

NEW JERSEY COUNCIL ON AFFORDABLE
HOUSING
DOCKET NO.

IN THE MATTER OF GARDEN PARK)
MOBILE HOMES' REQUEST FOR AN)
EXEMPTION)

Civil Action

OPINION

SCARLE BUS-NELOS / WATON

This matter comes before the Council on Affordable Housing by a motion filed by Garden Park Mobile Homes (GPMH) for an order granting it an exemption from the scarce resource order issued by the Council on December 1, 1986 in the case of Real Estate Equities, Inc. v. Holmdel Township, Docket No. 86-1.

The procedural history of this case is not in dispute. Following oral argument on October 20, 1986, the Council issued a scarce resource order dated December 1, 1986 and amended January 5, 1987. The order was premised on the Council's finding that water capacity in Holmdel Township constituted a scarce resource at that time. The Council opinion noted that Holmdel's pre-credited need was 642 low and moderate income units (after subtraction of the drastic alteration figure), of which 626 represented the new housing component. In order to meet that figure through inclusionary zoning at a 20% set-aside, Holmdel would thus require water capacity for approximately 3,130 new housing units. The Council found that Shorelands Water Company, Inc. had at that time an unallocated

water capacity sufficient to accommodate, at a maximum, 300 single family units in its Holmdel franchise area. Finally, the Council found that no evidence existed to indicate that any alternative water source was available. Thus, as Holmdel had insufficient unallocated water capacity to meet its Mt. Laurel obligation, the Council ordered that Holmdel Township, the Township Planning Board, and Shorelands be restrained from allocating any further water capacity to any applicant within Shoreland's franchise area, who had not already received a contract or commitment for water capacity (with certain exceptions).

Subsequently, Holmdel commenced the Council mediation and review process. Mediation is scheduled to end by early September, 1987, and the Township's housing element has not yet been finalized. However, the present plan proposes transferring 300 units through a Regional Contribution Agreement. This would leave a new housing component of 326 to be provided through inclusionary zoning at a 20% set aside, for a total of 1,630 new units. No indication has been received by the Council that Shoreland's unallocated water capacity has been increased, or that a new source of water has been made available for the area.

As noted, the motion filed by GPMH seeks an exemption from the scarce resource order. The affidavit of Stanley Klimowicz owner and operator of GPMH, indicates that the exemption is for addition of 10 new mobile homes in Holmdel. There are presently 39 such units in Holmdel, with 87 additional units on contiguous property in Hazlet. Klimowicz states that, following addition of the 10 units, no further expansion can be undertaken in Holmdel,

due to lack of available land. GPMH has received the necessary sit plan approvals for the new units, subject to obtaining of an exemption from the Council. Finally, Klimowicz states that the projected price of the new units will be between \$45,000 and \$75,000, and that the units will have no noticeable effect upon the aquifer.

It is the Council's determination that the requested exemption must be denied. As indicated above, it is undisputed that water remains a scarce resource in Holmdel. As at the time of the original scarce resource order, there is simply insufficient unallocated water capacity to provide for all of Holmdel's fair share obligation. No evidence has been presented to indicate that this situation has changed in any way. Holmdel's fair share obligation has not changed. Even if the Township does transfer out 300 units pursuant to a RCA (which has not yet received Council approval) the necessary 1,630 units far exceed the remaining unallocated water capacity. Further, there is no evidence that Shoreland's capacity has been increased, or that a new water source has been made available. Thus the loss of any further water capacity will serve to simply reduce an already inadequate water supply, and render satisfaction of the Township's Mt. Laurel obligation more unrealistic. Finally, petitioner notes that the proposed new units would be relatively inexpensive. However, they are not part of the Township's Mt. Laurel plan; nor is there any indication that they meet the full council regulatory requirements, such as affordability controls.

Thus, for all of the above reasons, the Council will order that the motion for an exemption from scarce resource restraints in Holmdel Township filed by GPMH shall be denied.

COUNCIL ON AFFORDABLE HOUSING

By: 

Arthur R. Kondrup
Chairman

Dated: 9/28/07