

KING MOENCH & COLLINS, LLP

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Attorneys for Defendant

DAVID P. MORRISSETTE and SANDRA S.
MORRISSETTE,

Plaintiffs,

v.

TOWN OF PHILLIPSBURG TOWN
COUNCIL, governing body of the
municipality,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
WARREN COUNTY

DOCKET NO.: WRN-L-000341-22

Civil Action

**ANSWER TO COMPLAINT IN LIEU
OF PREROGATIVE WRITS**

Defendant Town of Phillipsburg, governing body of the municipality, by way of
Answer, hereby states as follows:

1. Plaintiffs' allegations are denied insofar as they allege that Ordinance 2022-30 was "compromised by disqualifying conflicts of interest." Plaintiffs' claim asserts a cause of action, for which no response is required. Plaintiffs' claim further attempts to characterize the provisions of a municipal ordinance, which speaks for itself. To the extent any further response is required, Plaintiffs' allegations are denied.
2. Admitted.
3. Admitted.

4. Plaintiffs' allegations refer to a document that speaks for itself. The remaining allegations are denied.
5. Plaintiffs admit that Ordinance 2022-30 was adopted and notice of adoption was published on November 11, 2022. The remaining allegations attempt to characterize a document that speaks for itself and asserts legal conclusions. To the extent a further response is required, Plaintiffs' remaining allegations are denied.
6. Admitted.
7. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
8. Admitted.
9. Defendant objects to the allegations insofar as "current" is ambiguous, and therefore the allegations are denied.
10. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
11. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
12. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
13. Plaintiffs' allegation that the "ordinance violates these goals" is denied. Plaintiffs' remaining allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.

14. Plaintiffs' allegations state a legal conclusion. To the extent any further response is required, the allegations are denied.
15. Defendant lacks sufficient information to admit or deny and Plaintiffs are left to their proofs. To the extent any further response is required, the allegations are denied.
16. Defendant lacks sufficient information to admit or deny and Plaintiffs are left to their proofs. To the extent any further response is required, the allegations are denied.
17. Defendants object to Plaintiffs allegations as speculative. To the extent any further response is required, the allegations are denied.

Count One – Violations of Due Process

18. Defendant's responses are hereby incorporated as if set forth at length herein.
19. Denied.

Count Two – Inconsistency With Master Plan

20. Defendant's responses are hereby incorporated as if set forth at length herein.
21. Denied.
22. Denied.
23. Denied.

Count Three – Unlawful Spot Zoning

24. Defendant's responses are hereby incorporated as if set forth at length herein.

25. Denied.

Count Four – Conflicts

26. Defendant’s responses are hereby incorporated as if set forth at length herein.

27. Defendant objects to the allegations insofar as “properties” and “law firm website” are ambiguous. Defendant otherwise lacks sufficient information to admit or deny and leaves Plaintiffs to their proofs. To the extent any further response is required, the allegations are denied.

28. Plaintiffs’ allegations state a legal conclusion. To the extent any further response is required, the allegations are denied.

29. Admitted.

30. Denied.

Count Five – Arbitrary and Capricious Lawmaking

31. Defendant’s responses are hereby incorporated as if set forth at length herein.

32. Denied.

WHEREFORE, Defendant demands judgment dismissing Plaintiffs’ complaint with counsel fees, costs of suit, and such other relief, and such other relief that the Court finds necessary and proper.

AFFIRMATIVE DEFENSES

FIRST SEPARATE DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

Plaintiffs lack standing to prosecute the Complaint.

THIRD SEPARATE DEFENSE

Plaintiffs' claims are time barred.

FOURTH SEPARATE DEFENSE

Plaintiffs' claims are barred by the doctrines of estoppel, laches, waiver, and/or unclean hands.

KING, MOENCH & COLLINS LLP
Attorney for Defendant

By: s/Michael L. Collins
MICHAEL L. COLLINS

DATED: March 27, 2023

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Michael L. Collins is hereby designated as trial counsel for Plaintiffs.

KING, MOENCH & COLLINS LLP
Attorneys for Defendant

By: s/Michael L. Collins
MICHAEL L. COLLINS

DATED: March 27, 2023

Rule 4:5-1 Certification

Pursuant to Rule 4:5-1, it is stated that the matter in controversy is not the subject to any other action pending in any other court or of a pending arbitration proceeding to the

best of our knowledge or belief, other than Kormandy v. Town of Phillipsburg Town Council, Superior Court of New Jersey, Docket No. WRN-L-248-21. Also, to the best of our belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

By: s/Michael L. Collins
MICHAEL L. COLLINS

DATED: March 27, 2023

Rule 1:38-7 Certification

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

By: s/Michael L. Collins
MICHAEL L. COLLINS

DATED: March 27, 2023

Civil Case Information Statement

Case Details: WARREN | Civil Part Docket# L-000341-22

Case Caption: MORRISETTE VS TOWN OF PHILLIPSBURG

Case Initiation Date: 12/23/2022

Attorney Name: MICHAEL L COLLINS

Firm Name: KING, MOENCH & COLLINS, LLP

Address: 225 ROUTE 35 STE 202

RED BANK NJ 07701

Phone: 7325463670

Name of Party: DEFENDANT : TOWN OF PHILLIPSBURG

Name of Defendant's Primary Insurance Company

(if known): STATEWIDE JIF

Case Type: ACTIONS IN LIEU OF PREROGATIVE WRITS

Document Type: Answer

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: YES

If yes, list docket numbers: WRN-L-248-21

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: DAVID P MORRISETTE? NO

Are sexual abuse claims alleged by: SANDRA S MORRISETTE? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

03/27/2023

Dated

/s/ MICHAEL L COLLINS

Signed

