

NEW JERSEY COUNCIL ON  
AFFORDABLE HOUSING  
DOCKET NO.

URBAN LEAGUE OF GREATER NEW  
BRUNSWICK, et al.,

Plaintiffs,

Civil Action

v.

OPINION

THE MAYOR AND COUNCIL OF THE  
BOROUGH OF CARTERET, et al.,

Defendants.

This matter comes before the Council on Affordable Housing on the application of intervenor Castle Group, Inc., (Castle), pursuant to N.J.A.C. 5:91-11.1, for an order permitting it to formally intervene in the case, and dissolving any restraints imposed by the Honorable Eugene Serpentelli, J.S.C., on property designated as Block 745.2, Lot 6 in the Township of Piscataway, Middlesex County.

The full history of Piscataway's participation in Mount Laurel litigation is set forth in South Burlington County N.A.A.C.P. v. Mount Laurel, 92 N.J. 158 (1983) (Mount Laurel II), and Hills Dev. Co. v. Bernards Tp. in Somerset Cty., 103 N.J. 1 (1986), and will not be repeated here. However, for purposes of this opinion it is important to note that the court in Mount Laurel II found Piscataway's land use ordinances to be unconstitutional, and

remanded the case to the trial court for a determination of the town's fair share. The trial court proceeded to issue on December 11, 1984 a scarce resources order restraining Piscataway from approving any non-Mt Laurel development in all areas found to be "suitable" for Mt. Laurel housing by the court appointed master. This order, which effectively covered most vacant land in the town, was issued at a time when the fair share number for Piscataway was estimated at over 4,000. Subsequently, the trial court set Piscataway's fair share number at 2,215, and a judgment was entered accordingly on September 17, 1985. The case was transferred to the Council as per the Hills decision, supra, 103 N.J. at 74.

Castle is the equitable owner of property located in Piscataway and designated as Block 745.2, Lot 6 on the town's tax map. The property comprises approximately 20 acres. Castle took over equitable title to the property on June 5, 1984, but has not obtained legal title due to the scarce resources order in question. Castle paid the purchase price of \$525,000.00 at the time of closing of equitable title, and has assumed over \$50,000.00 in additional expenses. Finally, Castle has participated throughout the Mount Laurel litigation involving Piscataway, although it has never formally intervened in the case.

The issue before the Council is whether it should exempt Castle's 20 acre property from the existing scarce resources order, thus permitting Castle to utilize the property for non-Mount Laurel purposes. In order to do so, the Council must be satisfied that the exemption would not in any manner impair Piscataway's ability to meet its Mount Laurel fair share obligation.

It is the Council's conclusion that the present motion should be granted. At oral argument on the motion, it was undisputed that the 20 acre parcel in question is not situated so as to be indispensable to Piscataway's satisfaction of its Mt. Laurel obligation. The location of Castle's property is not especially well suited to Mt. Laurel housing, and there is clearly adequate vacant, suitable property elsewhere in the municipality. Further, the Council notes, under the Fair Housing Act and regulations, that Piscataway's fair share number has been set at 911, significantly lower than previously calculated. The Council thus concludes that lifting of the restraints in question would not in any manner impair Piscataway's meeting of its Mt. Laurel obligation.

Therefore, for the reasons set forth above, the Council will order that the plot in question be exempted from the coverage of the prior restraints issued by the Hon. Eugene Serpentelli, J.S.C.

COUNCIL ON AFFORDABLE HOUSING

By: \_\_\_\_\_  
Arthur R. Kondrup  
Chairman