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**FILED**

**FEB 05 2016**

JUDGE DOUGLAS K. WOLFSON

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>ORDER OF CONSOLIDATION</p>
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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 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;

IT IS HEREBY ORDERED on this 5<sup>th</sup> day of February, 2016, that all Mount Laurel Declaratory Judgment Actions pending before this Court that were filed as a result of the New Jersey Supreme Court's decision in In Re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV) shall be and are hereby consolidated for trial for purposes of determining the Statewide and Regional need as well as the fair share obligations of each municipality and the acceptable compliance mechanisms available to meet said obligations;

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;

*DENIED*

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 <sup>2</sup>~~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

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Attorneys for Movant-Intervenor  
South Brunswick Center, LLC

**FILED**

**FEB 05 2016**

JUDGE DOUGLAS K. WOLFSON

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

SUPERIOR COURT OF NEW JERSEY LAW  
DIVISION: MIDDLESEX COUNTY

DOCKET NO.: MID-L-3878-15

Civil Action

ORDER DISMISSING 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 5<sup>th</sup> 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 ~~DENIED~~ Mount 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; ~~DENIED~~

4. All prior orders entered in the DJ Action staying or dismissing without ~~DENIED~~ prejudice, claims and actions of the interveners to the instant DJ action that were deemed to sound ~~DENIED~~

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 such claims and actions before the Superior Court, and all prior orders granting the Township temporary immunity from such claims are hereby accordingly vacated;

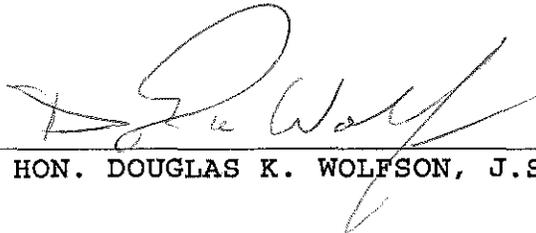
5. Pending resolution of claims asserted by SBC in its, heretofore stayed, or dismissed without prejudice, rezoning action filed under the caption: South Brunswick Center, LLC v Township of South Brunswick and Planning Board of South Brunswick, Docket No. MD-L-3669-14 ("SBC Action"), seeking relief from 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 against 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 SBC site, or otherwise assert rights to beneficial ownership, use, or occupancy of the SBC Site or any portion thereof, which would might tend to impair the availability of the SBC Site for inclusionary 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 ~~dismissal~~ **DENIED** herein that the Township was first required pursuant to Case Management Order 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~~ <sup>2</sup> (5) business days of the date hereof.

**OPPOSED**

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