

# JAMES H. GORMAN

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February 22, 2016

VIA LAWYERS SERVICE

Motions Clerk  
Superior Court of New Jersey  
Law Division  
Monmouth County Court House  
71 Monument Park  
P.O. Box 1266  
Freehold, NJ 07728

**Re: Highview Homes, LLC v. Township of Hazlet, et al.**  
**Docket No. MON-L-4224-15**  
**Supplemental Certification**

Dear Sir or Madam:

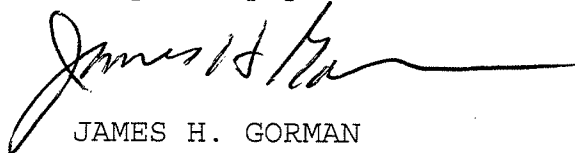
I represent the defendant Township of Hazlet in this matter. I previously filed a Summary Judgment Motion, returnable on March 4, 2016.

I am submitting a supplemental certification to reflect recent developments. It is enclosed.

Please return a filed copy to my office in the enclosed self-addressed stamped envelope. Please charge all fees to my Superior Court Account No. 141377.

Note that my adversary has requested, or is about to request that the motion be adjourned to March 18, 2016. I have no objection to the adjournment.

Very truly yours,



JAMES H. GORMAN  
Attorney for Defendant,  
Township of Hazlet

JHG/jo

Enclosure

cc: Richard J. Hoff, Jr., Esq., via Email and Regular Mail  
Gregory W. Vella, Esq., via Email and Regular Mail  
Client, via email

James H. Gorman, Esq. - 025951980  
1129 Broad Street  
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Attorney for Defendant,  
Township of Hazlet

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HIGHVIEW HOMES, LLC,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
Plaintiff,	:	MONMOUTH COUNTY
	:	
v.	:	DOCKET NO. MON-L-4224-15
	:	
TOWNSHIP OF HAZLET and	:	
PLANNING BOARD OF THE	:	
TOWNSHIP OF HAZLET,	:	SUPPLEMENTAL CERTIFICATION OF
	:	JAMES H. GORMAN
Defendants.	:	

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JAMES H. GORMAN, of full age, certifies as follows:

1. I am an attorney-at-law of the State of New Jersey. I represent the Township of Hazlet in this matter. I have personal knowledge of the facts set forth herein. I submit this supplemental certification to update my prior certification to the Court.

2. I attach hereto, as Exhibit A, a copy of an order dated November 17, 2009 granting a builder's remedy in Elegant Properties, LLC v. Township of Hazlet, Docket No. MON-L-1559-08. Paragraph 6 of that order states:

The Township's immunity from further Mount Laurel litigation is herewith continued until the Township's Housing Element and Fair Share Plan is adopted and approved by this Court and a final Order of Compliance of this Court is entered,

which shall provide a ten (10) year immunity from further Mount Laurel litigation.

I had neglected to include this order with my prior certification. The 2009 immunity order remains in full force and effect.

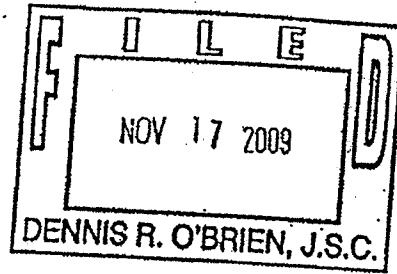
3. The prior certification advised the Court that Hazlet Township was in the process of submitting a 2016 compliance plan to the Court pursuant to a case management order in the Elegant Properties matter. That updated compliance plan was timely submitted to the Special Master, Philip Caton, P.P., on February 19, 2016. Consistent with Hazlet's 2009 and 2011 compliance plans, it does not include the plaintiff's site.

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 wilfully false, I am subject to punishment.

Dated: February 22, 2016

  
\_\_\_\_\_  
JAMES H. GORMAN

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Metro Corporate Campus One  
P.O. Box 5600  
Woodbridge, New Jersey 07095  
(732) 549-5600  
Attorneys for Plaintiff



ELEGANT PROPERTIES, LLC  
Plaintiff

v.

TOWNSHIP OF HAZLET and TOWNSHIP  
OF HAZLET PLANNING BOARD,  
Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION : MONMOUTH COUNTY

DOCKET NO. MON-L-1559-08

CIVIL ACTION

ORDER GRANTING BUILDERS REMEDY

THIS MATTER, having been opened to the Court by plaintiff Elegant Properties, LLC on the hearing on plaintiff's application for a Builders Remedy, and the plaintiff proposing a residential development with 48 dwelling units and a 20 percent setaside for affordable housing, and the Honorable Lawrence M. Lawson, A.J.S.C. having previously ruled on July 28, 2008 that ~~the Township of Hazlet~~ the Zoning Ordinance of the Township of Hazlet is not in compliance with its Mount Laurel obligation to provide for affordable housing development, and this Court having heard the recommendations of Elizabeth C. McKenzie, P.P., A.I.C.P., the special master in this matter, that plaintiff is proposing a residential development that provides a substantial amount of low and moderate income housing and that plaintiff's

site is suitable for the proposed affordable housing development, and the Court having considered the reports and arguments submitted by the parties and the recommendations of the special master and having engaged in colloquy with counsel, and the Court being fully informed, and for good cause shown,

IT IS ON THIS 17 DAY OF NOVEMBER, 2009, ORDERED, as follows:

1. Plaintiff's application for a Builders Remedy is granted to permit plaintiff to develop its property at 780 Poole Avenue, Block 66, Lot 1.02 with a forty-eight (48) unit residential development substantially similar to the layout provided in Exhibit P-1 annexed hereto. The terms of this Order shall apply only to 780 Poole Avenue, Block 66, Lot 1.02.

2. Plaintiff shall provide a twenty (20) percent setaside for affordable housing, either by providing ten (10) affordable housing units or by providing nine (9) affordable housing units with a financial contribution equivalent to six-tenths (6/10ths) of an affordable housing unit, with the decision as to which alternative will be pursued to be determined by plaintiff at the time of preliminary site plan approval.

3. On or before December 31, 2009, the Township of Hazlet shall adopt an ordinance that will permit the development shown on Exhibit P-1 contemplated herein to occur on the plaintiff's

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property subject to the terms of the Builder's Remedy approved herein. If the Township does not adopt an ordinance that implements the Builder's Remedy by that date, then the draft ordinance attached <sup>as Exhibit P-2</sup> ~~to the October 16, 2009 report of J. Craigh Rahenkamp, PP~~ (the "Rahenkamp ordinance") shall be deemed to have been adopted by the Court. This Order shall prevail in any conflict between the Rahenkamp ordinance and this Order, provided that the Township may rename the zone, and the building dimension<sup>s</sup> and coverage shall be substantially in accordance with Exhibit P-1, and plaintiff is entitled to build up to twenty-four (24) three (3) bedroom units.

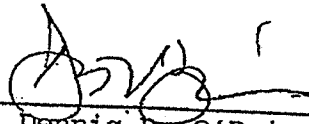
4. All site planning issues raised by the Township of Hazlet in the Planning <sup>and</sup> Engineering reports submitted to the Court are reserved for any site plan application to be submitted by plaintiff. The Special Master shall monitor the site plan application and attend the Board's hearings, and, this Court shall retain jurisdiction to resolve any site plan disputes.

5. The Township of Hazlet shall submit a revised Housing Element and Fair Share Plan to the Special Master on or before March 1, 2010, and the Court shall schedule a separate compliance hearing on the Township's Housing Element and Fair Share Plan.

6. The Township's immunity from further Mount Laurel litigation is herewith continued until the Township's Housing Element and Fair Share Plan is adopted and approved by this Court and a final Order of Compliance of this Court is entered, which shall provide a ten (10) year immunity from further Mount Laurel litigation.

7. This Order is a complete adjudication on plaintiff's application for a Builders Remedy and is certified as a final judgment pursuant to R. 4:42-2.

8. A copy of this Order shall be served upon all counsel within seven (7) days of receipt.

  
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Hon. Dennis R. O'Brien, J.S.C.