FILE

ABRAHAMSEN LAW FIRM, L.L.C.

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March 15, 2016

Via: Regular Mail
Clerk of The Superior Court
Bergen County Justice Center
10 Main Street
Hackensack, NJ 07601
Attn: Filing Intake

Re: 10 Morton Street, LLC vs. Borough of East Rutherford
Docket No: Ber-L-5912-15

Dear Sir or Madam:

Please be advised that the Abrahamsen Law Firm has been retained to represent the interest of Intervener 10 Morton LLC/

Enclosed herein please find an original and three copies of Answer and Affirmative Defenses, ase Information Sheet along with the necessary filing fee, check #1563 in the amount of $175.00 payable to the Treasurer of the State of New Jersey.

Upon your receipt and review, kindly forward a filed stamp copy in the self addressed stamped envelope provided for your convenience.

Thank you for your anticipated cooperation in this regard.

Respectfully submitted,
s/Richard J. Abrahamsen
Richard J. Abrahamsen, Esq.
Abrahamsen Law Firm, LLC

RJA:mt
CC: Kipp & Allen, LLP
James T. Novello, Esq.

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Attorneys for
10 Morton LLC, Intervener

IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF EAST RUTHERFORD FOR JUDGMENT OF COMPLIANCE AND REPOSE	**SUPERIOR COURT OF NEW JERSEY LAW DIVISION: BERGEN COUNTY**
	Docket No.: L-5912-15
Plaintiff/Petitioner.	**Civil Action (Mount Laurel)**
	ANSWER AND AFFIRMATIVE DEFENSES

Intervenor, 10 Morton LLC, by way of Answer to Plaintiff/Petitioner, Borough of East Rutherford's Complaint for Declaratory Judgment says:

Jurisdiction

1. Intervenor admits to the allegations set forth in Paragraph 1 of the Complaint.

2. Intervenor is without information and lacks sufficient information to form a belief as to the truth or validity of the allegations set forth in Paragraph 2 of the Complaint.

3. Intervenor is without information and lacks sufficient information to form a belief as to the truth or validity of the allegations set forth in Paragraph 3 of the Complaint, but leaves the Plaintiff to its proofs.

4. Intervenor neither admits nor denies the allegations set forth in Paragraph 4 of the Complaint, but leaves the Plaintiff to its proofs.

5. Intervenor denies the allegations set forth in Paragraph 5 of the Complaint, but leaves the Plaintiff to its proofs.

Background and Prior Round Obilgations

6. Intervenor admits to the allegations set forth in Paragraph 6 of the Complaint, but leaves the Plaintiff to its proofs.

7. Intervenor admits to the allegations set forth in Paragraph 7 of the Complaint, but leaves the Plaintiff to its proofs.

8. Intervenor admits to the allegations set forth in Paragraph 8 of the Complaint, but leaves the Plaintiff to its proofs.

9. Intervenor admits to the allegations set forth in Paragraph 9 of the Complaint, but leaves the Plaintiff to its proofs.

10. Intervenor admits to the allegations set forth in Paragraph 10 of the Complaint, but leaves the Plaintiff to its proofs.

11. Intervenor admits to the allegations set forth in Paragraph 11 of the Complaint, but leaves the Plaintiff to its proofs.

12. Intervenor admits to the allegations set forth in Paragraph 12 of the Complaint, but leaves the Plaintiff to its proofs.

13. Intervenor admits to the allegations set forth in Paragraph 13 of the Complaint, but leaves the Plaintiff to its proofs.

14. Intervenor is without information and lacks sufficient information to form a belief as to the truth or validity of the allegations set forth in Paragraph 14 of the Complaint, but leaves the Plaintiff to its proofs.

15. Intervenor admits the allegations set forth in Paragraph 15 of the Complaint.

16. Intervenor is without information and lacks sufficient information to form a belief as to the truth or validity of the allegations set forth in Paragraph 16 of the Complaint, but leaves the Plaintiff to its proofs.

17. Intervenor denies the allegations set forth in Paragraph 17 of the Complaint, but leaves the Plaintiff to its proofs.

18. Intervenor is without information and lacks sufficient information to form a belief as to the truth or validity of the allegations set forth in Paragraph 18 of the Complaint, but leaves the Plaintiff to its proofs.

19. Intervenor denies the allegations set forth in Paragraph 19 of the Complaint, but leaves the Plaintiff to its proofs.

Third Round Obligation

20. Intervenor admits to the allegations set forth in Paragraph 20 of the Complaint, but leaves the Plaintiff to its proofs.

21. Intervenor admits to the allegations set forth in Paragraph 21 of the Complaint, but leaves the Plaintiff to its proofs.

22. Intervenor admits to the allegations set forth in Paragraph 22 of the Complaint, but leaves the Plaintiff to its proofs.

23. Intervenor neither admits or denies the allegations set forth in Paragraph 23 of the Complaint, but leaves the Plaintiff to its proofs.

24. Intervenor denies the allegations set forth in Paragraph 24 of the Complaint.

25. Intervenor denies the allegations set forth in Paragraph 25 of the Complaint.

26. Intervenor denies the allegations set forth in Paragraph 26 of the Complaint.

27. Intervenor denies the allegations set forth in Paragraph 27 of the Complaint.

The Transfer of Jurisdiction to the Courts

28. Intervenor denies the allegations set forth in Paragraph 28 the Complaint.

29. Intervenor denies the allegations set forth in Paragraph 29 of the Complaint.

30. Intervenor admits to the allegations set forth in Paragraph 30 of the Complaint.

31. Intervenor admits to the allegations set forth in Paragraph 31 of the Complaint.

32. Intervenor admits to the allegations set forth in Paragraph 32 of the Complaint.

33. Intervenor admits to the allegations set forth in paragraph 33 of the Complaint.

34. Intervenor denies the allegations set forth in Paragraph 34 of the Complaint.

35. Intervenor denies the allegations set forth in Paragraph 35 of the Complaint.

36. Intervenor denies the allegations set forth in Paragraph 36 of the Complaint.

37. Intervenor denies the allegations set forth in Paragraph 37 of the Complaint.

COUNT ONE
DECLARATORY RELIEF, CONSTITUTIONAL COMPLIANCE

38. Intervenor repeats and incorporates herein its responses to Paragraphs 1 through 37 of the Complaint as if same were set forth fully herein.

39. Intervenor denies the allegations set forth in Paragraph 39 of Count One of the Complaint.

COUNT TWO
FIVE MONTHS TO PREPARE HEFSP

40. Intervenor repeats and incorporates herein its responses to Paragraphs 1 through 39 of the Complaint as if same were set forth fully herein.

41. Intervenor denies the allegations set forth in Paragraph 41 of Count Two of the Complaint.

42. Intervenor denies the allegations set forth in Paragraph 42 of Count Two of the Complaint.

43. Intervenor denies the allegations set forth in Paragraph 43 of Count Two of the Complaint.

44. Intervenor denies the allegations set forth in Paragraph 44 of Count Two of the Complaint.

45. Intervenor denies the allegations set forth in Paragraph 45 of Count Two of the Complaint.

COUNT THREE
REQUEST FOR IMMUNITY

46. Intervenor repeats and incorporates herein its responses to Paragraphs 1 through 45 of the Complaint as if same were set forth fully herein.

47. Intervenor denies the allegations set forth in Paragraph 45 of Count Three of the Complaint.

48. Intervenor denies the allegations set forth in Paragraph 48 of Count Three of the Complaint.

49. Intervenor denies the allegations set forth in Paragraph 49 of Count Three of the Complaint.

50. Intervenor denies the allegations set forth in Paragraph 50 of Count Three of the Complaint.

51. Intervenor denies the allegations set forth in Paragraph 51 of Count Three of the Complaint.

COUNT FOUR

JURISDICTION OVER UNAPPROVED SPENDING PLAN

52. Intervenor repeats and incorporates herein its responses to Paragraphs 1 through 51 of the Complaint as if same were set forth fully herein.

53. Intervenor denies the allegations set forth in Paragraph 53 of Count Four of the Complaint.

54. Intervenor denies the allegations set forth in Paragraph 54 of Count Four of the Complaint.

55. Intervenor denies the allegations set forth in Paragraph 55 of Count Four of the Complaint.

56. Intervenor denies the allegations set forth in Paragraph 56 of Count Four of the Complaint.

57. Intervenor denies the allegations set forth in Paragraph

WHEREFORE, Defendant/Intervenor 10 Morton, respectfully requests an Order containing the following relief:

a. Denying the relief sought by the Borough of East Rutherford in its Complaint;

b. Granting Defendant/Intervenor 10 Morton, the right to file a counterclaim and/or builder's remedy lawsuit in the event that the Borough of East Rutherford

Affirmative Defenses

First Affirmative Defense

The Borough of East Rutherford has failed to submit a Housing Element that satisfies its constitutional obligations to create sufficient realistic and reasonable opportunities for the construction of low and moderate income housing to satisfy the Borough of East Rutherford's fair share of the region's unmet affordable housing needs.

Second Affirmative Defense

The Borough of East Rutherford has failed to submit a Fair Share Plan that satisfies its constitutional obligations to create sufficient realistic and reasonable opportunities for the construction of low and moderate income housing to satisfy the Borough of East Rutherford's fair share of the region's unmet affordable housing needs.

Third Affirmative Defense

The Borough of East Rutherford has not satisfied its obligations, both constitutional and statutory, with respect to providing a realistic and reasonable opportunity for the construction of low and moderate income housing to satisfy the Borough of East Rutherford's fair share of the region's unmet affordable housing needs.

Fourth Affirmative Defense

The Borough of East Rutherford has not adopted zoning ordinances and land use regulations which create a realistic and reasonable opportunity to provide for the Borough of East Rutherford's fair share of affordable housing and, as such, has failed to meet its constitutional obligations.

WHEREFORE, Defendant/Intervenor 10 Morton, respectfully requests an Order containing the following relief:

a. Denying the relief sought by the Borough of East Rutherford in its Complaint;

b. Ordering the Borough of East Rutherford to include the Property in its Fair Share Plan;

c. Ordering the Borough of East Rutherford to submit to the Court, within a time period to be set by the Court, a compliance plan incorporating the Property, which compliance plan will bring the Borough of East Rutherford into compliance with the requirements of the Constitution;

d. Granting Defendant/Intervenor 10 Morton, the right to file a counterclaim and/or builder's remedy lawsuit in the event that the Borough of East Rutherford fails to file a Housing Element and Fair Share Plan that complies

with the Borough of East Rutherford's constitutional obligations;

e. Ordering the Borough of East Rutherford to pay Defendant's attorney's fees and costs; and

f. Such other relief as this Court deems equitable and just.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that Richard J. Abrahamsen, Esq., Attorney for the Defendant/Intervenor, is designated as trial counsel in the above captioned matter.

Dated:

ABRAHAMSEN LAW FIRM, L.L.C.
Richard J. Abrahamsen, Esq.

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, I 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.

Further, I am unware of any non-parties who should otherwise be joined in this action pursuant to R. 4:28 or who are subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any party on the basis of the same facts.

ABRAHAMSEN LAW FIRM, L.L.C.
Richard J. Abrahamsen, Esq.

Dated:

Side 2

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
274 RISPERDAL/SEROQUEL/ZYPREXA
278 ZOMETA/AREDIA
279 GADOLINIUM
281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL
282 FOSAMAX
285 STRYKER TRIDENT HIP IMPLANTS
286 LEVAQUIN
287 YAZ/YASMIN/OCELLA
288 PRUDENTIAL TORT LITIGATION
289 REGLAN
290 POMPTON LAKES ENVIRONMENTAL LITIGATION
291 PELVIC MESH/GYNECARE
292 PELVIC MESH/BARD
293 DEPUY ASR HIP IMPLANT LITIGATION
295 ALLODERM REGENERATIVE TISSUE MATRIX
296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS
297 MIRENA CONTRACEPTIVE DEVICE
299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR
300 TALC-BASED BODY POWDERS
601 ASBESTOS
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**

Appendix XII-B1

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial Law Division Civil Part pleadings (not motions) under *Rule* 4:5-1
Pleading will be rejected for filing, under *Rule* 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed

FOR USE BY CLERK'S OFFICE ONLY
PAYMENT TYPE: ☐ CK ☐ CG ☐ CA
CHG/CK NO.
AMOUNT:
OVERPAYMENT:
BATCH NUMBER:

ATTORNEY / PRO SE NAME	TELEPHONE NUMBER	COUNTY OF VENUE
Richard J. Abrahamsen, Esq.	(201) 840-5660	Bergen

FIRM NAME (if applicable)	DOCKET NUMBER (when available)
Abrahamsen Law Firm, LLC	5912-15

OFFICE ADDRESS	DOCUMENT TYPE
115 River Road, Suite 828 Edgewater, NJ 07020	Answer
	JURY DEMAND ☐ YES ■ NO

NAME OF PARTY (e.g., John Doe, Plaintiff)	CAPTION
Intervener, 10 Morton, LLC	In The Matter of the Application of the Borough of East Rutherford for Judgment of Compliance and Repose

CASE TYPE NUMBER (See reverse side for listing)	HURRICANE SANDY RELATED?	IS THIS A PROFESSIONAL MALPRACTICE CASE?
303	☐ YES ☐ NO	☐ YES ☐ 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?	IF YES, LIST DOCKET NUMBERS
☐ YES ☐ NO	

DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)?	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known)
☐ YES ☐ NO	☐ NONE ☐ UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP?	IF YES, IS THAT RELATIONSHIP:
☐ YES ☐ NO	☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ☐ FAMILIAL ☐ BUSINESS

DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☐ YES ☐ 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?	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION
☐ YES ■ NO	
WILL AN INTERPRETER BE NEEDED? ☐ YES ■ 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 *Rule* 1:38-7(b).

ATTORNEY SIGNATURE: Richard J. Abrahamsen, Esq.