

AMG

7-24-84

Letter re:

proposed order

- w/ order denying Ps motion to
consolidate & deny partial SJ

Pgs. 5

AM0001690

file

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July 24, 1984

RECEIVED

JUL 26 1984

JUDGE SERPENTELLI'S CHAMBERS

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

Re: Shainee v. Township of Warren
 Docket No. L-034351-84
 Order in Shainee Corporation -
 Consolidation, Summary Judgment

Dear Al:

Enclosed is the original and eight copies of Order which I have prepared in the above matter which was argued before Judge Serpentelli on June 29, 1984. I delayed in preparing this Order until I received a transcript of the argument.

Please sign the Orders and forward them to Gene Jacobs for his execution and further transmittal. Thank you.

Very truly yours,

KUNZMAN, COLEY, YOSPIN & BERNSTEIN

[Signature]
 John E. Coley, Jr.

JEC/gl

Enclosures

cc: Honorable Eugene W. Serpentelli
 Eugene W. Jacobs, Esq.
 Joseph E. Murray, Esq.
 Raymond R. Trombadore, Esq.
 Thomas Jay Hall, Esq.
 Warren Township Committee

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Attorneys for Defendants, Township of Warren and
The Township Committee of the Township of Warren

Shainee Corporation,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
	:	OCEAN COUNTY
Plaintiff,	:	DOCKET NO. L-034351-84
	:	
- vs -	:	Mt. Laurel II-Somerset County
	:	
	:	Civil Action
	:	
TOWNSHIP OF WARREN, etc.,	:	ORDER DENYING PLAINTIFF'S
et als,	:	MOTION FOR PARTIAL CONSOLIDATION
	:	AND ALSO DENYING THE MOTION OF
Defendants.	:	DEFENDANT, SEWERAGE AUTHORITY OF
	:	THE TOWNSHIP OF WARREN,
	:	FOR SUMMARY JUDGMENT

THIS MATTER, having been opened to the Court on June 29, 1984, by Thomas J. Hall, Esq. of Brener, Wallack and Hill, attorneys for plaintiff, on an application for an order consolidating the within action with the consolidated cases of AMG Realty Corp. v. Township of Warren, Skytop Land Corp. v. Township of Warren, and Timber Properties Corp. v. Township of Warren, consolidated as Docket No. L-2377-80 P.W.; and also opened to the Court by J. Albert Mastro, Esq., the attorney for the

defendant, Sewerage Authority of the Township of Warren, on an application for Summary Judgment; and John E. Coley, Jr., Esq. of Kunzman, Coley, Yospin & Bernstein, appearing on behalf of the defendants, Township of Warren and Township Committee of the Township of Warren; Eugene W. Jacobs, Esq., of Handelman and Jacobs, appearing on behalf of the defendant, Planning Board of the Township of Warren; Joseph E. Murray, Esq., of McDonough, Murray and Korn, appearing on behalf of plaintiffs in the above cited consolidated case, AMG Realty Corp. and Skytop Land Corp.; and Raymond R. Trombadore, Esq., of Raymond R. and Ann W. Trombadore, appearing on behalf of plaintiff in the above cited consolidated case, Timber Properties Corp., and the Court having considered the moving papers and those filed in opposition thereto and having considered the oral argument of all counsel and good cause for the entry of this order having been shown:

It is, on this _____ day of _____, 1984, hereby ORDERED that:

1. Plaintiff, Shainee Corporation's motion to consolidate the within action with AMG Realty Corp., et als v. Township of Warren, et als, Superior Court of New Jersey, Docket No. L-2377-80 P.W., is hereby denied.

2. All discovery in the within matter is hereby stayed for a period of thirty (30) days from June 29, 1984, or until the Court renders a decision in the case referred to in section number one above, whichever period is shorter.

3. The plaintiff, Shainee Corporation, shall have the opportunity to provide to any master who is appointed in AMG Realty

Corp., et als v. Township of Warren, et als, supra, or if a master is not appointed, to the appropriate governmental officials, any proposal it has with respect to Mount Laurel construction in the Township of Warren in the event there exists a need to rezone parcels of land within Warren Township over and above those which are zoned by the Township in response to any finding of noncompliance in the litigation entitled, AMG Realty Corp., et als v. Township of Warren, supra. This right is exactly what any other property owner in the Township of Warren would have.

4. By entry of the within order, there should be no inference that plaintiff, Shainee Corporation, has any entitlement to a builder's remedy, and that issue will be subsequently decided when the time is appropriate for that decision within this case. The issue of Shainee Corporation's right to a builder's remedy is reserved by the Court.

5. Should it appear, as a result of the ruling in AMG Realty Corp., supra, that there is still a fair share to be satisfied (over and above that which may be supplied by the plaintiffs in that litigation), any direction by the Court to Warren Township or to the master will be to consider the satisfaction of that balance of the said fair share, not in the context of another's right to a builder's remedy, but in the context of the appropriate sites for the same.

6. The plaintiff, Shainee Corporation, shall have the right to receive any proposed revision of any ordinance should the Court order an ordinance revision in the AMG Realty Corp. case referred to above.

7. Defendant, Sewerage Authority of the Township of Warren's motion for Summary Judgment is hereby denied, without prejudice.

EUGENE W. SERPENTELLI, J.S.C.

I hereby consent to the form and entry of the within Order.

J. Albert Mastro, Attorney for
defendant, Sewerage Authority of
the Township of Warren

HANDELMAN AND JACOBS, Attorneys
for defendant, Planning Board
of the Township of Warren

By Eugene W. Jacobs

MC DONOUGH, MURRAY AND KORN,
Attorneys for plaintiff, AMG
Realty Corp. and Skytop Land Corp.

By Joseph E. Murray

RAYMOND R. AND ANN W. TROMBADORE,
Attorneys for plaintiff, Timber
Properties Corp.

By Raymond R. Trombadore

BRENER, WALLACK AND HILL,
Attorneys for plaintiff,
Shainee Corporation

By Thomas J. Hall