# BISGAIER HOFF

Attorneys At Law A Limited Liability Company

June 8, 2017

Via Overnight 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

e: 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. Order dated May 26, 2017, entered by the Honorable Robert H. Gardner, J.S.C.;
- Case Information Statement;
- Answer to Complaint filed by the Township of Verona; and
- Certification of Service.

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)
John P. Inglesino, Esquire (w/encls., via e-mail and overnight mail)
Attached Service List (via regular mail)
Poekel Properties LLC (w/encls., via e-mail)

Peter M. Flannery, Esq. Member of the NJ & NY Bars E-mail: pflannery@bisgaierhoff.com Direct Dial: (856) 375-2804



#### BISGAIER HOFF, LLC

25 Chestnut Street, Suite 3 Haddonfield, New Jersey 08033

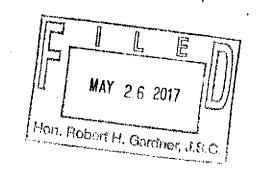
Tel: (856) 795-0150 Fax: (856) 795-0312

E-mail: pflannery@bisgaierhoff.com

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

Attorneys for Proposed Defendant-Intervenor

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)

**ORDER** 

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 26th day of May, 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.

Play

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.

#### Appendix XII-B1



### CIVIL CASE INFORMATION STATEMENT (CIS)

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ATTORNEY SIGNATURE:

# CIVIL CASE INFORMATION STATEMENT

(CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

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#### BISGAIER HOFF, LLC

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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

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)

**ANSWER** 

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;
- 1. 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, Pockel 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

Dated: June 8, 2017

Peter M. Flannery, Esq.

#### **DESIGNATION OF TRIAL COUNSEL**

Pursuant to <u>Rule</u> 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

Peter M. Flannery, Fsa

Dated: June 8, 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

Peter M. Flannery, Fso

Dated: June 8, 2017

#### **BISGAIER HOFF, LLC**

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Attorneys for Proposed Defendant-Intervenor

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)

CERTIFICATION OF SERVICE

- I, Amy DeCaro, am an employee of Bisgaier Hoff, LLC, attorneys for Proposed Defendant-Intervenor, Poekel Properties LLC ("Poekel").
- 1. On June 8, 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 overnight delivery an original and one (1) copy of the following:
  - a. Order dated May 26, 2017, entered by the Honorable Robert H. Gardner,

J.S.C.;

- b. Case Information Statement;
- c. Answer to Complaint filed by the Township of Verona; and
- d. this Certification of Service.

2. On June 8, 2017, I served one (1) copy of the above documents via e-mail and overnight delivery to:

Michael A. Gannaio, Esq. Giblin & Gannaio 2 Forest Avenue, #200 Oradell, New Jersey 07649

Gregory D. Meese, Esquire Price, Meese, Shulman & D'Arminio Mack-Cali Corporate Center 50 Tice Boulevard, Suite 380 Woodcliff Lake, New Jersey 07677

John P. Inglesino, Esquire Inglesino, Webster, Wyciskala & Taylor, LLC 600 Parsippany Road, Suite 204 Parsippany, NJ 07054

3. On June 8, 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.

Amy DeCaro, Paralegal

Dated: June 8, 2017

## **VERONA SERVICE LIST (36)**

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James Helb	Melissa Field
Municipal Engineer	Director of Housing Development
Township of Verona	Allies, Inc.
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