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Attorneys for Plaintiff

CHELSEA NEIGHBORHOOD
ASSOCIATION,

Plaintiff

v.

CITY OF ATLANTIC CITY;
DEPARTMENT
OF PLANNING, DIVISION OF LAND
USE ADMINISTRATION, AND JAY
FIEDLER, Administrator

Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, ATLANTIC COUNTY

CIVIL ACTION

DOCKET NO. ATL-L-001994-92-PW

ORDER FOR SUMMARY JUDGMENT

This matter having been brought before the Court by Brian S. Thomas, attorney for the plaintiff, and the Court having reviewed the briefs filed by plaintiff and defendant, and the Court having conducted oral argument on September 25, 1992, the transcript of which is incorporated by reference herein, IT IS on the ^{13th} day of ~~November~~ 1992, ORDERED AND ADJUDGED THAT:

1. The Land Use Office of the City of Atlantic City does not have the authority to administratively waive on-site parking requirements set forth in the Zoning Ordinance of the City of Atlantic City. Said actions are ultra vires and void, and the City must notify each and every property owner receiving said waiver since 1979 that said waiver is ineffective and that application should be made to the Zoning Board of Adjustment of the City of Atlantic City seeking the appropriate variance(s).

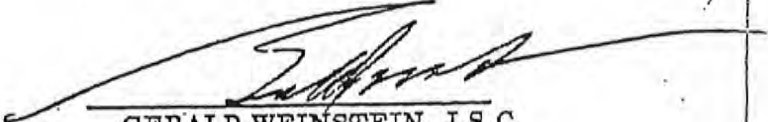
2. The Land Use Office of the City of Atlantic City does not have the authority to administratively grandfather-in, or issue estoppel certificates, for those uses of property which were never legal uses under the 1929 or 1979 Zoning Ordinance. The

Court determines that these actions are ultra vires and void and each affected property owner must be notified by the City that they may not rely on the Certificate of Land Use Compliance issued by the Land Use Office and must seek the appropriate relief by variance or otherwise, before the Zoning Board of Adjustment.

3. The Land Use Office of the City of Atlantic City pursuant to N.J.S.A. 40:55D-68 has not had the authority since 1987 to administratively grandfather-in, or issue estoppel certificates for those uses of property which may have been permitted or legal uses under the 1929 Ordinance, but were rendered non-conforming uses under the 1979 Ordinance and its amendments. **Said actions of the Land Use Office were ultra vires and void.** The defendant is required to notify each of the affected property owners, advise the property owners that they may not rely on the Certificate of Land Use Compliance and should seek the appropriate relief, by variance or otherwise, before the Zoning Board of Adjustment of the City of Atlantic City.

4. The City of Atlantic City will compile and provide to plaintiff a list identifying all persons to whom the Notices referenced in paragraphs one and two respectively of this Order, must be sent. Plaintiff shall within three weeks of receiving such list review same and advise the City of any objections to the form or completeness of the list. The City and plaintiff shall resolve any such objections and agree upon a final list which shall be binding upon the parties inter se.

5. Notice to those property owners referenced in paragraph three of this Order shall be by publication, two times, in the Press of Atlantic City. No individual mailed notice shall be required to such persons. However, any such notice shall precisely inform affected property owners that in cases involving non-conforming uses, Certificate of Land Use Compliance issued since 1987 are void, and that the appropriate application should be made before the Zoning Board in order to be in conformance with Atlantic City's Ordinances.


GERALD WEINSTEIN, J.S.C.