

KELLY, KELLY, MAROTTA & TUCHMAN, LLC

Kevin P. Kelly, Esq.

ID. No: 037101990

25 East Spring Valley Avenue

Suite 320

Maywood, New Jersey 07607

(201) 368-7713

(201) 368-7723 – Fax

Attorneys for Defendant, Planning Board of the Township of Teaneck

MICHAEL AKERMAN; GEORGINA B. ASANTE; YAW ASANTE; DANIEL BELLIN; RENA DONIN SCHLUSSEL; YARON HIRSCHKORN; RACHEL KAYE; ASHIRA LOIKE; MERYL MARK; JOSEPH MARK; ALAN RUBINSTEIN; DAVID SCHLUSSEL; MERYL MARK, JOSEPH MARK; MARC SCHLUSSEL; and SHORANA SCHLUSSEL,

Plaintiffs,

vs.

TOWNSHIP OF TEANECK and TOWNSHIP OF TEANECK PLANNING BOARD,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO. BER-L-4361-22

Civil Action

**ANSWER AND AFFIRMATIVE
DEFENSES**

Defendant, Township of Teaneck and Township of Teaneck Planning Board (hereinafter “Planning Board”), a municipal entity of the County of Bergen, State of New Jersey, doing business at, New Jersey, by their attorneys, by way of Answer to Plaintiff’s Verified Complaint, responds as follows:

NATURE OF THE ACTION

1. With regard to the allegations contained in paragraph 1 of the

complaint, Plaintiffs summarize the various causes of action in the complaint and make no specific allegation against this Defendant and as such, this Defendant leaves plaintiffs to their proofs as to the allegations in paragraph 1. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance or any procedural defect or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 1 are denied.

2. With regard to the allegations contained in paragraph 2 of the complaint, Plaintiffs summarize the various causes of action in the complaint and make no specific allegation against this Defendant and as such, this Defendant leaves plaintiffs to their proofs as to the allegations in paragraph 2. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance or any procedural defect or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 2 are denied.

3. It is admitted that the Township Council adopted Ordinance 9-2022; the remaining allegations set forth in paragraph 3 are neither admitted nor denied as the content of Ordinance 9-2022 speaks for itself.

4. It is admitted that Ordinance 9-2022 is challenged in a Complaint filed under Docket No. BER-L-2234-22; the remaining allegations set forth in paragraph 4 are neither admitted nor denied as the content of said Complaint speaks for itself.

5. It is admitted that the Township Council adopted Ordinance 22-2022,

the content of which speaks for itself. The remaining allegations set forth in paragraph 5 are denied.

6. The allegations set forth in paragraph 6 are denied.

7. The allegations set forth in paragraph 7 are denied.

8. The allegations set forth in paragraph 8 are admitted.

9. Defendant lacks sufficient knowledge or information to form a belief regarding ownership and/or control of the real property identified in paragraph 9 and leaves plaintiffs to their proofs.

10. Defendant lacks sufficient knowledge or information to form a belief regarding ownership and/or control of the real property identified in paragraph 10 and leaves plaintiffs to their proofs.

11. The allegations set forth in paragraph 11 are denied.

12. The allegations set forth in paragraph 12 are denied.

13. With regard to the allegations contained in paragraph 13 of the complaint, Plaintiffs summarize the various causes of action in the complaint and make no specific allegation against this Defendant and as such, this Defendant leaves plaintiffs to their proofs as to the allegations in paragraph 13. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance or any procedural defect or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 13 are denied.

14. The allegations set forth in paragraph 14 are denied and this court no longer has jurisdiction over this matter as it is time barred.

THE PARTIES

15. It is admitted that the Township of Teaneck is a municipal corporation of the State of New Jersey with offices at the location identified in paragraph 15 and that members of the Township Council, the Mayor, Deputy Mayors and Township Manager are officials of the municipality. The remaining allegations set forth in paragraph 15 are denied.

16. It is admitted that the Township of Teaneck Planning Board is a is a duly and properly organized Planning Board of the Township of Teaneck in accordance with the New Jersey Municipal Land Use Law and Township Ordinances. The remaining allegations set forth in paragraph 16 are denied.

17. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 17 and leaves plaintiffs to their proofs.

18. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 18 and leaves plaintiffs to their proofs.

19. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 19 and leaves plaintiffs to their proofs.

20. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 20 and leaves plaintiffs to their proofs.

21. Defendant lacks sufficient knowledge or information to form a

belief regarding the allegations set forth in paragraph 21 and leaves plaintiffs to their proofs.

22. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 22 and leaves plaintiffs to their proofs.

23. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 23 and leaves plaintiffs to their proofs.

24. Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 24 and leaves plaintiffs to their proofs.

RELEVANT FACTS

25. With regard to the allegations contained in paragraph 25 of the complaint, Plaintiffs make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 25 and leaves plaintiffs to their proofs.

26. With regard to the allegations contained in paragraph 26 of the complaint, Plaintiffs make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 26 and leaves plaintiffs to their proofs.

27. It is admitted that on occasions between 2019 and 2022

representatives of Holy Name Medical Center informed representatives of the Township of Teaneck of the medical center's desire to expand its operations. The remaining allegations set forth in paragraph 27 are denied. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 27 are denied.

28. With regard to the allegations contained in paragraph 28 of the complaint, Plaintiffs make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 28 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 28 are denied.

29. With regard to the allegations contained in paragraph 29 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 29 and leaves plaintiffs to their proofs.

30. With regard to the allegations contained in paragraph 30 of the complaint, the allegations set forth in paragraph 30 are denied.

31. The allegations set forth in paragraph 31 are admitted.

32. It is admitted that Deputy Mayor Katz and Deputy Mayor Schwartz were members of the Township Council subcommittee. The remaining allegations set forth in paragraph 32 are denied.

33. With regard to the allegations contained in paragraph 33 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 33 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 33 are denied.

34. With regard to the allegations contained in paragraph 34 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 34 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 34 are denied.

35. With regard to the allegations contained in paragraph 35 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 35 and leaves plaintiffs to their

proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 35 are denied.

36. With regard to the allegations contained in paragraphs 36 - 53 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 36-53 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 36-53 are denied.

37. With regard to the allegations contained in paragraph 54 of the complaint, make no specific allegation against this Defendant and Defendant neither admits nor denies the allegations regarding Resolution 159-2020 but relies upon the content the Resolution, which speaks for itself.

38. With regard to the allegations contained in paragraph 55 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 55 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the

remaining allegations set forth in paragraph 55 are denied.

39. With regard to the allegations contained in paragraph 56, Defendant admits Township Resolution Number 160-2020 was adopted by the Township Governing Body and speaks for itself. This Defendant denies the remaining allegations contained in paragraph 56.

40. With regard to the allegations contained in paragraphs 57-64 of the complaint, the allegations make no specific allegation against this Defendant, editorialize legal documents that speak for themselves and makes legal arguments which are not appropriate for a complaint. Furthermore, Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 57-64 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 57-64 are denied.

41. With regard to the allegations contained in paragraphs 65 of the complaint, this defendant admits that the Board's traffic engineer testified as described in paragraph 65, but the testimony at the hearing was also as to other issues related to traffic and parking. The engineer's testimony is not solely limited to the statement described in paragraph 65 and the Planning Board record speaks for itself.

42. With regard to the allegations contained in paragraph 66, this

defendant admits that Mr. Schwartz participated as a Board member at the March 10, 2022 meeting of the Teaneck Planning Board. The remaining allegations set forth in paragraph 66 are denied.

43. With regard to the allegations contained in paragraph 67 of the complaint, make no specific allegation against this Defendant admits that Township Special Emergency Directive No. 03-2020 was adopted by the Township Governing Body and speaks for itself.

44. With regard to the allegations contained in paragraphs 68-73 of the complaint, make no specific allegation against this Defendant. Township Special Emergency Directive No. 03-2020 was adopted by the Township Governing Body and speaks for itself. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 68-73 are denied.

45. With regard to the allegations contained in paragraph 74 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 74 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 74 are denied.

46. With regard to the allegations contained in paragraphs 75-81 the allegations make no specific allegation against this Defendant, editorialize legal documents that speak for themselves and makes legal arguments which are not appropriate for a complaint. Furthermore, Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 75-81 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 75-81 are denied.

ALLEGED CONFLICTS OF INTEREST

47. With regard to the allegations contained in paragraphs 82-85 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 82-85 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 82-85 is denied.

48. With regard to the allegations contained in paragraph 86 of the complaint, this Defendant admits members Schwartz and Croonquist can affirmative votes at the meeting. The reminder of allegations contained in paragraph 86 are denied.

49. With regard to the allegations contained in paragraph 87 of the complaint, this Defendant admits members Brian Eyerman, Esq. is the board attorney and his firm is correctly identified. The reminder of allegations contained in paragraph 87 are denied.

50. The allegations contained in paragraph 88 are denied.

51. The allegations contained in paragraph 89 are denied.

52. With regard to the allegations contained in paragraph 90 of the complaint, the allegations make legal conclusions and this Defendant denies the existence of existence of any disqualifying conflict of interest. The Board admits it was not aware of any conflict and denies remainder of the allegations in paragraph 90.

53. With regard to the allegations contained in paragraph 91 of the complaint, Defendant admits that the attorney did not recuse himself. The remainder of the allegations in paragraph 91 are denied.

54. Defendant denies the allegations contained in paragraph 92.

55. Defendant denies the allegations contained in paragraph 93.

56. With regard to the allegations contained in paragraphs 94-100 of the complaint, makes no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 94-100 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this

Defendant, the remaining allegations set forth in paragraphs 94-100 are denied.

57. With regard to the allegations contained in paragraph 87 of the complaint, this Defendant admits members Schwartz and Croonquist cast affirmative votes at the meeting. The reminder of allegations contained in paragraph 87 are denied.

58. With regard to the allegations contained in paragraph 100, Defendant admits some of the plaintiffs filed another action under docket BER-L-2234-22 of the complaint.

59. With regard to the allegations contained in paragraph 101 - 105, this count contains a summary of another litigation filed by some of the plaintiffs and said complaint speaks for itself, and the count makes no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 101-105 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 101-105 are denied.

60. With regard to the allegations contained in paragraphs 105-117 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraphs 105-117 and leaves plaintiffs to

their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraphs 105-117 are denied.

61. With regard to the allegations contained in paragraph 118 of the complaint, Defendant admits a referral of Ordinance 23-2022 was made to the planning board. The remainder of the allegations set forth in paragraph 118 are denied.

62. Defendant neither admits nor denies the allegations set forth in paragraph 119 but relies upon the content of the Township Code, which speaks for itself.

63. It is admitted that Mayor Dunleavy, and Councilman Schwartz were respectively, Class I, and Class III members of the Planning Board on May 19, 2022. The remaining allegations set forth in paragraph 120 are denied.

64. The allegations set forth in paragraph 121 mischaracterize the law of the State of New Jersey and the remaining allegations set forth in paragraph are denied.

65. The allegations set forth in paragraph 122 are denied.

66. The allegations set forth in paragraph 123 are denied.

67. The allegations set forth in paragraph 124 are denied.

68. The allegations set forth in paragraph 125 are denied.

69. With regard to the allegations contained in paragraphs 126 of the complaint, make no specific allegation against this Defendant and Defendant

lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 126 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 126 is denied.

70. The allegations set forth in paragraph 127 are denied.

71. With regard to the allegations contained in paragraph 128 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 128 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 128 is denied.

72. With regard to the allegations contained in paragraphs 129-155 of the complaint, make no specific allegation against this Defendant and Defendant lacks sufficient knowledge or information to form a belief regarding the allegations set forth in paragraph 129-155 and leaves plaintiffs to their proofs. To the extent the allegations imply any sort of violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant, the remaining allegations set forth in paragraph 129-155 is denied.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

FIRST COUNT

73. This Defendant repeats and reiterates each of the foregoing responses to allegations made in each of the foregoing counts of Plaintiffs' complaint as if set forth at length here.
74. This Defendant denies the allegations set forth in paragraphs 156-157 of the First Count of Plaintiffs' complaint.
75. This Defendant denies the allegations set forth in paragraph 158 of the First Count of Plaintiffs' complaint.
76. This Defendant denies the allegations set forth in paragraph 159 of the First Count of Plaintiffs' complaint.
77. This Defendant denies the allegations set forth in paragraph 161 of the First Count of Plaintiffs' complaint.
78. This Defendant denies the allegations set forth in paragraph 162 of the First Count of Plaintiffs' complaint.
79. This Defendant denies the allegations set forth in paragraph 163 of the First Count of Plaintiffs' complaint.
80. This Defendant denies the allegations set forth in paragraph 164 of the First Count of Plaintiffs' complaint.
81. This Defendant denies the allegations set forth in paragraph 165 of the First Count of Plaintiffs' complaint.

82. This Defendant denies the allegations set forth in paragraph 166 of the First Count of Plaintiffs' complaint.
83. This Defendant denies the allegations set forth in paragraph 167 of the First Count of Plaintiffs' complaint.
84. This Defendant denies the allegations set forth in paragraph 168 of the First Count of Plaintiffs' complaint.
85. This Defendant denies the allegations set forth in paragraph 169 of the First Count of Plaintiffs' complaint.
86. This Defendant denies the allegations set forth in paragraph 170 of the First Count of Plaintiffs' complaint.
87. This Defendant denies the allegations set forth in paragraph 171 of the First Count of Plaintiffs' complaint.
88. This Defendant denies the allegations set forth in paragraph 172 of the First Count of Plaintiffs' complaint.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

SECOND COUNT

89. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.
90. With regard to the allegations contained in paragraphs 173-182 of the complaint, make no specific allegation against this Defendant. To the extent the allegations are made against this Defendant, this Defendant

denies the allegations contained in paragraphs 173-182.

91. This Defendant denies the allegations set forth in paragraph 183 of the Second Count of Plaintiffs' complaint.
92. This Defendant denies the allegations set forth in paragraph 184 of the Second Count of Plaintiffs' complaint.
93. This Defendant denies the allegations set forth in paragraph 185 of the Second Count of Plaintiffs' complaint.
94. This Defendant denies the allegations set forth in paragraph 186 of the Second Count of Plaintiffs' complaint.
95. This Defendant denies the allegations set forth in paragraph 187 of the Second Count of Plaintiffs' complaint.
96. This Defendant denies the allegations set forth in paragraph 188 of the Second Count of Plaintiffs' complaint.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

THIRD COUNT

97. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.
98. This Defendant denies the allegations set forth in paragraph 189 of the First Count of Plaintiffs' complaint.
99. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 190 but relies upon the

language of the statute, which speaks for itself.

100. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 191 but relies upon the language of the statute, which speaks for itself.
101. The allegations set forth in paragraph 192 are admitted.
102. This Defendant denies the allegations set forth in paragraph 193 of the Third Count of Plaintiffs' complaint.
103. This Defendant denies the allegations set forth in paragraph 194 of the Third Count of Plaintiffs' complaint.
104. This Defendant denies the allegations set forth in paragraph 195 of the Third Count of Plaintiffs' complaint.
105. This Defendant denies the allegations set forth in paragraph 196 of the Third Count of Plaintiffs' complaint.
106. Defendant neither admits nor denies the allegations regarding the statutory provision set forth in paragraph 197 but relies upon the language of the statute, and New Jersey Case law which speaks for itself.
107. This Defendant denies the allegations set forth in paragraph 198 of the Third Count of Plaintiffs' complaint.
108. This Defendant denies the allegations set forth in paragraph 199 of the Third Count of Plaintiffs' complaint.
109. This Defendant denies the allegations set forth in paragraph 200 of the Third Count of Plaintiffs' complaint.

110. This Defendant denies the allegations set forth in paragraph 201 of the Third Count of Plaintiffs' complaint.

111. This Defendant denies the allegations set forth in paragraph 202 of the Third Count of Plaintiffs' complaint.

112. This Defendant denies the allegations set forth in paragraph 203 of the Third Count of Plaintiffs' complaint.

113. This Defendant denies the allegations set forth in paragraph 204 of the Third Count of Plaintiffs' complaint.

114. This Defendant denies the allegations set forth in paragraph 205 of the Third Count of Plaintiffs' complaint.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

FOURTH COUNT

115. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.

116. This Defendant denies the allegations set forth in paragraphs 206-207 of the Fourth Count of Plaintiffs' complaint.

117. This Defendant denies the allegations set forth in paragraph 208 of the Fourth Count of Plaintiffs' complaint.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

FIFTH COUNT

118. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.
119. With regard to the allegations contained in paragraphs 209-217 of the complaint, make no specific allegation against this Defendant. To the extent the allegations are made against this Defendant, this Defendant denies the allegations contained in paragraphs 209-217.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

SIXTH COUNT

120. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.
121. With regard to the allegations contained in paragraphs 218-220 of the complaint, make no specific allegation against this Defendant. To the extent the allegations are made against this Defendant, this Defendant denies the allegations contained in paragraphs 218-220.
122. This Defendant denies the allegations set forth in paragraph 221 of the Sixth Count of Plaintiffs' complaint.
123. This Defendant denies the allegations set forth in paragraph 222 of the Sixth Count of Plaintiffs' complaint.
124. This Defendant denies the allegations set forth in paragraph 223 of the Sixth Count of Plaintiffs' complaint.

125. This Defendant denies the allegations set forth in paragraph 224 of the Sixth Count of Plaintiffs' complaint.
126. This Defendant denies the allegations set forth in paragraph 225 of the Sixth Count of Plaintiffs' complaint.
127. This Defendant denies the allegations set forth in paragraph 226 of the Sixth Count of Plaintiffs' complaint.
128. This Defendant denies the allegations set forth in paragraph 227 of the Sixth Count of Plaintiffs' complaint.
129. This Defendant denies the allegations set forth in paragraph 228 of the Sixth Count of Plaintiffs' complaint.
130. This Defendant denies the allegations set forth in paragraph 229 of the Sixth Count of Plaintiffs' complaint.
131. This Defendant denies the allegations set forth in paragraph 230 of the Sixth Count of Plaintiffs' complaint.
132. This Defendant denies the allegations set forth in paragraph 231 of the Sixth Count of Plaintiffs' complaint.
133. With regard to the allegations contained in paragraphs 232-235 of the complaint, make no specific allegation against this Defendant. To the extent the allegations are made against this Defendant, this Defendant denies the allegations contained in paragraphs 232-235.
134. This Defendant denies the allegations set forth in paragraph 236 of the Sixth Count of Plaintiffs' complaint.
135. This Defendant denies the allegations set forth in paragraph 237 of

the Sixth Count of Plaintiffs' complaint.

136. This Defendant denies the allegations set forth in paragraph 238 of the Sixth Count of Plaintiffs' complaint.

137. This Defendant denies the allegations set forth in paragraph 239 of the Sixth Count of Plaintiffs' complaint.

138. This Defendant denies the allegations set forth in paragraph 240 of the Sixth Count of Plaintiffs' complaint.

139. This Defendant denies the allegations set forth in paragraph 241 of the Sixth Count of Plaintiffs' complaint.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

SEVENTH COUNT

140. Defendant repeats and reiterates each and every response set forth above, as if set forth at length herein.

141. This Defendant denies the allegations set forth in paragraph 242 of the Seventh Count of Plaintiffs' complaint.

142. With regard to Paragraph 243, Defendant admits that, the Planning Board acts pursuant to enabling legislation and ordinances. The remainder of the allegations in this paragraph are denied.

143. This Defendant denies the allegations set forth in paragraph 244 of the Seventh Count of Plaintiffs' complaint.

144. This Defendant denies the allegations set forth in paragraph 245 of

the Seventh Count of Plaintiffs' complaint.

145. This Defendant denies the allegations set forth in paragraph 246 of the Seventh Count of Plaintiffs' complaint.
146. This Defendant denies the allegations set forth in paragraph 247 of the Seventh Count of Plaintiffs' complaint.
147. This Defendant denies the allegations set forth in paragraph 248 of the Seventh Count of Plaintiffs' complaint.
148. This Defendant denies the allegations set forth in paragraph 240 of the Seventh Count of Plaintiffs' complaint.
149. This Defendant denies the allegations set forth in paragraph 249 of the Seventh Count of Plaintiffs' complaint.
150. This Defendant denies the allegations set forth in paragraph 250 of the Seventh Count of Plaintiffs' complaint.
151. This Defendant denies the allegations set forth in paragraph 251 of the Seventh Count of Plaintiffs' complaint.
152. This Defendant denies the allegations set forth in paragraph 252 of the Seventh Count of Plaintiffs' complaint.
153. This Defendant denies the allegations set forth in paragraph 253 of the Seventh Count of Plaintiffs' complaint.
154. This Defendant denies the allegations set forth in paragraph 254 of the Seventh Count of Plaintiffs' complaint.
155. This Defendant denies the allegations set forth in paragraph 255 of the Seventh Count of Plaintiffs' complaint.

156. This Defendant denies the allegations set forth in paragraph 256 of the Seventh Count of Plaintiffs' complaint.
157. This Defendant denies the allegations set forth in paragraph 257 of the Seventh Count of Plaintiffs' complaint.
158. This Defendant denies the allegations set forth in paragraph 258 of the Seventh Count of Plaintiffs' complaint.
159. This Defendant denies the allegations set forth in paragraph 259 of the Seventh Count of Plaintiffs' complaint.
160. This Defendant denies the allegations set forth in paragraph 260 of the Seventh Count of Plaintiffs' complaint.
161. This Defendant denies the allegations set forth in paragraph 261 of the Seventh Count of Plaintiffs' complaint.
162. This Defendant denies the allegations set forth in paragraph 262 of the Seventh Count of Plaintiffs' complaint.
163. This Defendant denies the allegations set forth in paragraph 263 of the Seventh Count of Plaintiffs' complaint.
164. This Defendant admits the allegations set forth in paragraph 264 of the Seventh Count of Plaintiffs' complaint.
165. This Defendant denies the allegations set forth in paragraph 265 of the Seventh Count of Plaintiffs' complaint.
166. This Defendant denies the allegations set forth in paragraph 266 of the Seventh Count of Plaintiffs' complaint.
167. This Defendant denies the allegations set forth in paragraph 267 of

the Seventh Count of Plaintiffs' complaint.

168. This Defendant denies the allegations set forth in paragraph 268 of the Seventh Count of Plaintiffs' complaint.

169. This Defendant denies the allegations set forth in paragraph 269 of the Seventh Count of Plaintiffs' complaint.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

AFFIRMATIVE DEFENSES

1. The action of the Township of Teaneck Planning Board was proper and reasonable in all respects and not arbitrary capricious or improper.

2. This matter is time barred by the applicable statute of limitations.

3. This matter is time barred by Court Rule.

4. Plaintiffs failed to comply with NJSA 40:55D-26a.

5. This matter is barred by the entire controversy doctrine.

6. Plaintiff fail to state a cause of action upon which relief can be granted.

7. Plaintiffs and each of them lack standing to assert the claim(s) made.

8. Plaintiffs' claims, in whole or in part, are barred by the doctrine of waiver.

9. Plaintiffs' claims, in whole or in part, are barred by the doctrine of laches.

10. Plaintiffs' claims, in whole or in part, are barred by the Plaintiffs' failure to join indispensable parties.

11. Plaintiffs' claims, in whole or in part, are barred by the doctrine estoppel.

12. Plaintiffs' claims, in whole or in part, are not ripe.

13. The relief sought by plaintiffs is barred by the doctrine of necessity.

14. The relief sought by plaintiffs is barred by the doctrine of unclean hands.

15. Plaintiffs' claims, in whole or in part, are nonjusticiable on the grounds of mootness.

16. The evidence produced below establishes that applicants below this Defendant complied in all aspects with the controlling law.

17. The Township of Teaneck Planning Board demonstrated no bias, prejudice or predisposition with regard to this matter.

18. The actions or non-actions by the Planning Board do not fall within the scope of unwarranted privileges of benefits.

19. The Complaint fails to state a cause of action upon which relief may be granted.

20. Defendant pleads the doctrine of Res judicata.

21. Defendant pleads the subject matter of this action is now moot.

22. Defendant pleads the Statute of Limitations.

23. Plaintiffs lack standing to assert the claim(s) made.

24. There was no violation of law, administrative code, regulation or ordinance, procedural defect, arbitrary and capricious conduct or wrongdoing on the part of this Defendant.

WHEREFORE, Defendant, Township of Teaneck Planning Board, demands judgment dismissing the Complaint in its entirety, together with attorney's fees, costs of suit, and disbursements of this action, and such other relief as the Court may grant.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Defendant, Township of Teaneck Planning Board, hereby designates Kevin P. Kelly, Esq., of the law firm of Kelly, Kelly, Marotta & Tuchman, LLC, as trial counsel herein.

CERTIFICATIONS PURSUANT TO RULE 4:5-1 and RULE 4:6-1

I hereby certify that there is currently pending in Superior Court of New Jersey, Bergen County, Law Division an action entitled Akerman, et als. v. Township of Teaneck, et al., under Docket No. BER-L-2234-22 (the “first filed action”) respecting the matter in controversy in this action. Except for that action, there are no other proceedings either pending or contemplated with respect to the matter in controversy in this action. I hereby certify that Holy Name Medical Center was granted leave to intervene in the first filed action; Holy Name Medical Center and the individual municipal officials against whom plaintiffs seek relief, may be subject to joinder in this action.

I hereby certify that this responsive pleading was served upon all counsel of record within the time required by the Rules of Court.

CERTIFICATION PURSUANT TO RULE 1:38-7

Confidential personal identifiers have been redacted from any documents now submitted to the Court and will be reacted from all documents submitted in the future as required by Rule 1:38-7.

**KELLY, KELLY, MAROTTA
& TUCHMAN, LLC**
Attorneys for Defendant,
Township of Teaneck Planning Board

By:



Kevin P. Kelly, Esq.

Dated: September 26, 2022

