

Settlement of JSTAR, LLC v. Brick Township Zoning Board of Adjustment,
RTS IV, LLC, a/k/a Joseph R. Prestifilippo, Jr., John Does (1-10),
(Being Fictitious Names of Persons and Entities
Who Are or May Be Liable to the Plaintiff),
Docket Nos.: OCN-L-389-18; OCN-L-2553-19; A-00858-18T2

RESOLUTION APPROVING SETTLEMENT AGREEMENT
JSTAR, LLC V. BRICK TOWNSHIP ZONING BOARD OF ADJUSTMENT,
RTS IV, LLC, A/K/A JOSEPH R. PRESTIFILIPPO, JR., JOHN DOES (1-10),
(BEING FICTITIOUS NAMES OF PERSONS AND ENTITIES
WHO ARE OR MAY BE LIABLE TO THE PLAINTIFF),
DOCKET NOS.: OCN-L-389-18; OCN-L-2553-19; A-00858-18T2
OCTOBER 21, 2020

WHEREAS, RTS IV, LLC (“RTS”) is the owner of a property located at 456 NJ State Highway Route 35 North, Brick Township, Ocean County, New Jersey, which property is designated on the Municipal Tax Map as Block 36, Lot 12 (hereinafter the “Property”); and

WHEREAS, RTS submitted an application to the Zoning Board seeking density variance relief pursuant to N.J.S.A. 40:55D-70(d)(5) and preliminary major subdivision approval pursuant to N.J.S.A. 40:55D-48 in order to subdivide the subject Property into seven (7) lots for single-family residential use with an additional two (2) common lots, one which would contain a clamshell road and the other which would be used as a beach community lot (hereinafter the “Application”); and

WHEREAS, JSTAR filed a Complaint in Superior Court while the Application was pending before the Zoning Board captioned as JSTAR, LLC v. Brick Township Zoning Board of Adjustment and RTS IV, LLC, a/k/a Joseph R. Prestifilippo, Jr., Docket No. OCN-L-389-18; and

WHEREAS, the Zoning Board and RTS filed Motions for Summary Judgment in Docket No. OCN-L-389-18 on July 19, 2018, which was granted by the trial court on September 14, 2018 dismissing the Complaint with prejudice; and

JSTAR, LLC v. Brick Township Zoning Board of Adjustment, RTS IV, LLC, a/k/a Joseph R. Prestifilippo, Jr., John Does (1-10), Being Fictitious Names of Persons and Entities Who Are or May Be Liable to the Plaintiff), Docket Nos.: OCN-L-389-18; OCN-L-2553-19; A-00858-18T2

WHEREAS, JSTAR thereafter filed an appeal captioned as JSTAR, LLC v. Brick Township Zoning Board of Adjustment and RTS IV, LLC, a/k/a Joseph R. Prestifilippo, Jr.; and John Does (1-10) and ABC Corp. (1-10), being fictitious name of persons and entities who are or may be liable to the Plaintiff, Docket No. A-000858-18T2; and

WHEREAS, the Zoning Board approved the Application which decision was memorialized in a Resolution dated August 21, 2019 (R-40-19); and

WHEREAS, JSTAR filed a subsequent Complaint in lieu of prerogative writs to challenge the approval which was captioned as JSTAR, LLC v. Brick Township Zoning Board of Adjustment, RTS IV, LLC a/k/a Joseph R. Prestifilippo Jr.; John Does (1-10), ABC Corp. (1-10), Docket No. OCN-L-2553-19 (hereinafter “the Approval Litigation”); and

WHEREAS, RTS then filed an Application seeking Final Major Subdivision Approval (hereinafter the “Final Major Subdivision Application”) with the Zoning Board pursuant to N.J.S.A. 40:55D-50. The application was approved on January 29, 2020 and memorialized in a Resolution dated February 19, 2020; and

WHEREAS, JSTAR thereafter filed an Amended Complaint in Docket No. OCN-L-2553-19 challenging the final major subdivision approval; and

WHEREAS, the Appellate Division issued its opinion in Docket No. A-000858-18T2 on June 4, 2020; and

JSTAR, LLC v. Brick Township Zoning Board of Adjustment,
RTS IV, LLC, a/k/a Joseph R. Prestifilippo, Jr., John Does (1-10),
Being Fictitious Names of Persons and Entities Who Are or May
Be Liable to the Plaintiff), Docket Nos.: OCN-L-389-18;
OCN-L-2553-19; A-00858-18T2

WHEREAS, the Zoning Board and RTS both filed motions seeking reconsideration and clarification with JSTAR filing a motion seeking leave to file opposition; and

WHEREAS, the action docketed as OCN-L-2553-19 has been stayed in an Order entered by Honorable Marlene Lynch Ford, A.J.S.C. dated June 30, 2020; and

WHEREAS, the parties have conferred and have agreed to amicably resolve and settle the above-referenced actions in accordance with the terms and conditions set forth in the Agreement attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED, by the Brick Township Zoning Board of Adjustment on this 21st day of October, 2020, the Zoning Board hereby approves the Settlement Agreement and authorizes the Zoning Board Attorney to execute all documents necessary to effectuate said Settlement Agreement.

EXHIBIT A

Ronald D. Cucchiaro, Esq.
Attorney Id No. 041191998
WEINER LAW GROUP LLP
One River Centre
331 Newman Springs Road, Bldg. 1, Ste. 126
Red Bank, NJ 07701
Phone: (732) 978-1210 Fax: (732) 978-1201
Attorneys for Defendant, Brick Township Zoning Board of Adjustment
Our File Nos.: BRICKZB-254L & BRICKZB-347L
1865207 1

JSTAR, LLC, Plaintiff/Appellant,
vs.

BRICK TOWNSHIP ZONING BOARD
OF ADJUSTMENT, RTS IV, LLC, a/k/a
JOSEPH R. PRESTIFILIPPO JR.; JOHN
DOES (1-10), ABC CORP. (1-10), being
fictitious names of persons and entities who
are or may be liable to the Plaintiffs).

Defendants/Respondents.

JSTAR, LLC, Plaintiff,
vs.

BRICK TOWNSHIP ZONING BOARD
OF ADJUSTMENT, RTS IV, LLC, a/k/a
JOSEPH R. PRESTIFILIPPO JR.; JOHN
DOES (1-10), ABC CORP. (1-10), being
fictitious names of persons and entities who
are or may be liable to the Plaintiffs).

Defendants.

JSTAR, LLC, Plaintiff,
vs.

BRICK TOWNSHIP ZONING BOARD
OF ADJUSTMENT, RTS IV, LLC, a/k/a
JOSEPH R. PRESTIFILIPPO JR.; JOHN
DOES (1-10), ABC CORP. (1-10), being
fictitious names of persons and entities who
are or may be liable to the Plaintiffs).

Defendants.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO.: A-000858-18T2

Civil Action

SETTLEMENT AGREEMENT AND
GENERAL RELEASE

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY
DOCKET NO.: OCN-L-002553-19

Civil Action

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY
DOCKET NO.: OCN-L-389-18

Civil Action

This Settlement Agreement and General Release ("Board Settlement Agreement") is made and entered into as of this 14th day of August 2020, between **JSTAR, LLC**, and **ANTON SEMPRIVIVO**, individually (hereinafter "JSTAR"), **THE TOWNSHIP OF BRICK ZONING BOARD OF ADJUSTMENT** (hereinafter the "Zoning Board"), and **RTS IV, LLC a/k/a JOSEPH R. PRESTIFILIPPO, JR.** (hereinafter "RTS"). The foregoing parties are sometimes collectively referred to herein as "the Parties".

By means of this Agreement, all Parties will fully and unconditionally release any and all claims that it or its affiliates, predecessors, successors, subsidiaries, divisions, assigns, officers, directors, shareholders, representatives, employees, former employees, insurers, attorneys, consultants and agents, and assigns may have against any and all Parties that are part of this Board Settlement Agreement and/or its affiliates, predecessors, successors, subsidiaries, divisions, assigns, officers, directors, shareholders, representatives, employees, former employees, current and former appointed officials, insurers, attorneys, consultants and agents, (collectively referred to as "Releasees"), the remaining terms of which Agreement are now fully set forth herein.

RECITALS

WHEREAS, RTS is the owner of a property located at 456 NJ State Highway Route 35 North, Brick Township, Ocean County, New Jersey, which property is designated on the Municipal Tax Map as Block 36, Lot 12 (hereinafter the "Property"); and

WHEREAS, RTS submitted an application to the Zoning Board seeking density variance relief pursuant to N.J.S.A. 40:55D-70(d)(5) and preliminary major subdivision approval pursuant to N.J.S.A. 40:55D-48 in order to subdivide the subject Property into seven (7) lots for single-family residential use with an additional two (2) common lots, one which would contain a

clamshell road and the other which would be used as a beach community lot (hereinafter the "Application"); and

WHEREAS, JSTAR filed a Complaint in Superior Court while the Application was pending before the Zoning Board captioned as JSTAR, LLC v. Brick Township Zoning Board of Adjustment and RTS IV, LLC, a/k/a Joseph R. Prestifilippo, Jr., Docket No. OCN-L-389-18; and

WHEREAS, the Zoning Board and RTS filed Motions for Summary Judgment in Docket No. OCN-L-389-18 on July 19, 2018, which was granted by the trial court on September 14, 2018 dismissing the Complaint with prejudice; and

WHEREAS, JSTAR thereafter filed an appeal captioned as JSTAR, LLC v. Brick Township Zoning Board of Adjustment and RTS IV, LLC, a/k/a Joseph R. Prestifilippo, Jr.; and John Does (1-10) and ABC Corp. (1-10), being fictitious name of persons and entities who are or may be liable to the Plaintiff, Docket No. A-000858-18T2; and

WHEREAS, the Zoning Board approved the Application which decision was memorialized in a Resolution dated August 21, 2019 (R-40-19); and

WHEREAS, JSTAR filed a Complaint in lieu of prerogative writs to challenge the approval which was captioned as JSTAR, LLC v. Brick Township Zoning Board of Adjustment, RTS IV, LLC a/k/a Joseph R. Prestifilippo Jr.; John Does (1-10), ABC Corp. (1-10), Docket No. OCN-L-2553-19 (hereinafter "the Approval Litigation"); and

WHEREAS, RTS then filed an Application seeking Final Major Subdivision Approval (hereinafter the "Final Major Subdivision Application") with the Zoning Board pursuant to N.J.S.A. 40:55D-50 on January 29, 2020. The application was approved in a Resolution memorialized on February 19, 2020; and

WHEREAS, JSTAR thereafter filed an Amended Complaint in Docket No. L-2553-19 challenging the final major subdivision approval; and

WHEREAS, the Appellate Division issued its opinion in Docket No. A-000858-18T2 on June 4, 2020 remanding the matter to the Trial Court, which on June 30, 2020 ordered the matter remanded to the Zoning Board; and

WHEREAS, the Zoning Board and RTS both filed motions seeking reconsideration/clarification with JSTAR filing a motion seeking leave to file opposition. These motions are all pending; and

WHEREAS, the action docketed as OCN-L-2553-19 has been stayed in an Order entered by Honorable Marlene Lynch Ford, A.J.S.C. dated June 30, 2020; and

WHEREAS, the parties have conferred and have agreed to settle the above-referenced actions in accordance with the terms and conditions set forth with more particularity herein.

NOW, THEREFORE, in exchange for good and sufficient consideration, the receipt of which is hereby acknowledged, the Parties hereto do hereby represent, warrant and agree as follows:

IT IS ON THIS 14th day of August 2020, agreed that the settlement is subject to the following terms:

1. JSTAR and RTS shall execute a separate Settlement Agreement and Contract for Purchase simultaneously with the execution of this Board Settlement Agreement resolving the above-captioned actions and dismissing all Complaints outlined within this Board Settlement Agreement with prejudice.
2. All Parties stipulate and agree that notice of the Zoning Board hearings associated with the action assigned Docket No. OCN-L-2553-19 complied with all statutory requirements.
3. The scope of the remand to the Zoning Board ordered by the Honorable Marlene

Lynch Ford, A.J.S.C. on June 30, 2020 shall be limited to entering proof into evidence that

the Zoning Board's annual meeting notice was published in two newspapers and that all special meetings were properly noticed.

- 4. This Board Settlement Agreement is subject to all terms and conditions between JSTAR and RTS as set forth within the Settlement Agreement and Contract for Purchase, which are simultaneously executed by RTS and JSTAR.

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and General Release on the date shown below.

R.C. SHEA & ASSOCIATES
Attorneys for Plaintiff, JSTAR, LLC

Dated: August 4, 2020

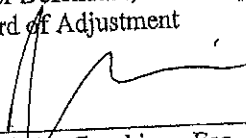
By:


Robert C. Shea, Esq.

WEINER LAW GROUP, LLP
Attorneys for Defendant, Township of Brick
Zoning Board of Adjustment

Dated: OCTOBER 9, 2020

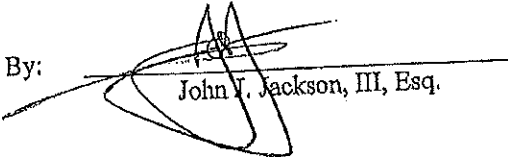
By:


Ronald D. Cucchiaro, Esq.

KING, KITRICK JACKSON,
McWEENEY & WELLS, LLC
Attorneys for Defendants, RTS IV, LLC
a/k/a Joseph Prestifilippo

Dated: August 9/8/2020, 2020

By:


John T. Jackson, III, Esq.