

PORZIO, BROMBERG & NEWMAN, P.C.

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Kerri A. Wright, Esq. (018042005)
Attorneys for Plaintiff Jo-Anne Olszewski

JO-ANNE OLSZEWSKI, individually and
as Council President of the Borough of
Highlands,

Plaintiff,

v.

ATLANTIC HIGHLANDS BOARD OF
EDUCATION, HIGHLANDS BOARD OF
EDUCATION, and HENRY HUDSON
REGIONAL BOARD OF EDUCATION,

Defendants.

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

VERIFIED COMPLAINT

Plaintiff Jo-Anne Olszewski (“Plaintiff”) by and through her attorneys, Porzio, Bromberg & Newman, P.C., by way of Verified Complaint against Defendants Atlantic Highlands Board of Education, Highlands Board of Education, and Henry Hudson Regional Board of Education, alleges as follows:

PRELIMINARY STATEMENT

1. This is an action to invalidate a resolution approved by Defendants Highlands Board of Education, Atlantic Highlands Board of Education, and the Henry Hudson Regional Board of Education at their joint special meeting on May 28, 2024, and to restrain the Boards from taking any further action under the resolution. The resolution in question was passed in violation of the Open Public Meetings Act and impermissibly delegates to the Boards’ respective Presidents and counsel the authority to approve and execute a settlement agreement that does not yet exist,

and which may not come into effect until after two of the Defendant Boards -- Atlantic Highlands and Highlands -- cease to exist.

PARTIES

2. Plaintiff Jo-Anne Olszewski is a resident of the State of New Jersey and the Borough of Highlands. She currently serves as Council President of the Borough of Highlands. She brings this action in her capacity as citizen of Highlands and as Council President.

3. Defendant Highlands Board of Education is a political subdivision of the State. The Board is a public agency contemplated by *N.J.S.A. 47:1A-1.1*. The Highlands Board of Education's principal place of business is 360 Navesink Avenue, Highlands, NJ 07732.

4. Defendant Atlantic Highlands Board of Education is a political subdivision of the State. The Board is a public agency contemplated by *N.J.S.A. 47:1A-1.1*. The Atlantic Highlands Board of Education's principal place of business is 140 First Avenue, Atlantic Highlands, NJ 07716.

5. Defendant Henry Hudson Regional Board of Education is a political subdivision of the State. The Board is a public agency contemplated by *N.J.S.A. 47:1A-1.1*. The Henry Hudson Regional Board of Education's principal place of business is 1 Grand Tour, Highlands, NJ 07732.

VENUE

6. Venue is properly laid in Monmouth County pursuant to *Rule 4:3-2* because all parties are found in Monmouth County and the events underlying this matter occurred in Monmouth County.

FACTUAL BACKGROUND LEADING TO THE MAY 28, 2024 SPECIAL MEETING

7. In 2022, Defendants commissioned a feasibility study concerning the issue of converting Henry Hudson, currently a limited purpose school district serving grades 7-12, into an all-purpose PK-12 school district serving all students in the boroughs of both Highlands and Atlantic Highlands.

8. The feasibility study also considered whether the neighboring Borough of Sea Bright should be included in the new all-purpose district, and concluded that Sea Bright's inclusion was warranted and would be beneficial to Defendants financially and educationally.

9. In summer 2022, Defendants, together with the Borough of Highlands, the Borough of Atlantic Highlands, and the Borough of Sea Bright, passed resolutions calling for a referendum on the expansion of the Henry Hudson Regional School District from a limited purpose high school district to an all-purpose PK-12 regional district and for Sea Bright's inclusion in the new district.

10. At the present time, Sea Bright's students attend school in the neighboring districts of Oceanport (elementary school) and Shore Regional (high school). Both the Oceanport Board of Education and the Shore Regional Board of Education filed petitions with the Commissioner of Education seeking to prevent Sea Bright's withdrawal from their respective districts. In addition to the Borough of Sea Bright, Oceanport and Shore Regional named the Borough of Highlands, the Borough of Atlantic Highlands, and Defendants here as Respondents in the actions before the Commissioner.

11. On September 22, 2023, after multiple filings with the Commissioner of Education over the course of several years, the Commissioner of Education issued a decision holding that Sea Bright is permitted by statute to withdraw from the Oceanport and Shore Regional School Districts. The Commissioner also held that Sea Bright could seek to join the new all-purpose Henry

Hudson Regional School District, assuming voters in Highlands and Atlantic Highlands approved an upcoming referendum on the issue of the all-purpose district's creation.

12. On September 26, 2023, voters in Highlands and Atlantic Highlands authorized the conversion of Henry Hudson to a new, all-purpose PK-12 district.

13. This conversion is set to take place on July 1, 2024.

14. On November 6, 2023, Oceanport and Shore Regional filed a notice of appeal to the Appellate Division of the Commissioner's September 22, 2023, decision. The Borough of Sea Bright, Borough of Highlands, Borough of Atlantic Highlands, and Defendants here are named as Respondents in the appeal. A true and correct copy of the notice of appeal is attached hereto as **Exhibit A**.

15. The appeal remains pending at the present time.

16. At some point in or about winter or spring 2024, Oceanport and Shore Regional began negotiations with Defendants which would result in Defendants' dismissal from Oceanport's and Shore Regional's appeal.

17. It has become known that Oceanport and Shore Regional would agree to dismiss Defendants from the appeal in exchange for a series of conditions which would make it nearly impossible for Sea Bright ever to join the new Henry Hudson Regional School District, or, perhaps more importantly, for the voters in Highlands and Atlantic Highlands to vote on a referendum to consider this important issue.

18. These conditions reportedly include requiring that Sea Bright, which is not currently an operating school district and does not have a board of education, again become an operating school district approved by the Commissioner of Education.

19. There currently exists no legal procedure through which Sea Bright could again become an operating school district.

20. It is clear that the conditions of the purported settlement agreement are designed to exclude Sea Bright from the new all-purpose Henry Hudson Regional School District and to prevent the voters in Highlands and Atlantic Highlands from ever considering adding Sea Bright as a constituent of Henry Hudson Regional.

DEFENDANTS' MAY 28, 2024 SPECIAL MEETING

21. Prior to their joint special meeting scheduled for May 28, 2024, Defendants issued a “Special Meeting” notice setting forth the meeting’s agenda. A true and correct copy of the special meeting notice is attached hereto as **Exhibit B**.

22. The special meeting notice does not contain any information regarding any proposed resolution, including any resolution for the settlement of the pending appeal with Oceanport and Shore Regional.

23. The special meeting notice also does not contain specific reference to what litigation the Boards would be discussing in executive session and, therefore, did not give the public notice that they might be discussing the pending litigation with Oceanport and Shore Regional.

24. Despite the failure to reference the aforementioned litigation or any such resolution or settlement discussions generally in the meeting notice, Defendants passed a resolution to “approve the concept of Settlement of the [appeal].” The resolution further states that it “authorize[s] counsel and the Presidents of the Boards, to negotiate a resolution with opposing counsel and if consistent with the parameters provided to Counsel, to execute the Settlement

Agreement revised in accordance therewith.” A true and correct copy of the resolution is attached hereto as **Exhibit C**.

25. By its plain language, the resolution does not approve any actual, existing settlement agreement, but rather the “concept” of some future settlement agreement.

26. The precise terms of this settlement agreement, or what those terms may be, has not been revealed to the public.

27. On June 4, 2024, Defendants’ counsel filed a motion in the Appellate Division to extend time for Defendants’ to file their opposition briefs. A true and correct copy of this correspondence is attached hereto as **Exhibit D**.

28. Defendants’ counsel submitted a letter in support of the motion, stating: “we respectfully request an extension of the filing deadline by fourteen (14) days, from the current date of June 14, 2024 until June 28, 2024, to permit the parties an opportunity to finalize a pending settlement of the claims involving Respondent Boards [i.e., Defendants here]. . . . The challenges pending before the Court in this matter are, in part, the subject of a proposed settlement agreement, which agreement the parties anticipate will be finalized soon, but not prior to the June 14, 2024 deadline for Respondent Boards to file their Opposition Briefs in this Appeal.”

29. Defendants’ counsel’s June 4, 2024 letter thus confirms that no final settlement agreement existed on May 28, 2024, when Defendants passed the resolution approving “the concept” of a future settlement agreement.

DEFENDANTS’ LEGAL STATUS

30. Because of the referendum approving the new, all-purpose Henry Hudson Regional School District, all Defendant Boards of Education will cease to exist in their current form within the next several weeks.

31. The terms for Defendants Highlands’ and Atlantic Highlands’ current boards expire on June 30, 2024. After June 30, 2024, the Highlands Board of Education and Atlantic Highlands Board of Education no longer will exist.

32. Defendant Henry Hudson has a transitional board, with its members’ terms expiring on December 31, 2024.

33. The Board for the new all-purpose Henry Hudson Regional School District will be elected in November 2024, and its members will take office on January 1, 2025.

34. Defendants thus voted to approve a future and currently non-existent agreement which will bind and may ultimately be approved in its final form by a future board that does not yet exist and whose members have not yet taken office.

35. Each Defendant Board will meet individually for the final time during the week beginning on Monday, June 10, 2024.

36. The Highlands Board of Education will meet on Monday, June 10, 2024.

37. The Atlantic Highlands Board of Education will meet on Tuesday, June 11, 2024.

38. The Henry Hudson Regional Board of Education will meet on Wednesday, June 12, 2024.

FIRST COUNT
OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-6 et seq.

39. Plaintiff repeats and re-alleges the statements made in each of the preceding paragraphs of Plaintiff’s Verified Complaint as if same were set forth at length herein.

40. The Open Public Meetings Act requires that public bodies provide “adequate notice” of a special meeting at least 48 in hours in advance of the meeting.

41. To provide “adequate notice” of a special meeting, a public body must provide the public notice of the meeting agenda and the matters on which the public body will take action.

42. For the reasons previously stated, including the failure to adequately notify the public, Defendants' resolution approving the "concept" of a future settlement agreement violates the Open Public Meetings Act.

43. Moreover, Defendants' improper delegation of the authority to negotiate and execute the settlement agreement violates the Open Public Meetings Act because Defendants have attempted to secret the settlement terms from the public.

WHEREFORE, Plaintiff demands judgment against Defendants awarding Plaintiff:

- (a) An Order of Judgment stating that the resolution adopted by Defendants at their May 28, 2024 joint special meeting is void;
- (b) Preliminary and permanent injunctive relief prohibiting Defendants from taking any action attendant to the resolution passed at the May 28, 2024 joint special meeting; and
- (c) Such other legal and equitable relief as the Court may deem just and proper.

SECOND COUNT
VIOLATION OF THE COMMON LAW SQUARE CORNERS DOCTRINE

44. Plaintiff repeats and re-alleges the statements made in each of the preceding paragraphs of Plaintiff's Verified Complaint as if same were set forth at length herein.

45. Supreme Court precedent known as the "Four Corners Doctrine" requires that public bodies act solely in the public interest, and must act "forthrightly and fairly" in their official duties.

46. By impermissibly delegating authority to their counsel and respective Board Presidents to execute a then-nonexistent agreement, Defendants have entered into a secret settlement upon which the public has no ability to contemplate or comment before the agreement is executed and in force.

47. Defendants therefore have violated the public trust and have failed to deal forthrightly and freely with the public.

WHEREFORE, Plaintiff demands judgment against Defendants awarding Plaintiff:

- (a) An Order of Judgment stating that the resolution adopted by Defendants at their May 28, 2024 joint special meeting is void;
- (b) Preliminary and permanent injunctive relief prohibiting Defendants from taking any action attendant to the resolution passed at the May 28, 2024 joint special meeting; and
- (c) Such other legal and equitable relief as the Court may deem just and proper.

THIRD COUNT
COMMON LAW FORESTALLING OF RIGHTS OF SUCCESSOR BOARD

48. Plaintiff repeats and re-alleges the statements made in each of the preceding paragraphs of Plaintiff's Verified Complaint as if same were set forth at length herein.

49. New Jersey's courts prohibit a public body from taking any action to forestall the rights and obligations of its successor in interest.

50. Defendants here soon will cease to exist in their current form, and will transfer their rights and responsibilities to the successor board of the Henry Hudson Regional School District Board of Education, whose first non-transitional members will take office in January 2025.

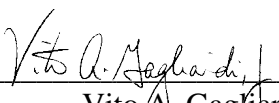
51. In passing the resolution during their joint special meeting on May 28, 2024, to approve a then-nonexistent settlement agreement, Defendants took official action which will bind a future iteration of the all-purpose Henry Hudson Regional School District Board of Education.

52. By taking action with regard to a settlement agreement that will bind the future board, and will affect the future board's rights and obligations, Defendants have usurped the future board's rights and authority.

WHEREFORE, Plaintiff demands judgment against Defendants awarding Plaintiff:

- (a) An Order of Judgment stating that the resolution adopted by Defendants at their May 28, 2024 joint special meeting is void;
- (b) Preliminary and permanent injunctive relief prohibiting Defendants from taking any action attendant to the resolution passed at the May 28, 2014 joint special meeting;
- (c) Such other legal and equitable relief as the Court may deem just and proper.

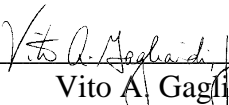
PORZIO, BROMBERG & NEWMAN, P.C.
Attorneys for Plaintiff Jo-Anne Olszewski

By: 
Vito A. Gagliardi, Jr.
An Attorney of the Firm

Dated: June 10, 2024

RULE 4:5-1 CERTIFICATION

I hereby certify that the matter in controversy is not the subject of any other action pending in any other court or of any pending arbitration proceeding, other than the referenced matter pending before the Appellate Division, which Respondents are seeking to settle, that no other action or arbitration is contemplated, and that I know of no other party who should be joined in this action.

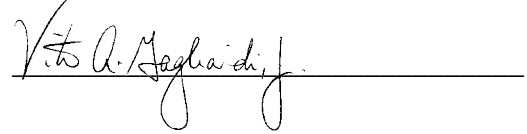


Vito A. Gagliardi, Jr.

Dated: June 10, 2024

RULE 1:38-8 CERTIFICATION

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).

A handwritten signature in black ink, appearing to read "Vito A. Magliacich", is written over a horizontal line.

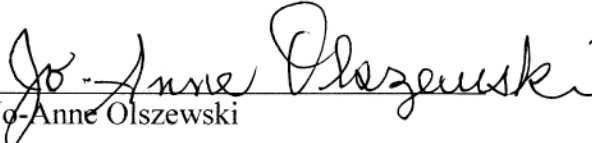
Dated: June 10, 2024

VERIFICATION

I, Jo-Anne Olszewski, am a Plaintiff named in the foregoing Verified Complaint.

1. The allegations set forth in this Verified Complaint are true to the best of my personal knowledge except as to those allegations which are made upon information and belief.
2. As to the allegations made upon information and belief, I believe those to be true.
3. All documents appended as exhibits to the Verified Complaint are true and accurate copies of said documents.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Jo-Anne Olszewski

Dated: June 10, 2024

EXHIBIT A



New Jersey Judiciary
 Superior Court - Appellate Division
Notice of Appeal

TITLE IN FULL (AS CAPTIONED BELOW) I/M/O THE VERIFIED PETITION FOR THE PROPOSED CREATION OF A PK-12 ALL-PURPOSE REGIONAL SCHOOL DISTRICT BY THE BOROUGH OF SEA BRIGHT, BOROUGH OF HIGHLANDS, BOROUGH OF ATLANTIC HIGHLANDS, HENRY HUDSON REGIONAL SCHOOL DISTRICT, ATLANTIC HIGHLANDS SCHOOL DISTRICT, AND HIGHLANDS BOROUGH SCHOOL DISTRICT'S VERIFIED PETITION FOR THE PROPOSED CREATION OF A PK-12 ALL-PURPOSE REGIONAL SCHOOL DISTRICT	ATTORNEY / LAW FIRM / PRO SE LITIGANT NAME GEOFFREY NELSON STARK, Esq.			
		STREET ADDRESS 8000 MIDLANTIC DR STE 300S P.O. BOX 5016		
		CITY MT. LAUREL	STATE NJ	ZIP 08054-5016
		EMAIL ADDRESS gstark@capehart.com amoore@capehart.com (*)		

ON APPEAL FROM		
TRIAL COURT JUDGE 	TRIAL COURT OR STATE AGENCY EDUCATION	TRIAL COURT OR AGENCY NUMBER N/A

SHORE REGIONAL HIGH SCHOOL DISTRICT

Notice is hereby given that **BOARD OF EDUCATION (*)** appeals to the Appellate Division from a Judgment or Order entered on _____ in the Civil Criminal or Family Part of the Superior Court Tax Court or from a State Agency decision entered on **09/22/2023**

If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.

N/A

For criminal, quasi-criminal and juvenile actions only:

Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed:

This appeal is from a conviction post judgment motion post-conviction relief pre-trial detention
 If post-conviction relief, is it the 1st 2nd other _____ specify

Is defendant incarcerated? Yes No

Was bail granted or the sentence or disposition stayed? Yes No

If in custody, name the place of confinement:

Defendant was represented below by:

Public Defender self private counsel _____ specify

(*) truncated due to space limit. Please find full information in the additional pages of the form.

Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge		
Trial Court Division Manager		
Tax Court Administrator		
State Agency	EDUCATION	11/06/2023
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1(b)		11/06/2023

Other parties in this action:

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
SHORE REGIONAL HIGH SCHOOL DISTRICT BOARD OF EDUCATION	JOSEPH FRANCIS BETLEY, Esq. CAPEHART & SCATCHARD PA 8000 MIDLANTIC DR STE 300S P.O. BOX 5016 MT. LAUREL NJ 08054-5016 856-234-6800 jbetley@capehart.com; amoore@capehart.com	11/06/2023
OCEANPORT BOARD OF EDUCATION	ISABEL MACHADO, Esq. MACHADO LAW GROUP, LLC 1 CLEVELAND PL SPRINGFIELD NJ 07081 973-232-5291 cmartinez@machadolawgroup.com; eramella@machadolawgroup.com	11/06/2023
OCEANPORT BOARD OF EDUCATION	CHRISTINE MAGEE, Esq. MACHADO LAW GROUP, LLC 1 CLEVELAND PL SPRINGFIELD NJ 07081 973-232-5291 cmagee@machadolawgroup.com; cmagee524@gmail.com	11/06/2023
OCEANPORT BOARD OF EDUCATION	CHRISTINE MARIE MARTINEZ, Esq. MACHADO LAW GROUP, LLC 1 CLEVELAND PL SPRINGFIELD NJ 07081 973-232-5291 cmartinez@machadolawgroup.com; nbarnes@machadolawgroup.com	11/06/2023

EDUCATION	MELISSA H RAKSA, Esq. ATTORNEY GENERAL LAW 25 MARKET ST PO BOX 112 TRENTON NJ 08625 609-984-3900 dol.appeals@law.njoag.gov (DOLAPPEALS@LPS.STATE.NJ.US; DOLAPPEALS@LPS.STATE.NJ.US)	11/06/2023
BOROUGH OF SEA BRIGHT	VITO ANTHONY GAGLIARDI JR, Esq. PORZIO BROMBERG & NEWMAN PC 100 SOUTHGATE PKWY PO BOX 1997 MORRISTOWN NJ 07962-1997 973-538-4006 vagagliardi@pbnlaw.com; jaciaburri@pbnlaw.com; rjsisco@pbnlaw.com	11/06/2023
BOROUGH OF SEA BRIGHT	KERRI A WRIGHT, Esq. PORZIO BROMBERG & NEWMAN PC 100 SOUTHGATE PKWY PO BOX 1997 MORRISTOWN NJ 07962-1997 973-538-4006 kawright@pbnlaw.com; jaciaburri@pbnlaw.com; rjsisco@pbnlaw.com	11/06/2023
BOROUGH OF HIGHANDS	VITO ANTHONY GAGLIARDI JR, Esq. PORZIO BROMBERG & NEWMAN PC 100 SOUTHGATE PKWY PO BOX 1997 MORRISTOWN NJ 07962-1997 973-538-4006 vagagliardi@pbnlaw.com; jaciaburri@pbnlaw.com; rjsisco@pbnlaw.com	11/06/2023
BOROUGH OF HIGHANDS	KERRI A WRIGHT, Esq. PORZIO BROMBERG & NEWMAN PC 100 SOUTHGATE PKWY PO BOX 1997 MORRISTOWN NJ 07962-1997 973-538-4006 kawright@pbnlaw.com; jaciaburri@pbnlaw.com; rjsisco@pbnlaw.com	11/06/2023

(*) truncated due to space limit. Please find full information in the additional pages of the form.

BOROUGH OF ATLANTIC HIGHANDS	MATTHEW JOSEPH GIACOBBE, Esq. CLEARY GIACOBBE ALFIERI JACOBS LLC 169 RAMAPO VALLEY RD UPPER LEVEL SUITE 105 OAKLAND NJ 07436 973-845-6700 mgiacobbe@cgajlaw.com; rwilson@cgajlaw.com; ksarto@cgajlaw.com	11/06/2023
HIGHLANDS BOARD OF EDUCATION	JONATHAN MATTHEW BUSCH, Esq. THE BUSCH LAW GROUP LLC 450 MAIN ST METUCHEN NJ 08840 732-243-9588 (jbusch@buschlawgroup.com)	11/06/2023
HIGHLANDS BOARD OF EDUCATION	NICHOLAS CELSO III, Esq. THE BUSCH LAW GROUP LLC 450 MAIN ST METUCHEN NJ 08840 732-243-9588 ncelso@buschlawgroup.com; nc4858@aol.com	11/06/2023
ATLANTIC HIGHLANDS BOARD OF EDUCATION	JONATHAN MATTHEW BUSCH, Esq. THE BUSCH LAW GROUP LLC 450 MAIN ST METUCHEN NJ 08840 732-243-9588 (jbusch@buschlawgroup.com)	11/06/2023
ATLANTIC HIGHLANDS BOARD OF EDUCATION	NICHOLAS CELSO III, Esq. THE BUSCH LAW GROUP LLC 450 MAIN ST METUCHEN NJ 08840 732-243-9588 ncelso@buschlawgroup.com; nc4858@aol.com	11/06/2023
HENRY HUDSON REGIONAL BOARD OF EDUCATION	JONATHAN MATTHEW BUSCH, Esq. THE BUSCH LAW GROUP LLC 450 MAIN ST METUCHEN NJ 08840 732-243-9588 (Jbusch@buschlawgroup.com)	11/06/2023
HENRY HUDSON REGIONAL BOARD OF	NICHOLAS CELSO III, Esq. THE BUSCH LAW GROUP LLC 450 MAIN ST	11/06/2023

(*) truncated due to space limit. Please find full information in the additional pages of the form.

Revised effective: 09/01/2008, CN 10502 (Notice of Appeal)

EDUCATION**METUCHEN NJ 08840****732-243-9588****ncelso@buschlawgroup.com; nc4858@aol.com**

Attached transcript request form has been served where applicable on the following:

Name	Date of Service
Transcript Office Clerk of the Tax Court State Agency	

Exempt from submitting the transcript request form due to the following:

- There is no verbatim record for this appeal.
- Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).

List the date(s) of the trial or hearing:

- Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- Motion for transcripts at public expense filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief. I also certify that, unless exempt, the filing fee required by *N.J.S.A. 22A:2* has been paid.

11/06/2023

Date

s/ **GEOFFREY NELSON STARK, Esq.**

Signature of Attorney or Pro Se Litigant

BAR ID #

018112010

EMAIL ADDRESS

gstark@capehart.com; amoore@capehart.com



New Jersey Judiciary
 Superior Court - Appellate Division
 Notice of Appeal

Additional appellants continued below

Appellant's Attorney Email Address: jbetley@capehart.com; amoores@capehart.com

Plaintiff Defendant Other (Specify) **NEW PARTY**

Name **JOSEPH FRANCIS BETLEY, Esq.** Client **SHORE REGIONAL HIGH SCHOOL DISTRICT BOARD OF EDUCATION**

Street Address **8000 MIDLANTIC DR STE 300S P.O. BOX 5016** City **MT. LAUREL** State **NJ** Zip **08054-5016** Telephone Number **856-234-6800**

Appellant's Attorney Email Address: cmartinez@machadolawgroup.com; eramella@machadolawgroup.com

Plaintiff Defendant Other (Specify) **NEW PARTY**

Name **ISABEL MACHADO, Esq.** Client **OCEANPORT BOARD OF EDUCATION**

Street Address **1 CLEVELAND PL** City **SPRINGFIELD** State **NJ** Zip **07081** Telephone Number **973-232-5291**

Appellant's Attorney Email Address: cmagee@machadolawgroup.com; cmagee524@gmail.com

Plaintiff Defendant Other (Specify) **NEW PARTY**

Name **CHRISTINE MAGEE, Esq.** Client **OCEANPORT BOARD OF EDUCATION**

Street Address **1 CLEVELAND PL** City **SPRINGFIELD** State **NJ** Zip **07081** Telephone Number **973-232-5291**

Appellant's Attorney Email Address: cmartinez@machadolawgroup.com; nbarnes@machadolawgroup.com

Plaintiff Defendant Other (Specify) **NEW PARTY**

Name **CHRISTINE MARIE MARTINEZ, Esq.** Client **OCEANPORT BOARD OF EDUCATION**

Street Address **1 CLEVELAND PL** City **SPRINGFIELD** State **NJ** Zip **07081** Telephone Number **973-232-5291**

Additional respondents continued below

Respondent's Attorney Email Address: vagagliardi@pbnlaw.com; jaciaburri@pbnlaw.com; rjsisco@pbnlaw.com

Plaintiff Defendant Other (Specify) **PETITIONER**

Name **VITO ANTHONY GAGLIARDI JR, Esq.** Client **BOROUGH OF SEA BRIGHT**

Street Address **100 SOUTHGATE PKWY PO BOX 1997** City **MORRISTOWN** State **NJ** Zip **07962-1997** Telephone Number **973-538-4006**

Respondent's Attorney Email Address: kawright@pbnlaw.com; jaciaburri@pbnlaw.com; rjsisco@pbnlaw.com

Plaintiff Defendant Other (Specify) **PETITIONER**

Name **KERRI A WRIGHT, Esq.** Client **BOROUGH OF SEA BRIGHT**

Street Address **100 SOUTHGATE PKWY PO BOX 1997** City **MORRISTOWN** State **NJ** Zip **07962-1997** Telephone Number **973-538-4006**

Respondent's Attorney Email Address: vagagliardi@pbnlaw.com; jaciaburri@pbnlaw.com; rjsisco@pbnlaw.com

Plaintiff Defendant Other (Specify) **PETITIONER**

Name _____ Client _____

VITO ANTHONY GAGLIARDI JR, Esq.		BOROUGH OF HIGHANDS		
Street Address	City	State	Zip	Telephone Number
100 SOUTHGATE PKWY PO BOX 1997	MORRISTOWN	NJ	07962-1997	973-538-4006
Respondent's Attorney Email Address: kawright@pbnlaw.com; jaciaburri@pbnlaw.com; rjsisco@pbnlaw.com				
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> Other (Specify) PETITIONER				
Name		Client		
KERRI A WRIGHT, Esq.		BOROUGH OF HIGHANDS		
Street Address	City	State	Zip	Telephone Number
100 SOUTHGATE PKWY PO BOX 1997	MORRISTOWN	NJ	07962-1997	973-538-4006
Respondent's Attorney Email Address: mgiacobbe@cgajlaw.com; rwilson@cgajlaw.com;				
Email Address: ksarto@cgajlaw.com				
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> Other (Specify) PETITIONER				
Name		Client		
MATTHEW JOSEPH GIACOBBE, Esq.		BOROUGH OF ATLANTIC HIGHANDS		
Street Address	City	State	Zip	Telephone Number
169 RAMAPO VALLEY RD UPPER LEVEL SUITE 105	OAKLAND	NJ	07436	973-845-6700
Respondent's Attorney Email Address: (jbusch@buschlawgroup.com)				
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> Other (Specify) PETITIONER				
Name		Client		
JONATHAN MATTHEW BUSCH, Esq.		HIGHLANDS BOARD OF EDUCATION		
Street Address	City	State	Zip	Telephone Number
450 MAIN ST	METUCHEN	NJ	08840	732-243-9588
Respondent's Attorney Email Address: ncelso@buschlawgroup.com; nc4858@aol.com				
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> Other (Specify) PETITIONER				
Name		Client		
NICHOLAS CELSO III, Esq.		HIGHLANDS BOARD OF EDUCATION		
Street Address	City	State	Zip	Telephone Number
450 MAIN ST	METUCHEN	NJ	08840	732-243-9588
Respondent's Attorney Email Address: (jbusch@buschlawgroup.com)				
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> Other (Specify) PETITIONER				
Name		Client		
JONATHAN MATTHEW BUSCH, Esq.		ATLANTIC HIGHLANDS BOARD OF EDUCATION		
Street Address	City	State	Zip	Telephone Number
450 MAIN ST	METUCHEN	NJ	08840	732-243-9588
Respondent's Attorney Email Address: ncelso@buschlawgroup.com; nc4858@aol.com				
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> Other (Specify) PETITIONER				
Name		Client		
NICHOLAS CELSO III, Esq.		ATLANTIC HIGHLANDS BOARD OF EDUCATION		
Street Address	City	State	Zip	Telephone Number
450 MAIN ST	METUCHEN	NJ	08840	732-243-9588
Respondent's Attorney Email Address: (Jbusch@buschlawgroup.com)				
<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> Other (Specify) PETITIONER				
Name		Client		
JONATHAN MATTHEW BUSCH, Esq.		HENRY HUDSON REGIONAL BOARD OF EDUCATION		
Street Address	City	State	Zip	Telephone Number
450 MAIN ST	METUCHEN	NJ	08840	732-243-9588
Respondent's Attorney Email Address: ncelso@buschlawgroup.com; nc4858@aol.com				

<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> Other (Specify) PETITIONER				
Name			Client	
NICHOLAS CELSO III, Esq.			HENRY HUDSON REGIONAL BOARD OF EDUCATION	
Street Address	City	State	Zip	Telephone Number
450 MAIN ST	METUCHEN	NJ	08840	732-243-9588
Additional parties continued below				
Appellant's attorney email address continued below				
PARTY NAME: SHORE REGIONAL HIGH SCHOOL DISTRICT BOARD OF EDUCATION ATTORNEY NAME: GEOFFREY NELSON STARK, Esq. gstark@capehart.com amoore@capehart.com aobrien@capehart.com PARTY NAME: SHORE REGIONAL HIGH SCHOOL DISTRICT BOARD OF EDUCATION ATTORNEY NAME: JOSEPH FRANCIS BETLEY, Esq. jbetley@capehart.com amoore@capehart.com PARTY NAME: OCEANPORT BOARD OF EDUCATION ATTORNEY NAME: ISABEL MACHADO, Esq. cmartinez@machadolawgroup.com eramella@machadolawgroup.com PARTY NAME: OCEANPORT BOARD OF EDUCATION ATTORNEY NAME: CHRISTINE MAGEE, Esq. cmagee@machadolawgroup.com cmagee524@gmail.com PARTY NAME: OCEANPORT BOARD OF EDUCATION ATTORNEY NAME: CHRISTINE MARIE MARTINEZ, Esq. cmartinez@machadolawgroup.com nbarnes@machadolawgroup.com				
Respondent's attorney email address continued below				
PARTY NAME: BOROUGH OF SEA BRIGHT ATTORNEY NAME: VITO ANTHONY GAGLIARDI JR, Esq. vagagliardi@pbnlaw.com jaciaburri@pbnlaw.com rjsisco@pbnlaw.com PARTY NAME: BOROUGH OF SEA BRIGHT ATTORNEY NAME: KERRI A WRIGHT, Esq. kawright@pbnlaw.com jaciaburri@pbnlaw.com rjsisco@pbnlaw.com PARTY NAME: BOROUGH OF HIGHANDS ATTORNEY NAME: VITO ANTHONY GAGLIARDI JR, Esq. vagagliardi@pbnlaw.com jaciaburri@pbnlaw.com rjsisco@pbnlaw.com PARTY NAME: BOROUGH OF HIGHANDS ATTORNEY NAME: KERRI A WRIGHT, Esq. kawright@pbnlaw.com jaciaburri@pbnlaw.com rjsisco@pbnlaw.com PARTY NAME: BOROUGH OF ATLANTIC HIGHANDS ATTORNEY NAME: MATTHEW JOSEPH GIACOBBE, Esq. mgiacobbe@cgajlaw.com rwilson@cgajlaw.com ksarto@cgajlaw.com PARTY NAME: HIGHLANDS BOARD OF EDUCATION ATTORNEY NAME: JONATHAN MATTHEW BUSCH, Esq.				

(jbusch@buschlawgroup.com)

PARTY NAME: HIGHLANDS BOARD OF EDUCATION ATTORNEY NAME: NICHOLAS CELSO III, Esq.

ncelso@buschlawgroup.com

nc4858@aol.com

PARTY NAME: ATLANTIC HIGHLANDS BOARD OF EDUCATION ATTORNEY NAME: JONATHAN

MATTHEW BUSCH, Esq.

(jbusch@buschlawgroup.com)

PARTY NAME: ATLANTIC HIGHLANDS BOARD OF EDUCATION ATTORNEY NAME: NICHOLAS

CELSO III, Esq.

ncelso@buschlawgroup.com

nc4858@aol.com

PARTY NAME: HENRY HUDSON REGIONAL BOARD OF EDUCATION ATTORNEY NAME: JONATHAN

MATTHEW BUSCH, Esq.

(Jbusch@buschlawgroup.com)

PARTY NAME: HENRY HUDSON REGIONAL BOARD OF EDUCATION ATTORNEY NAME: NICHOLAS

CELSO III, Esq.

ncelso@buschlawgroup.com

nc4858@aol.com

Additional Party's attorney email address continued below

EXHIBIT B



HENRY HUDSON TRI-DISTRICT

Atlantic Highlands Elementary, Highlands Elementary, and Henry Hudson Regional School Districts

One Grand Tour, Highlands New Jersey 07732-2039

TELEPHONE: (732) 872-0900 FAX: (732) 872- 1315

Dr. Tara Beams, Superintendent of Schools

tbeams@henryhudsonreg.k12.nj.us

ATLANTIC HIGHLANDS, HENRY HUDSON REGIONAL AND HIGHLANDS BOARDS OF EDUCATION

SPECIAL MEETING

Notice is hereby given that the Atlantic Highlands, Henry Hudson Regional and Highlands Boards of Education will meet simultaneously in a jointly conducted Special “Tri-District” Board of Education Meeting at 6:00 p.m. on Tuesday, May 28, 2024 in the Genevieve M. Hawley Cafetorium at the Henry Hudson Regional School, One Grand Tour, Highlands, in the County of Monmouth, State of New Jersey. The agenda, to the extent known at this time, shall be:

1. Call to Order
2. OPMA Statement of Compliance
3. Pledge of Allegiance
4. Roll Call of Each Board
5. Motion for Closed Session to discuss and receive advice from legal counsel regarding pending litigation
6. Resumption of Public Session
7. Public Comment
8. Action Item
9. Adjournment

Formal Action WILL be taken by the Boards of Education at this meeting.

EXHIBIT C

HENRY HUDSON REGIONAL BOARD OF EDUCATION

SERVING THE BOROUGHES OF ATLANTIC HIGHLANDS AND HIGHLANDS

One Grand Tour · Highlands, New Jersey 07732-2039

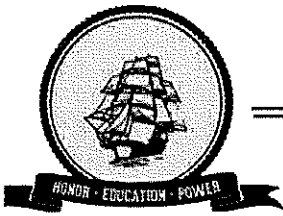
Phone: 732-872-1517

Fax: 732-872-1315

Claire Kozic
Board President

Janet Sherlock
Business Administrator/Board Secretary

Dr. Tara Beams
Superintendent



CERTIFICATION OF BOARD ACTION HENRY HUDSON REGIONAL BOARD OF EDUCATION

The following is an excerpt from the minutes of the May 28, 2024 Henry Hudson Regional Board of Education meeting:

WHEREAS, pursuant to a state grant (*Local Efficiency Achievement Program* (“LEAP”)) awarded on April 22, 2021, the Boards of Education of Atlantic Highlands, Highlands and Henry Hudson Regional School District commenced investigation of the feasibility of converting the limited-purpose, grades 7 – 12 Henry Hudson Regional School District to an all-purpose, PreK-12 regional school district; and

WHEREAS, the Boards commissioned a feasibility study to determine the viability and impact of a proposed school district reconfiguration whereby all students in Grades PreK-12 residing in Highlands, Atlantic Highlands, and possibly Sea Bright would be educated in a single, consolidated school district; and

WHEREAS, the Boards’ feasibility study concluded that the addition of Sea Bright as a constituent district would be warranted; and

WHEREAS, on July 13, 2022, the Boards authorized the filing of a Petition to the Commissioner jointly with the Boroughs of Atlantic Highlands, Highlands and Sea Bright (“Boroughs”) which would have included Sea Bright students, as soon as Sea Bright might be permitted by the Commissioner to join, and authorizing the Boards to proceed with their regionalization in the event that Sea Bright’s withdrawal from Oceanport and/Shore Regional was delayed or prohibited; and

WHEREAS, on July 15, 2022, the Boards and Boroughs jointly filed a Verified Petition for Regionalization (“Joint Petition”); and

WHEREAS, on June 23, 2022, before the Joint Petition could be filed, Oceanport filed a Petition of Appeal with the Commissioner, challenging Sea Bright’s legal authority to withdraw from Oceanport in order to join the proposed all-purpose regional district, followed on July 19, 2022 by a Petition for Declaratory Ruling filed by Shore Regional. Although the Boards and the Boroughs joined in a motion to dismiss, the legal challenges remained unresolved for several months; and

WHEREAS, when it became clear that the legal challenges lodged by Oceanport and Shore Regional were stalling movement on the proposed regionalization effort, the Boards opted to move forward by filing an Amended Petition seeking the

Commissioner's approval to proceed to referendum to regionalize without Sea Bright's inclusion initially, again indicating their willingness to add Sea Bright once it was cleared to withdraw from Oceanport and Shore Regional; and

WHEREAS, on March 17, 2023, the Boards filed an Amended Petition; and

WHEREAS, on April 3, 2023, although the Commissioner issued a decision dismissing Oceanport's and Shore Regional's Petitions, they promptly filed an appeal with the New Jersey Superior Court, Appellate Division challenging the Commissioner's decision and again including the Boards as co-respondents, continuing to press their claim that Sea Bright is unable legally to withdraw from Oceanport and Shore Regional; and

WHEREAS, on July 21, 2023, the Acting Commissioner approved the Boards' Amended Petition, authorizing them to proceed to a public referendum calling for the expansion of the Henry Hudson Regional School District to an all-purpose regional district that did not include Sea Bright students; and

WHEREAS, with the special election scheduled to occur on September 26, 2023, legal counsel for Sea Bright and Highlands Boroughs, independently of the Boards, submitted a request to the Commissioner that Sea Bright be permitted to withdraw from Oceanport and Shore Regional to join the proposed, expanded regional district, as set forth in the original Joint Petition; and

WHEREAS, on September 22, 2023, the Commissioner issued a decision dismissing the Joint Petition as moot, in view of the Commissioner's July 21, 2023 decision that had granted the Boards' Amended Petition; and

WHEREAS, the voters of Atlantic Highlands and Highlands overwhelming approved the referendum on September 26, 2023, authorizing the conversion of Henry Hudson to a PreK-12 regional school district; and

WHEREAS, the PreK-12 Henry Hudson Regional School District became effective, legally, twenty days following the September 26, 2023 special election; and

WHEREAS, Oceanport and Shore Regional filed a second appeal with the New Jersey Superior Court, Appellate Division, on or about November 8, 2023.

WHEREAS, the Appellate Court issued an Order on December 14, 2023, dismissing Oceanport's and Shore Regional's first appeal as moot; and

WHEREAS, on January 4, 2024, a transitional board of education was established to govern the affairs of the newly established PreK-12 Regional School District; and

WHEREAS, the PreK-12 Regional School District Transitional Board is scheduled to take control of all operations and property of the Atlantic Highlands and Highlands School Districts on or about July 1, 2024, at which time Atlantic Highlands and Highlands School Districts shall cease to exist; and

WHEREAS, the second appeal by Oceanport and Shore Regional remains open and pending before the Appellate Division; and

WHEREAS, even if the Appellate Court were to rule in favor of the Boards and the Boroughs in the currently pending appeal, it is likely that Oceanport and Shore Regional will continue to challenge Sea Bright’s efforts to withdraw, continuing the Boards’ involvement; and

WHEREAS, an offer of settlement (“Settlement Agreement”) has been received from Oceanport and Shore Regional that would permanently dismiss the Boards from the pending litigation;

WHEREAS, the aforementioned litigation has spanned nearly two years now and continues with no clear end in sight;

NOW THEREFORE, BE IT RESOLVED, that after careful consideration, the Boards of Atlantic Highlands, Highlands, and Henry Hudson Regional (7-12) School Districts approve the concept of Settlement of the matter, in accordance with the options discussed in closed session with legal counsel and hereby authorize counsel and the Presidents of the Boards, to negotiate a resolution with opposing counsel and if consistent with the parameters provided to Counsel, to execute the Settlement Agreement revised in accordance therewith, in the matter of *I/M/O the Verified Petition for the Proposed Creation of a PK-12 All-Purpose Regional School District by the Borough of Sea Bright, Borough of Highlands, Borough of Atlantic Highlands, Henry Hudson Regional School District, Atlantic Highlands School District, and Highlands Borough School District, Monmouth County, Docket No. A-0716-23T4, and*

BE IT FURTHER RESOLVED, that the Board Presidents are authorized to sign the Settlement Agreement on behalf of the Boards; and

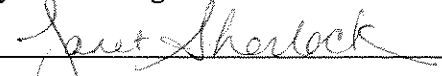
BE IT FURTHER RESOLVED, that the Settlement Agreement shall be made a part of the official minutes of the Boards’ meeting held on May 28, 2024, when available.

Moved: Ms. Bollinger **Seconded: Ms. Higgins**

Roll Call:

Aye: 7 **Nay: 0** **Abstain: 0** **Absent: 2**

CERTIFICATION: I, Janet Sherlock, School Business Administrator/Board Secretary of the Henry Hudson Regional Board of Education, certify that this is a true copy of an excerpt from the minutes of the meeting of the Henry Hudson Regional Board of Education held May 28, 2024.

Attest: 
Board Secretary/School Business Administrator

Date: May 28, 2024

EXHIBIT D



ARON G. MANDEL
COUNSEL
AMANDEL@BUSCHLAWGROUP.COM

Aron G. Mandel, Esq. (085242013)
amandel@buschlawgroup.com
THE BUSCH LAW GROUP LLC
450 Main Street
Metuchen, NJ 08840
Phone: 732-243-9588
Fax: 732-243-9590

June 4, 2024

(Via E-Courts and Hand Delivery)
Appellate Division Clerk's Office
Richard J. Hughes Justice Complex
P.O. Box 006
Trenton, New Jersey 08625-0970

**RE: I/M/O THE VERIFIED PETITION FOR THE PROPOSED
CREATION OF A PK-12 ALL-PURPOSE REGIONAL
SCHOOL DISTRICT BY THE BOROUGH OF SEA BRIGHT,
BOROUGH OF HIGHLANDS, BOROUGH OF ATLANTIC
HIGHLANDS, HENRY HUDSON REGIONAL SCHOOL
DISTRICT, ATLANTIC HIGHLANDS SCHOOL DISTRICT,
AND HIGHLANDS BOROUGH SCHOOL DISTRICT,
MONMOUTH COUNTY**
Docket No.: A-0716-23T4

Dear Judges:

This office represents respondent-appellees, the Boards of Education of Atlantic Highlands, Highlands and Henry Hudson Regional School District (hereinafter, "Respondent Boards") in the above-referenced matter. We ask the

REPLY TO

41 MADISON AVENUE
31ST FLOOR
NY, NY 10010
212 278 0058

450 MAIN STREET
METUCHEN, NJ 08840
732 243 9588
FAX: 732 243 9590

309 FELLOWSHIP RD
STE 200
MT LAUREL, NJ 08054
863 350 1030

June 4, 2024

Page 2

Court to please accept this Letter Brief in lieu of a more formal Brief in Support of Respondent Boards' Motion for an Extension of Time to File Respondent Boards' Appellate Briefs pursuant to R. 2:8-1. More specifically, we respectfully request an extension of the filing deadline by fourteen (14) days, from the current date of June 14, 2024 until June 28, 2024, to permit the parties an opportunity to finalize a pending settlement of the claims involving Respondent Boards. This request is made with the consent of counsel for petitioners, Oceanport and Shore Regional Boards of Education as to all respondents. We rely upon the attached Certification of Counsel Nicholas Celso, Esq. in further support of this Motion. Respondent's Appendix ("Ra") 12-17.

This matter involves one of Appellants' unsuccessful challenges of efforts by various Boards of Education to form and/or modify regionalized school districts. The challenges pending before the Court in this matter are, in part, the subject of a proposed settlement agreement, which agreement the parties anticipate will be finalized soon, but not prior to the June 14, 2024 deadline for Respondent Boards to file their Opposition Briefs in this Appeal. Therefore, we respectfully request an extension of time to file our Briefs, with the hope that the finalization of the

June 4, 2024

Page 3

settlement will make that portion of the Appeal involving Respondent Boards moot, and obviate the need for Respondent Boards to file, and the Court to consider, Briefs.

More specifically, on or about May 17, 2024, Petitioners transmitted a proposed Settlement Agreement to counsel for Respondent Boards which, if accepted, would result in a stipulation of dismissal of the matter sub judice as to the Respondent Boards. Certification of Nicholas Celso, Esq., par. 18, at Ra16. On May 28, 2024, Respondent Boards considered the proposed settlement and each Board adopted a resolution authorizing the proposed settlement, subject to conditions set forth in the resolutions. Id., par. 19; Respondent's Appendix ("Ra") 1, Ra5, Ra8.

Counsel for Respondent Boards are working with Petitioners' counsel to bring the settlement to closure. However, Petitioners' boards of education do not meet again before the current, June 14, 2024 deadline for filing Respondents' briefs. Id., par. 20. The Court's granting of this Motion would permit sufficient time for the Boards to meet again and officially approve the pending settlement, thus obviating the need for the Respondent Boards to expend the scarce public resources necessary to prepare and file their Opposition Briefs. The deadline for the Respondent Boards' Opposition Briefs was extended once previously by thirty (30) days. This is the first Motion filed in this Appeal by Movants the Respondent Boards.

June 4, 2024

Page 4

Therefore, because good cause exists to permit a small further extension of time for the Respondent Boards to attempt to finalize the settlement of the issues involving Respondent Boards to save the scarce public resources of the parties and the Court, it is respectfully suggested the Motion should be granted.

Respectfully submitted,

THE BUSCH LAW GROUP LLC



Aron G. Mandel, Esq.

AGM:tac

Cc: All counsel of record via E-Courts

PORZIO, BROMBERG & NEWMAN, P.C.

100 Southgate Parkway
Morristown, NJ 07962-1997
(973) 538-4006

Vito A. Gagliardi, Jr., Esq. (024821989)

Kerri A. Wright, Esq. (018042005)

Attorneys for Plaintiff Jo-Anne Olszewski

JO-ANNE OLSZEWSKI, individually and
as Council President of the Borough of
Highlands,

Plaintiff,

ATLANTIC HIGHLANDS BOARD OF
EDUCATION, HIGHLANDS BOARD
OF EDUCATION, AND HENRY
HUDSON REGIONAL BOARD OF
EDUCATION,

Defendants.

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

ORDER TO SHOW CAUSE

THIS MATTER having been opened to the Court by Porzio, Bromberg & Newman, P.C., attorneys for Plaintiff Jo-Anne Olszewski, on application by way of Verified Complaint and Order to Show Cause Summary Action for the issuance of an Order of Judgment stating that the resolution adopted by Defendants at their May 28, 2024 joint special meeting is void; and for preliminary and permanent injunctive relief prohibiting Defendants from taking any action attendant to the resolution passed at the May 28, 2024 joint special meeting and for other relief set forth herein; and the Court having considered the papers submitted by the parties, and argument of counsel having been heard, if any; and for good cause shown,

It is on this _____ day of _____, 2024,

ORDERED that the Defendants show cause before this Court on the _____ day of _____, 2024 at _____ o'clock why the relief sought in the Verified Complaint should not be granted; and it is further; and it is further

And it is further **ORDERED** that:

1. A copy of this order to show cause, Verified Complaint and legal memorandum submitted in support of this application is to be served upon the Defendants, as set forth above, within ____ days of the date hereof, in accordance with *R. 4:4-3* and *R. 4:4-4* or other available means, this being original process.

3. Plaintiff must file with the court proof of service of the pleadings on the Defendants no later than three (3) days before the return date.

4. Defendants shall file and serve a written response to this order to show and proof of service by _____, 2024. The original documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. You must send a copy of your opposition papers directly to Judge _____, whose address is _____, New Jersey. You must also send a copy of your opposition papers to Plaintiff's attorney whose name and address appears above. A telephone call will not protect your rights, you must file your opposition and pay the required fee of \$_____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief Plaintiff is seeking.

5. Plaintiff must file and serve any written reply to the Defendants' order to show cause opposition by _____, 2024. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____.

6. If Defendants do not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that Plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

7. If Plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

8. Defendants take notice that Plaintiff has filed a lawsuit against them in the Superior Court of New Jersey. The Verified Complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a \$ _____ filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to Plaintiff's attorney whose name and address appear above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief Plaintiff demands.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and

are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

10. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than _____ days before the return date.

, J.S.C.

- The court made the attached findings of fact or reasons for its decision on _____
- The court set forth its findings of fact or reasons for its decision orally on the record on _____

This Order to Show Cause was:

- Opposed
- Unopposed

PORZIO, BROMBERG & NEWMAN, P.C.

100 Southgate Parkway
Morristown, NJ 07962-1997
(973) 538-4006

Vito A. Gagliardi, Jr., Esq. (024821989)

Kerri A. Wright, Esq. (018042005)

Attorneys for Plaintiff Jo-Anne Olszewski

JO-ANNE OLSZEWSKI, individually and
as Council President of the Borough of
Highlands,

Plaintiff,

ATLANTIC HIGHLANDS BOARD OF
EDUCATION, HIGHLANDS BOARD
OF EDUCATION, AND HENRY
HUDSON REGIONAL BOARD OF
EDUCATION,

Defendants.

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

ORDER

THIS MATTER having been opened to the Court by Porzio, Bromberg & Newman, P.C., attorneys for Plaintiff Jo-Anne Olszewski, on application by way of Verified Complaint and Order to Show Cause Summary Action for the issuance of an Order of Judgment stating that the resolution adopted by Defendants at their May 28, 2024 joint special meeting is void and for preliminary and permanent injunctive relief prohibiting Defendants from taking any action attendant to the resolution passed at the May 28, 2024 joint special meeting and for other relief set forth herein; and the Court having considered the papers submitted by the parties, and argument of counsel having been heard, if any; and for good cause shown,

It is on this _____ day of _____, 2024,

ORDERED that the resolution adopted by Defendants at their May 28, 2024 joint special meeting is void; and it is further

ORDERED that Defendants are prohibited from taking any action attendant to the resolution passed at the May 28, 2024 joint special meeting ; and it is further

ORDERED that Plaintiff is hereby entitled to attorney's fees and costs associated with the filing of the instant matter; and it is further

ORDERED that Plaintiff shall submit a certification of fees to this Court within _____ days of the entry of this Order; and it is further

ORDERED that a cop of this order be served via the ECF system.

, J.S.C.

- The court made the attached findings of fact or reasons for its decision on _____
- The court set forth its findings of fact or reasons for its decision orally on the record on _____

This Order to Show Cause was:

- Opposed
- Unopposed



MORRISTOWN, NJ • NEW YORK, NY • OCEAN CITY, NJ • PHILADELPHIA, PA
SAN JUAN, PR • TRENTON, NJ • WESTBOROUGH, MA • WILMINGTON, DE

VITO A. GAGLIARDI, JR.
MEMBER, NJ BAR
CERTIFIED BY THE SUPREME COURT OF
NEW JERSEY AS A CIVIL TRIAL ATTORNEY
DIRECT DIAL No.: 973-889-4151
E-MAIL ADDRESS: VAGAGLIARDI@PBNLAW.COM

June 10, 2024

VIA ELECTRONIC FILING

Honorable Marc Lemieux, A.J.S.C.
Monmouth County Courthouse
71 Monument Street
Floor 3
Freehold, New Jersey 07728

Re: *Jo-Anne Olszewski vs. Atlantic Highlands Board of Education,
Highlands Board of Education, and Henry Hudson Regional
Board of Education*
Our File No.: pending

Dear Judge Lemieux:

We are counsel to Plaintiff Jo-Anne Olszewski in the above matter. Please accept this letter brief in support of Plaintiff's order to show cause and request for injunctive relief. As set forth below, Plaintiff comes before this Court and requests that Your Honor enter a preliminary injunction declaring a resolution passed by Defendants Atlantic Highlands Board of Education, Highlands Board of Education, and Henry Hudson Regional Board of Education void, and enjoining Defendants from implementing or otherwise acting upon the resolution.

PRELIMINARY STATEMENT

On May 28, 2024, at a special joint meeting, Defendants passed a resolution approving the "concept" of an agreement for a settlement that does not yet exist and authorized their officials to sign the yet-to-be developed agreement. Defendants apparently have been in settlement negotiations with the

ATTORNEYS AT LAW



Oceanport and Shore Regional Boards of Education to settle litigation between them currently pending in the Appellate Division. The litigation in question also includes the Boroughs of Highlands, Atlantic Highlands, and Sea Bright, and concerns whether Sea Bright may withdraw from Oceanport and Shore Regional to join the new, all-purpose Henry Hudson Regional School District. Prior to the May 28 meeting, Defendants received a proposed settlement agreement from Oceanport and Shore Regional. Despite that fact, the official notice for the special meeting fails to list the settlement as a topic of discussion, let alone a topic on which Defendants would take action. After failing to disclose the proposed settlement on the official notice, Defendants passed a resolution permitting their counsel and respective Board Presidents to negotiate, review, and execute a final settlement agreement with Oceanport and Shore Regional. By delegating these duties to individual board officers and agents, Defendants have secreted the agreement from effective public comment and scrutiny. By failing to list the settlement on the official agenda, Defendants ensured that those interested in the litigation would have no way to know that Defendants planned to take such action during the May 28 special joint meeting.

Defendants' actions violate the Open Public Meetings Act, the square corners doctrine, and the common law rule that public bodies cannot usurp the rights and responsibilities of successor public bodies in interest. Defendants violated the Act by attempting to circumvent it, both by failing to provide adequate notice of the proposed settlement on the meeting agenda, and by delegating the task of approving the final settlement agreement, effectively insulating it from public review. By engaging in this untoward conduct, Defendants also violated the square corners doctrine, which requires that public bodies act with the utmost integrity when dealing with the public. Defendants' intentional efforts here to hide the settlement agreement from public comment fails to meet that standard. Finally, Defendants'

actions usurp the interests of their successor. The Highlands and Atlantic Highlands Boards of Education will cease to exist after June 30, 2024. The current Henry Hudson Regional School District Board of Education will cease to exist in its current configuration as of June 30, 2024 as its members will be replaced with a provisional board whose terms expire at the end of the year; the Board will be an entirely new entity when its new members are elected in November and then take office in January 2025. Accordingly, the prerogative to enter into a binding settlement agreement, especially a binding settlement agreement that does not yet exist and may not go into effect until after some of the Defendants cease to exist, is the exclusive prerogative of the new Henry Hudson Regional Board of Education, which is the successor in interest to all Defendants.

For these reasons, the Court should declare Defendants' resolution void and enjoin them from implementing the resolution. The Open Public Meetings Act provides for injunctive relief among its express terms. Moreover, Plaintiff readily meets the standard enunciated in *Crowe v. De Goia* for immediate injunctive relief. As to the first element, irreparable harm, the final settlement terms may be agreed upon imminently. Once they are finalized and executed, Defendants will be bound by the terms and likely will be dismissed from the current appeal before the Appellate Division. A final settlement agreement which implicates the rights of several other public bodies will be difficult to undo. As discussed above, both the Highlands and Atlantic Highlands Boards of Education will cease to exist in a matter of weeks, and approval of the settlement agreement may be among their final official acts. Time therefore is of the essence to prevent irreparable harm and to curtail the resolution before it is further acted upon by Defendants.

As to the remaining elements for immediate injunctive relief -- the likelihood of success on the merits, the presence of an established legal right, and the balancing of equities -- Plaintiff meets all of

them because Defendants' actions clearly are unlawful under the statutory and common law doctrines discussed above. Plaintiff therefore has an obvious and established legal right to pursue this matter, and an overwhelming likelihood of success on the merits of her claims. Finally, the balance of the equities weighs in Plaintiff's favor because public bodies do not maintain any interest in pursuing unlawful action. Accordingly, Plaintiff is entitled to immediate relief, and the Court can act without delay to declare the May 28 resolution void and to enjoin Defendants from acting upon it.

BRIEF STATEMENT OF FACTS

Plaintiff relies on the facts set forth in her verified complaint and adds only the following brief recitation. For the past several years, Defendants, along with the Borough of Highlands, Borough of Atlantic Highlands, and Borough of Sea Bright have been engaged in litigation with the Oceanport Board of Education and Shore Regional Board of Education. (*See* Verified Complaint at ¶¶ 7-20.) The litigation concerns whether Sea Bright may withdraw from Oceanport and Shore Regional and join the new, all-purpose Henry Hudson Regional School District. (*Id.*) On September 22, 2023, the Commissioner of Education determined that Sea Bright lawfully could withdraw from Oceanport and Shore Regional and petition to join Henry Hudson. (*Id.* at ¶ 11.) Oceanport and Shore Regional appealed the Commissioner's decision, and the matter remains pending before the Appellate Division. (*Id.* at ¶¶ 14-15.)

In recent months, Defendants have engaged in settlement discussions with Oceanport and Shore Regional. On information and belief, Defendants will agree to a series of measures designed to exclude Sea Bright ever from joining the Henry Hudson Regional School District. (*Id.* at ¶¶ 16-18.) In exchange, Oceanport and Shore Regional will agree voluntarily to dismiss Defendants from the pending appeal. (*Id.*)

Defendants called a special meeting for their three boards to meet on May 28, 2024. (*Id.* at ¶ 21.) The special meeting notice does not contain any reference to the subjects to be discussed or voted upon during the special meeting, including any reference to the specific litigation that would be discussed in executive session. (*Id.* at ¶ 22.) Despite its failure to reference the ongoing settlement negotiations in the special meeting notice, Defendants approved a resolution to “approve the concept of Settlement” of the appeal. (*Id.* at ¶ 24.) The resolution further states that it “authorize[s] counsel and the Presidents of the Boards, to negotiate a resolution with opposing counsel and if consistent with the parameters provided to Counsel, to execute the Settlement Agreement revised in accordance therewith.” (*Id.*) No such settlement agreement currently exists, a fact verified not only by the resolution itself, but in a later communication by Defendants’ counsel to the Appellate Division stating that Defendants are working with Oceanport and Shore Regional on a “proposed settlement agreement” that will be “finalized soon.” (*Id.* at ¶¶ 28-29.) Defendants thus did not approve an actual settlement agreement, nor disclose the terms of the “proposed” settlement agreement to the public. Rather, Defendants impermissibly approved the “concept” of a future settlement agreement, and unlawfully delegated the task of finalizing and approving the settlement agreement to their Board Presidents and counsel.

To further compound the problem, Defendants will soon cease to exist in their present form. Both the Highlands Board of Education and Atlantic Highlands Board of Education will have their final meetings during the week of June 10, 2024, and will cease to exist after June 30, 2024. (*Id.* at ¶¶ 28-36.) Henry Hudson Regional will shift completely to a transitional board and its members’ terms expire at the end of the year; the Board will be an entirely new entity when its new members are elected in November and then take office in January 2025. (*Id.*) Defendants have thus taken action to approve a prospective settlement agreement that ultimately will bind a future board.

LEGAL ARGUMENT**PLAINTIFF'S REQUEST FOR A PRELIMINARY INJUNCTION SHOULD BE GRANTED BECAUSE PLAINTIFF SATISFIES THE FOUR-PART TEST SET FORTH IN CROWE V. DEGIOIA.**

Plaintiff respectfully requests that the Court issue a preliminary injunction declaring the resolution adopted at the May 28 meeting void and prohibiting Defendants, through their agents and counsel, from taking any further action to implement the resolution and its terms. Generally, a party must satisfy the four factors outlined in *Crowe v. De Gioia*, 90 N.J. 126, 132-134 (1982), to obtain preliminary injunctive relief. Those factors are as follows: (1) preliminary injunctive relief should not issue except when necessary to prevent substantial, immediate and irreparable harm; (2) an applicant must make a showing of a reasonable probability of ultimate success on the merits; (3) an applicant must have a well-settled legal right to the relief that it seeks; and (4) the court must balance the equities involved. *Id.* at 132-134.

Although “each of the above factors ‘must be clearly and convincingly demonstrated,’ a court ‘may take a less rigid view than it would after a final hearing when the interlocutory injunction is merely designed to preserve the status quo.’” *Brown v. City of Paterson*, 424 N.J. Super. 176, 183 (App. Div. 2012) (quoting *Waste Mgmt. v. Union County Utils. Auth.*, 399 N.J. Super. 508-519-520 (App. Div. 2008) (additional citations omitted)). “[T]he point of temporary relief is to maintain the parties in substantially the same condition when the final decree is entered as they were when the litigation began.” *Crowe*, 90 N.J. at 134. At the preliminary injunction stage, “[t]he court is not deciding which party ultimately wins or loses, but rather whether the applicant has made a preliminary showing of reasonable probability of ultimate success on the merits.” *Brown*, 424 N.J. Super. at 183. When “exercising their equitable powers, courts ‘may, and frequently do, go much farther both to give and withhold relief in

furtherance of the public interest than they are accustomed to go when only private interests are involved.” *Id.* (citing *Waste Mgmt.*, 399 N.J. Super. at 520-21) (additional citations omitted). Thus, the Court may “place less emphasis on a particular *Crowe* factor if another greatly requires the issuance of the remedy.” *Id.* (citations omitted).

The public interest obviously is implicated here to preserve the status quo and to prevent Defendants from taking further action to implement an unlawful settlement resolution.

A. An Injunction Is Necessary To Prevent Substantial And Irreparable Harm Because Time Is Of The Essence To Avert Defendants From Acting Upon An Unlawful Resolution.

The Open Public Meetings Act permits “any member of the public” to institute a proceeding in lieu of prerogative writ to challenge action taken by a public body. *N.J.S.A.* 10:4-15(b). A reviewing court shall declare the public body’s action “void” if that action does not conform to the Act’s requirements. *Id.* The Act further permits courts to issue “injunctive orders or other remedies to insure [sic] compliance with the provisions of this act, and the court shall issue such orders and provide such remedies as shall be necessary to insure [sic] compliance with the provisions of this act.” *N.J.S.A.* 10:4-16. The Act thus expressly contemplates injunctive relief.

Moreover, relief through a preliminary injunction is appropriate to prevent irreparable harm if the harm in question “cannot be redressed adequately by monetary damages.” *Crowe*, 82 N.J. at 132-33. *See also Waste Mgmt. of N.J., Inc. v. Morris Cty. Mun. Util. Auth.*, 433 N.J. Super, 445, 451 (App. Div. 2013) (noting irreparable injury will be found where party has no adequate remedy at law and injury is substantial and imminent). Plaintiff here clearly has no adequate remedy at law or entitlement to monetary damages, nor are such remedies contemplated in prerogative writ actions challenging a public body’s action. Rather, Plaintiff here requests that the Court void Defendants’ unlawful resolution



regarding the settlement agreement, and enjoin Defendants from further acting upon or implementing that resolution.

The harm Plaintiff seeks to prevent is imminent and substantial. As noted above and in Plaintiff's verified complaint, Defendants soon will cease to exist in their present form and already have moved to approve a settlement agreement before its terms are finalized and reduced to writing. The settlement agreement likely is to be approved and finalized imminently. Once the settlement agreement is approved and Defendants are dismissed from Oceanport's and Shore Regional's appeal, it will be difficult to undo the settlement, which will implicate the interests of various other parties, as well as the procedural posture of a matter presently pending before the Appellate Division. *See Naylor v. Harkins*, 11 N.J. 435, 446 (1953) (holding that plaintiffs were entitled to injunction prohibiting railroad from implementing settlement agreement which affected plaintiffs' union status, and that plaintiffs had shown irreparable harm if injunction did not issue because the settlement had the effect of "destroying" the plaintiffs' "status" and thus the "subject of the litigation"). The Court therefore should act now, before Defendants move further to approve the settlement agreement, before Defendants no longer exist in their present capacity, and before the interests of various other parties -- all of them public entities -- are implicated by a settlement agreement unlawfully entered into by a public body. *See Gen. Elec. Co. v. Gem Vacuum Stores*, 36 N.J. Super. 234, 237 (App. Div. 1955) (noting that irreparable harm may be shown where subject matter of litigation will be "substantially impaired" if injunction does not issue).

B. Plaintiff Can Show A Reasonable Probability Of Success On The Merits And A Well-Settled Legal Right Because Defendants' Actions Clearly Violated The Open Public Meetings Act As Well As Several Common Law Principles Applicable To Public Bodies.

Plaintiff can show a reasonable likelihood of success on the merits and the presence of an established legal right because Defendants' conduct clearly violated the Open Public Meetings Act, the common law square corners doctrine, and the common law doctrine preventing public bodies from usurping the rights of their successors in interest. Each will be addressed in turn.

1. Defendants Violated the Open Public Meetings Act By Failing To Provide Adequate Notice Of The Settlement Proposal And By Improperly Delegating The Task Of Approving The Settlement.

The procedures required by the OPMA are intended to advance the Legislature's declared purpose to ensure "the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of public bodies." *N.J.S.A.* 10:4-7. Such transparency is necessary because "secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society." *Id.* See also *In re Consider Distrib. of Casino Simulcasting Special Fund*, 398 N.J. Super. 7, 16 (App. Div. 2008). "To advance that stated public policy, the Legislature directed that the statute should be 'liberally construed in order to accomplish its purpose and the public policy of this State.'" *McGovern v. Rutgers*, 211 N.J. 94, 99-100 (2012) (quoting *N.J.S.A.* 10:4-21).

Except in certain instances not applicable here, "no public body shall hold a meeting unless adequate notice thereof has been provided to the public." *N.J.S.A.* 10:4-9(a). "Adequate notice" means "written advance notice of at least 48 hours, giving the time, date, location and, to the extent known, *the agenda* of any regular, special or rescheduled meeting, which notice shall accurately state whether

formal action may or may not be taken .” *N.J.S.A.* 10:4-8(d) (emphasis added). “An agenda, as the term is used in the OPMA, is ‘a list or outline of things to be considered or done.’” *Edison Bd. of Educ. v. Zoning Bd. of Adjustment of the Twp. of Edison*, 464 N.J. Super. 298, 309 (App. Div. 2020) (quoting *Opderbeck v. Midland Park Bd. of Educ.*, 442 N.J. Super. 40, 56 (App. Div. 2015)). Thus, “where it can be shown that the governing body published an agenda calculated to mislead the public or otherwise intentionally omitted items from the agenda which it knew would be acted upon, . . . the action [should] be voided.” *Crifasi v. Governing Body of Oakland*, 156 N.J. Super. 182, 188 (App. Div. 1978).

In *McGovern*, 211 N.J. at 111, for example, the Supreme Court held that Rutgers University had violated the Open Public Meetings Act by issuing a “generic” meeting notice stating that the Board of Trustees would “act on a resolution to meet in immediate closed session to discuss matters falling within contract negotiation and attorney-client privilege.” The Court explained that the “record reveal[ed] clearly that by the time this notice was prepared and published, more was known about the extent of the proposed agenda than what was conveyed by the generic references to ‘contract negotiation and attorney-client privilege.’” *Id.*

The same principles apply here. It is beyond dispute that Defendants knew of the proposed settlement agreement before the May 28 special meeting. In fact, the resolution itself confirms that Defendants were aware of the settlement proposal and planned to act upon it. The resolution states: “an offer of settlement (“Settlement Agreement”) has been received from Oceanport and Shore Regional that would permanently dismiss the Boards from the pending litigation.” (*See Verified Complaint, Exhibit C.*) Despite their advance notice of the settlement proposal and their clear plan to act upon it, Defendants’ meeting notice does not reference the settlement proposal or Defendants’ intention to act upon it, but

rather makes only a “generic” and inadequate reference to discussing (not acting upon or settling) “pending litigation.”

A public body also violates the Open Public Meetings Act where it attempts to hide its actions from the public by improperly delegating authority to a single member of the body or to legal counsel. For example, in *Allan-Deane Corp. v. Bedminster Twp.*, 153 N.J. Super. 114, 115 (App. Div. 1977), a group of several municipalities and the county planning board held an “informal discussion session” in which each public body sent a single member. Given prior actions by both the municipalities and the county planning board, it was obvious that this “informal discussion session” was designed to facilitate a comprehensive discussion and concerted action plan for the municipalities and county planning board to respond to perceived “threat[s] by massive development proposals.” By sending one member only, the public bodies involved hoped to circumvent the Open Public Meetings Act. The Appellate Division held that the public bodies had violated the Act by deliberately trying to circumvent its requirements and attempting to shield its discussions from the public. The panel explained:

Having concluded that the meeting of March 18 was in fact in deliberate circumvention of the statute, we are satisfied that it was a nonconforming meeting within the corrective scope of the act. *See N.J.S.A. 10:4-15 and 10:4-16*. If any action was in fact taken during the meeting, such action must be deemed a nullity. There is other relief, however, to which plaintiff is entitled. In discharging the order to show cause and dismissing the complaint, the trial judge directed that a record of the meeting be made by a stenographic reporter at plaintiff’s expense, but that no transcript be prepared until further order of the court. Since it is our conclusion that the meeting was required to have been open to the public pursuant to *N.J.S.A. 10:4-12(a)* and that comprehensive minutes available to the public were required to have been taken pursuant to *N.J.S.A. 10:4-14*, the vindication of both plaintiff’s and the public’s right to have been present dictates that the transcript of the meeting now be made available to plaintiff, at its expense.

[*Id.* at 120.]

Defendants here engaged in a similar scheme. The resolution “approve[s] the concept of Settlement of the matter” only, and then impermissibly delegates authority to legal counsel and the respective Board Presidents to “negotiate a resolution” and “execute the Settlement Agreement revised in accordance therewith.” The Board Presidents also are “authorized to sign the Settlement Agreement on behalf of the Boards,” which “shall be made a part of the official minutes of the Boards’ meeting held on May 28, 2024” only after the fact. The resolution thus robs the public, and indeed most of the Defendant Board members, of any ability to understand what Defendants are agreeing to or contemplating in terms of the settlement agreement. Defendants have done nothing short of creating a secret agreement, the terms of which will be known only after it is signed and binding upon Defendants, with no way for the public to know -- until it is too late -- the terms to which their elected officials have bound them.

2. Defendants Violated The Common Law Square Corners Doctrine By Attempting To Secret The Settlement Agreement And Its Terms From Public Scrutiny.

For similar reasons, Defendants have violate the common law square corners doctrine. The doctrine is rooted in the principle that government officials must “act solely in the public interest.” *F.M.C. Stores Co. v. Borough of Morris Plains*, 100 N.J. 418, 426–27 (1985). Thus, “[i]n dealing with the public, [the] government must turn square corners.” *Id.* Public bodies have “an overriding obligation to deal forthrightly and fairly” and “may not conduct [themselves] so as to achieve or preserve any kind of bargaining or litigational advantage.” *Id.* Their “primary obligation is to comport [themselves] with compunction and integrity, and in doing so [they] may have to forego the freedom of action that private citizens may employ in dealing with one another.” *Id.*

Defendants' conduct here lacks any such sense of fairness. Despite knowing of the settlement agreement before the May 28 joint special meeting, Defendants omitted it from the agenda. Then, they passed a resolution approving of a settlement agreement that does not yet exist, permitting their respective Presidents and counsel to negotiate and execute the agreement at a later time, prohibiting meaningful pre-approval public commentary and cordoning off the agreement from public scrutiny. Defendants clearly are uncomfortable with public knowledge and inspection of the agreement's terms. Whatever their reasons, they cannot take measures to limit the agreement to a clandestine document reviewed and approved away from the public's eyes, and then place it retroactively and without comment into the May 28 special meeting minutes, where few people are likely to find it. Their efforts to do so are a clear breach of the public trust and a failure to adhere to the requirements of forthrightness and fairness that courts demand.

3. Defendants Unlawfully Usurped The Authority Of Their Successor In Interest By Binding The Future Henry Hudson Regional Board To An Agreement That Does Not Yet Exist.

Finally, Defendants' action is improper because it forestalls the rights of a successor board. The common-law rule is that a public body "may not forestall the rights and obligations of [its] successor by" taking action that "will not take effect until after the expiration of the term of the appointing [body]." *Gonzalez v. Bd. of Educ. of Elizabeth Sch. Dist.*, 325 N.J. Super. 244, 251 (App. Div. 1999). The rule is particularly applicable to "lame-duck" public bodies that risk "usurp[ing] the will and power of a future board . . . based on the future board's consideration of prevailing policy, personnel and general welfare concerns." *Id.* at 252.

The Highlands Board of Education and Atlantic Highlands Board of Education will hold their final meetings this month, and their members' terms expire on June 30, after which the boards will cease

to exist. The Henry Hudson Regional School District Board of Education will transition fully to a provisional board whose members' terms expire at the end of the year. The successor in interest for all three boards will be the new Henry Hudson Regional School District Board of Education, whose members will be elected in November and will take office in January 2025. By approving an agreement that does not yet exist, and may not be executed until one or more of Defendants cease legally to exist, Defendants have usurped the new Regional Board's ability to implement its own policies and to resolve the current litigation as it sees fit. Indeed, Defendants' limited remaining time as legal entities may be part of the reason why they have rushed to approve a settlement agreement that does not exist, and have given their Board Presidents and legal counsel a blank check to execute the agreement on whatever terms they deem necessary. No matter the reason, Defendants have intruded upon the prerogative of the new Henry Hudson Regional Board to settle this matter in its sole discretion.

C. The Equities Favor Plaintiff Because Defendants Will Suffer No Harm If They Are Prohibited From Executing Or Otherwise Acting Upon An Unlawful Resolution.

The balancing of equities here clearly favors Plaintiff. As discussed above, Plaintiff will suffer irreparable harm if the Court does not grant immediate relief. On the other hand, Defendants will suffer no harm because they seek to take action that is unlawful. A public body or other state actor does not suffer harm when it is prevented from enforcing or otherwise acting upon an unconstitutional or otherwise unlawful statute, edict, or resolution. *See Garden State Equal. v. Dow*, 216 N.J. 314, 323-24 (2013) (explaining that the state does not have any interest in enforcing statute that is unconstitutional or otherwise unlawful).

Defendants will not face any adverse consequences if the Court imposes preliminary restraints. At most, they will be delayed in acting upon a settlement agreement that does not yet exist and that was

approved through preliminary and unlawful means. Simply put, because Defendants' action here was unlawful, no equitable interest weighs in their favor, and the Court properly can grant injunctive relief without harming their interests.

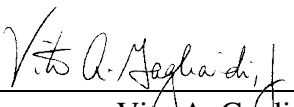
Accordingly, the balance of equities, as well as all other *Crowe* factors, weigh in Plaintiff's favor.

CONCLUSION

For the forgoing reasons, Plaintiff respectfully requests that the Court declare the resolution passed by Defendants at their May 28, 2024 joint special meeting void, and preliminarily and permanently enjoin Defendants from taking any action to implement the resolution.

PORZIO, BROMBERG & NEWMAN, P.C.

Attorneys for Plaintiff Jo-Anne Olszewski

By: 

Vito A. Gagliardi, Jr.

Civil Case Information Statement

Case Details: MONMOUTH | Civil Part Docket# L-001930-24

Case Caption: OLSZEWSKI JO-ANNE VS ATLANTIC HIGHLANDS BOARD

Case Initiation Date: 06/10/2024

Attorney Name: VITO ANTHONY GAGLIARDI JR

Firm Name: PORZIO BROMBERG & NEWMAN PC

Address: 100 SOUTHGATE PKWY PO BOX 1997

MORRISTOWN NJ 079621997

Phone: 9735384006

Name of Party: PLAINTIFF : Olszewski, Jo-Anne

Name of Defendant's Primary Insurance Company

(if known): None

Case Type: SUMMARY ACTION

Document Type: Order to Show Cause

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: YES

If yes, list docket numbers: A-0716-23T4

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

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Jo-Anne Olszewski? 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? NO

If yes, is that relationship:

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:

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 **Medical Debt Claim?** 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)*

06/10/2024

Dated

/s/ VITO ANTHONY GAGLIARDI JR

Signed