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12/31/84

interim order of settlement

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File

FILED DEC 31 1984
E. D. ... J.S.C.

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ATTORNEY FOR Defendants

Plaintiff

ALOIS HAUEIS, ERNA HAUEIS, JOHN OCHS
and PRISCILLA OCHS,

vs.

Defendant

THE BOROUGH OF FAR HILLS, THE PLANNING
BOARD OF FAR HILLS, THE BOROUGH COUNCIL
OF FAR HILLS, and HENRY ARGENTO, THE
MAYOR OF FAR HILLS.

SUPERIOR COURT
OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY
OCEAN COUNTY

Docket No. L-73360-80

CIVIL ACTION
INTERIM ORDER OF
SETTLEMENT

This matter having come before the Court on the joint application of the parties for the entry of a consent judgment in which the parties have reached agreement on the nature of a builder's remedy to be incorporated herein, and the Court having reviewed the proposed Findings of Fact rendered by the Honorable David G. Lucas, Superior Court of New Jersey, Law Division, Somerset County, before whom a portion of the above matter was tried, and for good cause shown.

It is on this *31st* day of December 1984, ORDERED AND
ADJUDGED:

FILED
DEC 31 1984

1. Notwithstanding any land use or zoning regulation to the contrary, plaintiffs be and are hereby granted a builder's remedy by which they may lawfully develop the lands and premises described in the complaint, consisting of 19.2 acres in the Borough of Far Hills, County of Somerset, State of New Jersey, and designated as Block No. 6A, Lot 4/7, on the official tax map of the Borough of Far Hills, for multi-family purposes and in a manner consistent with the terms and conditions of this judgment.

2. The builder's remedy awarded to plaintiffs by this judgment is the right to build multi-family housing units at a gross density of 6.5 units per gross acre which equals 125 dwelling units. Twenty (20%) percent of the units (25) to be constructed will be affordable to lower income households, all of which shall be sale rather than rental units.

3. Of the affordable units, fifty (50%) percent shall be affordable to moderate income households and fifty (50%) percent shall be affordable to low income households.

4. Plaintiffs shall submit a development application incorporating their builder's remedy to the Planning Board of the Borough of Far Hills for its input, review and approval which shall include, among other things, the following (a) construction of a detention basin on the northwest portion of the property to address presently existing drainage and anticipated drainage from the project to be constructed (except that the Borough will cooperate in such detention basin project by acquiring such rights in the adjoining property as are reasonably necessary for such basin), (b) restoration of both sides of that portion of Sunnybranch Road abutting the subject premises in accordance with existing municipal standards, and sufficient screening to separate the anticipated construction from

existing and abutting ten (10) acre residential development, Route 202 and the Railroad Station. Plaintiffs shall comply with all existing Ordinances of the Borough of Far Hills, except as otherwise provided herein. This process, however, may not be utilized by the Planning Board to unreasonably delay or hinder the project or to reduce the proposed number of dwelling units, or otherwise to prevent plaintiff from developing its multi-family development at densities of 6.5 units per gross acre. Furthermore, neither the Planning Board nor the municipality may impose any exactions or restrictions upon the plaintiffs or the proposed project that are not necessary for health and safety.

5. The phasing schedule for the construction of the lower income units relative to the market units shall be as follows:

<u>PERCENTAGE OF TOTAL MARKET HOUSING UNITS</u>	<u>MINIMUM PERCENTAGE OF LOWER INCOME HOUSING UNITS</u>
25	0
50	25
75	75
100	100

6. The Court does hereby find and determine the following facts: (a) The Borough of Far Hills has limited commercial and service facilities, primarily for use by local residents, (b) most land within the growth area is characterized by at least one of four environmental constraints, i.e., flood plain, steep slopes, high water table and depth of bedrock less than one foot, (c) within the growth area of Far Hills the only property potentially suitable and available for lower income housing is that owned by plaintiffs and identified in this Order. As a result of these findings, the Court concludes that the Borough's fair share of the region's present and prospective housing needs shall be limited to seven (7)

indigenous and twenty-five (25) present (reallocated) and prospective new units.

The Borough of Far Hills shall be given a period of ninety (90) days from the date of this Order to submit to the Court for its review and approval revised zoning Ordinances and Land Use Regulations providing for its fair share allocation as indicated herein. Said reduced fair share allocation from the AMG formula shall be reviewed and approved by the Master as warranted because of peculiar circumstances in Far Hills and unavailability of developed or undeveloped property for such purposes.

7. The Borough of Far Hills shall incorporate within its revised zoning Ordinances and Land Use Regulations a mechanism for establishing the price at which units must be sold to be affordable to low and moderate income households and the mechanisms that will be implemented to ensure that the units remain affordable to lower income households for an appropriate period of time.

8. The Borough and the plaintiffs shall make arrangements with neighboring Bedminister Township to fully dispose of all sewage from development of their premises as aforesaid. The costs resulting from plaintiff's development, including the cost of a plant expansion, shall be borne by plaintiffs (plaintiffs will pay the costs of sewers resulting only from construction of their 125 units) and in the event plaintiffs determine to utilize any of the existing collector sewers within the Borough of Far Hills, they agree to contribute as an off-site improvement, a reasonable sum of money proportionate to their use to address infiltration problems. The Borough of Far Hills reserves the right to review and approve the method proposed by plaintiffs to dispose of sewage and in this process agrees to cooperate with plaintiffs toward that objective.

9. Plaintiffs agree to contribute the sum of \$50,000.00 to the Borough of Far Hills for the specific purpose of funding costs entailed by the Borough toward satisfying its Mount Laurel obligation, including implementation

of the within Order. Said \$50,000.00 shall be paid as follows:

- (a) 25% upon issuance of the first building permit,
and
- (b) 25% upon completion of the first 25% of
the market units, and
- (c) 25% upon completion of the first 50% of
the market units, and
- (d) 25% upon completion of the first 75% of
the market units.

10. The Court shall designate a Special Master, George M. Raymond, to assist the defendant Borough of Far Hills in preparing the ordinance changes contemplated herein and to review the site plan and to assist plaintiffs to achieve the means of obtaining sewage service to the proposed 125 housing units. The special Master shall consult with all parties. The cost of the Special Master to be shared equally by each of the parties. In the event the parties are unable to agree relative to any matter required to implement the objective of the within judgment or fail to achieve said objectives within six (6) months of this Order, the matter shall be submitted to the Court for determination.

11. The Borough of Far Hills shall be granted repose from any further Mount Laurel litigation during the ninety (90) day period aforesaid.

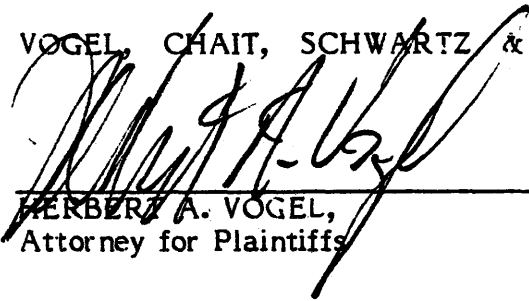

HON. EUGENE D. SERPENTELLI, J.S.C.

Consented as to Form and Entry:



J. ALBERT MASTRO
Attorney for Defendants

VOGEL, CHAIT, SCHWARTZ & COLLINS



HERBERT A. VOGEL,
Attorney for Plaintiffs