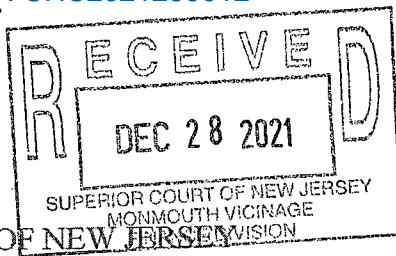


BRIAN D. ASARNOW
55 Community Place
Long Branch, NJ 07740
732-870-2570

Fee Attached - 3000 W/O
Batch # - 028
Check # - 2606
Cash Reference # -
Overpayment Amount -



BRIAN D. ASARNOW,

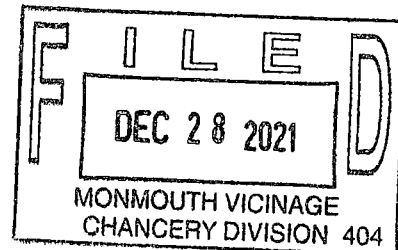
SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, MONMOUTH COUNTY

Plaintiff,

Docket No. CH C-209-21

vs.

Civil Action



Edward Bruno and E&L Paving, Inc.;
63 Community Place, LLC;
Ray Grieco & Atlantic Paving (& Coating), LLC;
Jose A. Rosario, Jr. & Rosario Contracting Corp.,
Custom Lawn Sprinkler Co., LLC.;
R. Brothers Concrete, LLC

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

Defendants,

Plaintiff, Brian Asarnow, located and doing business at those premises commonly known as 55 Community Place, referenced on the Municipal Tax Map as Block 237 Lot 22, in the City of Long Branch, County of Monmouth and State of New Jersey, by way of Complaint against the defendants herein says:

PARTIES

PLAINTIFF

1. Plaintiff Brian D. Asarnow (hereinafter "plaintiff") as of August 1995 is the owner in fee of the above mentioned property which is located in the industrial zone adjacent to, within 200 feet of and directly across the street from lots illegally acquired and illegally used by Defendants. The property is located at the end of a narrow, dead end street with no legal turnaround for trucks and other traffic. Plaintiff uses the property as an office, lab and for light manufacturing and improved the property and rents space to other businesses.

DEFENDANTS

2. Edward Bruno and E&L Paving Company are original owner of lots adjacent and across from Plaintiff and on Morris Ave. along a creek in a flood zone and which were consolidated and are now known as 63 Community Place and for which they now hold the mortgage for current owner 63 Community Place, LLC. Both failed to obtain a CO in 1965 when commencing the paving use and later constructing an office/garage/headquarters in a residential zone and lack a certificate of non conforming use to legally expand the use.

3. 63 Community Place, LLC which owns 63 Community Place as of October 9, 2018 whose principals are

Raymond Grieco owner of Atlantic Paving, LLC and Jose A. Rosario, Jr. owner of Rosario Contracting, LLC, a demolition company, and Custom Lawn Sprinkler, LLC who are allowed by Long Branch to use same to operate a use in violation of a zoning board resolution and an appeal order further denying same.

4. R. Brothers Concrete, LLC, a contractor which runs its business along the brook opposite the garage headquarters without a zoning permit, and is part of the aforementioned rejected multi contractors outdoor yard.

FIRST COUNT
DECLARATORY RELIEF

1. E&L Paving Company was the owner in fee of lot 13.02, which when purchased in 1965 was the rear of a residential lot in the R zone (no map available) and later became part of the I zone and is presently so, and upon which a garage and office was built as its headquarters. E&L also owned lots 19, 20, 21 fronting Morris Ave. which when purchased in 1972 were in the R7 zone, then the R4 zone and which adjoin a brook in a flood zone. The lots had a main building (since demolished) and an accessory garage structure, still there and orphaned, which was used by DeFazio Drycleaners, a non-conforming business in the residential zone and which should have subsequently reverted to the residential use. E&L also owned lots 32.02 (aka 32b), purchased 1974, 38.02 (1971), 39 (1965) and 40 (1977), which became lot 32.02, which were previously in the R(lot 39) and R7 zone and now the C-2 zone, and adjoin same brook opposite lot 13.02.

E&L also owned lot 37.01 which was in the R7 zone then the C-2 zone and then somehow part of lot 32.01 in the I zone. Lot 32.01 has always been in the I zone and contained a preexisting, non-conforming residential property which was demolished subsequent to Plaintiff's occupation. (see history of lots, tax maps, photos and assessor exhibits and deeds attached hereto as Exhibit *A). Bruno has previously admitted that the history of lots is valid. (pg. 2)

2. On May 31, 1955, Defendant Long Branch adopted Ordinance #235 (Exhibit A, pg.12), a comprehensive zoning and planning ordinance pursuant to the Municipal Planning Act of 1953 (chapter 433, laws of 1953). The ordinance was still in use on Dec. 9, 1965 when Ordinance 465 (Exhibit A, pg 34) was adopted and which amended and supplemented part of Ord 235.

Section 12, (Exhibit A, pg. 30) states "no land shall be occupied or used in whole or in part for any purpose whatsoever except for the alteration of or addition to a dwelling unit until a certificate of occupancy (CO) shall

have been issued by the Building Inspector stating that the premises or building complies with the requirements of this ordinance and all other applicable ordinances. Bruno/E&L's use is not permitted in any zone and even the industrial zone prohibits "any other trade or use that is noxious or offensive by reason of the emission of odor, dust, smoke, gas or noise. (Exhibit A pg. 23)

3. In a prior matter Bruno testified he failed to obtain a CO when commencing his commercial use in a residential zone. No CO or certificate of non-conforming use per NJSA 40:55D-68 was found thru OPRA though permanent retention required by NJDARM (division of archives management) Exhibit A:83-98.105-108

4. In or around 1970, Ordinance 284 (Exhibit A, pg 36) was adopted and replaced Ordinance 235. It was still in use on Dec. 28, 1972 when Ordinance 622 was adopted and which amends and supplements Ord 284 and pertains to flooding. (Exhibit A pg.77-82) Chapter XX of Ord. 284 (Zoning) section 20-5.2 (pg. 52) states in part "...nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone by this Ordinance and meeting the requirements set forth in the Schedule;

Under "Other Provisions" Section 5.4a (Preservation of Natural Features) "No structure shall be built within 50 feet of the bed of a stream..." As defined in section 20-3.67 Structure is "A combination of materials to form construction on under or above ground level and that is safe and stable including paved parking areas, storage bins and fences. Section 20-5.4.c (Storage of Materials) states "No persons shall store materials of any kind on the premises in any district except for the construction of a structure to be erected on the premises upon which the materials are stored for a period of one year from the date of commencement of such storage, unless a permit is granted by the governing body." Section 20-5.5 (Prohibited Uses) states "Any use not specifically permitted in a zoning district established by this Ordinance is hereby expressly prohibited from that district and further provided that the following uses and activities shall be specifically prohibited in any zone in the City of Long Branch; 20-5.5.i "Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products." Section 20-5.6 requires site plan review and 20-10 (pg. 71) prohibits expansion of non-conforming uses. Section 20-11.2a (pg.72) further requires a zoning permit and states "zoning permits shall hereafter be secured from the zoning officer prior to the issuance of a building permit for the construction, erection, or alteration of any structure or part of a structure or upon any change in the use of the land or a structure." Section 20-11.2e (pg. 73) also requires CO's (All Exhibit A)

5. Chapter IX of Long Branch Ordinance 284 (Land Subdivision, pg. 37), pursuant to 19-2 (Purpose) states "It shall be administered to insure the orderly growth and development, the conservation, protection and proper use of land and adequate provision for circulation, utilities and services." Section 19-5 (pg. 38) requires subdivision approval, even for minor subdivisions, by the planning board before filing and recording with the county clerk. To effect proper circulation for traffic, section 19-8.2k (pg. 44) requires a cul de sac at the end of a dead end street. (Sec. 20, Chap. 433, Laws of 1953 similarly provides for vehicular access) (Exhibit A)
6. Long Branch Zoning Ordinance 345 was subsequently adopted in 1989 and is still in effect and incorporates the foregoing.
7. Long Branch Subdivision Ordinance 300 was subsequently adopted March 12 1991 and is still in effect and incorporates the foregoing subdivision requirements.
8. Based upon these regulations in effect at the time of use or improvement of lots initially acquired, and the lack of any approvals received by Plaintiff in his OPRA requests to Long Branch (Exhibit A; 86-91, 109) Bruno/E&L unilaterally, and unlawfully, commenced and thereafter expanded his non-permitted use and failed to obtain site plan approval on any parcels he acquired or sold.
9. Bruno/E&L, a developer, has bought, sold and assembled illegally subdivided lots and has evaded and failed to provide a cul de sac, and together with 63 Community Place LLC, otherwise provide consistent, unfettered vehicular access as intended and required in Ordinance 284 or provide a 50' buffer along the brook as also required therein. (current requirements are 150')
10. Over the years Bruno/E&L was cited for expanding the use and filed 3 site plan applications due to violations which were withdrawn or dismissed for lack of prosecution and the illegal use was never abated. A permanent restraining order was obtained in 1986 for stockpiling dirt on a lot he owned. (Pg. 112) In late 1998, Bruno/E&L was cited for allowing tractor-trailers (containing municipal waste) to park across from Plaintiff, violation of a restraining order, expansion of a non-conforming use and numerous other violations. (Pg 114, 121) A summons issued. The zoning officer confirms in the notice of violation that "nothing should be on this property, except for natural growth, until such time as Mr. Bruno is granted site plan approval to use it for something else." (Pg 116)

In 1999, Bruno/E&L demolished the house across the street (lot 32.01 aka 50 Community Place, Pg 121) and

subsequently expanded the non-permitted use without any site plan approval. A letter of Nov. 8, 2000 from the same zoning officer to the zoning board of adjustment acknowledges “the paving business is not a permitted use” and that “no files were found granting same pre-existing use” on the adjacent properties. He was found guilty of failing to obtain a CO for that under summons 1470. (Pg 119-121, All Exhibit B)

11. Nevertheless, despite knowledge of the above, on Aug. 3, 2009 Long Branch zoning officer Bernich unilaterally granted a zoning permit to Bruno/E&L and successor tenant/prospective owner Atlantic Paving, to “continue pre-existing partially(?) non-conforming use for Paving company for two buildings, yard and parking area” thereby attempting to grandfather a “partially non-conforming” use. No other companies or uses are listed. Significantly, the permit has open ended conditions of use: “No interior or exterior or site changes, no stockpiling of soil or expansion of use permitted”. (Exhibit C, Pg 145)

Despite this, Rosario’s 2 businesses and R. Brothers immediately began operating as well though not on the zoning permit . They continue to do so. (Exhibit D, Pg 148-170)

Zoning permits can only issue to a single party/entity by ordinance.

12. On January 27, 2010, Long Branch issued a notice of violation to Atlantic Paving which states “you have expanded the use of the property beyond the scope of your approved zoning permit dated 8/3/09. You must comply with the following:

1) The demolition /disposal business must be removed from the property. All trucks, equipment, dumpster containers and any other items related to this business must be removed.

2) You must remove all piles of construction material, firewood, and dirt/soil that is being stockpiled on the site . A re-inspection will be made on or about February 26, 2010. Failure to comply will result in a summons being issued in Municipal Court.” (Exhibit B, Pg 122)

Many notices of violations and summonses followed but the expansion and removal of the other businesses was never abated then or since pending site plan approval as per the prior zoning officer’s notices/letters. (Exhibit B)

13. Abundant litigation occurred. An Amended Verified Complaint in Lieu of Prerogative Writs (L-2153-10) was filed June 2, 2010 against Long Branch and same Defendants (also represented by Long Branch) to void the permit and enforce the notice of violation amid retaliation by Defendants which continues but Plaintiff failed to exhaust his administrative remedies so the permit stands. However, as found by the appellate court “the

zoning officer had no authority to issue it (a certificate of non-conforming use), because no ordinance adopted within the previous year rendered the use non-conforming. Under those circumstances, the certificate would be of no effect” (Pg. 183) and so the zoning permit does not allow expansion of the paving use on the basis of prior conformance. As to the 2nd Count seeking enforcement of the notice of violation, the court claimed it did not know if it had been abated as of the Feb. 26, 2010 date of re-inspection (mandamus) though an appeal was filed including it and arguments made and relief sought for it, lol. (Exhibit E – Appeal Opinion, Pg. 172-188)

14. An Amended Complaint (L-4039-11) for damages due to nuisance and other causes was filed August 26, 2011 against Long Branch, the Zoning Board, various Officials and Defendants (it was dismissed against Long Branch 10/3/14) and other permits were thereafter discovered. (Exhibit F, Pg. 189-199) A mercantile license was discovered issued 8/4/09 to “Atlantic Paving and Misc. Contractors” and the application lists Edward Bruno as landowner and Raymond Greico and Joe Rosario as “principals in the business” This is novel even for Long Branch as mercantile licenses are to be issued to one business per application and contain same name as on zoning permit.

Also, an obviously contrived Certificate of Occupancy issued to Joe Rosario using Greico’s home address for business “Atlantic Paving & Misc” was subsequently discovered by Plaintiff after the PW matter though that business name is not listed on the zoning permit, a necessary prerequisite. Its purported date of issuance of Jan. 19, 2010 follows the zoning permit by 6 months, an arson at the property by one week and precedes the aforementioned notice of violation by one week and contradicts same. Why enforce the NOV if a valid Certificate of Occupancy exists? Many summonses were issued to Atlantic Paving and Ed Bruno/E&L Paving for expansion of the use which dragged out for 5 years in municipal court during the pendency of that lawsuit. No fines paid by Rosario or Bruno and almost nothing by Atlantic Paving .

The litigation and permits are mentioned as they will no doubt be used by Defendants as evidence their occupancy is all legal, However, despite the permits, the expansion of use was “prosecuted” in municipal court late 2018 (Pg 142,143). The permits were also submitted to the zoning board as exhibit A-19 (Pg 238) but did not prevent the use from being rejected (Exhibit J, Pg 234-284). They were irrelevant then just as they are now as evidence of lawful occupancy preventing preliminary and ultimately final injunction due to no site plan approval.

15. During the litigation, Carl H. Turner, previous long time head of Planning & Zoning affirmed and stated in his deposition (Feb. 19, 2014) regarding the zoning permit that was issued to Atlantic Paving 8/3/09 "That the business, the conducting of the (paving) business was specifically restricted to the operation being contained within the building" and "he didn't know why all the other lots were on the permit", as no board approval to expand the use was ever obtained. (Exhibit G, Pg. 200-207) Summonses were subsequently issued in 2014 for the expansion of use onto all other lots, consistent with his testimony. (Exhibit B, Pgs. 129-141)

Furthermore its now clear from videos and photos and Plaintiff's observations that Atlantic Paving has abandoned the paving use and no longer does business from there and that it served as a front for these other businesses as a multi contractor's yard and perpetrated a fraud upon Long Branch (in which they willingly participated.) Photos & video shows employees of Rosario Contracting, not Atlantic Paving operate the remaining paving equipment when occasionally used. (Exhibit Hl 208-214 & TRO Certification)

16. As a result of Plaintiff's pressure, Defendant Atlantic Paving and Contracting, LLC filed for a use variance 10/9/13 for lot 13.02 which it subsequently amended 2/20/15 to include seeking preliminary and final site plan and subdivision approval on the consolidated lot 19.01. As example of Applicant/Defendant's testimony, the record of December 12, 2016 shows the applicant's engineer answered "No" when asked "Did you or your client consider other beneficial uses for this site, one without need for variances? (17:25-18:4, Pg 225) The applicant's Planner also answered "No" to the same question (56: 12-15, Pg 226). Mr. Greico was asked "So how many employees would there be there on a daily basis" and he answered "Throughout the day maybe two girls and occasionally a mechanic" and then asked "With regard to the parking for the employees, are they able to park on-site? To which he answered "Yes. There's plenty of parking for the employees" (60: 6-14, Pg 227) He answered "No" when asked by the board attorney whether "any garbage generated from that site other than traditional.? (86:19-21) When asked what activities generally occur on-site with Atlantic Paving" he answered "same thing (as with the other businesses) Pick up equipment in the morning that has to be moved to the site. Then go to the job site. " then asked "so pick up and they pretty much leave and not too much else?" He answered "Yes" (90: 4-11, Pg 228) He answered "No, I don't" when asked by Plaintiff "you don't really need a demolition and lawn sprinkler company to do paving, do you? (104:13-16, Pg 230) When Plaintiff asked Greico "Does Rosario keep some equipment at other sites around town?" he answered "Yes. He has property in

Farmingdale.” When asked “won’t this be coming over?, Greico answered “No. A lot of equipment from this site will be going to Farmingdale” (114: 20-115:1, Pg 231) (All Exhibit I; Pgs. 216-233) He admits on Pg 231 that he placed the bin blocks for the fake curbs & self created illegal parking area across from Plaintiff. (Pg 170) 17. On July 10, 2017 Defendant’s zoning board by Resolution denied with prejudice the application of Atlantic Paving, LLC for “preliminary and final site plan approval, use variance (d) approval, and bulk variance approval to effectuate a) subdivision of the existing lot 19.01 property into 3 new lots, namely new lot 19.02, new lot 19.03 and new lot 19.04, b) use variance/siteplan/bulk variance approval to utilize new lot 19.02 for 4 separate uses including a masonry/concrete use, an asphalt paving use, a contracting use and an irrigation company use.” which together constitutes an outdoor multi contractor’s yard, “c) construction of a new single family home on Lot 19.03, d) construction of a new single family home on Lot 19.04, e) site plan approval to allow for installation of fencing, the installation of a sliding gate at the Community Place entryway, and the installation of material bins on proposed lot 19.02” (Exhibit J, Pg 234-284)

The masonry company mentioned is R Brothers Concrete, the asphalt company is Atlantic Paving & Coating LLC, the contracting company is Rosario Contracting, LLC owned by Jose A. Rosario, Jr. which does demolition jobs and returns with dumpsters which it separates and processes as well as stockpiling its equipment and parking off site. The irrigation company is Custom Lawn Sprinkler, LLC also owned by Rosario. Only Atlantic Paving continues to have a zoning permit which was the subject of prior litigation the issuance of which was laid to rest. However conditions thereon remain valid and were the basis for Atlantic Paving, LLC’s zoning board application and subsequent planning board application of successor and this current action. The other companies have been allowed to operate since August 2009 without zoning permits.

18. Atlantic Paving, LLC, feeling their due process shortchanged by the 50 page Resolution supported by numerous documents, photos and testimony, as well as wishing to gain more time to operate the illegal use, appealed and on June 19, 2018 the appeal was denied/dismissed by judge Jamie Perri then PJC. (Pg. 286) She held @ 5:12-17, Pg 289: “Violations had apparently been issued by the municipality to the owners and operators of the property, alleging that some of the nonconforming uses had been intensified, and as a result the City contended that the applicant was in violation of the municipal

ordinances. She further held @14:13-25 Pg. 294: Substantial concerns were raised with regard to parking and the ability to accommodate the level of traffic that would be going in and out of the reduced space, as well as the ability or lack of proof on the issue of traffic flow, whether plaintiff's representations that even in this smaller area they were going to be able to accommodate all of these industrial type trucks going in and out, turning radiuses (i.e., need for cul de sac), traffic flow. Those were the sorts of unanswered questions that in the Court's mind were substantial for the Board to consider. And certainly were sufficient to permit the Board to find that the plaintiff had not met its burden."

The lies, unclean hands and lack of credibility of applicant mentioned and considered by the zoning board was noted @ 16:9-15, Pg. 295 - "Clearly variances, site plan approval, and land-use regulations apply to the property not the individuals. But the Board could properly consider the extent to which cooperation by an individual or possessor of property is necessary in order to effectuate a multitude of conditions attached to an application." (All Exhibit K. Pgs. 285-296)

19. The new mayor John Pallone and slate of council candidates including long time council woman Mary Jane Celli who lives across the street from the Morris Ave. part of Lot 19.01 took office July 1, 2018

20. As a result of the denial and ongoing illegal use, Atlantic Paving & Contracting, LLC filed an apparently identical site plan application October 3 2018 this time before the planning board, upon which the mayor sits, for the subdivision now claiming the outdoor multi contractor's use is merely the continuation of a legally preexisting use. The board engineer notes that if identical, which it is, then there's no jurisdiction to hear it again. (Pg 305) (Exhibit L Pgs. 297-320)

21. Nevertheless on July 16, 2019 after obtaining several prior adjournments, while continuing to operate an outdoor contractor's yard in violation of the zoning board Resolution and order of a superior court judge denying the use, the new planning board attorney with knowledge of this, gratuitously grants an indefinite adjournment based upon a last minute written request by applicant's attorney. (Pg 313,314) No questions or

discussion by the board as to whether warranted and no vote taken. Applicant's attorney was not even present. No hearing has been held since and a recent OPRA shows no attempts by Long Branch since to check with the DEP or applicant or enjoin applicant pending site plan approval. (Exhibit L 297-320)

22. During this time thru current, occupants of 63 Community Place continued to operate the rejected use, and Rosario and his businesses in particular would place garbage, tires, trash etc. on a permanent basis on and in front of Plaintiff's grassy ROW in the dead end area marked as a loading zone. Per his own approved site plan, Plaintiff needs the space for trucks backing into his property and also for placement of leaves and brush.

(Exhibit D, Pgs. 148-170)

23. Rosario and his employees also continue to park vehicles illegally across the street opposite Plaintiff's parking lot entrance in a self created parking zone on the narrow street which restricts egress of even small trucks from Plaintiff's property. As recently as August 27, 2021 a FedEx driver complained about access for his smaller truck. No parking ordinance or site plan exists allowing parking there and no curbs exist though Rosario has in the past placed structures there for his self created parking zone to coerce Plaintiff. (Exhibit D)

24. The new administration is well aware of the zoning and code violations but has refused to abate them despite ample time having passed due to covid. Most recently Plaintiff participated in zoom city council meetings on May 12, 2021, May 26, 2021 and June 23, 2021 following correspondence and photos first emailed to mayor, council, administrator and city attorney apprising of the history and pointing out zoning violations are to be terminated within 30 days by ordinance, that each day is a new violation and seeking abatement. The city attorney lied that he met Plaintiff and stated its nothing new based on prior litigation and that nothing would be done. No limitations of resource was mentioned as preventing abatement. (Exhibit M)

25. Plaintiff expended over \$300,00 in improvements since acquiring the dilapidated, problematic property to grow his manufacturing business and also provide spaces for other businesses and contractors. Plaintiff constructed and almost completed a new office addition but has held off finishing and had to forego business and hiring due to Rosario and Atlantic Paving parking large trucks and objects all about the narrow street and across from his entrance to restrict access and force Plaintiff to leave in violation of the Hobbs Act. Though a loading zone was marked out, and has reduced the restricted access, its not enforced and nevertheless the parking in a self created parking zone across from Plaintiff's entrance still hinders egress and is problematic to

his business. Plaintiff's business uses chemicals and unloading in the street and traversing the apron curb due to restricted access is risky. Appraisal's have shown, as affirmed by tax and zoning boards that the dirty, noisy, unsightly, congested illegal use is adversely affecting Plaintiff and the neighborhood in general. (Exhibit N, Pgs. 367-380) . Nevertheless Long Branch seeks to make the above cited external obsolescence permanent by its refusing to uniformly and reasonably enforce the laws hoping Plaintiff will move or give up while enriching their friend the original property owner who holds the mortgage under guise of it being "nothing new". Plaintiff prepared for and attended 6 zoning board meetings 2015-2017 in opposition only to find Defendant pathetically refuses to enforce a resolution of its own zoning board.

26. Plaintiff is situated within 200 feet of lot 19.01 and is an interested party whose property rights have been denied, violated, or infringed by a failure to act by Long Branch under the MLUL 40:55D-1 et seq. pursuant to NJSA 40:55D-18 and its own Ord. 345-79 I which afford claims for equitable relief in superior court to enjoin zoning violations. Ord 345-14 requires site plan review to change or expand a non-conforming use and Ord 345-75 E (3) requires ("shall") all violations to be terminated within 30 days by the zoning officer, which has not occurred. (Exhibit A) Defendants' failure to obtain site plan approval to change and expand the use or valid zoning permit(s) or a certificate of non-conforming use violates NJSA 40:55D-18, 68, 70 c & d and 76b. WHEREFORE, Plaintiff requests judgment against Defendants;

(A) That use permitted by zoning permit #080309-3 is for Atlantic Paving for use of the inside of the garage headquarters at 63 Community Place for a paving business as no certificate of non-conforming use or site plan was ever obtained lawfully allowing expansion of the paving company use.

(B) That as Atlantic Paving employees are not using the office at 63 Community Place or doing any paving jobs from Lot 19.01, it appears not to be operating at the site.

(C) That the current use of lot 19.01 on Community Place and Morris Avenue as predominantly an outdoor multi contractors yard by Rosario Contracting, LLC, Custom Lawn Sprinkler, LLC, R.Brothers Concrete and any business posing as Atlantic Paving or other named variants, or any other companies or individuals operating thereon is in violation of Long Branch Board of Adjustment Resolution of Denial dated July 10, 2017

and subsequent Order of June 19, 2018 of Jamie S. Perri, PJC (retired) of

Denial/Dismissal of the Appeal and therefore NJSA 40:55D-1 et seq.

(D) That parking across from Plaintiff's parking lot in the absence of curbs or site plan approval or enabling ordinance is unlawful.

(E) That no one other than Plaintiff has a right to place anything on or in front of his property except as permitted by ordinance.

(F) For attorney's fees, costs of suit, and such other relief as the court may deem proper

SECOND COUNT
INJUNCTIVE RELIEF

27. The Plaintiff repeats and incorporates each of the preceding allegations as if fully set forth herein.

WHEREFORE, Plaintiff requests judgment against Defendants;


(A) Permanently restraining and enjoining Defendants and others alone or collectively from using Lot 19.01 as an outdoor construction yard including removal of all equipment, materials and items placed thereon under supervision of the sheriff, and if necessary, the cost of removal to be recovered by the sheriff thru a lien on the equipment, property and businesses.

(B) Temporarily restraining and enjoining the use of Lot 19.01 and Community Place unless and until site plan approval is obtained before a disinterested zoning board or planning board for any change in use.

(C) That any attempt by Defendant's to restrict access to Plaintiff's property during this matter or otherwise retaliate against Plaintiff or violate this order, as evidenced by photos and certification submitted by Plaintiff, shall constitute a contempt of this court subject to further disposition upon notice and hearing

(D) For attorney's fees, costs of suit, and such other relief as the court may deem proper

Dated: December 22, 2021




Brian D. Asarnow

CERTIFICATION PURSUANT TO RULE 4:5-1

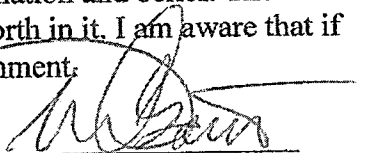
To the best of my knowledge, the matter in controversy is not the subject of any other court or arbitration proceeding, nor is any other court or arbitration proceeding contemplated against Defendants. To the best of my knowledge, no other parties including Long Branch or mandamus action thereto per Mullen v. Ippolito, 50 A. 3d 673, 428 NJ Super. 85 (2012), should be joined in this action and Rule 4:28-1(a) is inapplicable. Though continuing tort notice was timely served 9/27/21 upon Long Branch for violation of Plaintiff's rights, to preserve options, it has not accrued, is a different controversy, no action is currently contemplated and no prejudice would inure to Long Branch by not including herein. 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.

DATED: December 22, 2021


Brian D. Asarnow**CERTIFICATION OF VERIFICATION**

The allegations of the Complaint are true to the best of my knowledge, information and belief. The Complaint is made in truth and good faith, and without collusion, for the causes set forth in it. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: December 22, 2021


Brian D. Asarnow

** All Exhibits except videos may also be viewed at:*

<https://drive.google.com/drive/folders/14un0cbw27FoxD6C8O67EZvTnQassTV7n?usp=sharing>

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(B) Temporarily restraining and enjoining the use of Lot 19.01 and Community Place unless and until site plan approval is obtained before a disinterested zoning board or planning board for any change in use.

(C) That any attempt by Defendant's to restrict access to Plaintiff's property during this matter or otherwise retaliate against Plaintiff or violate this order, as evidenced by photos and certification submitted by Plaintiff, shall constitute a contempt of this court subject to further disposition upon notice and hearing

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Dated: December 22, 2021



Brian D. Asarnow

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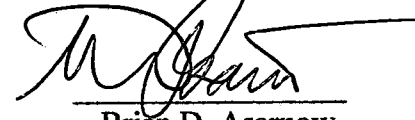
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CERTIFICATION PURSUANT TO RULE 4:5-1

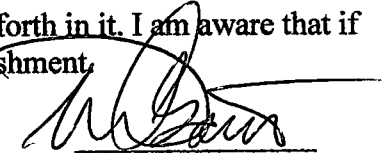
To the best of my knowledge, the matter in controversy is not the subject of any other court or arbitration proceeding, nor is any other court or arbitration proceeding contemplated against Defendants. To the best of my knowledge, no other parties including Long Branch or mandamus action thereto per Mullen v. Ippolito, 50 A. 3d 673, 428 NJ Super. 85 (2012), should be joined in this action and Rule 4:28-1(a) is inapplicable. Though continuing tort notice was timely served 9/27/21 upon Long Branch for violation of Plaintiff's rights, to preserve options, it has not accrued, is a different controversy, no action is currently contemplated and no prejudice would inure to Long Branch by not including herein. 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.

DATED: December 22, 2021


Brian D. Asarnow**CERTIFICATION OF VERIFICATION**

The allegations of the Complaint are true to the best of my knowledge, information and belief. The Complaint is made in truth and good faith, and without collusion, for the causes set forth in it. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: December 22, 2021


Brian D. Asarnow

** All Exhibits except videos may also be viewed at:*

<https://drive.google.com/drive/folders/14un0cbw27FoxD6C8O67EZvTnQassTV7n?usp=sharing>

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BRIAN D. ASARNOW
 55 Community Place
 Long Branch, NJ 07740
 732-870-2570

BRIAN D. ASARNOW,

Plaintiff,

vs.

SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION, MONMOUTH COUNTY

Docket No. CH C-209-21

Civil Action

Edward Bruno and E&L Paving, Inc.;
 63 Community Place, LLC;
 Ray Grieco & Atlantic Paving (& Coating), LLC;
 Jose A. Rosario, Jr. & Rosario Contracting Corp.,
 Custom Lawn Sprinkler Co., LLC.;
 R. Brothers Concrete, LLC

**ORDER TO SHOW CAUSE
 WITH TEMPORARY RESTRAINTS
 PURSUANT TO RULE 4:52**

Defendants,

THIS MATTER being brought before the court by Plaintiff Brian D. Asarnow

seeking relief by way of temporary restraints pursuant to Rule 4:52 based upon the facts set forth in the verified complaint and order to show cause brief and certification filed herewith, and it appearing that immediate and irreparable damage will probably result before notice can be given and a hearing held, and for good cause shown.

It is on this day of December, 2021 *ORDERED* that Defendants Edward Bruno and E&L Paving, Inc, Ray Grieco and Atlantic Paving & Coating, LLC, Jose A. Rosario, Jr. and Rosario Contracting Corp. and Custom Lawn Sprinkler Co., LLC and R. Brothers Concrete, LLC appear and show cause before the Superior Court Chancery General Equity Div. at the Hall of Records, 1 East Main Street, 2nd Floor, in Freehold, New Jersey at

 'clock in the forenoon or as soon thereafter as counsel may be heard, on the day of January, 2022 why an order should not be issued preliminarily enjoining and restraining Defendants Edward Bruno and E&L Paving, Inc, Ray Grieco and Atlantic Paving & Coating, LLC, Jose A. Rosario, Jr. and Rosario Contracting Corp. and Custom Lawn Sprinkler Co., LLC and R. Brothers Concrete, LLC. from
 A. Using Block 237 Lot 19.01 in the City of Long Branch, NJ as an outdoor construction yard and removing all equipment, materials and items placed thereon under supervision of the sheriff, and if necessary, the cost of removal to be recovered by the sheriff thru a lien on the equipment, property and businesses.

B. Using Lot 19.01 and Community Place unless and until site plan approval is obtained before a disinterested zoning board or planning board for any change in use.

C. In any way restricting access to Plaintiff's property or damaging or interfering with Plaintiff's use of his property or otherwise retaliating against Plaintiff or violating this order, as evidenced by photos and certification submitted by Plaintiff which shall constitute a contempt of this court subject to further disposition upon notice and hearing.

D. Granting such other relief as the court deems equitable and just including declaratory relief and why these orders shall not be made final pending any appeals thereof.

And it is further *ORDERED* that pending the return date herein, the Defendants are enjoined and restrained from:

A. Parking on or otherwise using Community Place or in any way using or restricting access to Plaintiff's property or damaging or interfering with Plaintiff's use of his property or otherwise retaliating against Plaintiff, as evidenced by photos and certification submitted by Plaintiff which shall constitute a contempt of this court subject to further disposition upon notice and hearing.

And it is further *ORDERED* that:

1. The defendants may move to dissolve or modify the temporary restraints herein contained on two (2) days notice to plaintiff or his attorney.
2. A copy of this order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application be served upon the defendants or their attorney of record by the Sheriff within _____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.
3. The plaintiff must file with the court his proof of service of the pleadings on the defendant no later than three (3) days before the return date.
4. Defendant shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by _____, 2022. The original documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. You must send a copy of

your opposition papers directly to Judge Joseph P Quinn, P.J.Ch. whose address is Superior Court of New Jersey, Chancery Division, General Equity, Hall of Records, 1 East Main Street, 2nd Floor, Freehold, NJ 07728. You must also send a copy of your opposition papers to the plaintiff's attorney whose name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$175. and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

5. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by _____, 2022. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge Joseph P. Quinn, P.J.Ch.

6. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

7. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

8. Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a \$175 filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to the plaintiffs attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

10. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than _____ days before the return date.

Hon. Joseph P. Quinn, P.J.Ch.

MONMOUTH COUNTY

Deputy Clerk of the Superior Court
Court House
71 Monument Park
P.O. Box 1269
Freehold, NJ 07728-1269

LAWYER REFERRAL

(732) 431-5544

LEGAL SERVICES

(732) 866-0020

