

AMG

4-30-85

Letter in opposition to
Consolidation notes by Jaf.
-w/ sample propaganda

PSS. 8

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IN REPLY REFER TO FILE NO 5323-02

April 30, 1985

RECEIVED

MAY 7 1985

FUDGE COUNTY CLERK'S OFFICE

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

Re: AMG Realty Company, et als. vs. Township of Warren

Dear Judge Serpentelli:

On behalf of AMG Realty Company and Skytop Land Corp. this letter is being submitted in opposition to the application by the Township of Warren to consolidate the above case with the Green Brook Township case. This motion is returnable before the Court on May 10, 1985.

Our reasons for opposing the application are as follows:

1. Contrary to the statement contained in Paragraph 2 of Mr. Coley's certification that both the AMG and Green Brook case "are at substantially the same juncture," this is not so. In the AMG case a builder's remedy has been entered by court order as to the plaintiffs therein (subject to possible modification thereof as to Timber Properties) whereas in the Green Brook Township case no such remedy was entered. In fact, Section 6 of the order of December 21, 1984, entered in the Green Brook Township case specifically, in Paragraph 6 thereof, leaves this issue open for "future agreement of the parties; and if they are unable to agree, then the Court shall determine this issue with the aid of the master." Because of this major factual distinction the cases are not equal in timeliness as to a compliance hearing nor is it certain that the Top O' The World site will, in fact, be selected by the municipality for development and if not selected, there would most assuredly be further judicial hearings and possible appeals with respect to the omission.

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2. On Page 3 of the Township's brief in this matter it is asserted that the AMG/Skytop tracts as well as the Timber Properties tract "are in the same general area of Warren as the World tract." This is also factually inaccurate. The Top O' The World site is several miles from the location of the Timber and/or AMG/Skytop tracts. The Top O' The World site is within the general proximity of the central business area of the Township of Warren at or about the Pheasant Run Shopping Center. Irrespective of the proximity of the sites to each other, the Township of Warren, being a party to the Green Brook litigation, is in a position to therein set forth its opposition to the development of the Top O' The World site and/or utilization of the same for satisfaction of the Green Brook Mt. Laurel obligation.

3. In the event these matters are consolidated it is reasonably foreseeable that the Township of Warren will seek modified planning reports, traffic reports, sewer reports, et cetera, each of these being ostensibly required by virtue of the fact that all prior reports and testimony in this already lengthy case has not contemplated the intrusion of the Top O' The World site as part of the overall picture. Delay is obviously a benefit to the Township of Warren as has been its stated purpose throughout the history of this litigation. If the Township of Warren seeks consolidation because of the development of land in Green Brook Township which may result in usage of Warren Township road systems, it would probably also seek to consolidate the action now pending in the Borough of Watchung which would probably also result in increased traffic utilizing Mountain Boulevard which is a major common roadway servicing both Watchung and Warren. If the proximity of adjacent municipalities is used as the guideline for consolidation of cases, there is probably no end to the protraction of this type of litigation and delays incident to such consolidations and compounding of already difficult problems.

4. The Top O' The World and AMG cases do not involve a common question of fact and the common questions of law have already been adjudicated. Factually, Top O' The World seeks to input housing which would ostensibly impact upon Washington Valley Road in Warren Township. No tract which is the subject matter of the builder's remedy in the AMG case exists anywhere near that location nor will it have traffic input on the Washington Valley Road within miles of the Top O' The World site. Nor are there any questions of law remaining that are common to Green Brook and Warren Township. Green Brook is consenting to satisfy its obligation, Warren Township is not and it is the only party in this case that proclaims its intention to appeal and fight this matter all the way to the Supreme Court. The legal issues involving Green Brook are limited to the

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application of the builder's remedy and since Warren Township is a party to that case it will have its opportunity to set forth its position on that issue in that case.

The consolidation of the matters is not necessary for the purpose of protecting the claimed interests of the Township of Warren. As a community adjoining Green Brook Township it has an absolute right to become a party to oppose any prospective rezoning legislation of that community which could have an impact upon the roadways, sewers or other infrastructure of the Township of Warren. In addition, Warren Township, being a party to the rezoning litigation in Green Brook Township, has more than the usual opportunity to input by way of experts' reports and testimony that may be necessary to accomplish its objectives. It further has the right of appeal from action taken by the Township of Green Brook without the necessity of instituting a new law suit to challenge the action taken by that community with respect to the Top O' The World litigation.

The AMG/Skytop matter has been pending before the courts since 1980 whereas the Green Brook matter was not initiated in the courts until August of 1984. It is patently unfair to create a situation, by virtue of a prospective consolidation, which will most likely further prolong the rights of the plaintiffs in the AMG matter to the judicial process to which it is entitled. The opportunity of a municipality to utilize the procedures of intervention, as referred to on Page 6 of the Township's brief is also misplaced. There is no need for the proposed consolidation to enable the Township of Warren to participate in the questions of region and regional need. These issues have already been decided in its litigation, which decision has been accepted by Green Brook Township.

The Township of Warren has gone on public record clearly stating that it intends to do all that is within its power to forestall or prevent the satisfaction of its Mt. Laurel obligations. In July of 1984 it was ordered to again complete a rezoning and has submitted to the Court, after requested extensions of the time limits granted to it, a rezoning package which is inappropriate and not in compliance. (This factual and legal conclusion, however, being for the compliance hearing itself and is expressed herein as my opinion only.) The Township Attorney, John E. Coley, Jr., Esquire, at the public hearings conducted by the Township on November 29, 1984, stated as follows:

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As far as I'm concerned, the Mt. Laurel case is not constitutional law, it's unconstitutional law. It's attempting to reduce every single town in this state to the lowest possible denominator and its, as far as I'm concerned, an illegal case and ultimately I feel it will be proven to be illegal in the Federal courts and for the Lausten's benefit, I hope those units are never built by your house because if we win this case, they're not going to be built by your house

This ordinance is not being approved by this Committee, this ordinance is introduced under protest in accordance with an order of the court and if we win, you won't see anything. Nobody will see anything in this town. The town will stay the way it should be." (Transcript of hearing proceedings before the Township of Warren, November 29, 1984, page 54, lines 5-21)

Very important to the town and office of the court

This is only an example of the attitude of the Township of Warren and is not the most recent example. Attached hereto is a copy of a mailing that was distributed to all residents of the Township of Warren on or about April 17, 1985, consisting of three separate pages together with a prepostage paid envelope directed to Governor Kean. It is noteworthy that the sponsors of the attached materials, Joe Bercaw and Paul Archbold, are present members of the Warren Township Planning Board, having been appointed as such since January of 1983 after Mt. Laurel II was promulgated and after the two individuals became outspoken citizens of Warren Township strongly opposing Warren Township's duty to satisfy its Mt. Laurel obligation. It would well serve the Township of Warren to add procedural complexities to this case that would further delay its finalization. Such delay is contrary to the stated hope by the Supreme Court and Mt. Laurel II that the Mt. Laurel II decision will seek to reduce protracted trials and substantial expenses of litigation.

We respectfully request that the Court not consolidate the Green Brook Township matter with the Warren Township case.

Respectfully yours,

McDONOUGH, MURRAY & KORN
A Professional Corporation

Joseph E. Murray
Joseph E. Murray

JEM:bp

Enclosure

McDONOUGH, MURRAY & KORN

A PROFESSIONAL CORPORATION
COUNSELORS AT LAW

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cc: John E. Coley, Jr., Esquire
Ozzard, Rizzolo, Klein, Mauro & Savo, Esquires
J. Albert Mastro, Esquire
Lanigan, O'Connell & Chazin, Esquires
Frizell and Pozycki, Esquires
Eugene W. Jacobs, Esquire
Raymond R. Trombadore, Esquire
Harmon R. Clark, Jr., Esquire
William T. Sutphin, Esquire
Mezey and Mezey, Esquires
Mr. Richard B. Neff

CONCERNED CITIZENS OF WARREN

VOLUNTEERS NEEDED TO HELP CONTINUE
OUR FIGHT AGAINST MT. LAUREL II .

REMEMBER! THIS IS YOUR TOWN
THAT IS AFFECTED BY THIS DECISION.

WITHOUT YOUR CONTINUED SUPPORT, WE MAY NOT BE
ABLE TO CONTINUE IN OUR MOVEMENT TO

“ UNDO MT. LAUREL II ”

A LITTLE OF YOUR TIME WILL GO A LONG WAY
TOWARD OUR ULTIMATE GOAL
OF KEEPING WARREN TWSP. RURAL

PLEASE CALL JOE BERCAW - 647-4305 -647-4458

PAUL ARCHBOLD -647-6944

ENCLOSED IS A LETTER TO GOV. KEAN URGING HIM TO VETO THE FAIR HOUSING ACT. THIS BILL IS CURRENTLY ON THE GOVERNOR'S DESK AWAITING HIS SIGNATURE. IT IS THE FEELING OF THE CCW THAT THIS BILL IS A LEGISLATIVE VERSION OF THE MOUNT LAUREL II DECISION, AND WILL DO MUCH MORE HARM THAN GOOD FOR WARREN TOWNSHIP AND ALL OF NEW JERSEY.

MR. KEAN HAS INDICATED HIS DESIRE TO VETO THE BILL AND REQUEST MODIFICATIONS. WE VIEW THIS PROPOSED ACTION AS A THINLY VEILED ATTEMPT NOT TO ROCK THE BOAT IN THIS ELECTION YEAR. THE ENCLOSED LETTER URGES THE GOVERNOR TO VETO THE BILL IN ITS ENTIRETY AND PRESS FORWARD FOR LEGISLATION THAT WILL RECTIFY THE CHAOS CREATED BY THE MOUNT LAUREL II DECISION AND ADDRESS THE PROBLEM OF AFFORDABLE HOUSING IN A FAIR AND EQUITABLE MANNER. WE ALSO WISH TO REMIND MR. KEAN THAT IN THIS ELECTION YEAR OUR BACKING FOR HIM AT THE POLLS IS DIRECTLY TIED TO HIS SUPPORT ON THIS MOST CRITICAL ISSUE.

PLEASE HELP. THIS WILL TAKE ONLY A FEW MINUTES OF YOUR TIME. SIMPLY HAVE ANY HOUSEHOLD MEMBERS OF LEGAL VOTING AGE SIGN THE ENCLOSED LETTER, PLACE IT IN THE PRE-STAMPED, PRE-ADDRESSED ENVELOPE AND PLACE IT IN YOUR MAILBOX. TIME IS RUNNING OUT QUICKLY, PLEASE MAIL TODAY.

April 17, 1985

Honorable Thomas H. Kean
125 West State Street
Trenton, New Jersey 08625

Dear Governor Kean:

On February 29, 1984, in an article on Mt. Laurel II, you were quoted in the New York Times as saying "It's a socialistic concept, a Communist concept, a dictatorship." Since that time you have been basically silent on the matter of Mount Laurel II.

On your desk at this time you have a bill, "The Fair Housing Act" which awaits your signature. This bill is a legislative version of the Mount Laurel II Court decision of 1983 which we urge you to veto.

As you know, Somerset County has traditionally been a strong supporter of Republican candidates in the past. At least eight Somerset County townships are now involved in Mount Laurel II litigation and press for your support in their movement to eliminate this court decision. In Warren Township alone, 3500 people have signed a petition to this effect. May we remind you that your winning margin in 1981 was 1,796 votes. Even though you are politically stronger today, a movement to keep thousands of your supporters away from the polls on election day in November, 1985, will be initiated if this bill is not vetoed. This bill must be vetoed in its entirety. Furthermore, a constitutional amendment is necessary to protect the towns now involved in litigation. It is also imperative that action be taken that will nullify all previous court mandated actions, judgements, remedies and decisions concerning Mount Laurel II.

We demand that the problem of affordable housing be addressed in a fair and equitable manner. It should be such that all the people of New Jersey can live with the decision, not just the lawyers, planners, developers and builders who will reap the financial rewards of the present decision.

Name Street Township State Zip Code

Signed _____
Signed _____
Signed _____
Signed _____