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Attorneys for Petitioner Township of Mullica

IN THE MATTER OF THE TOWNSHIP OF
MULLICA, a municipal corporation of the
State of New Jersey, and its Third Round
Affordable Housing Element and Fair Share
Plan.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

DOCKET NO.: ATL-L-____-15

(Mt. Laurel)

Civil Action

**COMPLAINT FOR DECLARATORY
JUDGMENT**

The Township of Mullica, a Municipal Corporation of the State of New Jersey, having its principal place of business at 4528 White Horse Pike, Elwood, New Jersey 08217, by way of Complaint for Declaratory Judgment says:

COUNT I

1. Petitioner Township of Mullica (hereinafter “Petitioner” and/or “Mullica” and/or “Township”) is a body politic and corporate organized under the laws of the State of New Jersey located in Atlantic County in the South-Southwest Housing Region (“Region 6”) as established by the New Jersey Council on Affordable Housing (“COAH”) pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (“FHA”).

2. On December 29, 2008, Mullica adopted a Third Round Housing Element and Fair Share Plan (collectively “Compliance Plan”) based upon COAH’s revised “growth share” rules and, as

authorized by the FHA petitioned COAH for substantive certification prior to COAH's December 31, 2008 deadline.

3. The revised "growth share" rules were being challenged in the Appellate Division at the time of the Township's submission and COAH did not complete its review of the Compliance Plan and grant substantive certification.

4. On October 8, 2010, the Appellate Division invalidated COAH's revised "growth share" rules in In re Adoption of N.J.A.C. 5:96 & 5:97 by COAH, 416 N.J. Super. 462 (App. Div. 2010).

5. The Supreme Court granted COAH's petition for certification. In re Adoption of N.J.A.C. 5:96 & 5:97 by COAH, 205 N.J. 317 (2011).

6. On September 26, 2013, the Supreme Court affirmed the Appellate Division's 2010 decision and remanded to COAH to undertake new rulemaking based upon COAH's prior round rules and methodologies. In re Adoption of N.J.A.C. 5:96 & 5:97 by COAH, 215 N.J. 586 (2013).

7. The Supreme Court directed that the new rules and affordable housing allocations be adopted by February 26, 2014.

8. On February 26, 2014, COAH filed a motion with the Court petitioning to extend the rulemaking deadline until May 1, 2014.

9. On March 14, 2014, after additional Appellate Division and Supreme Court proceedings, the Supreme Court granted COAH's motion for an extension subject to COAH meeting firm deadlines for the adoption of the rules and for each interim rule-making step required by the Administrative Procedures Act ("APA"). In re Adoption of N.J.A.C. 5:96 & 5:97 by COAH, 220 N.J. 355 (2014).

10. The Supreme Court further ordered that if COAH did not adopt the Third Round rules and housing allocations by November 17, 2014, the Court would entertain applications for relief, including “a request to lift the protection provided to municipalities through N.J.S.A. 52:27D-313” and stated that “if such a request is granted, actions may be commenced on a case-by-case basis before the Law Division or in the form of builder’s remedy challenges.” Ibid.

11. COAH failed to comply with the Supreme Court’s rulemaking directives and deadlines which resulted in the filing of a motion to enforce litigant’s rights pursuant to New Jersey Court Rule 1:10-3.

12. The Supreme Court granted the motion on March 10, 2015 and Ordered, inter alia, that:

A. The FHA’s exhaustion-of-administrative remedies requirement is dissolved and the Courts may resume their role as the forum of first resort for evaluating municipal compliance with Mount Laurel obligations.

B. The effective date of the Order is delayed until June 8, 2015 to effectuate an orderly transition by municipalities to the judicial review system that are currently under COAH’s jurisdiction.

C. Municipalities that were under COAH’s administrative review jurisdiction that wish to have the Court complete the review of their affordable housing compliance initiatives shall be permitted to file declaratory judgment actions with the Court pursuant to N.J.S.A. 52:27D-313(a) by July 8, 2015.

In re Adoption of N.J.A.C. 5:96 & 5:97 by COAH, 221 N.J. 1 (2015).

13. Mullica desires that the Court complete the review and evaluation of its Mount Laurel municipal compliance initiatives and herewith files the within declaratory judgment proceeding pursuant to N.J.S.A. 52:27D-313(a) as authorized by the Supreme Court in its March 10, 2015 Order.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Township of Mullica, respectfully prays that the Court grant the following relief:

a. **DECLARE**, pursuant to N.J.S.A. 52:27D-313(a), that the Township of Mullica is under the Court's voluntary compliance declaratory judgment jurisdiction and that the Township is immunized and protected against builder's remedy litigation and exclusionary zoning challenges while it remains under the Court's jurisdiction and complies with the Court's directives.

b. **ESTABLISH** the Township's Third Round prospective need affordable housing obligation from 1999 to 2025 and provide the Township with sufficient time to prepare a revised Third Round Compliance Plan to attempt to address its cumulative housing obligations.

c. **DECLARE** that the Township's Compliance Plan satisfactorily addresses its affordable housing mandates and provide the Township with immunity and repose against builder's remedy litigation and exclusionary zoning challenges for a period of ten (10) years from the date of the Final Judgment.

d. **ORDER** such additional relief as the Court deems equitable and just.

NEHMAD PERILLO & DAVIS, PC
Attorneys for Petitioner, Township of Mullica

By: _____

TRACY A. SIEBOLD

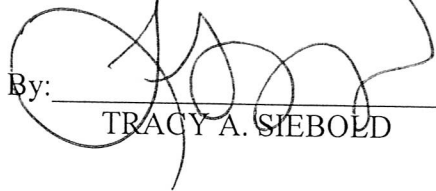
Date: July 7, 2015

DESIGNATION OF TRIAL COUNSEL

Pursuant to New Jersey Court Rule 4:25-4, Tracy A. Siebold, Esquire is hereby designated as Trial Counsel for Petitioner Township of Mullica.

NEHMAD PERILLO & DAVIS, PC
Attorneys for Petitioner, Township of Mullica

Date: July 7, 2015

By: 

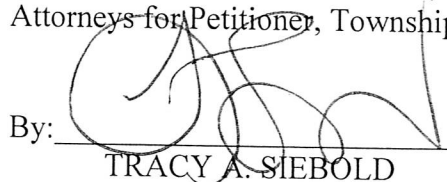
TRACY A. SIEBOLD

CERTIFICATION

Pursuant to New Jersey Court Rule 4:5-1, it is hereby certified that the matter in controversy is not the subject of any other action pending in any other Court or of a pending arbitration or administrative proceeding to the best of knowledge and belief. To the best of our knowledge, no action, arbitration or administrative proceeding is contemplated. Furthermore, we know of no other parties that should be joined in the above action.



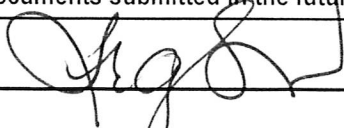
NEHMAD PERILLO & DAVIS, PC
Attorneys for Petitioner, Township of Mullica

Date: July 7, 2015

By: 

TRACY A. SIEBOLD

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	<p>Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1 Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed</p>		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	
			CHG/CK NO.	
			AMOUNT:	
			OVERPAYMENT:	
		BATCH NUMBER:		
ATTORNEY / PRO SE NAME Tracy A. Siebold, Esquire		TELEPHONE NUMBER (609) 927-1177		COUNTY OF VENUE Atlantic
FIRM NAME (if applicable) Nehmad Perillo & Davis, PC			DOCKET NUMBER (when available)	
OFFICE ADDRESS 4030 Ocean Heights Avenue Egg Harbor Township, NJ 08234			DOCUMENT TYPE Declaratory Complaint	
			JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Township of Mullica		CAPTION In the Matter of the Application of the Township of Mullica		
CASE TYPE NUMBER (See reverse side for listing) 303	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <div style="text-align: right;"><input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN</div>		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b).				
ATTORNEY SIGNATURE:  <div style="float: right; text-align: right;"> <i>July 7, 2015</i> </div>				



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 289 REGLAN |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 278 ZOMETA/AREDIA | 291 PELVIC MESH/GYNECARE |
| 279 GADOLINIUM | 292 PELVIC MESH/BARD |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 282 FOSAMAX | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 285 STRYKER TRIDENT HIP IMPLANTS | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 286 LEVAQUIN | 297 MIRENA CONTRACEPTIVE DEVICE |
| 287 YAZ/YASMIN/OCELLA | 601 ASBESTOS |
| 288 PRUDENTIAL TORT LITIGATION | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59