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CITY CLERK'S OFFICE
CITY OF SEA ISLE CITY

FORD, FLOWER & HASBROUCK
Attorneys At Law
Central Square, Suite 42A
P.O. Box 405
New Road & Central Avenue
Linwood, New Jersey 08221
(609) 653-1500
Attorneys for Plaintiffs

DAVID MCGINLEY and CHERYL D.
MCGINLEY, husband and wife; and
MARIA BELLO,

Plaintiffs,

v.

VINCENT P. DONAHUE, JR., and
TERESE M. DONAHUE, husband and
wife; KENNETH MARTABANO and
KAREN MARTABANO, husband and
wife; CITY OF SEA ISLE CITY, a body
corporate and politic; and ROBERT
BOWMAN, Building Inspector, City of Sea
Isle City; JOHN DOES 1-10; JANE DOES
1-10; ABC CORPORATIONS 1-10 (being
fictitious names), jointly, severally and in
the alternative,

Defendants

: SUPERIOR COURT OF NEW JERSEY
: CHANCERY DIVISION
: CAPE MAY COUNTY
: DOCKET NO: CPM-C-3-08

CIVIL ACTION

SUMMONS

THE STATE OF NEW JERSEY
TO THE ABOVE NAMED DEFENDANTS:

CITY OF SEA ISLE CITY

The Plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The Complaint attached to this Summons states the basis for this lawsuit. If you dispute this Complaint, you or your attorney must file a written Answer or Motion and Proof of Service with the Deputy Clerk of the Superior Court in the County listed above within 35 days from the date you received this Summons, not counting the date you received it. (The address of each Deputy Clerk of the Superior Court is provided.) If the Complaint is one in foreclosure, then you must file your written Answer or Motion and Proof of Service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971 Trenton, New Jersey 08625-0971.

A filing fee payable to the Clerk of the Superior Court must accompany your Answer or Motion when it is filed. You must also send a copy of your Answer or Motion to Plaintiff's attorney whose name and address appear above, or to Plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written Answer or Motion (with fee of \$135.00) if you want the Court to hear your defense.

If you do not file and serve a written Answer or Motion within 35 days, the Court may enter a judgment against you for the relief Plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the County where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

DATE: 4/14/08

S/ Theodore J. Fetter
THEODORE J. FETTER
Clerk of the Superior Court

NAME OF DEFENDANT TO BE SERVED:

Theresa Innes, Clerk

ADDRESS OF DEFENDANT TO BE SERVED:

City of Sea Isle City
4416 Landis Avenue
Sea Isle City, NJ 08243

<p>ATLANTIC COUNTY: Deputy Clerk of the Superior Court Civil Division, Direct Filing 1201 Beacharach Blvd., 1st Floor Atlantic City, NJ 08401 LAWYER REFERRAL (609) 345-3444 LEGAL SERVICES (609) 348-4200</p>	<p>HUNTERDON COUNTY: Deputy Clerk of the Superior Court Civil Division 65 Park Avenue Flemington, NJ 08862 LAWYER REFERRAL (908) 735-2611 LEGAL SERVICES (908) 782-7979</p>	<p>SUSSEX COUNTY: Deputy Clerk of the Superior Court Sussex County Judicial Center 43-47 High Street Newton, NJ 07860 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 383-7400</p>
<p>GLOUCESTER COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office, Attn: Intake 1st Floor, Court House 1 North Broad Street, P.O. Box 129 Woodbury, NJ 08096 LAWYER REFERRAL (856) 848-4589 LEGAL SERVICES (856) 848-5360</p>	<p>SALEM COUNTY: Deputy Clerk of the Superior Court 92 Market Street P.O. Box 18 Salem, NJ 08079 LAWYER REFERRAL (856) 935-5628 LEGAL SERVICES (856) 451-0003</p>	<p>CUMBERLAND COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Broad & Fayette Streets, P.O. Box 615 Bridgeton, NJ 08302 LAWYER REFERRAL (856) 692-6207 LEGAL SERVICES (856) 451-0003</p>
<p>OCEAN COUNTY: Deputy Clerk of the Superior Court Court House, Room 119 118 Washington Street Toms River, NJ 08754 LAWYER REFERRAL (732) 240-3666 LEGAL SERVICES (732) 341-2727</p>	<p>CAMDEN COUNTY: Deputy Clerk of the Superior Court Civil Processing Office 1st Floor, Hall of Records 101 South Fifth Street Camden, NJ 08103 LAWYER REFERRAL (856) 964-4520 LEGAL SERVICES (856) 964-2010</p>	<p>MONMOUTH COUNTY: Deputy Clerk of the Superior Court Court House, 71 Monument Park P.O. Box 1269 Freehold, NJ 07728-1262 LAWYER REFERRAL (732) 431-5544 LEGAL SERVICES (732) 866-0020</p>
<p>BERGEN COUNTY: Deputy Clerk of the Superior Court Case Processing Section, Room 119 Justice Center 10 Main Street Hackensack, NJ 07601-0769 LAWYER REFERRAL (201) 488-0044 LEGAL SERVICES (201) 487-2166</p>	<p>MERCER COUNTY: Deputy Clerk of the Superior Court Local Filing Office, Courthouse 175 South Broad Street P.O. Box 8068 Trenton, NJ 08650 LAWYER REFERRAL (609) 585-6200 LEGAL SERVICES (609) 695-6249</p>	<p>UNION COUNTY: Deputy Clerk of the Superior Court 1st Floor, Court House 2 Broad Street Elizabeth, NJ 07207-6073 LAWYER REFERRAL (908) 353-4713 LEGAL SERVICES (908) 354-4340</p>
<p>HUDSON COUNTY: Deputy Clerk of the Superior Court Superior Court, Civil Records Department Brennan Court House, 1st Floor 583 Newark Avenue Jersey City, NJ 07306 LAWYER REFERRAL (201) 798-2727 LEGAL SERVICES (201) 792-6363</p>	<p>SOMERSET COUNTY: Deputy Clerk of the Superior Court Civil Division Office New Court House, 3rd Floor P.O. Box 3000 Somerville, NJ 08876 LAWYER REFERRAL (908) 685-2323 LEGAL SERVICES (908) 231-0840</p>	<p>ESSEX COUNTY: Deputy Clerk of the Superior Court 50 West Market Street Room 131 Newark, NJ 07102 LAWYER REFERRAL (973) 622-6207 LEGAL SERVICES (973) 624-4500</p>
<p>PASSAIC COUNTY: Deputy Clerk of the Superior Court Civil Division Court House 77 Hamilton Street Paterson, NJ 07503 LAWYER REFERRAL (973) 278-9223 LEGAL SERVICES (973) 345-7171</p>	<p>CAPE MAY COUNTY: Deputy Clerk of the Superior Court Central Processing Office 9 North Main Street Box DN-209 Cape May Court House, NJ 08210 LAWYER REFERRAL (609) 463-0313 LEGAL SERVICES (609) 465-3001</p>	<p>MORRIS COUNTY: Deputy Clerk of the Superior Court Civil Division 30 Schuyler Place, P.O. Box 910 Morristown, NJ 07960-0910 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 285-6911</p>
<p>BURLINGTON COUNTY: Deputy Clerk of the Superior Court Central Processing Office Attn: Judicial Intake 1st Floor, Courts Facility 49 Rancocas Road Mt. Holly, NJ 08060 LAWYER REFERRAL (609) 261-4862 LEGAL SERVICES (609) 261-1068</p>	<p>MIDDLESEX COUNTY: Deputy Clerk of the Superior Court Administration Building 3rd Floor 1 Kennedy Square, P.O. Box 2633 New Brunswick, NJ 08903-2633 LAWYER REFERRAL (732) 828-0053 LEGAL SERVICES (732) 249-7600</p>	<p>WARREN COUNTY: Deputy Clerk of the Superior Court Civil Division Office Court House, 413 Second Street Belvidere, NJ 07823-1500 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 475-2010</p>

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Attorneys for Plaintiffs

DAVID MCGINLEY and CHERYL D.
MCGINLEY, husband and wife; and
MARIA BELLO,

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v.

VINCENT P. DONAHUE, JR., and
TERESE M. DONAHUE, husband and
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KAREN MARTABANO, husband and
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BOWMAN, Building Inspector, City of Sea
Isle City; JOHN DOES 1-10; JANE DOES
1-10; ABC CORPORATIONS 1-10 (being
fictitious names), jointly, severally and in
the alternative,

Defendants

: SUPERIOR COURT OF NEW JERSEY
: CHANCERY DIVISION
: CAPE MAY COUNTY
: DOCKET NO: CPM-C-3-08

: CIVIL ACTION

: **AMENDED COMPLAINT**

Plaintiffs, David & Cheryl McGinley, husband and wife, residing at 1 Bridlebrook Lane,
Media, Delaware County, Pennsylvania, and Maria Bello, with a mailing address c/o Tom
Fouladi, 10866 Willshire Boulevard, Los Angeles, CA 90024, complaining of the Defendants,
say that:

FIRST COUNT

1. All of the Paragraphs of the Verified Complaint heretofore filed in this cause are hereby and herewith incorporated by reference, in lieu of setting forth same at length. A copy of the Verified Complaint is attached to this pleading as "Exhibit A" and is incorporated herewith in its entirety.

2. The Defendants are demonstrably on notice that their construction activities are illegal and are proceeding with construction at their own risk.

WHEREFORE, Plaintiffs demand judgment for:

- a. An Order for temporary and permanent restraints against the Defendants precluding them from any further construction of the proposed project;
- b. An Order compelling the Defendants to obtain the proper approvals under CAFRA and any other applicable environmental law and to strictly comply with such approvals;
- c. An Order requiring the Defendants to demolish and remove the illegal structure that they are erecting on the premises;
- d. Attorney's fees and costs;
- e. Civil penalties as provide by law; and
- f. Such further relief as the Court may deem equitable and just.

SECOND COUNT

3. All of the allegations of all of the Paragraphs of the preceding Count, including the pleading incorporated by reference therein, are by this reference incorporated, in lieu of setting forth same at length.

4. The City of Sea Isle City is a body corporate and politic, organized and subsisting under the laws of the State of New Jersey.

5. The Defendant, Robert Bowman, is the Building Inspector/Zoning Officer of the City of Sea Isle City and, as such, is obligated by law to issue permits and to otherwise allow construction within the municipality which is in compliance with the Ordinances of the City of Sea Isle City and the laws of the State of New Jersey.

6. For all of the reasons which are hereinabove set forth, Plaintiffs aver that the structure being erected by the Defendants is an illegal expansion of a non-conforming structure.

7. On information and belief, the construction by the Defendants violates the Ordinances of the City of Sea Isle City and the State of New Jersey.

8. On information and belief, the construction is not in compliance with the terms of the CAFRA permit.

9. Notwithstanding that the Plaintiffs have brought the violations of law to the attention of the Defendant City of Sea Isle City and the Defendant Bowman, the City and its Zoning Officer/Building Inspector have issued permits for the illegal construction and have refused to issue an Order to cease and desist.

10. The action by the City of Sea Isle City and its Zoning Officer/Building Inspector is illegal, *ultra vires* and void.

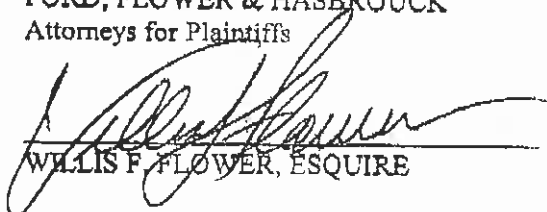
WHEREFORE, Plaintiffs demand judgment for:

- a. An Order for temporary and permanent restraints against the Defendants precluding them from any further construction of the proposed project;
- b. An Order compelling the Defendants to obtain the proper approvals under CAFRA and any other applicable environmental law and to strictly comply with such approvals;
- c. An Order requiring the Defendants to demolish and remove the illegal structure that they are erecting on the premises;
- d. An Order requiring the City of Sea Isle City to issue a stop work order;
- e. An Order requiring the City of Sea Isle City to revoke the building permit issued to the Defendants;
- f. An Order requiring the City of Sea Isle City to require demolition of the illegal structure;
- g. Attorney's fees and costs;
- h. Civil penalties as provide by law; and

- i. Such further relief as the Court may deem equitable and just.

FORD, FLOWER & HASBROUCK
Attorneys for Plaintiffs

Dated: April 8, 2008



WILLIS F. FLOWER, ESQUIRE

CERTIFICATION PURSUANT TO RULE 4:5-1

Plaintiffs hereby certify that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated, and to the best of Plaintiffs' knowledge, no other parties should be joined in the within action.

**DESIGNATION OF TRIAL COUNSEL
PURSUANT TO R. 4:25-4**

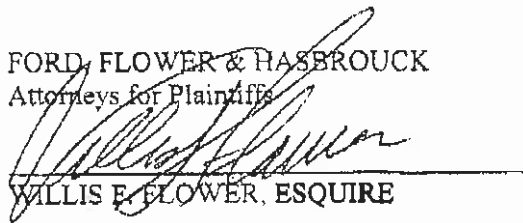
This Plaintiffs herewith designate Willis F. Flower, Esquire of the law firm of Ford, Flower & Hasbrouck as trial counsel.

NOTIFICATION TO THE ATTORNEY GENERAL

Pursuant to N.J.S.A. 2A:35A-11, the Attorney General's Office has been notified of this Amended Complaint.

FORD, FLOWER & HASBROUCK
Attorneys for Plaintiffs

Dated: April 8, 2008



WILLIS F. FLOWER, ESQUIRE

EXHIBIT A

JAN 03 2008

FILED
Office of the Superior Court Clerk
By Deputy Clerk of the Superior Court
HOWARD N. BENCHTOLD, JR.
CAPE MAY COUNTY

HANKIN SANDMAN & PALLADINO
A Professional Corporation
30 South New York Avenue
Atlantic City, New Jersey 08401
(609) 344-5161

Attorneys for Plaintiffs, David and Cheryl McGinley

<p>DAVID MCGINLEY and CHERYL D. MCGINLEY, husband and wife,</p> <p><i>Plaintiffs,</i></p> <p>v.</p> <p>VINCENT P. DONAHUE, JR., and TERESE M. DONAHUE, husband and wife; KENNETH MARTABANO and KAREN MARTABANO, husband and wife; JOHN DOES 1-10; JANE DOES - 10; ABC CORPORATIONS 1-10; and DEF PARTNERSHIPS 1-10 (being fictitious names), joint, severally and in the alternative,</p> <p><i>Defendants.</i></p>	<p>SUPERIOR COURT OF NEW JERSEY CAPE MAY COUNTY LAW DIVISION</p> <p>Civil Action</p> <p>DOCKET NO. CPM-C- <u>3-08</u></p> <p>VERIFIED COMPLAINT</p>
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Plaintiffs, David and Cheryl McGinley, husband and wife, residing at 1 Bridlebrook Lane, Media, Delaware County, Pennsylvania, by way of Verified Complaint, say:

1. Cheryl McGinley is the record owner of real property, which she and David McGinley seasonally occupy, located at 6709 Pleasure Avenue, Sea Isle City, Cape May County, New Jersey, also known as Unit A in Block 67.01 Lot 10 on the Official Tax Map of Sea Isle City. (Exhibit "A": Deed).¹

¹ The Exhibits attached hereto are the same Exhibits attached to the Certification of Raymond J. Went, Jr., Esquire.

THE DEFENDANTS

2. Defendants, Vincent and Therese Donohue, reside at 48 Tanglebrook Drive, Holland, Bucks County, Pennsylvania.

3. Defendants, Kenneth and Karen Martabano, reside at 4006 Pleasure Avenue, Sea Isle City, Cape May County, New Jersey.

THE PROPERTY

4. The Donohues and the Martabanos (collectively the "Defendants") are the record owners of real property located at 6709 Pleasure Avenue, Sea Isle City, Cape May County, New Jersey, also known as Block 67.01 Lot 11.01 (C-B) on the Official Tax Map of Sea Isle City. (hereinafter the "Property"). (Exhibits "B" and "C": Deeds).

5. The Property is located in the R-2 Two Family Residential District where two-family residences are a permitted use. See, Sea Isle City Zoning Code § 26-46.1.b.²

The Permits

6. The Defendants recently obtained construction permits and a zoning certificate from the City of Sea Isle to "reconstruct" their two-family residence which, as will be discussed, is nonconforming in several aspects. (Exhibit "E": Permits).

The Nonconforming Lot

Lot Width

7. Pursuant to Code § 26-46.7, "No lot shall be less than fifty (50) feet wide *at the street*

² The Sea Isle Zoning Code is available at the City's website at www.sea-isle-city.nj.us however the cited portions of the Code are attached hereto at Exhibit "D".

line . . ." [Emphasis added].

8. The Property is only eighteen (18') feet wide at the street line. (Exhibit "F": Survey)³,

**The Destruction of the Previous Nonconforming Structure and
the "Reconstruction" of the New Structure**

9. Photos taken in or around early December show that the Defendants completely removed the prior nonconforming structure and all of the pilings leaving nothing but a vacant, nonconforming lot. (Exhibit "G": Photos).

10. In or around mid-December, the "reconstruction" began.

11. Photos taken in mid- to-late December show the beginning stages of the "reconstruction" at the Property including newly enclosed first floor area and pilings for a new front yard deck that will impermissibly extend closer to the front property line. (Exhibit "H": Photos). It also appears the new structure is made entirely from new materials.

The Nonconforming Structure

Front Yard Set Back

12. Pursuant to Code § 26-46.4, "Each lot shall have a minimum fifteen (15') foot setback from the front property line. For properties fronting on the beach in which the longer dimension of the lot is perpendicular to the beach, the front yard shall be between the property line on the beach and the building. Accessory structures, patios, terraces and decks shall not be permitted within a required front yard setback."

13. The previous structure at the Property had an open deck with a front yard setback of

³ On knowledge and belief, the survey attached hereto was a prior version of the proposed survey submitted to the City and the portion of the revised survey also attached as Exhibit "F" - which was recently faxed by the City to Raymond Went - shows the front yard setback of 13.35 feet which was missing from the prior survey).

13.35 feet at the westerly corner. (Exhibit "F").

14. According to the proposed survey, the westerly corner of the new structure will also have a front yard setback of 13.35 feet. (Exhibit "F").

15. The Defendants recently began the rough framing of the new structure and, on December 28, 2007, Plaintiff, David McGinley, personally observed that the former first floor open deck in the front yard is now being enclosed. This is not shown on the proposed survey. (Exhibit "F").

16. In addition, by enclosing the former deck (which will now be interior living space) and given the location of some of the new pilings, the proposed new deck on the first floor will likely extend even further into the front yard setback. Again, neither the enclosed first floor living space nor the relocated deck are shown on the proposed survey. (Exhibit "F").

Lot Coverage

17. Pursuant to Code § 26-46.9, the "maximum lot coverage for the principal structure . . . excluding decks on a lot shall be thirty-five (35%) percent."

18. According to the proposed survey, the principal structure is to be 46 feet by 39 feet for a total area of 1,794 square feet which would be just under the maximum 35% percent lot coverage. (Exhibit "F").

19. However, the newly enclosed first-floor living space is not shown on the proposed survey.

20. Moreover, Plaintiff, David McGinley, also made rough measurements of the proposed 46' southerly wall of the structure which appears to be larger than 46 feet.

21. Based on the foregoing, the new structure likely exceeds the 35% lot coverage maximum.

22. In addition to the foregoing, the proposed survey shows a flat rear wall. However, the as-built, rough framed structure has bump-outs at the corners of the rear wall which may have also impermissibly increased the lot coverage.

Floor Area Ratio

23. Pursuant to Code § 26-46.10, the "maximum floor area ratio for all lots shall be sevenths (0.7) [excluding] attached decks."

24. Pursuant to Code § 26-11, "*Floor Area* shall mean the sum of the gross horizontal areas of the several floors of the building . . . measured from the exterior faces of exterior walls, or from the center line of party walls separating two (2) buildings."

25. Pursuant to Code § 26-11, "*Floor Area Ratio (FAR)* shall mean the numerical expression of the relationship of the floor area of a building to the size of the lots on which it is sited."

26. The proposed survey denotes a purported floor area ratio of 0.7. (Exhibit "F").

27. However, the first, second and third floor area calculations on the proposed survey are incorrect and/or the as-built rough framed structure is larger than that proposed on the survey. As such, the floor area ratio of the new structure is greater than the maximum permitted ratio of 0.7.

28. In addition to the foregoing, the bump-outs at the corners of the rear wall may have also impermissibly increased the floor area ratio beyond the permitted 0.7 maximum.

Impervious Coverage

29. Pursuant to Code § 26-36.a., "The maximum permitted coverage in all zoning districts shall be seventy (70%) of the lot area, except as specified herein . . ."

30. Code § 26-11 provides, in part:

Impervious Coverage shall mean land surface areas that do not allow rainwater to be directly absorbed by the ground or any other natural or man-made surface which does not permit infiltration of water or which causes surface runoff. All buildings parking areas, roads sidewalks and any areas of concrete or asphalt shall be considered impervious coverage within this definition.

31. The proposed survey does not reflect the proposed impervious coverage at the Property and therefore Plaintiffs are unable to determine whether the Property will conform to the impervious coverage requirements. (Exhibit "F").

PLAINTIFFS' PRIOR NOTICE TO THE DEFENDANT OWNERS

32. On November 2, 2007, before the "re-construction" began on the Property, the Plaintiffs' attorney, Michael Gillin, sent a letter to Sea Isle City Mayor Leonard Desidario, with copies to the Defendants, explaining the Plaintiffs' concern with the proposed plans. (Exhibit "I": Letter from Gillin to the City).

33. On December 11, 2007, the Plaintiffs' local counsel, Raymond Went, sent a letter to Sea Isle City Zoning Officer, Robert Bowman, with copies to the Defendants, again explaining the Plaintiffs' concerns about the proposed plans. (Exhibit "J": Letter from Went to the Bowman).

34. The Defendants did not respond to Plaintiffs' correspondence but instead decided to proceed with their project without addressing any of these issues.

JOHN DOES

35. Plaintiffs have had an insufficient amount of time to identify other unknown individuals or entities who also may be liable for the claims set forth in this Verified Complaint, and, as such,

Plaintiffs hereby designate said unknown individuals or entities as John Does 1-10, Jane Does 1-10, ABC Corporations and DEF Partnerships, being fictitious names. Plaintiffs reserve the right to amend this Verified Complaint and name said unknown individuals or entities as additional defendants pursuant to the Rules of Court.

FIRST COUNT

36. Plaintiffs repeat and incorporate Paragraphs 1 through 35 of this Complaint as if fully set forth herein.

37. Code § 26-17.4, provides as follows: "Non-Conformity. The provisions of *N.J.S.A.* 40:55D-68 shall be applicable."

38. Pursuant to *N.J.S.A.* 40:55D-68:

Any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied and any such structure may be *restored or repaired* in the event of *partial* destruction thereof. [*Emphasis added*].

39. Code § 30-2.2.c. provides, in part:

Nothing contained herein shall be intended or is intended to permit any use to be created which is nonconforming or to permit any nonconforming structures or conditions to be expanded without first obtaining all other necessary governmental approvals, including, but not limited to variance relief.

40. The Defendants totally destroyed the pre-existing nonconforming structure on the nonconforming lot and may not re-construct the residence without the appropriate variance relief.

41. On knowledge and belief, the as-built structure otherwise does not conform with the proposed survey and will also increase the intensity of the pre-existing non-conformities.

42. The structure, as designed and/or as-built, is otherwise in violation of the City's Zoning Code and/or the Municipal Land Use Law.

43. The abovementioned wrongful conduct and the resulting structure has and/or will proximately cause immediate and irreparable harm to Plaintiffs including, without limitation, loss of views and other property rights.

WHEREFORE, Plaintiffs, Cheryl and David McGinley, demand judgment:

- A. For temporary and permanent restraints against the Defendants precluding them from any further construction of the proposed project;
- B. Compelling the Defendants to remove the structures at the property and precluding them from constructing anything at the Property;
- C. Such other relief this Court deems equitable and just.

SECOND COUNT

44. Plaintiffs repeat and incorporate Paragraphs 1 through 43 of this Complaint as if fully set forth herein.

45. This Second Count is brought pursuant to the Environmental Rights Act, *N.J.S.A. 2A:35A-1 et seq.*

46. Pursuant to *N.J.S.A. 2A:35A-4(a)*:

Any person may commence a civil action in a court of competent jurisdiction against any other person alleged to be in violation of any statute, regulation or ordinance which is designed to prevent or minimize pollution, impairment or destruction of the environment. The action may be for injunctive or other equitable relief to compel compliance with a statute, regulation or ordinance, or to assess civil penalties for the violation as provided by law. The action may be commenced upon the allegation that a person is in violation, either

continuously or intermittently, of a statute, regulation or ordinance, and that there is a likelihood that the violation will recur in the future.

47. The Property is located within 150 feet from the landward limit of a beach or dune and, as such, pursuant to the Coastal Area Facility Review Act, *N.J.S.A. 13:19-5* ("CAFRA"), the Defendants must obtain CAFRA approval(s) from the New Jersey Department of Environmental Protection ("NJDEP") and build in strict accordance with such approval(s).

48. On knowledge and belief, the as-built structure is or will be inconsistent with the NJDEP's approval(s), if any, because the as-built structure is or will be located closer to the sensitive beach and dune areas than as shown on the proposed survey.

49. Pursuant to the Environmental Rights Act, *N.J.S.A. 2A:35A-1, et seq.*, Plaintiffs seek the appropriate enforcement under CAFRA.

50. Absent said enforcement, the proposed project has and/or will proximately cause impairment or destruction to the environment and will proximately cause Plaintiffs to incur immediate and irreparable damages.

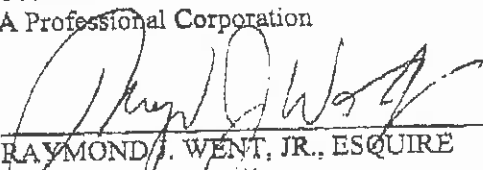
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- A. An Order for temporary and permanent restraints against the Defendants precluding them from any further construction of the proposed project;
- B. An Order compelling the Defendants to obtain the proper approvals under CAFRA and any other applicable environmental law and to strictly comply with such approvals;
- C. Attorney's fees and costs;
- D. Civil penalties as provided by law; and,

E. Such other relief this Court deems equitable and just.

HANKIN SANDMAN & PALLADINO
Counsellors-at-Law
A Professional Corporation

Dated: January 2, 2007


RAYMOND J. WENT, JR., ESQUIRE
Attorneys for Plaintiffs

CERTIFICATION PURSUANT TO RULE 4:5-1

The undersigned, Raymond J. Went, Jr., Esquire, certifies on behalf of the above-named Plaintiffs, Cheryl and David McGinley, as follows:

1. I am an attorney-at-law in the State of New Jersey and am a member of the law firm of HANKIN, SANDMAN & PALLADINO, Counsellors at Law, a Professional Corporation, attorneys for Plaintiffs, Cheryl and David McGinley.
2. The matter in controversy in this case is not the subject of any other action pending in any Court or of a pending Arbitration proceeding contemplated at this time.
3. There are no other parties who should be joined in this action at this time.
4. 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 wilfully false, I am subject to punishment.

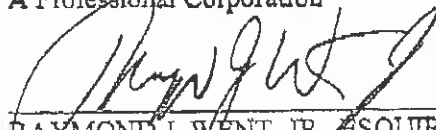
TRIAL COUNSEL DESIGNATION

Raymond J. Went, Jr., Esquire, is hereby designated as trial counsel.

NOTIFICATION TO THE ATTORNEY GENERAL

Pursuant to *N.J.S.A. 2A:35A-11*, the Attorney General's Office has been notified of this Complaint.

HANKIN SANDMAN & PALLADINO
Counsellors-at-Law
A Professional Corporation


RAYMOND J. WENT, JR., ESQUIRE
Attorneys for Plaintiffs

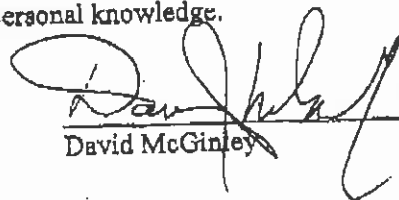
Dated: January 2, 2007

VERIFICATION

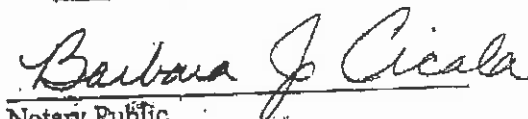
STATE OF NEW JERSEY
COMMONWEALTH OF PENNSYLVANIA :
:ss.
COUNTY OF ATLANTIC :

I, David McGinley, of full age, being duly sworn according to law upon my oath, depose and say:

I am the Plaintiff in the foregoing Complaint and all of the factually allegations contained therein are true and accurate to the best of my personal knowledge.


David McGinley

Sworn and subscribed before me on
this 3rd day of January, 2008.


Notary Public

BARBARA J. CICALA
A Notary Public of New Jersey
My Commission Expires 5/13/2012