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Attorneys for Plaintiff

SITAR ROOSEVELT ASSOCIATES, LLC,

Plaintiff,

vs.

BOROUGH OF CARTERET, CARTERET
BUSINESS PARTNERSHIP, INC., and JOHN
DOES 1-10 and JANE DOES 1-10.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY
DOCKET NO.:

CIVIL ACTION

**VERIFIED COMPLAINT IN LIEU OF
PREROGATIVE WRIT**

Plaintiff 1299 Roosevelt Associates, LLC, with a principal place of business located at 1481 Oak Tree Road, Iselin, County of Middlesex, New Jersey, by way of Verified Complaint against the above-named Defendants, says:

PRELIMINARY STATEMENT

1. This action seeks review and reversal of the Defendants' decision to install a permanent structure on Plaintiff's property located at 1299 Roosevelt Avenue, Block 2701, Lot 1 in the Borough of Carteret.

2. This action also seeks liquidated, compensatory, and punitive damages, as well as costs and attorney's fees for discrimination suffered by Plaintiff.

PARTIES

3. Plaintiff 1299 Roosevelt Associates, LLC ("Plaintiff") is a New Jersey Limited Liability Company with a principal place of business located at 1481 Oak Tree Road, Iselin, New Jersey, the purpose of which is to own and manage commercial real property located at 1299

Roosevelt Avenue, Block 2701, Lot 1 in the Borough of Carteret, County of Middlesex, State of New Jersey.

4. Defendant Municipality of Carteret ("Defendant Carteret") is a municipal corporation, located at 61 Cooke Avenue, Borough of Carteret, County of Middlesex, State of New Jersey, and is a Borough form of government organized under the laws of the State of New Jersey.

5. Defendant Carteret Business Partnership is a New Jersey Corporation, with a principal place of business at 61 Cooke Avenue, Borough of Carteret, County of Middlesex, State of New Jersey, which according to its Bylaws, Article III: "is organized and shall be operated to assist in the economic development of the Borough of Carteret, promote business growth and development and foster good will between the business community and the general public."

6. Plaintiff does not know the true names of Defendants JOHN DOES 1-10 and JANE DOES 1-10, and therefore sues them by those fictitious names. Plaintiff is informed and believes, and on the basis of that information and belief alleges, that each of those defendants was in some manner intentionally, negligently, recklessly, or as the result of an extrahazardous activity, proximately responsible for the events and happenings alleged in this complaint and for plaintiff's injuries and damages.

7. Plaintiff is informed and believes, and on the basis of this information and belief alleges, that at all times mentioned in this complaint, defendants were the agents and employees of their codefendants, and in doing the things alleged in this complaint were acting within the course and scope of the agency and employment with named Defendants.

FACTS COMMON TO ALL COUNTS

8. On or about January 2017, Defendants approved and installed a concrete sign for the benefit of neighboring property owners and/or businesses.

9. The sign has been constructed on the east side of the property, between the existing curbed ingress/egress driveway on the subject property that connects Roosevelt Avenue and the adjacent property.

10. Attached hereto is a true and accurate copy of a survey showing that the sign is located on the subject property, as well as a Site Triangle Agreement indicating that even if the sign is located in the site triangle, signage is not permitted.

11. No permission was ever granted by Plaintiff for the construction of this sign on Plaintiff's property, which constitutes, among other things, a trespass, unlawful taking, and inverse condemnation, resulting in complaints from my clients' tenants, a diminution in value of the property itself, and a dangerous condition, since the signage obstructs traffic sight lines of the oncoming vehicles on Roosevelt Avenue.

12. The sign is approximately 96 square feet, which violates the maximum sign area provided by Ordinance 160-113 E.(1)(a)[1], which is 60 square feet.

13. The sign does not comply with Ordinance 160-113 E. (c), as there is no open area between the base line of the sign and the ground level.

14. The sign does not comply with Ordinance 160-113 E. (d), as the sign is setback 2.5 feet from the adjoining property line and 14 feet from Roosevelt Avenue, where at least 10 feet setback is required from side lot lines.

15. The sign does not comply with Ordinance 160-113 E. (f), as the sign advertises products and services not located on the property.

16. Plaintiff has communicated all of the foregoing to Defendants, both verbally and in writing.

17. Defendants have failed to take any corrective action.

COUNT ONE

(Violation of Ordinance 160-113)

18. Plaintiff repeats and realleges the above causes of action as if set forth at length herein.

19. The sign violates Borough of Carteret Ordinance 160-113, as set forth above.

20. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer damages.

21. **WHEREFORE**, in consideration of the above, Plaintiff requests an Order compelling the sign's removal, as well as judgment against Defendants for damages, together with attorney's fees, and costs of suit, and any other and further relief the court may deem proper.

COUNT TWO

(Trespass)

22. Plaintiff repeats and realleges each of the allegations as set forth above as if set forth herein at length.

23. At all times mentioned, Plaintiff was and still is legal owner of the subject property.

24. Beginning in January 2017 and continuing until this day, Defendants, without the consent and against the will of plaintiff, entered the premises of Plaintiff and erected a permanent structure.

25. By reason of the acts of Defendants, Plaintiff has sustained the following general and special damages: diminution in property value due to loss of property and obstructed sight view, loss of tenants, and creation of a dangerous condition over which Plaintiff has no control.

26. Defendants threaten and assert that they will continue to trespass, and therefore continue to deprive plaintiff of plaintiff's right to exclusive possession of the property. Defendants

threatened to arrest Plaintiff if he removed the sign erected on his own property, without his consent.

27. Plaintiff is informed and believes, and on the basis of that information and belief alleges, that unless restrained by this court, defendants will continue to trespass against Plaintiff's property.

28. As a result of Defendants' conduct, Plaintiff has been deprived of the use of the property for a period of time, to Plaintiff's damage.

29. WHEREFORE, in consideration of the above, Plaintiff requests an Order compelling the sign's removal, as well as judgment against Defendants for damages, together with attorney's fees, and costs of suit, and any other and further relief the court may deem proper.

COUNT THREE

(Violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2, et seq.;
Unlawful Taking without Due Process and Violation of N.J.S.A. 20:3-1, et. seq.)

30. Plaintiff repeats and realleges each of the allegations as set forth above as if set forth herein at length.

31. Defendants' conduct in taking possession of private property without following any of the procedural prerequisites set forth in N.J.S.A. 20:3-1 et seq. constitutes a violation of Plaintiff's procedural due process rights under the New Jersey State Constitution.

32. WHEREFORE, in consideration of the above, Plaintiff requests an Order compelling the sign's removal, as well as judgment against Defendants for damages, together with attorney's fees, and costs of suit, and any other and further relief the court may deem proper.

COUNT FOUR

(Violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2, et seq.; Unlawful
Taking)

33. Plaintiff repeats, realleges, and incorporates the allegations set forth hereinabove as if set forth at length herein.

34. Defendants have taken Plaintiff's property for their own use and benefit, without consent and without due process.

35. Defendants' conduct deprived Plaintiff of his property interests.

36. Defendants' conduct was objectively unreasonable under the circumstances and not rationally related to a legitimate state interest.

37. Such conduct of all Defendants as described above constituted a violation of Plaintiff's rights under the New Jersey State Constitution.

38. As a direct and proximate result of Defendants' actions, Plaintiff has suffered a deprivation of his civil rights.

COUNT FIVE

(Inverse Condemnation)

39. Plaintiff repeats the allegations of the preceding paragraphs as if set forth at length in this Count.

40. Defendants' sign project interferes with Plaintiff's respective use and property rights to a level of a taking requiring condemnation proceeding pursuant to the laws of the State of New Jersey.

41. Plaintiff cannot remediate in fear of arrest by Defendant Borough.

42. Plaintiff's loss of property value is directly attributable to the Defendants' actions or lack of action.

43. Defendants' actions have taken Plaintiff's property without payment of fair compensation or without just compensation in violation of the New Jersey Constitution.

44. WHEREFORE, the Plaintiff demands judgment: declaring a taking by way of inverse condemnation; directing that the Defendants be ordered to remove the sign; writ of Mandamus to compel removal; directing that the Defendants be ordered to pay temporary and/or permanent consequential damages to the Plaintiff's for their loss of property rights, including lost view, lost access and lost privacy; compensatory damages; punitive damages; directing that a formal condemnation proceeding be initiated by Defendants pursuant to the laws of condemnation with the related appointment of condemnation Commissioners determine the loss in property values; attorneys fees and cost of suit; and such other relief as the court may deem equitable.

COUNT SIX

(Nuisance)

45. Plaintiff repeats the allegations of the preceding paragraphs as if set forth at length in this Count.

46. Defendants' sign project is an invasion of Plaintiff's property rights and civil rights and effects Plaintiff's use and enjoyment of its respective lands.

47. Defendants' action violates the State of New Jersey nuisance laws as the sign project in question produces an annoying, inconvenience, obstructing material, discomfort, and/or permanent condition which causes damage to the property and creates an unsafe condition for pedestrians and motorists.

48. WHEREFORE, the Plaintiff demands judgment: declaring a taking by way of inverse condemnation; directing that the Defendants be ordered to remove the sign; writ of Mandamus to compel removal; directing that the Defendants be ordered to pay temporary and/or permanent consequential damages to the Plaintiff's for their loss of property rights, including lost view, lost access and lost privacy; compensatory damages; punitive damages; directing that a

formal condemnation proceeding be initiated by Defendants pursuant to the laws of condemnation with the related appointment of condemnation Commissioners determine the loss in property values; attorneys fees and cost of suit; and such other relief as the court may deem equitable.

JURY DEMAND

Plaintiff hereby requests a trial by jury on all triable issues set forth in this Complaint pursuant to Rule 1:8-2(b) and Rule 4:35-1(a).

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:1-5(c), Michael A. D'Aquanni, Esq. is hereby designated as trial counsel for this matter.

Dated: November 2, 2017

s/Michael A. D'Aquanni, Esq.
Michael A. D'Aquanni, Esq.
Attorney for Plaintiff

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that the matter in controversy in the within action is not the subject of any other action pending in any other Court or of a pending arbitration proceeding, nor is any Court action or arbitration proceeding presently contemplated. I hereby further certify that no other person should be joined in this action at this time.

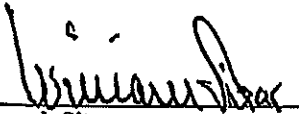
Dated: November 2, 2017

s/Michael A. D'Aquanni, Esq.
Michael A. D'Aquanni, Esq.

CERTIFICATION OF VERIFICATION

I, William J. Sitar, Sr., of full age, hereby certify:

1. I am the Managing Member of 1299 Roosevelt Associates, LLC, Plaintiff in the above captioned action.
2. The allegations of the Verified Complaint are true to the best of my own personal knowledge and belief. The Complaint is made in truth and good faith, and without collusion for the causes set forth herein.
3. 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 may be subject to punishment.


William J. Sitar

DATED: November 2, 2017