

# BISGAIER HOFF

Attorneys At Law A Limited Liability Company

Richard J. Hoff, Jr.  
Member of the NJ & PA Bar  
E-mail: rhoff@bisgaierhoff.com  
Direct Dial : (856) 375-2803  
Main Phone : (856) 795-0150

October 6, 2015

**Via Hand Delivery**

Clerk  
Monmouth County Superior Court  
P.O. Box 1266  
71 Monument Park  
Freehold, NJ 07728



***Re: In the Matter of the Application of Manalapan Township, Monmouth County  
Docket No. L-2518-15***

Dear Sir/Madam:

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

1. Notice of Motion on Short Notice for Intervention;
2. Brief in Support of Countryside's Motion on Short Notice for Intervention;
3. Certification of Terry Sherman, dated October 6, 2015;
4. Certification of Richard J. Hoff, Jr., Esq., dated October 6, 2015;
5. Proposed Order; and
6. Certification of Service.

This Motion is currently returnable on Friday, October 9, 2015. Kindly file the originals and return the stamped filed to the "AWAITING COURIER." 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

A handwritten signature in black ink, appearing to be "Richard J. Hoff, Jr.", written over a horizontal line.

Richard J. Hoff, Jr.

Enclosures

cc: Honorable Jamie S. Perri, J.S.C. (w/enclosures via hand delivery)  
Andrew Bayer, Esquire (w/enclosures via hand delivery and e-mail)  
Attached Service List (w/enclosures via regular mail only)

Clerk, Monmouth County Courthouse  
October 6, 2015  
Page 2

bcc: Terry Sherman (w/encls., via e-mail)

## ATTORNEY SERVICE LIST

Adam Gordon, Esquire Staff Attorney Fair Share Housing Center 510 Park Boulevard Cherry Hill, NJ 08002	Kevin D. Walsh, Esquire Fair Share Housing Center 510 Park Boulevard Cherry Hill, NJ 08002
Jonathan E. Drill, Esquire Stickel, Loenig, Sullivan & Drill 571 Pompton Ave Cedar Grove, NJ 07009-1720	Geraldine Callahan, Deputy Attorney General Richard J. Hughes Justice Complex 25 Market Street 8 <sup>th</sup> Floor Trenton, NJ 08625-0080
Jeffrey R. Surenian, Esquire Jeffrey R. Surenian and Associates, LLC Suite 301 707 Union Ave Brielle, NJ 08730-1470	Jeffrey L. Kantowitz, Esquire Law Office of Abe Rappaport Suite 6 195 US Highway 46 Totowa, NJ 07512-1833
Edward J. Buzak, Esquire Buzak Law Group, LLC Suite N-4 150 River Road Montville, NJ 07045-9441	Stephen Eisdorfer, Esquire Hill Wallack, LLP 202 Carnegie Center PO BOX 5226 Princeton, NJ 08543

BISGAIER HOFF, LLC  
25 Chestnut Street, Suite 3  
Haddonfield, New Jersey 08033  
Tel: (856) 795-0150  
Fax: (856) 795-0312  
By: Richard J. Hoff, Jr., Esq.  
Email: rhoff@bisgaierhoff.com  
Attorney ID# 015811998  
Attorneys for Proposed Intervenor/Defendant,  
Countryside Developers, Inc.

IN THE MATTER OF THE APPLICATION OF MANALAPAN TOWNSHIP, MONMOUTH COUNTY,	SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY LAW DIVISION  DOCKET NO. L-2518-15  <u>CIVIL ACTION</u>  MOUNT LAUREL  NOTICE OF MOTION ON SHORT NOTICE
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TO: All Counsel/Parties per Attached Service List

PLEASE TAKE NOTICE that on Short Notice, but no later than Friday, October 9, 2015, at 9:00 a.m., Bisgaier Hoff, LLC, attorneys for Proposed Defendant/Intervenor, Countryside Developers, Inc. ("Countryside"), shall move before the Honorable Jamie S. Perri, J.S.C., or her designee, at the Monmouth County Courthouse, 71 Monument Park, Freehold, New Jersey 07728, for an Order granting Countryside's status as Intervenor-Defendant and granting leave to Countryside to file the Answer in the form submitted with its Motion.

PLEASE TAKE FURTHER NOTICE that, in support of this motion, the undersigned will rely on accompanying Certifications (with exhibits) of Terry Sherman 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.

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,  
Countryside Developers, Inc.

By:   
Richard J. Hoff, Jr., Esq.

Dated: October 6, 2015

BISGAIER HOFF, LLC  
25 Chestnut Street, Suite 3  
Haddonfield, New Jersey 08033  
Tel: (856) 795-0150  
Fax: (856) 795-0312  
By: Richard J. Hoff, Jr., Esq.  
Email: rhoff@bisgaierhoff.com  
Attorney ID# 015811998  
Attorneys for Proposed Intervenor/Defendant,  
Countryside Developers, Inc.

IN THE MATTER OF THE APPLICATION OF MANALAPAN TOWNSHIP, MONMOUTH COUNTY,	SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY LAW DIVISION  DOCKET NO. L-2518-15  <u>CIVIL ACTION</u>  <i>MOUNT LAUREL</i>  BRIEF IN SUPPORT OF COUNTRYSIDE DEVELOPERS, INC.'S MOTION ON SHORT NOTICE FOR INTERVENTION PURSUANT TO <u>RULE</u> 4:33-1 OR <u>RULE</u> 4:33-2
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INTRODUCTION

In accordance with this Court's September 24, 2015 Omnibus Order #1, Proposed Defendant/Intervenor Countryside Developers, Inc. ("Countryside") respectfully submits this brief in support of its motion on short notice to intervene in the above captioned matter that has been initiated by the Township of Manalapan ("Township") in response to the Supreme Court's March 10, 2015 decision In re 5:96 & 5:97, 221 N.J. 1 (2015). Countryside presents this Motion and proposed form of Answer

consistent with this Court's August 19, 2015 Order that afforded similar relief to Highview Homes, LLC, which has been the approach of this Court in a number of matters in Monmouth County. Consistent with its approach in prior, similar matters in the Township and elsewhere in Monmouth County, Countryside respectfully requests that the Court grant the present Motion for Intervention.

#### FACTUAL AND PROCEDURAL BACKGROUND

##### Mount Laurel Doctrine

1. The Township has a constitutional obligation to provide a realistic opportunity for 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 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); 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).

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. [See In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015).]

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. ("March 10, 2015 Opinion"). Id.

9. Pursuant to the March 10, 2015 Opinion, any municipality, such as the Township, that had previously filed a petition for substantive certification with COAH is deemed to be a "participating jurisdiction" and could voluntarily institute a declaratory action in the Superior Court, which seeks approval of its revised Fair Share Plan addressing the Township's outstanding Mount Laurel Obligation for the Third Round period 1999-2025. Id. at 22-29.

10. In preparing its submission pursuant to the March 10, 2015 Opinion, the Township was required to provide its calculation of its Third Round Mount Laurel Obligation consistent with COAH's First and Second Round methodologies. The Supreme Court was clear on that point:

First, as we said in In re Adoption of N.J.A.C. 5:96 & 5:97, supra, previous methodologies employed in the First and

Second Round Rules should be used to establish present and prospective statewide and regional affordable housing need. 215 N.J. at 620. The parties should demonstrate to the court computations of housing need and municipal obligations based on those methodologies.

[Id. at 30 (emphasis added).]

11. Upon submission, 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. [Id. at 30.]

12. The Supreme Court provided a 90-day stay in the effective date of its Order to "allow[] all parties to prepare for the actions." Id. at 6. The decision became effective on June 12, 2015.

#### The Township's Mount Laurel Compliance

13. On July 7, 2015, the Township filed for declaratory relief as a "participating jurisdiction" pursuant to the March 10, 2015 Opinion (the "Township Filing"). [See Township Complaint for Declaratory Relief Pursuant to the Mount Laurel Doctrine.]

14. The Township's cumulative Mount Laurel Obligation for the Second Round (1987-1999), as acknowledged in the Township's Fair Share Plan, was established at a total of 706 units. [See Certification of July 2, 2015 Certification of Martin Truscott,

PP, AICP ("Truscott Certification") at ¶12, submitted in support of Township Motion.]

15. With respect to the Township's Third Round Mount Laurel Obligation (1999-2025), the Township Filing provides no calculation of its Third Round obligation. [See generally, id.]

Countryside's Proposed Inclusionary Development  
within the Township

16. Countryside is the contract purchaser of properties in the Township, which properties are identified on the tax maps of the Township as Block 78 Lot 12.02 (the "Property"). The Property consists of approximately eight two (82) acres. [See Certification of Terry Sherman at ¶¶ 3-4 ("Sherman Certification").]

17. The Property is currently the subject of a development application before the Township Zoning Board of Adjustment. As part of that application, Countryside has proposed the construction of affordable housing. [See Sherman Cert. at ¶5.]

18. Countryside's proposed Answer in Intervention does not seek to assert any counterclaims against the Township. [See Exhibit "C" to the Hoff Cert.]

LEGAL ARGUMENT

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

As this Court has already addressed in both this present matter and in others throughout Monmouth County, proposed inclusionary developers, such as Countryside, are entitled to intervention into these proceeding so as to be heard on issues related to the Township's constitutional compliance with the Mount Laurel Doctrine. [See August 19, 2015 Opinion and Order, a true and correct copy of which is attached as Exhibit "B" to Hoff Cert.] As the Court has also recognized, such intervention, at this point in the proceedings, is necessarily limited and, as such, no counterclaims should be permitted. Countryside has heeded the Court's directive in that regard and its proposed Answer does not seek to assert any counterclaims against the Township. Accordingly, Countryside requests that the Court grant the present Motion.

In addition to the Court's August 19, 2015 Opinion and Order in this matter being in accord with the Supreme Court's March 10, 2015 opinion, it is also consistent with well settled New Jersey law that a 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 Countryside, 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 Mount Laurel II Decision, 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. Borough of Oceanport, 396 N.J. Super. 622, 631-32 (App. Div. 2007). In Oceanport, Judge Skillman 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 Countryside is ultimately entitled to any remedy or relief in this matter is immaterial to whether Countryside should be entitled to participate on behalf of the unrepresented low income and moderate income households. Under well established precedent, Countryside's entitlement to participation should not be questioned.

Judge Skillman's rationale in Oceanport was echoed by the Supreme Court in its March 10, 2015 Opinion that encouraged the participation of private parties, like Countryside, 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. 5:96:97, supra, 221 N.J. at 20.]

As Countryside has substantial land holdings in the Township and has expressed an interest in developing the

Properties in an inclusionary fashion, Countryside is acting on behalf of low and moderate income households and should be granted intervention in accordance with the March 10, 2015 opinion. Such a conclusion has already been recognized by this Court and should be followed with respect to the present application. Accordingly, Countryside should be granted leave to intervene, which intervention should be addressed on short notice so as to afford Countryside a meaningful opportunity to participate in proceedings that are quickly approaching.

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

Beyond the Mount Laurel jurisprudence, the New Jersey Rules of Court and supporting case law likewise make clear that Countryside'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) ("ACLU"). 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 R. 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. Emplrs 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)).

Countryside meets each of the factors and is entitled to intervene as a matter of right. Countryside's present motion before this Court is timely because the Township's Declaratory Judgment action was only filed on July 7, 2015. As such, it is clear that Countryside has acted quickly to intervene to advance

the interests of the un-housed poor. Moreover, the subject of this litigation concerns the Township's current Mount Laurel obligation and its efforts to provide affordable housing opportunities.

Countryside seeks to build an inclusionary development(s) on the Properties that would contain a substantial amount of housing for moderate income and low income households. 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, Countryside has such an interest and has the land resources to provide a substantial amount of affordable housing. In light of the same, Countryside's intervention as of right is warranted pursuant to Rule 4:33-1.

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

In the unlikely event that this Court concludes that Countryside 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, Countryside is entitled to permissive intervention. Countryside's claims arise 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

Countryside's claims have "law and facts in common" that warrant Countryside's permissive intervention. Furthermore, no parties will be prejudiced by Countryside's intervention. Accordingly, Countryside's participation has been promptly sought and will neither delay nor impact the rights of any party. In all, Countryside is entitled to permissive intervention as justified pursuant to Rule 4:33-2.

**II. COUNTRYSIDE RESPECTFULLY REQUESTS THAT THE COURT CONSIDER AND RULE ON COUNTRYSIDE'S PRESENT MOTION FOR INTERVENTION ON SHORT NOTICE**

While Countryside has appeared at the early stage of these proceedings, these proceedings are unique in the context of the pace in which they are directed to take place. The expedited nature of this matter is articulated not only in the Supreme Court's March 10, 2015 decision, itself, but this Court's September 24, 2015 Omnibus Order #1. In keeping with the need to have these matters proceed quickly, this Court's September 24, 2015 Order specifically provided that any proposed Motion for Intervention be filed on Short Notice on or before October 9, 2015. In accordance with that Order, Countryside respectfully requests that the Court consider the present Motion on Short Notice and grant its Motion for Intervention Pursuant to Rule 4:33-1 or Rule 4:33-2.

CONCLUSION

For the foregoing reasons, Countryside Developers, Inc., respectfully requests that the Court grant its Motion on Short Notice for Intervention Pursuant to Rule 4:33-1 or Rule 4:33-2.

BISGAIER HOFF, LLC  
Attorneys for  
Proposed Intervenor/Defendant  
Countryside Developers, Inc.

By:   
Richard J. Hoff, Jr., Esq.

Dated: October 5, 2015

BISGAIER HOFF, LLC  
25 Chestnut Street, Suite 3  
Haddonfield, New Jersey 08033  
Tel: (856) 795-0150  
Fax: (856) 795-0312  
By: Richard J. Hoff, Jr., Esq.  
Email: rhoff@bisgaierhoff.com  
Attorney ID# 015811998  
Attorneys for Proposed Intervenor/Defendant,  
Countryside Developers, Inc.

<p>IN THE MATTER OF THE APPLICATION OF MANALAPAN TOWNSHIP, MONMOUTH COUNTY,</p>	<p>SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY LAW DIVISION</p> <p>DOCKET NO. L-2518-15</p> <p><u>CIVIL ACTION</u></p> <p>MOUNT LAUREL</p> <p>CERTIFICATION OF RICHARD J. HOFF, JR., ESQUIRE IN SUPPORT OF COUNTRYSIDE DEVELOPERS, INC.'S MOTION ON SHORT NOTICE FOR INTERVENTION PURSUANT TO <u>RULE 4:33-1</u> OR <u>RULE 4:33-2</u></p>
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I, Richard J. Hoff, Jr., 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 Bisgaier Hoff, LLC, and am counsel for proposed Intervenor/Defendant, Countryside Developers, Inc. ("Countryside") 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 Countryside's Motion for Intervention Pursuant to Rule 4:33-1 or Rule 4:33-2.

3. Attached hereto as Exhibit "A" is a true and correct copy of this Court's September 24, 2015 Omnibus Order #1 for Partial Consolidation and the Appointment of Richard B. Reading as Special Regional Master.

4. Attached hereto as Exhibit "B" is a true and correct copy of this Court's August 19, 2015 Opinion and Order previously entered in this matter.

5. Attached hereto as Exhibit "C" is a true and correct copy of Countryside'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,  
Countryside Developers, Inc.

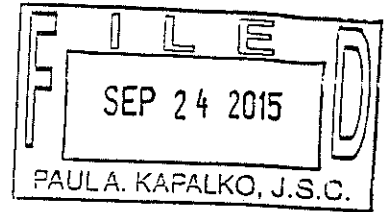
By:   
Richard J. Hoff, Jr., Esquire

Dated: October 6, 2015

# **EXHIBIT A**



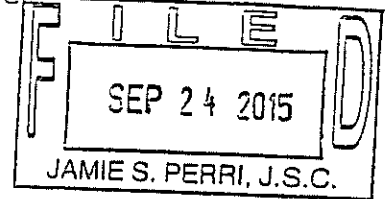
PREPARED BY THE COURT



SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MONMOUTH COUNTY

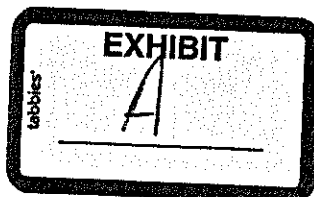
IN THE MATTER OF  
DECLARATORY JUDGMENT ACTIONS  
FILED IN THE COUNTY OF  
MONMOUTH, STATE OF NEW  
JERSEY, PURSUANT TO  
In Re Adoption of N.J.A.C.  
5:95, 221 N.J. 1 (2015)

CIVIL ACTION  
(Mt. Laurel)



OMNIBUS ORDER #1 FOR PARTIAL  
CONSOLIDATION, CASE MANAGEMENT  
AND THE APPOINTMENT OF  
RICHARD B. READING AS SPECIAL  
REGIONAL MASTER

The matters set forth below having come before the court on September 17, 2015, for a comprehensive case management conference; and the court having found that the interests of justice and judicial economy are best served by determining the methodology for state, regional and municipal allocation of the affordable housing in a consolidated hearing in which all parties may participate; and Monmouth County being part of "Region 4" together with the Counties of Ocean and Mercer; the Counties of Ocean and Mercer having designated Richard B. Reading of Richard B. Reading Associates of Princeton, New Jersey, as Special Regional Master for the purpose of advising the court on the methodology and allocation of state, regional and municipal fair share housing obligations; and the court



having determined that Monmouth County will similarly benefit from Richard B. Reading's services as its Special Regional Master; and there being no objection to the appointment by the parties present; and the court having further designated the following events and items shall be completed prior to the next comprehensive case management conference; for the reasons set forth on the record on September 17, 2015, and for other good cause appearing;

IT IS on this 24th day of September, 2015;

ORDERED:

*Consolidation*

1. The matters set forth below are hereby consolidated for the limited purpose of conducting the necessary hearing(s) to determine the appropriate methodology for establishing the state and regional need for low and moderate income housing and allocating the appropriate portion of such need among the municipalities within the County of Monmouth.

*Designation of Special Regional Master*

2. The court appoints Richard B. Reading as its Special Regional Master to assist the court, the various municipalities and all interested parties in the adoption of an appropriate methodology for determining the state and regional need for low and moderate

income housing and for allocating the appropriate portion of such need among the municipalities within the County of Monmouth.

3. The scope of services to be provided to the court by the Special Regional Master shall include, but not be limited to, the services set forth in Exhibit A attached hereto.
4. The Regional Special Master shall bill his services in accordance with the Schedule of Fees set forth in Exhibit B attached hereto.
5. The fees charged by the Special Regional Master shall be apportioned equally among the (25) municipalities set forth below.
6. The court designates the law firm of GluckWalrath as the municipal representative for the purposes of facilitating dissemination of the Special Regional Master's bills.
7. The Special Regional Master shall submit monthly invoices to the law firm of GluckWalrath, which shall in turn forward copies of the monthly bill to each municipality within five (5) days of receipt together with a calculation of the municipality's respective share of the bill. It shall be the obligation of each municipality to remit payment directly to the Special

Regional Master within 30 days of receipt.

3. Should any municipality contest any of the Special Regional Master's charges, it shall notify the law firm of GluckWalrath in writing of the nature of the concern. . . . GluckWalrath shall canvas the other municipalities to determine whether the issue is unique to the complaining municipality or whether it is a common concern which may be resolved directly with the Special Regional Master. GluckWalrath shall advise the Special Regional Master of its findings and, if the matter cannot be amicably resolved, shall advise the court if its intervention is required. Notification of a concern shall not relieve a municipality of its obligation to pay the Special Regional Master's bill as set forth above.

*Methodology Hearing*

9. All expert reports on behalf of the parties on the issues of methodology and calculation of the state, regional and municipal fair share housing need and allocation shall be exchanged and submitted to the Special Regional Master no later than October 9, 2015.
10. Any person or entity wishing to submit an expert report must be a party to these proceedings and must move to intervene, which motion shall be accepted by

the court on short notice, or intervene by consent, no later than October 9, 2015.

11. The next comprehensive case management conference in these matters shall take place on November 5, 2015, at 10:00 a.m.
12. All parties shall confer to discuss compliance standards within 20 days of the date of this Order. Within 10 days thereafter, the parties shall contact their respective municipal Special Master to schedule a meeting to conduct further discussions if deemed appropriate by the Special Master.
13. A copy of this Order shall be served on all counsel of record and otherwise made available to all interested parties as directed by the New Jersey Supreme Court in Mount Laurel IV within seven days of the date hereof.

As to the following matters:

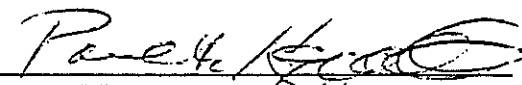
In the Matter of the Township of Aberdeen  
MON-L-2362-15  
In the Matter of the Borough of Atlantic Highlands  
MON-L-2520-15  
In the Matter of the Township of Colts Neck  
MON-L-2234-15  
In the Matter of the Borough of Eatontown  
MON-L-2522-15  
In the Matter of the Borough of Farmingdale  
MON-L-5603-05  
In the Matter of the Township of Howell  
MON-L-2525-15  
In the Matter of the Borough of Little Silver  
MON-L-2527-15  
In the Matter of the Township of Manalapan

MON-L-2518-15  
In the Matter of the Borough of Manasquan  
MON-L-2508-15  
In the Matter of the Township of Middletown  
MON-L-2539-15  
In the Matter of the Borough of Monmouth Beach  
MON-L-2538-15  
In the Matter of the Township of Neptune  
MON-L-2236-15  
In the Matter of the Borough of Oceanport  
MON-L-2528-15  
In the Matter of the Borough of Red Bank  
MON-L-2540-15  
In the Matter of the Borough of Rumson  
MON-L-2483-15  
In the Matter of the Borough of Shrewsbury  
MON-L-2235-15  
In the Matter of the Borough of Spring Lake  
MON-L-2537-15  
In the Matter of the Borough of Tinton Falls  
MON-L-2475-15  
In the Matter of the Township of Upper Freehold  
MON-L-2536-15  
In the Matter of the Township of Wall  
MON-L-5604-05

  
\_\_\_\_\_  
JAMIE S. PERRI, J.S.C.

As to the following matters:

In the Matter of the Township of Holmdel  
MON-L-2523-15  
In the Matter of the City of Long Branch  
MON-L-2586-15  
In the Matter of the Township of Ocean  
MON-L-2531-15  
In the Matter of the Township of Freehold  
MON-L-6026-08  
In the Matter of the Township of Millstone  
MON-L-2501-15

  
\_\_\_\_\_  
PAUL A. KAPALKO, J.S.C.

Scope of Services:  
Special Regional Master for Monmouth County, NJ

- Task 1: Review and analysis of first and second round COAH rules and 3/10/15 NJ Supreme Court decision as they relate to the calculation of Region 4 (Mercer, Monmouth and Ocean Counties) affordable housing need and allocation to constituent municipalities.
- Task 2: Review Preliminary/Draft and Final Reports, demographic data and methodologies prepared by expert Kinsey and those experts designated on behalf of the various municipalities. (All reports due to be submitted on or before October 9, 2015)
- Task 3: Meet with Municipal Special Masters Banisch, Bolan, Caton and McKenzie to discuss overall project goals and objectives and further information gathering.
- Task 4: Meet with Municipal Special Masters on a date specified by the Regional Special Master to establish general parameters and agenda in anticipation of mediation sessions with planning experts for all parties.
- Task 5: Advise the court regarding the appropriate time frame for engaging in mediation sessions with planning experts of all parties, and if requested, chair such mediation sessions for the purpose of establishing consensus and conflict points regarding statewide and regional need and municipal allocation thereof.
- Task 6: Prepare and issue Preliminary Report on determination of Statewide, Regional (Monmouth, Ocean, and Mercer Counties), and municipal affordable housing needs for Monmouth County.
- Task 7: Review written responses and reports to Preliminary Report from all involved parties.
- Task 8: Prepare and issue Final Report of recommendations no later than December 4, 2015.
- Task 9: Attend and participate in court hearing/trial as to the state and regional need for affordable housing and the obligations of Monmouth County municipalities based upon such determination.

# RICHARD B. READING ASSOCIATES

759 STATE ROAD, PRINCETON, NEW JERSEY 08540  
Tel 609-924-6622 e-mail:rbrprin@aol.com Fax 609-924-1628

---

## SCHEDULE OF FEES

### Professional Service Fees:

Principal Time	\$200.00 per hour
Senior Time	\$160.00 per hour
Analyst and Programming	\$ 80.00 per hour
Drafting and Staff	\$ 50.00 per hour
Processing and Production	\$ 40.00 per hour

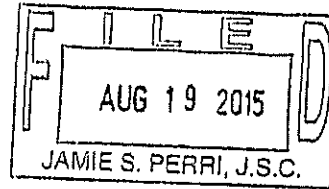
### Non-Salary Expenses:

Travel	\$ 0.40 per mile
Copying	\$ 0.120 per copy
Miscellaneous	\$ Billed at Cost



# **EXHIBIT B**

PREPARED BY THE COURT



SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MONMOUTH COUNTY  
DOCKET NO. L-2518-15

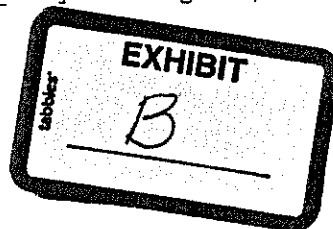
IN THE MATTER OF  
THE APPLICATION OF THE  
TOWNSHIP OF MANALAPAN,  
COUNTY OF MONMOUTH

CIVIL ACTION  
(Mt. Laurel)

ORDER

This matter having been opened to the court on August 7, 2015, on a motion on behalf of the Township of Manalapan ("Township") by GluckWalrath, LLP (Andrew Bayer, Esq., appearing), for an Order granting the Township temporary immunity from Mount Laurel lawsuits as more fully set forth in In re Adoption of N.J.A.C. 5:96; and 5:97 by N.J. Council on Affordable Housing; 221 N.J. 1 (2015) ("Mount Laurel IV"); and opposition thereto and a cross-motion for leave to intervene having been filed on behalf of Highview Homes, LLC, by Bisgaier Hoff, LLC (Richard J. Hoff, Jr., Esq., appearing); and general opposition to the Township's motion having been filed on behalf of Fair Share Housing Center (Kevin D. Walsh, Esq., appearing); and the court having considered the papers submitted and the arguments of counsel as set forth on the record on August 7, 2015; and for the reasons set forth in the attached Rider dated August 19, 2015, and for other good cause appearing;

IT IS on this 19<sup>th</sup> day of August, 2015;



ORDERED:




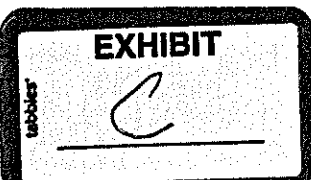
1. The Township of Manalapan is granted temporary immunity from exclusionary zoning and builder's remedy actions for a period of five months from July 8, 2015, to December 8, 2015, and is further granted temporary immunity nunc pro tunc to the date of filing of its Complaint for Declaratory Judgment. This period of immunity shall be reviewed periodically by the court and may be extended as necessary to complete this matter consistent with the Township's status as a town which previously received substantive certification from the Council on Affordable Housing.
2. Highview Homes, LLC, is granted leave to intervene and to file an Answer addressing issues of constitutional compliance only, as more fully set forth in the attached Rider, within 10 days of the date of this Order. All other relief requested in the motion to intervene is denied.
3. Interested parties who have not moved to intervene may make written submissions or comments to the court, on notice to all parties. Only those parties that have been joined in the litigation may be heard on motions or other court proceedings unless prior leave of court has been granted.

4. A case management conference shall be conducted in this matter on Wednesday, September 9, 2015, at 9:30 a.m., for the purpose of scheduling future benchmarks. The parties shall confer in advance of the conference and provide the court with a Consent Case Management Order. If the parties cannot agree as to the form of the Order, each party shall submit a proposed Order to the court at least three days in advance of the conference.
5. A copy of this Order shall be served on or otherwise made available to all interested parties as directed by the New Jersey Supreme Court in Mount Laurel IV within seven days of the date hereof.

  
\_\_\_\_\_  
JAMIE S. PERRI, J.S.C.

# EXHIBIT C

**Appendix XII-B1**

	<b>CIVIL CASE INFORMATION STATEMENT (CIS)</b>		<b>FOR USE BY CLERK'S OFFICE ONLY</b>	
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>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</b>		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 Richard J. Hoff, Jr., Esquire		TELEPHONE NUMBER (856) 795-0150	COUNTY OF VENUE Monmouth	
FIRM NAME (if applicable) Bisgaier Hoff, LLC		DOCKET NUMBER (when available) L-2518-15		
OFFICE ADDRESS 25 Chestnut Street, Suite 3 Haddonfield, NJ 08033		DOCUMENT TYPE Answer		JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
NAME OF PARTY (e.g., John Doe, Plaintiff) Countryside Developers, Inc., Intervenor/Defendant		CAPTION In the Matter of the Application of Manalapan Township, County of Monmouth		
CASE TYPE NUMBER (See reverse side for listing)  303	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: 				



# CIVIL CASE INFORMATION STATEMENT (CIS)

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

## CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

### Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

### Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

### Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

### Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

### Multicounty Litigation (Track IV)

- |  |   |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN              | 289 REGLAN  |
| 274 RISPERDAL/SEROQUEL/ZYPREXA         | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION                |
| 278 ZOMETA/AREZIA                      | 291 PELVIC MESH/GYNECARE                                  |
| 279 GADOLINIUM                         | 292 PELVIC MESH/BARD                                      |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 293 DEPUY ASR HIP IMPLANT LITIGATION                      |
| 282 FOSAMAX                            | 295 ALLODERM REGENERATIVE TISSUE MATRIX                   |
| 285 STRYKER TRIDENT HIP IMPLANTS       | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 286 LEVAQUIN                           | 297 MIRENA CONTRACEPTIVE DEVICE                           |
| 287 YAZ/YASMIN/OCELLA                  | 601 ASBESTOS  |
| 288 PRUDENTIAL TORT LITIGATION         | 623 PROPECIA  |

If you believe this case requires a track other than that provided above, please indicate the reason on 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: Richard J. Hoff, Jr., Esq.  
Email: rhoff@bisgaiierhoff.com  
Attorney ID# 015811998  
Attorneys for Intervenor/Defendant,  
Countryside Developers, Inc.

IN THE MATTER OF THE APPLICATION OF MANALAPAN TOWNSHIP, MONMOUTH COUNTY	SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY LAW DIVISION  DOCKET NO. L-2518-15  CIVIL ACTION  <i>MOUNT LAUREL</i>  ANSWER OF COUNTRYSIDE DEVELOPERS, INC.
---	---

Defendant-Intervenor, Countryside Developers, Inc.

("Countryside"), with a principal place of business located at 76 Stillwell Road, Holmdel, NJ 07733, is the contract purchaser of property within the Township of Manalapan ("Township") on the tax maps of the Township as Block 78, Lot 12.02, and by way of Answer to the Complaint in this matter, says that:

1. Admitted.

The Mount Laurel Doctrine and the Fair Housing Act

2. The referenced opinion speaks for itself.
3. The referenced opinion speaks for itself.



4. Admitted.
5. The referenced statute speaks for itself.
6. The referenced statutes speak for themselves.

COAH's Attempts To Adopt Constitutionally Compliant Third Round Rules

7. The referenced statutes speak for themselves.
8. 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.
9. The referenced statute is a writing that speaks for itself.
10. The referenced opinion is a writing that speaks for itself.
11. The referenced writings speak for themselves. Furthermore, this paragraph states a legal conclusion to which no response is required.
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. Admitted.

The "In re COAH" Decision

14. Admitted.

15. 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.

16. 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.

17. Denied.

18. 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.

19. Denied.

Manalapan's Efforts To Provide Affordable Housing

20. Denied.

21. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

22. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs.

23. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

24. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

a. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

b. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

c. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

d. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

e. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

f. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

g. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

h. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

i. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

j. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

k. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

l. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

m. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

n. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

o. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

p. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing speaks for itself.

25. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs. To the extent a response is required, the writing 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.

28. Denied.

COUNT I

(Temporary Immunity)

29. Countryside repeats and realleges each and every allegation set forth in the preceding paragraphs as if set forth herein at length.

30. Denied.

31. Denied.

WHEREFORE, Countryside respectfully requests that the Court grant the following relief:

a. DENYING all relief sought by Manalapan in its Complaint;

b. DECLARING that Manalapan 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 Manalapan's fair share of the unmet regional need for such housing, and invalidating Manalapan's land use ordinances;

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

d. APPOINTING a Special Master to oversee the implementation of the foregoing remedies; and

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

#### COUNT II

(Declaratory Judgment of Compliance and for Judgment of Repose)

32. Countryside repeats and realleges each and every allegation set forth in the preceding paragraphs as if set forth herein at length.

33. Denied.

WHEREFORE, Countryside respectfully requests that the Court grant the following relief:

a. DENYING all relief sought by Manalapan in its Complaint;

b. DECLARING that Manalapan 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 Manalapan's fair share

of the unmet regional need for such housing, and invalidating Manalapan's land use ordinances;

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

d. APPOINTING a Special Master to oversee the implementation of the foregoing remedies; and

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

### COUNT THREE

(Declaratory Judgment and Trust Fund Injunction)

34. Countryside repeats and realleges each and every allegation set forth in the preceding paragraphs as if set forth herein at length.

35. The referenced statute speaks for itself.

36. The referenced writings speak for themselves.

37. The referenced statute speaks for itself.

38. The referenced writings speak for themselves.

39. The referenced writings speak for themselves.

40. The referenced writings speak for themselves.

41. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs.



42. 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.

43. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs.

44. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs.

45. Countryside is without information sufficient to form a belief as to the allegations set forth in this paragraph, and Manalapan is therefore left to its proofs.

WHEREFORE, Countryside respectfully requests that the Court grant the following relief:

a. DENYING all relief sought by Manalapan in its Complaint;

b. DECLARING that Manalapan 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 Manalapan's fair share of the unmet regional need for such housing, and invalidating Manalapan's land use ordinances;

c. ORDERING Manalapan to submit to the Court, within a time period to be set by the Court, a compliance plan and zoning

ordinances that will bring Manalapan into compliance with the requirements of the Constitution;

d. APPOINTING a Special Master to oversee the implementation of the foregoing remedies; and

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

#### AFFIRMATIVE DEFENSES

##### FIRST AFFIRMATIVE DEFENSE

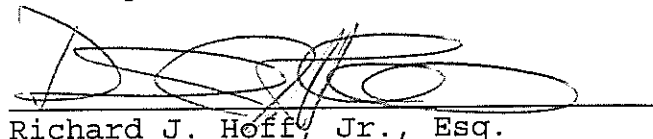
Manalapan has not filed what is required by March 10, 2015 Decision to receive an award of immunity, and that request should be denied. Manalapan does not concede it is not in compliance with its Mount Laurel obligations, does not propose any fair share obligations it is required to meet, does not propose any procedures to establish such fair share obligations, and does not propose even the framework of any plan to meet its fair share obligations.

##### SECOND AFFIRMATIVE DEFENSE

Because Manalapan utterly fails to propose any fair share obligations, or even propose any procedures to have such obligations established by this court, this Court should adopt expedited procedures, as proposed in Countryside's motion seeking intervention and related relief, guided by the principle that fair share obligations must be established at the earliest

possible opportunity so that Manalapan may meet the five-month (maximum) deadline set forth in the March 10, 2015 Decision for the filing of a housing element and fair share plan addressing Manalapan's full fair share obligations.

BISGAIER HOFF, LLC  
Attorneys for Defendant-Intervenor  
Countryside Developers, Inc.



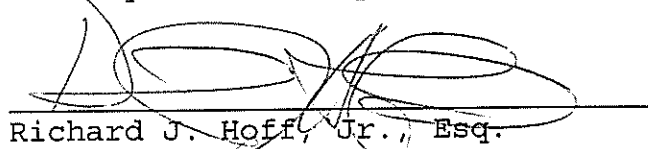
Richard J. Hoff, Jr., Esq.

Dated: October 6, 2015

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Richard J. Hoff, Jr., Esquire, is hereby designated as trial counsel on behalf of Attorneys for Defendant-Intervenor, Countryside Developers, Inc.

BISGAIER HOFF, LLC  
Attorneys for Defendant-Intervenor  
Countryside Developers, Inc.



Richard J. Hoff, Jr., Esq.


Dated: October 6, 2015

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 Defendant-Intervenor  
Countryside Developers, Inc.



---

Richard J. Hoff, Jr., Esq.

Dated: October 6, 2015

**BISGAIER HOFF, LLC**

25 Chestnut Street, Suite 3  
Haddonfield, New Jersey 08033

Tel: (856) 795-0150

Fax: (856) 795-0312

By: Richard J. Hoff, Jr., Esq.

Email: rhoff@bisgaierhoff.com

Attorney ID# 015811998

Attorneys for Proposed Intervenor/Defendant,  
Countryside Developers, Inc.

<p>IN THE MATTER OF THE APPLICATION OF MANALAPAN TOWNSHIP, MONMOUTH COUNTY,</p>	<p>SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY LAW DIVISION</p> <p>DOCKET NO. L-2518-15</p> <p><u>CIVIL ACTION</u></p> <p><i>MOUNT LAUREL</i></p> <p><b>CERTIFICATION OF TERRY SHERMAN IN SUPPORT OF COUNTRYSIDE DEVELOPER, INC.'S MOTION ON SHORT NOTICE FOR INTERVENTION PURSUANT TO <u>RULE</u> 4:33-1 OR <u>RULE</u> 4:33-2</b></p>
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I, Terry Sherman, hereby certify pursuant to New Jersey  
Court Rule 1:4-4(b) as follows:

1. I am an authorized representative of Countryside  
Developers, Inc. ("Countryside") and, as such, am authorized to  
execute this Certification on behalf of Countryside.

2. I make this certification in support of Countryside's  
Motion for Intervention.

3. Countryside is the contract purchaser of property in  
the Township of Manalapan ("Township"), which is identified on

the tax maps of the Township as Block 78 Lot 12.02 (the "Property").

4. The Property consists of approximately 82 acres.

5. The Property is currently the subject of a development application before the Township Zoning Board of Adjustment. As part of that application, Countryside has proposed the construction of affordable housing.

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.

By: \_\_\_\_\_

  
TERRY SHERMAN

Dated: October 5, 2015

BISGAIER HOFF, LLC  
25 Chestnut Street, Suite 3  
Haddonfield, New Jersey 08033  
Tel: (856) 795-0150  
Fax: (856) 795-0312  
By: Richard J. Hoff, Jr., Esq.  
Email: rhoff@bisgaierhoff.com  
Attorney ID# 015811998  
Attorneys for Proposed Intervenor/Defendant,  
Countryside Developers, Inc.

IN THE MATTER OF THE APPLICATION OF MANALAPAN TOWNSHIP, MONMOUTH COUNTY,	SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY LAW DIVISION  DOCKET NO. L-2518-15  <u>CIVIL ACTION</u>  MOUNT LAUREL  ORDER
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THIS MATTER having been opened to the Court by proposed Intervenor/Defendant, Countryside Developers, Inc. ("Countryside"), by way of Motion for Intervention pursuant to Rule 4:33-1 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 \_\_\_\_\_, 2015, ORDERED  
that:

1. The motion of Countryside seeking intervention in this matter is hereby GRANTED.

2. Countryside is hereby granted leave to file the Answer in the form submitted with this motion.

3. Counsel for Countryside shall serve a true and correct copy of this Order upon all counsel/interested parties within seven (7) days of the date hereof.

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HONORABLE JAMIE S. PERRI, J.S.C.



BISGAIER HOFF, LLC  
25 Chestnut Street, Suite 3  
Haddonfield, New Jersey 08033  
Tel: (856) 795-0150  
Fax: (856) 795-0312  
By: Richard J. Hoff, Jr., Esq.  
Email: rhoff@bisgaierhoff.com  
Attorney ID# 015811998  
Attorneys for Proposed Intervenor/Defendant,  
Countryside Developers, Inc.

IN THE MATTER OF THE APPLICATION OF MANALAPAN TOWNSHIP, MONMOUTH COUNTY,	SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY LAW DIVISION  DOCKET NO. L-2518-15  <u>CIVIL ACTION</u>  MOUNT LAUREL  CERTIFICATION OF SERVICE
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I, Colleen K. Weinland, am an employee of Bisgaier Hoff, LLC, attorneys for Intervenor/Defendant, Countryside Developers, Inc. ("Countryside").

1. On October 6, 2015, I sent to be filed with the Clerk, Monmouth County Superior Court, P.O. Box 1266, 71 Monument Park, Freehold, NJ 07728-1266 via hand delivery an original and one (1) copy of the following:

- a. Notice of Motion on Short Notice;
- b. Brief in Support of Countryside's Motion on Short Notice for Intervention;
- c. Certification of Terry Sherman in support of Countryside's Motion on Short Notice for Intervention;

- d. Certification of Richard J. Hoff, Jr., Esq., in Support of Countryside's Motion on Short Notice for Intervention with accompanying exhibits;
- e. Proposed Order; and
- f. this Certification of Service.

2. On October 6, 2015, I served one (1) copy of the above documents sent via New Jersey Lawyers Service to:

Adam Gordon, Esquire  
Staff Attorney  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002

Kevin D. Walsh, Esquire  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002

Jonathan E. Drill, Esquire  
Stickel, Loenig, Sullivan &  
Drill  
571 Pompton Ave  
Cedar Grove, NJ 07009-1720

Geraldine Callahan, Deputy  
Attorney General  
Richard J. Hughes Justice  
Complex  
25 Market Street 8th Floor  
Trenton, NJ 08625-0080

Jeffrey R. Surenian, Esquire  
Jeffrey R. Surenian and  
Associates, LLC  
Suite 301  
707 Union Ave  
Brielle, NJ 08730-1470

Jeffrey L. Kantowitz, Esquire  
Law Office of Abe Rappaport  
Suite 6  
195 US Highway 46  
Totowa, NJ 07512-1833

Edward J. Buzak, Esquire  
Buzak Law Group, LLC  
Suite N-4  
150 River Road  
Montville, NJ 07045-9441

Stephen Eisdorfer, Esquire  
Hill Wallack, LLP  
202 Carnegie Center  
PO BOX 5226  
Princeton, NJ 08543

3. On October 6, 2015, I served one (1) copy of the above documents sent via hand delivery and via e-mail to:

Andrew Bayer, Esquire  
GluckWalrath LLP  
428 River View Plaza  
Trenton, NJ 08611

4. On October 6, 2015, I served a courtesy copy of the above documents via hand delivery to:

Honorable Jamie S. Perri, J.S.C.  
Monmouth County Superior Court  
P.O. Box 1266  
71 Monument Park  
Freehold, NJ 07728-1266

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.

  
\_\_\_\_\_  
Colleen K. Weinland, Paralegal

Dated: October 6, 2015