



TOWNSHIP OF SOUTH BRUNSWICK

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October 8, 2020

Letter Via eCourts; letter and agreement via Email

Hon. Michael V. Cresitello, Jr., J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
P.O. Box 964
New Brunswick, NJ 08903-0964

Re: In the Matter of the Application of the Township of South Brunswick
Docket No. MID-L-4433-17

PPF Industrial v. Township of South Brunswick
Docket No. MID-L-4094-17

Dear Judge Cresitello:

I am pleased to submit to the court, Special Master and all parties in this consolidated matter a fully executed copy of the settlement agreement signed between PPF Industrial, the Township and the Planning Board. The parties to the settlement respectfully request that the court schedule the Fairness Hearing on this settlement as soon as possible.

In correspondence with Fair Share Housing Center on this issue, Fair Share has correctly pointed out that we must provide a 30-day public notice of the Fairness Hearing. As such, the Fairness Hearing can not take place until sometime in mid-November (30 days from today plus several days to get the Notice into the newspaper for publication).

In light of this, the parties to this settlement respectfully request that the court advise when in mid-November the Fairness Hearing on the PPF settlement could be scheduled. By assigning a date in mid-November now, we can submit the newspaper notice for publication and thereby provide the required 30-day public notice prior to the hearing. All counsel involved in the settlement can also reserve the date on their calendars as well.

At the Case Management Conference held in this matter on October 6, Fair Share raised the issue of whether a final, appealable judgment could be entered by the court at the conclusion of the October 20 Compliance Hearing while the PPF settlement Fairness Hearing was still pending. Fair Share took the position that it could not, while I expressed my opinion that a final, appealable judgment could be entered without waiting for the outcome of the PPF Fairness Hearing. I have since reconsidered that position and believe that, since the rezoning of the PPF property is expressly contingent upon approval by the court at a Fairness Hearing, entry of a final, appealable judgment cannot occur until the PPF Fairness Hearing has been successfully completed and the settlement approved by the court.

Nevertheless, the Compliance Hearing should proceed as scheduled on October 20. All parties, the court and the public are prepared to proceed on that date. Postponing the Compliance Hearing until after the PPF settlement

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would only delay this entire matter even further. Given the sheer number of attorneys, clients, witnesses and members of the public expected to participate in the Compliance Hearing, it will be extremely difficult to find a date in mid-November where everyone is available. This would push the Compliance Hearing into the Thanksgiving holidays, and perhaps delay the matter well into December.

For all of these reasons, we believe it would be better to have the Compliance Hearing remain as scheduled on October 20 and the PPF Fairness Hearing scheduled separately for some time in mid-November.

As such, please accept this as the Township's request for a date in mid-November for the court to conduct the Fairness Hearing on the PPF Industrial settlement in this matter. A proposed form of Order is enclosed for the court's use in this regard.

If the court has any questions, or if the court feels that a telephone conference is needed to discuss this further, please do not hesitate to contact me.

Thank you for your considerations in this matter.

Respectfully submitted,

s/Donald J. Sears

Donald J. Sears
Director of Law

Cc: Christine Nazzaro-Cofone, Special Master (via electronic mail)
All counsel of record (letter via eCourts; letter and agreement via electronic mail)