

TOWNSHIP OF SOUTH BRUNSWICK

Municipal Building • P.O. Box 190 • Monmouth Junction, NJ 08852-0190

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Via Email and Regular Mail

April 20, 2016

Honorable Douglas K. Wolfson, J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
56 Paterson Street
P.O. Box 964
New Brunswick, NJ 08903-0964

Re: In the Matter of the Application of the Township of South Brunswick
Docket No. MID-L-3878-15
Our File No. L1347

Dear Judge Wolfson:

As the Court knows, this Court issued a written opinion on October 5, 2015, determining that a Gap Period obligation exists that must be satisfied by municipalities as part of their Third Round Plan. On February 18, 2016, the Hon. Mark A. Troncone, J.S.C., made a similar determination in Ocean County, also finding that a Gap Period obligation exists that must be satisfied by municipalities as part of their Third Round Plan. On March 9, 2016, Barnegat Township filed a Motion for Leave to Appeal from Judge Troncone's decision, arguing that it was error for the trial court to find that a Gap Period exists or that an additional obligation arises from the Gap Period that must be satisfied by municipalities as part of their Third Round plans. The Municipal Consortium (a coalition of 284 municipalities) and four individual municipalities (South Brunswick, Colts Neck, Millstone Township and Middletown Township) all filed Motions for Leave to participate as Amicus Curiae should leave be granted. The New Jersey Builders' Association and Fair Share Housing Center both filed opposition.

This letter is to advise the Court that on April 14, 2016, the Appellate Division issued an Order granting the Motion for Leave to Appeal (Exhibit A). I was advised via telephone today by Marissa Huber from the Appellate Division Clerk's Office that the Appellate Division also granted all of the Motions for Leave to participate as Amicus Curiae. As a result of the Appellate Division's actions, it is my understanding that Judge Troncone heard argument today from all parties and has determined to stay all further proceedings in Declaratory Judgment actions venued in Ocean County pending further direction from the Appellate Division and/or a resolution of the Gap Period issues by the Appellate Division.

Since it is clear that the Appellate Division will consider and rule upon the Gap Period issues currently before it, which may affirm, reverse or modify the Gap Period issues present in all Declaratory Judgment actions now pending, I respectfully request that the trial in this matter

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(currently scheduled for May 2, 2016) be stayed and/or adjourned until such time as the Appellate Division provides further direction to the trial courts and/or rules on the Gap Period issues. Awaiting a decision by the Appellate Division is most prudent, in light of the enormous amount of time and resources that will be expended by the parties and the Court in any trial, the results of which could potentially be negated if the Appellate Division overturns the determinations of the trial courts on the Gap Period issues.

If this Court stays and/or adjourns the trial, I also respectfully request that the Court also continue the temporary immunity granted to the Township for a like period of time. Since a stay and/or adjournment of the trial would be because of the pending action by the Appellate Division, and not because of any delay or unwillingness of the Township to proceed, a continuance of the temporary immunity would be appropriate.

I have included a proposed form of order for the Court's consideration.

Thank you for your considerations in this matter. If you have any questions or comments, please do not hesitate to contact me.

Respectfully submitted,

s/ Donald J. Sears

Donald J. Sears
Director of Law

DJS/lw

Cc: Christine Nazzaro-Cofone, PP, Special Master
Robert A. Kasuba, Esq., attorney for AVB
Henry Kent-Smith, Esq., attorney for Richardson
Kenneth D. McPherson, Jr., attorney for SBC
Kevin J. Moore, Esq., attorney for SG
Kevin Walsh, Esq., and Adam Gordon, Esq., attorneys for FSHC
Brett Tanzman, Esq., attorney for Windsor
Benjamin Bucca, Jr., Esq., attorney for SB Planning Board
On notice to all interested parties

ORDER ON MOTION

IN RE DECLARATORY JUDGMENT
ACTIONS FILED BY VARIOUS
MUNICIPALITIES, COUNTY OF OCEAN

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. AM-000407-15T1
MOTION NO. M-005196-15
BEFORE PART B
JUDGE(S): MARIE E. LIHOTZ
WILLIAM E. NUGENT

MOTION FILED: 03/09/2016

BY: TOWNSHIP OF BARNEGAT

ANSWER(S) FILED: 03/21/2016

BY: NEW JERSEY BUILDERS ASSOCIATION

FILED: 03/23/2016

BY: FAIR SHARE HOUSING CENTER

SUBMITTED TO COURT: April 11, 2016

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS
14th day of April, 2016, HEREBY ORDERED AS FOLLOWS:

MOTION BY APPELLANT

MOTION FOR LEAVE TO APPEAL

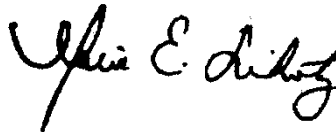
GRANTED

MOTION FOR ORAL ARGUMENT

DENIED

SUPPLEMENTAL:

FOR THE COURT:



MARIE E. LIHOTZ, P.J.A.D.

Donald J. Sears, Esq.
Township of South Brunswick
540 Ridge Road
P.O. Box 190
Monmouth Junction, NJ 08852
Phone No.: (732) 329-4000

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 <u>MOUNT LAUREL</u> LAWSUITS	SUPERIOR COURT OF NEW JERSEY LAW DIVISION MIDDLESEX COUNTY DOCKET NO.: MID-L-3878-15 CIVIL ACTION – <i>MOUNT LAUREL</i> ORDER STAYING TRIAL AND CONTINUING TEMPORARY IMMUNITY
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THIS MATTER, having been opened to the Court by Donald J. Sears, Esq., attorney for Declaratory Plaintiff, Township of South Brunswick, by way of letter application, on notice to the Special Master Christine Nazzaro-Cofone, all parties of record, as well as all known interested parties, and the Court having considered the moving papers and the papers filed in opposition (if any), for the reasons set forth on the record and otherwise for good cause shown;

IT IS HEREBY ORDERED on this _____ day of _____, 2016, that the trial in this matter, currently scheduled for May 2, 2016, shall be and is hereby stayed pending action by the Superior Court, Appellate Division, on its grant of a Motion for Leave to Appeal in the matter captioned In Re Declaratory Judgment Actions Filed by Various Municipalities, County of Ocean, bearing Appellate Division Docket No. AM-000407-15T1 (Motion No. M-005196-15);

AND IT IS FURTHER ORDERED that the Township’s temporary immunity from “builder’s

remedy” lawsuits shall be and is hereby continued pending further Order of this court;

AND IT IS FURTHER ORDERED that a copy of this Order shall be served upon the Special Master and all counsel of record 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

Donald J. Sears, Esq.
Township of South Brunswick
540 Ridge Road
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Monmouth Junction, NJ 08852
Phone No.: (732) 329-4000

Attorney for Declaratory Plaintiff,
Township of South Brunswick

<p>IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF SOUTH BRUNSWICK FOR A JUDGMENT OF COMPLIANCE AND REPOSE AND TEMPORARY IMMUNITY FROM <u>MOUNT LAUREL</u> LAWSUITS</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION MIDDLESEX COUNTY</p> <p>DOCKET NO.: MID-L-3878-15</p> <p>CIVIL ACTION – <i>MOUNT LAUREL</i></p> <p>CERTIFICATION OF LISA WARD</p>
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Lisa Ward, of full age, hereby certifies as follows:

1. I am a Legal Assistant employed by the Township of South Brunswick. As such, I have full knowledge of all of the facts and circumstances surrounding this matter.
2. The Township's letter requesting a Stay of the May 2, 2016, trial and continuation of temporary immunity pending disposition of the Gap Period issues by the Appellate Division, and proposed form of Order, was served upon the Honorable Douglas K. Wolfson, J.S.C., Superior Court of New Jersey, Middlesex County Courthouse, 56 Paterson Street, P.O. Box 964, New Brunswick, NJ 08903-0964 via electronic mail and regular mail on this date.
3. A copy of same was served upon the following via electronic mail and regular mail on this date:

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Township of South Brunswick Declaratory Judgment Action Interested Parties Service List

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Township of South Brunswick Declaratory Judgment Action Interested Parties Service List

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NJ Department of Community Affairs
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Raphael Kasen, Community Bldg Specialist
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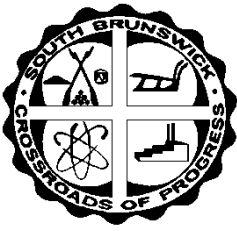
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Phone 732-329-4000 X7311 Fax 732-329-9026

April 20, 2016

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
Docket No. MID-L-3878-15

To All Interested Parties on the attached Service List:

Please be advised that the Township of South Brunswick has filed a letter request with the court for a Stay of the Trial, currently scheduled for May 2, 2016, and proposed form of Order.

In the event you wish to receive a copy of the documents that have been filed by the Township, please notify Lisa Ward, Legal Assistant in my office (lward@sbtnj.net) and a copy will be promptly sent to you via electronic mail and/or regular mail, as you designate. A copy of the documents can also be reviewed on the South Brunswick Township website (www.sbtnj.net); at the offices of the Township of South Brunswick; or in the Superior Court – Law Division, Middlesex County Clerk's Office.

If you have any further questions or comments, or wish to discuss this matter further, please do not hesitate to contact my office.

Very truly yours,

/Donald J. Sears

Donald J. Sears
Director of Law