08625

Re: Timber Properties vs. Warren Township, et als.
Docket No. L-67820-80 P.W.

Dear Mr. Bambrick:

Enclosed for filing please find an original Certification in Opposition to Motion to Dismiss. A copy of the within Certification has been sent to the Honorable Arthur S. Meredith, before whom this motion is returnable, together with an original and five copies of a proposed form of order. Copies of the Certification and proposed form of Order have also been sent to the attorneys for the defendants.

Very truly yours,


Raymond R. Trombadore

smr

Enclosures

cc: ✓ Honorable Arthur S. Meredith
John E. Coley, Jr., Esq.
J. Albert Mastro, Esq.
Eugene W. Jacobs, Esq.

58492

REC'D

JUN 3 1982

MU-5

M. J. Dambit
Clerk

FILED

JUN 3 1982

DS-1

M. J. Dambit
Clerk

FILED

JUN 30 10 50 AM 1982

RAYMOND R. & ANN W. TROMBADORE
A Professional Corporation
33 East High Street
Somerville, New Jersey 08876
Telephone: (201) 722-7555
Attorneys for Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY
DOCKET NO. L-67820-80 P.W.

TIMBER PROPERTIES, a corporation :
of the State of New Jersey, :

Plaintiff, :

-vs.- :

THE TOWNSHIP OF WARREN, et als., :
Defendants. :

Civil Action

CERTIFICATION IN OPPOSITION
TO MOTION TO DISMISS

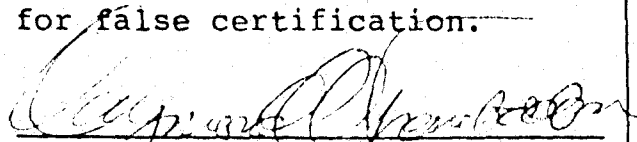
RAYMOND R. TROMBADORE, of full age, hereby certifies:

1. I am the attorney for the plaintiff, Timber Properties.
2. I have read the cross-motion filed by the Township of Warren seeking to dismiss the plaintiff's complaint in this matter.
3. The defendant's motion is predicated on the assumption that the Court's decision in the matter of AMG Realty Company, et al. vs. The Township of Warren, Superior Court of New Jersey, Law Division, Somerset County, Docket No. L-23277-80 is dispositive of the issues in the instant case.
4. The disposition in the AMG case is not dispositive as to the claims made by Timber properties. The plaintiff has requested that judgment be entered in its favor and against the defendants

on the first two counts of the complaint. With respect to the remaining counts of the complaint, it is the position of the plaintiff that the plaintiff is entitled to litigate those remaining issues depending upon the action taken by the defendant in rezoning of the township. The issues are not rendered moot. Clearly, the defendant cannot argue that the principle of res adjudicata must apply. The plaintiff, Timber Properties, has not had its day in court and was not a party to the AMG suit. These cases were not consolidated for trial. The third, fourth, fifth, sixth and seventh counts of the plaintiff's complaint in this case are distinct, and each count seeks a separate adjudication by the Court based upon facts which are peculiar to the property of the plaintiff. These counts must be preserved so that the plaintiff may have its day in court if the rezoning of properties in Warren Township does not afford this plaintiff the relief it seeks.

5. A form of Order is submitted with this Certification for the Court's consideration.

6. I certify that the statements made in this pleading are true. I am aware of the penalties for false certification.


RAYMOND R. TROMBADORE

DATED: June 1, 1982

RAYMOND R. & ANN W. TROMBADORE
A Professional Corporation
33 East High Street
Somerville, New Jersey 08876
Telephone: (201) 722-7555
Attorneys for Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY
DOCKET NO. L-67820-80 P.W.

TIMBER PROPERTIES, a corporation :
of the State of New Jersey, :

Plaintiff, :

Civil Action

-vs.- :

THE TOWNSHIP OF WARREN, et als., :

Defendants. :

ORDER GRANTING JUDGMENT TO
PLAINTIFF AND PROVIDING
FOR OTHER RELIEF

The plaintiff having moved for a judgment on the first two counts of the complaint in this matter and having moved to place the remaining counts of the complaint on the inactive list pending the rezoning of Warren Township; and

The defendant having filed a cross-motion seeking to dismiss the plaintiff's complaint; and

The Court having considered the certifications filed in support of said motions and in opposition thereto, and for good reasons shown;

IT IS on this day of June, 1982, ORDERED:

1. That judgment be entered in favor of the plaintiff, Timber Properties, a corporation of the State of New Jersey, and against the defendant, the Township of Warren, declaring the zoning

ordinance of the Township of Warren to be exclusionary and illegal as a matter of law. Said Township of Warren is ordered to rezone its properties in accordance with the dictates of the decision of the Supreme Court of New Jersey in the matter of N.A.A.C.P. vs. Township of Mt. Laurel, 67 N.J. 151 (1975), and more specifically in conformity with the judgment of this Court in the matter of AMG Realty Company, et al. vs. The Township of Warren, Superior Court of New Jersey, Law Division, Somerset County, Docket No. L-23277-80.

2. The remaining counts of the complaint in this matter be placed on the inactive list pending the action taken by the defendant Township of Warren in rezoning its lands as provided for in the preceding paragraph.

3. The Court shall retain jurisdiction of this matter, and the plaintiff shall be free to seek further relief from the Court based upon the judgment entered herein.

ARTHUR S. MEREDITH, J.S.C.

PAPERS CONSIDERED:

() Notice of Motion
() Movant's Affidavits
() Movant's Brief
() Answering Affidavits
() Answering Brief
() Cross-Motion
() Movant's Reply
() Other _____