





Appendix XII-B1

	<h2 style="margin:0;">CIVIL CASE INFORMATION STATEMENT</h2> <h3 style="margin:0;">(CIS)</h3> <p style="margin:0;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</p>		FOR USE BY CLERK'S OFFICE ONLY
			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 Robert T. Regan, Esq.		TELEPHONE NUMBER (201) 664-3344	COUNTY OF VENUE Bergen
FIRM NAME (if applicable)		DOCKET NUMBER (when available) L-5761-15	
OFFICE ADDRESS 345 Kinderkamack Road - P.O. Box 214 Westwood, New Jersey 07675		DOCUMENT TYPE Complaint - Declaratory Judgment JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Borough of Rockleigh, Plaintiff/Petitioner		CAPTION In The Matter Of The Application of The Borough of Rockleigh, a Municipal Corporation of the State of New Jersey, etc.	
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) <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN	
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 type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION <div style="text-align: center; font-size: 1.5em; font-weight: bold; margin: 10px 0;">FILED</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold; margin: 5px 0;">JUN 18 2015</div> <div style="text-align: center; font-size: 1.2em; font-family: cursive; margin: 5px 0;">  </div>			
 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 1:38-7(b)</i> .			
ATTORNEY SIGNATURE: 			



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/ARELIA | 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 Slide 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59

SUPERIOR COURT BERGEN COUNTY
FILED

ROBERT T. REGAN, ESQ.
345 Kinderkamack Road
P.O. Box 214
Westwood, New Jersey 07675
(201) 664-3344
Attorney for Plaintiff/Petitioner
BAR ID 014891976

JUN 18 2015

James A. ...
DEPUTY CLERK

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO. BER-L- 5761-15

IN THE MATTER OF THE
APPLICATION OF THE
BOROUGH OF ROCKLEIGH, a
Municipal Corporation of the
State of New Jersey, For
Substantive Certification

:
: **Civil Action**
: (Mount Laurel)
:
: **COMPLAINT FOR**
: **DECLARATORY JUDGMENT**

Plaintiff/Petitioner, the Borough of Rockleigh ("Plaintiff/Petitioner"), a municipal corporation and body politic organized under the laws of the State of New Jersey, with offices located at 26 Rockleigh Road, Rockleigh, Bergen County, New Jersey, by way of Complaint For Declaratory Judgment says:

Jurisdiction

1. Jurisdiction is established pursuant to the New Jersey Declaratory Act, *N.J.S.A. 2A:16-50, et seq.*

2. Jurisdiction is further established as a result of the Supreme Court Decision, **In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing**, 221 N.J. 1 (2015) (the "2015 Case").

Background and Prior Round Obligations

3. In 1975 the Supreme Court of New Jersey in **South Burlington County N.A.A.C.P. v. Township of Mount Laurel**, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power, in general, had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low and moderate income housing needs.

4. In 1983, the Supreme Court refined that constitutional obligation in **South Burlington County N.A.A.C.P. v. Township of Mount Laurel**, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan.

5. In 1985, the New Jersey Legislature adopted, and the Governor signed, the Fair Housing Act ("FHA"), *N.J.S.A. 52:2D-301, et seq.*, which transformed the judicial doctrine which became known as the "**Mount Laurel** doctrine" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element and Fair Share Plan ("HE/FSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council On Affordable Housing ("COAH") to develop regulations to define the obligation and implement it.

6. COAH proceeded to adopt regulations for First Round obligations applicable from 1987 to 1993 and Second Round obligations that created a

cumulative obligation from 1987 to 1999.

7. The Borough of Rockleigh received Substantive Certification of its Housing Element and Fair Share Plan ("HE/FSP") as to its First Round obligation from COAH on or about September 4, 1991.

8. The Borough of Rockleigh received Substantive Certification of its HE/FSP as to its Second Round obligation from COAH on or about November 4, 1998.

Third Round Obligation

9. COAH first proposed Third Round Substantive and Procedural Rules in October, 2003. *35 N.J.R. 4636(a)*; *35 N.J.R. 4700(a)*.

10. Those Rules remained un-adopted and COAH re-proposed both the Substantive and Procedural Third Round Rules (*N.J.A.C. 5:94* and *5:95*) in August of 2004 and adopted the same effective on December 20, 2004. (the "2004 Regulations")

11. The 2004 Regulations were challenged and on January 25, 2007, the Appellate Division invalidated various aspects of those Regulations and remanded considerable portions of the Rules to COAH with direction to adopt revised rules. ***In the Matter of the Adoption of N.J.A.C. 5:94 and 5:95 by the New Jersey Council On Affordable Housing***, 390 N.J. Super. 1 (App. Div.), certif. denied, 192 N.J. 72 (2007) (the "2007 Case").

12. On January 22, 2008, COAH proposed and published Revised Third Round Regulations in the New Jersey Register. *40 N.J.R. 237*.

13. On May 6, 2008, COAH adopted the Revised Third Round

Regulations and advised that the new Regulations would be published in the June 2, 2008 *New Jersey Register*, thereby becoming effective.

14. On May 6, 2008, COAH simultaneously proposed Amendments to the Revised Third Round Rules it had just adopted. Those Amendments were published in the June 16, 2008 *New Jersey Register*, 40 *N.J.R.* 3373 (Procedural *N.J.A.C.* 5:96); 40 *N.J.R.* 3374 (Substantive *N.J.A.C.* 5:97). The Amendments were adopted on September 22, 2008 and made effective on October 20, 2008.

15. The Borough of Rockleigh received Substantive Certification of its HE/FSP as to the Third Round obligation from COAH on or about November 12, 2009.

The Transfer of Jurisdiction to the Courts

16. *N.J.A.C.* 5:96 and 5:97 as adopted in 2008 were challenged in an appeal entitled **In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing**, 416 N.J. Super. 462 (App. Div. 2010) (the "2010 Case"). In its October 8, 2010 decision, the Appellate Division determined, among other things, that the growth share methodology was invalid and that COAH should adopt regulations utilizing methodologies similar to the ones utilized in the First and Second Rounds, i.e. 1987-1999.

17. On September 26, 2013, the Supreme Court of New Jersey affirmed the Appellate Division's invalidation of the third iteration of the Third Round Regulations, sustained their determination that the growth share methodology was invalid, and directed COAH to adopt new regulations based

upon the methodology utilized in the first and second rounds. *In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing*, 215 N.J. 578 (2013) (the “2013 Case”).

18 COAH proceeded to propose such Regulations in accordance with the Schedule and Amended Schedule established by the New Jersey Supreme Court in the 2013 Case.

19. On October 20, 2014, COAH deadlocked with a 3-3 vote and failed to adopt the Revised Third Round Regulations.

20. Due to COAH’s failure to adopt the Revised Regulations and subsequent inaction, Fair Share Housing Center (“FSHC”), a party in the 2010 Case and the 2013 Case, filed a motion with the New Jersey Supreme Court to enforce litigant’s rights.

21. On March 10, 2015 the New Jersey Supreme Court issued its decision on FSHC’s motion to enforce litigant’s rights. The Supreme Court in the 2015 Case found that the COAH administrative process had become non-functioning and, as a result, returned primary jurisdiction over affordable housing matters to the trial courts. *In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing*, 221 N.J. 1 (2015) (the “2015 Case”).

22. In doing so, the Supreme Court established a process for municipalities, like the Borough of Rockleigh, that had received Substantive Certification of their HE/FSP on the Third Round. More particularly, because of the invalidation of the growth share based Third Round Rules, the Court

held that a HE/FSP approved by COAH must be evaluated to determine whether it provides “for a realistic opportunity for the municipality to achieve its ‘fair share of the present and prospective regional need for low and moderate income house’”. Id. at 25, citing Mount Laurel II, 92 N.J. at 205.

23. The Supreme Court determined that towns which had received Substantive Certification from COAH may seek, through a Declaratory Judgment action, a Court Order declaring its HE/FSP, as or to be supplemented, as constitutionally compliant. The Court noted that “such towns deserve an advantage in the judicial review that shall take place”, and that enactments should “not be lightly disturbed unless necessary”, with “supplemental actions....a preferred course for obtaining constitutional compliance”. Id. at 25-26.

24. In the review for constitutional compliance of a town’s regulations where Substantive Certification for the Third Round had been achieved, the Supreme Court stated that “courts should be generously inclined to grant applications for immunity from subsequently filed exclusionary zoning actions during that necessary review process, unless such process is unreasonably protracted”. Id. at 26.

25. In response to the Supreme Court decision, the Borough of Rockleigh has adopted a revised HE/FSP dated April 24, 2015 that fully complies with its constitutional affordable housing obligations. More particularly, after a public hearing, the Planning Board of the Borough of Rockleigh adopted the revised HE/FSP by resolution dated May 18, 2015.

Subsequent to this action, the Mayor and Council adopted a resolution on June 1, 2015 endorsing the HE/FSP and petitioning the Superior Court for Substantive Certification for the Third Round.

COUNT ONE

(Declaratory Relief, Constitutional Compliance)

26. The Borough of Rockleigh repeats and realleges each and every allegation set forth in Paragraphs 1-25 of this Complaint as if set forth herein at length.

27. Pursuant to the Declaratory Judgments Act, *N.J.S.A. 2A:16-50*, *et seq.*, and the 2015 Case, the Borough of Rockleigh has a right to a Declaratory Judgment verifying and confirming the Borough's full compliance with its constitutional affordable housing obligations

WHEREFORE, Plaintiff/Petitioner, the Borough of Rockleigh, respectfully seeks that the Court grant the following relief:

A. An Order exercising jurisdiction over the compliance by the Borough of Rockleigh with its constitutional affordable housing obligations; and

B. An Order declaring that the Borough of Rockleigh has fully discharged its constitutional affordable housing obligations and is granted protection and repose against exclusionary zoning litigation.

C. A Judgment of Compliance and Repose for a period of ten (10) years from its date of entry.

D. An Order granting such additional relief as the Court deems equitable and just.

COUNT TWO

(Request For Immunity)

28. The Borough of Rockleigh repeats and realleges each and every allegation as set forth in Paragraphs 1-27 as if set forth herein at length

29. In the 2015 Case, the Supreme Court determined that “courts should be generously inclined to grant applications for immunity” from towns, such as Rockleigh, that had achieved Substantive Certification for the Third Round, “from subsequently filed exclusionary zoning actions during that necessary review process, unless such process is unreasonably protracted”. *Id.* at 26.

30. The Borough of Rockleigh, by virtue of the filing of the within action, is eligible to seek and obtain immunity from third party lawsuits while pursuing the within Declaratory Judgment action pursuant to the 2015 Case.

WHEREFORE, Plaintiff/Petitioner, the Borough of Rockleigh respectfully requests that the Court grant the following relief:

A. An Order granting temporary immunity from third party lawsuits against the Borough of Rockleigh from the date of the filing of the instant Declaratory Judgment action until this Court issues a Final Judgment of Compliance and Repose to the Borough of Rockleigh for its HE/FSP formulated, adopted and approved in accordance with the applicable formula and methodology established by this Court.

B. An Order granting such additional relief as the Court deems equitable and just.

DESIGNATION OF TRIAL COUNSEL

Pursuant to *Rule 4:25-4*, notice is hereby given that Robert T. Regan, Esq., Attorney for the Plaintiff/Petitioner, is designated as trial counsel in the above captioned matter.

Dated: 6/16/15



ROBERT T. REGAN
Attorney for Plaintiff/Petitioner

CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to *Rule 4:5-1*, I hereby certify that the matter in controversy is not the subject matter of any other action pending in any Court or of a pending arbitration or administrative proceeding, and that no other action or arbitration or administrative proceeding is contemplated, except that Plaintiff/Petitioner has previously submitted a Petition for Substantive Certification to COAH and received Substantive Certification as a result of the 2015 Case, COAH has been divested of jurisdiction which has been assumed by this Court as a result of the filing of the within Declaratory Judgment action.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 6/16/15



ROBERT T. REGAN
Attorney for Plaintiff/Petitioner

BERGEN COUNTY COURTHOUSE
SUPERIOR COURT LAW DIV
BERGEN COUNTY JUSTICE CTR RM 415
HACKENSACK NJ 07601-7680

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (201) 527-2600
COURT HOURS 8:30 AM - 4:30 PM

DATE: JUNE 22, 2015
RE: THE BOROUGH OF ROCKLEIGH VS COUNCIL ON AFFORDABLE
DOCKET: BER L -005761 15

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 4.

DISCOVERY IS PRESUMPTIVELY 450 DAYS BUT MAY BE ENLARGED OR SHORTENED BY THE JUDGE AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE MANAGING JUDGE ASSIGNED IS: HON MENELAOS W. TOSKOS

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002
AT: (201) 527-2600.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING. PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE WITH R.4:5A-2.

ATTENTION:

ATT: ROBERT T. REGAN
ROBERT T. REGAN
345 KINDERKAMACK ROAD
WESTWOOD NJ 07675

JUBSW11

PARKING NOTICE
Through July 31, 2016
Visitors to the Justice Center are
directed to the Lot located at
150 River St., Hackensack.
Regular shuttles round trip
available from 7:30 am to 7:00 pm