

CITY OF ATLANTIC CITY
 OFFICE OF THE CITY SOLICITOR
 1301 Bacharach Boulevard
 City Hall—Suite 406
 Atlantic City, NJ 08401
 Telephone: (609) 347-5540
 Attorney(s) for Plaintiff,
 City of Atlantic City
 By: Anthony A. Swan, Esq.
 City Solicitor
 ID#: 017051993

CITY OF ATLANTIC CITY	:	SUPERIOR COURT OF NEW JERSEY
	:	
Plaintiff,	:	ATLANTIC COUNTY
	:	CHANCERY DIVISION
	:	
v.	:	DOCKET NO.: ATL - C-
	:	
	:	VERIFIED COMPLAINT FOR THE
	:	IMMEDIATE REPAIR OR
IEP AC PLAZA, LLC,	:	“WRAPPING” OF THE EXTERIOR OF
	:	AND DEMOLITION OF THE
	:	PROPERTY LOCATED AT 2201
Defendant.	:	BOARDWALK, ATLANTIC CITY, NEW
	:	JERSEY

Plaintiff, City of Atlantic City (the “City”), with principal offices located at 1301 Bacharach Boulevard, City of Atlantic City, County of Atlantic and State of New Jersey, alleges and says:

PARTIES

1. Plaintiff the City a municipal corporation of the State of New Jersey.
2. Pursuant to Atlantic City Ordinance § 108-2, Dale Finch, (“Mr. Finch”) in his official capacity as the Director of Licensing and Inspections for the City, is the individual authorized to enforce Atlantic City Ordinance § 108 et seq., which was enacted pursuant to the statutory authority granted the City, as a municipal corporation, in N.J.S.A. 40:48-2.3 et seq.
3. Defendant IEP AC Plaza, LLC, is a New Jersey limited liability company with an address located at 767 Fifth Avenue, 47th Floor, New York, New York, 10022.

10. Attached to the Certification of Anthony Cox is a picture of a large lighting fixture that fell several stories from the Property and crashed to the ground. This fixture would have caused grave bodily injury if any person had been struck by it.

11. Attached to the Certification of Anthony Cox is a picture of a large slab of concrete that fell several stories from the Property and crashed to the ground. This concrete slab would have caused grave bodily injury if any person had been struck by it.

12. Attached to the Certification of Anthony Cox is a picture of the façade of the Property, which shows large gaps of concrete that have since fallen from the Property, and also demonstrates the immediate danger of additional pieces of concrete falling several stories to the ground below.

13. Plaintiff brings this action on an emergent basis to protect the health and welfare of the citizens of and visitors to the City and to compel Defendant to take immediate steps to either demolition and/or “wrap” the exterior of the Property such that additional debris can no longer fall off the building.

THE CITY’S POLICE POWER

14. In 1957, the State Legislature enacted N.J.S.A. 40:48-2.3 et seq., which granted municipalities, such as the City, the authority to exercise police powers over buildings that are “so old, dilapidated or have become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, or occupancy, or use[.]” The Legislature deemed such buildings “inimical to the welfare and dangerous and injurious to the health and safety of the people of this State” and that a “necessity exists for the repair, closing or demolition of such building or buildings, or part thereof.” N.J.S.A. 40:48-2.3.

15. In passing N.J.S.A. 40:48-2.3 et seq., the Legislature specifically vested authority in municipalities to adopt a resolution and ordinances “relating to buildings within such municipality which are unfit for human habitation or occupancy or use.” N.J.S.A. 40:48-2.5(f). In particular, the Legislature specifically empowered municipalities to exercise their police powers over such buildings, including, but not limited to, seeking a judgment in a summary manner for the demolition of such buildings if “an actual and immediate danger to life is posed by the threatened collapse of any . . . structurally unsafe building.” N.J.S.A. 40:48-2.5(f).

16. The City passed Ordinance § 108 et seq. in direct response to the Legislature’s passage of N.J.S.A. 40:48-2.3 et seq. and declared that “there exists in the municipality a building or buildings, or parts thereof, which are unfit for human habitation or occupancy or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities or due to other conditions rendering such building or buildings, or part thereof, unsafe or insanitary or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents of the municipality[.]”

17. Following an inspection of the exterior of the Property, Mr. Finch, in his official capacity as the Director of Licensing and Inspections for the City, has found that the Property is unfit for human habitation or occupancy or use and that its continued rapid deterioration is inimical to the welfare of the residents of the City.

18. Following an inspection of the exterior of the Property, Mr. Finch, in his official capacity as the Director of Licensing and Inspections for the City, has further found that there exists an actual and immediate danger to life by the Property’s continued current existence in the City as there is a clear and present danger to life posed by the risk of falling debris from the

Property, which has been caused, in part, by the Property's exposure to the elements and Defendant's neglect.

19. The actual and immediate danger to life posed by the Property's continued existence in the City warrants the issuance of a judgment in this summary proceeding for the demolition and "wrapping" of the Property so that additional debris does not continue to fall onto the streets and Boardwalk of Atlantic City.

20. Due to the immediacy of the risk posed by the Property's continued existence, the City has served Defendant with a complaint pursuant to Atlantic City Ordinance § 108 contemporaneously with the service of this Verified Complaint, Order to Show Cause, and Legal Memorandum.

COUNT ONE

Immediate Demolition and "Wrapping" of the Property Pursuant to N.J.S.A. 40:48-2.3 et seq. and Atlantic City Ordinance § 108 et seq.

21. Plaintiff incorporates paragraphs 1 through 20 above as if fully set forth herein.

22. The facts recited above demonstrate that there is an actual and immediate danger to life posed by the Property's continued existence in the City such that an emergency order compelling Defendant, at its own cost and expense, to demolish and "wrap" the Property is warranted.

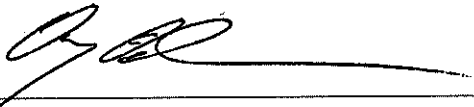
23. The Property is inimical to the welfare of the residents of the City, and its current condition and presence in the City pose an immediate and actual danger to both residents and visitors due to the Property's dilapidation, disrepair, and structural defects due to exposure to the elements.

24. Defendant should be ordered to take immediate steps to demolish and "wrap" the Property such that additional debris does not fall from the exterior of the Property.

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. Ordering Defendant to take immediate steps to ensure the safety of the Property;
- B. Ordering Defendant to immediately demolish and “wrap” the Property within 30 days of Defendant’s taking immediate steps to ensure the safety of the Property;
- C. Directing Defendant to incur the associated cost and expense of securing the property and ensuring its safe demolition and/or “wrapping”; and
- D. Ordering such other relief as the Court may deem to be just and equitable.

Dated: 3/12/2020



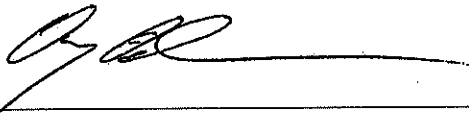
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CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to R. 4:5-1, the undersigned hereby states of behalf of Plaintiff in this action, that the matter in controversy is not the subject of any other action pending in any court or pending arbitration proceeding to the best of this party’s knowledge or belief, nor is any such other action or arbitration proceeding contemplated. Further, other than the parties set forth in this pleading, this party is aware of no other person or entity that should be joined in the above action. In addition, it is recognized that it is the continuing obligation of each party to file and

serve upon all parties and the Court an Amended Certification if there is a change in the facts as stated in the Original Certification.

Dated: 3/12/2020

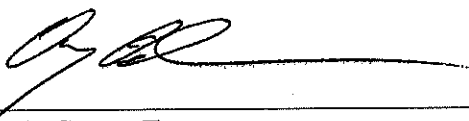


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DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Michael J. Perugini, Esq., as trial counsel in this matter.

Dated: 3/12/2020

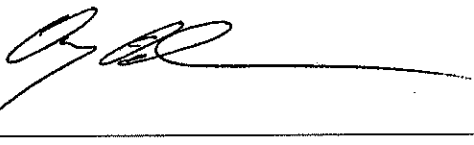


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CERTIFICATION REGARDING CONFIDENTIAL PERSONAL IDENTIFIERS
PURSUANT TO RULE 1:38-7(b)

I hereby 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)

Dated: 3/12/2020




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CERTIFICATION

I, Marty Small, Sr., hereby certify and state that I am the Mayor for the City of Atlantic City, that I have reviewed the foregoing Complaint and the facts set forth therein are true and correct to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements are knowingly false, I am subject to punishment.

Dated: 3-12-20



Marty Small, Sr.
Mayor