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January 30, 2009

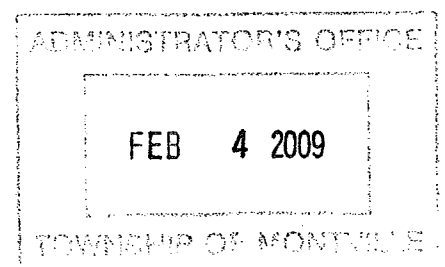
Robert H. Oostdyk, Jr., Esq.
Borough Attorney, Borough of Essex Fells
Johnson, Murphy, Hubner, McKeon, et al.
Riverdale South
51 Route 23 South
P.O. Box 70
Riverdale, NJ 07457

Re: South Salem Street Associates, LLC v. Township of Montville, et al.
Docket No: MRS-L-3369-04

Dear Mr. Oostdyk:

By way of a letter dated January 21, 2009, you raised with me the question as to whether or not the MEL would provide a defense for former Mayor Rosellini going forward in light of the Appellate Division's decision in this matter.

We have read the decision by the Appellate Division which is long and I believe very thorough. It is clear that the Appellate Division has accepted facts and drawn the conclusion that at the heart of all of these matters is the fact that Mayor Rosellini, perhaps it was unknown originally, took certain actions against the plaintiff, clearly for the benefit of property or properties which he owned or was a managing partner in connection with. The most fatal finding in this connection is the fact that Mayor Rosellini apparently attempted to persuade a proposed tenant of South Salem Street Associates to relocate or to sign a lease with Mayor Rosellini's LLC or corporation to rent from the Mayor's project, rather than from South Salem Street Associates' project.



January 30, 2009
Page Two

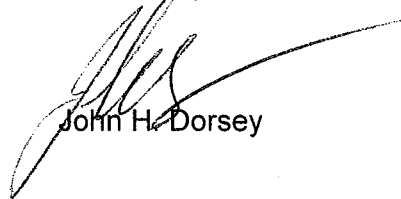
This case has been ongoing for nearly five years; we cannot overlook the fact that it appears clear that most, if not all, of the actions in this matter were taken by the former Mayor in connection with the development that he controlled or had an interest in, and on that basis, his actions were taken not on behalf of the Township; not for the benefit of the Township; but clearly for the benefit of his proposed project.

The MEL's policy specifically contains an exclusion for actions by a municipal official which are not taken for the benefit of or on behalf of the municipality, but for the municipal official's private interest or private gain.

On that basis, the MEL is not going to provide a defense for former Mayor Rosellini going forward, and I think the reasons for that are as I have explained them and must be perfectly clear to you.

I assume that you will thusly advise former Mayor Rosellini of the MEL's position.

Very truly yours,



John H. Dorsey

JHD:lg

cc: Richard Cushing, Esq.
Frank Bastone, Township Administrator
Kathy Tyler Schohl/Scibal Associates
Dave Grubb/PERMA

Lynette/OostdykLtr5

TOWNSHIP OF MONTVILLE
CLERK'S OFFICE

195 Changebridge Road, Montville, NJ 07045
Phone 973-331-3304 Fax 973-402-0787

PUBLIC RECORDS REQUEST RESPONSE

TO: Ron Soussa

DATE: 3/11/09

Document(s) provided: 2 pages at a total cost of \$1.50 less .50
 Document(s) not provided (see below)

\$1.00 dues

The document or documents listed below and requested by you are not being provided because the document or documents are not public records as provided by law, as noted below:

- | <input type="checkbox"/> Privileged or Protected Category | Authority |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Court records sealed | Executive Order 69 |
| <input type="checkbox"/> Computer security information | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Criminal investigatory records | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Credit Card Numbers | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Grievance information with public employer | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Domestic Violence data | N.J.S.A. 2C:25-33 |
| <input type="checkbox"/> Drivers' license numbers | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> DYFS information | N.J.S.A. 9:6-8.10 |
| <input type="checkbox"/> Emergency or security information or procedures | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Employee sexual harassment complaints | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Fingerprint cards | Executive Order 69 |
| <input type="checkbox"/> Juvenile Records | N.J.S.A. 2A:4A-60 |
| <input type="checkbox"/> Labor Negotiation information, strategy or positions | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Pension and personnel records | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Public Agency insurance communications | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Safety of persons or public | N.J.S.A. 47:1A-1.1, et seq; Exec. Order 69 |
| <input type="checkbox"/> Security measures and surveillance techniques | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Social Security Numbers | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Unlisted Telephone Numbers | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Victim location (Domestic Violence) | N.J.S.A. 2C:25-26c. |
| <input type="checkbox"/> Victim records | N.J.S.A. 47:1A-1.1, et seq. |
| <input type="checkbox"/> Record has been destroyed/not retained pursuant to: | Records Retention and Disposition Schedule
(NJ Dept. of State, Div. of Archives Mgmt.) |
| <input type="checkbox"/> Other | |
| <input type="checkbox"/> Record not maintained by this agency | |
| <input type="checkbox"/> Record inaccessible | |
| <input type="checkbox"/> Despite due diligence, document sought cannot be located | |

You have the right to appeal the decision that the document or documents are not public records. You may take your appeal to the Public Records Council or to the New Jersey Superior Court as provided by N.J.S.A. 47:1A-6 and -7.

Date: 3/11/09

Gertrude Atkinson, Township Clerk

ACKNOWLEDGMENT

I hereby acknowledge that I have received the documents requested except for any documents specifically listed above on which a determination has been made that the documents will not be provided. If any documents have not been provided, I have received information on this form as to the procedures for any appeal of the determination.

Date: _____

Applicant's Signature

**JOHNSON, MURPHY, HUBNER, McKEON,
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COUNSELLORS AT LAW**

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WILLIAM F. JOHNSON, JR. (Ret.)

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JAMES L. McKEON, JR. (1922-1980)

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January 21, 2009

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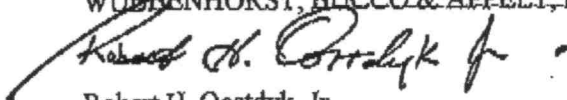
Dear Mr. Dorsey:

Montville Township Manager Frank Bastone has requested that I communicate with you in your capacity as coverage counsel for the Joint Insurance Fund concerning the above-captioned matter. As you are aware, the Appellate Division reversed the grant of summary judgment in favor of the Township and remanded the case for trial. Gebhardt & Kiefer is representing the Township's interest in the claims which were involved in the appeal. The Appellate Division also permitted an amendment to the Complaint to join former Mayor John Rosellini as a party to the action. Mr. Rosellini has communicated with Mr. Bastone and requested information concerning whether or not the Township or its insurance counsel will be responding to the Complaint on his behalf. I am enclosing a copy of the Appellate Division Decision for your information and request that you review this matter and advise the Township so that we are able to properly advise Mr. Rosellini of the Township's position in this matter.

If you have any questions or concerns with regard to this matter, please contact me.

Very truly yours,

JOHNSON, MURPHY, HUBNER, McKEON,
WUBBENHORST, BUCCO & APPELT, P.C.


Robert H. Oostdyk, Jr.

RHO/dmd

Enclosure

cc: Frank Bastone, Township Administrator
Mr. John Rosellini