

FILED
TEAM #1

AUG 28 2015

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #6

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CIVIC JC, Inc.,

Plaintiff,

vs.

THE CITY OF JERSEY CITY; THE
MUNICIPAL COUNCIL OF THE CITY OF
JERSEY CITY; AND, THE PLANNING
BOARD OF THE CITY OF JERSEY CITY,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-HUDSON COUNTY

Docket No. L-3683-15

CIVIL ACTION

COMPLAINT IN LIEU OF
PREROGATIVE WRIT

The plaintiff, Civic JC, Inc., a non-profit corporation of the State of New Jersey, County of Hudson and State of New Jersey, complaining of the defendants says:

PARTIES

1. The plaintiff is a non-profit 501(c)(4) corporation founded in 2002, which works to promote good government in Jersey City.

2. The defendant City of Jersey City ("City") is a municipal corporation of the State of New Jersey.

3. The defendant Municipal Council of the City of Jersey City ("City Council") is the governing body of said municipality, responsible for legislative acts, with offices located at City Hall, 280 Grove Street, Jersey City, New Jersey 07302.

4. The Planning Board of the City of Jersey City ("Planning Board") is a planning board constituted to act as such under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

BACKGROUND

5. On February 11, 2014, the City Council adopted a resolution authorizing the Planning Board to conduct an investigation to determine whether the City Hall Study Area meets the criteria of the Local Housing and Redevelopment Law N.J.S.A. 40A:12 A-1 et seq., qualifying it as "an area in need of redevelopment," an "area in need of rehabilitation" and/or a "non-condemnation redevelopment area".

6. At its meeting on June 23, 2015, the Planning Board found that the study area meets the statutory criteria for a non-condemnation redevelopment area, pursuant to N.J.S.A. 40-A:12A-5(a), (d) and (h), and approved a motion to recommend to the City Council that the City Hall Study Area be declared a non-condemnation redevelopment area.

7. The Planning Board's recommendation was based upon the evidence presented at its meeting on June 23, 2015 and contained in a document entitled "Report Concerning the Determination of the City Hall Study Area as a Non-Condemnation Area in Need of Redevelopment" dated May 27, 2015 ("Report").

8. On July 15, 2015, the City Council followed the Planning Board's recommendation and adopted a resolution designating the City Hall Study Area, (Block 12904, Lot 1 and Block 14102, Lots 12, 25) as a non-condemnation redevelopment area.

FIRST COUNT

9. The plaintiff repeats the allegations set forth in the paragraph 1 through paragraph 8 and makes the same a part hereof.

10. City Hall, located at 280 Grove Street (Block 12904, Lot 1), was found to be a redevelopment area by virtue of N.J.S.A. 40A:12A-5(a) and (d).

11. A finding under N.J.S.A. 40A:12A-5(a) must be supported by substantial evidence that the condition of the building is so "substandard, unsafe, unsanitary dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in the light, air, or space, as to be conducive to unwholesome living or working conditions."

12. A finding under N.J.S.A. 40A:12A-5 (d) must be supported by substantial evidence that "dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout" "are detrimental to the safety, health, morals or welfare of the community."

13. The evidence did not meet either of these statutory criteria and the evidence was not substantial.

14. Therefore, the action of the City Council in adopting the resolution was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiff seeks judgment as follows

A. An order declaring the resolution adopted by the City Council on July 15, 2015 to be null and void.

B. Such other relief as the Court may deem just.

SECOND COUNT

15. The plaintiff repeats the allegations set forth in the paragraph 1 through paragraph 14 and makes the same a part hereof.

16. The parking area directly behind City Hall (also Block 12904, Lot 1), was found to be a redevelopment area by virtue of N.J.S.A. 40A:12A-5 (d).

17. The evidence did not show, as required under N.J.S.A. 40A:12A-5 (d), that the parking area is "detrimental to the safety, health, morals, or welfare of the community" and the evidence was not substantial.

18. Therefore, the action of the City Council in adopting the resolution was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiff seeks judgment as follows

A. An order declaring the resolution adopted by the City Council on July 15, 2015 to be null and void.

B. Such other relief as the Court may deem just.

THIRD COUNT

19. The plaintiff repeats the allegations set forth in the paragraph 1 through paragraph 18 and makes the same a part hereof.

20. The municipally-owned parking lot at 179 Montgomery Street (Block 14102, Lot 12) was found to be a redevelopment area by virtue of N.J.S.A. 40A:12A-5(d) and (h).

21. The evidence did not show, as required under N.J.S.A. 40A:12A-5(d) , that the parking lot is “detrimental to the safety, health, morals, or welfare of the community” and the evidence was not substantial.

22. N.J.S.A. 40A:12A-5(h) requires that “the designation of the delineated area [be] consistent with smart growth planning principles adopted pursuant to law or regulation.”

23. The Report presented to the Planning Board claimed that because the municipally-owned parking lot is located in the PA-1, Metropolitan Planning Area, that smart growth planning principles would be served by designating the parking lot as a redevelopment area.

24. This claim is overly broad since the whole of Jersey City, indeed the whole of Hudson County, is in the PA-1, Metropolitan Planning Area, and therefore, a similar claim could be made about any site in Hudson County.

25. Such an interpretation would be violative of the goals of the Local Redevelopment and Housing Law.

26. Therefore, the action of the City Council in adopting the Resolution was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiff seeks judgment as follows

A. An order declaring the resolution adopted by the City Council on July 15, 2015 to be null and void.

B. Such other relief as the Court may deem just.

FOURTH COUNT

27. The plaintiff repeats the allegations set forth in the paragraph 1 through paragraph 26 and makes the same a part hereof.

28. 202 York Street (Block 14102, Lot 15) was found to be a redevelopment area by virtue of N.J.S.A. 40A:12A-5(a).

29. A finding under N.J.S.A. 40A:12A-5(a) must be supported by substantial evidence that the condition of the building is so "substandard, unsafe, unsanitary dilapidated, or obsolescent, or possess any of such characteristics, or [is] so lacking in the light, air, or space, as to be conducive to unwholesome living or working conditions."

30. The evidence did not meet this statutory criterion and the evidence was not substantial.

31. Therefore, the action of the City Council in adopting the resolution was arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiff seeks judgment as follows

A. An order declaring the resolution adopted by the City Council on July 15, 2015 to be null and void.

B. Such other relief as the Court may deem just.

FIFTH COUNT

32. The plaintiff repeats the allegations set forth in the paragraph 1 through paragraph 31 and makes the same a part hereof.

33. Planner testimony before the Planning Board and the City's public statements indicate that a prime motive in designating the City Hall Study Area as a redevelopment area is to seek developer funding and grants to renovate or improve City Hall.

34. This is not a statutory criterion for designating a redevelopment area and is a misuse of Local Redevelopment and Housing Law.

35. Therefore, the action of the City Council in adopting the Resolution was ultra vires, arbitrary, capricious or unreasonable.

WHEREFORE, the plaintiff seeks judgment as follows

A. An order declaring the resolution adopted by the City Council on July 15, 2015 to be null and void.

B. Such other relief as the Court may deem just.

Dated: August 31, 2015

Cynthia A. Hadjiyannis, F.S.B.
Cynthia A. Hadjiyannis, Esq.

CERTIFICATION

I certify the within action is the sole action between the parties, that there are no other proceedings in the Court or in any Worker Compensation or Arbitration proceeding and that there are no additional parties to be named herein.

I certify that the statements herein set forth are true. I am aware that if any statements set forth herein are willfully false, I am subject to punishment.

Dated: August 31, 2015

Cynthia A. Hadjiyannis
Cynthia A. Hadjiyannis

CERTIFICATION

I hereby certify that a copy of the transcript of the proceedings before the Planning Board has been ordered from the Division of City Planning.

Dated: August 31, 2015

Cynthia A. Hadjiyannis
Cynthia A. Hadjiyannis