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May 10, 2017

Via Hand Delivery

Clerk
Superior Court of New Jersey
Essex County, Law Division
Essex County Historic Courthouse
470 Dr. Martin Luther King, Jr., Blvd.
Newark, New Jersey 07102

***Re: In the Matter of the Township of Verona
Docket No. ESX-L-4773-15***

Dear Sir/Madam:

Our office represents proposed Intervenor/Defendant, Poekel Properties LLC ("Poekel"), in the above-referenced matter. Enclosed for filing are an original and one (1) copy of the following documents:

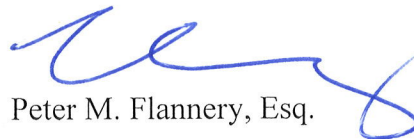
1. Notice of Motion for Intervention;
2. Brief in Support of Poekel's Motion for Intervention;
3. Certification of Charles A. Poekel, Jr., dated May 9, 2017;
4. Certification of Peter M. Flannery, Esq., dated May 10, 2017;
5. Proposed Order; and
6. Certification of Service.

The Motion is currently returnable on May 26, 2017. Kindly file the originals and return the stamped filed copy to our office. Also, please bill our Superior Court account number 142320 any fees associated with this request.

Thank you for your assistance.

Respectfully submitted,

BISGAIER HOFF, LLC



Peter M. Flannery, Esq.

Enclosures

cc: Michael A. Gannaio, Esquire (w/encls., via e-mail and overnight mail)
Gregory D. Meese, Esq. (w/encls., via e-mail and overnight mail)
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Poekel Properties LLC

IN THE MATTER OF THE TOWNSHIP OF
VERONA,

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – ESSEX COUNTY

DOCKET NO. ESX-L-4773-15

CIVIL ACTION

(Mount Laurel)

NOTICE OF MOTION

TO: Michael A. Gannaio, Esq.
Giblin & Gannaio
2 Forest Avenue, #200
Oradell, New Jersey 07649
Attorneys for Petitioner,
Township of Verona

PLEASE TAKE NOTICE that on Friday, May 26, 2017, at 9:00 a.m., or as soon thereafter as counsel may be heard, Bisgaier Hoff, LLC, attorneys for proposed Defendant-Intervenor, Poekel Properties LLC (“Poekel”), shall move before the Honorable Robert H. Gardner, J.S.C., Superior Court of New Jersey, at the Essex County Historic Courthouse, 470 Dr. Martin Luther King, Jr., Blvd., Newark, New Jersey 07102, for an Order granting Poekel status as an intervenor-defendant and granting leave to Poekel to file the Answer in the form submitted with this Motion.

PLEASE TAKE FURTHER NOTICE that, in support of this motion, the undersigned will rely on the accompanying Certifications of Charles Poekel and the undersigned and Brief in support of this Motion.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 1:6-2, the undersigned requests oral argument if opposition is filed.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order has been attached herewith in accordance with Rule 1:6-2.

BISGAIER HOFF, LLC
Attorneys for Proposed Intervenor-Defendant
Poekel Properties LLC

By: 
Peter M. Flannery, Esquire

Dated: May 10, 2017

IN THE MATTER OF THE TOWNSHIP OF
VERONA,

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – ESSEX COUNTY

DOCKET NO. ESX-L-4773-15

CIVIL ACTION

MOUNT LAUREL

**BRIEF IN SUPPORT OF POEKEL PROPERTIES LLC'S MOTION FOR
INTERVENTION PURSUANT TO RULE 4:33-1 OR RULE 4:33-2**

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Poekel Properties LLC

On the Brief,

Peter M. Flannery, Esq. (NJ Bar ID No. 022222004)

TABLE OF CONTENTS

	PAGE
TABLE OF AUTHORITIES	ii
INTRODUCTION	2
FACTUAL AND PROCEDURAL BACKGROUND	2
The <u>Mount Laurel</u> Doctrine	2
The Township’s <u>Mount Laurel</u> Compliance	4
Poekel’s Proposed Inclusionary Development within the Township	5
LEGAL ARGUMENT	
I. PURSUANT TO BOTH <u>MOUNT LAUREL</u> JURISPRUDENCE AND THE NEW JERSEY COURT RULES, POEKEL IS ENTITLED TO INTERVENTION IN THE PRESENT MATTER	6
A. Poekel is Entitled to Intervention as of Right Pursuant to <u>Rule</u> 4:33-1	9
B. Poekel is Entitled to Permissive Intervention Pursuant to <u>Rule</u> 4:33-2	11
CONCLUSION	12

TABLE OF AUTHORITIES

State Cases

<u>Allen B. DuMont Labs, Inc., v. Marcalus Mfg. Co.,</u> 30 <u>N.J.</u> 290 (1959).....	11
<u>Am. Civil Liberties Union of N.J., Inc. v. County of Hudson,</u> 352 <u>N.J. Super.</u> 44 (App. Div. 2002)	9, 11
<u>Atl. Emplrs Ins. Co. v. Tots & Toddlers Pre-Sch. Day Care Ctr.,</u> 239 <u>N.J. Super.</u> 276 (App. Div. 1990)	10
<u>Chesterbrooke Ltd. Partnership v. Planning Bd. of Twp. of Chester,</u> 237 <u>N.J. Super.</u> 118 (App. Div. 1989).....	10
<u>In re Adoption of N.J.A.C. 5:94 & 5:95,</u> 390 <u>N.J. Super.</u> 1 (App. Div. 2007)	3
<u>In re N.J.A.C. 5:96 & 5:97,</u> 221 <u>N.J.</u> 1 (2015)	3, 4, 8, 9
<u>In re Adoption of N.J.A.C. 5:96 & 5:97 ,</u> 416 <u>N.J. Super.</u> 462 (App. Div. 2010)	3
<u>Evesham Twp. Zoning Bd. of Adjustment v. Evesham Twp. Council,</u> 86 <u>N.J.</u> 295 (1981)	11
<u>J.W. Field Co. v. Franklin,</u> 204 <u>N.J. Super.</u> 445 (Law Div. 1985)	7
<u>Looman Realty Corp., v. Broad St. Nat. Bank of Trenton,</u> 74 <u>N.J. Super.</u> 71 (App. Div. 1962).....	10
<u>Meehan v. K.D. Partners, L.P.,</u> 317 <u>N.J. Super.</u> 563 (App. Div. 1998)	10
<u>Oceanport Holding, L.L.C. v. Borough of Oceanport,</u> 396 <u>N.J. Super.</u> 622 (App. Div. 2007)	7, 8
<u>Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel,</u> 67 <u>N.J.</u> 151 (1975)	2
<u>Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel,</u> 92 <u>N.J.</u> 158 (1983)	2, 7, 8
<u>Toll Bros. v. Twp. of West Windsor,</u> 334 <u>N.J. Super.</u> 77 (App. Div. 2000)	10-11
<u>Zanin v. Iacono,</u> 198 <u>N.J. Super.</u> 490 (Law Div. 1984)	6

Statues

N.J.S.A. 2A:16-50 to -62 6

N.J.S.A. 2A:16-56 6

N.J.S.A. 52:27D-301 2

Regulations

N.J.A.C. 5:91-1 3

N.J.A.C. 5:92-1 3

N.J.A.C. 5:93-1 3

Court Rules

R. 4:33-1 10, 11

R. 4:33-2 11, 12

INTRODUCTION

Proposed Intervenor/Defendant, Poekel Properties LLC (“Poekel”), respectfully submits this brief in support of its motion to intervene to ensure that the Township of Verona (“Township”) promptly complies with its constitutional obligation to provide a realistic opportunity for the Township’s fair share of the region’s need for low and moderate income housing for the period 1999-2025 (the “Third Round”). Poekel is the owner of two adjacent properties within the Township and has previously offered to develop its property with inclusionary residential development. As has repeatedly been stated by New Jersey courts – most recently in the Supreme Court’s March 10, 2015 Order and Opinion, which provides the basis for this declaratory judgment action – standing must be liberally construed in Mount Laurel matters to ensure that the housing needs of low and moderate income households are adequately represented. Because Poekel seeks to represent the interests of low and moderate income households in this proceeding, Poekel’s intervention should be granted.

FACTUAL AND PROCEDURAL BACKGROUND

The Mount Laurel Doctrine

1. The Township has a constitutional obligation to provide a realistic opportunity of its fair share of the region’s need for affordable housing, commonly referred to as the Mount Laurel Doctrine.

2. The Mount Laurel Doctrine is collectively embodied by the judicial precedent established in Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975), cert. denied and app. dismissed, 423 U.S. 808, 96 S. Ct. 18, 46 L. Ed. 2d 28 (1975) (“Mount Laurel I”), Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”) and their judicial progeny, the Legislature’s enactment of the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (“FHA”) and the First (1987-1993) and Second

(1993-1999) Round regulations adopted by the New Jersey Council on Affordable Housing (“COAH”), N.J.A.C. 5:91-1, et seq., N.J.A.C. 5:92-1, et seq. and N.J.A.C. 5:93-1, et seq., (the “Rules”).

3. Pursuant to the FHA, COAH was tasked with calculating the affordable housing obligation for each New Jersey municipality utilizing an accepted methodology. The methodology would provide the municipality, including the Township, a definitive affordable housing obligation for a given period, known as its Mount Laurel Obligation. Those time periods, known as “Rounds” were delineated as the First Round (1987-1993) and the Second Round (1993-1999).

4. Following the conclusion of the Second Round, COAH revised its methodology for calculating the Mount Laurel Obligation for the period 1999 and beyond, *i.e.*, the Third Round, which revised methodology was commonly referred to as the “growth share” methodology.

5. The growth share methodology was rejected by the Superior Court – Appellate Division in two (2) separate opinions – In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1 (App. Div. 2007) and In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462 (App. Div. 2010), *aff’d*, 215 N.J. 578 (2013) – as being contrary to the Mount Laurel Doctrine.

6. The Supreme Court affirmed the Appellate Division’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97, *supra*, and directed COAH to adopt Third Round methodology consistent with the methodology utilized by COAH for the First and Second Rounds.

7. Despite the Supreme Court’s directive, COAH failed to adopt the necessary regulations for the Third Round. In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015)(“Mount Laurel IV”).

8. On March 10, 2015, the Supreme Court issued an Opinion and Order establishing procedures for municipal compliance with the Third Round Mount Laurel Obligation. Id.

9. Pursuant to Mount Laurel IV, any municipality, such as the Township, that had previously filed a petition for substantive certification with COAH is deemed to be a “participating” municipality that was provided the opportunity to institute a declaratory action in the Superior Court, seeking approval of a revised affordable housing compliance plan that would address the entirety of the Township’s outstanding Mount Laurel Obligation, including the obligation for the Third Round period of 1999-2025. Id. at 22-29.

10. Upon submission of such a declaratory judgment action and corresponding compliance plan, the trial court must calculate the Township’s Third Round Mount Laurel Obligation. This calculation must be consistent with Supreme Court’s directive that the courts utilize the First and Second Round methodology.

The Township’s Mount Laurel Compliance

11. On July 2, 2015, the Township filed for declaratory relief pursuant to Mount Laurel IV (the “Township Complaint”). See Township Complaint, generally.

12. The Township’s cumulative Mount Laurel Obligation for the Second Round (1987-1999) was 27 units. The Township’s second round Housing Element and Fair Share Plan, adopted in February, 1995, addressed this obligation, with a surplus, and COAH granted substantive certification for this plan on August 2, 1995. See Township Complaint, at ¶8.

13. The Township claims prior cycle credit for a 159-unit Section 8 project completed in 1981 and financed through the New Jersey Housing Mortgage and Finance Agency. See Township Complaint, at ¶¶7,8.

14. With respect to the Township's Third Round Mount Laurel Obligation (1999-2025), the Township Complaint does not provide any numbers but merely indicates that the "Township of Verona and its Planner are currently in the process of preparing a revised [Housing Element and Fair Share Plan] that will verify full compliance of the Township of Verona with its constitutional affordable housing obligations." See Township Complaint at ¶28.

15. According to the expert reports in the Mount Laurel declaratory judgment actions, David Kinsey (May 17, 2016 Report) has calculated the Township's prospective need affordable housing obligation (2015-2025) as 201 units; Econsult Solutions, Inc. (May 16, 2016 Report) has calculated the Township's prospective need affordable housing obligation (2015-2025) as 20 units; and Richard Reading (July 29, 2016 Report) has calculated the Township's prospective need affordable housing obligation (2015-2025) as 123 units.

16. The undersigned counsel is involved in a number of similar declaratory judgment actions in Essex County and is unaware of any proceeding in Essex County where a methodology has been established for calculating municipal affordable housing obligations post-1999. See Certification of Peter M. Flannery, Esq., dated May 10, 2017 ("Flannery Cert."), at ¶5.

**Poekel's Proposed Inclusionary Development
within the Township**

17. Poekel is the owner of property in the Township known as 860 Bloomfield Avenue and designated on the Township tax maps as Lot 17, Block 2301 ("Lot 17"). See Certification of Charles A. Poekel, Jr., dated May 9, 2017 ("Poekel Cert."), at ¶3. Lot 17 is approximately 0.8331 acre and is currently developed with a commercial building. Id. It is located in a mixed residential and retail Township zoning district and does not contain any wetlands, floodplains or floodways. Id.

18. Poekel is also the owner of property in the Township designated on the Township tax maps as Lot 18, Block 2301 (“Lot 18”). See Poekel Cert., ¶4. Lot 18 is approximately 1.903 acres and is undeveloped. Id. It is adjacent to Lot 17 and is also located in a mixed residential and retail Township zoning district. Id.

19. In February, 2017, representatives of Poekel met with representatives of the Township regarding the development of an inclusionary residential project on Lot 17 and Lot 18. See Poekel Cert., ¶6.

LEGAL ARGUMENT

I. PURSUANT TO BOTH MOUNT LAUREL JURISPRUDENCE AND THE NEW JERSEY COURT RULES, POEKEL IS ENTITLED TO INTERVENTION IN THE PRESENT MATTER

It is well settled in New Jersey that the court should liberally view a motion for leave to intervene. Zanin v. Iacono, 198 N.J. Super. 490, 495 (Law Div. 1984) (citations omitted).

Moreover, a motion to intervene is appropriate pursuant to the Uniform Declaratory Judgment Act, N.J.S.A. 2A:16-50 to -62, which provides that “all persons having or claiming any interest which would be affected by the declaration shall be made parties to the proceeding.” N.J.S.A. 2A:16-56.

The liberal approach to standing has only been further emphasized in the context of Mount Laurel litigation. As early as the Supreme Court’s decision in Mount Laurel II, the Supreme Court has been steadfast in its position that participation by private parties, such as Poekel, must be encouraged in order to vindicate the housing interests of low and moderate income households. As the Supreme Court explained:

We believe that the need for a “liberal approach” to standing is especially important in Mount Laurel litigation. The people who have the greatest interest in ending exclusionary zoning, non-resident poor people and organizations such as the Urban League, which represent the interests of such people, very often have little

or no direct relationship with particular exclusionary municipalities. In fact, the whole problem is that exclusionary zoning prevents such relationships from developing. Thus, we hold that any individual demonstrating an interest in, or any organization that has the objective of, securing lower income housing opportunities in a municipality will have standing to sue such municipality on Mount Laurel grounds.

[See Mount Laurel II, *supra*, 92 N.J. at 337 (emphasis added).]

Following the Supreme Court's decision in Mount Laurel II, one of the three trial court's assigned to implement the Mount Laurel Doctrine, Judge Serpentelli, recognized the benefits of multiple, private participants in Mount Laurel litigations as a prompt means of achieving municipal compliance with its Mount Laurel obligation. See J.W. Field Co. v. Franklin, 204 N.J. Super. 445, 468 (Law Div. 1985). That necessary role of private builders was more recently affirmed in Oceanport Holding, L.L.C. v. Township of Oceanport, 396 N.J. Super. 622, 631-32 (App. Div. 2007). In Oceanport, Judge Skillman, also one of the three original Mount Laurel judges, reversed a decision of the trial court which dismissed a builder's remedy complaint for the developer's failure to negotiate with a municipality prior to instituting litigation. In reversing, Judge Skillman acknowledged that while that private builder may not ultimately have been entitled to a builder's remedy, that builder should nonetheless have been permitted to participate in that portion of the lawsuit that focused on municipal compliance with the Mount Laurel doctrine. As Judge Skillman reasoned:

In a Mount Laurel case, the cause of action is the alleged unconstitutionality of the defendant-municipality's zoning because of its failure to provide for the municipality's fair share of affordable housing. See Mount Laurel II, *supra*, 92 N.J. at 214-16. If a plaintiff establishes this cause of action, the trial court then proceeds to the remedies stage of the case. *Id.* at 278.

....

Moreover, the Court indicated in Mount Laurel II that “the need for a ‘liberal approach’ to standing is especially important in Mount Laurel litigation.” 92 N.J. at 337. Under this liberal approach, a plaintiff-developer has standing “to pursue an action simply to vindicate the Mount Laurel right without seeking a builder's remedy.” Id. at 327. . . .

[Oceanport, supra, 396 N.J. Super. at 630-31.]

Accordingly, whether or not Poekel is ultimately entitled to any remedy or relief in this matter is immaterial to whether Poekel should be entitled to participate on behalf of the unrepresented low income and moderate income households. Under well-established precedent, Poekel’s entitlement to participate on the issue of Mount Laurel compliance should not be questioned.

Judge Skillman’s rationale in Oceanport was echoed by the New Jersey Supreme Court’s decision in Mount Laurel IV which encouraged the participation of private parties, like Poekel, to ensure Mount Laurel compliance. As the Supreme Court reasoned:

The relief authorized is remedial of constitutional rights. It will present an avenue for low- and moderate-income New Jersey citizens, and entities acting on their behalf, to challenge any municipality that is believed not to have developed a housing element and ordinances that bring the town into compliance with its fair share of regional present and prospective need for affordable housing.

[See In re N.J.A.C. 5:96 & 5:97, supra, 221 N.J. at 20.]

Poekel has available properties within the Township that could provide a realistic opportunity for the construction of affordable housing. Accordingly, as an Intervenor/Defendant in this matter, Poekel would be acting on behalf of low and moderate income households and should be granted intervention in accordance with Mount Laurel IV. Poekel’s standing to participate on such grounds has been recognized by this Court, as this Court has previously granted similar Motion for Intervention on behalf of private developers and landowners. See

Flannery Cert. at ¶4. This Court’s approach to granting such intervention is consistent with other vicinages across the State that have also permitted the intervention of parties such as Poekel in declaratory judgment actions filed by municipalities pursuant to Mount Laurel IV. Id. at ¶5.

Poekel’s intervention can still be considered timely because no determination has been made as to the Township’s fair share obligation, and there is still ample opportunity for Poekel to participate in the legal merits of the determination of the Township’s third round obligation and the compliance mechanisms the Township seeks to use to meet such obligation. Further, until that methodology determination is made, the Township cannot prepare a final Housing Element and Fair Share Plan. Such a final plan is not likely to be developed until the Court resolves the methodology and compliance issues, a schedule for which has not yet been established in Essex County. See Flannery Cert. at ¶7. Therefore, Poekel’s proposed intervention to address issues of the Township’s ultimate compliance with its affordable housing obligations is timely.

In light of all of the foregoing considerations, Poekel respectfully requests that its Motion for Intervention be granted as Poekel’s participation on behalf of low- and moderate- income households is warranted and encouraged by Mount Laurel jurisprudence.

A. Poekel is Entitled to Intervention as of Right Pursuant to Rule 4:33-1

Beyond Mount Laurel jurisprudence, the New Jersey Rules of Court and supporting case law likewise make clear that Poekel’s intervention is warranted. “[T]he substance of the rule permitting intervention as of right is also ordinarily construed quite liberally.” American Civil Liberties Union of New Jersey, Inc. v. Cnty. of Hudson, 352 N.J. Super. 44, 67 (App. Div.), certif. denied, 174 N.J. 190 (2002). The standard for intervention as of right is as follows:

Upon timely application anyone shall be permitted to intervene in an action if the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or

impede the ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

[R. 4:33-1.]

The movant must claim “an interest in the subject matter of the litigation, an inability to protect that interest without intervention, lack of adequate representation of that interest, and timeliness of the application.” Pressler & Verniero, Current N.J. Court Rules, comment 2.1 on Rule 4:33-1 (2015). “As the rule is not discretionary, a court must approve an application for intervention as of right if the four criteria are satisfied. Meehan v. K.D. Partners, L.P., 317 N.J. Super. 563, 568 (App. Div. 1998) (quoting Chesterbrooke Ltd. Partnership v. Planning Bd. of Twp. of Chester, 237 N.J. Super. 118, 124 (App. Div.), certif. denied, 118 N.J. 234 (1989)). However, “[t]he test is ‘whether the granting of the motion will unduly delay or prejudice the rights of the original parties.’” Atl. Empls Ins. Co. v. Tots & Toddlers Pre-Sch. Day Care Ctr., 239 N.J. Super. 276, 280 (App. Div.) (quoting Looman Realty Corp. v. Broad St. Nat. Bank of Trenton, 74 N.J. Super. 71, 78 (App. Div.), certif. denied, 37 N.J. 520 (1962)), certif. denied, 122 N.J. 147 (1990)).

Poekel meets each of the factors and is entitled to intervene as a matter of right. Poekel's present motion before this Court is timely because the Township's fair share obligation has not yet been determined by the Court, and thus the Township cannot present a final Housing Element and Fair Share Plan. Accordingly, no party will be prejudiced by Poekel's intervention.

Moreover, the subject of this litigation concerns the Township's current Mount Laurel obligation and its efforts to provide affordable housing opportunities. An intervening party is indispensable and must be joined if feasible if it “has an interest inevitably involved in the subject matter before the court and a judgment cannot justly be made between the litigants without either adjudging or necessarily affecting the absentee's interest.” Toll Bros., Inc. v. Twp. of West Windsor, 334 N.J. Super. 77, 90-91 (App. Div. 2000) (quoting Allen B. DuMont Labs., Inc. v.

Marcalus Mfg. Co., 30 N.J. 290, 298 (1959)), certif. denied, 168 N.J. 295 (2001). Here, Poekel has such an interest and seeks to construct an inclusionary project on its properties that, if permitted, would provide affordable housing units within the Township. [See Poekel Cert., ¶5]. In light of the foregoing, Poekel’s intervention as of right is warranted pursuant to Rule 4:33-1.

B. Poekel is Entitled to Permissive Intervention Pursuant to Rule 4:33-2

In the unlikely event that this Court concludes that Poekel cannot intervene as of right pursuant to Rule 4:33-1, then permissive intervention is warranted. Permissive intervention is governed by Rule 4:33-2, which provides, in relevant part:

Upon timely application, anyone may be permitted to intervene in an action if the claim or defense and the main action have a question of law or fact in common. . . . In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

[(Emphasis added).]

“Permissive Intervention vests considerable discretion in the trial court.” Evesham Twp. Zoning Bd. of Adj. v. Evesham Twp. Council, 86 N.J. 295, 299 (1981). The court considers the following factors: “the promptness of the application, whether or not the granting thereof will result in further undue delay, whether or not the granting thereof will eliminate the probability of subsequent litigation, and the extent to which the grant thereof may further complicate litigation which is already complex.” ACLU, supra, 352 N.J. Super. at 70 (citation omitted).

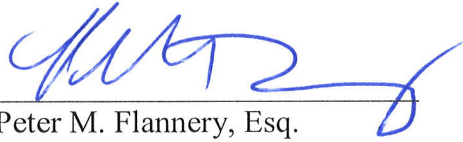
In line with the above considerations, Poekel is entitled to permissive intervention. Poekel’s claim arises from the same facts that are currently before the Court, namely the Township’s compliance with its Mount Laurel obligations. As a property owner seeking to construct an inclusionary development within the Township, the current litigation and Poekel’s have “law and facts in common” that warrant Poekel’s permissive intervention. Furthermore, no parties will be prejudiced by Poekel’s intervention. The Township’s fair share obligation has not

yet been determined, and thus, it has not prepared a final Housing Element and Fair Share Plan to address its obligation. Accordingly, Poekel participation will neither delay nor impact the rights of any party. Therefore, Poekel is entitled to permissive intervention pursuant to Rule 4:33-2.

CONCLUSION

For the foregoing reasons, Poekel Properties LLC respectfully requests that the Court grant its Motion for Intervention.

BISGAIER HOFF, LLC
Attorneys for Proposed Intervenor/Defendant
Poekel Properties LLC

By: 
Peter M. Flannery, Esq.

Dated: May 10, 2017

BISGAIER HOFF, LLC
25 Chestnut Street, Suite 3
Haddonfield, New Jersey 08033
Tel: (856) 795-0150
Fax: (856) 795-0312
By: Peter M. Flannery, Esq. (NJ Bar No. 022222004)
Email: pflannery@bisgaierhoff.com
Attorneys for Proposed Defendant-Intervenor
Poekel Properties LLC

<p>IN THE MATTER OF THE TOWNSHIP OF VERONA,</p> <p>Plaintiff/Petitioner.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – ESSEX COUNTY</p> <p>DOCKET NO. ESX-L-4773-15</p> <p>CIVIL ACTION</p> <p>(<u>Mount Laurel</u>)</p> <p>CERTIFICATION OF CHARLES A. POEKEL, JR. IN SUPPORT OF POEKEL PROPERTIES LLC’S MOTION FOR INTERVENTION PURSUANT TO <u>RULE</u> 4:33-1 OR <u>RULE</u> 4:33-2</p>
--	---

I, Charles A. Poekel, Jr. hereby certify pursuant to New Jersey Court Rule 1:4-4(b) as follows:

1. I am the Managing Member of Poekel Properties LLC (“Poekel”) and I am authorized to execute this Certification on behalf of Poekel.
2. I make this certification in support of Poekel’s Motion for Intervention pursuant to Rule 4:33-1 or Rule 4:33-2.
3. Poekel is the owner of property in the Township of Verona (“Township”) known as 860 Bloomfield Avenue and designated on the Township tax maps as Lot 17, Block 2301 (“Lot 17”). Lot 17 is approximately 0.8331 acre and is currently developed with a commercial building. It is located in a mixed residential and retail Township zoning district and does not contain any wetlands, floodplains or floodways.

4. Poekel is also the owner of property in the Township designated on the Township tax maps as Lot 18, Block 2301 ("Lot 18," and together with Lot 17, the "Poekel Properties"). Lot 18 is approximately 1.903 acres and is undeveloped. It is adjacent to Lot 17 and is also located in a mixed residential and retail Township zoning district.

5. Poekel proposes to develop the Poekel Properties with an inclusionary, multifamily residential development.

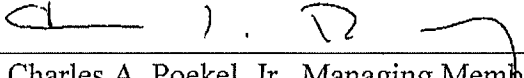
6. On Thursday, February 16, 2017, representatives of Poekel met with representatives of the Township regarding the potential development of the Poekel Properties with an inclusionary, multifamily development.

7. The development of the Poekel Properties with inclusionary, multifamily residential development will assist the Township in meeting a portion of its fair share obligations, which is the subject of this litigation.

8. Poekel seeks to work with the Township to zone the Poekel Properties in a manner that creates a realistic opportunity for the construction of actual affordable housing that can aid the Township in meeting its fair share obligation.

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

Dated: May 9th, 2017

By: 
Charles A. Poekel, Jr., Managing Member

BISGAIER HOFF, LLC
25 Chestnut Street, Suite 3
Haddonfield, New Jersey 08033
Tel: (856) 795-0150
Fax: (856) 795-0312
By: Peter M. Flannery, Esq. (NJ Bar No. 022222004)
Email: pflannery@bisgaiierhoff.com
Attorneys for Proposed Defendant-Intervenor
Poekel Properties LLC

<p>IN THE MATTER OF THE TOWNSHIP OF VERONA,</p> <p>Plaintiff/Petitioner.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – ESSEX COUNTY</p> <p>DOCKET NO. ESX-L-4773-15</p> <p>CIVIL ACTION</p> <p>(<u>Mount Laurel</u>)</p> <p>CERTIFICATION OF PETER M. FLANNERY, ESQUIRE, IN SUPPORT OF POEKEL PROPERTIES LLC’S MOTION FOR INTERVENTION PURSUANT TO <u>RULE 4:33-1 OR RULE 4:33-2</u></p>
--	---

I, Peter M. Flannery, Esquire, hereby certify pursuant to New Jersey Court Rule 1:4-4(b) as follows:

1. I am an attorney at law in the State of New Jersey and Partner at the law firm of Bisgaiier Hoff, LLC, and I am counsel for proposed Intervenor/Defendant Poekel Properties LLC (“Poekel”) in this matter.

2. I am familiar with the facts set forth herein and the documents contained in the litigation file maintained by this firm for the above-captioned case. I make this certification in support of Poekel’s Motion for Intervention pursuant to Rule 4:33-1 or Rule 4:33-2.

3. This Court has previously granted intervention in this action and similar declaratory judgment actions filed by Essex County municipalities pursuant to In re: N.J.A.C.

5:96 & 5:97, 221 N.J. 1 (2015) (“Mount Laurel IV”) to property owners and contract purchasers that offer to develop their properties with affordable housing.

4. This Court’s approach to granting such intervention is consistent with prevailing case law and other vicinages across the State that have also permitted the intervention of parties such as Poekel in declaratory judgment actions filed by municipalities pursuant to Mount Laurel IV.

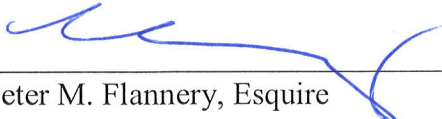
5. My firm represents a number of defendant-intervenors in a number of similar declaratory judgment actions in Essex County and I am unaware of any proceeding in Essex County where a methodology has been established for calculating municipal affordable housing obligations post-1999.

6. The Township of Verona (“Township”) is unlikely to prepare a final Housing Element and Fair Share Plan until this Court resolves the methodology and compliance issues regarding fair share obligations. This Court has not yet scheduled a methodology trial.

7. Attached hereto as Exhibit “A” is a true and correct copy of Poekel’s proposed Answer and Case Information Statement.



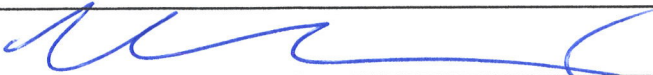
I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

BISGAIER HOFF, LLC
Attorneys for Proposed Intervenor/Defendant
Poekel Properties LLC

By: 
Peter M. Flannery, Esquire

Dated: May 10, 2017

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 Peter M. Flannery, Esq.		TELEPHONE NUMBER (856) 795-0150
	COUNTY OF VENUE Essex		DOCKET NUMBER (when available) ESX-L-4773-15
	FIRM NAME (if applicable) Bisgaier Hoff, LLC		DOCUMENT TYPE Answer
	OFFICE ADDRESS 25 Chestnut Street, Suite 3 Haddonfield, NJ 08033		JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
NAME OF PARTY (e.g., John Doe, Plaintiff) Poekel Properties LLC Defendant-Intervenor		CAPTION IN THE MATTER OF THE TOWNSHIP OF VERONA, Plaintiff/Petitioner.	
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 checked="" 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 checked="" type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
	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 | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 291 PELVIC MESH/GYNECARE |
| 278 ZOMETA/AREDIS | 292 PELVIC MESH/BARD |
| 279 GADOLINIUM | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 282 FOSAMAX | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 287 YAZ/YASMIN/OCELLA | 300 TALC-BASED BODY POWDERS |
| 288 PRUDENTIAL TORT LITIGATION | 601 ASBESTOS |
| 289 REGLAN | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59

BISGAIER HOFF, LLC
 25 Chestnut Street, Suite 3
 Haddonfield, New Jersey 08033
 Tel: (856) 795-0150
 Fax: (856) 795-0312
 By: Peter M. Flannery, Esq. (NJ Bar No. 022222004)
 Email: pflannery@bisgaiierhoff.com
 Attorneys for Proposed Defendant-Intervenor
 Poekel Properties LLC

<p>IN THE MATTER OF THE TOWNSHIP OF VERONA,</p> <p style="text-align: center;">Plaintiff/Petitioner.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – ESSEX COUNTY</p> <p>DOCKET NO. ESX-L-4773-15</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">(<u>Mount Laurel</u>)</p> <p style="text-align: center;">ANSWER</p>
---	--

Defendant-Intervenor, Poekel Properties LLC (“Poekel”), by way of Answer to the Verified Complaint for Declaratory Judgment (“Complaint”) of the Township of Verona (“Township”) in this matter, says that:

JURISDICTION

1. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced statute is a writing that speaks for itself.
2. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

BACKGROUND AND PRIOR ROUND OBLIGATIONS

3. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

4. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

5. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced statute is a writing that speaks for itself.

6. Admitted.

7. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

8. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

Third Round Obligation

9. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced regulations are a writing that speaks for itself.

10. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced regulations are a writing that speaks for itself.

11. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

12. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

13. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced regulations are a writing that speaks for itself.

14. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced regulations are a writing that speaks for itself.

15. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced regulations are a writing that speaks for itself.

16. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

17. The Complaint does not contain a Paragraph 17 and thus no response is required.

18. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

The Transfer of Jurisdiction to the Courts

19. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

20. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

21. Admitted.

22. Admitted.

23. Admitted.

24. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

25. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

26. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

27. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

28. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

COUNT ONE

(DECLARATORY RELIEF, CONSTITUTIONAL COMPLIANCE)

29. Poekel repeats its responses to each and every allegation as set forth in Paragraphs 1-28 of the Complaint as if fully set forth herein.

30. Denied.

WHEREFORE, Poekel respectfully request that the Court grant the following relief:

- a. DENYING all relief sought by the Township in its Complaint;
- b. DECLARING that the Township is in violation of its constitutional duty to create sufficient realistic opportunities for the construction of safe, decent housing affordable to low- and moderate-income families to satisfy the Township's fair share of the unmet regional need for such housing;
- c. ORDERING the Township to rezone sites for inclusionary development or in other ways that would result in the construction of Township's fair share of housing affordable to, and reserved for, low- and moderate-income households;

d. ORDERING the Township to submit to the Court, within a time period to be set by the Court, a compliance plan and zoning ordinances that will bring the Township into compliance with the requirements of the Constitution;

e. APPOINTING a Special Master, at the expense of the Township, to oversee the implementation of the foregoing remedies;

f. DENYING the Township's request for immunity from exclusionary zoning suits, including builder's remedy suits; and

g. ORDERING such additional relief as the Court deems just and equitable.

COUNT TWO

(FIVE MONTHS TO PREPARE HEFSP)

31. Poekel repeats its responses to each and every allegation as set forth in Paragraphs 1-30 of the Complaint as if fully set forth herein.

32. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

33. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinions are a writing that speaks for itself.

34. Denied.

35. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

36. Denied.

WHEREFORE, Poekel respectfully request that the Court grant the following relief:

h. DENYING all relief sought by the Township in its Complaint;

i. DECLARING that the Township is in violation of its constitutional duty to create sufficient realistic opportunities for the construction of safe, decent housing affordable to low- and moderate-income families to satisfy the Township’s fair share of the unmet regional need for such housing;

j. ORDERING the Township to rezone sites for inclusionary development or in other ways that would result in the construction of Township’s fair share of housing affordable to, and reserved for, low- and moderate-income households;

k. ORDERING the Township to submit to the Court, within a time period to be set by the Court, a compliance plan and zoning ordinances that will bring the Township into compliance with the requirements of the Constitution;

l. APPOINTING a Special Master, at the expense of the Township, to oversee the implementation of the foregoing remedies;

m. DENYING the Township’s request for immunity from exclusionary zoning suits, including builder’s remedy suits; and

n. ORDERING such additional relief as the Court deems just and equitable.

COUNT THREE

(REQUEST FOR IMMUNITY)

[Paragraph 36 is duplicated in the Complaint. In response to the “second” Paragraph 36 under Count Three of the Complaint, Poekel repeats its responses to each and every allegation as set forth in Paragraphs 1-36 of the Complaint as if fully set forth herein.]

37. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

38. Denied.

WHEREFORE, Poekel respectfully request that the Court grant the following relief:

o. DENYING all relief sought by the Township in its Complaint;

p. DECLARING that the Township is in violation of its constitutional duty to create sufficient realistic opportunities for the construction of safe, decent housing affordable to low- and moderate-income families to satisfy the Township's fair share of the unmet regional need for such housing;

q. ORDERING the Township to rezone sites for inclusionary development or in other ways that would result in the construction of Township's fair share of housing affordable to, and reserved for, low- and moderate-income households;

r. ORDERING the Township to submit to the Court, within a time period to be set by the Court, a compliance plan and zoning ordinances that will bring the Township into compliance with the requirements of the Constitution;

s. APPOINTING a Special Master, at the expense of the Township, to oversee the implementation of the foregoing remedies;

t. DENYING the Township's request for immunity from exclusionary zoning suits, including builder's remedy suits; and

u. ORDERING such additional relief as the Court deems just and equitable.

COUNT FOUR

(JURISDICTION OVER UNAPPROVED SPENDING PLAN)

39. Poekel repeats its responses to each and every allegation as set forth in Paragraphs 1-38 of the Complaint as if fully set forth herein.

40. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

41. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, the referenced opinion is a writing that speaks for itself.

42. Admitted.

43. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

44. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

WHEREFORE, Poekel respectfully request that the Court grant the following relief:

- v. DENYING all relief sought by the Township in its Complaint;
- w. DECLARING that the Township is in violation of its constitutional duty to create sufficient realistic opportunities for the construction of safe, decent housing affordable to low- and moderate-income families to satisfy the Township's fair share of the unmet regional need for such housing;
- x. ORDERING the Township to rezone sites for inclusionary development or in other ways that would result in the construction of Township's fair share of housing affordable to, and reserved for, low- and moderate-income households;
- y. ORDERING the Township to submit to the Court, within a time period to be set by the Court, a compliance plan and zoning ordinances that will bring the Township into compliance with the requirements of the Constitution;

z. APPOINTING a Special Master, at the expense of the Township, to oversee the implementation of the foregoing remedies;

aa. DENYING the Township's request for immunity from exclusionary zoning suits, including builder's remedy suits; and

bb. ORDERING such additional relief as the Court deems just and equitable.

COUNT FIVE

(AMENDMENTS TO APPROVED SPENDING PLANS)

45. Poekel repeats its responses to each and every allegation as set forth in Paragraphs 1-44 of the Complaint as if fully set forth herein.

46. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

47. Admitted.

48. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

49. Poekel is without information sufficient to form a belief as to the allegations set forth in this paragraph, and the Township is therefore left to its proofs. To the extent a response is required, the allegation is denied.

WHEREFORE, Poekel respectfully request that the Court grant the following relief:

cc. DENYING all relief sought by the Township in its Complaint;

dd. DECLARING that the Township is in violation of its constitutional duty to create sufficient realistic opportunities for the construction of safe, decent housing affordable to low- and moderate-income families to satisfy the Township's fair share of the unmet regional need for such housing;

ee. ORDERING the Township to rezone sites for inclusionary development or in other ways that would result in the construction of Township's fair share of housing affordable to, and reserved for, low- and moderate-income households;

ff. ORDERING the Township to submit to the Court, within a time period to be set by the Court, a compliance plan and zoning ordinances that will bring the Township into compliance with the requirements of the Constitution;

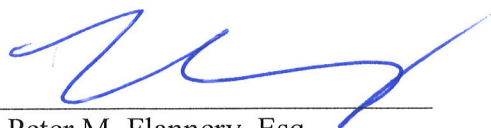
gg. APPOINTING a Special Master, at the expense of the Township, to oversee the implementation of the foregoing remedies;

hh. DENYING the Township's request for immunity from exclusionary zoning suits, including builder's remedy suits; and

ii. ORDERING such additional relief as the Court deems just and equitable.

BISGAIER HOFF, LLC

Attorneys for Proposed Intervenor/Defendant
Poekel Properties LLC

By: 
Peter M. Flannery, Esq.

Dated: May 10, 2017

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Peter M. Flannery, Esquire, is hereby designated as trial counsel on behalf of Attorneys for Defendant-Intervenor, Poekel Properties LLC.

BISGAIER HOFF, LLC
Attorneys for Proposed Intervenor/Defendant
Poekel Properties LLC

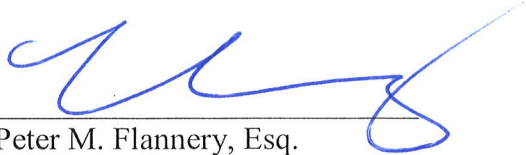
By: 
Peter M. Flannery, Esq.

Dated: May 10, 2017

RULE 4:5-1 CERTIFICATION

I hereby certify that the subject matter of the within controversy does not form the basis of any other action presently pending in any court or arbitration proceeding to the best of my knowledge, information and belief and that no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in this action at the present time.

BISGAIER HOFF, LLC
Attorneys for Proposed Intervenor/Defendant
Poekel Properties LLC

By: 
Peter M. Flannery, Esq.

Dated: May 10, 2017

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Poekel Properties LLC

<p>IN THE MATTER OF THE TOWNSHIP OF VERONA,</p> <p>Plaintiff/Petitioner.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – ESSEX COUNTY</p> <p>DOCKET NO. ESX-L-4773-15</p> <p>CIVIL ACTION</p> <p>(<u>Mount Laurel</u>)</p> <p>ORDER</p>
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THIS MATTER having been opened to the Court by proposed Intervenor/Defendant, Poekel Properties LLC (“Poekel”), by way of Motion for Intervention Pursuant to Rule 4:33-1 and/or Rule 4:33-2 and the Court having considered the moving papers and any opposition submitted thereto, and for good cause having been shown:

IT IS ON THIS ____ day of _____, 2017, **ORDERED** that:

1. The motion of Poekel seeking intervention in this matter is hereby **GRANTED**, and Poekel is hereby granted leave to file the Answer in Intervention in the form submitted on this motion.

2. A true and correct copy of this Order be served upon all counsel/interested parties within (7) seven days of the date hereof.

HONORABLE ROBERT H. GARDNER, J.S.C.

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I, Melissa Swain, am an employee of Bisgaier Hoff, LLC, attorneys for Proposed Defendant-Intervenor, Poekel Properties LLC (“Poekel”).

1. On May 10, 2017, I sent to be filed with the Clerk, New Jersey Superior Court, Essex County, Law Division, Essex County Historic Courthouse, 470 Dr. Martin Luther King, Jr., Blvd., Newark, New Jersey 07102, via hand delivery an original and one (1) copy of the following:

- a. Notice of Motion for Intervention;
- b. Brief in Support of Poekel’s Motion for Intervention;
- c. Certification of Charles A. Poekel, Jr., dated May 9, 2017;
- d. Certification of Peter M. Flannery, Esq., dated May 10, 2017;
- e. Proposed Order; and
- f. this Certification of Service.

2. On May 10, 2017, I served one (1) copy of the above documents via e-mail and overnight delivery to:

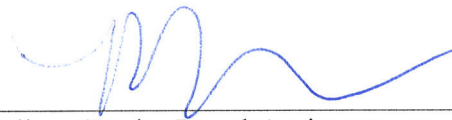
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3. On May 10, 2017, I served one (1) copy of the above documents regular mail to the attached service list.

I 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.



Melissa Swain, Legal Assistant

Dated: May 10, 2017

VERONA SERVICE LIST (36)

<p>Kevin D. Walsh, Esquire Fair Share Housing Center 510 Park Boulevard Cherry Hill, NJ 08002</p>	<p>Thomas F. Carroll, III, Esquire Hill Wallack 202 Carnegie Center CN 5226 Princeton, NJ 08543</p>
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