

File NO: PETER H. WEGENER, ESQ. 234961966 BATHGATE, WEGENER & WOLF A Professional Corporation One Airport Road Lakewood NJ 08701 (732) 363-0666 Attorneys for Defendant, Edward Tretter, Ind. and in his capacity as Co-Trustee and Co- Executor of the Estate of Victor Tretter, pursuant to the Last Will and Testament of Vitus Tretter, a/k/a/ Victor Tretter		
TOWNSHIP OF MIDDLETOWN, Plaintiff	: : : : : :	SUPERIOR COURT OF NEW JERSEY LAW DIVISION:MONMOUTH COUNTY DOCKET NO:MON-L-1438-24
VS.	: :	CIVIL ACTION
ESTATE OF VITUS TRETTER a/k/a/ VICTOR TRETTER, deceased, EDWARD TRETTER , individually and in his capacity as Co-Trustee and as Co- Executor of the Estate of Vitus Tretter a/k/a/ Victor Tretter; ELIZABETH TRETTER , individually and in her capacity as Co-Trustee and as Co-Executor of the Estate of Vitus Tretter a/k/a/ Victor Tretter pursuant to the Last Will ad Testament of Vitus Tretter a/k/a Victor Tretter and; THERESA TRETTER , individually and in her capacity as Co-Trustee and as Co- Executor of the Estate of Vitus Tretter a/k/a Victor Tretter pursuant to the Last Will and Testament of Vitus Tretter a/k/a/ Victor Tretter. Defendants		CERTIFICATION OF DEFENDANT EDWARD TRETTER IN OPPOSITION TO ORDER TO SHOW CAUSE

Edward Tretter, does hereby certify as follows:

1. I am a defendant in the within case, individually and in my capacity as co-trustee and as co-executor of the estate of Vitus Tretter. As such, I have personal knowledge of certain facts and circumstances and information involving this case.
2. I have investigated the facts and circumstances and upon information, I believe based upon conversations with Seth Gerszberg, principal of AAFRHW Property LLC that the within condemnation action is not being taken for a public purpose such as open space.
3. Upon information and belief, and upon the attached certification of Seth Gerszberg submitted in a pending Mt. Laurel case in Monmouth County, Docket # MON L 002588-23, it appears that the taking in this case is part of a complex scheme to thwart the public interest and allow Middletown to avoid its obligation to avoid providing its "fair share" of affordable housing for low and moderate income families. (See Exhibit "A" -Certification of Seth Gerszberg).

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: August 1, 2024

A handwritten signature in black ink, appearing to read "Edward Tretter", written over a horizontal line.

EDWARD TRETTTER

DAY PITNEY LLP

One Jefferson Road
 Parsippany, NJ 07054
 Craig Gianetti, Esq. (036512003)
 Stephen R. Catanzaro, Esq. (073402013)
 (973) 966-6300
Attorneys for Plaintiff

ADONI PROPERTY GROUP, LLC,
 Plaintiff,

v.

TOWNSHIP OF MIDDLETOWN AND
 MAYOR AND COUNCIL OF THE
 TOWNSHIP OF MIDDLETOWN,

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: MONMOUTH COUNTY
 DOCKET NO. MON-L-1260-23

Civil Action
(Mount Laurel)

(CASES PARTIALLY CONSOLIDATED)

AAMHMT PROPERTY LLC
 Plaintiff,

v.

TOWNSHIP OF MIDDLETOWN;
 MIDDLETOWN TOWNSHIP
 COMMITTEE; AND MIDDLETOWN
 TOWNSHIP PLANNING BOARD, AND B.
 DUVA DEVELOPMENT, LLC,

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: MONMOUTH COUNTY
 DOCKET NO. MON-L-002588-23

Civil Action
(Mount Laurel)

**CERTIFICATION OF
 SETH GERSZBERG**

I, SETH GERSZBERG, hereby certify:

1. I am a principal of defendant AAFRHW Property LLC ("Plaintiff"). As such, I am familiar with and have personal knowledge of the facts and circumstances set forth in this Certification. I submit this Certification in support of Plaintiff's Order to Show Cause.

Plaintiff and the Mountain Hill Property

2. Plaintiff has contractual rights to purchase the real property located at 761-653 Route 35 and designated as Block 825, Lot 55.01 (formerly Lots 53-57, 58-68, 69.01, 72-79, and

81) on the official tax map of the Township of Middletown (the “Mountain Hill Property”). The Mountain Hill Property is approximately 51.913 acres and located along Route 35 between Kings Highway and Kaness Lane, and is predominantly vacant land with the Circus liquor store located on a portion of the Mountain Hill Property.

3. The Mountain Hill Property was designated by the Township as a Non-Condemnation Redevelopment Area in 2017. At no point in time between the original Non-Condemnation Redevelopment Area designation of the Mountain Hill Property in 2017 and the Condemnation Redevelopment Area designation of the Mountain Hill Property in February 2024 did the Township attempt to voluntarily acquire the Mountain Hill Property.

4. On July 13, 2023, Plaintiff’s attorneys sent a letter to the Township Administrator explaining that the Mountain Hill Property is available and suitable for the development of affordable housing and could assist the Township in meeting its constitutional affordable housing obligation. (*See* Gianetti Cert. Ex. B.) The letter requested a meeting to discuss amending the Redevelopment Plan or a rezoning of the Mountain Hill Property to permit Plaintiff’s proposed inclusionary development. (*Id.*)

5. After the letter was sent, informal discussions were had between Plaintiff and the Township, but it was clear from those discussions that the Township has no willingness or desire to rezone the Mountain Hill Property for a multifamily inclusionary development.

Plaintiff’s Demolition of Certain Buildings on the Mountain Hill Property

6. On February 1, 2024, Plaintiff applied to the Township for demolition permits in order to demolish all four of the vacant buildings on the Mountain Hill Property. Plaintiff received those permits on April 8, 2024.

7. On May 13, 2024, Plaintiff commenced demolition of the four vacant buildings, which was completed on May 31, 2024.

The Mayor States the Township Will Take Action to Prevent Affordable Housing

8. In or around August 2023, I met with the Mayor about the Mountain Hill Property.

9. At the meeting, the Mayor stated that he does not want residential housing on the Mountain Hill Property and would look into eminent domain as a possibility.

10. I asked the Mayor why he was so worried about the Mountain Hill Property, particularly when another site known as the “Conway Property” – an 80-acre property located at Chapel Hill Road, Block 832, Lots 92 and 93 – also had sewer service and appeared to be the only other large developable site with sewer service.

11. In response, the Mayor stated that he was not worried about the Conway Property because that site was not going to be an inclusionary development – inferring he somehow knew it would not be. I was surprised to hear that because I was in discussions with the representative of the Conway Property about Plaintiff potentially acquiring it. The Mayor then explained that he was going to make a deal with the Monticalvo family, which also owned property in the Township – in which that family would purchase the Conway Property and then trade the land to the Township for another piece of land owned by the Township.

Plaintiff Attempts to Purchase the Conway Property For an Inclusionary Development, But it is Now Planned to be Sold to a Different Buyer - Which I Believe Was Coordinated by the Township

12. Between September 2023 and April 2024, Plaintiff’s negotiations for the purchase of the Conway Property intensified, which included visits to the property. Plaintiff also sent multiple letters of intent to the representative of the Conway Property and I had numerous discussions with him. If a purchase sale agreement was signed, Plaintiff would have proposed to

develop the Property for an inclusionary development and would have sought to include the Conway Property in this builder's remedy suit.

13. Plaintiff sent its planned-to-be final letter of intent to the owners of the Conway Property on or about April 2, 2024. Shortly thereafter, Plaintiff learned that the Conway Property was more likely to be sold to the Montecolvo family as they could close in 60 days. Plaintiff could not agree to such a quick close because there is concern that the Township would condemn the Conway Property if Plaintiff entered into a contract to purchase it, just as it has tried to do with the Mountain Hill Property.

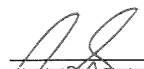
14. Upon information and belief, the Township is coordinating the sale of the Conway Property to the Montecolvo family – just as the Mayor previewed would happen during our meeting several months earlier.

15. It has been represented to me by the owner of the Conway Property that the Township's deal will include a trade of land that will result in the Township acquiring the Conway Property. Specifically, the Township owns properties located at Block 835, Lot 17.04 (which is approximately 13 acres), as well as 44 acres out of 67 acres of Block 835, Lot 18 (collectively, "Township Parcel"). Based upon the Notice of Lis Pendens attached hereto as **Exhibit A**, the Township appears to be seeking to condemn the remaining 23 out of 67 acres of Block 835, Lot 18, such that it will own the entire parcel that they had committed to trade with the Montecolvo's for the Conway Property. This Township Parcel is not within a sewer service area. The Montecalvo family owns Block 835, Lots 17.07, 58, and 59, which is operated as a horse farm. Based upon the prior statements of the Mayor, the Montecalvo family will act as a straw man purchaser and purchase the Conway Property (on a fast-tracked 60-day closing). Then, the Township will trade the Township Parcel to the Montecalvos in exchange for the Conway

Property. This exchange would allow the Montecalvo family to expand their horse operation on the to-be-acquired land from the Township. It would also take the last large developable sewer serviced area out of reach for an inclusionary development.

16. I believe this conduct by the Township was done in an effort to prevent Plaintiff from acquiring the Conway Property because the Township knows Plaintiff would have sought and likely would have been awarded a builder's remedy with an inclusionary development in connection with the Conway Property had it been able to enter into a negotiated purchase sale agreement. I believe that the Conway Property could accommodate approximately 400 townhouses, including 80 affordable units. If the Township is prevented from taking control of the Conway Property – and prevented from executing eminent domain on it - the Conway Property would almost certainly be developed as an inclusionary development. I was recently told by Mr. Conway that the Montecolvos have not yet signed the Purchase sale agreement and the property is still available.

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



SETH GERSZBERG

Dated: June 7, 2024

EXHIBIT A

Monmouth County Document Summary Sheet					
 MONMOUTH COUNTY CLERK PO BOX 1251 MARKET YARD FREEHOLD NJ 07728		Return Name and Address Township of Middletown c/o Spiro Harrison & Nelson LLC 200 Monmouth Street, Suite 310 Red Bank, NJ 07701		 701VZG	
Official Use Only CHRISTINE GIORDANO HANLON COUNTY CLERK MONMOUTH COUNTY, NJ INSTRUMENT NUMBER 2024030467 RECORDED ON May 07, 2024 12:05:45 PM BOOK:OR-9687 PAGE:3723 Total Pages: 63 COUNTY RECORDING FEES \$8.00 TOTAL PAID \$8.00		Submitting Company		Township of Middletown	
		Document Type		Lis Pendens	
		Document Date (mm/dd/yyyy)		04/30/2024	
		Total Number of Pages (Including the cover sheet)		63	
		Consideration Amount (If applicable)			
		Official Use Only MAY 07 2024 \$8 Municipal Fee		63	
First Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	Tretter, Estate of Victor Tretter, Edward Tretter, Elizabeth Tretter, Theresa				
Second Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	Township of Middletown				
The Following Section is Required for DEEDS Only					
Parcel Information	Municipality	Block	Lot	Qualifier	Property Address
	Middletown	835	part of 18		
Recording Reference to Original Document (if applicable)					
Reference Information (Marginal Notation)	Book	Beginning Page		Instrument No.	
Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.					

Brian M. Nelson, Esq. (#001352003)
SPIRO HARRISON & NELSON LLC
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 732.784.1470 Law Office
 bnelson@shnlegal.com
Attorneys for Plaintiff Township of Middletown

TOWNSHIP OF MIDDLETOWN,

Plaintiff,

v.

ESTATE OF VITUS TRETTER a/k/a
 VICTOR TRETTER, deceased; EDWARD
 TRETTER, individually and in his capacity
 as Co-Trustee and as Co-Executor of the
 Estate of Vitus Tretter a/k/a Victor Tretter
 pursuant to the Last Will and Testament of
 Vitus Tretter a/k/a Victor Tretter;
 ELIZABETH TRETTER, individually and in
 her capacity as Co-Trustee and as Co-
 Executor of the Estate of Vitus Tretter a/k/a
 Victor Tretter pursuant to the Last Will and
 Testament of Vitus Tretter a/k/a Victor
 Tretter, and; THERESA TRETTER,
 individually and in her capacity as Co-
 Trustee and as Co-Executor of the Estate of
 Vitus Tretter a/k/a Victor Tretter pursuant to
 the Last Will and Testament of Vitus Tretter
 a/k/a Victor Tretter.

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION
 MONMOUTH COUNTY

DOCKET NO: MON-L-1438-24

Civil Action

NOTICE OF LIS PENDENS

Notice is hereby given that a suit entitled as above commenced on the 30th day of April,
 2024, and is now pending in said New Jersey Superior Court, Law Division, Monmouth County,
 the general object of said suit being:

1. To take in the name of the Plaintiff, Township of Middletown ("Middletown"), the land and premises hereinafter described for the use of Middletown for public use and purposes, and to appoint commissioners, in accordance with the statutes of this State and the Rules of Court, to fix the amount to be paid for said taking.

2. The real property interests to be taken are located in the Township of Middletown on property owned by Estate of Vitus Tretter a/k/a Victor Tretter, deceased, specifically the Southern Terminus of Manitto Place, Block 835, Part of Lot 18, being approximately 23.5 acres in size, on the tax map of the Township of Middletown and located off of Chapel Hill Road, Township of Middletown, Monmouth County, New Jersey as more particularly described in Exhibit "A" attached to this Notice of *Lis Pendens*.

3. The names and addresses of all condemnees known to Middletown after reasonable investigation and the nature of their interests being taken in the subject properties are attached as Exhibit "B" to this Notice of *Lis Pendens*.

4. No other person, corporation, or government entity appears of record to have an interest therein, and no other person, corporation, or government entity who may have or may claim to have an interest therein is known to the County.

IN WITNESS THEREOF, the County has caused this Notice of *Lis Pendens* to be signed by its duly authorized signatory as of the 30th day of April, 2024.

SPIRO HARRISON & NELSON LLC
Attorneys for Plaintiff,
Township of Middletown

BY: 
BRIAN M. NELSON, ESQ.

Dated: April 30, 2024