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PLEASE REPLY TO ROSELAND, NJ

April 12, 2012

VIA LAWYERS SERVICE

Hudson County Local Filing Project Finance Central Fee Office
Administration Building
595 Newark Avenue - Room 105
Jersey City, NJ 07306

Re: City of Hoboken v. Shipyard Associates, L.P.
Docket No. HUD-L-1238-12

Dear Sir/Madam:

This firm represents Shipyard Associates, L.P. Enclosed for filing please find an original and copy of an Answer and Counterclaim and Civil Case Information Statement with reference to the above-captioned matter.

Kindly return a copy of each document stamped "filed" to the undersigned in the self-addressed, stamped envelope provided. By copy of this letter, we are serving a copy of the foregoing upon counsel for plaintiff. Please charge our Superior Court Account Number 0017600 for the appropriate filing fee.

Thank you for your attention to this matter.

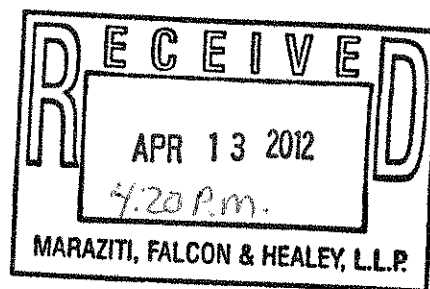
Very truly yours,



Nicole B. Dory

NBD/sm
Enclosures

cc: Joseph J. Maraziti, Jr., Esq. (Via Lawyers Service w/enclosures)



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85 Livingston Avenue
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(973) 535-0500
Attorneys for Defendant
Shipyard Associates, L.P.

CITY OF HOBOKEN, a municipal
corporation of the State of New Jersey,

Plaintiff,

v.

SHIPYARD ASSOCIATES, L.P.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

DOCKET NO. HUD-L-1238-12

CIVIL ACTION

ANSWER AND COUNTERCLAIM

Defendant, Shipyard Associates, L.P., (hereinafter "Shipyard") by and through their attorneys, and by way of Answer to the Complaint says:

1. Admitted.
2. Shipyard admits that it is a limited partnership, but denies the remaining allegations contained in ¶ 2 of the Introduction of the Complaint.
3. Admitted.
4. Admitted.
5. Admitted.
6. Denied.
7. Except to admit that Plaintiff and the Planning Board entered into a developer's agreement with Shipyard on December 7, 1997 ("1997 Agreement"), Shipyard states that the 1997 Agreement speaks for itself. Shipyard lacks knowledge or information sufficient to admit or deny the remaining allegations contained in ¶ 7 of the Introduction of the Complaint, and therefore denies them.
8. Shipyard responds to the allegations contained in ¶ 8 of the Introduction of the Complaint by stating that the referenced documents speak for themselves and Shipyard denies the allegations to the extent they are inconsistent with the language, meaning or intent of the 1997 Agreement. Furthermore, Shipyard responds by stating that the meaning, intent or effect of the

1997 Agreement presents a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations in ¶ 8 of the Introduction of the Complaint.

9. Shipyard responds to the allegations contained in ¶ 9 of the Introduction of the Complaint by stating that the referenced document speaks for itself and Shipyard denies the allegations to the extent they are inconsistent with the language, meaning or intent of the 1997 Agreement. Furthermore, Shipyard responds by stating that the meaning, intent or effect of the 1997 Agreement presents a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations. Shipyard admits that the Architectural Plans submitted to the Board in 1997 included the Tennis Pavilion, Tennis Courts and Parking Spaces, but denies any obligation to develop same.

10. Shipyard admits that it has developed most of the Project. Shipyard denies that it has developed the entire Project. Shipyard further denies that the Project is limited to the components set forth in ¶ 10.

11. Subject to the answers to ¶¶ 8, 9 and 10 of the Introduction of the Complaint set forth above, admitted.

12. Subject to the answers to ¶¶ 8, 9 and 10 of the Introduction of the Complaint set forth above, admitted.

13. Paragraph 13 is incomprehensible as written and, therefore, Shipyard denies the allegations in ¶ 13 of the Introduction of the Complaint. Block G was never intended to be anything except a private, non-public facility.

14. Subject to the answers to ¶¶ 8, 9 and 10 of the Introduction of the Complaint set forth above, admitted.

15. Subject to the answers to ¶¶ 8, 9 and 10 of the Introduction of the Complaint set forth above, admitted.

16. Paragraph 16 is incomprehensible as written and, therefore, Shipyard denies the allegations in ¶ 16 of the Introduction of the Complaint. Block G was never intended to be anything except a private, non-public facility.

17. Subject to the answers to ¶¶ 8, 9 and 10 of the Introduction of the Complaint set forth above, admitted.

18. Denied. Shipyard does intend to develop parking spaces on Development Block G.

19. Paragraph 19 is incomprehensible as written and, therefore, Shipyard denies the allegations in ¶ 19 of the Introduction of the Complaint. Block G was never intended to be anything except a private, non-public facility.

20. Shipyard responds to the allegations contained in ¶ 20 of the Introduction of the Complaint by stating that the referenced document and the Architectural Plans speak for themselves and Shipyard denies the allegations to the extent they are inconsistent with the language, meaning or intent of the 1997 Agreement. Furthermore, Shipyard responds by stating that the meaning, intent or effect of the 1997 Agreement presents a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations in ¶ 20 of the Introduction of the Complaint.

21. Shipyard admits that Development Block G has not been developed as of this time. The remaining allegations contained in ¶ 21 of the Introduction of the Complaint present a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations. Shipyard has no obligation to construct any improvements to Development Block G.

22. Shipyard admits that it has not developed Development Block G at this time. The remaining allegations contained in ¶ 22 of the Introduction of the Complaint present a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations in ¶ 22 of the Introduction of the Complaint.

23. Shipyard admits that it has applied to the Planning Board to construct two residential towers and parking spaces on Development Block G in the place of the Tennis Pavilion, Tennis Courts and Parking Spaces. The remaining allegations contained in ¶ 23 of the Introduction of the Complaint present a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations in ¶ 23 of the Introduction of the Complaint.

FIRST COUNT
BREACH OF THE 1997 AGREEMENT

24. Shipyard repeats its responses to the allegations contained in the preceding paragraphs as if such response were set forth at length herein.

25. Shipyard responds to the allegations contained in ¶ 25 of the First Count of the Complaint by stating that the referenced document speaks for itself and Shipyard denies the allegations to the extent they are inconsistent with the language, meaning or intent of the 1997

Agreement. Furthermore, Shipyard responds by stating that the meaning, intent or effect of the 1997 Agreement presents a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations in ¶ 25 of the Introduction of the Complaint.

26. Shipyard admits that its application to develop Development Block G is pending before the Planning Board. The remaining allegations contained in ¶ 26 of the First Count of the Complaint present a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations in ¶ 26 of the Introduction of the Complaint.

27. Denied.

28. Denied.

29. Denied.

SECOND COUNT
DECLARATORY JUDGMENT UPHOLDING THE 1997 AGREEMENT

30. Shipyard repeats its responses to the allegations contained in the preceding paragraphs as if such response were set forth at length herein.

31. Denied.

32. The allegations contained in ¶ 32 of the Second Count of the Complaint present a legal issue to which no response is required. To the extent a response is required, Shipyard denies the allegations.

WHEREFORE, Defendant Shipyard respectfully demands judgment dismissing the Complaint, with costs and disbursements and reasonable attorney's fees to Defendant, and for such other and further relief as the Court deems just.

CONNELL FOLEY LLP
Attorneys for Defendant
Shipyard Associates, L.P.

By: Kevin Coakley/MSD
Kevin J. Coakley

Dated: April 12, 2012

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Complaint must be dismissed because Plaintiff fails to state a claim upon which relief can be granted. In particular, the claims asserted are contrary to the decision of the New Jersey Supreme Court in *Toll Bros., Inc. v. Bd. of Chosen Freeholders of Burlington*, 194 N.J. 223 (2008).

Second Affirmative Defense

The Complaint must be dismissed because the Plaintiff is guilty of unclean hands.

Third Affirmative Defense

The Complaint must be dismissed because Plaintiff is estopped from obtaining the relief it seeks due to his own conduct.

Fourth Affirmative Defense

The Complaint must be dismissed because Plaintiff has not incurred any damages.

Fifth Affirmative Defense

The Complaint is barred by Promissory and Equitable Estoppel.

Sixth Affirmative Defense

The Complaint must be dismissed under the Doctrine of Laches.

Seventh Affirmative Defense

The Complaint must be dismissed under the Doctrine of Unavoidable Consequences.

Eighth Affirmative Defense

The Complaint is barred by the Statute of Limitations.

Ninth Affirmative Defense

The Complaint must be dismissed because any damage incurred by Plaintiff was caused by third parties.

Tenth Affirmative Defense

The Complaint must be dismissed because Plaintiff breached an implied or express contract.

Eleventh Affirmative Defense

The Complaint is barred under the Doctrine of Accord and Satisfaction.

Twelfth Affirmative Defense

The Complaint is barred under the Doctrine of Waiver.

Thirteenth Affirmative Defense

The Complaint is barred under the Doctrine of Mutual Mistake.

Fourteenth Affirmative Defense

The Complaint must be dismissed because Plaintiff breached his duty of good faith and fair dealing.

Fifteenth Affirmative Defense

The Complaint must be dismissed because Defendants' conduct was not the proximate cause of Plaintiff's alleged damages.

Sixteenth Affirmative Defense

The Complaint must be dismissed pursuant to N.J.S.A. 2A:15-59.1 because it is frivolous.

Seventeenth Affirmative Defense

Construction of the Development Block G tennis improvements was impracticable due to the denial of necessary NJDEP Permits.

Eighteenth Affirmative Defense

The Complaint should be dismissed because any relief, if granted, to Plaintiff would result in unjust enrichment.

Nineteenth Affirmative Defense

The Complaint should be dismissed because Defendants did not violate any duty or obligation owed to Plaintiff.

Twentieth Affirmative Defense

The Complaint should be dismissed because Plaintiff failed to mitigate any damages he incurred stemming from the allegations in the Complaint.

Twenty-First Affirmative Defense

The Complaint should be dismissed due to lack of consideration.

Twenty-Second Affirmative Defense

The Complaint is barred by intervening and/or superseding causes.

Twenty-Third Affirmative Defense

The Complaint is barred due to duress caused by Plaintiff.

Twenty-Fourth Affirmative Defense

The Complaint is barred by the Parole Evidence Rule.

COUNTER-CLAIMS

Defendant Shipyard Associates, L.P., (hereinafter "Shipyard"), by way of counter-claims against plaintiff the City of Hoboken ("Plaintiff"), says:

FIRST COUNT

Counter-Claim for Declaratory Judgment

1. Shipyard submitted an application for preliminary site plan approval and preliminary major subdivision approval to the Planning Board on or about September 30, 1996 (the "1996 Application").

2. The 1996 Application was conditionally approved by resolution dated January 7, 1997 (the "1997 Resolution").

3. On or about December 7, 1997, Shipyard, the Planning Board and Plaintiff entered into a developer's agreement, which recited the conditions of approval in the 1997 Resolution (the "1997 Agreement").

4. The 1997 Agreement is not an independent agreement and the 1997 Agreement is ancillary to and dependent upon the 1997 Resolution.

5. Shipyard has the right to request a change of the approval in the 1997 Resolution, including the right to request that it construct two residential towers on Development Block G in the place of the Tennis Pavilion, Tennis Courts and Parking Spaces.

6. The 1997 Agreement does not preclude Shipyard's right to request a change of the approval in the 1997 Resolution, including the right to request that it construct two residential towers on Development Block G in the place of the Tennis Pavilion, Tennis Courts and Parking Spaces.

7. Plaintiff is not entitled to damages or equitable relief pursuant to the 1997 Agreement.

8. A declaratory judgment pursuant to the uniform declaratory judgments law, N.J.S.A. 2A:16-50 et seq., is necessary and appropriate to resolve the uncertainty regarding the effect of the 1997 Agreement.

WHEREFORE, Defendant Shipyard respectfully demands judgment against Plaintiff:

A. Declaring and finding that the 1997 Agreement is ancillary to and dependent upon the 1997 Resolution pursuant to the decision of the New Jersey Supreme Court in *Toll Bros., Inc. v. Bd. of Chosen Freeholders of Burlington*, 194 N.J. 223 (2008);

B. Declaring and finding that Plaintiff is not entitled to damages or equitable relief pursuant to the 1997 Agreement;

C. Declaring and finding that Shipyard has the right to request a change of the approval in the 1997 Resolution, including the right to request that it construct two residential towers on Development Block G in the place of the Tennis Pavilion, Tennis Courts and Parking Spaces;

D. Declaring and finding that the 1997 Agreement does not preclude Shipyard's right to request a change of the approval in the 1997 Resolution, including the right to request that it construct two residential towers on Development Block G in the place of the Tennis Pavilion, Tennis Courts and Parking Spaces.

E. Awarding compensatory damages to Shipyard;

F. Awarding interest, costs and attorneys' fees to Shipyard; and

G. Awarding such other relief as the Court deems just and equitable.

SECOND COUNT

Counter-Claim for Breach of the Duty of Good Faith

9. Implied in the 1997 Agreement is the covenant by Plaintiff that it would act in good faith and deal fairly with Shipyard.

10. Shipyard has the right to request a change of the approval in the 1997 Resolution, including the right to request that it construct two residential towers on Development Block G in the place of the Tennis Pavilion, Tennis Courts and Parking Spaces.

11. The 1997 Agreement does not preclude Shipyard's right to request a change of the approval in the 1997 Resolution, including the right to request that it construct two residential towers on Development Block G in the place of the Tennis Pavilion, Tennis Courts and Parking Spaces.

12. By attempting to prevent Shipyard from modifying the approvals set forth in 1997 Resolution, Plaintiff has breached its duty of good faith and fair dealing.

13. Plaintiff's actions are without reasonable cause and in bad faith.

14. As a direct result of Plaintiff's breach of good faith and fair dealing, Shipyard has and will continue to incur significant damages, losses and expenses.

WHEREFORE, Defendant Shipyard respectfully demands judgment against Plaintiff:

- A. Awarding compensatory damages to Shipyard;
- B. Awarding interest, costs and attorneys' fees to Shipyard; and
- C. Awarding such other relief as the Court deems just and equitable.

DESIGNATION OF TRIAL COUNSEL

Please take notice that Kevin J. Coakley, Esq. is herewith designated as trial counsel for Defendant Shipyard Associates, L.P.

CONNELL FOLEY LLP
Attorneys for Defendant
Shipyard Associates, L.P.

By: Kevin Coakley /NSD
Kevin J. Coakley

Dated: April 12, 2012

RULE 4:5-1 CERTIFICATION

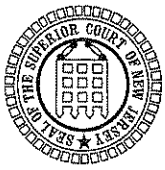

Pursuant to R.4:5-1, I certify that to the best of my knowledge, no action is pending nor is any contemplated in any Court or Arbitration proceeding with respect to the attached pleading.

CONNELL FOLEY LLP
Attorneys for Defendant
Shipyard Associates, L.P.

By: Kevin Coakley /NSD
Kevin J. Coakley

Dated: April 12, 2012

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	CHG/CK NO.
			AMOUNT:	OVERPAYMENT:
			BATCH NUMBER:	
ATTORNEY / PRO SE NAME Kevin J. Coakley		TELEPHONE NUMBER (973) 535-0500	COUNTY OF VENUE Hudson	
FIRM NAME (if applicable) Connell Foley LLP		DOCKET NUMBER (when available) HUD-L-1238-12		DOCUMENT TYPE Answer and Counterclaim
OFFICE ADDRESS 85 Livingston Avenue Roseland, NJ		JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Shipyard Associates, L.P., Defendant		CAPTION City of Hoboken v. Shipyard Associates, L.P.		
CASE TYPE NUMBER (See reverse side for listing) 599		IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 Do YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: <i>Kevin Coakley</i>				



CIVIL CASE INFORMATION STATEMENT (CIS)

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

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

Track I - 150 days' discovery

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

Track II - 300 days' discovery

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

Track III - 450 days' discovery

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

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

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

Centrally Managed Litigation (Track IV)

- | | |
|----------------------------------|--|
| 280 ZELNORM | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 285 STRYKER TRIDENT HIP IMPLANTS | 291 PELVIC MESH/GYNECARE |
| 288 PRUDENTIAL TORT LITIGATION | 292 PELVIC MESH/BARD |
| 289 REGLAN | 293 DEPUY ASR HIP IMPLANT LITIGATION |

Mass Tort (Track IV)

- | | |
|---------------------------------------|--|
| 248 CIBA GEIGY | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 282 FOSAMAX |
| 271 ACCUTANE/ISOTRETINOIN | 284 NUVARING |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 286 LEVAQUIN |
| 278 ZOMETA/ARELIA | 287 YAZYASMIN/OCELLA |
| 279 GADOLINIUM | 601 ASBESTOS |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59