

KING MOENCH & COLLINS, LLP

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Attorneys for Defendant

DAVID P. MORRISETTE and SANDRA S.
MORRISETTE,

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-000378-24

Civil Action

**ANSWER TO AMENDED
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 2024-11 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. 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.
3. Admitted.
4. Plaintiffs' allegations refer to a document that speaks for itself. The remaining allegations are denied.
5. Plaintiffs admit that Ordinance 2024-14 was adopted on September 11, 2024. 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. The first sentence of this count is admitted. With respect to the rest of the count, the allegations are denied.
7. Plaintiffs admit that the ordinance was adopted by a 3-2 vote, and that two council members who voted in favor of the ordinance have since resigned. To the extent a further response is required, Plaintiffs' remaining allegations are denied.
8. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
9. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
10. Defendant objects to the first sentence of the allegation insofar as "northern boundary" is ambiguous, and therefore the allegation is denied. The remaining allegations in this count are denied.

11. Admitted.
12. Admitted.
13. The first sentence of this count is admitted. With respect to the rest of the count, Plaintiffs' allegations state a legal conclusion. To the extent any further response is required, the allegations are denied.
14. The first sentence of this count is admitted. With respect to the rest of the count, Plaintiffs' allegations state a legal conclusion. To the extent any further response is required, the allegations are denied.
15. Admitted.
16. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
17. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
18. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
19. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
20. The first sentence of this count is admitted. With respect to the rest of the count, Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
21. Denied.

22. 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.
23. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
24. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
25. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
26. The first sentence of this count refers to a document that speaks for itself. The rest of the document Plaintiffs' allegations state a legal conclusion. To the extent any further response is required, the allegations are denied.
27. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
28. Admitted.
29. Defendant objects to the allegations insofar as they are ambiguous, and therefore the allegations are denied.
30. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
31. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
32. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.

- 33. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
- 34. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
- 35. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
- 36. Plaintiffs' allegations refer to a document that speaks for itself. To the extent any further response is required, the allegations are denied.
- 37. Denied.
- 38. Denied.
- 39. Denied.

Count One – Violations of Due Process

- 40. Defendant's responses are hereby incorporated as if set forth at length herein.
- 41. Denied.

Count Two – Inconsistency With Master Plan

- 42. Defendant's responses are hereby incorporated as if set forth at length herein.
- 43. Denied.
- 44. Denied.
- 45. Denied.
- 46. Denied.
- 47. Denied.

48. Denied.

49. Denied.

Count Three – Inconsistency with Reexamination Report

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

51. Denied.

52. Denied.

Count Four – Conflicts

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

54. Defendant 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.

55. Defendant lacks sufficient information to admit or deny and leaves Plaintiffs to their proofs. Further, Defendant objects to the allegations insofar as they are ambiguous, and therefore the allegations are denied. To the extent any further response is required, the allegations are denied.

56. Defendant lacks sufficient information to admit or deny and leaves Plaintiffs to their proofs. Further, Defendant objects to the allegations insofar as they are ambiguous, and therefore the allegations are denied. To the extent any further response is required, the allegations are denied.

57. The last sentence of the count is admitted. To the extent any further response is required, the allegations are denied.

Count Five – Arbitrary and Capricious Lawmaking

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

59. Denied.

60. 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
Attorneys for Defendant

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

By: s/Nicholas D. Hession
NICHOLAS D. HESSION

DATED: March 19, 2025

DESIGNATION OF TRIAL COUNSEL

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

KING, MOENCH & COLLINS LLP
Attorneys for Defendant

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

By: s/Nicholas D. Hession
NICHOLAS D. HESSION

DATED: March 19, 2025

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. 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.

KING, MOENCH & COLLINS LLP
Attorneys for Defendant

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

By: s/Nicholas D. Hession
NICHOLAS D. HESSION

DATED: March 19, 2025

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

By: s/Nicholas D. Hession
NICHOLAS D. HESSION

DATED: March 19, 2025