

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**

Mark R. Peck, Esq. (Attorney ID No. 023121995)

91 Larry Holmes Drive, Suite 200

Easton, Pennsylvania 18042

(610) 691-7900

mpeck@floriolaw.com

Attorneys for Defendant-Intervenor, Peron Construction, LLC

<p>David P. Morrisette and Sandra S. Morrisette, 5 Fairview Heights, Phillipsburg, NJ 08865,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Town of Phillipsburg Town Council, the governing body of the municipality, with offices at Municipal Building, 120 Filmore Street, Phillipsburg, New Jersey 08865,</p> <p style="text-align: center;">Defendant,</p> <p>and</p> <p>Peron Construction, LLC,</p> <p style="text-align: center;">Defendant-Intervenor.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: WARREN COUNTY DOCKET NO: WRN-L-000378-24</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">NOTICE OF MOTION TO DISMISS PURSUANT TO <u>R. 4:6-2(e)</u></p>
---	--

TO: Peter Dickson, Esq.
23 Route 31 North
Suite A28
Pennington, New Jersey 08534

Michael Collins, Esq.
King Moench & Collins LLP
200 Schulz Drive, Suite 402
Red Bank, New Jersey 07701

PLEASE TAKE NOTICE that on Friday, April 11, 2025, at 9:00 a.m., or as soon thereafter as counsel may be heard, Defendant-Intervenor Peron Construction, LLC, by and through undersigned counsel, will apply by Motion to the Superior Court of New Jersey, Law

Division, before the Honorable Veronica Allende, J.S.C., Warren County Courthouse, 413 Second Street, Belvidere, New Jersey 07823 for an Order dismissing Count Four of Plaintiff's First Amended Complaint pursuant to R. 4:6-2(e).

PLEASE TAKE FURTHER NOTICE that in support of this Motion, Peron Construction, LLC will rely upon the enclosed Certifications of Michael J. Perrucci, Douglas J. Steinhardt, and of Counsel, and Brief.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is additionally attached hereto.

Dated: March 21, 2025

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**



Mark R. Peck, Esq.
Attorney ID No. 023121995
91 Larry Holmes Drive, Suite 200
Easton, Pennsylvania 18042
(610) 691-7900

mpeck@floriolaw.com

*Attorneys for Defendant-Intervenor, Peron
Construction, LLC*

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**

Mark R. Peck, Esq. (Attorney ID 023121995)

91 Larry Holmes Drive, Suite 200

Easton, Pennsylvania 18042

(610) 691-7900

mpeck@floriolaw.com

Attorneys for Defendant-Intervenor, Peron Construction, LLC

<p>David P. Morrisette and Sandra S. Morrisette, 5 Fairview Heights, Phillipsburg, NJ 08865,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Town of Phillipsburg Town Council, the governing body of the municipality, with offices at Municipal Building, 120 Filmore Street, Phillipsburg, New Jersey 08865,</p> <p style="text-align: center;">Defendant,</p> <p>And</p> <p>Peron Construction, LLC,</p> <p style="text-align: center;">Defendant-Intervenor.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: WARREN COUNTY DOCKET NO: WRN-L-000378-24</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">ORDER</p>
---	---

THIS MATTER having come before the Court by Florio Perrucci Steinhardt Cappelli & Tipton, LLC, attorneys for Defendant-Intervenor, Peron Construction, LLC, for an Order dismissing Count Four of the First Amended Complaint filed by Plaintiffs, David P. Morrisette and Sandra S. Morrisette, as against said Defendant-Intervenor for failure to state a claim, pursuant to R. 4:6-2(e), and the Court having considered the matter, and the arguments of counsel if any, and other good cause having been shown;

IT IS on this _____ day of _____ 2025, **ORDERED** as follows:

1. Defendant-Intervenor's Motion to Dismiss in favor of Defendant-Intervenor, Peron Construction, LLC, pursuant to R. 4:6-2(e) as to Count Four of Plaintiffs' First Amended Complaint **BE** and hereby **IS GRANTED** with prejudice;

2. A copy of this Order shall be deemed served upon all counsel of record upon uploading to eCourts and posting on the electronic case jacket in this matter.

Opposed _____

Unopposed _____

Hon. Veronica Allende, J.S.C.

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**

Mark R. Peck, Esq. (Attorney ID 023121995)

91 Larry Holmes Drive, Suite 200

Easton, Pennsylvania 18042

(610) 691-7900

mpeck@floriolaw.com

Attorneys for Defendant-Intervenor, Peron Construction, LLC

<p>David P. Morrisette and Sandra S. Morrisette, 5 Fairview Heights, Phillipsburg, NJ 08865,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Town of Phillipsburg Town Council, the governing body of the municipality, with offices at Municipal Building, 120 Filmore Street, Phillipsburg, New Jersey 08865,</p> <p style="text-align: center;">Defendant,</p> <p>And</p> <p>Peron Construction, LLC,</p> <p style="text-align: center;">Defendant-Intervenor.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: WARREN COUNTY DOCKET NO: WRN-L-000378-24</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">CERTIFICATION OF COUNSEL</p>
---	--

I, MARK R. PECK, ESQ., of full age, hereby certify as follows:

1. I am an attorney-at-law of the State of New Jersey, a Partner with the law firm of Florio Perrucci Steinhardt Cappelli & Tipton, LLC, attorneys for Defendant-Intervenor Peron Construction, LLC ("Peron") in the above-captioned matter. As such, I am fully familiar with the facts and circumstances of the matter.

2. I submit this Certification in support of Peron's Motion to Dismiss Count Four of Plaintiffs' First Amended Complaint for failure to claim upon which relief may be granted pursuant to R. 4:6-2(e).

3. Annexed hereto as “**Exhibit A**” is a true and complete copy of the First Amended Complaint filed by Plaintiffs in the instant matter.

I hereby 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: March 21, 2025

Respectfully Submitted,

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**



Mark R. Peck, Esq.
Attorney ID No. 023121995
91 Larry Holmes Drive, Suite 200
Easton, Pennsylvania 18042
(610) 691-7900

mpeck@floriolaw.com

*Attorneys for Defendant-Intervenor, Peron
Construction, LLC*

EXHIBIT A

Peter Dickson,
NJ Attorney ID # 001661979
Law Offices of Peter Dickson
23 Route 31 North, Suite A28
Pennington, NJ 08534
Telephone: (609) 690-0312
Cell phone: (609) 651-9960
Email: rwppddl@cs.com
dicksonpd@cs.com
Attorney for Plaintiffs,
David P. Morrisette
and Sandra S. Morrisette

David P. Morrisette and	:	SUPERIOR COURT OF NEW JERSEY
Sandra S. Morrisette,	:	LAW DIVISION - WARREN COUNTY
5 Fairview Heights	:	
Phillipsburg, NJ 08865	:	DOCKET NO. WRN-L-000378-24
Plaintiffs,	:	
v.	:	Civil Action
Town of Phillipsburg Town Council, the	:	
governing body of the municipality,	:	
with offices at Municipal Building,	:	
120 Filmore Street,	:	
Phillipsburg, New Jersey 08865,	:	AMENDED COMPLAINT
Defendant.	:	IN LIEU OF PREROGATIVE WRITS

1. This is an action in lieu of prerogative writs to challenge Ordinance 2024-14 (Ordinance), adopted by the Town of Phillipsburg Town Council (Council) to amend its 2013 Redevelopment Plan to change the zoning of certain riverfront parcels. The change in zoning will permit construction of a massive refrigerated truck distribution warehouse on the last undeveloped portion of its Delaware River waterfront. This amendment is in violation of the Town's Master Plan and Reexamination Reports and constitutes arbitrary and capricious decisionmaking. The vote to approve this Ordinance was compromised by disqualifying conflicts of interest.

2. Plaintiffs David P. Morrisette and Sandra S. Morrisette are adults residing at 5 Fairview Heights, Phillipsburg, New Jersey 08865.

3. Defendant Town of Phillipsburg is a municipality organized under the laws of New Jersey, in Warren County, with its address at 120 Fillmore Street, Phillipsburg, NJ 08865.

4. On its home page on its website, this is how Phillipsburg describes itself:

Welcome To Phillipsburg, New Jersey
Located on the Delaware River, in a beautiful setting of rolling hills, woodlands, and flowing waters, Phillipsburg, New Jersey offers the best of all worlds. Here, you can escape from crowded, impersonal developments, and find the joys of living in a close-knit community of families and friends, as you enjoy all the advantages of urban living as well as rural atmosphere - from a quaint downtown waterfront shopping district, to a choice of nearby airports.
Just 30 minutes from the Pocono Mountains, and midway between Philadelphia and New York City, Phillipsburg is an historic town with an exciting future. It's a place where the beauty, culture, tourism and recreational activities are enhanced with a growing base of small and mid-size businesses.
[<http://www.phillipsburgnj.org>.]

This self-description is utterly incompatible with a massive waterfront, 320,000 to 420,000 square-foot-truck-served distribution warehouse.

5. On September 11, 2024, the Phillipsburg Town Council adopted on second reading Ordinance 2024-14 (Ordinance), which adopted the “Town of Phillipsburg District 5 Amendment - Riverside Industrial Riverfront Redevelopment Plan (RRP)” to amend the amended redevelopment plan to change the zoning of two particular District 5 riverfront parcels from Riverside Residential to Riverside Industrial to permit industrial uses such as warehouses.

6. Notice of the adoption of Ordinance 2024-14 was published in The Express-Times on September 16, 2024. This complaint challenges this ordinance.

7. The Ordinance was adopted by a 3-2 vote over significant public opposition. Since that vote, two Council members who voted in favor have resigned.

8. The parcels affected are Lots 2.01 and 2.02 in Block 2102. The entire parcel containing Lots 2.01 and 2.02 in Block 2102 with the addition of Lot 1 contains 42.61 acres, according to the acreage reported on the tax map current when the Ordinance 2024-14 was first read. All of these lands were either zoned for residential development or as open space. The previous Revised Riverfront Redevelopment Plan, adopted November 4, 2013, permitted retail, office uses, museums, and cultural and educational facilities on the first floor of residential mid-rise buildings to serve the residential areas of the parcel.

9. A portion of the Riverfront Development Area adjacent to the parcels rezoned, Block 2102, Lot 1, consists of Green Acres properties. The land is listed on Phillipsburg's Open Space Inventory and may not be diverted to other use without the consent of the New Jersey Department of Environmental Protection. The land is presently not developed and covered in vegetation and is located in what is currently called an Historic Recreational Zone; it extends from Delaware River Park to the northwest and is surrounded on three sides by Lot 2.02 in the redevelopment District. In an earlier attempt to approve a large truck distribution warehouse in Block 2102, the Council unsuccessfully requested that Lot 1 be removed from the Open Space Inventory and used

for redevelopment. On first reading, Ordinance 2024-14 was amended to remove Lot 1 from the parcels to be rezoned for industrial use.

10. Lot 2.01 is located on part of the northern boundary of Lot 1, which is known as Delaware River Park and currently has walking areas, a large cleared area for football and soccer fields, two active dog run areas both on Lot 1, one a smaller dog run and one large dog run used by Phillipsburg and non-Phillipsburg residents. Much of the Lot 1 property is tree covered, but clear for residents to walk. The impact of the rezoning of Ordinance 2024-14 and the adopted amended District 5 redevelopment plan and the projected warehouse development on Delaware River Park and its use as a park by Phillipsburg was not substantively considered.

11. The Council had referred the proposed development to the Land Use Board (LUB) for review of consistency with the Town's Master Plan, pursuant to N.J.S.A. 40A:12A-7d.

12. The Town's most recent Master Plan was completed in 2004.

13. The most recent reexamination report adopted prior to the enactment of Ordinance 2024-14 for the Town of Phillipsburg's Master Plan was completed in 2013 and adopted by the Planning Board on December 23, 2013. N.J.S.A. 40:55D-89 requires that a reexamination report be prepared every ten years. As a matter of law, in the absence of the required reexamination report, the Town's "municipal development regulations" including current zoning ordinances and redevelopment plans are presumed unreasonable and arbitrary and capricious. N.J.S.A. 40:55D-89.1.

14. The LUB commissioned a "Consistency Review Report: Proposed Amendment to the Riverfront Redevelopment Plan," by Van Cleef Engineering Associates, Inc., dated August 7, 2024 (2024 Consistency Report). This Consistency Report was the basis for the LUB counsel's letter to the Council which recommended adoption of Ordinance 2024-14.

15. The 2024 Consistency Report purports to find that Ordinance 2024-14 is consistent with the Master Plan and 2013 Reexamination Report.

16. The 2024 Consistency Report nowhere mentions let alone discusses that the 2004 Master Plan and 2013 Reexamination Report are presumed unreasonable by law, N.J.S.A. 40:55D-89.1. The 2024 Consistency Report never mentions or discusses any reason why the 2004 Master Plan and 2013 Reexamination Report should nonetheless be deemed reasonable in spite of N.J.S.A. 40:44D-89.1.

17. The 2013 Master Plan Reexamination Report states that the properties along Howard Street, which includes Block 2102, Lots 2.01 and 2.02, are specifically to be zoned Riverside Residential, Riverside Commercial and/or Riverside Heritage. Block 2102, Lots 2.01 and 2.02 lie to the south of Howard Street. At the time that the 2013 Master Plan Reexamination Report was written, the properties owned by Peron Construction, Block 2102, Lots 2.01 and 2.02, were zoned Riverside Residential and were therefore in compliance with the 2013 Master Plan Reexamination Report.

18. The 2013 Master Plan Reexamination Report specifically mentions that the properties to the north of Howard Street, which were light industrial at the time of the creation of this report, were to be rezoned to Riverside Residential, Riverside

Commercial and/or Riverside Heritage. These properties remain zoned light industrial.

19. Although the 2024 Consistency Report contains voluminous discussion and attaches voluminous documents, it refers for the fundamental finding of consistency with the 2004 Master Plan and reexamination reports to a February 25, 2021, consistency report also prepared by Van Cleef Engineering Associates (2021 Consistency Report). The 2024 Consistency Report specifically identifies itself as “an update to reflect additional information/considerations.” The 2021 Consistency Report made a finding that the then proposed redevelopment plan amendment was consistent based not on the 2004 Master Plan or reexamination reports, but on the 1998 Master Plan in effect before the 2004 Master Plan.

20. The LUB voted to accept the 2024 Consistency Report as presented for the proposed amendment to the riverfront redevelopment plan on August 22, 2024 at a public hearing. While the 2024 Consistency Report contains a series of recommendations, none of the recommendations were part of the Council’s adoption of Ordinance 2024-14; the Council provided no explanation of this.

21. The LUB hearing on the consistency of Ordinance 2024-14 with the Master Plan did not include any discussion of, or awareness of, the provisions of N.J.S.A. 40:55D-89.1, to the effect that because of the absence of a required reexamination report, all of the Town's development regulations are presumptively unreasonable.

22. The LUB did not prepare a report or recommendation for transmittal to the Town Council. The LUB did not adopt a resolution containing its findings, if any, on the

consistency of Ordinance 2024-14 with the 2004 Master Plan or any reexamination report.

23. The LUB reported to the Council by way of a cursory letter dated August 23, 2024 from its counsel containing no findings or discussion. The letter merely stated that "[t]he Board is of the opinion that an amendment to the Riverfront Redevelopment Plan to designate District No. 5 from Riverside Residential to Riverside Industrial is appropriate and consistent with the Riverfront Redevelopment Plan, the Town's Master Plan and the Town's zoning ordinances."

24. The LUB counsel letter of August 23, 2024 does not contain any findings or facts to support the statement that "an amendment to the Riverfront Redevelopment Plan is appropriate and consistent with the Riverfront Redevelopment Plan, or the Master Plan or the Town's zoning ordinances."

25. The LUB counsel letter of August 23, 2024 does not contain any discussion of or findings concerning the consequences of N.J.S.A. 40:55D-89.1 due to the absence of a required reexamination report. The LUB failed to notify the Council that in the absence of a required reexamination report the Town's development regulations including its zoning ordinances and redevelopment plan are all presumed unreasonable. The LUB failed to notify the Council that in the absence of a required reexamination report the Town's development regulations including the redevelopment plan and any redevelopment plan amendment are all presumed unreasonable.

26. Ordinance 2024-14 does not include any discussion of or findings that the

proposed ordinance is consistent with the 2004 Master Plan or any reexamination report.

Ordinance 2024-14 does not mention that in the absence of a required reexamination report, the Town's zoning ordinances and redevelopment plans are presumed unreasonable. Ordinance 2024-14 does not contain any discussion with respect to whether the Town's zoning ordinances and redevelopment plans are reasonable.

27. The Riverfront Redevelopment Area was designated as an "area in need of redevelopment" in 2005, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (LRHL).

28. Various redevelopment plans that included this area have been drafted and adopted over the years.

29. According to the Ordinance 2024-14, the current redevelopment plan is the "Revised Riverfront Redevelopment Plan" adopted by the Council and dated November 2013 (2013 Plan).

30. The 2013 Plan designated three districts for this area. District 3 was "Recreational/Heritage," to be primarily parks and recreational facilities.

31. The 2013 Plan designated District 5, which roughly coincides with the area that is legislated by the Ordinance 2024-14, as "Riverside Residential," to consist primarily of residential buildings, and retail, museum, cultural and office use on the ground floors, and parks and recreational facilities.

32. The 2013 Plan set out eleven "Redevelopment Goals and Objectives," none of which are consistent with a 320,000 to 420,000 sq. ft. warehouse.

33. According to the 2021 Consistency Report, the most recent redevelopment plan is dated 2017. The Ordinance 2024-14 does not refer to or purport to amend any redevelopment plan dated in 2017.

34. The 2004 Master Plan is captioned "Master Plan Update."

35. The overarching goal of the 2004 Master Plan is as follows:

Goals & Objectives

The Town has established one principle [sic] goal toward which the municipal government, its private partners, and the people of Phillipsburg should continuous aim. The goal is:

To maintain the Town of Phillipsburg as a proud community where people and families of all ages and incomes can live and travel safely, have clean and well kept neighborhoods, have a variety of above average housing opportunities and have accessibility to needed businesses and professional services. The community should preserve its history, protect its natural resources, provide recreation for all ages, and maintain a mixture of land uses that will offer a stable tax base.

To guide Phillipsburg toward this goal, specific objectives have been established in each of the elements that follow, pertaining to that particular issue. With these objectives are further recommendations for specific actions designed to begin or continue implementation of the objectives.

Conservation Plan, Objectives,

1. Protect critical environment features and areas not other wise regulated.
2. Preserve the remaining natural features
3. Increase public access and use of the Delaware River
-

Recommendations:

3. Create a Riverfront Development Plan for the entire length of river frontage, providing for river related businesses,

activities and housing and including access plans for trails, view areas and such.

The 2024 Consistency Report ignores these goals.

36. The 2024 Consistency Report ignores the specific objectives set out in the 2004 Master Plan with respect to responsible development, avoidance of impacts from industrial uses, traffic and safety, environmental protection, parks and recreation, development of the riverfront area for development of river-related activities, and enhancement of Phillipsburg as a tourist destination.

37. The 2024 Consistency Report does not provide explanations for its opinions, and is, therefore, a net opinion.

38. As the warehouse would be constructed in a redevelopment area, the warehouse would likely qualify for significant tax abatements, and this is clearly stated in the District 5 Amendment, thereby depriving the Town of tax revenues, in contravention of the Master Plan. The Town would consider entering into a Payment In Lieu Of Taxes agreement with the developer, thereby depriving the schools and county of significant tax revenues, in contravention of the Master Plan . The 2024 Consistency Report ignores this fiscal impact.

39. On January 25, 2025, the Land Use Board approved a “2024 Master Plan Reexamination Report” prepared by Van Cleef (2024 Reexamination Report). The 2024 Reexamination Report does not recommend that the Master Plan for the Site be changed to permit the construction of a warehouse. The 2024 Reexamination Report does not apply to this application because of N.J.S.A. 40:55D-10.5.

Count One - Violations Of Due Process

40. Plaintiffs incorporate their previous allegations as if set forth verbatim.

41. Copies of the complete proposed ordinance were not made available to the public before the Council vote on the first reading of the proposed ordinance. Therefore members of the public were denied the due process opportunity to know what the Council was voting on.

Count Two - Inconsistency With Master Plan

42. Plaintiffs incorporate their previous allegations as if set forth verbatim.

43. Ordinance 2024-14 adopts land use changes that are manifestly inconsistent with the 2004 Master Plan.

44. Ordinance 2024-14 does not explain why the Town should adopt land use changes that are manifestly inconsistent with the 2004 Master Plan.

45. The Ordinance 2024-14 constitutes the equivalent of unlawful spot zoning.

46. The 2024 Consistency Report is a net opinion and riddled with mistakes and errors, and is based on zoning in effect from the 1988 master plan.

47. Ordinance 2024-14 does not contain any discussion of the consequences of N.J.S.A. 40:55D-89.1.

48. The absence of any required reexamination report invalidates all redevelopment plans and amendments as unreasonable.

49. The 2024 Reexamination Report does not apply to Ordinance 2024-14.

Count Three - Inconsistency With Reexamination Report

50. Plaintiffs incorporate their previous allegations as if set forth verbatim.

51. Ordinance 2024-14 adopts land use changes that are manifestly inconsistent with the 2013 Reexamination Report.

52. Ordinance 2024-14 does not explain why the Town should adopt land use changes that are manifestly inconsistent with the 2013 Reexamination Report.

Count Four - Disqualifying Conflicts Of Interest

53. Plaintiffs incorporate their previous allegations as if set forth verbatim.

54. The property in the Riverfront Redevelopment Area is owned by Peron Construction, Inc. The owner of Peron is Michael Perrucci, Esq., a founding and named partner in the law firm of Florio Perrucci Steinhardt Cappelli & Tipton LLC. As of the date of this complaint, the law firm's website states "Mike Perrucci is Co-Founder and Partner of Florio Perrucci Steinhardt Cappelli Tipton & Taylor [sic]. Mike is also the owner of Peron Construction, Inc., a real estate development company" Another partner in that law firm is Hon. Douglas Steinhardt, Esq., a State Senator and Chair of the Warren County Republican Committee.

55. The three members of the Council voting in favor of Ordinance 2024-14, Council President Peter Marino and Council Vice President Meliss Paulus and Council Member Matthew Scerbo, received very material and significant financial support for their election campaigns from the Warren County Republican Committee, chaired by Mr. Steinhardt. In multiple instances, campaign advertisements for these three Council members noted that they were paid for by Mr. Steinhardt, Chair of the Warren County

GOP.

56. The Florio Perrucci firm and Mr. Steinhardt have a pattern and practice of attempting to influence the Phillipsburg Mayor and Council, by, among other things, representing past Council members in civil litigation and DWI prosecutions, speaking directly at Council meetings in favor of Peron's proposals and providing significant financial support for candidates' elections. Peron Construction, Inc., was represented by the Florio Perrucci firm in these proceedings.

57. Council President Marino, Vice President Paulus and Member Scerbo are all disqualified by voting on any Peron proposal because of disqualifying conflicts of interest. Council President Marino, Vice President Paulus and Member Scerbo are all disqualified by voting on any Peron proposal because of disqualifying conflicts of interest in violation of the Local Government Ethics Law. Vice President Paulus and Member Scerbo recently resigned from the Council.

Count Five - Arbitrary And Capricious Lawmaking

58. Plaintiffs incorporate their previous allegations as if set forth verbatim.

59. The acts and omissions complained of in this complaint are arbitrary and capricious decisionmaking.

60. The acts and omissions complained of in this complaint are contrary to law.

WHEREFORE plaintiffs respectfully request that this court find and conclude that Ordinance 2021-14 is void and award them their costs of suit.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1(c), plaintiff designates the following as trial counsel: Peter

Dickson at the following address:

Law Offices of Peter Dickson
Pennington Point, Suite A28
23 Route 31 North
Pennington NJ 08534
(609) 690-0312
(609) 651-9960 mobile
email: rwppddl@cs.com
and dicksonpd@cs.com

CERTIFICATION PURSUANT TO R. 4:69-4

I hereby certify that all necessary transcripts of the proceedings before the Town Council and Land Use Board on Ordinance 2024-14 have been ordered.

CERTIFICATION OF NO OTHER ACTIONS PURSUANT TO R. 4:5-1

I hereby certify that the action subject of the complaint is not the subject of any other action now pending or of any known about to be brought with the exception of: Kormandy v. Town of Phillipsburg Town Council, WRN-L-000248, currently pending in abeyance before this court.

I am aware that if there is a change in the facts stated in this original certification, I have a continuing obligation during the court of this litigation to file and serve on all other parties and with the court an amended certification.

CERTIFICATION OF NO OTHER PARTIES TO JOIN'
PURSUANT TO R. 4:28 OR R. 4:29-1(b)

I hereby certify that there are no other parties who should be joined in this proceeding at this time. I am aware that if there is a change in the facts stated in this

original certification, I have a continuing obligation during the course of this litigation to join other parties and to file and serve on all other parties and with the court an amended certification.

CERTIFICATION OF COMPLIANCE WITH R. 1:38-7(c)

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)

Respectfully submitted,

/s/ Peter Dickson

Peter Dickson

Attorney for Plaintiffs

Dated: February 7, 2025.

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**

Mark R. Peck, Esq. (Attorney ID 023121995)

91 Larry Holmes Drive, Suite 200

Easton, Pennsylvania 18042

(610) 691-7900

mpeck@floriolaw.com

Attorneys for Defendant-Intervenor, Peron Construction, LLC

<p>David P. Morrisette and Sandra S. Morrisette, 5 Fairview Heights, Phillipsburg, NJ 08865,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Town of Phillipsburg Town Council, the governing body of the municipality, with offices at Municipal Building, 120 Filmore Street, Phillipsburg, New Jersey 08865,</p> <p style="text-align: center;">Defendant,</p> <p>And</p> <p>Peron Construction, LLC,</p> <p style="text-align: center;">Defendant-Intervenor.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: WARREN COUNTY DOCKET NO: WRN-L-000378-24</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">BRIEF IN SUPPORT OF MOTION TO DISMISS COUNT FOUR OF PLAINTIFFS' FIRST AMENDED COMPLAINT PURSUANT TO <u>R. 4:6- 2(e)</u></p>
---	---

PRELIMINARY STATEMENT

Defendant-Intervenor, Peron Construction, LLC (“Peron”), by and through its counsel, Florio Perrucci Steinhardt Cappelli & Tipton, LLC (“Firm”), hereby submits this Brief in support of its Motion to Dismiss Count Four of the First Amended Complaint filed by Plaintiffs, David and Sandra Morrisette (“Plaintiffs”), for failure to state a claim upon which relief may be granted. This Motion is returnable April 11, 2025.

In sum, Plaintiffs' Count Four alleges that Phillipsburg Councilmembers who voted in favor of Ordinance 2024-14 had disqualifying conflicts of interest because they received campaign support from the Warren County Republican Committee ("WCRC"). The Chairman of the WRCC is Doug Steinhardt, who is also a named partner in the Firm. Peron owns property that is directly affected by Ordinance 2024-14; the validity of Ordinance 2024-14 is the subject matter of this lawsuit. Peron is owned by Michael Perrucci, who co-founded the Firm and who no longer has an ownership interest in, but remains affiliated with, the Firm. Thus, Plaintiffs tenuously and wrongly assert, the Councilmembers have a disqualifying conflict of interest.

Plaintiffs' argument fails at the outset as it raises no claim for which relief can be granted. Plaintiffs' Count Four is not cognizable under either the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq. ("LGEL") or the common law. The Councilmembers did not have: (1) a direct pecuniary interest; (2) an indirect pecuniary interest; (3) a direct personal interest; or (4) an indirect personal interest in the outcome of Ordinance 2024-14. Neither Peron nor Mr. Perrucci contributed to the Councilmembers' campaigns, and the claims regarding Mr. Steinhardt are remote and speculative. Count Four must be dismissed.

PROCEDURAL HISTORY

David and Sandra Morrisette ("Plaintiffs") commenced this action by filing a Complaint in lieu of prerogative writs against the Town of Phillipsburg Town Council ("Defendant") on or about October 29, 2024. Plaintiffs' first Complaint alleged five causes of action: (1) Count One: Violations of Due Process; (2) Count Two: Inconsistency With Master Plan; (3) Count Three: Inconsistency With Re-Examination Report; (4) Count Four: Disqualifying Conflicts of Interest; and (5) Count Five: Arbitrary and Capricious Lawmaking. On or about November 20, 2024, Peron filed a Motion to Intervene as a Defendant.

On February 7, 2025, Plaintiffs filed a Motion for Leave to File an Amended Complaint. Plaintiffs' Amended Complaint also included five causes of action challenging Ordinance 2024-14: (1) Violations of Due Process; (2) Inconsistency With Master Plan; (3) Inconsistency with Re-Examination Report; (4) Disqualifying Conflicts of Interest; and (5) Arbitrary and Capricious Lawmaking.

On February 28, 2025, the Court granted Plaintiffs' Motion for Leave to File an Amended Complaint. On March 3, 2025, the Court granted Peron's Motion to Intervene as a Defendant. Thereafter, Peron filed an Answer to Plaintiffs' First Amended Complaint on March 10, 2025. This Motion to Dismiss Count Four of Plaintiffs' First Amended Complaint now follows.

FACTUAL HISTORY

The zoning history and development efforts of the subject property within Ordinance 2024-14 area from 2005 to the present is set forth in the Certification of Michael J. Perrucci, dated March 21, 2025 ("Perrucci Cert."), annexed to this brief, which is incorporated into this brief in its entirety.

Plaintiffs' Amended Complaint Count Four reads:

Count Four – Disqualifying Conflicts of Interest

¶54. The property in the Riverfront Redevelopment Area is owned by Peron Construction, Inc. The owner of Peron is Michael Perrucci, Esq., a founding and named partner in the law firm of Florio Perrucci Steinhardt Cappelli & Tipton LLC. As of the date of this complaint, the law firm's website states "Mike Perrucci is Co-Founder and Partner of Florio Perrucci Steinhardt Cappelli Tipton & Taylor [sic]. Mike is also the owner of Peron Construction, Inc., a real estate development company" Another partner in that law firm is Hon. Douglas Steinhardt, Esq., a State Senator and Chair of the Warren County Republican Committee.

¶55. The three members of the Council voting in favor of Ordinance 2024-14, Council President Peter Marino and Council Vice President Meliss Paulus and Council Member Matthew Scerbo, received very material and significant financial support for their election campaigns from the Warren County Republican Committee, chaired by Mr. Steinhardt. In multiple instances, campaign

advertisements for these three Council members noted that they were paid for by Mr. Steinhardt, Chair of the Warren County GOP.

¶56. The Florio Perrucci firm and Mr. Steinhardt have a pattern and practice of attempting to influence the Phillipsburg Mayor and Council, by, among other things, representing past Council members in civil litigation and DWI prosecutions, speaking directly at Council meetings in favor of Peron's proposals and providing significant financial support for candidates' elections. Peron Construction, Inc., was represented by the Florio Perrucci firm in these proceedings.

¶57. Council President Marino, Vice President Paulus and Member Scerbo are all disqualified by voting on any Peron proposal because of disqualifying conflicts of interest. Council President Marino, Vice President Paulus and Member Scerbo are all disqualified by voting on any Peron proposal because of disqualifying conflicts of interest in violation of the Local Government Ethics Law. Vice President Paulus and Member Scerbo recently resigned from the Council.

While for purposes of this motion Peron does not dispute the allegations of ¶54 above, ¶¶55-57 is easily disproven mischaracterization and speculation. As set forth in the Certification of Douglas J. Steinhardt, dated March 20, 2025 ("Steinhardt Cert."), the WCRC makes contributions to any Republican candidate in a disputed general election. Steinhardt Cert., ¶7. The nature and amount of the support is determined by the WCRC executive board, not by Mr. Steinhardt individually. Steinhardt Cert., ¶8. The Firm has never represented Councilmembers Peter Marino, Meliss Paulus, or Matthew Scerbo, who voted on Ordinance 2024-14. Steinhardt Cert., ¶8. The Firm has, at times in the past, represented members of the Phillipsburg Town Council for personal matters, but those members are not on the contemporary Council. Steinhardt Cert., ¶11. Mr. Steinhardt has not appeared before the Phillipsburg Council or Land Use Board on behalf of Peron, nor has he been involved in any way with the adoption of Ordinance 2024-14 or with Peron's Howard Street, Phillipsburg property. Steinhardt Cert., ¶13. Neither Mr. Perrucci nor Peron have contributed to the campaigns of Peter Marino, Meliss Paulus, or Matthew Scerbo. Perrucci Cert., ¶19.

LEGAL ARGUMENT

I. STANDARD FOR MOTION TO DISMISS PURSUANT TO R. 4:6-2(e).

Pursuant to Rule 4:6-2(e), a motion to dismiss should be granted if a complaint fails to state a claim upon which relief can be granted. In evaluating such a motion, the court must examine the complaint to determine whether a cause of action may be gleaned from the pleadings. See Nostrame v. Santiago, 213 N.J. 109, 127 (2013) (“motions [to dismiss] are judged by determining whether a cause of action is ‘suggested’ by the facts.” (internal citation and quotation omitted)); Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989). Dismissal of the complaint “is mandated where the factual allegations are palpably insufficient to support a claim upon which relief can be granted.” Rieder v. State Dep’t of Transp., 221 N.J. Super. 547, 552 (App. Div. 1987); see also In re Prudential Ins. Co. Derivative Litig., 282 N.J. Super. 256, 268 (Ch. Div. 1995) (quoting Rieder and holding same). A motion to dismiss “may not be denied based on the possibility that discovery may establish the requisite claim; rather, the legal requisites for plaintiffs’ claim must be apparent from the complaint itself.” Edwards v. Prudential Property and Cas. Co., 357 N.J. Super. 196, 202 (App. Div. 2003).

In the instant case, Plaintiffs’ Count Four fails to state a claim for which relief can be granted either under the statutory or common law, so that Count accordingly must be dismissed.

II. COUNT FOUR OF PLAINTIFFS’ COMPLAINT MUST BE DISMISSED BECAUSE PLAINTIFFS FAILED TO SET FORTH A CLAIM UPON WHICH RELIEF CAN BE GRANTED PURSUANT TO R. 4:6-2(e).

The allegations in Count Four of Plaintiffs’ First Amended Complaint are insufficient to support a claim upon which relief may be granted. Whether a particular interest is sufficient to disqualify is a factual decision and depends upon the circumstances of each individual case. Wyzykowski v. Rizas, 132 N.J. 509, 523 (1993). In the present matter, Plaintiffs allege that Council

President Marino, Vice President Paulus, and Member Scerbo are disqualified from voting on any Peron proposal because of disqualifying conflicts of interest in violation of the LGEL and common law. Specifically, Plaintiffs contend that the aforementioned members of the Council voting in favor of Ordinance 2024-14 received financial support for their election campaigns from the WCRC, whose Chairman is Doug Steinhardt, Esq., who is affiliated in the same law firm as the owner of Peron, who owns property that is affected by Ordinance 2024-14. This tenuous, remote, and entirely speculative claim is one “where the factual allegations are palpably insufficient to support a claim upon which relief can be granted.”

Generally, disqualification for conflict of interest is required when a public official has (1) a direct pecuniary interest; (2) an indirect pecuniary interest; (3) a direct personal interest; or (4) an indirect personal interest. Matter of Borough of Englewood Cliffs, 473 N.J.Super. 189, 206 (App.Div. 2022). There is not the barest scintilla of an allegation, let alone evidence, that Councilmembers Marino, Paulus, or Scerbo had direct or indirect pecuniary or personal interest in the outcome of Ordinance 2024-14. Plaintiffs’ remote and entirely speculative allegations have nothing to do with the validity of Ordinance 2024-14, which is the subject matter of Plaintiffs’ Amended Complaint. Courts have consistently held that a remote and speculative interest will not be held to disqualify the official. See, e.g., Meyer v. MW Red Bank, LLC, 401 N.J.Super. 482 (App.Div. 2008). Accordingly, there is no claim to be made that the Councilmembers had disqualifying conflicts of interest.

The LGEL, N.J.S.A. 40A:9-22.1 et seq., establishes a code of ethics which governs virtually every person who serves in local government. Klug v. Bridgewater Tp. Planning Bd., 407 N.J.Super. 1 (App.Div. 2009). If the LGEL is applied to Count Four there is likewise no valid claim for relief. N.J.S.A. 40A:9-22.5 sets forth the statutory “code of ethics for local government

officers”, which governs conflicts of interest for members of municipal governing bodies such as Councilmembers Marino, Paulus, and Scerbo. Subsection (a) of the ethics code provides:

No local government officer or employee or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest

None of the Councilmembers have an interest in Peron. Subsection (c) provides:

No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others

An “unwarranted” privilege or advantage, as used in the LGEL, is one that is unjustified or unauthorized, one that permits the municipal official to obtain something otherwise not available to the public at large. In re Zisa, 385 N.J.Super. 188 (App.Div. 2006). That is not the case here;

Plaintiff has not alleged anything approaching this concept. Similarly, subsection (g) states:

No local government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated

This does not apply here. Likewise, subsection (d) provides:

No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment

Again, there is no showing or even bare allegation that Councilmembers Marino, Paulus, and Scerbo have any interest in Peron or profited or benefitted in any way by the adoption of Ordinance 2024-14.

Even if the LGEL is triggered here, which it is not, subsection (f) contains an express carve-out for campaign contributions:

This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of his official duties.

There is not the barest allegation, nor is there support for, the notion that the WCRC made contributions to the Marino, Paulus, and Scerbo campaigns with the intent to influence the adoption of Ordinance 2024-14. Finally, subsection (i) states:

No local government officer shall be deemed in conflict with these provisions if, by reason of his participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group

Ordinance 2024-14 was subject to the Mayor's veto and none of the Councilmembers derived any benefit from the adoption of same. This also devastates the claim that Councilmembers Marino, Paulus, and Scerbo had disqualifying conflicts of interest.


Even if there is a possibility the LGEL applies, it must be noted that ethics rules must be applied with caution, as “[l]ocal governments would be seriously handicapped if every possible interest, no matter how remote and speculative, would serve as a disqualification of an official.” Wyzykowski, 132 N.J. at 523. Consequently, conflict of interest rules do not apply to “remote” or “speculative” conflicts because “[l]ocal governments cannot operate effectively if recusals occur based on ascribing to an official a conjured or imagined disqualifying interest.” Piscitelli v. City of Garfield Zoning Board of Adjustment, 237 N.J. 333, 353 (2019); Mondsini v. Local Finance Board, 458 N.J.Super. 290 (App.Div. 2019). Nothing better describes Plaintiffs’ Count Four than a “conjured or imagined disqualifying interest”.

In sum, Count Four of Plaintiffs' Amended Complaint fails to set forth any legally cognizable claim. The Plaintiffs' allegations regarding a purported conflict of interest are remote and speculative at most, therefore rendering them insufficient to sustain a cause of action. Accordingly, because the factual allegations are palpably insufficient to support a claim upon which relief can be granted, Count Four of Plaintiffs' Complaint must be dismissed.

CONCLUSION

For the foregoing reasons, Defendant-Intervenor, Peron, respectfully requests that this Court grant its Motion to Dismiss Count Four of Plaintiffs' First Amended Complaint for failure to state a claim upon which relief can be granted.

Respectfully Submitted,
**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**



Mark R. Peck, Esq.
Attorney ID No. 023121995
91 Larry Holmes Drive, Suite 200
Easton, Pennsylvania 18042
(610) 691-7900
mpeck@floriolaw.com

*Attorneys for Defendant-Intervenor, Peron
Construction, LLC*

Dated: March 21, 2025

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**

Mark R. Peck, Esq. (Attorney ID 023121995)

91 Larry Holmes Drive, Suite 200

Easton, Pennsylvania 18042

(610) 691-7900

mpeck@floriolaw.com

Attorneys for Defendant-Intervenor, Peron Construction, LLC

<p>David P. Morrisette and Sandra S. Morrisette, 5 Fairview Heights, Phillipsburg, NJ 08865,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Town of Phillipsburg Town Council, the governing body of the municipality, with offices at Municipal Building, 120 Filmore Street, Phillipsburg, New Jersey 08865,</p> <p style="text-align: center;">Defendant,</p> <p>And</p> <p>Peron Construction, LLC,</p> <p style="text-align: center;">Defendant-Intervenor.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: WARREN COUNTY DOCKET NO: WRN-L-000378-24</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">CERTIFICATION OF SERVICE</p>
---	--

I, Mark R. Peck, Esquire, of full age, hereby certify as follows:

1. I am an attorney-at-law of the State of New Jersey and a partner in the Law Firm of Florio Perrucci Steinhardt Cappelli & Tipton LLC
2. On March 21, 2025, I caused to be filed electronically the within Notice of Motion to Dismiss, Certification of Counsel, Certification of Michael Perrucci, Certification of Douglas Steinhardt, Brief in Support of Motion to Dismiss, proposed Order, and Certification of Service.

3. On March 21, 2025, a copy of the Notice of Motion and supporting documentation was served upon counsel of record as follows via eCourts and U.S. Regular Mail:

Peter Dickson, Esq.
23 Route 31 North, Suite A28
Pennington, New Jersey 08534

Michael Collins, Esq.
King, Moench & Collins, LLP
200 Schulz Drive, Suite 402
Red Bank, New Jersey 07701

4. On March 21, 2025, a courtesy copy of the within Motion and supporting documentation was forwarded via FEDEX to The Honorable Veronica Allende, J.S.C., at the Somerset County Courthouse, 20 North Bridge Street, 1st Floor, Somerville, New Jersey 08876.

I hereby 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.

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON LLC**

/s/ Mark R. Peck
Mark R. Peck, Esquire

Dated: 3.21.2025

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**

Mark R. Peck, Esq. (Atty ID No. 023121995)

91 Larry Holmes Drive, Suite 200

Easton, Pennsylvania 18042

(610) 691-7900

mpeck@floriolaw.com

Attorneys for Defendant-Intervenor Peron Construction, Inc.

<p>David P. Morrisette and Sandra S. Morrisette, 5 Fairview Heights, Phillipsburg, NJ 08865</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Town of Phillipsburg Town Council, the governing body of the municipality, with offices at Municipal Building, 120 Filmore Street, Phillipsburg, New Jersey 08865</p> <p style="text-align: center;">Defendant,</p> <p style="text-align: center;">and</p> <p>Peron Construction, Inc.</p> <p style="text-align: center;">Defendant-Intervenor.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: WARREN COUNTY DOCKET NO: WRN-L-000378-24</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">CERTIFICATION OF MICHAEL PERRUCCI</p>
---	---

I, MICHAEL J. PERRUCCI, of full age, certify as follows:

1. I am the founder and President of Peron Construction, LLC ("Peron"). As such I am fully familiar with the facts set forth herein.
2. In 2005 Peron purchased 170 Howard Street, Phillipsburg, an approximately 31 acre parcel also known as Lot 2.02 in Block 2102 on Phillipsburg's Tax Map ("Property"). The Property was previously two lots, with one owned by Peron Construction, LLC (Block 2102, Lot 2) and the other by Peron Construction Phillipsburg LLC (Block

2102, Lot 11). The lots were subsequently subdivided (with a portion conveyed to the railroad) and consolidated into the Property owned by Peron.

3. The Property is located in Phillipsburg's Industrial (I-2) Zone District and had this zoning designation prior to Peron's 2005 acquisition. The property is surrounded by industrial uses, including a junkyard and an open gun range. Prior to Peron's acquisition the Property hosted the 100,000 SF Tippet and Wood industrial building. The residential neighborhood adjacent to the Industrial area is characterized by poverty and high unemployment. There is a need for jobs in the neighborhood as many of the residents do not have automobiles or drivers' licenses.
4. In 2005 at Peron's request the Town of Phillipsburg deemed a study area designated as the Riverfront Redevelopment Area, which included the Property, an area in need of redevelopment. The Property was placed in District 5 of Phillipsburg's Riverfront Redevelopment Plan (RRA-5), which was also adopted in 2005. The RRA-5 designation permitted residential uses as an overlay to the industrial zoning in place for the Property.
5. In 2005 Peron (and Peron Construction Phillipsburg LLC) was designated as Redeveloper of the Property.
6. In 2005-2006 Peron (and Peron Construction Phillipsburg LLC) obtained all necessary approvals (local, County, State) to construct 449 townhouses on the Property.
7. In 2005 Peron entered into a purchase and sale agreement with Centex Homes for the Property, wherein Centex would construct the 449 townhomes.
8. In 2006 Centex terminated the purchase and sale agreement with Peron.

9. From 2006 through 2017 Peron attempted to sell the Property or enter into a joint venture for the development of the Property, with national and regional builders such as K Hovnanian, Pulte Homes, and Tuskes Homes. This was not successful.
10. In 2018 Peron sought to amend its approval to permit rental garden apartments. Just as with the townhomes concept there was no market interest in the garden apartment concept.
11. As a consequence of the lack of market interest in residential development on the Property in May 2021 the Town amended the Redevelopment Plan via Ordinance 2021-14 to permit industrial uses on the Property, thus reverting the Property's zoning to the industrial zoning that had been in force for decades prior to the 15-year attempt to residentially develop the site.
12. Plaintiffs, among others, filed suit against Phillipsburg thereafter seeking to invalidate Ordinance 2021-14. This lawsuit remains pending.
13. In December 2021 the Phillipsburg Town Council readopted the Ordinance, which was vetoed by then-Mayor Todd Tersigni. Mayor Tersigni had previously abstained from participating in review of the Ordinance before the Town Planning Board and had not taken any adverse action toward the Ordinance prior to his veto.
14. In January 2022 Peron obtained site plan approval to permit the construction of an industrial building on the Property. This approval has been amended, but the industrial use remains approved on the Property.
15. In October 2022 the Phillipsburg Town Council again re-adopted the Ordinance (Ordinance 2022-30) to restore industrial uses as permitted uses in the RRA-5 District.

16. Plaintiffs again filed suit against Phillipsburg seeking to invalidate Ordinance 2022-30.

The Court determined that the Town had improperly published notice of the adoption of Ordinance 2022-30, so the Ordinance was invalidated.

17. Plaintiffs have filed the instant lawsuit in an effort to obstruct and block construction of Peron's approved industrial building.

18. As a consequence of Plaintiffs' numerous lawsuits several deals, which would have brought hundreds of good paying jobs to one of the most depressed neighborhoods in New Jersey, have been terminated.

19. Neither Peron nor myself individually have made a reportable donation to the campaigns of Peter Marino, Meliss Paulus, and/or Matthew Scerbo, nor have I nor Peron been involved in any way with their campaigns.

I certify that the above statements made by me are true. I acknowledge that if any of the above statements made by me are willfully false I am subject to punishment.


MICHAEL J. PERRUCCI

Dated: 3 . 21 . 25

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC**
Mark R. Peck, Esq. (Atty ID No. 023121995)
 91 Larry Holmes Drive, Suite 200
 Easton, Pennsylvania 18042
 (610) 691-7900
mpeck@floriolaw.com
 Attorneys for Defendant-Intervenor Peron Construction, Inc.

<p>David P. Morrisette and Sandra S. Morrisette, 5 Fairview Heights, Phillipsburg, NJ 08865</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Town of Phillipsburg Town Council, the governing body of the municipality, with offices at Municipal Building, 120 Filmore Street, Phillipsburg, New Jersey 08865</p> <p style="text-align: center;">Defendant,</p> <p style="text-align: center;">and</p> <p>Peron Construction, Inc.</p> <p style="text-align: center;">Defendant-Intervenor.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: WARREN COUNTY DOCKET NO: WRN-L-000378-24</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">CERTIFICATION OF DOUGLAS STEINHARDT</p>
---	---

I, Douglas Steinhardt, of full age, certify as follows:

1. I am an Attorney at Law and a partner with the law firm of Florio Perrucci Steinhardt Cappelli & Tipton, LLC. I am also the Chairman of the Warren County Republican Committee, a position I have held since January 2004. As such I am fully familiar with the facts certified to herein.
2. I am aware of litigation brought by David and Sandra Morrisette against Phillipsburg's Town Council, docketed at WRN-L-000378-24. I am also aware that Peron Construction, Inc. ("Peron") has intervened as a defendant in this case.
3. Peron is owned by Michael Perrucci, who also founded the law firm. Michael Perrucci no longer has any ownership interest in the firm, having sold his interest in 2019.

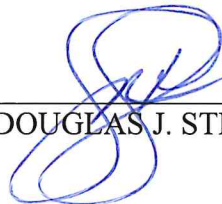
4. Mr. Perrucci was formerly Chairman of the Warren County Democratic Committee.
5. I am aware that the Morrisette litigation concerns Phillipsburg Council's adoption of Ordinance 2024-14, which concerned in part the zoning of a Peron owned property.
6. I am also aware of allegations within the Morrisette Complaint that Phillipsburg Council members Peter Marino, Meliss Paulus, and Matthew Scerbo have disqualifying conflicts of interest from voting on any Peron related matter because they purportedly: "received very material and significant financial support for their election campaigns from the Warren County Republican Committee, chaired by Mr. Steinhardt. In multiple instances, campaign advertisements for these three Council members noted that they were paid for by Mr. Steinhardt, Chair of the Warren County GOP" (see Amended Complaint, ¶55).
7. The Warren County Republic Committee supports every Warren County Republican candidate who is running in a contested general election. Peter Marino, Meliss Paulus, and Matthew Scerbo were running in a contested election and thus received Warren County Republican Committee support. The "paid for" disclaimer is required by NJ ELEC laws.
8. I do not make the decisions on the nature and amount of support given to our candidates in contested elections. The Warren County Republican Committee has an executive committee, of which I am one member, that determines how the Committee's election support funds should be distributed. This has been the policy and procedure of the Warren County Republican Committee for as long as I have been Chairman.
9. I am also aware that the Morrisettes allege that disqualifying conflicts exist because the: "Florio Perrucci firm and Mr. Steinhardt have a pattern and practice of attempting to influence the Phillipsburg Mayor and Council, by, among other things, representing past Council members in civil litigation and DWI prosecutions, speaking directly at Council meetings in favor of Peron's proposals and providing significant financial support for candidates' elections. Peron Construction, Inc., was represented by the Florio Perrucci firm in these proceedings." (see Amended Complaint, ¶56)
10. This is a baseless allegation, and meaningless innuendo. My firm has never represented Councilmembers Peter Marino, Meliss Paulus, or Matthew Scerbo. These are the councilmembers who voted on disputed Ordinance 2024-14.
11. My firm was headquartered in Phillipsburg for many years. Not only was it the largest firm in Phillipsburg, it was the largest firm in Warren County, which has a very small bar. That a couple of past Councilmembers, who had nothing to do with disputed Ordinance 2024-

14, retained lawyers from my firm for matters such as DWI or civil matters is of no consequence to this litigation and to my understanding does not implicate any conflict of interest.

12. As noted above, the alleged “significant financial support for candidates’ elections”, such it is was, was from the Warren County Republic Committee’s executive committee and not from me or from my firm. The fact that the executive committee of the Warren County Republican Committee allocated money to candidates in contested elections does not create a disqualifying conflict of interest for those candidates, Councilmembers Marino, Paulus, and Scerbo.
13. The firm does represent Peron in many matters, some of which involve appearing before the Phillipsburg Council and Land Use Board. Again, to my understanding, this should not create a disqualifying conflict of interest for Councilmembers Marino, Paulus, and Scerbo. That said, I have never appeared as an attorney for Peron or for Michael Perrucci in any matter, and certainly have not appeared or been involved in any context with th subject matter of this litigation.

I certify that the above statements made by me are true. I acknowledge that if any of the above statements made by me are willfully false I am subject to punishment.

Dated: 3/20/25



DOUGLAS J. STEINHARDT