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(Via email only- whmalonejr@gmail.com)

William Malone Jr.

President

LBT Taxpayers Association

P. O. Box 2065

Long Beach Township, NJ 08008

Re: BI 8200, LLC v. Land Use Board of the Township of Long Beach

Docket No.: A-2220-21

Dear Bill:

You asked me to review and explain the decision of the Superior Court of New Jersey, Appellate Division, which reversed the decision of Judge Ford in Ocean County which, in turn, had reversed the decision of the Long Beach Township Land Use Board denying a 6-lot major residential subdivision to the owner of the former Kubel's Too. In other words, the decision of the board, which had denied the subdivision, was reinstated.

The property owner had applied to subdivide the property bounded by Connecticut Avenue, Long Beach Boulevard, Rhode Island Avenue and some lots to the west, into 6 residential lots. The property owner contended that all the lots were conforming to the zoning ordinance. A residential lot in this zone requires a minimum lot area of 5,000 square feet under § 205-55 of the zoning ordinance. The ordinance permitted, however, a reduced lot size, a minimum of 4,500 square feet, only if the proposed lot had at least 50 feet of frontage and a minimum lot depth of half of the block width. The issue was rather esoteric and may be hard to understand. The block in question, Block 13.16, is irregularly shaped, and the issue had to do with the definition of "half of the block width" and where the rear property line needed to be drawn to qualify for the exception. The reason for the issue was that the part of the block which did not include the subject property was 150 feet wide, but the part of the block that included only the property in question was 160 feet wide. There was a jog in the south side of the block.



Ultimately, the Appellate Division ruled that “half of the block width,” as applied to the subject property, meant that all lots in the subdivision, to meet the criteria, would have to be 80 feet deep (one-half of 160 feet). Instead, Applicant’s proposal followed the center line of the portion of the block which did not encompass the subject property, so that some of the subject lots were 75 feet deep, and some were 85 feet deep. If all the proposed lots had been drawn at 80 feet in depth, then two of the proposed lots, 9.07 and 9.08, both shown on the subdivision map as 4,505 square feet in area, would have been undersized (under 4,500 square feet) and would not have been conforming.

In short, the Appellate Division decided that the Land Use Board was correct, and Judge Ford was wrong. The Court upheld that the Board’s interpretation of the ordinance, including that the ordinance qualified the “median line” language with “half the block width.” The Appellate Division found that the subdivision did not conform to the zoning ordinance. Since the applicant did not apply for and was not granted any variances, the application for “conforming” subdivision approval was properly denied. Accordingly, the Appellate Division reversed the trial court, and the board’s decision denying the requested subdivision was reinstated.

The denial of this application does not prevent the property owner from reapplying to the board for a differently configured subdivision. If the ordinance has not changed, the property owner may not be able to get 6 lots out of the property.

Please feel free to call me with any questions.

Very truly yours,
RENAUD COLICCHIO LLC

/s/ Robert F. Renaud
Robert F. Renaud