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Havers v. Far Hills

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memorandum of law in opposition to Far Hills
challenge to SGP

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ALOIS HAUEIS, et al., : SUPERIOR COURT OF NEW JERSEY
Plaintiffs, : LAW DIVISION: SOMERSET COUNTY
AND OCEAN COUNTY
vs. : DOCKET NO. L-73360-80
BOROUGH OF FAR HILLS, et al., : Civil Action
Defendants. : (Mt. Laurel)

MEMORANDUM OF LAW IN OPPOSITION TO
FAR HILL'S CHALLENGE TO THE SDGP

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On the Brief:

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PRELIMINARY STATEMENT AND
STATEMENT OF FACTS

For purposes of this brief and plaintiffs' opposition to defendants' challenge to the SDGP, plaintiffs rely upon plaintiffs' Proposed Factual Findings submitted to Judge Lucas and the Proposed Findings of Fact and Conclusions of Law issued by Judge Lucas. Plaintiffs also rely upon the decision of Judge Stephen Skillman in Timber Properties, Inc., et al vs. Chester Township, et al, Docket No. L-39452-83 PW, dated January 19, 1984 (copy of which is attached hereto).

In its brief, Far Hills seeks to ignore the standard established in Mt. Laurel II for challenges to the SDGP and establish a new and different test for such challenges. Apparently, defendants are acknowledging that the SDGP concept map is not arbitrary or capricious in including a portion of Far Hills within the Growth Area. Far Hills, nonetheless, contends that sound land use planning requires the adjustment of the growth area boundary line. Even under this novel standard, which paranthetically was not accepted or followed by Judge Skillman in Timber Properties vs. Chester, defendants' proofs and argument fall far short of justifying a change in the SDGP.

All of the testimony in the record overwhelmingly reveals that the designation of a portion of Far Hills within the Growth Area was not arbitrary or capricious and that sound planning criteria demonstrate the reasonableness of imposing a regional housing obligation on Far Hills. See plaintiffs' Proposed Findings of Fact, pp 24-31 and 52-53. With respect to the argument that

sound land use planning does not support the Growth Area designation, the facts and testimony overwhelmingly demonstrate that every important land use planning document has designated a portion of Far Hills, including plaintiffs' property, for growth and higher density housing. The Somerset County Master Plan designates a portion of Far Hills, including plaintiffs' property as "Village Neighborhood" suitable and targeted for housing at 5 to 15 families per acre. See the testimony of Arthur Reuben, T (11/9/83) 85-4 to 24 and Plaintiffs' Proposed Findings of Fact, p 30-31. Furthermore, the TriState Regional Plan includes the village portion of Far Hills within an area suitable and planned for future higher density residential growth. See Plaintiffs' Proposed Findings of Fact, p 38-39 and Judge Lucas' Proposed Finding of Fact #5.

ARGUMENT

DEFENDANTS HAVE FAILED TO MEET THEIR
SUBSTANTIAL BURDEN OF ESTABLISHING THAT
THE SDGP IS ARBITRARY OR CAPRICIOUS WITH
RESPECT TO FAR HILLS: MOREOVER, THE RECORD
OVERWHELMINGLY SUPPORTS THE REASONABLENESS
OF THE DESIGNATION OF FAR HILLS AS PARTIALLY
GROWTH AREA AND PARTIALLY LIMITED GROWTH AREA

In So. Burlington Co. NAACP v. Mt. Laurel Township,
92 N.J. 158 (1983) ("Mt. Laurel II"), the Supreme Court established
three specific exceptions to allow a party to seek to relieve a
municipality from any Mt. Laurel obligation. See Mt. Laurel II
at 92 N.J. 241. Defendants apparently seek to rely on the first
exception which the Court described as follows:

The first exception recognizes the
possibility of errors on the part of
the planning group that prepared the
SDGP. No trial court should, however,
simply substitute its judgment for
the state's planners' under that
exception. Not only must the evidence
show that the conclusion and the
classification were arbitrary and
capricious, but the party challenging
the characterization must contend with
the obvious fact that lines must be
drawn somewhere and that merely to
show that one municipality containing
a "growth area" is remarkably similar
to a neighboring one that includes no
"growth area" is not enough: the party
must show that it was arbitrary and
capricious not to place the line some-
where else. Mt. Laurel II, 92 N.J. at
241.

As pointed out by Judge Skillman in Timber Properties, et al vs.
Chester, et al. . . . "the burden cast upon any party attempting to
challenge the designations in the State Development Guide Plan
would be an extremely heavy one." Timber Properties, et al vs.
Chester, et al at p. 13.

When the above legal principles are applied to the facts set forth in Judge Lucas' Proposed Findings of Fact and the entire record, it is readily apparent that defendants have failed to meet their heavy burden of challenging the SDGP. Moreover, even if one accepts defendants new standard for challenges to the SDGP, the record overwhelmingly demonstrates that all sound land use planning documents and doctrines justify, if not mandate, concentration of future housing development on plaintiffs' property since it lies within the growth areas of the SDGP, the Somerset County Master Plan and the TriState Regional Development Guide. Contrary to defendants' arguments, all of the planning goals and objectives of these documents are directly served by concentration of future development within the Growth Areas and Village Neighborhood areas of Far Hills, Bedminster, Peapack-Gladstone, otherwise known as the 206 Corridor.

This is the same 206 Corridor growth area which was subjected to intense scrutiny and upheld by Judge Skillman in Timber Properties, Inc. vs. Chester. Moreover, in commenting on the reasonableness of the 206 Growth Corridor, Judge Skillman pointed out in Timber Properties vs. Chester that unlike Chester, which was entirely excluded from the Growth Area, ". . . Peapack and Far Hills are directly in between the employment concentration found at the Beneficial Complex in Peapack-Gladstone and the emerging employment and residential development areas of Bedminster, Bridgewater and Bernards Township." See Opinion in Timber Properties, et al vs. Chester Township, at 40.

Contrary to defendants' perceptions, Far Hills is not an island free from the planning and development needs and responsibilities of the region. Defendants weakly contend that the North Branch of the Raritan and the steep slopes of the Watchungs are the most obvious reason why Far Hills remains undeveloped. Considering the proximity of Interstate Route 287 and 78 which traverse the Watchungs and the ready access to these highways across the Raritan River on Route 202, it is obvious that these alleged "natural boundaries" are meaningless. Furthermore, it is far more obvious that the most exclusionary zoning in the State of New Jersey, 10 acre minimum lot zoning over 95% of the municipality, has been more growth restrictive than any "natural boundaries".

It is readily apparent that the State Development Guide Plan designation of Far Hills is not arbitrary or capricious. The Court should not interfere with the judgment of the State planners who defeated the SDGP; nonetheless, even if one conducts an independent review of the facts and planning opinions in the record, the evidence overwhelmingly supports the reasonableness of the inclusion of a portion of Far Hills, including plaintiffs' property, within the Growth Area. Far Hills, based upon all planning facts, opinions, documents and doctrines, clearly bears a portion of the regional housing obligation.

CONCLUSION

For the foregoing reasons, judgment should be entered holding that the SDGP designation of Far Hills as being within the growth area is not arbitrary or capricious. The Court should accordingly hold that the Borough of Far Hills has a regional Mt. Laurel housing obligation.

Respectfully submitted,

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Attorneys for Plaintiffs

By: 
THOMAS F. COLLINS, JR.

Dated: September 24, 1984