

- Order denying Respondent's Motion for Final Remand

• attach: ↳ Bishop's certification in support of a Notice of Motion for Remand dated 7-18-97

↳ letter to Bishop from Middleton re: a resolution requesting that entire PAC/HCF tract be included in Somerset County / Upper Partian ~~WMP~~ (WMP)

• resolution enclosed

↳ letter to ^{Bishop} ~~Middleton~~ from ^{Middleton} ~~Bishop~~ re: 12 month Status report dated 4-8-97

3 pages

Notes: double sided pages

HI 0000500

A-5349-95T

ORDER ON MOTION

IN THE MATTER OF THE PETITION FOR
SUBSTANTIVE CERTIFICATION OF THE
HOUSING ELEMENT AND FAIR SHARE PLAN
OF THE TWP OF HILLSBOROUGH ET AL

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A -005349-95T1
MOTION NO. M -007952-96
BEFORE PART: V
JUDGE(S): KLEINER
BRAITHWAITE

FILED
APPELLATE DIVISION

26 1997

MOTION FILED:
ANSWER(S) FILED:

JULY 24, 1997
AUGUST 04, 1997
AUGUST 04, 1997

BY: COAH
BY: NJ FUTURE INC
BY: HILLSBOROUGH ALLIANCE

SUBMITTED TO COURT: AUGUST 20, 1997

REC'D
APPELLATE DIVISION

AUG 26 1997

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS ON THIS

22nd DAY OF AUGUST, 1997, HEREBY ORDERED AS FOLLOWS:

MOTION BY RESPONDENT
- FOR FINAL REMAND

GRANTED DENIED OTHER
() (X) ()

SUPPLEMENTAL:

SEP - 2

I hereby certify that the foregoing is a true copy of the original on file in my office.

R. M. Lox

Clerk

GPS 33-99

FOR THE COURT:

JUKFS1

Steven G. Kleiner
STEVEN G. KLEINER J.A.D.

PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY
R. J. Hughes Justice Complex
CN 112 - 25 Market Street
Trenton, New Jersey 08625

By: William P. Malloy
Deputy Attorney General
(609) 292-9302

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5439-95TI

IN THE MATTER OF THE PETITION FOR) CERTIFICATION IN SUPPORT OF
SUBSTANTIVE CERTIFICATION OF THE) A NOTICE OF MOTION FOR
HOUSING ELEMENT AND FAIR SHARE) REMAND
PLAN OF THE TOWNSHIP OF)
HILLSBOROUGH, SOMERSET COUNTY)

Shirley M. Bishop, P.P., by way of certification states:

1. I am the Executive Director of the New Jersey Council on Affordable Housing.

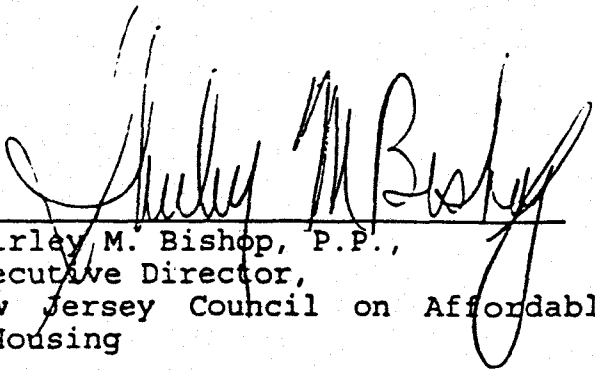
2. In my capacity as Executive Director I received a letter dated April 8, 1997 from John D. Middleton, Township Administrator, Township of Hillsborough, concerning the township's 12 month status report on the provision of sewer service to the PAC/HCF tract. A copy of this letter is attached as Exhibit A to this certification.

3. I have also received another letter from Mr. Middleton dated June 27, 1997 concerning Hillsborough's decisions with regard to the extension of sewer service to the PAC/HFC tract. This letter is attached as Exhibit B.

4. On July 9, 1997 I presented these two letters to the New Jersey Council on Affordable Housing at its regular monthly meeting in executive session. Based upon the letters, the Council

decided to seek a remand of this appeal, so that the Council may consider the effect of Hillsborough's recent decisions on the continuing viability of the fair share plan to which the Council granted substantive certification and so that the Council may take appropriate action with regard to Hillsborough's fair share plan.

5. I hereby certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.



Shirley M. Bishop, P.P.,
Executive Director,
New Jersey Council on Affordable
Housing

DATED: July 18, 1997



Township of Hillsborough

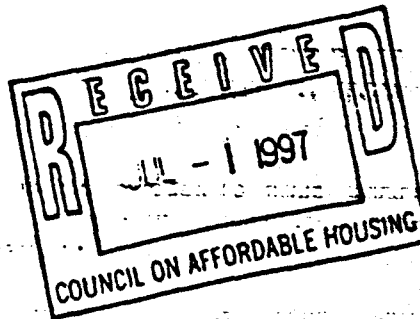


COUNTY OF SOMERSET
MUNICIPAL BUILDING
AMWELL ROAD
NESHANIC, NEW JERSEY 08853

(908) 369-4313

June 27, 1997

Ms. Shirley M. Bishop, P. P.
Executive Director
Council on Affordable Housing
CN 813
Trenton, N. J. 08625-0813



Dear Ms. Bishop,

As I indicated to you in my April, 8, 1997 status report, the Hillsborough Township Planning Board, at its April 3, 1997 meeting, passed a resolution requesting that the entire PAC/HCF tract be included in the Somerset County/Upper Raritan Watershed Wastewater Management Plan (WWMP). At their meeting of April 22, 1997, the Hillsborough Township Committee reserved the right to endorse or not endorse the Planning Board's recommendation. On June 11, 1997, the developer of the Greenbriar at the Village independently petitioned NJDEP for inclusion of their lands in the WWMP.

Since the developer has requested inclusion in the WWMP and has an application for preliminary subdivision approval before the Planning Board, the Hillsborough Township Committee saw no reason to request the County to include the Mill Lane area in the WWMP; therefore, at their meeting on June 24, 1997, they voted to overrule the Planning Board's recommendation. They believe the public processes followed by NJDEP and the Hillsborough Township Planning Board should be allowed to proceed to conclusion without being prejudged. When those processes are finished, the Hillsborough Township Committee will be required to take action, under NJDEP regulations, and they will.

If you need more information on this matter, please let me know.

Sincerely,

John D. Middleton
Township Administrator

Encl.

cc: Hillsborough Township Committee
Ed Halpern, Township Attorney, w/encl
Frank Yurasko, Township Litigation Attorney, w/encl
James A. Farber, Special Litigation Counsel

**RESOLUTION REGARDING THE STATUS OF THE PAC/HCF OVERLAY ZONE IN
THE MILL LANE AREA IN THE HILLSBOROUGH TOWNSHIP WASTEWATER
MANAGEMENT PLAN**

WHEREAS, on April 3, 1997, the Hillsborough Township Planning Board adopted a resolution recommending changes to the Hillsborough Township portion of the Somerset County/Upper Raritan Watershed Wastewater Management Plan; and

WHEREAS, by resolution of April 22, 1997 the Hillsborough Township Committee requested that the Somerset County Planning Board defer any action on the Hillsborough Township Planning Board resolution of April 3, 1997 until such time as the Hillsborough Township Committee has a chance to review and endorse it; and

WHEREAS, as part of that resolution, the Hillsborough Township Planning Board recommended including the PAC/HCF overlay zone in the Mill Lane area in the Hillsborough Township Wastewater Management Plan; and

WHEREAS, U. S. Homes and the Hillsborough Alliance for Assisted Living have applied for preliminary approval of a major subdivision in the Mill Lane area to be known as Greenbriar at the Village; and

WHEREAS, on June 11, 1997, the developer petitioned the New Jersey Department of Environmental Protection for inclusion of their lands in the Somerset County/Upper Raritan Watershed Wastewater Management Plan; and

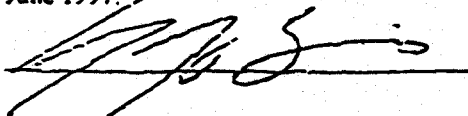
WHEREAS, both the Hillsborough Township Planning Board and the New Jersey Department of Environmental Protection have clearly defined public processes for reaching their decisions; and

WHEREAS, the Hillsborough Township Committee believes both processes should be allowed to proceed to conclusion.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey, that the changes recommended by the Hillsborough Township Planning Board relative to the PAC/HCF zone are overruled and the PAC/HCF zone should not be included in the Hillsborough Township portion of the Somerset County/Upper Raritan Watershed Wastewater Management Plan.

I, Gregory J. Bonin, Hillsborough Township Clerk, hereby certify that the above resolution is a true and correct copy of a resolution adopted by the Township Committee of the Township of Hillsborough at a regular and duly convened meeting held on June 24, 1997.

In witness thereof I have set my hand and affixed the seal of the Township of Hillsborough this 25th day of June 1997.



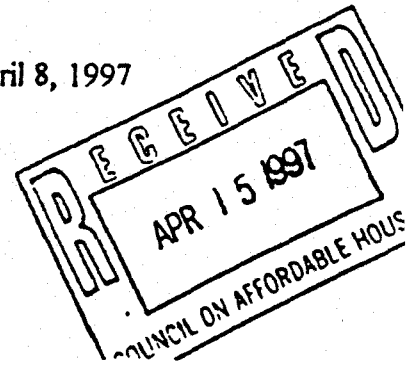


Township of Hillsborough

COUNTY OF SOMERSET
MUNICIPAL BUILDING
AMWELL ROAD
NESHANIC, NEW JERSEY 08853

TELEPHONE
(908) 369-4313

April 8, 1997



Ms. Shirley M. Bishop, P. P.
Executive Director
Council on Affordable Housing
CN 813
Trenton, N. J. 08625-0813

Re: Twelve month Status Report on Hillsborough Township's Substantive Certification

Dear Ms. Bishop,

As you are aware, satisfaction of Hillsborough Township's Fair Share Plan is dependent on DEP approval of the Somerset County/Upper Raritan Watershed Wastewater Management Plan, which includes the extension of the sewer area to the PAC/HCF tract. In November, 1996, the Township Committee requested that County and DEP review of the WWMP be deferred six months so that the Planning Board could review it and possibly modify it. That review has been completed and the Planning Board, at its April 3, 1996 meeting, passed a resolution requesting that the entire PAC/HCF tract be included in the WWMP.

In July, 1996, a developer, U. S. Homes Corporation, submitted an application for preliminary subdivision approval to the Hillsborough Township Planning Board. That application included the construction of the elements of our Fair Share Plan. In August, 1996, the application was withdrawn. In December, 1996, the application was resubmitted and is now being considered by the Planning Board.

If you need more information on this matter, please let me know.

Sincerely,

John D. Middleton
Township Administrator

cc: Hillsborough Township Committee
Ed Halpern, Township Attorney
Frank Scarantino, Township Engineer