

DWYER & CANELLIS, P.A.
150 Elm Street
Westfield, New Jersey 07090
(201)233-2000
Attorneys for Burnheade Associates

Z.V. ASSOCIATES, a Partnership : NEW JERSEY COUNCIL ON
organized under the Laws of : AFFORDABLE HOUSING
the State of New Jersey, :

Plaintiff, :

v. :

THE BOROUGH OF WATCHUNG, a : CERTIFICATION IN SUPPORT
Municipal Corporation of the : OF MOTION FOR RELEASE
State of New Jersey, located : FROM COAH RESTRAINT ORDER
in Somerset County, New Jersey, :

Defendant.

PAUL J. BURNS, of full age, certifies as follows:

1. I am an attorney of the State of New Jersey, an associate in the firm of Dwyer & Canellis, P.A. attorneys for Burnheade Associates.

2. Our office represents Jane Cole, John Manhardt and Richard Van Benschoten t/a Burnheade Associates owners of Block 44.03 Lots 2 & 3, which property is incorporated in the temporary restraining order issued by the New Jersey Council on Affordable Housing on or about February 17, 1987.

3. In connection with the Motion for Imposition of Restraints to Preserve Scarce Resources by the plaintiff, George W. Canellis, of our firm filed a reply certification in opposition to the motion outlining the position of our clients, a copy of which is attached hereto.

4. Despite our clients' position that their property should not be included in the Housing Element Fair Share Plan of Watchung Borough they participated in the mediation and ultimately agreed to make a voluntary contribution in the amount of \$150,000.00 to the Watchung regional contribution.

5. Our clients are not receiving the benefit of any additional units for their project based upon their contribution into the regional contribution agreement.

6. Burnheade Associates has a development application presently pending before the Watchung Board of Adjustment, however, due to the Temporary Order entered by COAH no formal approval can be granted to our clients by the Board.

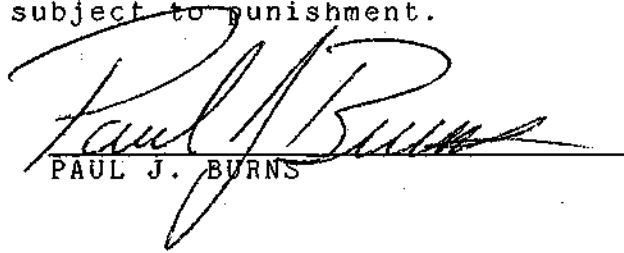
7. A settlement has been reached involving all parties in the Housing Element Fair Share Plan and is incorporated in a Development Mount Laurel Agreement prepared by Edwin D. Kunzman on behalf of the Borough. It is our understanding that the proposed draft of this agreement has been submitted to COAH for approval, a copy of which is attached hereto.

8. Since a settlement has been reached, although some minor details may need to be addressed, and our clients have voluntarily agreed to contribute into that plan, without the benefit of any additional units, it is respectfully requested that the motion to release this particular property from the restraints of the temporary restraining order so as to permit formal approval of the application before the Watchung Board of Adjustment be granted.

9. The granting of this motion will not prejudice any

of the parties involved nor will it interfere with the approval
proceeds for the Plan.

10. I certify that all of the foregoing statements are
true. I am aware that if any of the above statements are
willfully false, I am subject to punishment.



PAUL J. BURNS

Dated: August 10, 1988

DWYER & CANELLIS, P.A.
150 Elm Street
Westfield, New Jersey 07090
(201)233-2000
Attorneys for Burnheade Associates

Z.V. ASSOCIATES, a Partnership : NEW JERSEY COUNCIL ON
organized under the Laws of AFFORDABLE HOUSING
the State of New Jersey, :

Plaintiff, :

v. :

THE BOROUGH OF WATCHUNG, a : ORDER
Municipal Corporation of the
State of New Jersey, located :
in Somerset County, New Jersey, :

Defendant.

This matter having been brought before the New Jersey Council on Affordable Housing upon the motion of Dwyer & Canellis, P.A., attorneys for Jane Cole, John Manhardt and Richard Van Benschoten t/a Burnheade Associates for an Order releasing the property owned by the Moving Party from the restraints contained in the prior Order from the New Jersey Council on Affordable Housing relative to the Borough of Watchung on February 17, 1987; all parties having been notified and given an opportunity to be heard; and the Council having read and considered the papers filed herein; and further good cause shown;

It IS ON THIS day of September, 1988,

ORDERED and ADJUDGED that Burnheade Associates' motion is hereby granted. Property owned by Burnheade Associate's is hereby released from the restraints imposed by the Council and the applicant shall be entitled to seek and receive any and all appropriate approvals and/or permits required to commence the development of their property.

J.S.C.

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Attorneys for Burnheade Associates

Z.V. ASSOCIATES, a Partnership : NEW JERSEY COUNCIL ON
organized under the Laws of : AFFORDABLE HOUSING
the State of New Jersey, :

Plaintiff, :

v. :

THE BOROUGH OF WATCHUNG, a : NOTICE OF MOTION FOR RELEASE
Municipal Corporation of the : FROM RESTRAINING ORDER
State of New Jersey, located : DATED FEBRUARY 17, 1987
in Somerset County, New Jersey, :

Defendant.

TO: Edwin D. Kunzman, Esq.
Kunzman, Coley, Yospin & Bernstein, P.A.
15 Mountain Boulevard
Warren, New Jersey 07060
Attorney for the Borough of Watchung and
The Planning Board for the Borough of Watchung

Joseph B. Hetfield, Esq.
10 Shawnee Drive
P.O. Box 4271
Watchung, New Jersey 07060
Attorney for the Board of Adjustment
for the Borough of Watchung

Mr. Lawrence Zirinsky
375 Park Avenue
New York, New York 10152
Owner of Block 57.03, Lots 2, 3.01, 4, 5, 11, 12 and 13
(the "Zirinsky" site)

Jonathan E. Drill, Esq.
McDonough, Murray & Korn
A Professional Corporation
140 Allen Road
P.O. Box 381
Basking Ridge, New Jersey 07902-0381
Attorney for Plaintiff, Z.V. Associates

Mary Lou Harranik
28 Spencer Lane
Watchung, New Jersey 07060
Owner of Block 44.03, Lot 1
(a portion of the "Best Lake" site)

Douglas Ehrenworth, Esq.
514 Summit Avenue
Jersey City, New Jersey 07306
Attorney for the Elizabeth Medical Trust
Owner of Block 43.04, Lot 17
(the "Elizabeth Medical Trust" site)

Mack Ness
666 Mountain Boulevard
Watchung, New Jersey 07060
Owner of Block 3.01, Lot 29
(a portion of the "Ness-Santucci" site)

Estate of A. Santucci
c/o M. Newmann
Box 4477
Warren, New Jersey 07060
Owner of Block 3.01, Lot 30
(a portion of the "Ness-Santucci" site)

MOVING PARTY: Burnheade Associates
Owners of Block 44.03, Lots 2 and 3
(a portion of the "Best Lake" site)

PURPOSE OF MOTION: To remove and release Moving Party's property from the restraints imposed by Order of the New Jersey Council on Affordable Housing dated February 17, 1987 so as to permit the Moving Party to obtain the necessary approvals from the Watchung Board of Adjustment and any other entities to develop their property.

NATURE OF RELIEF SOUGHT: Application for release from order restraining the Borough of Watchung, the Watchung Planning Board, the Watchung Board of Adjustment, and all individual Building and Zoning Officials from issuing or granting any developmental approvals (including, but not limited to building permits, certificates of occupancy, preliminary and/or final subdivision and/or site plan approvals, and variance relief) with respect to the following parcels of land located within the Borough of Watchung:

Block 44.03, Lots 2 and 3
(the "Best Lake" site)

PLACE: New Jersey Council on Affordable Housing
707 Alexander Road
CN 813
Trenton, New Jersey 08625-0813

TIME OF MOTION: 9:00 a.m. on September 6, 1988.

GROUNDS UPON WHICH MOTION IS MADE: See attached Certification

REQUEST FOR ORAL ARGUMENT: No.

SUPPORT DOCUMENTS: Certification of Paul J. Burns, Esq.


CERTIFICATION: 1. An original and fifteen copies of this Notice of Motion and supporting documents has been filed with the Executive Director of the New Jersey Council on Affordable Housing and clear copies have been mailed to the individuals and entities listed above at the addresses listed above.

2. This matter was formerly filed in the Superior Court of New Jersey, Law Division, Somerset/Ocean County, Docket No. L-085321-84P.W.
 (Honorable Eugene Serpentelli, A.J.S.C.)

ORDER: Proposed form of order are attached.

DWYER & CANELLIS, P.A.

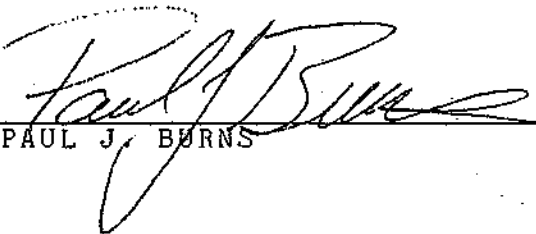
By:


 PAUL J. BURNS
 For the Firm

Dated: 8-11-88

CERTIFICATION OF PROOF OF FILING AND SERVICE

I certify, that on August 12th, 1988 I forwarded copies of the Notice of Motion, Certification and proposed Order to the New Jersey Council on Affordable Housing by Federal Express and the individuals listed on the Notice of Motion as well as Mary Yvonne Marcuse, Attorney for the Watchung Coalition, Brenda C. Liss, Attorney for the Crestwood Coalition for Proper Planning in Watchung, Guliet Hirsch for the Elizabeth Medical Trust, David M. Weinberg and Gaetano Avagliano for the Berkley Square at Watchung by Certified Mail Return Receipt Requested on the same date.



PAUL J. BURNS

Dated: August 12, 1988