



ANTHONY S. BOCCHI
 PARTNER
abocchi@cullenllp.com

Cullen and Dykman LLP
 Continental Plaza
 433 Hackensack Avenue
 Hackensack, NJ 07601
 T: 201.488.1300
 F: 201.488.6541

February 7, 2023

Via JEDS

Hon. Michael J. Blee, A.J.S.C.,
 Superior Court of New Jersey
 Cape May County Courthouse
 9 North Main Street
 Cape May, New Jersey 08210

RE: New Jersey Department of Environmental Protection v. City of North Wildwood, et al.
Docket No. CPM-C-55-22

Dear Judge Blee:

Our Firm represents Defendant City of North Wildwood (hereafter, “North Wildwood”) in the above-referenced matter. As Your Honor is aware, the Court entered an Order on February 1, 2023 (hereafter, the “February 1 Order”). Paragraph 4 of the February 1 Order provides, “This Order and Final Judgment shall be electronically filed via e-courts thereby ensuring prompt service upon all counsel of record.” North Wildwood respectfully requests the Court to enter the enclosed Amended Order which has been drafted to remove reference to the phrase “Final Judgment,” as the February 1 Order is not a Final Judgment under R. 3:26-3(b).

R. 3:26-3(b) provides, “Final Judgments of the Court, for appeal purposes, are judgments that finally resolve all issues as to all parties” Here, the February 1 Order plainly does not “resolve issues as to all parties.” To illustrate, the February 1 Order granted North Wildwood’s Motion for Leave to File a Counterclaim. Count Two of North Wildwood’s Counterclaim alleges Breach of Contract – an issue that the Court will not address until April 2023 at the earliest. This reason alone proves that the February 1 Order does not “resolve all issues as to all parties,” and therefore, it does not constitute a Final Judgment under R. 3:26-3(b).

This Office sought the consent of our adversary to file the Amended Order as a Consent Order. However, we have been unable to obtain such consent. Thus, we hereby submit the enclosed Amended Order under the Five Day Rule and respectfully request the Court to enter same.

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Hon. Michael J. Blee, A.J.S.C.
February 7, 2023
Page 2

We appreciate Your Honor's consideration of this request.

Respectfully submitted,

CULLEN AND DYKMAN LLP

A handwritten signature in blue ink, appearing to read 'ASB', written over the printed name 'ANTHONY S. BOCCHI'.

ANTHONY S. BOCCHI

ASB/rc
cc: Kevin H. Terhune, D.A.G. (via JEDS)

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

SUPERIOR COURT OF NEW JERSEY
CAPE MAY COUNTY
CHANCERY DIVISION

Plaintiff,

v.

DOCKET NO: CPM-C-55-22

CITY OF NORTH WILDWOOD, "XYZ
CORPORATIONS" 1-10; and "JOHN AND/
OR JANE DOES" 1-10,

Civil Action

Defendants.

AMENDED
ORDER

THIS MATTER, having been brought before the Court by way of an Order to Show Cause, Plaintiff's Motion for Temporary Restraining Order and Injunctive Relief, and Defendants' Motion for leave to file a Counterclaim; and Kevin A. Terhune, Esq., and Dianna E. Shinn, Esq., of the Deputy Attorney General Office, having appeared on behalf of Plaintiff; and Anthony S. Bocchi, Esq., of the firm Cullen and Dykman LLP, having appeared on behalf of Defendants; and the Court having reviewed the papers submitted and having heard oral argument; and for the reasons more fully set forth on the record; and for good cause shown;

IT IS on this ___ day of FEBRUARY 2023; ORDERED and ADJUDGED as follows:

1. Plaintiff's Motion for Temporary Restraining Order and Injunctive Relief is GRANTED and Defendants are hereby enjoined from:
 - a. Installing a bulkhead between 15th and 16th Avenues until it has received a permit authorizing the installation of same from the NJDEP;
 - b. Engaging in any further excavation, placement or regrading of sand between 14th and 16th Avenues until it has received a permit authorizing the installation of same from the NJDEP;
 - c. Engaging in any other oceanfront construction, reshaping of dunes and/or reconstruction of the access point at 16th and 25th Avenues until it has received a permit authorizing the installation of same from the NJDEP.
2. Defendants' Motion for leave to file a Counterclaim is hereby GRANTED.

3. Defendants must file an Emergency Authorization application with the NJDEP WITHIN TEN (10) DAYS of the Court's Order entered on February 1, 2023, seeking to:
 - a. Allow Defendants to install a bulkhead between 15th and 16th Avenues;
 - b. Allow Defendants to engage in further excavation, placement, or regrading of sand between 14th and 16th Avenues
 - c. Allow Defendants to engage in any other oceanfront construction, reshaping of dunes and/or reconstruction of the access point at 16th and 25th Avenues.
4. This Amended Order shall be electronically filed via e-courts thereby ensuring prompt service upon all counsel of record.

MICHAEL J. BLEE, A.J.S.C