

F I L E D**May 15, 2025****Veronica Allende, J.S.C.**

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 David P. Morrisette
 and Sandra S. Morrisette

David P. Morrisette and	:	SUPERIOR COURT OF NEW JERSEY
Sandra S. Morrisette,	:	LAW DIVISION - WARREN COUNTY
Plaintiffs,	:	
v.	:	DOCKET NO. WRN-L-000378-24
Town of Phillipsburg Town Council,	:	
Defendant,	:	Civil Action
and	:	
Peron Construction, LLC,	:	ORDER
Defendant-Intervenor	:	

This matter having come before the court on the motion by Plaintiffs, David P. Morrisette and Sandra S. Morrisette, for an order permitting the Plaintiffs to take discovery in this matter as outlined in the letter brief filed herein April 4, 2025 in support of the motion to take discovery, and in consideration of the discussion at the Case Management Conference March 13, 2025, and the order issued, and it appearing that good cause has been shown,

It is on this 15th day of May, 2025,

ORDERED that the motion to permit discovery is granted, **in part**, and

IT IS FURTHER ORDERED that a Case Management Conference in this matter

will be held on Thursday, May 22, 2025, at 11:30 a.m. by Zoom; and it is further

ORDERED that the parties shall meet and confer to come up with a proposed schedule to accomplish the following discovery being ordered by the court:

- (i) all redevelopment designations, redevelopment agreements, and redevelopment plans that relate to Peron and Mr. Perrucci for this Site, and Council and land use board resolutions introducing or approving any aspect of Peron's involvement in redeveloping this Site.**
- (ii) Peron's agreements with other developers relating to development of this Site;**
- (iii) Any Council resolution or other action relating to consideration of termination of Peron, including but not limited to any Request for Proposals or other solicitations for a redeveloper to replace Peron. This would also include any studies conducted for or by the Council or land use board regarding market conditions or demand for the uses mandated for this Site in the Master Plan and the redevelopment plans. In other words, did the Council ever seriously consider terminating Peron?;**

IT IS FURTHER ORDERED that service of this Order shall be deemed effectuated upon all parties upon the upload to eCourts. Pursuant to Rule 1:5-1(a), a movant shall serve a copy of this Order on all parties not served electronically within seven days of the date of this Order.

~~ORDERED that a copy of this Order shall be deemed served on all attorneys of record via e-filing on the date set forth herein. Pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of the date of this Order.~~

Veronica Allende
Honorable Veronica Allende, J.S.C.

~~Motion to dismiss was~~

[] Unopposed

[X] Opposed.

Statement of Reasons

Plaintiffs move this court to permit discovery of this matter. This case was initiated on October 29, 2024. Plaintiffs' motion has been opposed by both Defendant Phillipsburg Town Council and Peron Construction. Plaintiffs filed a reply brief.

Plaintiffs filed this present motion for discovery on April 4, 2025. Plaintiffs' counsel certified that he communicated with opposing counsel prior to the court's March 13, 2025, case management conference, in which Plaintiffs' counsel requested that the court enter a case management order allowing discovery. Both the Town and Peron objected to this request. In the present motion, Plaintiffs seek discovery of the following, as indicated in its brief:

- (iv) all redevelopment designations, redevelopment agreements, and redevelopment plans that relate to Peron and Mr. Perrucci for this Site, and Council and land use board resolutions introducing or approving any aspect of Peron's involvement in redeveloping this Site.
- (v) Peron's agreements with other developers relating to development of this Site;
- (vi) Any Council resolution or other action relating to consideration of termination of Peron, including but not limited to any Request for Proposals or other solicitations for a redeveloper to replace Peron. This would also include any studies conducted for or by the Council or land use board regarding market conditions or demand for the uses mandated for this Site in the Master Plan and the redevelopment plans. In other words, did the Council ever seriously consider terminating Peron?;

- (vii) The law firm of Florio, Perrucci, Steinhardt, Cappelli and Tipton's tax returns and financial statements, in connection to Plaintiffs' claim that Mr. Perrucci is still connected with the firm. (Plaintiffs offer to enter into a non-disclosure agreement that includes provisions prohibiting Plaintiffs personally from seeing any of the discovered information and mandating all filings referencing the discovered information in redacted versions, with unredacted versions filed under seal);¹ and
- (viii) Communications between the Council members and Mr. Steinhardt, Mr. Perrucci, or the County Republican Committee, in connection to Plaintiffs' claim of disqualifying conflicts of interest.

On May 1, 2025, Defendant Phillipsburg Town Council opposed this motion on the grounds that: (i) Plaintiffs' request will slow down the adjudication of this matter; (ii) the documents that Plaintiffs request are irrelevant; and (iii) the requests are too vague and must be more specific. Defendant cites to Rule 4:10-2(a) and argues that Plaintiffs' requested discovery is not relevant to the subject matter in the pending action. Specifically, Defendant argues that Plaintiffs' discovery request "is clearly a fishing expedition for information related to Peron Construction's fitness as a redeveloper, Peron Construction's redevelopment plans, and information regarding the Council's strategy for redevelopment." Furthermore, Defendant argues that Plaintiffs' attempt to establish that Peron is unfit to be a redeveloper is not part of the pleadings. Additionally, Defendant contends that the conflict-of-interest claim "stems from political support by certain parties and certain legal representations by a law firm," and Plaintiffs' discovery request "would shed absolutely no light on those claimed conflicts." In the alternative, if the court grants Plaintiffs' motion for discovery, Defendant asks that Plaintiffs be

¹ During oral argument, and based on representations made by Peron's counsel, Plaintiff withdrew their request for this discovery.

required to provide an amended listing of topics and the mechanisms for such discovery, with court approval, as Defendant contends that the information sought in the current motion is overly broad and vague.

On May 1, 2025, Peron Construction filed an opposition, on the grounds that Plaintiff's discovery demand does not seek evidence that is relevant to the question presented in this lawsuit, and that there is no basis for Plaintiff to obtain the law firm's tax returns and financial statements, nor the communications between the council members and Mr. Steinhardt, Mr. Perrucci, or the Warren County Republican Committee, pursuant to Rule 4:10-2. Additionally, Peron argues that the sought after discovery is not reasonably calculated to lead to the discovery of admissible evidence, so Plaintiffs' motion should be denied on these grounds.

On May 6, 2025, Plaintiffs filed a reply brief, on the grounds that the sought out discovery is relevant because there is a logical connection between the proffered evidence and the issues in question. Additionally, Plaintiffs argue that Mr. Perrucci's relationship with the law firm is also relevant for discovery purposes, and Plaintiffs agree to cover this specific discovery by a protective order.

Rule 4:69-4 states the following regarding actions in lieu of prerogative writs:

The scope and time to complete discovery, if any, will be determined at the case management conference and memorialized in the case management order. At least five days in advance of the conference, each party shall submit to the managing judge a statement of factual and legal issues and an exhibit list.

Additionally, control of discovery in a prerogative writ action is left to the discretion of the trial judge, and discovery schedules to be determined by the judge on a case-by-case basis.

Rule 4:69-4, cmt. 5.1. Furthermore, Rule 4:10-2(a) states the following, in pertinent part:

Parties may obtain discovery regarding any matter, not privileged,

which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, electronically stored information, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

Here, the court finds that Plaintiff has demonstrated that part of the requested discovery is relevant to the subject matter involved in this pending matter—specifically, whether the Defendant Town Council acted arbitrarily and capriciously when the approved, yet again, another ordinance that permitted Peron Construction to develop the property at issue in this matter, after Peron Construction has been the redeveloper responsible for redeveloping the property for over 15 years with no redevelopment actually having occurred.

However, the court finds that Plaintiff's request for "Communications between the Council members and Mr. Steinhardt, Mr. Perrucci, or the County Republican Committee, in connection to Plaintiffs' claim of disqualifying conflicts of interest," while relevant to their disqualifying conflicts of interest claim, is too broad and not narrowly tailored to meet the specific need. Plaintiff may revise the request to be more specific and provide the revised request in writing no later than May 20, 2025, so that it can be discussed at the May 22 Case Management Conference.

The remainder of Plaintiff's request has been withdrawn.

Application is granted in part.

The proposed form of order has been modified with additional language added in bold face and/or other proposed language stricken.