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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,	:	CERTIFICATION OF
	:	JAMES H. GORMAN, ESQ.
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 serve as the Township Attorney for the Township of Hazlet, and represent the Township in this matter. I have personal knowledge of the facts set forth herein.

2. On behalf of the Township, I served interrogatories and a document demand upon the defendant, Highview Homes, LLC on August 4, 2016. Highview responded on September 15, 2016 and redacted or withheld 44 documents subject to a privilege log, attached as Exhibit A.

3. Highview produced a redacted copy of its real estate contract dated April 23, 2015 with The Church of the Holy Family. Ex. B.

4. John Abene, one of the principals of Highview, was deposed on October 21, 2016, with the deposition continued on October 31, 2016. Abridged transcripts are attached as Exs. C and D. Mr. Abene's email of May 17, 2015 was marked at his deposition as D-69, and is attached hereto as Ex. E to this certification. Mr. Abene's email refers to a 15% set aside sought by the Township.

5. On behalf of Highview, Christine Cofone, P.P. submitted a "Multi-Family Residential Community Planning Analysis" dated July 2015 to the Township, which provides for "a comprehensive luxury rental apartment community inclusive of 180 dwelling units." D-29, Ex. F. No affordable units were proposed.

6. On August 12, 2015, Christine Cofone sent an email to the Township, stating, "the unit count is down to 156 and we are able to do a 10% Mount Laurel set aside." D-30, Ex. G. This is the first offer of any affordable housing proposed by Highview.

7. On August 31, 2016 Highview submitted Ms. Cofone's Compliance/Site Suitability Analysis, dated August 30, 2016, to the court. It proposed "262 residential units, which will include a fifteen percent (15%) affordable housing set aside..." Ex. H, p.1 of report, para 2.

8. In its privilege log, Highview also withheld six emails, and redacted another, sent to its public affairs

consultant, Gail Gordon. The redacted email was sent to Gail Gordon on September 18, 2015 according to the privilege log. That redacted email is attached as Ex. I. The redaction is a part of an email chain with a subject line of "School Age Children."

9. As part of discovery, Hazlet served Highview with Requests for Admissions and Highview responded. The Requests and the Responses are collectively attached as Ex. J. See Requests 16 (a) and (c). Highview admitted, in response to Hazlet's Request for Admissions 16(a), that "Plaintiff retained Gail Gordon as a public affairs consultant". Further when asked in Request 16(c) to admit that "Plaintiff retained Gail Gordon as an attorney", Highview responded, "Denied. Highview admits that Gail Gordon is an attorney, but denies that Highview retained Gail Gordon to provide legal services."

10. The Advisory Committee on Professional Ethics and the Committee on the Unauthorized Practice of Law issued a joint ethics opinion, concerning lawyer-lobbyists, on December 10, 2015, entitled "Advisory Committee on Professional Ethics, Committee on the Unauthorized Practice of Law, Opinion 730, Advisory Committee on Professional Ethics, Opinion 52, Committee on the Unauthorized Practice of Law." Ex. K.

11. Hazlet submits an unpublished appellate opinion, entitled Alden Leeds Inc. v QBE Specialty Insurance Co., 2015 N.J. Super. LEXIS 1793, Docket No. A-2034-14T1 (App. Div. 2015), which cites to two published cases, Payton v. N. J. Turnpike Auth., 148 N.J. 524, 539 (1997), and Seacoast Builders Corp. v. Rutgers, 358 N.J. Super. 524, 551 (App. Div. 2003). Ex. L. Pursuant to R. 1:36-3, the court and all other parties are being served with a copy, and there are no contrary opinions known to me as counsel for Hazlet Township.

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: January 3, 2017

  
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JAMES H. GORMAN