

CARNEY IS ATTY FOR MILLBURN
 WEINER " " " LIVINGSTON
 HOFF REPRESENTED TMB PARTNERS
 CAMPION REPRESENTED LSH COALITION (VS)

Transcript of Motion Before Honorable Dennis F. Carey III, J.S.C. June 3, 2009

Page	Line(s)	Speaking	Dialogue
5	7-15	Court	says that as potential interveners(Millburn) you changed the settlement between Mr. Huff's client (TMB) and Livingston
5	19-23	Kearney	Millburn's expert Jim Cosgrove's (environmental) report had persuasive effect on that settlement agreement
6	8-15	Kearney	If there is a builder's remedy lawsuit two facts: (1) sewer agreement (2) Environmental or bad plan, will be heard.
6	16-25	Kearney	sewer agreement amended and that needs Millburn as a party to the case.
7	11-12	Weiner	This is our (Livingston) agreement (sewer) with them. We can't unilaterally change the agreement without Millburn involved
7	17-18	Court	It's got to be taken care of whether I grant your motion or not
8	11-13	Weiner	Livingston had agreement many years...just renewed
8	15-21	Hoff	If Livingston/Millburn deny, that issue will be joined in time
8	22	Court	I agree with Hoff
9	6-8	Weiner	If they get builder's remedy - Livingston in violation of the Agreement
9	17-23	Kearney	Because Court orders builders remedy, Millburn would be unable to argue merits of sewer agreement
10	15-18	Kearney	Our main interest in this case (is) environmental and planning concerns with the property.
13	6-11	Campion	TMB you have it at the end of the case, not beginning. At the end it will also delay everything,
13	19-23	Campion	..under the liberal standard under 4:33-1 they should be permitted their day in court Your honor, I would adopt the argument of Millburn in addition.
14	2-4	Hoff	flaw in arguments is that the builders remedy will sprout building of four stories of gigantic mass. That's simply not accurate.
14	7-9	Hoff	The process as I laid out is if we win it goes back to Livingston to adopt ordinances
15	14-17	Hoff	Millburn derailed the settlement ...issues raised by them that we responded to that triggered the collapse of the settlement agreement
16	2-4	Hoff	to give the parties status really ties our hand and Livingston's hands to potentially resolve this thing.
18	1-5	Court	Couldn't we formulate something in the order that would allow legitimate environmental or sewage concerns of the <u>interveners</u> .
18	13-15	Court	Here's my concern and I don't want <u>the interveners</u> expanding the scope of discovery. That's all I care about.
		Unknown probably	
19	20-22	Kearney	Whether you need two sets of interveners or whether based on the limited theory I presented whether Millburn would be sufficient.
19	23-25	Court	" Well I don't want to sound harsh but I'm really not concerned about whether neighbors are upset about a big building."
21	22-25	Hoff	This issue of finality allowing them in now is somewhat farce. ...they don't represent the
22	1-11		universe of interest that could come forward after development approval. They can't

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