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*Attorneys for the Township of Teaneck
and Doug Ruccione, in his capacity as
Township Clerk*

FOOD & WATER WATCH and ELISSA
SCHWARTZ, BETTINA HEMPEL, PAULA
ROGOVIN, LISA ROSE and LAURIE LUDMER
("COMMITTEE OF PETITIONERS"),

Plaintiffs,

v.

DOUG RUCCIONE, in his capacity as
Township Clerk, the TOWNSHIP OF
TEANEK, and STEVEN CHONG, in his
capacity as Bergen County Deputy Clerk

Defendants.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO.: BER-L-5566-21**

Civil Action

**DEFENDANTS ANSWER TO PLAINTIFFS
VERIFIED COMPLAINT AND SEPARATE
DEFENSES**

Defendants, Doug Ruccione, in his capacity as Township Clerk, and the Township of Teaneck ("Defendants" or "Teaneck") by and through their attorney McCusker, Anselmi, Rosen & Carvelli, P.C., by way of Answer to Plaintiffs Food & Water Watch, Elissa Schwartz, Bettina Hempel, Paula Rogovin, Lisa Rose, and Laurie Ludmer's ("Plaintiffs") Verified Complaint (the "Complaint") hereby respond to Plaintiffs' allegations. Unless specifically admitted herein, Defendants deny the allegations of the pleading.

“PRELIMINARY STATEMENT”¹

1. Defendants deny that “This action in lieu of prerogative writs involves Teaneck’s attempt to deny its citizens’ right to have a role in the legislative process through their statutory right of initiative” as alleged in Paragraph 1 of the Complaint. The remaining allegations in Paragraph 1 of the Complaint do not contain factual averments to which a response is required. To the extent a further response is required, Defendants deny the allegations.

“PARTIES”

2. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 2 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 2 of the Complaint.

3. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 3 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 3 of the Complaint.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 4 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 4 of the Complaint.

¹ Defendants Answer uses the same headings as Plaintiffs Complaint solely for ease of reference and for the purposes of substantively responding to same. Defendants do not admit or deny any of the content of the headings used in Plaintiffs Complaint.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 5 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 5 of the Complaint.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 6 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 6 of the Complaint.

7. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 7 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 7 of the Complaint.

8. Defendants deny the allegations in Paragraph 8 of the Complaint.

9. Defendants admit that Defendant Doug Ruccione is and was at the times relevant to this complaint, the Clerk of the Township of Teaneck with his principal place of business at the Teaneck Municipal Building, 818 Teaneck Road, Teaneck, NJ 07666 as alleged in Paragraph 9 of the Complaint. Defendants further generally admit that generally, in his capacity as Township Clerk Mr. Ruccione has the duty to perform such functions as be required by law. The remaining allegations in Paragraph 9 of the Complaint call for a legal conclusion to which no response is required.

10. Defendants generally admit to the allegations in Paragraph 10 of the Complaint.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 11 of the Complaint as they are directed at other parties. To the extent a further response is required, Defendants deny the allegations in Paragraph 11 of the Complaint.

"CLAIMS FOR RELIEF"

"COUNT ONE"

"(Mandamus)"

12. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 12 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 12 of the Complaint.

13. The allegations in Paragraph 13 of the Complaint call for a legal conclusion to which no response is required.

14. The allegations in Paragraph 14 of the Complaint call for a legal conclusion to which no response is required.

15. The allegations in Paragraph 15 of the Complaint call for a legal conclusion to which no response is required.

16. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy as to whether "It was under this EO, that FWW started its petition campaigns in several municipalities in New Jersey, including the Township of Teaneck" as alleged in Paragraph 16 of the Complaint. To the extent a further response is required, Defendants deny the specific allegation in Paragraph 16 of the Complaint. Defendants generally admit the remaining allegations in Paragraph 16 of the Complaint.

17. Defendants admit the allegations in Paragraph 17 of the Complaint.

18. Defendants admit the allegations in Paragraph 18 of the Complaint.

19. Defendants generally admit the allegations in Paragraph 19 of the Complaint.

20. Defendants generally admit the allegations in Paragraph 20 of the Complaint.

21. Defendants generally admit the allegations in Paragraph 21 of the Complaint.

22. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 22 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 22 of the Complaint.

23. The allegations in Paragraph 23 of the Complaint call for a legal conclusion to which no response is required.

24. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 24 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 24 of the Complaint.

25. Defendants specifically admit Paragraph 25 insofar that "The email states, in part:

3. You advised that the latest date to get petitions to the county clerk for placement on the ballot would be the end of August;

4. We advised you that we were obtaining both electronic and live signatures on our petitions in accordance with the governor's executive order;

5. We agreed that the last date to obtain electronic signatures would be July 4, 2021. We indicated that we would close down our electronic voting link on July 3 [.] “

Defendants deny the remaining allegations in Paragraph 25 of the Complaint.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 26 of the Complaint. To an extent a further response is required, Defendants deny the allegations in Paragraph 26 of the Complaint.

27. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 27 of the Complaint. To an extent a further response is required, Defendants deny the allegations in Paragraph 27 of the Complaint.

28. Defendants generally admit that from June 22, 2021 through July 13, 2021, plaintiff Paula Rogovin communicated with defendant Ruccione trying to schedule a time to meet “so that we can submit completed petitions for the 100% Renewable Energy CCA campaign” as alleged in Paragraph 28 of the Complaint. Defendants deny the remaining allegations in Paragraph 28 of the Complaint.

29. Defendants admit the allegations in Paragraph 29 of the Complaint.

30. Defendants generally admit the allegations in Paragraph 30 of the Complaint.

31. Defendants admit the allegations in Paragraph 31 of the Complaint.

32. Defendants generally admit the allegations in Paragraph 32 of the Complaint.

33. Defendants generally admit the allegations in Paragraph 33 of the Complaint.

34. Defendants generally admit the allegations in Paragraph 34 of the Complaint.

35. The allegations in Paragraph 35 of the Complaint call for a legal conclusion to which no response is required.

36. Defendants deny the allegations in Paragraph 36 of the Complaint.

WHEREFORE, Defendants Doug Ruccione and the Township of Teaneck respectfully request that this Court:

- (a) Dismiss the Verified Complaint in its entirety;
- (b) Deny each and every demand, claim, and prayer for relief contained in the Verified Complaint;
- (c) Award to Defendant reimbursement of reasonable attorney's fees and costs incurred in defending this frivolous litigation and vexatious action; and
- (d) Grant such other and further relief as the Court may deem just and proper.

"COUNT TWO"
"(Equitable Estoppel)"

37. Defendants repeat and re-plead the foregoing answers as if fully set forth at length herein.

38. Defendants generally admit that "throughout the Spring, FWW was in communication with defendant Ruccione" as alleged in Paragraph 38 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or

accuracy of the allegation that FWW was “seeking to make sure that their Energy Aggregation Initiative Petition would be acceptable under Teaneck’s procedures for electronic signatures” as alleged in Paragraph 38 of the Complaint. Defendants deny that FWW received a “definitive ‘yes’ answer” as alleged in Paragraph 38 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations in Paragraph 38 of the Complaint. To an extent a further response is required, Defendants deny the allegations in Paragraph 38 of the Complaint.

39. Defendants deny the allegations in Paragraph 39 of the Complaint.

40. Defendants generally admit that on June 22, 2021, plaintiff Paula Rogovin contacted defendant Ruccione to schedule a time on June 30, 2021, at which time the COP would submit its completed petitions as alleged in Paragraph 40 of the Complaint. Defendants further generally admit that on June 29, 2021, she again contacted Mr. Ruccione to inform him that the COP was switching its delivery date to July 9, 2021, as alleged in Paragraph 40 of the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations in Paragraph 41 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 40 of the Complaint.

41. Defendants generally admit that on July 8, 2021 Ms. Rogovin contacted Mr. Ruccione a second time to reschedule the COP’s delivery date an additional week due to personal health problems as alleged in Paragraph 41 of the Complaint. Defendants further admit that Mr. Ruccione replied to her message as alleged in Paragraph 41 of the

Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations in Paragraph 41 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 41 of the Complaint.

42. Defendants lack knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations in Paragraph 42 of the Complaint. To the extent a further response is required, Defendants deny the allegations in Paragraph 42 of the Complaint.

43. Defendants deny the allegations in Paragraph 43 of the Complaint.

44. The allegations in Paragraph 44 of the Complaint call for a legal conclusion to which no response is required.

WHEREFORE, Defendants Doug Ruccione and the Township of Teaneck respectfully request that this Court:

- (a) Dismiss the Verified Complaint in its entirety;
- (b) Deny each and every demand, claim, and prayer for relief contained in the Verified Complaint;
- (c) Award to Defendant reimbursement of reasonable attorney's fees and costs incurred in defending this frivolous litigation and vexatious action; and
- (d) Grant such other and further relief as the Court may deem just and proper.

“COUNT THREE”
“(New Jersey Civil Rights Act, N.J.S.A. 10:6-2)”

45. Defendants repeat and re-plead the foregoing answers as if fully set forth at length herein.

46. The allegations in Paragraph 46 of the Complaint call for a legal conclusion to which no response is required.

47. The allegations in Paragraph 47 of the Complaint call for a legal conclusion to which no response is required.

48. The allegations in Paragraph 48 of the Complaint call for a legal conclusion to which no response is required.

WHEREFORE, Defendants Doug Ruccione and the Township of Teaneck respectfully request that this Court:

- (a) Dismiss the Verified Complaint in its entirety;
- (b) Deny each and every demand, claim, and prayer for relief contained in the Verified Complaint;
- (c) Award to Defendant reimbursement of reasonable attorney’s fees and costs incurred in defending this frivolous litigation and vexatious action; and
- (d) Grant such other and further relief as the Court may deem just and proper.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

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

SECOND DEFENSE

Plaintiffs Verified Complaint is barred because Plaintiffs have not sustained any cognizable damages attributable to Defendants.

THIRD DEFENSE

Plaintiff's Verified Complaint is barred by the equitable doctrines of unclean hands, estoppel, and waiver.

FOURTH DEFENSE

The relief sought by Plaintiff, in whole or in part, is barred by the applicable statute of limitations and/or statute of repose and/or the doctrine of laches.

FIFTH DEFENSE

Defendant complied with all of the requirements of *N.J.S.A. 40:69A et seq.*

SIXTH DEFENSE

Defendant complied with all of the requirements of *N.J.S.A. 40:69A- 25.1.*

SEVENTH DEFENSE

Defendant has not abused his authority or failed to perform his mandatory duty under any federal, state, or local laws, rules, regulations, or guidelines.

EIGHTH DEFENSE

Defendant did not violate *N.J.S.A. 10:6-2 et seq.*

NINTH DEFENSE

At all times relevant hereto, Defendant acted in good faith and has not violated any right which may be secured by Plaintiffs under any federal, state, or local laws, rules, regulations, or guidelines.

TENTH DEFENSE

The allegations contained in the Verified Complaint are frivolous and without factual legal basis whatsoever and, as such, the Verified Complaint should be stricken by this Court as an improper pleading.

ELEVENTH DEFENSE

The damages claimed by Plaintiffs are barred to the extent they are speculative in nature.

TWELFTH DEFENSE

Defendants will rely upon any and all further defenses that become available or appear during discovery or the proceedings in this action, and hereby specifically reserve the right to amend this Answer to the Verified Complaint for the purpose of asserting any additional affirmative defenses as further investigation reveals to be necessary and appropriate.

WHEREFORE, Defendants Doug Ruccione and the Township of Teaneck respectfully request that this Court:

- (a) Dismiss the Verified Complaint in its entirety;
- (b) Deny each and every demand, claim, and prayer for relief contained in the Complaint;

- (c) Award to Defendant reimbursement of reasonable attorney's fees and costs incurred in defending this frivolous litigation and vexatious action; and
- (d) Grant such other and further relief as the Court may deem just and proper.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, John L. Shahdanian II, Esq. (#039551997), is hereby designated as trial counsel for Defendants, Doug Ruccione and the Township of Teaneck in the above matter.

McCUSKER, ANSELM I,
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Attorneys for Defendants

By: /s/John L. Shahdanian II, Esq.
John L. Shahdanian II, Esq.

Dated: September 13, 2021

CERTIFICATION PURSUANT TO R. 4:5-1

I HEREBY CERTIFY that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding nor is any such action or preceding presently contemplated.

I FURTHER CERTIFY that I am not aware of any other parties who should be joined in this action.

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Attorneys for Defendants

By: /s/John L. Shahdanian II, Esq.
John L. Shahdanian II, Esq.

Dated: September 13, 2021

CERTIFICATION OF COMPLIANCE WITH R.1:38-7

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 R. 1:38-7(b).

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Attorneys for Defendants

By: /s/John L. Shahdanian II, Esq.
John L. Shahdanian II, Esq.

Dated: September 13, 2021