FILED

FEB 0 5 2016

GIORDANO, HALLERAN & CIESLA, P.C.

JUDGE DOUGLAS K. WOLFSON

125 Half Mile Road, Suite 300 Red Bank, N.J. 07701-6777 (732) 741-3900 Marc D. Policastro, Esq. (038281990)

Marc D. Policastro, Esq. (036261990)

Attorneys for Proposed Intervening Respondent, American Properties at South Brunswick, LLC

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF SOUTH BRUNSWICK,

SUPERIOR COURT OF NEW JERSEY LAW DIVISION MIDDLESEX COUNTY

Petitioner.

DOCKET NO. MID-L-3878-15

Civil Action (Mt. Laurel)

ORDER RECONSIDERING THE JANUARY 8, 2016 ORDER AND GRANTING AMERICAN PROPERTIES AT SOUTH BRUNSWICK, LLC LEAVE TO INTERVENE

THIS MATTER being brought before the Court by the law firm of Giordano Halleran & Ciesla, P.C., attorneys for proposed intervening respondent American Properties at South Brunswick, LLC ("American Properties"), seeking relief by way of a motion for reconsideration of the order dated January 8, 2016 denying American Properties' motion to intervene in this matter, and the Court having read the papers filed in support thereof and in opposition thereto, and having heard oral argument, if any, and for good cause having been shown;

IT IS ON THIS _____ day of ____ test__ ary, 2016;

ORDERED that American Properties' motion for reconsideration is hereby granted;

IT IS FURTHER ORDERED that American Properties is hereby granted leave to intervene in this matter;

IT IS FURTHER ORDERED that American Properties shall file the Answer and Counterclaim annexed as Exhibit "E" to the Certification of Marc D. Policastro, Bsq. dated January 19, 2016 within ten (10) days of the date of this Order; and

IT IS FURTHER ORDERED that a true copy of this Order be forwarded to all counsel of record within _____ days hereof.

HON. DOUGLAS K. WOLFSON, J.S.C.

_____Unopposed _____Opposed

Docs #2181941-v1



Donald J. Sears, Esq.
Township of South Brunswick
540 Ridge Road
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Monmouth Junction, NJ 08852
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FILEDFEB 0 5 2016

JUDGE DOUGLAS K. WOLFSON

Attorney for Declaratory Plaintiff, Township of South Brunswick

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
SOUTH BRUNSWICK FOR A
JUDGMENT OF COMPLIANCE AND
REPOSE AND TEMPORARY
IMMUNITY FROM MOUNT LAUREL
LAWSUITS

SUPERIOR COURT OF NEW JERSEY LAW DIVISION MIDDLESEX COUNTY

DOCKET NO.: MID-L-3878-15

CIVIL ACTION – MOUNT LAUREL

ORDER OF CONSOLIDATION

THIS MATTER, having been opened to the Court by Donald J. Sears, Esq., attorney for Declaratory Plaintiff, Township of South Brunswick, by way of Motion, on notice to the Special Masters Elizabeth McKenzie and Christine Nazzaro-Cofone, all parties of record in this and all other similar Mount Laurel Declaratory Judgment Actions pending before this Court, as well as all known interested parties, and the Court having considered the moving papers and the papers filed in opposition to the Motion (if any), and having further considered the arguments of counsel, for the reasons set forth on the record and otherwise for good cause shown;

AND IT IF FURTHER ORDERED that the Township of South Brunswick shall be and is hereby permitted to intervene and participate in any trial of any matter that may result in the determination of its fair share affordable housing obligation;

AND IT IS FURTHER ORDERED that a copy of this Order shall be served upon the Special

Masters and all counsel of record in each Mount Laurel Declaratory Judgment Action pending before this

Court within seven (7) days of the date hereof;

AND IT IS FURTHER ORDERED that a copy of this Order shall be available for inspection by any interested party.

DOUGLAS K. WOLFSON, J.S.C.

Opposition filed: Yes ___ No

#1204 pro

WATERS, MCPHERSON, MCNEILL P.C.

300 Lighting Way

Secaucus, New Jersey 07096

Tel.: (201) 863-4400 Fax: (201) 863-2866

Attorneys for Movant-Intervenor

South Brunswick Center, LLC

FILED

FEB 0 5 2016

JUDGE DOUGLAS K. WOLFSON

SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO.: MID-L-3878-15

Civil Action

ORDER DISMISSING DECLARATORY
JUDGMENT ACTION

I/M/O THE APPLICATION OF THE TOWNSHIP OF SOUTH BRUNSWICK FOR A DECLARATORY JUDGMENT ACTION

The captioned Declaratory Judgment Action (" DJ Action" having been brought before the Court on by plaintiff, Township of South Brunswick ("Township"), on notice of motion by counsel for the Township, Donald Sears, Township Counsel, seeking an order consolidating the issuant DJ action with other Declaratory Judgment actions filed pursuant to Mount Laurel IV (221 N.J. 1), pending in Middlesex County Superior Court, or alternatively, granting the Township leave to intervene in such declaratory judgment actions described in the Township's moving papers, and intervener-respondent, South Brunswick Center, LLC ("SBC") having cross-moved through counsel, Waters, McPherson, McNeill, P.C. (Kenneth D. McPherson Jr., appearing), seeking an order

declaring that the Township's DJ Action has not been brought or prosecuted in good faith as prescribed in Mount laurel IV, and granting other related affirmative relieve described in the cross-moving papers, and the court having consider the Township's moving and SBC's cross-moving papers, and the respective responses thereto, and it appearing that counsel of record for the several intervener in the instant DJ Action were served with notice of the cross-application papers, and the Court having further considered the argument of counsel appearing on return of motions, for good cause shown

IT IS ON this _____day of February, 2016, for the reasons stated on record, Ordered as follows:

- 1. The Township's motion shall be and hereby is denied with prejudice in all respects;
- 2. SBC's cross motion is hereby granted, and it is hereby Declared that the Township has failed to maintain its DJ Action in good faith pursuant Laurel IV and is chargeable with misuse of the declaratory judgment action resulting in protraction of Mount Laurel compliance;
- 3. The DJ Action shall be and hereby is dismissed with prejudice;
- 4. All prior orders entered in the DJ Action staying or dismissing without claims and crions of the interveners to the instant DJ action that were deemed to sound

in the nature of Builders Remedy actions, shall be, and hereby are vacated, and the party interveners shall be, and hereby are, authorized to pursue stations and actions before the Superior Court, and all prior orders granting the Township temporary immunity from such claims are hereby accordingly vacated;

- 5. Pending resolution of claims asserted by \$BC in its, heretofore stayed, or dismissed without prejudice, rezoning action filed under the caption: South Brunswick Center, LLC ,v Township of South Brunswick and Planning Board of MID-L-3669-14 Brunswick, Docket No. ("SBC /Action"), seeking relief from /present zoning of certain SBC /property within the Township for proposed inclusionary housing development ("SBC Site"), further described in the Amended Complaint filed in the SBC Action, the Township shall be and hereby is preliminary enjoined from proceeding column any portion of the SBC Site, through/eminent domain, or through any other/municipal process or action which would assert any measure of dominion and control of the S#C site, or otherwise assert rights to beneficial ownership, use, or occupancy of the SBC Site or any portion thereof, / which would might tend impair the availability of the SBC /Site for inclusional housing development/; and
- 6. Within ten (10) days of the date hereof, interveners the DJ Action may submit and serve certified applications for reasonable attorney fees and costs incurred in responding to the

Township Declaratory Judgment Action since the November 13, 2105, the date prior to distinsal herein that the Township was first required pursuant to Case Management or to file a good faith draft affordable housing compliance plan, and thereafter, repeatedly failed to provide; and

IT IS FURTHER ORDERED that a true but uncertified copy of the order shall be served by SBC on the office of counsel of record herein, within five (%) business days of the date hereof.

OPPOSED

HON. DOUGLAS K. WOLFSON, J.S.C.