

AMG

6-15-84

Answer of D two planning board

Pgs. 6

Pi # 3221

AM000156A

RECD. & FILED
SUPERIOR COURT
OF NEW JERSEY

JUN 18 1984

M.V. 15 R5
JOHN M. MAYSON
CLERK

LAW DIVISION UNIT

JUN 21 1984

SUPERIOR COURT OF N.J.
PAID

FILED

JUN 27 1984

M. DEAN HAINES, CLERK
COUNTY OF OCEAN

H40ck

HANDELMAN & JACOBS
381 NORTH AVENUE
DUNELLEN, NEW JERSEY 08812
(201) 968-2525

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY/OCEAN COUNTY

ATTORNEYS FOR Defendant, The Planning Board
of the Township of Warren.

RECEIVED

JUN 28 1984

JUDGE SERPENTELLI'S CHAMBERS
Docket No. L-034351-84

Plaintiff

SHAINEE CORPORATION

vs.

09

Defendant

TOWNSHIP OF WARREN, a municipal
corporation of the State of New Jersey,
located in Somerset County, New Jersey,
the TOWNSHIP COMMITTEE of the TOWNSHIP
of WARREN, the PLANNING BOARD of the
TOWNSHIP OF WARREN and the SEWERAGE
AUTHORITY OF THE TOWNSHIP of WARREN.

CIVIL ACTION

(Mount Laurel II)

ANSWER OF DEFENDANT
THE PLANNING BOARD OF
THE TOWNSHIP OF WARREN

The Defendant, The Planning Board of the Township of
Warren, having its principal office at 46 Mountain Boulevard,
in the Township of Warren, County of Somerset, New Jersey, by
way of Answer to the Complaint of Shainee Corporation, says:

ANSWER TO FIRST COUNT

1. Defendant does not have sufficient knowledge to
admit or deny the allegations of paragraph one and leaves
Plaintiff to its proofs.

2. Defendant admits the allegations contained in paragraphs 2 through 5.

3. Defendant does not have sufficient knowledge to admit or deny the allegations of paragraph 6 and leaves Plaintiff to its proofs.

4. Defendant admits the allegations contained in the second paragraph denominated as 6.

5. Defendant does not have sufficient knowledge to admit or deny the allegations contained in paragraphs 7 and 8 and leaves Plaintiff to its proofs.

6. Defendant admits to the Mount Laurel II decision but denies the precise interpretation given such opinion given by Plaintiff in paragraph 9.

7. Defendant admits the allegations contained in paragraphs 10 through 15.

8. Defendant denies the allegations contained in paragraph 16.

9. Defendant admits the allegations contained in paragraph 17.

10. Defendant does not have sufficient knowledge to admit or deny the allegations contained in paragraphs 18 and 19 and leaves the Plaintiff to its proofs.

11. Defendant denies the allegations contained in paragraph 20.

12. Defendant admits certain obligations imposed by Mount Laurel II but denies the remaining allegations of paragraph 21.

13. Defendant denies the allegations contained in both paragraphs denominated 22.

14. Defendant does not have sufficient knowledge to admit or deny the allegations contained in paragraphs 23 through 25 and leaves the Plaintiff to its proofs.

15. Defendant denies the allegations contained in paragraphs 26 through 30.

ANSWER TO SECOND COUNT

1. Defendant repeats it answers to the allegations contained in the FIRST COUNT of Plaintiff's Complaint as if fully set forth herein.

2. Defendant denies the allegations contained in paragraphs 2 through 7.

ANSWER TO THIRD COUNT

1. Defendant, Planning Board of the Township of Warren, makes now answer to the THIRD COUNT of Plaintiff's Complaint since the allegations contained therein are directed to the Sewerage Authority of the Township of Warren and this Defendant denies any of the allegations that may be construed to pertain to it.

FIRST SEPARATE DEFENSE

Issues such as region, fair share of low and moderate housing and methodologies pertaining thereto, the validity of the zoning ordinance, entitlement phase of builders remedy, and all other Mount Laurel II issues relating to Warren Township have been extensively litigated and therefore, Plaintiff is

barred from this action by reason of the doctrine of Res Judicata.

SECOND SEPARATE DEFENSE

The concepts of Mount Laurel II as they apply to individual municipalities, and Warren Township in particular, such as but not limited to, overzoning, reallocation of housing across taxing districts without reallocation of tax monies, affirmative devices, factors increasing fair share and resultant tax burdens on individuals based upon wealth, is violative of Due Process of Law and Equal Protection of the Law under the Fourteenth Amendment of the United States Constitution.

THIRD SEPARATE DEFENSE

Plaintiff has not met the tests for a builders remedy by not acting in good faith, by not attempting to obtain relief without litigation, and it has not vindicated the constitutional obligation in a Mount Laurel action.

FOURTH SEPARATE DEFENSE

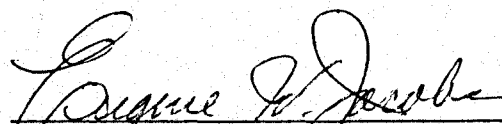
Plaintiff has failed to exhaust its administrative remedies.

FIFTH SEPARATE DEFENSE

To allow Plaintiff to intervene and give it standing as a party Plaintiff when the Mount Laurel II issues have been extensively litigated and without the Plaintiff meeting the requisites of a builders remedy would deprive Defendant, Township of Warren, and the Defendant, Planning Board of the Township

of Warren, of the powers of home rule provided under and by virtue of the Constitution of the State of New Jersey and the enabling statutes enacted in pursuance thereof.

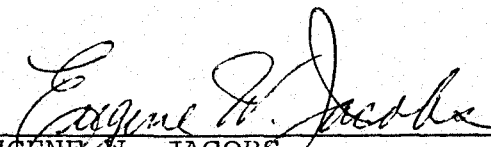
WHEREFORE, this Defendant demands judgment dismissing the Complaint.


EUGENE W. JACOBS
Attorney for Defendant,
Warren Township Planning Board

DATED: June 15, 1984

CERTIFICATION

I hereby certify that the original of this pleading has been filed with the Clerk of the Superior Court, CN 971, Trenton, N.J., and that copies of same have been served upon all known counsel involved, by regular mail and served within the time prescribed by Rule 4:6.


EUGENE W. JACOBS
Attorney for Defendant,
Warren Township Planning Board

I, SUSAN L. KASMAN, a secretary with the firm of Handelman & Jacobs, Esqs., mailed a copy of the within Answer to the following by regular mail on June 15, 1984.

Honorable Eugene W. Serpentelli
Superior Court of New Jersey
Ocean County Court House
CN 2191
Toms River, NJ 08753

John E. Coley, Jr., Esq.
Kunzman, Coley, Yospin and Bernstein, P.A.
15 Mountain Avenue
Warren, NJ 07060

J. Albert Mastro, Esq.
7 Morristown Road
Bernardsville, NJ 07924

Joseph E. Murray, Esq.
McDonough, Murray and Korn, P.C.
555 Westfield Avenue
Westfield, NJ 07090

Raymond R. Trombadore, Esq.
Raymond R. and Ann W. Trombadore, P.C.
33 East High Street
Somerville, NJ 08876

Thomas Jay Hall, Esq.
Brener, Wallack & Hill, Esqs.
2-4 Chambers Street
Princeton, NJ 08540

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.



SUSAN L. KASMAN, Secretary

DATED: June 15, 1984.