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Attorneys for Defendant
Oak and Central Developers, LLC

IN THE MATTER OF THE
APPLICATION OF THE BOROUGH OF
EAST RUTHERFORD FOR A
JUDGMENT OF COMPLIANCE AND
REPOSE.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY

DOCKET NO. BER-L-5925-15

Civil Action

ANSWER TO COMPLAINT

Defendant Oak and Central Developers, LLC ("OCD"), with offices located at 50 East Mount Pleasant Avenue, Livingston, New Jersey, the contract purchaser of real property located in the Borough of East Rutherford ("East Rutherford") specifically designated as Block 26, Lots 1 and 2 on East Rutherford's official Tax Map, by way of Answer to the Complaint for a Declaratory Judgment (the "Complaint") of petitioner East Rutherford, says:

1. The allegations set forth in paragraph 1 of the Complaint state legal conclusions to which a response is not

required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

2. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint and leaves East Rutherford to its proofs.

3. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and leaves East Rutherford to its proofs.

4. The allegations set forth in paragraph 4 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

5. The allegations set forth in paragraph 5 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

6. The allegations set forth in paragraph 6 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

7. The allegations set forth in paragraph 7 of the Complaint state legal conclusions to which a response is not

required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

8. The allegations set forth in paragraph 8 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

9. The allegations set forth in paragraph 9 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

10. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint and leaves East Rutherford to its proofs.

11. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint and leaves East Rutherford to its proofs.

12. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint and leaves East Rutherford to its proofs.

13. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in

paragraph 13 of the Complaint and leaves East Rutherford to its proofs.

14. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint and leaves East Rutherford to its proofs.

15. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint and leaves East Rutherford to its proofs.

16. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint and leaves East Rutherford to its proofs.

17. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint and leaves East Rutherford to its proofs.

18. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint and leaves East Rutherford to its proofs.

19. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in

paragraph 19 of the Complaint and leaves East Rutherford to its proofs.

20. The allegations set forth in paragraph 20 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

21. The allegations set forth in paragraph 21 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

22. The allegations set forth in paragraph 22 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

23. The allegations set forth in paragraph 23 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

24. The allegations set forth in paragraph 24 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

25. The allegations set forth in paragraph 25 of the Complaint state legal conclusions to which a response is not

required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

26. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint and leaves East Rutherford to its proofs.

27. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint and leaves East Rutherford to its proofs.

28. The allegations set forth in paragraph 28 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

29. The allegations set forth in paragraph 29 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

30. The allegations set forth in paragraph 30 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

31. The allegations set forth in paragraph 31 of the Complaint state legal conclusions to which a response is not

required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

32. The allegations set forth in paragraph 32 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

33. The allegations set forth in paragraph 33 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

34. The allegations set forth in paragraph 34 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

35. The allegations set forth in paragraph 35 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

36. The allegations set forth in paragraph 36 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

37. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in

paragraph 37 of the Complaint and leaves East Rutherford to its proofs.

AS TO COUNT ONE

38. OCD repeats and reallages its response to paragraphs 1 through 37 of the Complaint as if fully set forth herein.

39. The allegations set forth in paragraph 39 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs, but OCD reserves its right to challenge any affordable housing plan submitted to the Court for approval if that plan is not constitutionally compliant.

AS TO COUNT TWO

40. OCD repeats and reallages its response to paragraphs 1 through 39 of the Complaint as if fully set forth herein.

41. The allegations set forth in paragraph 41 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

42. The allegations set forth in paragraph 42 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

43. The allegations set forth in paragraph 43 of the Complaint state legal conclusions to which a response is not

required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

44. The allegations set forth in paragraph 44 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

45. The allegations set forth in paragraph 45 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

AS TO COUNT THREE

46. OCD repeats and reallages its response to paragraphs 1 through 45 of the Complaint as if fully set forth herein.

47. The allegations set forth in paragraph 47 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

48. The allegations set forth in paragraph 48 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

49. The allegations set forth in paragraph 49 of the Complaint state legal conclusions to which a response is not

required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

50. The allegations set forth in paragraph 50 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

51. The allegations set forth in paragraph 51 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

AS TO COUNT FOUR

52. OCD repeats and reallages its response to paragraphs 1 through 51 of the Complaint as if fully set forth herein.

53. The allegations set forth in paragraph 53 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

54. The allegations set forth in paragraph 54 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

55. The allegations set forth in paragraph 55 of the Complaint state legal conclusions to which a response is not

required. To the extent a response is required, OCD leaves East Rutherford to its proofs.

56. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Complaint and leaves East Rutherford to its proofs.

57. OCD lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the Complaint and leaves East Rutherford to its proofs.

WHEREFORE, OCD, as an interested party, seeks to participate in this matter in connection with East Rutherford's affordable housing compliance and, if warranted, the Court should deny the relief sought by way of East Rutherford's Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

To the extent East Rutherford does not propose and/or adopt a Housing Element and Fair Share Plan in accordance with the Supreme Court's directive, East Rutherford's plan should be denied and any immunity from builders remedy lawsuits already granted should not be renewed.

HUTT & SHIMANOWITZ, P.C.
Attorneys for Defendant
Attorneys for Defendant
Oak and Central Developers, LLC

By: _____


BRYAN D. PLOCKER

Date: December 19, 2016

DEMAND FOR DOCUMENTS PURSUANT TO RULE 4:18-2

Pursuant to Rule 4:18-2, defendant Oak and Central Developers, LLC hereby demands that petitioner produce within five (5) days copies of all documents referred to in the Complaint.

DESIGNATION OF TRIAL COUNSEL PURSUANT TO RULE 4:25-4

Ronald L. Shimanowitz, Esq. is hereby designated as trial counsel for defendant Oak and Central Developers, LLC.

HUTT & SHIMANOWITZ, P.C.
Attorneys for Defendant
Oak and Central Developers, LLC

By: _____


BRYAN D. PLOCKER

Date: December 19, 2016

CERTIFICATION PURSUANT TO RULE 4:5-1

To the best of my knowledge, information and belief, the matter in controversy is not the subject of any other action pending in any court or of any pending arbitration proceeding. No other action or arbitration proceedings are contemplated. At the present time, and prior to discovery, Oak and Central Developers, LLC knows of no other parties that should be joined in the within action.

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.

By: 
BRYAN D. PLOCKER, ESQ.

Date: December 19, 2016

Ronald L. Shimanowitz, Esq. (ID# 005291983)
Bryan D. Plocker, Esq. (ID# 028172000)
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(732) 634-6400
Attorneys for Proposed Intervenor-Defendant
Oak and Central Developers, LLC

FILED

DEC 19 2016

**WILLIAM C. MEEHAN
J.S.C.**

IN THE MATTER OF THE
APPLICATION OF THE BOROUGH OF
EAST RUTHERFORD FOR A
JUDGMENT OF COMPLIANCE AND
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SUPERIOR COURT OF NEW JERSEY
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DOCKET NO. BER-L-5925-15

Civil Action

**CONSENT ORDER PERMITTING
OAK AND CENTRAL DEVELOPERS, LLC
TO INTERVENE AS A DEFENDANT**

THIS MATTER, having been opened to the Court by way of proposed intervenor-defendant Oak and Central Developers, LLC ("OCD"), with the consent of petitioner Borough of East Rutherford (the "Borough"), and the Borough having filed a Complaint for a Declaratory Judgment pursuant to the Supreme Court's motion decision in In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015), and OCD being an interested party in this matter, and the Borough having consented to OCD's intervention in this matter, and OCD's proposed Answer being attached hereto as Exhibit A, and for good cause shown;

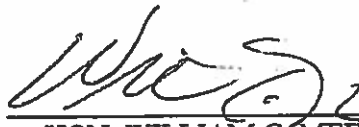
It is on this 19 day of December, 2016, **ORDERED** as follows:

1. OCD be and hereby is permitted to intervene as a defendant in this matter;

2. As a condition to being granted leave to intervene in this action, OCD agrees that it will not seek any extensions to any of the deadlines established within any Case Management Order previously entered by the Court;

3. OCD shall file its responsive pleading within 20 days of OCD's attorney's receipt of this Consent Order; and

4. ~~A copy of this Consent Order shall be served on all counsel within ___ days of its entry.~~



HON. WILLIAM C. MEEHAN, J.S.C.
Retired on Recall


The Borough and Sterling hereby consent to the entry of this Order:

KIPP & ALLEN, L.L.P.
Attorneys for Petitioner
Borough of East Rutherford

HUTT & SHIMANOWITZ, P.C.
Attorneys for Proposed Intervenor-
Defendant Oak and Central
Developers, LLC

By: 

RICHARD J. ALLEN, JR.

By: 

BRYAN D. PLOCKER

Dated: December __, 2016

Dated: December 19, 2016