

CITY OF LONG BRANCH, a Municipal Corporation in the State of New Jersey,

Plaintiffs,

vs.

LOUIS THOMAS ANZALONE and LILLIAN ANZALONE, h/w, CITY OF LONG BRANCH, LONG BRANCH SEWERAGE AUTHORITY, JOHN DOES 1-10 and JANE DOES 1-10,

Defendants.

CITY OF LONG BRANCH, a Municipal Corporation in the State of New Jersey,

Plaintiff,

vs.

JOYCE and PHILIP MELILLO; GREENWOOD TRUST CO. o/b/o DISCOVER CARD CO.; CITY OF LONG BRANCH; CITY OF LONG BRANCH SEWERAGE AUTHORITY; and JOHN DOW 1-10 and JANE DOE 1-10,

Defendants.

CITY OF LONG BRANCH, a Municipal Corporation in the State of New Jersey,

Plaintiff,

vs.

CARMEN VENDETTI; JOSEPHINE VENDETTI, his wife; CITY OF LONG BRANCH; LONG BRANCH SEWERAGE AUTHORITY; and JOHN and JANE DOE 1-10,

Defendants.

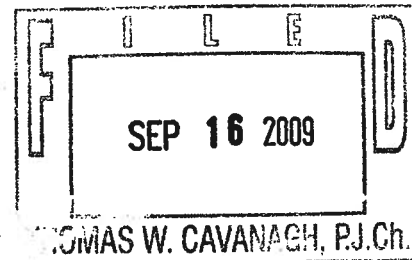
CITY OF LONG BRANCH, a Municipal Corporation in the State of New Jersey,

Plaintiff,

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
MONMOUTH COUNTY  
DOCKET NO.: MON-L-141-06  
SAT BELOW:  
HON. LAWRENCE M. LAWSON,  
A.J.S.C.

Civil Action

CONSENT ORDER OF SETTLEMENT AS  
A RESULT OF MEDIATION



vs.

ALAN A. COOK, married; LUCY HUNTER;  
CITY OF LONG BRANCH; LONG BRANCH  
SEWERAGE AUTHORITY; RESOLUTION  
TRUST CORP.; MEMORIAL GENERAL  
HOSPITAL; STATE OF NEW JERSEY,  
DIVISION OF TAXATION; TRAVELERS  
EXPRESS COMPANY, INC.; BUTTONWOOD  
HOSPITAL OF BURLINGTON COUNTY;  
JOHN DOES 1-10; and JANE DOES 1-10

Defendants.

~~GREGORY P. BROWER~~; VALLEY NATIONAL  
BANK, as successor to Shrewsbury State  
Bank; ANTONE DE FARIA and ANNE DE  
FARIA, his wife; MARCELLO S. GRUBERG  
and ELAINA G. GRUBERG, his wife;  
ALEXANDER FRIDMAN, as Tenant in  
Common; PROVIDENT SAVINGS BANK;  
LEIGH HOGLAND and DENISE HOGLAND;  
PRINCIPAL MUTUAL LIFE INSURANCE CO.;  
KARIN LYNN KANDUR, unmarried; PATRICIA  
M. TAYLOR; COUNTRYWIDE FUNDING  
CORPORATION; WASHINGTON MUTUAL  
BANK; PHILIP LAMOTTA and ANNA  
LAMOTTA, his wife; CUMBERLAND COUNTY  
WELFARE AGENCY; GLOUCESTER  
COUNTY BOARD OF SOCIAL SERVICES;  
CUMBERLAND COUNTY BOARD OF SOCIAL  
SERVICES; ANTOINETTE ANASTASIA;  
ANCORA PSYCHIATRIC HOSPITAL;  
VERIZON BANK; LORING E. SYLVESTER,  
MD; OHRBACHS, INC.; CAMDEN COUNTY  
BOARD OF SOCIAL SERVICES;  
ROSENBERG, CRUKER & COMPANY, P.A.;  
ENDELWOOD MEMORIAL HOSPITAL;  
INTERIM HEALTH CARE, d/b/a INTERIM  
HEALTH CARE; SUFERIN, ZUCKER,  
WALLER & WHIXTED PA; RICHARD J.  
CLEAVE; DR. EDWARD L. APETZ; NWNJ  
FEDERAL CREDIT UNION; SELECTIVE  
INSURANCE COMPANY; AMERICAN  
TRADING COMPANY; MERCER COUNTY  
BOARD OF SOCIAL SERVICES; RETAILERS  
NATIONAL BANK; BANK TARGET VISA;  
MEDICAL PRACTICE MANAGEMENT  
ASSOCIATION, assignee; GLOBAL HOLDING

& INVESTMENT; MERCER COUNTY OFFICE OF THE PUBLIC DEFENDER; ROSE LAROSA; MONMOUTH OCEAN HOSPITAL SERVICES; LOUIS WETSTEIN; GEORGE WARREN MCKENNA; MARY LA CONTE; MARYANN TESTA; OLGA NETTO; FIRST INTERSTATE FINANCIAL CORP.; RAGENDRABAHU PATEL and MANISHA PATEL, his wife; SOVEREIGN BANK, as successor of SHADOW LAWN SAVINGS BANK, SE; JOSEPH FRIEDMAN & SONS INTERNATIONAL, INC.; MANDINI SAWHNEY and SANJEEV SAWHNEY; DISCOVER4RY BANK; R.T. DEGUSMAN, MD; NEW CENTRAL FINANCIAL SERVICES; CHENG H. LIN, MD; SET SATELLITE SINGAPORE PTE, LTD.; YASJ RAJ FILSM; USA, INC.; LAURIE ANN VENDETTI; FLEET BANK; JERSEY CENTRAL POWER AND & LIGHT; STATE OF NEW JERSEY; CITY OF LONG BRANCH; LONG BRANCH SEWERAGE AUTHORITY; JOHN and JANE DOES 1-100,

Defendants.

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CITY OF LONG BRANCH, a Municipal Corporation in the State of New Jersey,

Plaintiff,

vs.

ESTATE OF ELSA DEFARIA, her heirs, beneficiaries and assigns; CITY OF LONG BRANCH; LONG BRANCH SEWERAGE AUTHORITY; and JOHN DOE 1-10 and JANE DOE 1-10,

Defendants

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CITY OF LONG BRANCH, a Municipal Corporation in the State of New Jersey,

Plaintiff,

vs.

ELLEN EAGAN and JEAN SADENWATER;  
MORTGAGE ELECTRONIC REGULATION

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SYSTEMS; WACHOVIA NATIONAL BANK, f/k/a FIRST UNION NATIONAL BANK; CITY OF LONG BRANCH; LONG BRANCH SEWERAGE AUTHORITY; JOHN DOE 1-10 and JANE DOE 1-10,

Defendants.

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CITY OF LONG BRANCH, a Municipal Corporation in the State of New Jersey,

Plaintiff,

vs.

MARY MILANO and MARINO MILANO, Joint Tenants With Right of Survivorship; NEW YORK TIMES COMPANY; STATE OF NEW JERSEY; JERSEY CITY POWER & LIGHT COMPANY; CITY OF LONG BRANCH; LONG BRANCH SEWERAGE AUTHORITY; JOHN DOE 1-10 and JANE DOE 1-10,

Defendants.

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**THIS MATTER HAVING COME BEFORE THE COURT** as the result of the Honorable Thomas <sup>W-</sup>~~E~~. Cavanagh, Jr. being named a mediator by the Monmouth County Assignment Judge, the Honorable Lawrence M. Lawson in a voluntary attempt by the parties to settle all matters in dispute between the parties; and

**THE COURT HAVING PRESIDED** over six separate mediation sessions and numerous telephonic conferences with counsel over a period of months and the plaintiff being represented by James G. Aaron of the law firm of Ansell, Zaro, Grimm & Aaron and Paul V. Fericola, Esq. of the law firm of Paul Fericola and Associates and the Defendants being represented by William J. Ward, Esq. of the law firm of Carlin & Ward, P.C. and Peter H. Wegener, Esq. of the law firm of Bathgate Wegener & Wolf and Scott

Bullock, Esq. of the Institute For Justice, attorneys for all Defendants and Non-party MM-Beachfront North II, L.L.C., the developer of the Beachfront North area, being jointly represented by its members' respective legal counsel, Carl W. Erler, Esq. and Barbara Stack, Esq.; and

**SAID PARTIES BEING** desirous of settling all matters in dispute without any admissions as to the validity of either party's claims against the other;

**IT IS ON THIS \_\_\_\_\_ day of September, 2009**

**ORDERED THAT:**

1. The City of Long Branch is to dismiss the within Complaints with prejudice and abandon the eminent domain proceedings without costs and shall file discharges of all lis pendens unless previously filed and the City agrees that all Defendants' properties shall be barred from taking by eminent domain during the life of the Beachfront North Redevelopment Plan or any subsequent redevelopment plan; and
2. That Defendants Karen Lynn Kandur, unmarried, Patricia M. Taylor, Lee Hoagland and Denise Hoagland, Alan A. Cook, and Lucy Hunter, are not releasing any claims they may have against the City of Long Branch (the "Non-Releasing Defendants"). All Defendants agree, including those Defendants not executing a Release, that the City of Long Branch, by paying the costs of the legal fees to date of the Defendants, shall include the legal fees of all individuals not signing Releases to the City. All Defendants agree that they shall not object to any development by any individual or entity that develops their property owned or hereinafter acquired pursuant to the design guidelines as set forth in this within Order of Settlement; and
3. That all Releasing Defendants shall have the ability to enter into

developer's agreements with the City of Long Branch pursuant to the redevelopment ordinance presently in effect for development of their respective properties or combinations thereof in conjunction with the Beachfront North Density Study, March 3, 2009; which are attached to this Order. All such rights shall run with the land; and

4. That the City of Long Branch shall take any and all steps necessary to enable the Releasing Defendants to avail themselves of the right to develop in accord with the design guidelines as incorporated in the Density Study by way of resolution or ordinance as deemed necessary and appropriate by and between the parties; and

5. That each Releasing Defendant shall have the right to apply for and receive short term tax abatements on improvements made to their properties which are made under said developer's agreements. Said short term tax abatements shall be defined as the Five Year Tax Abatement whereby the Releasing Defendants shall pay zero taxes on the improvements made in the first year that the improvements are made, twenty (20%) percent of the taxes the second year, forty (40%) percent of the taxes the third year, sixty (60%) percent of the taxes the fourth year, eighty (80%) percent of the taxes the fifth year and one hundred (100%) percent in years thereafter; and

6. That the City of Long Branch agrees that the roadways fronting the Defendant's properties shall be re-paved under the City's Road Program during the year 2010 or 2011 as the project progresses. However, it is understood and agreed by and between the herein parties that once the road is re-paved, then every development along those roads may cause the road to be opened for utility connections and the like. Therefore, it is the intention of the City to do the road repaving as soon as is practical given the number of developer agreements that are submitted by the Defendants and/or

MM-Beachfront North, II, L.L.C. But all new roads will be completed by December 2011; and

7. Upon execution of the within Order, the City shall contact and work with JCP&L to review, repair and reinstall, if necessary, all street lights in the Beachfront North area by the close of 2009; and

8. That the City is to hold all property owners within the Beachfront North Redevelopment Zone fully accountable under the City's presently existing property maintenance code; and

9. That the City shall promptly respond to and address any of all of the Defendant's inquiries or complaints concerning property owned by any other property owner in the Beachfront North Redevelopment Zone. Any property which is in the Beachfront North Redevelopment Zone which is structurally unsound to the extent that it meets the criteria of state statutes and procedures created thereunder for demolition shall be pursued by the City in the event there is discovery of any such factors that would require demolition pursuant to the standards set by New Jersey State Statute; and

10. That The City of Long Branch pay to the attorneys for the Defendants the sum of FOUR HUNDRED THIRTY FIVE THOUSAND (\$435,000.00) DOLLARS for legal fees incurred in the representation of the Defendants in the within litigation. Said monies are to be paid by the City of Long Branch to the Defendants' counsel within ninety (90) days of the date of the within Order; and

11. This Agreement shall be binding upon MM-Beachfront North, II, L.L.C., its assigns and/or successors in interest (hereinafter "MM-BFN") as signatory to this

Agreement as to this paragraph only; and shall address the demolition of all the seventeen structures owned by MM-BFN located within Phase II. The demolitions shall be performed as follows:

Within 45 days of the date of the Order of Settlement entered in this litigation, MM-BFN shall hire environmental consultants, demolition contractors, and/or engineering consultants (hereinafter "Consultants").

Within 75 days, one Preliminary Report for all homes will be issued addressing potential demolition issues. The Preliminary Report may, at MM-BFN's discretion, contain sub-reports prepared by different Consultants (for example, without limitation, an asbestos survey report, a structural report, an environmental report). The Preliminary Report will document which homes, based on a preliminary visual inspection (i.e. which may, at MM-BFN's discretion, include some laboratory testing), contain potential demolition issues and what further steps must be taken to address those potential issues (for example, without limitation, any necessary laboratory testing of materials found within the homes).

Within 105 days following the Order of Settlement, MM-BFN will issue one follow-up Demolition Report for all homes that will set forth the demolition issues for all the homes and further set forth a demolition date for all of the homes. The Demolition Report may, at MM-BFN's discretion, contain sub-reports prepared by different Consultants (for example, without limitation, reports containing the results of asbestos testing, structural testing, environmental testing). The Demolition Report will document the issues for all homes and why the time period is necessary to address those issues.

For those homes with minor or routine demolition issues (for example, without limitation, homes that do not have any suspected environmental contamination, asbestos containing materials, or structural issues), work will commence immediately on abatement and demolition of those structures. Demolition of those homes will be complete within 122 days of the date of this Order.

Although the dates for each home may vary, the remainder of the homes will be demolished within 199 days of the Date of this Order. Notwithstanding the foregoing, MM-BFN may apply to the Court for an extension of time if, due to circumstances beyond its reasonable control, it cannot complete the demolition within 199 days from the signing of this Order. The Court shall determine whether such an extension is justified.

Following the retention of the Consultants and the receipt of the above reports, MM-BFN shall diligently apply for all necessary and/or required governmental permits and/or approvals. The City shall agree to issue demolition permits within



3 business days following the submission of a properly-prepared application for same.

The Court will retain jurisdiction over this matter and the Preliminary Report and the Demolition Report will be filed with the City, Defendants, and with the Court. Defendants are free to challenge the determinations and demolition dates contained in the Preliminary Report, the Demolition Report, and any request for an extension beyond 199 days. The parties shall confer with one another over any dispute and seek a resolution before turning to the Court. If no agreement can be reached and a challenge is made, the Court will review the evidence and either uphold the date determined by MM-BFN or set a new date for demolition.

If the Court finds that MM-BFN's date was unreasonable and not in good faith, the Court may award attorney's fees and other costs to Defendants as circumstances may justify. If the Court finds that Defendants (or any single Defendant or group of Defendants) have raised unreasonable objections not in good faith, the Court may award attorney's fees and other costs to MM-BFN as circumstances may justify.

Within 45 and 55 days following the entry of this Settlement Order, Defendants will permit a representative of the Consultants the ability to conduct an inspection of their properties to determine whether there are pre-existing structural conditions or what additional precautions must be undertaken during demolition. MM-BFN and Defendants will work together to arrange a mutually convenient time for the inspections in order for MM-BFN to complete the Preliminary Report, the Demolition Report and the demolition within the timeframes provided by this Order of Settlement. If Defendants fail to cooperate in providing the necessary access for MM-BFN to complete the foregoing, then the timeframes set forth in this Settlement Order for MM-BFN to complete the Preliminary Report, the Demolition Report and the demolition shall be extended by the period of delay caused by Defendants' lack of cooperation. MM-BFN shall not be obligated to generate separate Preliminary Reports, Demolition Reports and demolition time frames to accommodate any Defendants that do not cooperate with MM-BFN under the terms of this Order of Settlement.

In the event of a default as defined and determined by a court of appropriate jurisdiction in the demolition schedule, the City of Long Branch shall continue to demolish all structures found to be in default and charge back to the developer any costs and expenses incurred by the City of Long Branch in said demolition. Said costs include, but are not limited to, all remediation activities, engineering studies, remediation work, and construction work necessary in the event that same is necessary to support adjoining buildings, any asbestos remediation and any professional fees and costs associated therewith. The City of Long Branch shall account to the developer for any and all costs incurred and the developer shall not receive any building permits until all costs are returned to the City of Long Branch.

Upon completion of demolition of all structures owned by MM-BFN, MM-BFN shall grade and hydro-seed all properties upon which such structures are located.

12. That the parties of this Consent Order agree to execute any agreements which are deemed to be reasonable and necessary within the settlement to become effectuated including but not limited to the aforementioned Stipulations of Dismissal with prejudice and without costs and releases except those parties not executing releases and a Notice of Abandonment by the City pursuant to N.J.S.A. 20:3-36; and

13. That the Releasing Defendants, as set forth previously herein, shall have the right to enter into developer agreements with the City at any time within ten (10) years pursuant to the Beachfront North Redevelopment Plan and the Beachfront North Density Study, March 3, 2009; and

14. That this Court shall retain jurisdiction for the purpose of enforcement of any of the provisions of this Order and/or issues regarding any interpretation of the terms and conditions of this Order. The City, MM-BFN, MM-BFN's members, and MM-BFN's affiliated legal entities may invoke this Court's jurisdiction in order to enforce any portion of the settlement that pertains to the settlement rights, responsibilities and benefits by and between them; including, without limitation, any agreements that relate in any manner to the consummation of the settlement herein.

15. For the reasons set forth above, the above is **ORDERED ON THIS**

16<sup>th</sup> DAY OF SEPTEMBER, 2009.

  
THOMAS W. CAVANAGH, JR., JSC

16. A copy of this Order shall be served upon the following parties within ten

(10) days of entry:

**BATHGATE WEGENER & WOLF**

By:

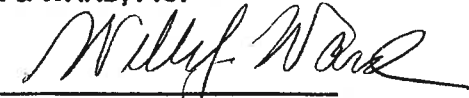


Peter H. Wegener, Esq.  
One Airport Road  
Lakewood, New Jersey 08701  
Attorneys for all Defendants except  
Louis Thomas Anzalone and Lillian Anzalone, h/w

DATE: \_\_\_\_\_

**CARLIN & WARD, P.C.**

By:

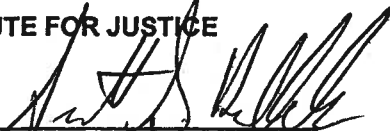


William J. Ward, Esq.  
25A Vreeland Road; P.O. Box 751  
Florham Park, New Jersey 07932  
Attorneys for Defendant  
Louis Thomas Anzalone and Lillian Anzalone, h/w

DATE: 9/15/09

**INSTITUTE FOR JUSTICE**

By:




Scott G. Bullock, Esq.  
901 North Glebe Road; Suite 900  
Arlington, Virginia 22203  
Co-Counsel for all Defendants except  
Louis Thomas Anzalone and Lillian Anzalone, h/w

DATE: 9/15/09

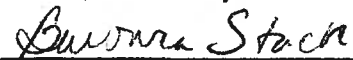
**MM-BEACHFRONT NORTH, II. LLC**

By:



Carl W. Eifer, Esq.  
Attorneys for Defendants:  
MM-Beachfront North II, L.L.C.  
110 Fieldcrest Avenue, Suite 50  
Edison, New Jersey 08837-3634

DATE: 9-15-09

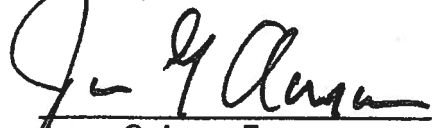


Barbara Stack, Esq.  
Co-Counsel for Defendants:  
MM-Beachfront North II, L.L.C.  
50 Washington Street  
Hoboken, New Jersey 07030

DATE: 9/15/09

**ANSELL, ZARO, GRIMM & AARON**

By:



James G. Aaron, Esq.  
1500 Lawrence Avenue  
Ocean, New Jersey 07712  
Attorneys for Defendants:  
City of Long Branch

DATE:

9/15/09



**ADAM SCHNEIDER**  
Mayor of the City of Long Branch

DATE:

9/15/09