

Nicholas A. Corcodilos
 73 Old Mountain Road
 Lebanon, New Jersey 08803
 Telephone: 908.236.8440
 nick@northbridge.net

RECEIVED ONLY FILED
 SUPERIOR COURT OF NJ
 SOMERSET COUNTY

2018 JAN 29 P 3:31

<p>IN RE: TOWNSHIP OF CLINTON WITH THIRD ROUND MOUNT LAUREL AFFORDABLE HOUSING OBLIGATION</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: HUNTERDON COUNTY</p> <p>DOCKET NO. HNT-L-315-15</p> <p>CIVIL ACTION</p> <p>NOTICE OF OBJECTION</p>
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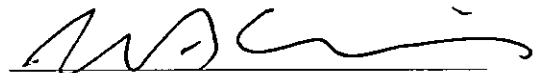
TO: Honorable Thomas C. Miller, J.S.C., P.J.Cv.
 Second Floor
 Somerset County Courthouse
 20 North Bridge Street
 Somerville, New Jersey 08876

PLEASE TAKE NOTICE that on February 12, 2018 at 9:30 a.m. or as soon thereafter as I may be heard, the undersigned, Nicholas A. Corcodilos shall appear before Thomas C. Miller, J.S.C., P.J.Cv., Superior Court of New Jersey, Somerset County Courthouse, 20 North Bridge Street, Somerville, New Jersey, to object to the captioned proposed settlement agreement,

PLEASE TAKE FURTHER NOTICE that Plaintiff shall rely upon the enclosed Certification of Nicholas A. Corcodilos and Letter Brief.

Dated: January 29, 2018

BY:



NICHOLAS A. CORCODILOS

Nicholas A. Corcodilos, *pro se*
 73 Old Mountain Road
 Lebanon, New Jersey 08803
 Telephone: 908.236-8440
 nick@northbridge.net

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 SUPERIOR COURT OF NJ
 SOMERSET COUNTY

2018 JAN 29 P 3:32

<p>IN RE: TOWNSHIP OF CLINTON WITH THIRD ROUND MOUNT LAUREL AFFORDABLE HOUSING OBLIGATION</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: HUNTERDON COUNTY</p> <p>DOCKET NO. HNT-L-315-15</p> <p>CIVIL ACTION</p> <p>CERTIFICATION OF NICHOLAS A. CORCODILOS</p>
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NICHOLAS A. CORCODILOS certifies and says as follows:

1. I am a resident and former mayor (2006-2008, inclusive) of the Township of Clinton, Hunterdon County, New Jersey (hereinafter "Clinton" or "the Township"). I am making this certification in support of my Objection to the proposed settlement of the referenced Mount Laurel declaratory judgment action.

2. On Monday, January 15, 2018, I submitted an Open Public Records Act (OPRA) Request to the Clerk of the Township of Clinton for ten (10) public records from 2017, as follows.

(Attached hereto as Exhibit A is a true and correct copy of my OPRA Request. Please note that I typed the date of submission incorrectly as "Jan. 15, 2017" when it was in fact submitted January 15, 2018.)

- a) AGENDA of Regular Planning Board Meeting for January 9
- b) MINUTES of Regular Planning Board Meeting for January 9
- c) MINUTES of Regular Planning Board Meeting for January 30
- d) MINUTES of Regular Planning Board Meeting for August 7
- e) MINUTES of Regular Planning Board Meeting for August 21 (Joint with Council)
- f) MINUTES of Regular Planning Board Meetings for September 18
- g) MINUTES of Regular Planning Board Meetings for November 6

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- h) MINUTES of Regular Planning Board Meetings for December 4
- i) MINUTES of Planning Board Closed Session for March 20, 2017
- j) MINUTES of Planning Board & Council Joint Closed Session for August 21, 2017

3. On Wednesday, January 24, 2018, I received a response to my OPRA Request from the Clerk that included only three (3) of the requested public records:

- a) AGENDA of Regular Planning Board Meeting for January 9
- b) MINUTES of Regular Planning Board Meeting for August 7
- c) MINUTES of Regular Planning Board Meeting for August 21 (Joint with Council)

The Clerk wrote about six (6) of the requested records that "Record does not exist..." (Attached hereto as Exhibit B is a true and correct copy of the Clerk's response e-mail.)

4. On January 29, 2018 my attorney, Walter M. Luers, mailed a letter dated January 28, 2018 to the Clerk of the Township of Clinton notifying her that, in its response to my OPRA request, Clinton admitted to violations of the Open Public Meetings Act, *N.J.S.A. 10:4-6, et seq.* and that the "rather obvious violations of the Act... are prejudicing the ability of both Mr. Corcodilos and the public to participate meaningfully in the February 12, 2018 fairness hearing." The letter further notes that "In addition, we are also concerned about the joint closed meeting between the Planning Board and the Township Council on August 21, 2017. It is not clear to me what exception under the Act permits two governing bodies that have separate responsibilities from meeting together while excluding the public. And, here, in the absence of minutes, the public cannot even guess what would justify such a meeting." (Attached hereto as Exhibit C is a true and correct copy of attorney Luers' letter to the Clerk.)

5. JONATHAN E. DRILL (hereinafter "Drill") of STICKEL, KOENIG, SULLIVAN & DRILL, LLC represents the Township of Clinton, New Jersey and the Township of Readington, New Jersey (hereinafter "Readington").

6. TRISHKA WATERBURY CECIL (hereinafter "Cecil") of MASON, GRIFFIN & PIERSON, PC, represents the Township of Clinton.

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7. SHARON A. DRAGAN of MASON, GRIFFIN & PIERSON, PC, represents the Township of Readington.

8. In the agreement that is the subject of Docket No. HNT-L-315-15, between the Township of Clinton and Fair Share Housing Center, dated December 12, 2018 and last signed December 13, Clinton agrees to litigate against other parties including but not limited to the Township of Readington and the Readington-Lebanon Sewer Authority (RLSA). Specifically,

¶ “10.c. The Township agrees to take all reasonable efforts, which may include litigation if needed, to obtain water and sewer access for the Windy Acres site within 2 years of the court’s approval of this Agreement at a fairness hearing.”

¶ “11.a.iii. The Windy Acres site requires sewer capacity from the Readington-Lebanon Sewerage Authority (hereinafter “RLSA”) from which there is currently no sewer capacity available. A lift station immediately adjacent to the Windy Acres site allows for connectivity to the existing system.”

9. To my best belief and knowledge the Windy Acres site is not in the RLSA sewer service area.

10. To my best belief and knowledge there exists a conflict of interest in the representation by STICKEL, KOENIG, SULLIVAN & DRILL, LLC and MASON, GRIFFIN & PIERSON, PC of the Township of Clinton and the Township of Readington because attorneys Drill and Cecil and their firms are on both sides of the transaction. Neither can represent Clinton fairly or impartially. Drill especially is representing Clinton and Readington with knowledge of each of the other’s business.

11. In 2005, MICHAEL A. BOLAN, PP, AICP (hereinafter “Bolan”) served as the professional planner of the Township of Clinton, specifically during negotiations between Clinton and P&H Clinton Partnership, a subsidiary of Michigan-based Pulte Homes, to settle litigation over the development of affordable housing on the 292-acre Windy Acres site. Today, a smaller “Windy Acres”

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site that was subdivided from the original is included in the subject settlement agreement as one of the parcels to be developed with affordable housing.

12. On May 12, 2005, the Township held a special public meeting of the Township of Clinton Council to disclose details of the proposed settlement agreement and to hear public comment. According to a May 18, 2005 *Hunterdon Review* article, "More than 100 residents and other interested parties crowded the meeting, moved to North Hunterdon High School. The council voted on the proposal following brief presentations by Township Attorney Albert Cruz, Planner Michael Bolan and Special Counsel Howard Cohen." (Attached hereto as Exhibit D is a true and correct copy of the *Hunterdon Review* article.)

13. Peter Geiger, a Township resident who attended the May 12, 2005 meeting and spoke, wrote a letter that was published in the *Hunterdon Review* dated May 20, 2009, in which he recounted the presentation: "At a 2005 Planning Board meeting intended for public comment on a Windy Acres settlement, the Planning Board presented its analysis of the settlement using two presentation boards. One was titled, "The Advantages of Settling" with Pulte Homes and the other was titled, "The Risks of Not Settling."... I pointed out a lack of balance and objectivity in the presentation -- both boards were for the settlement." (Attached hereto as Exhibit E is a true and correct copy of Geiger's letter.)

14. I attended the May 12, 2005 meeting. I observed Bolan advocate for the settlement agreement. Even though Bolan was not an attorney, I heard him make statements and claims that I believe were about the legal implications of the settlement deal.

15. When I was sworn in as the Township's mayor at the reorganization meeting in 2006, I replaced Township Planner Bolan with another planner, in part due to what I perceived as his inappropriate claims and advocacy for a legal settlement at the May 12, 2005 meeting.

16. On December 31, 2008, P&H sold Windy Acres to the Township after failing to obtain approvals from the Township and the State of New Jersey to construct its housing project.

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17. To the best of my knowledge and belief, special master Bolan, as a former planner for the Township who was directly involved in an affordable housing settlement deal regarding the predecessor Windy Acres site, cannot fairly and objectively help adjudicate this matter without a conflict of interest or the perception of a conflict of interest.

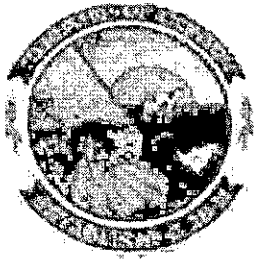
I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Executed on January 29, 2018.



NICHOLAS A. CORCODILOS

EXHIBIT A



**CLINTON TOWNSHIP
OPEN PUBLIC RECORDS ACT REQUEST FORM**

1225 Rt. 31, South
Lebanon, NJ 08833

Phone: 908-735-8800 Fax:908-735-8156

Important Notice

The last page of this form contains important information related to your rights concerning government rec

Requestor Information – Please Print

First Name	<u>Nick</u>	MI		Last Name	<u>Corcodilos</u>
E-mail Address	<u>nickcorcodilos@comcast.net</u>				
Mailing Address	<u>73 Old Mountain Road</u>				
City	<u>Lebanon</u>	State	<u>NJ</u>	Zip	<u>08833</u>
Telephone	<u>236-8440</u>	FAX			
Preferred Delivery:	Pick Up <input type="checkbox"/>	US Mail <input type="checkbox"/>	On-Site Inspect <input type="checkbox"/>	Fax <input type="checkbox"/>	E-mail <input checked="" type="checkbox"/>
<p>If you are requesting records containing personal information, please circle one: Under penalty of N.J.S.A. 2C:28-3, I certify that I HAVE / HAVE NOT been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.</p>					
Signature				Date	<u>Jan. 15, 2017</u>

M
F
C
E

Record Request Information: Please be as specific as possible in describing the records being requested. preferred method of delivery will only be accommodated if the custodian has the technological means and the be jeopardized by such method of delivery.

I request copies of:

1. AGENDA of Regular Planning Board Meeting for: January 9, 2017
 - MINUTES of Regular Planning Board Meetings for these dates in 2017:
 2. January 9
 3. January 30
 4. August 7
 5. August 21 (Joint meeting with Council)
 6. September 18
 7. November 6
 8. December 4
 9. MINUTES of Planning Board & Council Joint Closed Session Meeting for: August 21, 2017.
 10. MINUTES of Planning Board Closed Session Meeting for: March 20, 2017
- Please include Vaughn Index for any redactions.

Because I need these documents for the Feb. 12 2018 HNT-L-315-15 Fairness Hearing, which requires object later than January 29, 2018, please be advised that I will not grant any extensions for delivery of these docum

EXHIBIT B**Nick Corcodilos**

From: Carla Conner <cconner@clintontwpnj.com>
Sent: Wednesday, January 24, 2018 4:29 PM
To: nickcorcodilos@comcast.net
Subject: OPRA Request
Attachments: SKM_284e18012417020.pdf; SKM_284e18012417021.pdf; SKM_284e18012417030.pdf; SKM_284e18012417031.pdf

Nick,

Regarding the attached OPRA request. You had requested the following minutes:

Regular PB Minutes – January 9, 2017 - Record does not exist, as these minutes have not yet been prepared
Regular PB Minutes - January 30, 2017 - Record does not exist, as these minutes have not yet been prepared
Regular PB Minutes – August 7, 2017 - Record attached
Regular PB Minutes – August 21, 2017 - Record attached
Regular PB Minutes – September 18, 2017 - Record does not exist, as these minutes have not yet been prepared
Regular PB Minutes – November 6, 2017 - Minutes have been drafted but not yet approved, so are being withheld as advisory, consultative and deliberative materials.
Regular PB Minutes – December 4, 2017 - Record does not exist, as these minutes have not yet been prepared

Agenda for Regular PB meeting for January 9, 2017 - Record attached

Closed PB Minutes – March 20, 2017 - Record does not exist, as these minutes have not yet been prepared
Closed PB Minutes – August 21 (joint with Council) - Record does not exist, as these minutes have not yet been prepared

Should you have any questions, please do not hesitate to contact me.

*Carla Conner, RMC
Clinton Township Clerk
1225 Rt. 31 South
Lebanon, NJ 08833
(908) 735-8800 x204
(908) 735-8156 Fax*

EXHIBIT C

Law Offices of
Walter M. Luers, LLC
Suite 2
122 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656
Facsimile: 908.894.5729
www.luerslaw.com

January 29, 2018

Walter M. Luers, Esq.*

*Also admitted in New York

Writer's Direct Email: wluers@luerslaw.com

VIA EMAIL AND FIRST-CLASS MAIL

Carla Conner, Municipal Clerk
Clinton Township
1225 Route 31 South
Lebanon, New Jersey 08833

Re: *Corcodilos OPRA Request and OPMA Violations*

Dear Ms. Conner:

We write on behalf of Nick Corcodilos. With respect to your January 24, 2018 response to Mr. Corcodilos's request for Clinton Township Planning Board minutes, your response candidly reveals violations of the Open Public Meetings Act, *N.J.S.A. 10:4-6, et seq.* ("Act"). By this letter, we demand that these violations be corrected immediately; if not, Mr. Corcodilos may pursue enforcement through the remedies available to him under the Act. We also request that this matter be referred to the Township's counsel immediately. This letter is being written to give the Township notice and an opportunity to cure what we view are rather obvious violations of the Act that are prejudicing the ability of both Mr. Corcodilos and the public to participate meaningfully in the February 12, 2018 fairness hearing currently scheduled in *In re Township of Clinton Compliance with Third Round Mount Laurel Affordable Housing Obligation*, Docket No. HNT-L-000315-15.

Carla Conner, Municipal Clerk
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January 29, 2018

As you know, on January 15, 2018, Mr. Corcodilos requested copies of the following records pursuant to OPRA: the minutes of the Planning Board's meetings for several dates in 2017; the minutes of the joint Planning Board and Council closed meeting held on August 21, 2017; and the minutes of the Planning Board's closed meeting held on March 20, 2017.

On January 24, 2018, via email, you responded to Mr. Corcodilos's request. In that response, you admitted the following violations of the Act:

- The Planning Board has no minutes for the following regular meetings: January 9, 2017; January 30, 2017; September 18, 2017; and December 4, 2017;
- The Planning Board has not yet approved minutes for the following regular meeting: November 6, 2017;
- The Planning Board has no minutes for the following closed meetings: March 20, 2017 and August 21, 2017.

As you know or should know, under the Act, any "public body" that holds a "meeting" "shall keep reasonably comprehensible minutes of all its meetings . . . which shall be promptly available to the public to the extent that making such matters public shall not be inconsistent with section 7 of this act." While there is no bright line rule about how many days or weeks constitutes "prompt" disclosure, I am highly confident that no court would hold that a delay of several months constitutes "promptly." To avoid a potential enforcement action, please prepare and have the Planning Board approve the undrafted or unapproved minutes immediately.

In addition, we are also concerned about the joint closed meeting between the Planning Board and the Township Council on August 21, 2017. It is not clear to me what

Carla Conner, Municipal Clerk

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January 29, 2018

exception under the Act permits two governing bodies that have separate responsibilities from meeting together while excluding the public. And, here, in the absence of minutes, the public cannot even guess what would justify such a meeting.

Please review this matter as soon as possible and advise us of the corrective measures you intend to take. Thank you.

Sincerely,

/s/ Walter M. Luers

Walter M. Luers

EXHIBIT D

05/18/2005

Revised Windy Acres plan is approved
LINDA SADLOUSKOS

CLINTON TWP The Township Council's 4-1 vote to approve a 455-plus development on the Windy Acres property last Wednesday closes one chapter on the long and tangled history of the project, and opens another.

A memorandum of understanding approved by the council will settle a series of lawsuits by P&H Clinton Partnership, and also halve the 911 units of housing proposed for development on the land, supporters said.

"In my heart, I feel this is a good deal for the whole of Clinton Township," said Mayor Thomas Borkowski before he voted to approve the settlement.

Critics questioned the speed with which the settlement was presented to the public, and then approved by a council vote within hours. Critics have also pointed out that the settlement comes less than a month before the contested Republican primary election for mayor in Clinton Township.

Age Restricted Homes

Under the agreement, P&H would construct 365 age-restricted homes along with 90 units of state-ordered low to moderate-income housing on the 292 acres near Main Street, Lebanon. The developer has also agreed to set aside land for another 60 units of affordable housing to satisfy future fair share housing obligations set by the state Council on Affordable Housing, according to the agreement.

The memorandum is subject to several conditions, including the developer's ability to obtain water and sewerage treatment service for the project, as well as needing Planning Board approvals and state environmental permits.

Council President Thomas Kacedon said the revised plan would bring in far fewer school children than the 911 units of housing for all ages in the plan previously proposed by P & H, and rejected by the township Planning Board in June 2001. That rejection set off the latest round of lawsuits by the developer.

Kacedon said that not one resident had ever spoken in favor of Windy Acres during 20 public hearings before the township Planning Board. Last Wednesday, about half were in favor of the scaled-back plan, he noted.

Instead of generating somewhere between 400 to 1,000 school children, the new version of the project would bring in about \$155 million of taxable properties that would reduce the number of school age children to perhaps 50, Kacedon said.

More than 100 residents and other interested parties crowded the meeting, moved to North Hunterdon High School. The council voted on the proposal following brief presentations by Township Attorney Albert Cruz, Planner Michael Bolan and Special Counsel Howard Cohen.

The public was then given an opportunity to speak, although comments were limited to three minutes apiece.

Resident Roger Straight, who said he was speaking as a taxpayer and not in his capacity of school board president, said, "I think this is a sensible approach to a problem we haven't solved yet."

But critics of the settlement say that it was rushed through last Wednesday, and then brought before the Planning Board on Monday night with many unanswered questions.

"I can't vote on it. It's too vague," said dissenting Councilwoman Rose Marie Malaker. "We waited 22 years. What's wrong with waiting a few more weeks until the public can have a copy of this (agreement) and digest it?" she asked at the meeting.

Malaker said she had only received her first copy of the memorandum the day before the meeting, and a revised version when she showed up to begin an executive session at about 6 p.m. that night.

Residents were advised at the meeting that copies would be available after the council vote.

Political Ploy

Malaker and Nick Corcodilos, Borkowski's opponent in the June 7 primary race for the Republican nomination for mayor in Clinton Township, both accused Borkowski of pushing through the agreement as a political ploy.

"It was a campaign stunt," Corcodilos said on Monday morning. Corcodilos said the township should wait until P & H could demonstrate that the site could be served with water and sewers, probably the single most serious obstacle to the development, before considering an agreement with the developer.

Corcodilos said the township's presentation of the conceptual plan for the revised Windy Acres plan before the township Planning Board on Monday night circumvented a state Superior Court order from Judge Edmund Bernhard that the plans for Windy Acres be returned before the Planning Board for reconsideration after P&H had demonstrated a viable plan for sewerage treatment.

Corcodilos said the council squeezed presentations, the public hearing and a council vote into one evening, when the public had previously combed through details at the 20 Planning Board meetings.

"You have a sophisticated community that rejected the Windy Acres project the first time around. In fact, it was the community that identified the critical flaws" in the proposal, said Corcodilos on Monday.

Obtaining the permits and a final plan for sewer capacity could take two or three years, Borkowski said. That delay would make it too late for Clinton Township to amend its certified housing plan before the state Council on Affordable Housing, which currently includes two sites in the Annandale section of the township as an alternative site for 90 units of affordable housing.

"We would have to start building in Annandale," the mayor said on Monday afternoon.

In addition, the township would also run the risk that the developer might gain approval for sewers to serve 911 units, and would no longer need to negotiate with Clinton Township, he added.

As for the timing, Borkowski said the township had been talking with P&H since January. "Mr. Corcodilos has been demanding that we divulge everything we talk about."

One lawsuit that the memorandum of agreement leaves unsettled is the developer's legal tactic of trying to force the neighboring Readington-Lebanon Borough Sewerage Authority to hook in Windy Acres on the basis that the proposed housing project includes affordable housing.

Judge Bernhard rejected that claim more than a year ago, but P&H is appealing that decision. In fighting the developer, large corporations such as Merck & Co. and Belle Mead Corp. joined forces with Readington and Lebanon to persuade the judge that the customers who had paid to upgrade and reserve space in the treatment plant deserved priority.

A grim-faced Frank Gatti, mayor of Readington, promised the Township Council last Wednesday that Readington would not hesitate to sue Clinton Township if the agreement with P & H resulted in further legal action against the Readington-Lebanon Sewerage Authority.

Gatti submitted a letter to Borkowski and the council stating "Readington Township has no knowledge regarding any proposed "settlement" of the Pulte (P&H) litigation, and is not a party to any proposed settlement. Readington Township will not consider itself bound by any terms regarding any settlement agreement which Clinton Township may reach with Pulte Homes."

The letter concluded, "In the event any settlement agreement by and between Pulte and Clinton Township seeks relief from Readington Township without its consent, Readington Township will diligently challenge any such relief in the appropriate forum."

Readington Committeewoman Julia Allen called the absence of a plan for sewers serving the project "a elephant in the room" being ignored. Allen urged the council to address the issue of sewers first.

Borkowski said before voting that Clinton Township would not sue the Readington-Lebanon Sewerage

Authority, and he doubted P&H would win its appeal.

Borkowski said he also doubts that the developer will gain approval to build a sewerage treatment plant to discharge into the highly regulated South Branch of the Rockaway Creek.

Officials said the most likely option is a groundwater injection system, which both Kacedon and Borkowski described as similar to a large septic field.

Kacedon also said the developer has discussed an agreement with Elizabethtown Water Company to construct an underground water holding tank rather than the water tower that had raised the objections of residents during previous public hearings.

But during the public hearing, Steve Halliday, one of the original opponents of Windy Acres, said the developer had proved time and again that it was not trustworthy in meeting agreements.

Contacted on Thursday, Lebanon Borough Mayor Lisa Uchrin said, "I don't feel this is a good development, and I don't feel it's responsible or smart growth for this area." As proposed, the one ingress and access road for the entire project would lead onto Main Street in Lebanon Borough.

Uchrin said the project also "flies in the face" of a months-long study by a cross-acceptance team of representatives from seven towns, including Clinton Township, that sought to slow growth in the Route 78-22 corridor in an updated version of the state planning map. That map has not yet been adopted.

Another resident pointed out that Clinton Township's underground water system is a sole source aquifer, and questioned how water supplied in the area would be affected by a system in which waste was injected into the groundwater supply.

Officials who voted in favor of the project said many such questions would be answered as the project proceeds through the approvals process.

"This is just the start of the process; it's not the end of it," Cruz assured the public. He added the public would have plenty of opportunities to address concerns about the project.

Those opportunities for comment would include hearings before the township Planning Board and input for the permitting process before the state Department of Environmental Protection, officials said.

Councilman Kevin Cimei said at the meeting he had been persuaded to change his mind and vote in favor of the agreement, as long as the "public can contribute and help influence" the decision-making process.

"I say we push to the next step," Cimei said.

Last Tuesday, Cimei and Malaker jointly submitted a letter to the editor stating that neither would vote in favor of the agreement without settling such issues as sewers and the site's suitability, given environmental constraints, for supporting development.

In voting for the proposal, Councilwoman Helen Mataka said, "I don't think we should prolong this any further...This is the best opportunity we have had so far. We have spent an awful lot of money on litigation all these years, and we can't go on like this."

But after last week's meeting, Readington Mayor Gatti said he believed the conditions in the agreement won't be met, and the unsettled issues are just being pushed off into the future. "I don't think they have a viable plan," Gatti said.

EXHIBIT E

Hunterdon Democrat

May 20, 2009

To the Editor:

In an April 30 letter, James Imbriaco said he is qualified to speak with "authority and experience."

I have first-hand experience with Mr. Imbriaco. At a 2005 Planning Board meeting intended for public comment on a Windy Acres settlement, the Planning Board presented its analysis of the settlement using two presentation boards. One was titled, "The Advantages of Settling" with Pulte Homes and the other was titled, "The Risks of Not Settling."

Mr. Imbriaco badgered and berated most individuals whose opinions did not align with his. I pointed out a lack of balance and objectivity in the presentation -- both boards were for the settlement.

Mr. Imbriaco forced a vote before the public comment period concluded. Later, after council voted to reject the settlement, Mr. Imbriaco speaking as a member of the public, apologized for his statements. As Mayor Cimei points out in his May 7 letter, the Township Council, Freeholders, COAH and N.J. DEP all disagreed with Mr. Imbriaco's position on the Windy Acres settlement.

Public officials must be level-headed and open to opinions. Mr. Imbriaco bullied and challenged residents at that meeting. Public officials must make decisions based on facts, not emotions. Mr. Imbriaco's emotions led him to ignore the input not only of the public, but of county and state officials.

Mr. Imbriaco rails against the proposed COAH project on Old Allerton Road, stating it will endanger public health and welfare and degrade the environment and quality of life for residents of Annandale. When the Board of Adjustment heard the case, Mr. Imbriaco did not attend any meetings to voice his concerns. This is political pandering at its worst.

Mr. Imbriaco presided over the Planning Board and brought The Mews to Clinton Township. The development is an abomination. It does not fit the character of Annandale. It is municipal planning at its worst.

Clinton Township does not need an individual on council who exhibits the behavior and judgment of Mr. Imbriaco. I support Steve Krommenhoek, Collen Filak and Brian Mullay for Township Council. They all demonstrate respect for our community and its residents.

Peter Geiger
Clinton Township

Nicholas A. Corcodilos

73 Old Mountain Road
Lebanon, New Jersey 08803
Telephone: 908.236-8440
nick@northbridge.net

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SOMERSET COUNTY

2018 JAN 29 P 3:32

CLINTON
TOWNSHIP

REVIEWED. _____

January 29, 2018

Honorable Thomas C. Miller, J.S.C.
Second Floor
Somerset County Courthouse
20 North Bridge Street
Somerville, New Jersey 08876

**Re: *TOWNSHIP OF CLINTON
WITH THIRD ROUND MOUNT LAUREL
AFFORDABLE HOUSING OBLIGATION
Docket No. HNT-L-315-15***

Dear Judge Miller:

I submit this Letter Brief in lieu of a formal brief in support of my objection to the proposed settlement of the referenced Mount Laurel declaratory judgment action. The procedural history of these matters are set forth in the January 29, 2018 Certification of Nicholas A. Corcodilos, hereinafter, "Corcodilos Cert." or "Corcodilos Certification".

I respectfully ask the Court to:

A. Reject or stay this settlement agreement because the Township of Clinton (hereinafter "Clinton") has unfairly and in violation of the Open Public Meetings Act (hereinafter "OPMA") conducted the business of the public behind a veil and because it has not made minutes of its public meetings "promptly available to the public."

B. Reject or stay this settlement agreement until Clintons obeys the OPMA and produces minutes of its public meetings and makes them available so the public may know our government's actions so that we may consider how to properly and knowledgeably respond to this settlement proposal.

Honorable Thomas C. Miller, J.S.C.

January 29, 2018

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C. Reject or stay this settlement agreement until Clinton conducts a public hearing and presents the details of the proposed agreement to the public and takes public comment and input prior to taking further action on this matter.

D. Consider what is the proper action to cure the conflict of interest of Clinton's attorneys with respect to their other client, the Township of Readington. I request that these attorneys be removed from working on this matter.

E. Consider what is the proper action to cure the conflict of interest of special master Michael Bolan with respect to adjudication of this matter. I request that Bolan be removed as special master.

1. A fairness hearing ensures the process and substance of this settlement agreement is fair to the public. The OPMA guarantees the right of citizens to an open and public government process — that is what makes it fair. The formation of this public policy was not open or public or transparent — thus it was not done fairly. In fact, it seems clear this governing body went out of its way to avoid ever discussing, presenting or disclosing the settlement deal to the public. Its failure to produce minutes of planning board meetings is particularly troubling.

2. In 2005 a similar affordable housing settlement deal was considered by Clinton. In fact, the special master in the present case, MICHAEL A. BOLAN, PP, AICP, (hereinafter "Bolan") was Clinton's planner at the time and he worked on the deal and publicly advocated for it. Not coincidentally, the settlement included some of the same land in the current agreement, Windy Acres. The public was much engaged and involved. Over 3,500 residents participated in a citizens' group that opposed that settlement deal, not because it involved affordable housing, but because it created no realistic opportunity to construct affordable housing. Over 100 people attended a public hearing conducted at the high school because the council and planning board chambers could not contain them. The developer of that project, P&H Clinton Partnership, a division of Pulte Homes, could not obtain

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water and sewer for the project. P&H sued the Township of Readington and the Readington-Lebanon Sewer Authority to obtain sewer capacity and was denied in Court.

3. The government at the time respected the public's interest and right to participate. Honoring the spirit and letter of the OPMA, it convened a public hearing to present and discuss the settlement proposal with citizens prior to taking action. Today, in this matter, Clinton has violated the spirit and the letter of the OPMA, witness Clinton's failure to provide records of public meetings to citizens' interest in participating in this fairness hearing. That is unfair.

4. The failure to disclose and discuss and deliberate, and to permit public comment and input prior to its taking action, has revealed that Clinton's government has tried to settle a legal controversy — and to make public policy — in secret. This has cast a pall on open, transparent government.

5. The settlement is unfair to the public because it puts the public policy cart before the horse. In the agreement, Clinton binds itself to specific public policy (the Fair Share Housing Element of its Master Plan). The Fair Share Element will be presented at the Planning Board and will require sworn public testimony and comment — but the main elements of that Plan are already defined in this settlement. If the Planning Board, upon hearing public testimony, rejects adoption of those elements, the agreement is breached, litigation ensues, and the public is put at risk.

6. This is exactly what happened in 2005, when Clinton signed an affordable housing settlement that required the planning board to adopt a Fair Share Housing Element to its Master Plan. The planning board rejected the application, resulting in years of litigation and no production of affordable housing.

7. Adoption of this settlement is unfair to the public because it was done in secret. There is no public record of disclosure, deliberation, public participation or decision making by the town council in view of the public.

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8. In fact, the township has illegally withheld minutes of public meetings for over a year, thus hindering and interfering with my right and the right of the public to prepare meaningful objections to this settlement.

9. Clinton has unfairly denied me and other citizens public records that pertain to this matter and that would enable me to prepare a proper objection, including minutes of regular planning board meetings that appear to have relevance. (Cf. Corcodilos Certification, Exhibits A and B.) (The topics of these meetings were gleaned from Agendas of those meetings.) These meetings were conducted January 30, 2017 (Topic: CRC Communities, which is one of the affordable housing sites designated in the settlement), September 18, 2017 (Topics: Reports from Council, Report from Ordinance Subcommittee, Report from Open Space, Report from Environmental Commission), November 6, 2017 (Topics: Ingerman Development Co, LLC, one of the affordable housing sites, Reports from Council, Report from Ordinance Subcommittee, Report from Open Space, Report from Environmental Commission, Letter dated October 30, 2017 from Katharine A. Coffey, Esq., re: Ingerman), and December 4, 2017 (Topics: Ingerman Development Company, LLC, Reports from Council, Report from Ordinance Subcommittee, Report from Open Space, Report from Environmental Commission).

10. Clinton has unfairly denied me and other citizens public records that pertain to this matter and that would enable me to prepare a proper objection, including minutes of closed session planning board meetings that appear to have relevance, conducted March 20, 2017 (Topics: "pending Mount Laurel Declaratory Judgment litigation), and August 21, 2017 (Topics: "Joint Special Meeting of the Mayor and Council and the Planning Board," "pending litigation, specifically, the Clinton Township Third Round Affordable Housing Declaratory Judgement Action,").

11. Clinton has violated the Open Public Meetings Act, *N.J.S.A. 10:4-6, et seq.* ("Act"), because in its response to my Open Public Record Act (OPRA) request for meeting minutes Clinton states that "record does not exist" and that "minutes have not yet been prepared" for meetings going back to January 9, 2017, in spite of the Act's requirement that any "public body" that holds a

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“meeting” “shall keep reasonably comprehensible minutes of all its meetings . . . which shall be promptly available to the public to the extent that making such matters public shall not be inconsistent with section 7 of this act.” (Cf. Corcodilos Certification, Exhibit C.)

12. Clinton has entered into this settlement agreement which creates a conflict of interest for its attorneys of record, JONATHAN E. DRILL (hereinafter “Drill”) of STICKEL, KOENIG, SULLIVAN & DRILL, LLC and TRISHKA WATERBURY CECIL (hereinafter “Cecil”) of MASON, GRIFFIN & PIERSON, PC. Drill is also employed as the Township of Readington’s (hereinafter “Readington”) planning board attorney. Cecil’s firm also represents Readington. To my best belief and knowledge, Drill and Cecil negotiated the subject settlement agreement including a litigation clause (§ 10.c.) whereby Clinton agrees to use “litigation if needed” to obtain sewer capacity for the Windy Acres site, and specifically states that “The Windy Acres site requires sewer capacity from the Readington-Lebanon Sewerage Authority.” This creates a conflict of interest. Neither attorney can fairly and impartially represent the interests of Clinton and its residents if Clinton were to sue Readington under the settlement agreement because both law firms represent both towns. (Cf. Corcodilos Certification.)

13. MICHAEL A. BOLAN, PP, AICP, the special master in this case, was Clinton’s planner in 2005. Bolan prepared and presented information advocating an affordable housing settlement agreement on May 12, 2005, at a special public hearing held at the local high school to accommodate over 100 residents who attended to comment and ask questions. A resident in attendance described the presentation as an “analysis of the settlement using two presentation boards. One was titled, “The Advantages of Settling” with Pulte Homes and the other was titled, “The Risks of Not Settling.”... I pointed out a lack of balance and objectivity in the presentation -- both boards were for the settlement.”” (Corcodilos Certification, Exhibit E.)

14. I attended the May 12, 2005 meeting. I observed Bolan advocate for the settlement agreement. Even though Bolan was not an attorney, I heard him make statements and claims that I believe were about the legal implications of the settlement deal.

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15. When I was sworn in as the Township's mayor at the reorganization meeting in 2006, I replaced Township Planner Bolan with another planner, in part due to what I perceived as his inappropriate claims and advocacy for a legal settlement at the May 12, 2005 meeting.

16. On December 31, 2008, P&H sold Windy Acres to the Township after failing to obtain approvals from the Township and the State of New Jersey to construct its housing project.

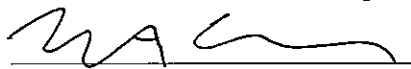
17. To the best of my knowledge and belief, special master Bolan, as a former planner for the Township who was directly involved in an affordable housing settlement deal regarding the predecessor Windy Acres site, cannot fairly and objectively help adjudicate this matter without a conflict of interest or the perception of a conflict of interest.

18. I believe that even if Clinton has waived a Bolan conflict, I as a resident of the Township of Clinton do not.

CONCLUSION

For the foregoing reasons, I ask the Court consider and grant my requests enumerated above.

Respectfully submitted,



Nicholas A. Corcodilos