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JUST BLOCK 112, LLC and HOBOKEN
WESTERN EDGE, LLC;

Plaintiffs,

v.

THE CITY OF HOBOKEN; RAVINDER
BHALLA, MAYOR OF THE CITY OF
HOBOKEN; THE CITY COUNCIL OF THE
CITY OF HOBOKEN; THE PLANNING
BOARD OF THE CITY OF HOBOKEN; and
THE CITY OF UNION CITY.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY
DOCKET NO.

Civil Action

COMPLAINT
IN LIEU OF PREROGATIVE WRITS
AND FOR OTHER RELIEF

Plaintiffs, Just Block 112, LLC (“JB112”) and Hoboken Western Edge, LLC (“HWE”) (together, “Plaintiffs”), by way of Complaint in Lieu of Prerogative Writs and for Other Relief, and by and through their undersigned counsel, allege and state as follows:

NATURE OF ACTION

1. This Action involves actions by the City of Hoboken (“Hoboken”), the City of Hoboken Planning Board (the “Planning Board”), the City of Union City (“Union City”), and certain of their respective officials, including Hoboken Mayor Ravinder Bhalla, to unlawfully deprive Plaintiffs of their contractual and constitutional rights related to a years-in-the making redevelopment project for the improvement of northwest Hoboken.

2. Plaintiffs are redevelopment entities who, among them, own real property located at 1300 Jefferson Street, otherwise known as Block 112, Lot 1 on the tax maps of Hoboken (“Block 112”) and 1200-1330 Madison Street, otherwise known as Block 106, Lot 1 on the tax maps of Hoboken (“Block 106”). Both Blocks 112 and 106 are within a redevelopment zone in the northwest of Hoboken’s city limits designated the “Western Edge Redevelopment Area.” Both Block 112 and Block 106 are zoned subject to the Western Edge Redevelopment Plan (“Redevelopment Plan”), which establishes site-specific zoning for these two parcels.

3. Since 2013, Hoboken negotiated and entered into a redevelopment plan and specific redevelopment contracts with Plaintiffs that permitted the express development of certain properties owned by Plaintiffs, and which contracts required Hoboken to cooperate in good faith toward the goal of obtaining regulatory approvals that would permit the redevelopment projects to proceed according to agreed-upon terms. However, after Plaintiffs had already committed extensive resources, expenses, time, and other prior concessions to the redevelopment projects, Hoboken and its mayor, Ravinder Bhalla, publicly repudiated these contracts and actively worked *against* the contractual obligations, which ultimately resulted in the denial of Plaintiff’s application for development by Hoboken’s Planning Board in order to obtain additional concessions from Plaintiffs.

4. Union City publically announced its intentions to challenge and attempt to limit the development of Plaintiffs’ properties as early as April of 2019, and has knowingly interfered with the contracts between Plaintiffs and Hoboken through improper means, as well as with Plaintiffs’ efforts to develop their property and to obtain their fully permitted approvals from the Planning Board. Union City’s improper interference is intended to prioritize the economic advantages of residents of Union City over the rights of Plaintiffs, their prospective tenants, and the low- and moderate-income housing that would be created by these inclusionary projects.

5. In disavowing Hoboken's contracts with Plaintiffs and ensuring that the Planning Board would deny Plaintiffs' constitutional due process and property rights, Mayor Bhalla and other Hoboken officials explicitly supported the interests of Union City to the detriment of Hoboken's legal obligations and improvements intended to aid Hoboken's own citizens.

6. The applicable agreements designating Plaintiffs or their affiliates as Redevelopers for portions of the Western Edge Redevelopment Area stated that the Redevelopment Plan and the projects in question were in the best interests of Hoboken and would result in substantial community benefits that Plaintiffs agreed to provide to Hoboken. The agreements for redevelopment by Plaintiffs were approved by the Hoboken City Council and Mayor Bhalla.

7. In order to incentivize Plaintiffs to commit to the community benefits and other terms for the redevelopment when negotiating agreements related to the Redevelopment Plan, Hoboken agreed to certain building heights at both Block 112 and Block 106 as part of the Redevelopment Plan. These building heights are material conditions necessary for Plaintiffs to agree to the other terms regarding the Redevelopment Plan, and necessary to create economically viable developments.

8. Hoboken represented to Plaintiffs through its contractual commitments that it would support completion of the Projects based on the terms in the applicable agreements between the Parties. The applicable agreements executed by Hoboken, including the August 10, 2020 Amended and Restated Redevelopment Agreement governing redevelopment of Block 112 (the "Block 112 Agreement") and the October 21, 2020 Redevelopment Agreement governing redevelopment of Block 106 (the "Block 106 Agreement," and collectively with other applicable agreements governing the Redevelopment Plan, the "Agreements") formally promise that Hoboken "shall fully cooperate with Redeveloper in obtaining all Governmental Approvals," which include necessary regulatory approvals required to move forward with the contractually

agreed terms in the Agreements, such as applications that should be properly approved by the Planning Board.

9. Despite making representations and contractual commitments regarding Hoboken's cooperation to Plaintiffs during negotiations and promising to support the bargained-for terms in the Agreements, Hoboken's officials had already agreed with Union City that the building heights that it had promised would not be approved, and had made written statements to Union City officials that Hoboken would not approve the specific building heights to which they subsequently agreed in the Agreements.

10. The commitment from Hoboken to Union City was bizarrely contemporaneous with the announcements from the Hoboken officials of a grand settlement between the City, Fair Share Housing Center, and the redevelopers for the development of Block 112, which expressly permitted the construction of the permitted building height and created significant community benefits.

11. Hoboken's officials were well aware that Union City opposed the promised building heights, based in part on public statements and correspondence from Union City setting forth that building at those heights could have negative effects on views from Union City to the New York City skyline and surrounding area. Nevertheless, Hoboken continued to represent to Plaintiffs that it would cooperate to ensure approval of the building heights negotiated in the Redevelopment Agreements that were objectionable to Union City, and apparently represented to Union City that such a building height would never be approved, in plain contravention of the Agreements.

12. In continuing to misrepresent that it would support the building heights permitted in the Agreements signed by Mayor Bhalla and approved by the Hoboken City Council, Hoboken's officials sought to induce Plaintiffs to commit to other beneficial terms in the Redevelopment

Agreements, including payments of nine million dollars to the city as Community Benefit Payments, contributions and construction of community benefits, including publicly accessible open space, and agreements by Plaintiffs to construct affordable housing as part of the Projects. Hoboken's officials knew that the agreed building heights were necessary for Plaintiffs to make the commitments in the Agreements, but intended to force additional concessions once resources had been expended and Plaintiffs had relied on the terms of the Agreements and proceeded further along with the projects.

13. With the Agreements and necessary provisions of the Redevelopment Plan to enable construction of the developments in place, Plaintiffs proceeded to submit the Application for the Preliminary and Final Site Plan with Variances for Block 112 to the Planning Board (the "Application"), approval of which was necessary for the successful progress of the Block 112 portion of the Redevelopment Plan. The variance relief sought in the Application related to the scope of signage on the buildings, and the elevation of a small portion of the residential lobby being two feet below the required design flood elevation. No variances for building coverage were required or requested.

14. Once the Application for Block 112 was before the Planning Board, Union City threatened to sue Hoboken and the Planning Board to prevent the agreed building height for Block 112. Union City's legal threats to the Planning Board were intended to cause Hoboken and the Planning Board to deny proper approvals for Block 112 in order to avoid a dispute, regardless of the fact that Hoboken had already contractually agreed to support approvals at the agreed building height or that Plaintiffs were entitled to approval based on their real property and due process rights. Union City's officials simultaneously pressured Hoboken's officials to use their influence with the Planning Board to ensure that Plaintiffs' well-supported regulatory applications would be denied.

15. As a result of Union City's concerns, after the Block 112 Application was before the Planning Board, Mayor Bhalla and Hoboken officials changed their stated position to Plaintiffs regarding the building heights in the Redevelopment Plan and Agreements and attempted to pressure Plaintiffs into additional concessions. The demands were made despite Hoboken having already negotiated and agreed to the terms in the Agreements, including the agreed building heights.

16. Hoboken's demands for additional concessions to lower the agreed building heights in the Redevelopment Plan and Agreements were not based on any legitimate legal issue, any other deficiencies with the Block 112 Applications, or any legitimate restrictions affecting the Block 106 Agreement, but rather were openly stated to be required by Hoboken in order to satisfy Union City and to benefit the interests of Union City.

17. Even though Hoboken had contractually agreed to cooperate with Plaintiffs and to support regulatory approval for the Redevelopment Plan, on or about July 1, 2021 Mayor Bhalla and other spokespersons for Hoboken made public statements that Plaintiffs' redevelopment projects would not be approved as long as the terms in the Redevelopment Plan and the Agreements remained in place.

18. In their public statements, Mayor Bhalla and other Hoboken officials falsely stated that Plaintiffs had agreed to reduce agreed building heights, even though Plaintiffs had not agreed to any concessions and, in fact, considered the additional demanded concessions to be materially damaging to the goals of the Redevelopment Plan and financially incompatible with the terms of the Parties' Agreements.

19. After Mayor Bhalla and other Hoboken officials openly stated that Hoboken would not comply with the terms of the Parties' Agreements, the Planning Board denied the Application submitted by JB112 for Block 112.

20. Following this public statements by Hoboken, the Board's professional engineer, Chris Nash, issued a review letter the morning of August 3, 2021, raising for the first time an allegation of lot coverage issues, despite the review by Hoboken determining that no relief was necessary from the Redevelopment Plan and allowing the application to proceed.

21. On August 3, 2021, despite compliance with the terms and conditions of the Redevelopment Plan, a narrow majority of the Planning Board voted to deny the Application (the "Resolution of Denial").

22. The resultant findings in the Resolution of Denial do not accurately reflect the bases stated at the hearing for the denial of the Application. Moreover, the Resolution of Denial was not based on any legitimate interpretation of the Redevelopment Plan, ordinance, or other valid legal grounds. This arbitrary and unreasonable denial of the Application furthered Mayor Bhalla's stated goal that no project would be approved that was not acceptable to the interests of Union City.

23. Contrary to the terms of the Agreements and the implied covenant of good faith and fair dealing in the Agreements, Hoboken has continued to use its opposition to the Application, the Resolution of Denial, and threats of future denials of applications for redevelopment of Block 106 as leverage to pressure concessions on both the terms of the Block 112 Agreement and the Block 106 Agreement.

24. In ensuring that proper approvals for the Block 112 Project would be denied and issuing false public statements regarding negotiations over the Redevelopment Plans for both Block 112 and Block 106, Mayor Bhalla and other Hoboken officials have actively repudiated the terms of the existing contracts in an effort to force unlawful concessions when negotiating terms for Block 106, in addition to Block 112.

25. The Planning Board's Resolution of Denial was arbitrary, capricious, or otherwise unreasonable, fails to have any lawful basis, and has denied JB112 of due process rights and its contractual rights to develop the Property in a manner consistent with the Redevelopment Plan and Agreements.

26. In orchestrating the Planning Board's denial of the Application and threatening denial of future applications, Hoboken has repudiated or otherwise breached both the express terms of the Agreements and the implied covenant of good faith and fair dealing in the Agreements.

27. The actions taken by Hoboken to deny the agreed upon terms of the Redevelopment Plan also harmed affordable housing goals contained in the Agreements, as well as the obligations enshrined in regulation, statute and case law to create realistic and economically viable opportunities for the construction of inclusionary housing. Hoboken was aware, and aggressively negotiated for, the obligation to provide inclusionary housing within the two developments and also to create additional affordable housing through development of housing for homeless military veterans at the American Legion Hoboken Post 107 property. The terms of the affordable housing provisions in the Agreements had been based on the specific terms that Hoboken falsely represented that it would support, but that it has sought to actively undermine through its unlawful commitments to Union City. The Resolution of Denial and subsequent attempts by Hoboken to pressure further concessions from Plaintiffs have frustrated the ability for the affordable housing provisions in the Agreements to be accomplished.

28. This action contains claims in lieu of prerogative writs by which Plaintiffs seek an order *(i)* declaring the Resolution of Denial to be improper, invalid, unlawful, arbitrary, capricious, null and void, unconstitutional, and of no force and effect; *(ii)* rescinding the Resolution of Denial and directing the Planning Board to issue an approval of the permitted, as of right development;

and (iii) awarding injunctive and such other appropriate relief pursuant to 42 U.S.C. § 1983 and N.J.S.A. 10:6-2.

29. This action also seeks other relief against Hoboken based on its explicit breach of the Agreements requiring cooperation in supporting proper approvals for the terms of the Agreements, as well as injurious false statements regarding Plaintiffs' commitment to amending the Agreements in a way that would absolve Hoboken and its officials of their misrepresentations and breaches.

30. This action also seeks relief from Union City based on its tortious interference with the Agreements, as evidenced by the letter agreement between Hoboken and Union City, and tortious interference with other economic advantages and rights of Plaintiffs. Union City's actions to pressure Hoboken and the Planning Board to deny the Application were asserted solely to advantage the economic interests of Union City's residents over the economic, contractual, and constitutional interests of Plaintiffs, the economic and social interests of Hoboken, and the interests of other third parties—including low- and moderate-income families, who would benefit from the Projects as defined in the Redevelopment Plan and the Agreements.

THE PARTIES

31. Plaintiff JB112 is a limited liability company authorized to do business in the State of New Jersey, with offices at 1414 Grand Street, Suite 204, Hoboken, New Jersey 07030. JB112 is the owner of the Block 112 site and is a party to the Block 112 Agreement.

32. Plaintiff HWE is a limited liability company authorized to do business in the State of New Jersey, with offices at 1414 Grand Street, Suite 204, Hoboken, New Jersey 07030. HWE is the owner of the Block 106 site and is a party to the Block 106 Agreement.

33. Defendant Hoboken has its principal place of business at 94 Washington Street, Hoboken, New Jersey 07030 and is a municipality organized under the laws of the State of New Jersey. Hoboken is party to both the Block 112 and Block 106 Agreements.

34. Defendant Bhalla is the current Mayor of the City of Hoboken, having an address of 94 Washington Street, Hoboken, New Jersey 07030.

35. Defendant City Council has its principal place of business at 94 Washington Street, Hoboken, New Jersey 07030 and is the duly elected governing body for Hoboken.

36. The Planning Board has its principal place of business at 94 Washington Street, Hoboken, New Jersey 07030 and is a duly appointed governing body for Hoboken organized pursuant to N.J.S.A. 40:55D-23.

37. Defendant Union City has its principal place of business at 3715 Palisade Avenue, Union City, NJ 07087 and is a municipality organized under the laws of the State of New Jersey.

JURISDICTION AND VENUE

38. This Court has jurisdiction to hear an action that includes claims in lieu of prerogative writs pursuant to N.J.S.A. 10:4-15.

39. All contract and tort causes of action set forth in this Complaint arise under the laws of the State of New Jersey.

40. The acts and omissions set forth in this Complaint occurred in the State of New Jersey (including Hudson County) and were intended to harm Plaintiffs in the State of New Jersey (including Hudson County).

FACTS COMMON TO ALL COUNTS

Historical Background of The Western Edge Redevelopment Projects

41. The Western Edge Redevelopment Area is located in northwest Hoboken, designated in the Redevelopment Plan as the zone between Block 92, Lots 1.01 and 1.02, Block 106, Lot 1, and Block 112, Lot 1 on the Tax Map of the City of Hoboken.

42. The Western Edge Redevelopment Area was originally designated in 2007, but a plan was not introduced until August, 2015.

43. Historically, the area comprising the Western Edge Redevelopment Area and surrounding blocks have been principally used for industrial activity and transportation warehousing. The Properties had traditionally been developed with large industrial warehouses, and remain so today. This led to the designation of the area as one in need of redevelopment in 2007 by the City Council.

44. By Ordinance on August 5, 2015, the City adopted the original Redevelopment Plan. The Redevelopment Plan sets forth the plans and regulations for the development of real property within the Western Edge Redevelopment Area. The Redevelopment Plan has been amended by subsequent ordinances to expressly permit the proposed developments by Plaintiffs.

45. The Redevelopment Plan is a superseding plan, meaning that the terms and conditions thereof supersede any other municipal regulations regarding the development, unless same are expressly incorporated therein.

History of Plaintiffs as Partners in the Redevelopment Plan

46. Plaintiffs and Hoboken initially began discussions over redevelopment within the Western Edge Redevelopment Area in 2012, and acquired the Properties contemporaneously.

47. Plaintiffs had previously sought to develop Block 112 with a mixed-use development by way of an application for development before the Zoning Board of Adjustment in 2013, which resulted in a denial.

48. As a result of that Zoning Board of Adjustment denial, discussion began on how to advance the applicable Redevelopment Plan for the properties that had been designated as an area in need of redevelopment in 2007.

49. The original Redevelopment Plan as adopted in 2015 permitted building heights up to 116 feet above design flood elevation for residential mixed use buildings and up to 126 feet for non-residential mixed use buildings. Plaintiffs and Hoboken continued to discuss building heights as material issues during amendments to the Redevelopment Plan and in negotiating the Agreements that set forth in greater detail Plaintiffs' and Hoboken's respective undertakings, rights and obligations in connection with the development of Block 112 and Block 106.

50. In October 2015, JB112 submitted a Pre-Submission Form to the City seeking to be designated as the Redeveloper of the project site for Block 112.

51. In August 2016, HWE submitted a Pre-Submission Form to the City seeking to be designated as the Redeveloper of the project site for Block 106.

The Redevelopment Agreements

The Block 112 Agreement

52. On July 6, 2016, after considering the preliminary proposal for redevelopment provided by JB112, Hoboken, by Resolution of its City Council, entered into an Interim Cost and Conditional Designation Agreement (the "Block 112 Interim Cost Agreement") conditionally

designating JB112 as the Redeveloper of the Project Site. By Resolution of the City Council dated February 22, 2017, the Block 112 Interim Cost Agreement was extended.

53. After the Block 112 Interim Cost Agreement was approved, Hoboken and JB112 then negotiated and entered into a Redevelopment Agreement (the “Original Block 112 Agreement”). The Original Block 112 Agreement was approved by Resolution of the City Council, dated April 17, 2019.

54. The Original Block 112 Agreement included provisions for two (2) buildings: a residential building comprising two connected structures and a full service and extended stay hotel, including commercial and retail space, with on-site parking and public open space. The project permitted up to 207 residential units, and a 281 key hotel, at a Building Height of 116 feet above design flood elevation for residential units and 166 feet above design flood elevation for the hotel.

55. Following the execution of the Original Block 112 Agreement, Hoboken offered to provide additional height to JB112 in exchange for certain community benefit payments related to a proposed community pool or stormwater improvements necessary within the Western Edge Redevelopment Area.

56. As part of such negotiations, Hoboken approved an ordinance that amended the Redevelopment Plan to, among other things, provide additional negotiated height for residential mixed-use buildings up to 186 feet above design flood elevation and non-residential mixed-use buildings up to 196 feet above design flood elevation in exchange for community benefit payments related to a pool, and to have no affordable housing set-aside required for such additional height.

57. Hoboken was sued by Fair Share Housing Center regarding this ordinance in litigation styled *Fair Share Housing Center v. City of Hoboken et al.*, Docket No. HUD-L-1991-20. JB112 was named as a necessary party based on its role as the redeveloper.

58. JB112 and Fair Share Housing Center promptly entered discussions to address the affordable housing needs of Hoboken and memorialized a consent settlement dated July 31, 2020 between JB112, Hoboken, and Fair Share Housing Center. The consent settlement required a 10% set-aside for affordable housing as part of any projects in the Western Edge Redevelopment Area, as part of Ordinance B-285.

59. Ordinance B-285 was adopted by the City Council on July 29, 2020.

60. The next day, Hoboken announced publicly that it had resolved the *Fair Share Housing Center* litigation, lauding the creation of affordable housing through the proposed project and the contributions for community benefit payments and stormwater retention required by the proposed Redevelopment Agreement.

61. On August 10, 2020, by approval of its City Council, Hoboken entered into an Amended and Restated Redevelopment Agreement governing JB112's continued redevelopment of Block 112, which was further amended January 14, 2021 (the "Block 112 Agreement").

62. The Block 112 Agreement states that it is intended to further the Redevelopment Plan adopted by Hoboken city ordinance on August 5, 2015 and as amended to date. This latest version of the Block 112 Agreement continues and contains provisions to replace previous agreements beginning with an Original Block 112 Agreement.

63. The residential building component of the Block 112 Agreement allows for three (3) towers of varying heights but subject to a Building Height of no higher than 184 feet above design flood elevation, which is exclusive of a twenty-two foot rooftop amenity area permitted under the Redevelopment Plan.

64. The Block 112 Agreement contains detailed provisions in Section 2.2 for the scope and implementation for the redevelopment of the Block 112 site. These provisions include the size of the buildings to be constructed, including a maximum allowable building height. The terms

for the scope and implementation of the redevelopment were extensively negotiated and reflected the bargained-for terms acceptable to the parties. The Block 112 Agreement states that the Scope and Implementation of the Block 112 redevelopment project are consistent with the Redevelopment Plan approved by the City Council.

65. Among its Scope and Implementation provisions, the Block 112 Agreement contains provisions for “a Residential Building consisting of three (3) towers of varying heights...and a Hotel which shall be LEED-certified as set forth in the Redevelopment Plan.”

66. The Block 112 Agreement requires Hoboken to cooperate fully with JB112 to achieve the goals of the Redevelopment Plan and the Block 112 Agreement, including with JB112’s efforts to obtain necessary regulatory approvals by the Planning Board.

67. Specially, Section 2.3 of the Block 112 Agreement states that Hoboken “shall fully cooperate with Redeveloper in obtaining all Governmental Approvals.”

68. Section 2.13 of the Block 112 Agreement requires the parties to “fully cooperate with each other as necessary to complete and implement the Project, including the good faith negotiation of any additional agreements that may be required in order to effectuate the goals and objectives of this Agreement, and any Amendment thereto, provided however, that such actions shall not result in a material increase in the Parties’ respective obligations hereunder or a material decrease in the Parties’ respective rights hereunder.”

69. Among Hoboken’s Covenants in Section 7.5 of the Block 112 Agreement, Hoboken “agrees to reasonably cooperate with the Redeveloper's efforts to complete and submit any necessary Governmental Application and with Redeveloper’s efforts to obtain any of the necessary Governmental Approval(s), provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s).”

70. Section 8.1 of the Block 112 Agreement states that “Governmental Approvals necessary or otherwise desired by Redeveloper for each of the Residential Building phase of the Project and the Hotel phase of the Project, on terms and conditions that are satisfactory to Redeveloper” is a Condition Precedent to Block 112’s obligations under the Block 112 Agreement. Section 8.1 further states that Hoboken and Block 112 “shall proceed diligently and in good faith to satisfy the following Conditions Precedent and each shall cooperate with the other in connection therewith.”

71. Section 14.1(2)(b) of the Block 112 Agreement states that it shall be an Event of Default by Hoboken if Hoboken “fails to reasonably cooperate with the Redeveloper's efforts to complete and submit any necessary Governmental Application or if the City fails to reasonably cooperate with the Redeveloper’s efforts to obtain any of the necessary Governmental Approval(s), provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s) and providing that the City’s cooperation is: (a) a requirement of such application or approval or could otherwise assist in the timely approval of the Project, and (b) requested in writing by Redeveloper.” Section 14.2(1) further states that, upon an Event of Default by Hoboken, Block 112 “may take whatever action, at law or in equity, it may deem desirable, including the pursuit of damages, except any consequential damages, or the Redeveloper may institute such proceedings as may be necessary or desirable in its discretion to cure and remedy such Event of Default, including, but not limited to, proceedings to compel specific performance by the City.”

72. Section 14.1(2)(a) states that it shall be an Event of Default by Hoboken if the City Council, as the Governing Body of Hoboken, adopts any amendment to the Redevelopment Plan that is materially inconsistent with the Block 112 Agreement, such that the amendment “would materially render the Project or any material portion thereof a prohibited use or where such

amendment(s) to the Redevelopment Plan would materially affect the marketability or feasibility of the Project.”

The Block 106 Agreement

73. On December 20, 2017, after considering the preliminary proposal for redevelopment provided by HWE, Hoboken, by Resolution of its City Council, entered into an Interim Cost and Conditional Designation Agreement (the “Block 106 Interim Cost Agreement”) conditionally designating HWE as the Redeveloper of the Project Site. The Block 106 Interim Cost Agreement was subsequently extended.

74. After the Interim Cost Agreement was approved, Hoboken and HWE then negotiated and entered into the Block 106 Agreement. The Block 106 Agreement was approved by Resolution of the City Council and went into effect October 21, 2020.

75. The Block 106 Agreement contains detailed provisions in Section 2.2 for the Scope and Implementation for the redevelopment of the Block 106 site. These provisions included the size of the buildings to be constructed, including a maximum allowable building height. The terms for the scope and implementation of the redevelopment were extensively negotiated and reflected the bargained-for terms acceptable to the parties. The Block 106 Agreement states that the Scope and Implementation of the Block 106 redevelopment project are consistent with the Redevelopment Plan approved by the City Council.

76. Among its provisions, the Block 106 Agreement contains provisions for “two (2) mixed-use residential buildings upon the Block 106 site, which may be subdivided as set forth herein, containing a collective total of approximately 1,593,040 square feet, comprising no more than seven hundred and one (701) residential units, and the provision of Affordable Housing Units in accordance with Applicable Laws, as well as no less than five hundred and twenty-six (526)

parking spaces; rooftop pools, decks and other such residential amenities; office and retail components; and certain publicly accessible open space comprising a portion of the Linear Park.”

77. The Block 106 Agreement requires Hoboken to cooperate fully with HWE to achieve the goals of the Redevelopment Plan and the Block 106 Agreement, including with HWE’s efforts to obtain necessary regulatory approvals by the Planning Board.

78. Specially, Section 2.4 of the Block 106 Agreement states that Hoboken “shall fully cooperate with Redeveloper in obtaining all Governmental Approvals.”

79. Section 2.16 of the Block 106 Agreement requires the parties to “fully cooperate with each other as necessary to complete and implement the Project, including the good faith negotiation of any additional agreements that may be required in order to effectuate the goals and objectives of this Agreement, and any Amendment thereto, provided however, that such actions shall not result in a material increase in the Parties’ respective obligations hereunder or a material decrease in the Parties’ respective rights hereunder.”

80. Among Hoboken’s Covenants in Section 6.5 of the Block 106 Agreement, Hoboken “agrees to reasonably cooperate with the Redeveloper's efforts to complete and submit any necessary Governmental Application and with Redeveloper’s efforts to obtain any of the necessary Governmental Approval(s), provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s).”

81. Section 7.1 of the Block 106 Agreement states that “Governmental Approvals necessary or otherwise desired by Redeveloper for each of the Residential Building phase of the Project and the Hotel phase of the Project, on terms and conditions that are satisfactory to Redeveloper” is a Condition Precedent to HWE’s obligations under the Block 106 Agreement. Section 7.1 further states that Hoboken and HWE “shall proceed diligently and in good faith to

satisfy the following Conditions Precedent and each shall cooperate with the other in connection therewith.”

82. Section 13.1(2)(b) of the Block 106 Agreement states that it shall be an Event of Default by Hoboken if Hoboken “fails to reasonably cooperate with the Redeveloper's efforts to complete and submit any necessary Governmental Application or if the City fails to reasonably cooperate with the Redeveloper’s efforts to obtain any of the necessary Governmental Approval(s), provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s) and providing that the City’s cooperation is: (a) a requirement of such application or approval or could otherwise assist in the timely approval of the Project, and (b) requested in writing by Redeveloper.” Section 13.2(1) further states that, upon an Event of Default by Hoboken, HWE “may take whatever action, at law or in equity, it may deem desirable, including the pursuit of damages, except any consequential damages, or the Redeveloper may institute such proceedings as may be necessary or desirable in its discretion to cure and remedy such Event of Default, including, but not limited to, proceedings to compel specific performance by the City.”

83. Section 13.1(2)(a) states that it shall be an Event of Default by Hoboken if the City Council, as the Governing Body of Hoboken, adopts any amendment to the Redevelopment Plan that is materially inconsistent with the Block 112 Agreement, such that the amendment “would materially render the Project or any material portion thereof a prohibited use or where such amendment(s) to the Redevelopment Plan would materially affect the marketability or feasibility of the Project.”

Promises Made by Plaintiffs to Secure Terms of Redevelopment Agreements

84. The Agreements acknowledge that they were the result of “extensive negotiations” between the parties. As part of the negotiated terms, the Agreements required many promises and concessions by Plaintiffs in order to secure necessary redevelopment rights.

85. For example, as part of the Block 112 Agreement, JB112 is required to (among other obligations):

- (a) provide a \$3 million Community Benefit Payment to Hoboken, potentially to be used toward a community pool and recreation center or improvement of nearby parks;
- (b) incorporate certain sustainable elements beneficial to the community, including flood-mitigation, and construct certain portions of the redevelopment according to LEED Silver standard;
- (c) provide no less than 5,234 sq. ft. of public space for the use and enjoyment of the community;
- (d) improve infrastructure on site and off, including repaving the surrounding roadways, at no cost to Hoboken;
- (e) construct the residential units made up of at least 10% Affordable Housing, as determined by Hoboken's Affordable Housing ordinance, including seventeen units for homeless veterans, and assume the costs and obligations of settling litigation related to affordable housing brought by the Fair Share Housing Center (FSHC); and
- (f) guarantee construction of other specific provisions in the redevelopment intended to improve the community.

86. Similarly, as part of the Block 106 Agreement, HWE is required to (among other obligations):

- (a) provide up to a \$6 million Community Benefit Payment to Hoboken;
- (b) incorporate certain sustainable elements beneficial to the community, including flood-mitigation, and construct certain portions of the redevelopment according to LEED Silver standard;

(c) provide no less than 40,000 sq. ft. of public space for the use and enjoyment of the community, to include an improvement of a Linear Park within the public space at no cost to Hoboken;

(d) improve infrastructure on site and adjacent at no cost to Hoboken; and

(e) guarantee construction of other specific provisions in the redevelopment intended to improve the community.

87. The Agreements also contain provisions for the construction of significant affordable housing both on and off site. As part of both the Block 112 and Block 106 Agreements, Plaintiffs must construct residential units for the sites to be made up of at least 10% Affordable Housing, as determined by Hoboken's Affordable Housing ordinance, or otherwise provide affordable housing off-site.

88. The Block 112 Agreement further acknowledges that, in addition to providing affordable housing units on site as part of the redevelopment, JB112 has also assumed the costs and obligations of settling litigation related to Affordable Housing brought by the Fair Share Housing Center (FSHC).

89. The Redevelopment Plan and Block 112 Agreement's updated provisions for affordable housing include specific provisions for the creation of housing of homeless veterans, in partnership with American Legion Hoboken Post 107, which plans have been recently approved by the Zoning Board of Adjustment.

90. As acknowledged in the Agreements, the promises made by Plaintiffs represented significant and material costs, which are offset by the height and density of development permitted by the Agreements.

91. The benefits of the terms granted to Plaintiffs as redevelopers in the Agreements, and the financial viability Plaintiffs' interests in bearing costs of redevelopment are based on

achieving the bargained-for terms promised by Hoboken in the Agreements. In fact, the permitted heights were specifically granted as “bonus arrangements” based on Plaintiffs’ satisfaction of other terms for the Redevelopment Plan and in the Agreements.

92. The building sizes and heights permitted in the Redevelopment Plan and in the Agreements were material elements necessary to obtain Plaintiffs’ obligations for substantial community benefits in the Agreements. Hoboken, and particularly Mayor Bhalla, have publicly lauded the benefits of these developments.

Interference from Union City

93. The Western Edge Redevelopment Area borders the Palisades, a line of hills that at this point partially runs along the border between Hoboken and Union City. Union City is located on the higher elevation atop the Palisades, while the Western Edge Redevelopment Area and Hoboken are at the base of the Palisades.

94. Views from the Palisades in Union City over the Western Edge Redevelopment Area and Hoboken include views of the New York City skyline and surrounding areas. Union City considers this view shed to be an economic asset to Union City, resulting in increased tax revenue and other municipal benefits.

95. When it became aware that the Redevelopment Plan could involve construction of buildings at elevations that would rise above the line of the Palisades, Union City, through its officials, expressed concerns to Hoboken and its officials to the construction of any building that might cause a partial obstruction of views from Union City.

96. Hoboken informed Plaintiffs regarding Union City’s concerns in April 2020, after certain permitted building heights were set in the Redevelopment Plan and earlier versions of the Block 112 Agreement, but prior to the execution of the current Block 112 Agreement.

97. Also in April 2020, Union City Mayor Brian Stack made public statements that Union City would engage in litigation to seek to prevent the building heights in the Redevelopment Plan.

98. When objecting to the building heights in the Redevelopment Plan and the Agreements, Union City and its officials knew that the Agreements (including their original and amended versions) contractually obligated Hoboken to support the building heights permitted in the Redevelopment Plan and in the Agreements, including by cooperating toward the goal of Plaintiffs' obtaining any Governmental Approvals for the redevelopments described in the Agreements.

99. Union City does not have a valid legal basis to prevent the building height permitted in the Agreements. However, Union City threatened Hoboken with litigation if Hoboken did not breach its contractual obligations by undermining the Redevelopment Plan and related Agreements to which Hoboken had agreed. These litigation threats were intended to intimidate Hoboken into blocking the agreed building heights in the Redevelopment Plan in order to avoid a dispute with Union City and its Mayor and State Senator Stack.

100. In response to the concerns expressed by Union City, Plaintiffs retained a new architect to redesign structures involved in the Redevelopment Plan. The redesigns were significant, reducing the structures from three to two, decreasing the overall building height (which required reductions in service areas and apartment size), and positioning structures so that views from buildings in Union City that were of particular concern would not be blocked.

101. In the spring and summer of 2020, Plaintiffs also commissioned studies involving drone footage and other technical assessments to assess the potential effects on views from the building redesigns. The studies demonstrated that the revised building heights in the

Redevelopment Plan would not obstruct the views about which Union City had expressed concerns.

102. Plaintiffs presented their studies to Union City in the summer of 2020, and were advised by Hoboken that the issues had been resolved, which allowed the negotiation of the Block 112 and Block 106 Agreements to proceed.

103. Plaintiffs later learned that Mayor Stack (as a New Jersey state senator) had prepared and introduced state legislation known as the “Palisades Cliff Protection Act,” which intended to prevent the planned building heights within developments east of the Palisades, in order to protect “the unique views enjoyed by residents who live in the historic neighborhoods above those cliffs.” Such legislation is specifically targeted to limit the height of the proposed developments on Blocks 106 and 112 and to prevent these projects from being economically viable.

104. When responding to objections from Union City at this time, Mayor Bhalla and Hoboken privately assured Union City that they would ultimately not permit a building height above the Palisades that would be objectionable to Union City. These assurances were not based on any justification regarding benefits to Hoboken citizens, views from buildings in Hoboken, or Hoboken’s economic development and affordable housing goals, but were instead only made based on the stated goal of keeping Union City and its officials satisfied that their own interests were protected.

105. Despite these private assurances to Union City that the building heights in the Redevelopment Plan above the Palisades would not be permitted, Hoboken continued to negotiate with JB112 on an amended Block 112 Agreement that would confirm the Redevelopment Plan and explicitly permit building heights above those objected to by Union City.

106. The Block 112 Agreement, executed and approved by the Mayor and Hoboken City Council well after extensive discussions regarding Union City's concerns, provides for building height up to 184 feet above design flood elevation. Hoboken maintained in all respects that it would seek to fully support the terms of the Block 112 Agreement, and lauded the proposed development as a huge win for the City of Hoboken and its residents.

107. However, although Hoboken's officials agreed to these provisions when negotiating the Block 112 Agreement, they continued to privately assure Union City that they would actively work against the terms of Block 112 Agreement to ensure that approvals for the specifications in the Block 112 Agreement would not be approved. Specifically, Hoboken officials assured Union City officials that the building height permitted by the Block 112 Agreement would not be approved, whether by the Planning Board or other municipal entities.

108. Meanwhile, Plaintiffs continued to attempt to engage Union City on the issue to demonstrate the success in achieving a design that would minimize concerns about obstructed views. However, in April 2021 Hoboken informed Plaintiffs that Union City would now not be satisfied with any building height greater than 116 feet above design flood elevation.

109. A building height restriction at 116 feet would materially disrupt the Redevelopment Plan and make the projects financially unviable for Plaintiffs, effectively precluding any possibility of advancing the objectives of the Redevelopment Plan and the Agreements.

110. Even if Union City were correct that the permitted building height would potentially obstruct views from Union City, demands for reduction in building height are intended simply to benefit Union City at the expense of significant neighborhood improvements, affordable housing development (including for homeless veterans) and community benefits in Hoboken.

Block 112 Submits Application to the Planning Board

111. After the Block 112 Agreement was in place, JB112 proceeded to submit the Application to the Planning Board.

112. The Application and approval by the Planning Board was a requirement specifically highlighted in the Block 112 Agreement as a “Government Approval.”

113. The Application was compliant with the Redevelopment Plan, the Block 112 Agreement, and applicable laws, ordinances, and rules in all respects. Block 112 diligently worked to submit a complete and properly supported Application.

114. The Application was originally submitted in January of 2021.

115. On February 16, 2021, the City of Hoboken issued a Final Technical Review memorandum ahead of a hearing on February 18, 2021 of the Planning Board’s Subdivision and Site Plan Review Committee. The Final Technical Review required the City to determine whether any variance relief was necessary from the Plan, or if the submission was conforming to the Redevelopment Plan and Redevelopment Agreement.

116. This memorandum copied counsel for Union City directly, prior to any formal notice of appearance by the City of Union City, evidencing on-going improper communications between Union City and Hoboken without any notice to JB112.

117. The memorandum made no mention of any issues related to building coverage.

118. Immediately thereafter, Union City entered a formal objection before the Planning Board to any determination of completeness for the Application, referencing the Final Technical Review memorandum.

119. After nearly a month of discussions with representatives of the City regarding consistency of the Application, the Application was ultimately deemed administratively complete on March 9, 2021, based on a revised Final Technical Review memorandum that determined that

no relief was necessary from the Redevelopment Plan itself, and scheduled for a hearing before the Planning Board.

120. An initial public hearing on the Application was held by the Planning Board on May 4, 2021. Union City, through counsel, submitted a letter to the Planning Board for the May 4, 2021 meeting objecting to the Application based on assurance provided to Union City by Mayor Bhalla that Hoboken would not approve any redevelopment agreement with a building height unacceptable to Union City. Union City further stated that it would be filing a legal complaint that would deprive the Planning Board of jurisdiction to hear the Application, although this threat went unfulfilled.

Mayor Bhalla and Hoboken Reverse Course and Repudiate the Agreements

121. Following the objections by Union City at initial public hearings, Hoboken sought to pressure Plaintiffs to renegotiate the Block 112 Agreement.

122. During meetings to discuss potential amendments to the Redevelopment Plan and Block 112 Agreement, Mayor Bhalla and other Hoboken officials attempted to pressure Plaintiffs into accepting a further reduction in building height without adequate consideration as compensation to amend the existing Block 112 and Block 106 Agreements in a way that would be detrimental to Plaintiffs.

123. When meeting with Plaintiffs, Mayor Bhalla and Hoboken officials explicitly stated that approval would not be granted for any site plan application submitted by Plaintiffs without an agreement to reduce the building height. These statements were made despite Hoboken's contractual agreement to act in good faith to support the goals of the Redevelopment Plan and the Agreements, and to cooperate in securing any Government Approvals, including (and in particular) the Planning Board's approval of the Application.

124. Plaintiffs maintained that no amendment to the Agreements to reduce the building heights to levels acceptable to Union City would be financially viable and consistent with the goals of the Redevelopment Plan and Agreements, particularly given the many community benefits required of Plaintiffs.

125. Hoboken did not offer to exchange reasonable consideration for obtaining the amendments that it demanded to the Agreements, but instead threatened control of Planning Board approval as leverage to force additional concessions from Plaintiffs after Plaintiffs had previously agreed to redesign the buildings to reduce the height and had already agreed to the existing terms.

126. Mayor Bhalla and Hoboken explicitly stated that their position would be aligned exactly with Union City, despite Hoboken's covenants and other contractual obligations to cooperate toward approval and success of the Redevelopment Plan.

127. When attempting to pressure further concessions from Plaintiffs in negotiations, Mayor Bhalla further implied his ability to control the ultimate decision of the Planning Board. Mayor Bhalla explicitly stated that JB112's pending Application would not be approved as submitted, and that Mayor Bhalla and Hoboken would void the Block 112 Agreement if the Application were approved.

128. In applying pressure related to the demanded amendments and pending Application on Block 112, Mayor Bhalla and Hoboken also sought to apply pressure to manipulate negotiations over subsequent amendments to the Block 106 Agreement.

129. In certain public statements following these discussions, including in statements made to the media on or about July 1, 2021, Mayor Bhalla publicly stated that JB112 had provided a commitment that the Block 112 Agreement would be amended to reduce the building height.

130. These statements were false. JB112 had not committed to any amendments to the Redevelopment Plan and Block 112 Agreement, and, on the contrary, had stated that no

amendments would be granted without reasonable compensation for the losses that would be sustained by JB112 as the result of these amendments.

131. Mayor Bhalla and Hoboken knew that the statements were false when they were made.

132. Mayor Bhalla and Hoboken made the statements for the improper purpose of asserting public pressure on Plaintiffs as a negotiating tactic, intended to injure Plaintiffs by forcing Plaintiffs to amend the Redevelopment Plan and Agreements without compensation after Hoboken had already secured significant benefits and concessions when negotiating the Agreements.

133. In their statements to the media, Mayor Bhalla and Hoboken also expressly stated that they would rescind Hoboken's obligations under the Agreements, despite there being no basis for rescission or unilateral amendment of the Agreements.

134. Mayor Bhalla went on to thank Mayor Stack and Union City expressly "for working with us as we strike the right balance of community-sensitive development and improve the quality of life for Hoboken and Union City residents."

135. When asked by media to respond to Mayor Bhalla's and Hoboken's false statements, Plaintiffs categorically denied that any commitments had been made to amend the Redevelopment Plan and Redevelopment Agreements and responded that Mayor Bhalla's and Hoboken's statements were false.

136. In making both the private statements that the Planning Board would be directed to deny the Application and the injurious false public statements to maneuver Plaintiffs into uncompensated amendments, Mayor Bhalla and Hoboken breached or otherwise repudiated the Agreements by violating the provisions in the Agreements requiring good faith and cooperation by Hoboken in achieving Government Approvals for the terms of the Redevelopment Plan and the Agreements.

137. In stating that Hoboken would rescind Hoboken's obligations in the Agreements, Mayor Bhalla and Hoboken also committed an anticipatory breach of the Agreements by expressly stating that they did not intend to comply with them.

Review by Planning Board and Further Breaches and Interference of Contract

138. Despite Hoboken's position repudiating the Redevelopment Plan and the Block 112 Agreement, JB112 proceeded with its Application on Block 112. Additional hearings on the Application were held July 6, 2021 and August 3, 2021.

139. As part of the Application submission and at the public hearings, JB112 presented extensive support for the Application. JB112 presented sworn and qualified testimony from a professional architect, a professional engineer, a traffic expert, and a professional planner to support the application.

140. As part of its Application, JB112 requested variances for proposing a portion of a building lobby two feet below the permitted design flood elevation and for oversized signage.

141. Plaintiffs and Hoboken continued to engage in discussions to attempt to resolve their dispute. In addition to amendments to the Block 112 Agreement, the parties discussed potential impacts to the Block 106 Agreement.

142. Throughout the additional discussions, Mayor Bhalla and Hoboken repeatedly emphasized that they would not accept any outcome that was not also acceptable to Union City, and that the Application as submitted would be blocked absent concessions on building height.

143. Hoboken and the Planning Board delayed hearings and a final ruling on the Application to provide additional time for Union City and Mayor Stack (in his role as a state senator) to move the Palisades Cliff Protection Act legislation forward before the Block 112 project could proceed. The Palisades Cliff Protection Act supported by Union City and Mayor

Stack targets the Block 112 and Block 106 projects and seeks to prevent them from being economically viable.

144. Hoboken assured Plaintiffs that the Application would be denied by the Planning Board, despite there being no lawful basis for doing so.

145. In openly stating that the terms in the Block 112 Agreement would not be honored and actively working *against* Government Approvals and the success of the Redevelopment Plan, Block 112 Agreement, and Application, Hoboken breached the Block 112 Agreement, in which Hoboken had specifically promised to cooperate in good faith toward Block 112 obtaining Government Approvals and toward the success of the Redevelopment Plan.

146. Hoboken's repudiation of the Block 112 Agreement, and all communications and other efforts by Hoboken and its officials seeking to pressure the Planning Board to deny the Application, were Events of Default under the Block 112 Agreement.

147. In addition to the explicit covenants in the Block 112 Agreement, the Block 112 Agreement, like every contract under New Jersey law, contains an implied covenant of good faith and fair dealing. By openly stating that the terms in the Block 112 Agreement would not be honored and actively working *against* Government Approvals and the success of the Redevelopment Plan, Block 112 Agreement, and Application, Hoboken breached the implied covenant of good Faith and fair dealing, which is implied under New Jersey law in every contract.

148. Hoboken also breached both the explicit covenants and the implied covenant of good faith and fair dealing in the Block 106 Agreement by repudiating the permitted building height in the Block 106 Agreement and stating the Hoboken would also oppose Government Approvals and the ultimate success of the Block 106 Agreement absent concessions by Plaintiffs on both the Block 106 and the Block 112 Agreement.

149. By taking actions to cause Hoboken to breach the Agreements, Union City tortiously interfered with the Agreements. Union City's threats of litigation and other pressure were intended only to convince Hoboken to back down on its previously agreed Redevelopment Plan for the improper purpose of benefiting the economic position of Union City, even relative to the benefits that Plaintiffs and Hoboken would enjoy if the goals of the Agreements were successful.

150. By taking actions to cause Hoboken to breach the Agreements, Union City tortiously interfered with the economic advantages of Plaintiffs. Plaintiffs are entitled to enjoy their rights as owners and designated redevelopers of the Block 112 and Block 106 sites. Union City's threats of litigation and other pressure were intended only to convince Hoboken to back down on its previously agreed Redevelopment Plan, for the improper purpose of benefiting the economic position of Union City by damaging the economic interests of Plaintiffs and seeking to ensure that Plaintiffs' constitutional rights were violated by Hoboken and the Planning Board.

Resolution of Denial by the Planning Board

151. On the morning of August 3, 2021—the same day as the ultimate hearing on the Application—the Board's consulting engineer, Christopher Nash of Boswell Engineering, issued a review memorandum on the Block 112 project, raising for the first time an alleged deficiency as to lot coverage calculation.

152. The City had already determined that the plans as submitted were consistent with the Redevelopment Plan and Redevelopment Agreement, and no variance relief was necessary to proceed with the Application, by way of the Final Technical Review letters issued.

153. Mr. Nash's previous review letter, dated May 28, 2021, expressly leaves issues of consistency with the Redevelopment Plan and Agreement to the City's office of Community

Development, yet Mr. Nash asserted an alleged issue of consistency with the Redevelopment Plan the morning of the hearing.

154. The Redevelopment Plan is a superseding plan, and calculates building coverage differently than elsewhere in the City of Hoboken. For instance, it allows for calculation of building coverage on a Sub-Area basis, rather than a per-lot basis. It also distinguishes building coverage “at street level,” because of the various cut-throughs and cantilevers permitted by the Redevelopment Plan.

155. Mr. Nash’s report reflects that the determination of building coverage is different under the Plan, and then proceeds to interpret building coverage as Hoboken has traditionally calculated under the Zoning Code.

156. JB112 proposed a building footprint of 43,496 square feet at street level on a 80,000 square foot lot, for a total building coverage of approximately 55% within the Jefferson Street Sub-Area, less than the 75% required by the Redevelopment Plan.

157. During the course of the August 3, 2021 public hearing on the Application, the professionals for JB112 expressly set forth how the proposal complied with the lot coverage requirements under the Redevelopment Plan, and set forth that JB112 would comply with the overall building coverage requirements of the Redevelopment Plan by decreasing the future hotel component to conform.

158. Despite these representations and good faith commitments, the Planning Board determined to ignore the plain language of the Redevelopment Plan and deny the Application on the basis of excessive lot coverage.

159. Following the August 3, 2021 public hearing, the Planning Board issued the Resolution of Denial declaring that the Application was denied.

160. The Planning Board adopted the Resolution of Denial on September 14, 2021.

161. A copy of the Resolution of Denial was published in the New Jersey Journal on September 22, 2021.

162. The Resolution of Denial includes a finding by the Planning Board that the Application is complete.

163. The Resolution of Denial includes a summary of the professional testimony offered by Plaintiffs, including representations that the Application “conforms with the redevelopment plan for the Western Edge Redevelopment Area,” and that the “proposed building height, unit mix, and floor are compliant with the Block 112 Agreement executed by Hoboken.”

164. These statements are uncontroverted by professional testimony from the Board or objectors.

165. Although the Resolution of Denial notes the presence of Union City as an objector and testimony from Union City’s professional engineer that visual impacts to Union City would be negatively impacted, the building height proposed in the Application was not found to be improper and was not cited as a basis for the Resolution of Denial.

166. The Resolution of Denial states that relief is needed from requirements of ordinance concerning signage and flood damage prevention for approval of the Application.

167. The variance required related to flood damage prevention required approval for the design flood elevation of the building lobby to be two feet below the design flood elevation of the property. The Resolution of Denial acknowledges in its findings that the lobby is dry floodproofed, the lower building height at the lobby helps mitigate the visual impacts of the proposed structure, and that the variance would reduce the amount of vertical pedestrian travel relative to a conforming height.

168. The signage variances included: (1) permission to use temporary leasing banners in excess of the size permitted by ordinance and (2) building identification and signs in excess of

those permitted by ordinance. The signage variance requests were supported by needs to ensure the successful operation of the building. Professional planning testimony was provided in support of these positions, and is uncontroverted by testimony from either the Board's professionals or the objector.

169. All of the variances proposed as part of the Application were routine, well supported, in the interest of success of the Block 112 redevelopment and the Redevelopment Plan, and to the benefit of the surrounding community and the public.

170. All of the variances proposed as part of the Application were consistent with positive criteria in the Municipal Land Use Law.

171. The Resolution of Denial determines that the Board finds that the building coverage of the lot is not compliant with building coverage required in the Hoboken Code.

172. Because the Redevelopment Plan is a superseding plan, its determination of building lot coverage "at street level" is fundamentally different from the Hoboken Code's determination of building coverage.

173. Specifically, the Redevelopment Plan assesses building coverage on a Sub-Area wide basis, as opposed to a lot-by-lot analysis.

174. The findings in the Resolution of Denial include miscalculations of the building lot coverage planned for the site. The Resolution of Denial expressly recognizes that the Board interpreted this provision consistently with "prior determinations of similar coverage standards," despite the fact that this was the first application for development ever brought under the terms of the Redevelopment Plan

175. The findings in the Resolution of Denial misinterpret the requirements of Hoboken Code and the Redevelopment Plan when determining the building lot coverage of the site.

176. The Resolution of Denial finds that the signage variance is excessive. The finding that the signage is excessive is conclusory, unexplained, and not justified by criteria to be considered by Municipal Land Use Law.

177. None of the reasons cited for denial of the Application in the Resolution of Denial were justified by reasonable interpretations of applicable law. Rather, the reasons were purely pretexts to ensure that the Application would be denied, consistent with the public statements by the Mayor and his statements made directly to JB112's principals.

Effects of Denial by Planning Board

178. As a result of the arbitrary, capricious, and unjustified Resolution of Denial, the Block 112 redevelopment now cannot proceed after nearly a decade of planning, negotiations, and resources devoted to the project, despite the Application being fully conforming to the Redevelopment Plan and Redevelopment Agreement

179. As a result of the pretextual and unjustified Resolution of Denial, the goals of the Redevelopment Plan and the Block 112 Agreement cannot be achieved.

180. The Resolution of Denial, and associated misrepresentations of fact with regarding to the Application, also negatively affects HWE's rights regarding the Block 106 Agreement. Hoboken has used the Resolution of Denial to demonstrate its ability to block projects in order to obtain additional concessions, regardless of contractual agreements previously made by Hoboken. Hoboken has used and continues to use the threat of a similar Resolution of Denial to apply pressure in negotiations for amendments to the Block 106 Agreement that are inconsistent with the covenants and other terms of the existing Block 106 Agreement.

Plaintiffs Face Irreparable Harm to Their Constitutional Rights

181. The Resolution of Denial is the result of an effort by Hoboken and the Planning Board to deprive JB112 of its constitutional rights in connection with the redevelopment of the Block 112 site.

182. Additional pressure by Hoboken regarding demands for amendment of the Block 106 Agreement also threatens the constitutional rights of HWE, because Hoboken threatens a similar pretextual denial of properly supported future applications by HWE for the Block 106 site.

183. Article I of the New Jersey Constitution affords our citizens the right to acquire, possess and protect property. The Fourteenth Amendment to the United States Constitution embodies a similar concept.

184. New Jersey citizens have a guaranteed right to the use and enjoyment of its property without unnecessary government intrusion.

185. The Resolution of Denial restricts JB112's valuable property rights as established by way of the Agreements.

186. Use of the pretextual Resolution of Denial as leverage over HWE also restricts HWE's valuable property rights as established by way of the Agreements.

187. Monetary damages alone are insufficient to remedy the damage to JB112's and HWE's constitutional rights.

Plaintiffs Face Irreparable Harm to Their Property Rights and Livelihood

188. Plaintiffs have a unique interest and identifiable property rights in the real estate at issue that is in danger of irreparable harm.

189. Plaintiffs' individual and collective reputations as redevelopment companies are based in part on their ability to successfully manage projects for redevelopment, including successfully complying with zoning and other building restrictions, attracting necessary tenants,

and producing profitable outcomes. The acts of Hoboken and its Planning Board, encouraged by Union City, render the proposed developments economically infeasible, and significantly impact Plaintiffs' livelihood.

190. If JB112 had known that it would face pretextual and unjustified denials for applications necessary for the project, JB112 would not have revised the Block 112 Agreement to provide additional community givebacks and additional affordable housing. JB112 entered the Block 112 Agreement operating on good faith, and expended significant resources to date to prepare plans and to pursue the Application necessary to continue with redevelopment of Block 112.

191. If JB112 had known that it would be face pretextual and unjustified denials of two reasonable and well-justified variances necessary to support the success of the Block 112 redevelopment, JB112 would not have entered the Block 112 Agreement, and would not have expended the resources to date to redevelop the project and to pursue the Application to continue with redevelopment.

192. If JB112 had known that it would face pretextual and unjustified denials for any applications so long as the building height for the Redevelopment Plan and the Block 112 Agreement did not satisfy the interests of Union City, notwithstanding the contractual promises and representations by Hoboken, JB112 would not have entered the Block 112 Agreement, and would not have expended the resources to date to redevelop the project and to seek applications necessary to continue with redevelopment.

193. If HWE had known that it would face pretextual and unjustified denials for any applications so long as the building height for the Redevelopment Plan and the Agreements did not satisfy the interests of Union City, notwithstanding the contractual promises and

representations by Hoboken, HWE would not have entered the Block 106 Agreement, and would not have expended the resources to date to redevelop the project.

COUNT ONE

Breach of Contract (JB112 v. Hoboken)

194. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

195. JB112 has a valid and binding contract with Hoboken for the redevelopment of Block 112.

196. Section 2.3 of the Block 112 Agreement states that Hoboken “shall fully cooperate with Redeveloper in obtaining all Governmental Approvals.”

197. Section 2.13 of the Block 112 Agreement requires the parties to “fully cooperate with each other as necessary to complete and implement the Project, including the good faith negotiation of any additional agreements that may be required in order to effectuate the goals and objectives of this Agreement, and any Amendment thereto, provided however, that such actions shall not result in a material increase in the Parties’ respective obligations hereunder or a material decrease in the Parties’ respective rights hereunder.”

198. Among Hoboken’s Covenant’s in Section 7.5 of the Block 112 Agreement, Hoboken “agrees to reasonably cooperate with the Redeveloper's efforts to complete and submit any necessary Governmental Application and with Redeveloper’s efforts to obtain any of the necessary Governmental Approval(s), provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s).”

199. Section 8.1 of the Block 112 Agreement states that “Governmental Approvals necessary or otherwise desired by Redeveloper for each of the Residential Building phase of the

Project and the Hotel phase of the Project, on terms and conditions that are satisfactory to Redeveloper” is a Condition Precedent to Block 112’s obligations under the Block 112 Agreement. Section 8.1 further states that Hoboken and Block 112 “shall proceed diligently and in good faith to satisfy the following Conditions Precedent and each shall cooperate with the other in connection therewith.”

200. Section 14.1(2)(b) of the Block 112 Agreement states that it shall be an Event of Default by Hoboken if Hoboken “fails to reasonably cooperate with the Redeveloper's efforts to complete and submit any necessary Governmental Application or if the City fails to reasonably cooperate with the Redeveloper’s efforts to obtain any of the necessary Governmental Approval(s), provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s) and providing that the City’s cooperation is: (a) a requirement of such application or approval or could otherwise assist in the timely approval of the Project, and (b) requested in writing by Redeveloper.” Section 14.2(1) further states that, upon an Event of Default by Hoboken, Block 112 “may take whatever action, at law or in equity, it may deem desirable, including the pursuit of damages, except any consequential damages, or the Redeveloper may institute such proceedings as may be necessary or desirable in its discretion to cure and remedy such Event of Default, including, but not limited to, proceedings to compel specific performance by the City.”

201. Hoboken, by and through Mayor Bhalla and its other officials, breached the above-referenced sections of the Block 112 Agreement by engaging in public and private opposition to actively lobby against Government Approvals, including approval of the Application by the Planning Board, rather than cooperating toward the goal of granting approvals diligently requested and properly supported by JB112.

202. Hoboken further committed an anticipatory breach of the Block 112 Agreement by publicly and privately repudiating its commitment to the terms of the Block 112 Agreement, including the building heights permitted for redevelopment in the Block 112 Agreement.

203. JB112 has suffered and will continue to suffer substantial pecuniary harm and non-pecuniary irreparable harm as a direct and proximate result of this breach.

204. Hoboken's breach has prevented JB112 from implementing the Redevelopment Plan and successfully achieving the goals of the Block 112 Agreement. The lost value from preventing implementation of the Redevelopment Agreement at the Block 112 site is in excess of \$110 million.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Compelling specific performance of the Block 112 Agreement by Hoboken;
- B. Alternatively, where specific performance is not possible, awarding compensatory damages to replace the value lost by JB112 under the Block 112 Agreement;
- C. Awarding attorney fees and costs of suit to Plaintiffs; and
- D. Awarding such further relief as the Court deems just and proper.

COUNT TWO

**Breach of Contract
(HWE v. Hoboken)**

205. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

206. HWE has a valid and binding contract with Hoboken for the redevelopment of Block 106.

207. Section 2.4 of the Block 106 Agreement states that Hoboken “shall fully cooperate with Redeveloper in obtaining all Governmental Approvals.”

208. Section 2.16 of the Block 106 Agreement requires the parties to “fully cooperate with each other as necessary to complete and implement the Project, including the good faith negotiation of any additional agreements that may be required in order to effectuate the goals and objectives of this Agreement, and any Amendment thereto, provided however, that such actions shall not result in a material increase in the Parties’ respective obligations hereunder or a material decrease in the Parties’ respective rights hereunder.”

209. Among Hoboken’s Covenant’s in Section 6.5 of the Block 106 Agreement, Hoboken “agrees to reasonably cooperate with the Redeveloper's efforts to complete and submit any necessary Governmental Application and with Redeveloper’s efforts to obtain any of the necessary Governmental Approval(s), provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s).”

210. Section 7.1 of the Block 106 Agreement states that “Governmental Approvals necessary or otherwise desired by Redeveloper for each of the Residential Building phase of the Project and the Hotel phase of the Project, on terms and conditions that are satisfactory to Redeveloper” is a Condition Precedent to HWE’s obligations under the Block 106 Agreement. Section 7.1 further states that Hoboken and HWE “shall proceed diligently and in good faith to satisfy the following Conditions Precedent and each shall cooperate with the other in connection therewith.”

211. Section 13.1(2)(b) of the Block 106 Agreement states that it shall be an Event of Default by Hoboken if Hoboken “fails to reasonably cooperate with the Redeveloper's efforts to complete and submit any necessary Governmental Application or if the City fails to reasonably cooperate with the Redeveloper’s efforts to obtain any of the necessary Governmental Approval(s),

provided that the Redeveloper is otherwise diligently pursuing said Governmental Approval(s) and providing that the City's cooperation is: (a) a requirement of such application or approval or could otherwise assist in the timely approval of the Project, and (b) requested in writing by Redeveloper." Section 13.2(1) further states that, upon an Event of Default by Hoboken, HWE "may take whatever action, at law or in equity, it may deem desirable, including the pursuit of damages, except any consequential damages, or the Redeveloper may institute such proceedings as may be necessary or desirable in its discretion to cure and remedy such Event of Default, including, but not limited to, proceedings to compel specific performance by the City."

212. Hoboken, by and through Mayor Bhalla and its other officials, committed an anticipatory breach of the Block 106 Agreement by publicly and privately repudiating its commitment to the terms of the Block 106 Agreement, including the HWE heights permitted for redevelopment in the Block 106 Agreement, absent further uncompensated concessions by HWE on the Block 106 Agreement.

213. HWE has suffered and will continue to suffer substantial pecuniary harm and non-pecuniary irreparable harm as a direct and proximate result of this breach.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Compelling specific performance of the Block 106 Agreement by Hoboken;
- B. Alternatively, where specific performance is not possible, awarding compensatory damages to replace the value lost by HWE under the Block 106 Agreement;
- C. Awarding attorney fees and costs of suit to Plaintiffs; and
- D. Awarding such further relief as the Court deems just and proper.

COUNT THREE

**Breach of the Implied Covenant of Good Faith and Fair Dealing
(JB112 v. Hoboken)**

214. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

215. In addition to explicit guarantees of cooperation by Hoboken, the Block 112 Agreement contains an implied covenant of good faith and fair dealing.

216. Statements by Hoboken, through Mayor Bhalla and its other officials, frustrated the purpose of Block 112 Agreement by stating that Hoboken would act directly contrary to the goal of the contracts.

217. Hoboken, by and through Mayor Bhalla and its other officials, engaged in bad faith in its nonperformance of the Block 112 Agreement by publicly and privately stating that it would ensure that the approvals for the terms of the Block 112 Agreement, including the Application submitted by JB112 to the Planning Board, would be denied unless the terms of the Block 112 Agreement were amended.

218. Hoboken engaged in bad faith and frustrated the purpose of the Block 112 Agreement by pressuring the Planning Board to deny the application based on the terms of the Block 112 Agreement to which Hoboken had agreed.

219. Hoboken engaged in bad faith and frustrated the purpose of the Block 112 Agreement by ensuring Union City, a party adverse to the purpose of the Agreements, that Hoboken would work against the successful progress of redevelopment based on the terms of the Agreements.

220. JB112 has suffered and will continue to suffer substantial pecuniary harm and non-pecuniary irreparable harm as a direct and proximate result of this breach.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Compelling specific performance of the Block 112 Agreement by Hoboken;
- B. Alternatively, where specific performance is not possible, awarding compensatory damages to replace the value lost by JB112 under the Block 112 Agreement;
- C. Awarding attorney fees and costs of suit to Plaintiffs; and
- D. Awarding such further relief as the Court deems just and proper.

COUNT FOUR

**Breach of the Implied Covenant of Good Faith and Fair Dealing
(HWE v. Hoboken)**

221. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

222. In addition to explicit guarantees of cooperation by Hoboken, the Block 106 Agreement contains an implied covenant of good faith and fair dealing.

223. Statements by Hoboken, through Mayor Bhalla and its other officials, frustrated the purpose of Block 106 Agreement by stating that Hoboken would act directly contrary to the goal of the contracts.

224. Hoboken, by and through Mayor Bhalla and its other officials, engaged in bad faith in its nonperformance of the Block 106 Agreement by publicly and privately stating that any necessary approvals for the terms of the Block 106 Agreement would be denied unless the terms were amended.

225. Hoboken engaged in bad faith and frustrated the purpose of the Block 106 Agreement by ensuring Union City, a party adverse to the purpose of the Block 106 Agreement,

that Hoboken would work against the successful progress of redevelopment based on the terms of the Block 106 Agreement.

226. HWE has suffered and will continue to suffer substantial pecuniary harm and non-pecuniary irreparable harm as a direct and proximate result of this breach.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Compelling specific performance of the Block 106 Agreement by Hoboken;
- B. Alternatively, where specific performance is not possible, awarding compensatory damages to replace the value lost by HWE under the Block 106 Agreement;
- C. Awarding attorney fees and costs of suit to Plaintiffs; and
- D. Awarding such further relief as the Court deems just and proper.

COUNT FIVE

**Injurious Falsehood
(All Plaintiffs v. Hoboken)**

227. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

228. Hoboken, through Mayor Bhalla and its other officials, made false and defamatory statements about Plaintiffs when stating that Plaintiffs had agreed to forego the contractual rights of JB112 and HWE by promising to reduce the permitted height in the Agreements and Redevelopment Plan.

229. On or about July 1, 2021, Mayor Bhalla and other Hoboken officials falsely stated that JB112 had provided a commitment that the Block 112 Agreement would be amended to reduce the building height.

230. The false statements made by Hoboken were intended to harm the interests of Plaintiffs by negatively influencing the public perception of Plaintiffs and views of the Planning Board regarding JB112's Application and future applications by Plaintiffs.

231. Hoboken improperly made these statements with the specific intent of negatively impacting Plaintiffs to gain an unfair tactical advantage in negotiations with Plaintiffs regarding potential amendments to and other disputes regarding the Agreements.

232. Hoboken further improperly made these statements with the specific intent of frustrating the purpose of the Agreements for the benefit of Union City.

233. The false statements made by Hoboken were made without privilege.

234. Hoboken made each of these publications with actual malice, i.e., with reckless disregard of the truth and a subjective awareness of the actual and/or probable falsity of the statements.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Awarding compensatory damages to replace the value lost by JB112 and HWE as a result of the negative impacts to their contractual rights and other holdings;
- B. Awarding attorney fees and costs of suit to Plaintiffs; and
- C. Awarding such further relief as the Court deems just and proper.

COUNT SIX

**The Resolution of Denial by the Planning Board is arbitrary, capricious and unreasonable
(JB112 v. Hoboken, Mayor Bhalla, the City Council, and the Planning Board)**

235. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

236. On or around September 14, 2021, the Planning board adopted the Resolution of Denial.

237. The Planning Board exceeded the authority delegated to it by law when adopted the Resolution of Denial.

238. The stated purposes for adopted the Resolution of Denial were pretextual and not sufficiently supported by law or fact.

239. The false premises and pretextual justifications cited in the Resolution of Denial were based in part on miscalculations of building lot coverage and misinterpretations of building lot coverage code.

240. The testimony and evidence cited in the Resolution of Denial did not justify adoption of the Resolution of Denial.

241. The Resolution of Denial does not otherwise contain sufficient rationale for denying the Application.

242. Although the Resolution of Denial purports to assess issues with the Application other than the permitted building height in the Redevelopment Plan, it in fact directly targets JB112 for refusing to further amend the building height in the Redevelopment Plan and the Block 112 Agreement without compensation from Hoboken.

243. The Resolution of Denial was adopted to punish JB112 for refusing to give up its contractual and property rights without compensation in the face of pressure from Hoboken and Union City.

244. The Resolution of Denial is vague, and not calculated to benefit the public health, morals, safety, or general welfare.

245. The Resolution of Denial ignores the proofs offered by JB112 and its professionals regarding the proposed variance relief, and arbitrarily denies the requested relief for signage in excess of that permitted.

246. Accordingly, the Resolution of Denial is arbitrary, capricious, and unreasonable, and must be declared null and void.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Declaring the Resolution of Denial arbitrary, capricious, unreasonable, invalid, illegal, null, void and of no force or effect;
- B. Enjoining Hoboken, Mayor Bhalla, the City Council, and the Planning Board from applying or enforcing the Resolution of Denial;
- C. Issuing an order compelling the Planning Board to grant the Application;
- D. Awarding attorney fees and costs of suit to Plaintiffs; and
- E. Awarding such further relief as the Court deems just and proper.

COUNT SEVEN

**The Adoption of the Resolution of Denial by the Planning Board Was an Ad Hoc Decision Made for an Improper Purpose
(JB112 v. Hoboken, Mayor Bhalla, the City Council, and the Planning Board)**

247. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

248. On or around September 14, 2021, the Planning board adopted the Resolution of Denial.

249. The Planning Board exceeded the authority delegated to it by law when adopted the Resolution of Denial.

250. The stated purposes for adopted the Resolution of Denial were pretextual and not sufficiently supported by law or fact.

251. The false premises and pretextual justifications cited in the Resolution of Denial were based in part on miscalculations of building lot coverage and misinterpretations of building lot coverage code.

252. The testimony and evidence cited in the Resolution of Denial did not justify adoption of the Resolution of Denial.

253. The Resolution of Denial does not otherwise contain sufficient rationale for denying the Application.

254. Although the Resolution of Denial purports to assess issues with the Application other than the permitted building height in the Redevelopment Plan, it in fact directly targets the JB112 for refusing to further amend the building height in the Redevelopment Plan and the Block 112 Agreement without compensation from Hoboken.

255. The Resolution of Denial was adopted solely to punish JB112 for refusing to give up its contractual and property rights without compensation in the face of pressure from Hoboken and Union City.

256. Comments by Mayor Bhalla and other Hoboken officials regarding the Application and Resolution of Denial make clear that the Resolution of Denial was adopted not based on any justified interpretation of the facts and law, but rather to align Hoboken with the stated interests of Union City, despite the clear benefits in the Block 112 Agreement to the citizens of Hoboken.

257. The Resolution of Denial was also adopted as an improper negotiation tactic to force further uncompensated concessions from JB112 and HWE after Hoboken had already agreed to contracts with JB112 and HWE.

258. The Resolution of Denial was further adopted based on pressure applied to Mayor Bhalla and Hoboken officials by Mayor Stack and Union City, at the expense of benefits to Hoboken and its citizens.

259. New Jersey courts require government officials to act solely in the public interest and “turn square corners” in dealing with the public.

260. The Resolution of Denial did not serve the public interest, which would have required furthering the community benefits in the Block 112 Agreement approved by the Hoboken City Council. Rather, the Resolution of Denial furthered narrow interests of Hoboken and Union City officials directly contrary to the interests of the public.

261. The Resolution of Denial was not made to serve a legitimate governmental purpose, but rather, constituted an ad hoc decision that deprived JB112 of its right to equal protection under the United States Constitution and New Jersey Constitution.

262. Accordingly, the Resolution of Denial must be declared unconstitutional, null, and void and JB112 is entitled to relief pursuant to 42 U.S.C. §1983, 42 U.S.C. §1988, and the New Jersey Civil Rights Act, N.J.S.A. 10:6-2.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Declaring the Resolution of Denial invalid, illegal, null, void and of no force or effect;
- B. Enjoining Hoboken, Mayor Bhalla, and the City Council, and the Planning Board from applying or enforcing the Resolution of Denial;
- C. Issuing an order compelling the Planning Board to grant the Application;
- D. Awarding attorney fees and costs of suit to Plaintiffs; and
- E. Awarding such further relief as the Court deems just and proper.

COUNT EIGHT

**Violation of Constitutional Rights to Substantive Due Process
and the New Jersey Civil Rights Act
(JB112 v. Hoboken, Mayor Bhalla, the City Council, and the
Planning Board)**

263. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

264. Plaintiffs and other similarly situated entities have constitutionally protected private property rights to improve their property without the government unreasonably and arbitrarily imposing restraints on such improvements or use of property.

265. The New Jersey Constitution's rights to due process ordain that the exertion of the City of Hoboken's authority should not go beyond the public need.

266. The actions of Hoboken and its Planning Board lack any rational basis, and were simply calculated to delay the development of Block 112 and achievement of the goals of the Block 112 Agreement, contrary to the significant public need and benefits provided by the development of Block 112.

267. Because of the many improper purposes for the Resolution of Denial and the breach of contract, breach of good faith and fair dealing, and other unlawful actions in ensuring the Resolution of Denial, the actions of Hoboken and its Planning Board are sufficiently unjustified that they shock the conscience in their violation of Plaintiffs' rights.

268. Enforcement of the Resolution of Denial is unduly burdensome, particularly when JB112 has agreed to numerous concessions as part of an enforceable contract with Hoboken that requires that Hoboken cooperate to ensure necessary approvals for the requests made in the Application.

269. For all of the reasons set forth above and others, by ensuring the adoption the Resolution of Denial, the Planning Board and Hoboken acted under the color of law to deprive JB112 of its constitutional right to substantive due process under the United States and New Jersey Constitutions.

270. Accordingly, the Resolution of Denial must be declared unconstitutional, null, and void and Plaintiffs are entitled to relief pursuant to 42 U.S.C. §1983, 42 U.S.C. §1988, and the New Jersey Civil Rights Act, N.J.S.A. 10:6-2. New Jersey Civil Rights Act, N.J.S.A. 10:6-2.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Declaring the Resolution of Denial unconstitutional, invalid, illegal, null, void and of no force or effect;
- B. Enjoining Hoboken, Mayor Bhalla, the City Council, and the Planning Board from applying or enforcing the Resolution of Denial;
- C. Issuing an order compelling the Planning Board to grant the Application;
- D. Awarding attorney fees and costs of suit to Plaintiffs pursuant to New Jersey Civil Rights Act, N.J.S.A. 10:6-2, or such other applicable laws; and
- E. Awarding such further relief as the Court deems just and proper.

COUNT NINE

**Violation of the New Jersey Fair Housing Act By Imposing
Unlawful Cost-Generative Measures
(JB112 v. Hoboken, Mayor Bhalla, the City Council, and the
Planning Board)**

271. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

272. The constitutional obligation as set forth in New Jersey's Mount Laurel jurisprudence, starting with S. Burlington County NAACP v. Twp. of Mount Laurel, 67 N.J. 151

(1975) requires every municipality in New Jersey to conform its land use ordinances and regulations, so as to provide a realistic opportunity for the construction of the municipality's fair share of the unmet regional need for housing affordable by households of low or moderate income.

273. The Block 112 Agreement and Redevelopment Plan specifically provide for the construction of affordable housing to meet demonstrated needs of Hoboken and the Western Edge Redevelopment Area.

274. The Block 112 Agreement further acknowledges that JB112's assumption of the costs and obligations of a settlement with FSHC that will guarantee adequate affordable housing as part of the project is a material part of the Block 112 Agreement.

275. The Block 112 Agreement and Redevelopment Plan further call for improvements to affordable housing and related services in partnership with the American Legion Hoboken Post 107.

276. In adopting the Resolution of Denial under false premises, the Planning Board frustrated the goals of achieving necessary affordable housing within Hoboken without justification and for improper purposes.

277. Even if the interpretation of building coverage at street level were somehow ambiguous, interpretations of the provision to preclude the development of an inclusionary housing development is fundamentally suspect.

278. The Planning Board's misinterpretation of building coverage lacks any basis in law or fact, is fundamentally pretextual, and designed to forestall the development of affordable housing within Hoboken.

279. Such an interpretation of building coverage is intended to prevent the inclusionary development on Block 112 from achieving the agreed-upon density and height necessary for the provision of affordable housing as part of the Project.

280. The actions of Hoboken and its Planning Board to delay the provision of safe, affordable, inclusionary housing is an unlawful, obstructionist measure, and serves as an unlawful barrier to the furtherance of affordable housing under the terms of the Western Edge Redevelopment Plan.

281. In working to undermine the Redevelopment Plan and the Block 112 Agreement, Hoboken frustrated the goals of achieving necessary affordable housing within Hoboken without justification and for improper purposes.

282. Accordingly, the Resolution of Denial must be declared unconstitutional, null, and void and Plaintiffs are entitled to relief pursuant to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.*

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Declaring the Resolution of Denial unconstitutional, invalid, illegal, null, void and of no force or effect;
- B. Issuing an order compelling the Planning Board to grant the Application;
- C. Awarding specific performance of the Block 112 Agreement by Hoboken.
- D. Awarding attorney fees and costs of suit to Plaintiffs pursuant to New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* or such other applicable laws; and
- E. Awarding such further relief as the Court deems just and proper.

COUNT TEN

**Hoboken and the Planning Board are Estopped from Repudiating the Terms of the Block 112 Agreement and Enforcing the Resolution of Denial in Contravention to the Block 112 Agreement
(JB112 v. Hoboken, Mayor Bhalla, the City Council, and the Planning Board)**

283. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

284. Hoboken agreed to the permitted building height and other terms included in JB112's Application to the Planning Board in Redevelopment Plan and the Block 112 Agreement.

285. The permitted building height and other terms were the result of extensive negotiations between JB112 and Hoboken to enter the Block 112 Agreement.

286. The terms of the Block 112 Agreement include significant covenants, expenses, and other concessions by JB112 made to obtain terms in the Block 112 Agreement important to JB112 and to the financial viability and ultimate success of the Block 112 project.

287. Hoboken represented both during negotiations and explicitly in the Block 112 Agreement that it would cooperate to ensure necessary Government Approvals for the Redevelopment Plan, including the approval by the Planning Board specifically sought in then Application.

288. The Block 112 Agreement and the associated representations made by Hoboken, through its officials, constitute a clear and definite promise, which Hoboken made knowing that Plaintiffs would rely on it.

289. To its detriment, JB112 reasonably relied upon the representations of Hoboken in agreeing to the terms of the Block 112 Agreement, including implementing the community benefits and other commitments under the Block 112 Agreement, commissioning studies,

preparing the site for construction, and forbearing on other opportunities to press JB112's property and legal rights.

290. Hoboken's repudiation of the Block 112 Agreement after it had been executed was intended as a negotiating tactic to force JB112 to accept further concessions after relying on the terms of the Block 112 Agreement and Hoboken's representations.

291. The Resolution of Denial by the Planning Board was improperly intended as an extension of Hoboken's negotiation tactics. In adopting the Resolution of Denial, the Planning Board did not act within its powers granted under law, but rather used its decision to grant Hoboken leverage in negotiations to force additional uncompensated concessions from JB112 after JB112 had relied on Hoboken's representations and covenants when proceeding with its Application.

WHEREFORE, demands judgment against the Defendants as follows:

- A. Estopping Hoboken, Mayor Bhalla, the City Council, and the Planning Board from enforcing the Resolution of Denial;
- B. Issuing an order compelling the Planning Board to grant the Application;
- C. Requiring specific performance of the Block 112 Agreement by Hoboken, including performance of Hoboken's obligations to support Government Approvals of the terms of the Block 112 Agreement as entered;
- D. Awarding attorney fees and costs of suit to Plaintiffs; and
- E. Awarding such further relief as the Court deems just and proper.

COUNT ELEVEN

Tortious Interference With Contract (JB112 and HWE v. Union City)

292. Plaintiffs repeat each and every allegation contained above as if fully set forth at length herein.

293. Union City, by and through its officials, actually interfered with JB112 and HWE's Agreements with Hoboken by threatening and otherwise pressuring Hoboken to breach the Agreements.

294. At all times material to the facts alleged in this Complaint, Union City had actual knowledge and notice of the Agreements between Plaintiffs and Hoboken, including terms of the Agreements regarding the Redevelopment Plan, building heights, and Hoboken's duties to cooperate toward Government Approvals and the successful implementation of the Redevelopment Plan.

295. Union City acted intentionally and maliciously in interfering with the Agreements between JB112, HWE, and Hoboken. Union City interfered for improper reasons only; namely, in order either to advantage its own economic and political interests over the purpose of the Agreements.

296. Union City acted without legitimate justification in interfering with the contracts between Plaintiffs and Hoboken. Union City's actions were intended only to intimidate Hoboken into breaching its Agreements with Plaintiffs.

297. Union City's threats and communications to the Planning Board unlawfully interfered with the business interests of Plaintiffs and Hoboken.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Awarding compensatory damages to replace the value lost by JB112 and HWE as a result of the negative impacts to their contractual rights and other holdings;
- B. Awarding attorney fees and costs of suit to Plaintiffs; and
- C. Awarding such further relief as the Court deems just and proper.

COUNT TWELVE

**Tortious Interference of Economic Advantage
(All Plaintiffs v. Union City)**

298. Plaintiffs incorporate each of the preceding Paragraphs as if set forth in full.

299. At all times material to the facts alleged in this Complaint, Plaintiffs had a reasonable expectation of economic advantage and a protectable interest in their real property interests and in their actual and prospective relationships with Hoboken to redevelop the property in the Western Edge Redevelopment Area.

300. At all times material to the facts alleged in this Complaint, Union City had actual knowledge and notice of Plaintiffs' reasonable expectation of these economic advantages.

301. Union City unlawfully interfered with Plaintiffs' reasonable expectation of economic advantage as redevelopers in the Western Edge Redevelopment Area by applying public and private pressure to demand that Hoboken and the Planning Board frustrate the economic advantages of Plaintiffs.

302. Union City has knowingly and intentionally taken these unlawful, unjustified, and malicious actions to interfere with, divert, and destabilize Plaintiffs' actual and prospective expectations of economic advantage and its contractual relationships.

303. As a direct and proximate result of Union City's intentional, unjustified, and unlawful interference with Plaintiffs' actual and prospective, economic advantage, Plaintiffs have suffered both pecuniary and non-pecuniary damages and loss of goodwill.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

- A. Awarding compensatory damages to replace the value lost by Plaintiffs as a result of the negative impacts to their economic advantages and goodwill;
- B. Awarding attorney fees and costs of suit to Plaintiffs; and

C. Awarding such further relief as the Court deems just and proper.

GIBBONS P.C.

One Gateway Center
Newark, New Jersey 07102

Attorneys for Plaintiffs

By: /s/ Frederick W. Alworth
Frederick W. Alworth, Esq.
Charles S. Korschun, Esq.

Dated: October 29, 2021

TRIAL ATTORNEY DESIGNATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, the undersigned are hereby designated as trial counsel for Plaintiffs in this matter.

GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102

Attorneys for Plaintiffs

By: /s/ Frederick W. Alworth
Frederick W. Alworth, Esq.
Charles S. Korschun, Esq.

Dated: October 29, 2021

CERTIFICATION PURSUANT TO R. 4:69-4

Pursuant to Rule 4:69-4, I hereby certify that I ordered or caused to be ordered all necessary transcripts of local agency proceedings in this matter to the extent audio recordings have been or will be made available.

GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102

Attorneys for Plaintiffs

By: /s/ Frederick W. Alworth
Frederick W. Alworth, Esq.
Charles S. Korschun, Esq.

Dated: October 29, 2021

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to Rule 4:5-1, I hereby certify that, to the best of my knowledge, the above-captioned action is not the subject of any other action pending in any court or the subject of a pending arbitration proceeding, and that no other action or arbitration proceeding is contemplated by Plaintiffs. I further certify that I know of no other non-parties who should be joined in this action pursuant to R. 4:28 or who are subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any party on the basis of the same transactional facts.

GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102

Attorneys for Plaintiffs

By: /s/ Frederick W. Alworth
Frederick W. Alworth, Esq.
Charles S. Korschun, Esq.

Dated: October 29, 2021

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(c)
PURSUANT TO RULE 4:5-1(b)(3)

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).

GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102

Attorneys for Plaintiffs

By: /s/ Frederick W. Alworth
Frederick W. Alworth, Esq.
Charles S. Korschun, Esq.

Dated: October 29, 2021

Civil Case Information Statement

Case Details: HUDSON | Civil Part Docket# L-004207-21

Case Caption: JUST BLOCK 112, LLC VS THE CITY OF HOBOKEN

Case Type: ACTIONS IN LIEU OF PREROGATIVE WRITS

Case Initiation Date: 10/29/2021

Document Type: Complaint

Attorney Name: FREDERICK WILLIAM ALWORTH

Jury Demand: NONE

Firm Name: GIBBONS PC

Is this a professional malpractice case? NO

Address: ONE GATEWAY CTR

Related cases pending: NO

NEWARK NJ 071025310

If yes, list docket numbers:

Phone: 9735964500

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

Name of Party: PLAINTIFF : Just Block 112, LLC

Are sexual abuse claims alleged by: Just Block 112, LLC ? NO

Name of Defendant's Primary Insurance Company
(if known): Unknown

Are sexual abuse claims alleged by: Hoboken Western Edge, LLC ? 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? YES

If yes, is that relationship: Business

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:

The case includes causes of action in lieu of prerogative writs in addition to contract, tort, and statutory causes of action.

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)

10/29/2021
Dated

/s/ FREDERICK WILLIAM ALWORTH
Signed

