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GURBIR S. GREWAL, Attorney General of New Jersey, and ROSEMARY DISAVINO, Deputy Director of the New Jersey Division on Civil Rights, *Plaintiffs*, v. JACKSON TOWNSHIP; JACKSON TOWNSHIP COUNCIL; JACKSON TOWNSHIP ZONING BOARD OF ADJUSTMENT; JACKSON TOWNSHIP PLANNING BOARD; and MAYOR MICHAEL REINA in his official capacity, *Defendants*.	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION – OCEAN COUNTY DOCKET NO. _____ CIVIL ACTION **COMPLAINT**

Gurbir S. Grewal, Attorney General of the State of New Jersey (the "Attorney General") and Rosemary DiSavino, Deputy Director of the New Jersey Division on Civil Rights (the "Deputy Director," and together with the Attorney General, "Plaintiffs"), by way of Complaint, hereby allege the following:

INTRODUCTION

1. This case seeks to remedy unlawful discrimination by the municipal government of Jackson Township ("Jackson" or "Township"), including the Jackson Township Council ("Township Council" or "Council"), the Jackson Township Zoning Board of Adjustment ("Zoning Board"), the Jackson Township Planning Board ("Planning Board"), and Mayor Michael Reina ("Mayor Reina"), in his official capacity (collectively, "Defendants"). In the exercise of the Township's power to regulate land use and housing, Defendants have unlawfully discriminated on the basis of creed against residents and prospective residents who are Orthodox Jews,[1] in violation of the New Jersey Law Against Discrimination ("LAD"), N.J.S.A. 10:5-12.5.

2. Since around 2015, a vocal group of Jackson residents have complained to the Township about the number of Orthodox Jews moving to Jackson. These resident complaints often expressed a generalized animus against Orthodox Jewish people, culture, and religious practice. Residents wrote to Township officials raising alarm about an "extremist religious group" seeking to "take over our town" and "destroy our neighborhoods." Residents amplified these grievances through social media with hateful rhetoric, saying that "the gang war has begun" and "[w]e need to get rid of them like Hitler did."

3. Complaining residents expressed increasing fear and disgust at the prospect of Orthodox Jews moving to the town in their many emails to the Township, stating that Jackson would become a "sub-division of Lakewood"—a neighboring township with more than 50,000 Orthodox Jewish residents. Lakewood is considered a hub of Orthodox Jewish life in New Jersey

[1] Orthodox Judaism: "The branch of Judaism that is governed by adherence to the Torah as interpreted in the Talmud." Orthodox Judaism, Am. Heritage Dictionary (2020), https://www.ahdictionary.com/word/search.html?q=orthodox+judaism.

and is home to the second largest yeshiva in the world. Urging Township officials that "[w]e do not want Lakewood's mess in Jackson," complaining residents demanded that Township officials "[s]tay strong" and "get clever and figure out a way to preserve the quality of life in Jackson."

4. Certain Township officials have openly sympathized with these grievances. For instance, a former Township official posted on Facebook that Orthodox Jews are "filthy f'ing cockroaches," and urged resistance to "the Lakewood medieval cult."

5. Township officials also have pursued a series of policy and enforcement strategies responsive to residents' complaints and religious animus. These strategies have included the discriminatory enactment of zoning ordinances targeting Orthodox Jews, and the discriminatory enforcement of code provisions in ways that have targeted Orthodox Jews.

6. Defendants have exercised their zoning authority to intentionally target Orthodox Jewish religious practices and rituals, such as communal prayer, the erection of sukkahs,[2] and the establishment of yeshivas[3] and eruvim.[4] They have exercised their zoning authority to enact ordinances for the purpose of deterring Orthodox Jews from building and operating religious schools, as well as the dormitories associated with those schools within the Township. And they

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[2] Sukkah: "A temporary hutlike structure partly roofed with branches, used as a ritual dwelling space by Jews in celebrating Sukkot." Sukkah, Am. Heritage Dictionary (2020), https://www.ahdictionary.com/word/search.html?q=sukkah.

[3] Yeshiva: "An institute of learning where students study sacred texts, primarily the Talmud" or "An elementary or secondary school with a curriculum that includes religion and culture as well as general education." Yeshiva, Am. Heritage Dictionary (2020), https://www.ahdictionary.com/word/search.html?q=yeshiva.

[4] Eruv (plural: Eruvim): "A symbolic enclosure, marked by preexisting walls or by cord or wire strung on posts, nominally converting public space into private space and so permitting activities that would otherwise be prohibited on the Sabbath." Eruv, Am. Heritage Dictionary (2020), https://www.ahdictionary.com/word/search.html?q=eruv.

have exercised their authority by discriminatorily investigating alleged violations of Township ordinances by Orthodox Jews, while acknowledging that resident complaints have been "exaggerated" and that significant resources have been wasted on enforcement without the discovery of any significant ordinance violations.

7. Plaintiffs seek relief to remedy and prevent Defendants' violations of the LAD including, among other things, an injunction prohibiting Defendants' ongoing discriminatory zoning practices.

JURISDICTION, VENUE, AND PARTIES

8. The Attorney General, having offices at 25 Market Street, Trenton, New Jersey, 08611 and 124 Halsey Street, Newark, New Jersey, 07102, is charged with enforcing the LAD. N.J.S.A. 10:5-1 to -49. The Attorney General is authorized to proceed against any person to compel compliance with any provisions of the LAD or to prevent violations or attempts to violate any such provisions and to file a complaint in Superior Court alleging violations of the LAD. N.J.S.A. 10:5-13.

9. The Director ("Director") of the New Jersey Division on Civil Rights ("DCR") is charged with the responsibility of administering the LAD on behalf of the Attorney General. DCR, having offices located at 31 Clinton Street, Newark, New Jersey, 07102; 140 East Front Street, Trenton, New Jersey, 08608; 5 Executive Campus, Cherry Hill, New Jersey, 08002; and 1325 Boardwalk, Atlantic City, New Jersey, 08401 is charged, inter alia, with the responsibility of preventing and eliminating discrimination in employment, housing, and access to public accommodations, as well as preventing interference with rights protected under the LAD. N.J.S.A. 10:5-4, 10:5-6, 10:5-12. This action is brought by the Deputy Director in her official capacity

pursuant to the Director's authority under N.J.S.A. 10:5-13, and a delegation of such authority from the Director to the Deputy Director.

10. Jackson Township, located in Ocean County, spans more than 100 square miles with nearly 60,000 residents.

11. Jackson operates under a Mayor-Council form of government, which is comprised of the Mayor and five elected Township Council members. The municipal governing body holds staggered four-year terms.

12. Michael Reina has served as Mayor of the Township since 2008, with his current term set to expire in 2022.

13. The Planning Board is an agency of Jackson Township. It consists of nine members and two alternates. Planning Board members must include the Mayor, at least one other Township Official, a member of the Environmental Commission, and Jackson residents appointed by the Mayor. The Planning Board is responsible for, among other things, managing the Township's Master Plan and planning objectives, administering subdivision and site plan review, and granting variances related to subdivision plans.

14. The Zoning Board is an agency of Jackson Township. It consists of seven regular members and is responsible for, among other things, interpreting the Township's zoning maps, granting certain variances, and issuing permits for the construction of buildings and other structures.

15. Defendant Township is responsible for the acts and omissions of its agents, including the Township Council, the Planning Board, and the Zoning Board.

16. The Township Council, the Planning Board, and the Zoning Board propose and enact ordinances under the supervision and pursuant to the authority of the Township.

17. Offices for Defendants Township, Township Council, and the Mayor, in his official capacity, are located at 95 W. Veterans Highway, Jackson, New Jersey 08527. Offices for Defendants Planning Board and Zoning Board are located at 65 Don Connor Boulevard, Jackson, NJ 08527.

18. Venue is proper in Ocean County pursuant to New Jersey Court Rule 4:3-2 because the conduct giving rise to this action occurred in Ocean County, New Jersey.

FACTUAL ALLEGATIONS

Jackson Residents Demand that the Township Take Action to Deter Orthodox Jews from Moving to Jackson and the Township Complies

19. The Jewish community in and around Jackson is diverse and varied, and many Orthodox Jews in the Township practice strict adherence to Jewish laws and customs, including distinctive dress, religious practices, and religious education.

20. The number of Orthodox Jews in Jackson has been steadily growing since 2015, and there are now many Orthodox Jewish families living in the Township.

21. Coinciding with this demographic change, around 2015, the Township began receiving complaints from certain vocal residents of Jackson expressing concerns about the growing numbers of Orthodox Jewish residents moving into the Township from the neighboring municipality of Lakewood, and demanding that the Township take action to prevent additional Orthodox Jews from moving in.

22. Since that time, Township officials have received numerous complaints expressing these concerns, often sent via email, posted in online forums, or spoken about at various public meetings.

23. Framing their complaints as relating to preservation of the "quality of life" in Jackson, complaining residents looked to Township officials to deter Orthodox Jews from moving into Jackson, and Township officials were highly responsive to their demands.

24. Many residents complained to Township officials about Orthodox Jews purchasing homes from longtime Jackson residents. As described by one resident who attended an October 2015 "Meet the Mayor" event, Mayor Reina urged residents not to sell their properties in order to preserve the Township's character:

> The mayor said the key to keeping Jackson the way we all know and love it is [t]ell your neighbors DON'T SELL. STAY STRONG! There was lengthy discussion on the topic and how we can ensure our zoning laws are enforced. Report EVERYTHING YOU SEE not in compliance. The mayor and township will do everything they can to enforce our zoning[.]

25. Finding the Township responsive, residents continued to urge Township officials to take action to deter Orthodox Jews from moving into Jackson. For example, a resident sent a January 2016 email to various Township Council Members, Mayor Reina, and then-Business Administrator Helen Schlegel, stating as follows:

> I own a business in Jackson and do not want to lose it, and if things continue in your town along the current trend, that is what will happen. I, along with dozens of other tax-paying small businesses, will lose our livelihoods. . . . You are enabling a large voting block [sic] to move in, that will essentially change the face of Jackson, and not for the better. . . . [W]hy would you want a group who is so unwilling to assimilate, take [sic] over your town? . . . Do not be fooled, this group's plan is to have all of Ocean County. . . . I know this from my friends who grew up in Lakewood and have experience [sic] this. Please help preserve the quality of life in your town – help preserve Jackson.

The resident's use of the words "large voting block," people who are "unwilling to assimilate," and "Lakewood," are all thinly veiled references to Orthodox Jewish people.

26. In some instances, Township officials sympathized with the residents' views, or even themselves expressed animus against Orthodox Jews.

27. For example, in an April 2016 email exchange, former Councilman Robert Nixon responded to a resident who had complained that "[a] lot of people are feeling like our town is letting us down" and that Jackson would become "run down" like Lakewood, by saying:

> I can tell from your message that you share the same concerns and the same passion for addressing them as so many others in town. As a resident, I feel the same way and I can assure you my fellow members of Council are 100% on the same page. . . . [Y]our town has not let you down. There has been a number of serious policy changes in town over the last few years to address these issues. It is our failure for not spreading the word loudly enough. As long as I am a member of Council I will continue to speak out against blockbusting, illegal uses of our properties, aggressive realtors and absentee landlords.

28. Former Zoning Board member John Burrows posted multiple comments on Facebook in 2017 attacking and urging action against Orthodox Jews. He called Orthodox Jews "filthy f'ing cockroaches" and wondered what to do about "the scourge of the cockroaches from the east." (Lakewood is located directly east of Jackson.) He also bemoaned politicians beholden to "the mischievous will of the Lakewood cult," and "beg[ged]" residents "to CONFRONT OR ACCOST the council members" to "quell" the "tsunami of orthodoxy that is mounting at the border." He warned that Orthodox Jews "will only destroy what we know as Jackson and make it an extension of Lakewood," and that "[t]hey are on target for a repeat of the 1930s."

29. Township officials were also involved in resident groups, such as Citizens United to Protect our Neighborhoods ("CUPON"), that opposed development efforts led by Orthodox Jews in order to preserve "quality of life" in Jackson. For example, in August 2019, three former Township officials—Zoning Board Chairman Sheldon Hofstein, Zoning Board member Joseph

Sullivan, and Planning Board member Richard Egan—were reported to have resigned from their positions after audio leaked of the trio instructing fellow attendees at a local CUPON meeting to keep their presence a secret, saying, "We're not supposed to be here," "We didn't sign in," and "we're invisible."

30. Members of CUPON and similar groups, such as Rise Up Ocean County ("RUOC") and Jackson NJ Strong ("Jackson Strong"), have overtly opposed Orthodox Jews moving into Jackson.

31. Some members of those groups have posted online content evincing animus against Orthodox Jews. These groups also regularly post information about Jackson's Township Council, Zoning Board, and Planning Board meetings and encourage members to contact Township officials to express their views.

32. RUOC, for example, created a Facebook page warning followers that "[q]uality of life in Ocean County is under assault, [and] we are organizing to restrict the development and preserve our quality of life."

33. The comments posted on RUOC's Facebook page often expressed animus against Orthodox Jews. The following are examples of comments that appeared on that page:

- "We need to get rid of them like Hitler did."
- "Start bull-dozing the illegal dwellings, illegal home schools, illegal temples, and so on and re-plant with trees and floral [sic] to replace what has been stolen[.]"
- "And when they resist, bull-doze them too."
- "I live on the edge of Toms River and Lakewood and the gang war has begun. I have my mac11 loaded."
- "I'm knocking out the first person I see from Lakewood at the meeting tomorrow. Again, not a threat. It's a promise."

34. In early 2020, Facebook removed the RUOC Facebook page from its platform, determining that the page violated Facebook's community standards for hate speech. Despite this, RUOC maintains an active website and has other active social media accounts. The content on RUOC's internet platforms continues to contain commentary about "quality of life" issues in Ocean County, coupled with derogatory statements about Orthodox Jews.

35. As the Orthodox Jewish population in Lakewood and the surrounding areas has continued to grow, so has residents' pressure on Jackson officials. For example, in February 2020, a resident emailed Mayor Reina concerning "the explosion of neighboring towns and developments popping up all over town with many more in the works," urging him to "stand strong and not bow down to pressure."

36. Against this backdrop of resident complaints, increased anti-Orthodox Jewish rhetoric and animus, and demands that the Township do more to restrict Orthodox Jewish residents and prospective residents in Jackson, the Township enacted and enforced multiple ordinances in an unlawfully discriminatory manner with the purpose of targeting Orthodox Jewish residents and deterring further migration of Orthodox Jews into Jackson.

37. These targeted ordinances and enforcement campaigns had the intent and effect of deterring Orthodox Jews from practicing aspects of their religion central to Orthodox Jewish life, including praying in groups, erecting sukkahs, erecting eruvim, and establishing and attending yeshivas.

Jackson Targets Suspected Shuls and Homes of Orthodox Jewish Residents for Surveillance and Code Enforcement

38. One of the strategies employed by Township officials to address residents' concerns about the increasing presence of Orthodox Jews has involved discriminatory enforcement of

Jackson Township Code § 244-115, which designates "[c]hurches and places of worship" as a "conditional use" that is subject to a zoning permit under the Township zoning code.

39. Jews often pray in a group of ten or more males age 13 or older, which is called a minyan or a prayer quorum. Groups of Jewish men therefore gather for prayer in private homes at various times, including from Friday night to Saturday night, the Jewish Shabbat or Sabbath. A "shul" is a Yiddish word for synagogue, which encompasses Jewish houses of worship and any Jewish religious assembly with a minyan.

40. In 1985, the New Jersey Supreme Court, in State v. Cameron, 100 N.J. 586, 596, 601 (1985), held that a municipality's exercise of its zoning authority to restrict the free exercise of religion is unconstitutional if it is not sufficiently directed against tangible detrimental effects of particular conduct. That same year, applying the principles set forth in Cameron, the Law Division struck down as unconstitutional a zoning ordinance that would have prevented individuals from worshipping in their home with up to 25 people present at a Jewish prayer service. See Farhi v. Comm'rs of Deal, 204 N.J. Super. 575, 578, 585 (Law. Div. 1985).

41. The Township was aware of these legal guidelines, as reflected by correspondence between then-Township Attorney Jean Cipriani and Township officials.

42. Beginning around 2016, Township officials began to receive large numbers of resident complaints concerning the alleged operation of shuls without a permit in private homes.

43. Via email alone, Jackson officials received more than 100 complaints from various Jackson residents between 2016 and 2020 regarding alleged shuls.

44. Resident complaints cited specific addresses. Sometimes those complaints pointed to houses that allegedly appeared to be vacant during the week but had large numbers of cars parked

nearby and significant foot traffic on the weekends. Other times, complaints omitted specific details and expressed generalized suspicions that a shul existed.

45. Many of the complaints evinced overt animus towards Orthodox Jews, blaming them for changing the character of the neighborhood and causing residents to move out.

46. In response to these complaints, the Township developed a plan to engage in a surveillance campaign of homes that complaining residents identified as shuls.

47. On June 7, 2016, Code Enforcement Supervisor Kenneth Pieslak emailed other Township officials with a plan to monitor properties that residents complained about to "determine days/times/same residence/numbers of people/cars lining streets, etc. and proceed from there."

48. In response to that email, former Township Attorney Cipriani advised that such enforcement would be most likely to "survive a legal challenge" if it followed standards from the case law and focused on "[r]egular and repeated groups in excess of 25 people the attendance of which impacts and transforms the residential character of the neighborhood – noise, disturbances, parking issues."

49. Former Township Attorney Cipriani suggested focusing enforcement even more narrowly than the standards established under case law, such as focusing on "[f]requent special events with a high attendance – 75+ people," when operating a shul "become[s] the principal use of the structure," or "[w]hen the activity is not confined to the privacy of one's own home."

50. The Township disregarded this legal advice, instead deploying Code Enforcement to engage in surveillance in response to complaints that did not meet the standards suggested by Cipriani, and, in some cases, did not contain any specific allegations of unlawful activity other than generalized suspicion of a shul.

51. The Township treated suspected shuls differently than other forms of worship. According to news reports and a leaked audio recording, Mayor Reina was asked on November 16, 2019, by former Ocean County political party chairman George Gilmore, "If these were churches, would we be fighting them?" The Mayor answered, "Absolutely not."

52. Similarly, while Mayor Reina encouraged aggressive enforcement of the Township Code against prayer meetings in homes owned by Orthodox Jewish residents, he stated in an email responding to a resident inquiry about purchasing homes for prayer that "[n]o law that I am aware of prohibits" activities such as "bible study . . . [or] praying . . . unless it becomes a safety issue by the amount of occupants attending . . . illegal activities or becomes a threat to the community."

53. The Township regularly dispatched Code Enforcement to investigate the complaints. Code Enforcement sent frequent updates to Township staff concerning regular, often daily home monitoring of suspected shuls, sometimes for several weeks, in response to resident complaints. However, upon information and belief, Code Enforcement's intensive monitoring rarely resulted in the issuance of code violations.

54. On June 27, 2016, former Business Administrator Schlegel emailed Mayor Reina, former Council President Nixon, and other Township staff concerning extensive monitoring of a particular home for a suspected shul. She complained:

> [A]fter two weekends of monitoring and nothing significant, I do not see the need for further overtime on this matter. . . . We have already expended too many tax dollars on this one property to find that there is no issue. Many of these reports appear to be exaggerated causing us unnecessary expense.

Nixon responded by requesting "a meeting on these issues please before monitoring these homes ends" in order to discuss his "concerns" as well as another resident complaint.

55. On September 16, 2016, former Business Administrator Schlegel sent a similar email to the Mayor and Township staff complaining:

> We are wasting valuable time and money checking every complaint that comes in. We can't keep chasing ghosts. It's the same people and addresses every week. We have other more serious issues, heroin drug houses, etc. These are the issues that we need to be concentrating on. I know that the possible shuls are a serious issue but the other issues are life threatening and safety issues and are affecting many of Jackson's youth and families. We understand that this is a sensitive issue, however, we have to address all the issues in the Township, not just this issue. We are currently down one full-time code enforcement officer and must prioritize the complaints.

56. Although home monitoring never uncovered significant violations, complaints from residents continued, and the Township continued to prioritize responding to the complaints despite the concerns noted by former Business Administrator Schlegel, encouraging even more complaints to be filed.

57. For example, in a February 2017 email from a resident to Mayor Reina and other Township staff, the resident complained that "anything that we can do to slow down this process of our Town being turned into a huge religious enclave is automatically shot down by our so called legal department," and urged the Township to "get clever and figure out a way to preserve the quality of life in Jackson," and to "[c]reate your own case law!" The complaining resident asserted:

> The Orthodox community . . . certainly [has] a plan and that plan is to buy up as much as they possibly can and take Jackson. So if we don't get on the ball and figure out a way to slow it down legally then we are dead. I'm begging you all to please pull out the big guns and find our town a proactive law firm or perhaps hire a land/use attorney on retainer to do what needs to be done to protect us.

58. Other resident complaints filed with the Township in 2017 similarly asserted that because of Orthodox Jewish prayer groups "[t]his wonderful neighborhood is going down the gutter so fast"; that "[p]eople do NOT want to live [b]y this and so many people are leaving and only the

Orthodox are moving in because WE [a]ccomodate them"; "The message is being sent- Move to Jackson, who needs a synagogue built we'll just use existing homes, and that's what IS HAPPENING HERE"; "You can't really expect people to live on a street dominated by an extremist religious group that are continuously moving in because they have a SYNAGOGUGE to walk to[]!"; that "[t]hese Shuls will decrease the [v]alue of our homes, they negatively affect the character of the town & quality of life of the neighbors who live around them"; and that "Shuls are going to destroy our neighborhoods if something isn't done!"

59. At the direction of Mayor Reina and other Township officials, the Township continued its surveillance campaign for several years after former Business Administrator Schlegel's warnings that no significant legal violations were being found. The Township continued devoting significant resources to monitoring small, lawful prayer meetings in homes owned by Orthodox Jewish residents.

60. The Township's surveillance campaign covered at least 15 different homes, all owned or occupied by Orthodox Jewish residents of Jackson.

61. The Township's monitoring of individual properties went on for extended periods and, in some cases, intermittently for years at the direction of Township staff.

62. Upon information and belief, the Township did not conduct a similar surveillance campaign for suspected religious gatherings hosted by anyone other than Orthodox Jews.

63. The Township was aware of the potential for disparate treatment arising from its surveillance of suspected shuls. For example, on June 3, 2019, in response to an email exchange between Zoning Officer Jeffrey Purpuro and a resident complaining about suspected shuls, an attorney for the Township warned the Township Business Administrator and other attorneys representing Jackson: "We need to discuss this. Even handed [e]nforcement is necessary."

64. Multiple Orthodox Jewish residents complained to the Township that they felt "harassed" by numerous and unwarranted visits from Code Enforcement to their homes. Upon information and belief, the Township never responded to these concerns.

Jackson Targets Sukkahs Erected on Property Owned by Orthodox Jewish Residents for Zoning Code Enforcement

65. Jackson Township officials also engaged in discriminatory application of the Township's land use laws to inhibit the erection of sukkahs by the Township's Jewish residents, particularly in their front yards.

66. Sukkot, the Feast of Tabernacles, is a weeklong Jewish holiday celebrating the fall harvest and commemorating the temporary dwellings that the Jews lived in during their 40 years of travel in the desert after the exodus from slavery in Egypt.

67. A sukkah is a temporary open-air structure for use during the festival of Sukkot. According to Jewish tradition, sukkahs should have at least two and a half "walls" made of wood, canvas, sheets, or any other material. A sukkah must not have a roof, but instead must have a covering made of organic material, known as schach, such as tree branches, cornstalks, bamboo sticks, etc. The covering must allow rainwater to fall within the sukkah.

68. During the week of Sukkot, Orthodox Jews erect sukkahs on building roofs or courtyards, apartment balconies, or in the yards of their homes as part of their religious practice, sometimes eating, studying, and sleeping in these sukkahs. The sukkahs are then dismantled and removed once the weeklong observance has concluded.

69. Pursuant to Jackson Township Code, art. IV, § 244-22(A)(1), an application "to the administrative officer for issuance of a development permit" is required to "[c]onstruct a new building or structure." Then, pursuant to § 244-22(B) to (D), the administrative officer determines

whether the proposed structure "conforms in all aspects to the requirements" set forth in the Code, and, accordingly, either issues a development permit, after which the applicant may apply for a building permit, or instructs the applicant that approval from the Zoning Board or Planning Board is first required.

70. In some municipalities, sukkahs are not subject to zoning code requirements because they are by nature temporary structures used only during a specified religious observance. However, in Jackson, the Zoning Board treats sukkahs as structures that require development permits subject to § 244-22(A)(1).

71. In addition to requiring development permits for the construction of a new building or structure, the Township restricts the occupation or obstruction of front yards by various objects. That restriction could result in the denial of a development permit for the construction of a new building or structure in a front yard, or could result in a resident receiving a citation for maintaining an occupied or obstructed front yard. Specifically, in 2011, the Township amended the Code's definition of "front yard." The amended provision, which has not been amended since, defines "yard, front" as "[a]n open space on the same lot with a principal building, extending the full width of the lot and situated between the street line and the front yard setback line" and further states that "[a] front yard shall be unoccupied and unobstructed from the ground upward, except for the presence of natural vegetation, driveways, or fences, and under no circumstances shall anything obstruct safe vehicular visibility within the sight triangle." See Jackson Township, N.J., Code, art. II, § 244-6 (codified as amended at Jackson Township, N.J., Ordinance No. 03-11).

72. At least into 2016 or 2017, however, the Zoning Board did not interpret the "front yard" provision to prohibit the construction of sukkahs in front yards. Instead, the Board interpreted this Code provision broadly to permit certain temporary or accessory structures in front yards,

including sukkahs. As confirmed by Zoning Officer Purpuro in a September 2015 email to Mayor Reina, "[t]he reason that [sukkahs] are permitted in the 'front yard area' is based on the new definition of 'front yard.'"

73. In or around 2015, the Township increasingly received resident complaints expressing concern over the construction and placement of sukkahs and urged the Township to take action to prevent the erection of sukkahs. Upon information and belief, these complaints referenced sukkahs that had been erected in front yards of Orthodox Jewish homes.

74. Despite the Zoning Board's position, the Township appeared responsive and sympathetic to complaints about sukkahs in front yards.

75. For instance, in September 2015, a resident emailed the Township asking whether sukkahs were "considered temporary or accessory?" The resident also remarked that "even permitting this to be in the front of a yard is quite an eye sore." Mayor Reina replied, noting that "[t]here seems to be a concern township wide," and agreeing that "this issue even being 'temporary' [is] an eyesore and a bad precedent to be setting in residential communities."

76. Around that same time, on September 15, 2015, the Township received a similar email complaining that "[t]emporary or not, these structures are unsightly," and asking the Township to "[p]lease look into an ordinance to prevent these from popping up during this time, especially in front yards." This email was shared among various Township officials, including Mayor Reina, Zoning Officer Purpuro, and former Business Administrator Schlegel. Zoning Officer Purpuro stated that "sukkahs meet the intent of the definition of structure, and shall require, at least, zoning approval, and be cited accordingly per . . . 244-22.A.(1)," and asked whether there is "any type of relief that would prevent Code Enfor[cement] from writing violations."

77. Subsequently, on or around September 22, 2015, the Township prepared a memorandum concluding that it could, in compliance with the federal Religious Land Use and Institutionalized Persons Act, require a zoning permit for a temporary structure used for religious purposes, such as a sukkah.

78. Leading up to the 2016 Sukkot holiday, at the end of June 2016, the Township began to reevaluate its interpretation of the Code's definition of "front yard" as it related to sukkahs and discussed how the Township would handle the anticipated complaints about sukkahs.

79. Around this time, the Township reconfirmed that sukkahs met the definition of a structure and thus required zoning approval. However, upon information and belief, contrary to the Zoning Board's prior position, former Township Attorney Cipriani advised Zoning Officer Purpuro, former Business Administrator Schlegel, and various other Township officials that sukkahs could not be built in front yards, concluding that the 2011 amendment to the front yard ordinance was intended only to permit fences to be built in the front yard of corner lots.

80. In August 2016, in response to resident concerns, Mayor Reina requested the Zoning Board revisit the issue and not allow "non permanent [sic] structures to be placed in front yards." Mayor Reina stated that this newly proposed ban would "not only strengthen Jackson [T]ownship zoning and codes . . . but will make it even harder for those who may want to challenge them somewhere down the road."

81. Between September and October 2017, the Township continued to respond to and act on resident complaints about sukkahs, including issuing notices of violation to Orthodox Jews who erected sukkahs in their front yards. For example, in September 2017, former Code Compliance Supervisor Pieslak received a resident email reporting "a large plywood structure in [a] front yard," and was asked whether "these [are] now allowed in Jackson?" Former Code

Compliance Supervisor Pieslak replied to that resident advising that Code Enforcement "investigate[d] the structure" and would be "issuing a Notice of Violation today to the owner."

82. Similarly, an October 2017 email to Zoning Officer Purpuro inquired, "Are Sukkahs allowed in the front of homes? [And] [a]ren't their [sic] setbacks?" Zoning Officer Purpuro responded, "Accessory structures are not permitted in the front yard, and Notice of Violation will be written accordingly."

83. And again, around that same time, an email from a Township resident was sent to Mayor Reina, Zoning Officer Purpuro, former Code Compliance Supervisor Pieslak and other Township officials, reporting "[i]llegal construction (sukkah)." Without specifying where the sukkah was constructed, this complaining resident "assume[d] there was NO construction permit or inspection" and claimed that "[t]his eyesore and blatant disregard of [Township] ordinances and building codes really needs to stop." Pieslak confirmed that no permit existed, assured the complainant that a Notice of Violation would be issued, and thanked them for reporting it.

84. In 2017, Zoning Officer Purpuro also advised an Orthodox Jewish resident:

> No structure, regardless of its permanency, or not, shall be installed forward of the dwelling. But as you may see a small handful of such structures in some front yards, and without going into the minutia of the prior interpretation of the amended definition of front yard, that matter was resolved shortly thereafter. Thus, unfortunately, nothing may be installed in the front yard area.

85. The definition of "front yard" in the Township Code has not been amended since 2011 to reflect the Township's de facto categorical ban on sukkahs.

86. Upon information and belief, the Township has not engaged in similar enforcement against any other temporary accessory structures.

Jackson Enacts an Ordinance Limiting the Permissible Locations of Religious Schools to Deter Establishment of Yeshivas

87. Yet another device adopted by Township officials to deter Orthodox Jews from moving to Jackson and inhibit their religious practice was to restrict the construction of religious schools and school dormitories, which Jackson residents and Township officials associated with Orthodox Jews.

88. For Orthodox Jews, religious life includes a focus on religious education, including attending religious schools, or yeshivas, which teach young students to become active members of the Orthodox Jewish community and religious leaders.

89. Some Orthodox Jews, including some Jackson residents, believe that yeshiva students must live communally in dormitories so they can be removed from secular life's distractions and focus on their religious studies, preferably within a community of religious practitioners and scholars.

90. In June 2014, the Zoning Board rejected plans for an all-girls Orthodox Jewish high school. This denial has been challenged as unlawful and discriminatory. See Compl., Oros Bais Yaakov High Sch. v. Zoning Bd. of Adjustment, No. OCN- L-2891-14 (N.J. Super. filed Oct. 15, 2014). The litigation is currently pending.

91. Upon information and belief, before 2017, the Township's Zoning Code allowed private, public, and religious schools in certain zoning districts, and allowed public schools in certain additional districts where private and religious schools were not allowed.

92. In addition, before 2017, dormitories were permitted as accessory uses in some residential zones, as long as they were incidental to the use of a property, such as a school.

93. However, as the population of Orthodox Jews increased in Jackson, town residents started pressuring the Township Council to prevent the Orthodox community from building

yeshivas. Residents cited their fears that Jackson would become too much like Lakewood. Upon information and belief, the complaining residents opposed more Orthodox Jews moving to Jackson.

94. The Township Council received several emails from residents regarding their opposition to yeshivas in the town. One resident wrote in March 2017, "I am very concerned about the possible existence of dormitories in our community. . . . If this dormitory comes to fruition it will change the peaceful quality of life on this road which I have lived on since 1979."

95. On March 16, 2017, the Township Council unanimously passed Ordinance No. 03-17, thereby prohibiting religious schools in nearly all of the Township's zoning districts and prohibiting all dormitories anywhere in the Township. Specifically, Ordinance 03-17 states that any use not "expressly permitted" in any zoning district is "expressly prohibited," meaning that religious schools were prohibited in nearly all zoning districts in the Township, while public schools were permitted in the same zoning districts as before. Ordinance 03-17 also broadly "prohibited" dormitories "as principal or accessory uses or structures in all zoning districts within the Township of Jackson."

96. Adoption of Ordinance 03-17 was preceded by several public meetings. On February 28, 2017, the Township scheduled a meeting concerning Ordinance 03-17, which non-Jewish town residents attended in large numbers. Several residents were outspoken in their support of the Ordinance, explicitly because it would prevent Orthodox Jews from moving to Jackson.

97. On March 6 and March 14, 2017, the Planning Board, after having reviewed Ordinance 03-17, scheduled public hearings, and many Jackson residents weighed in.

98. Around the same time as the hearings, Jackson residents commented on social media and in emails to Township officials expressing support for the ordinance because it would prevent Orthodox Jews from moving to Jackson.

99. For example, one commenter bemoaned the "Lakewood activists" who wanted "to transform our community, not to become part of it," saying "[m]ost residents of Jackson do not want dorms." Other residents made similar comments specifically connecting Ordinance 03-17 to opposing Orthodox Jews in Jackson.

100. Former councilmember Scott Martin, who voted in favor of the ordinance, stated that he did not want what had happened in Lakewood, where Orthodox Jewish schools with dorms had been constructed, to happen in Jackson. He said he assumed that Orthodox Jews built most of the schools with dorms in Lakewood.

101. Former councilmember Kenneth Bressi, who represented the Council on the Planning Board, has subsequently stated that the Council was aware of the existence of Orthodox Jewish school dormitories at the time, based predominantly on their knowledge of similar dormitories in nearby towns, and that the motivation for the 2017 Ordinance was, in part, to keep Orthodox Jews from moving to Jackson.

102. Jackson officials were aware of the Ordinance's discriminatory impact, which effectively bans both religious day schools and yeshivas in Jackson.

103. Upon information and belief, the Township has not explained why allowing religious schools would impair any of its zoning goals, nor has it explained why religious schools would have zoning impacts that are greater than those of public schools.

104. While the Township has construed Ordinance 03-17 to prohibit the establishment of dormitories as an accessory use to schools, the Planning Board has approved the development of similar structures in recent years. The Township allowed the Six Flags Theme Park in Jackson to build associated housing for a multiple sclerosis medical research center on its premises, and allowed Trophy Park LLC to develop a sports complex containing team suites that can host children

as overnight guests. The Township did not enforce Ordinance 03-17 to prohibit these dormitory developments.

105. On March 6, 2017, former Zoning Board Member Joseph Schulman emailed Mayor Reina saying that, because the ordinance essentially prohibits religious schools, it would "mak[e] the Zoning Board the target of public controversy and scorn. . . . Jackson will be sued and it will cost the taxpayers dearly to defend the ordinance, potentially millions." Reina dismissed Schulman's concern and responded, in relevant part, saying, "As long as I am Mayor illegal activity is still illegal and will not be tolerated or looked over on my watch, period."

106. Multiple residents informed the Council of their view that Ordinance 03-17 targeted yeshivas and Orthodox Jews. For example, one resident wrote in March 2017, "As you are well aware, since the only group which would be theoretically interested in constructing schools or dormitories in the township are Orthodox Jews, there have been many who feel this ordinance is a veiled attempt to limit the Orthodox population of Jackson."

107. That same month, another resident wrote, "Let me explain why I feel even suggesting such a law is offending. . . . [B]anning dorms in all of Jackson implies one thing – We don't want the 'people' that would want to build the dorms."

108. Yet another resident wrote in November 2017:

> Who would want to build a School or Dormitory now in Jackson? Why would the council be so interested in banning dorms and making it almost impossible to build a school in Jackson? The answer is clear, to prevent Orthodox Jews from moving in. Hey, you know they won't send [sic] to public schools because of their religious beliefs, so if we prevent them from building schools and dormitories then they won't move here.

109. Since the passage of Ordinance 03-17, no yeshivas or associated dormitories have been established in Jackson.

Jackson Enacts an Ordinance Prohibiting Eruvim

110. Supplementing their other tactics in response to a growing Orthodox Jewish population, Township officials further discriminated against Orthodox Jews by amending and enforcing the Township Code to prohibit eruvim.

111. An eruv (plural: eruvim) is a ritual enclosure of a designated area. For many Orthodox Jews, the act of pushing or carrying objects from a private space to a public space is prohibited on the Sabbath or Yom Kippur. An eruv symbolically extends a private space into a public space, thus permitting activities like pushing a baby stroller or carrying keys, that would otherwise be prohibited outside of the home.

112. An eruv is commonly created by putting up poles attached with string or wire to designate the boundaries of the ritual area, or by affixing thin plastic strips known as lechis (plural: lechai'in) to utility poles connected to telephone wires that already mark the boundary of the ritual area. Jackson residents often refer to lechai'in as "eruv wires."

113. Hundreds of cities and towns across the country, including New York City, Tucson, San Diego, Denver, Atlanta, Indianapolis, St. Louis, and in New Jersey, including Parsippany, Paramus, Maplewood, Marlboro, Fort Lee, and Edison, are partially encircled by an eruv. The lechai'in do not harm the utility pole or telephone wire in any way and are generally not noticeable to a person who does not know to look for them.

114. Upon information and belief, Orthodox Jewish residents residing within the Township have established eruvim in specific neighborhoods within the Township for several years.

115. Before 2017, the Township had determined that the eruvim in the town did not violate any zoning ordinance or other law.

116. Upon information and belief, when Orthodox Jewish residents requested permission to erect more eruvim, Jackson residents began expressing increased opposition.

117. The Township Council received several emails from residents regarding their opposition to eruvim in the town. One resident wrote in August 2016:

> [A]s I look at my neighborhood along with various other neighborhood[s] in the area panic selling I was wondering . . . [w]hat is your take on what's happening in this town and have you done anything to help the situation? I would like to know where you see our town in five years, if you could maybe paint a picture in my mind, especially the east side of town [closest to Lakewood] I would greatly appreciate it.

118. Mayor Reina responded saying:

> [W]e are once again requesting that the office of Zoning revisit and not to allow non permanent [sic] structures to be placed in front yards, and we are looking at the issue regarding the use of ERUV wires and their placement within the public ROW [right of way]. These newly proposed bans and restrictions coming up will not only strengthen Jackson township zoning and codes as well but will make it even harder for those who may want to challenge them somewhere down the road. . . . Naturally we have legal counsel looking into everything of what we can and cannot do.

119. Another resident wrote:

> I am contacting you in reference to the increase of Eruv [sic] being erected in the Whitesville section of town [bordering Lakewood]. Some residents are erecting Eruv [sic] well within their property. Others are erecting Eruv [sic] off their property. . . . I understand that the Orthodox have their religious beliefs[,] but at what point do these religious beliefs start to infringe my enjoyment of my property and neighborhood?

120. In response to resident opposition to eruvim, the Township distributed a flyer to residents indicating that all residents had ten days to comply with Jackson Township Code § 372-8, which prohibits items that "encumber or obstruct" streets and other public areas. The flyer

included pictures of various objects, including poles and eruv wires. At the time, § 372-8 allowed the Township to grant permission to residents to place items in any street or other public place.

121. Upon information and belief, in 2017, the Township began a campaign to enforce § 372-8, with Code Enforcement issuing multiple notices of violation in connection with eruvim.

122. A local news report quoted Mayor Reina as saying that "the enforcement came at the request of the township council through Business Administrator Helene Schlegel after some residents asked why the code enforcement department wasn't enforcing the right of way ordinances."

123. In August and September 2017, the Township Council held hearings on new proposed Ordinance 20-17, which eliminated the provision in Township Code § 372-8 allowing the Township to grant permission to residents to place items in any street or other public place.

124. Former councilmember Bressi has testified that Mayor Reina told him that he would "never let them have wires in this town," and that "them" meant Orthodox Jews.

125. Numerous Orthodox Jewish residents of the Township attended the hearings to oppose Ordinance 20-17.

126. On September 12, 2017, the Township Council passed Ordinance 20-17, effectively prohibiting eruvim, and Mayor Reina signed it into law.

127. Upon information and belief, the Township presented no evidence that eruvim, which had been in existence for over six years in the Township, would threaten any legitimate Township interest in enacting the Ordinance.

128. Jackson officials were aware of the Ordinance's discriminatory impact, which prevents Orthodox Jewish families in Jackson from engaging in a wide range of ordinary activities on the Sabbath and Yom Kippur.

COUNT ONE

DISCRIMINATORY APPLICATION OF TOWNSHIP CODE 244-115 AS TO COMMUNAL PRAYER IN VIOLATION OF N.J.S.A. 10:5-12.5

(As to Defendants Township; Township Council; Zoning Board; and Mayor Michael Reina in His Official Capacity)

129. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

130. N.J.S.A. 10:5-12.5 makes it unlawful for a municipality or an officer, employee, or agent thereof, to exercise its power to regulate land use or housing in a manner that discriminates on the basis of creed.

131. Although they acknowledged that resident complaints about suspected shuls were without basis, Defendants nonetheless repeatedly exercised their power to regulate land use or housing by surveilling and targeting Orthodox Jews in Jackson who were engaged in protected communal prayer within their homes.

132. Defendants exercised their power to regulate land use and housing by monitoring Orthodox Jewish residents for compliance with Ordinance 244-115, which designates "churches and places of worship" as a "conditional use" that is subject to a zoning permit, as well as various other requirements under the zoning code.

133. Defendants enforced Ordinance 244-115 in an unlawfully discriminatory manner by targeting Orthodox Jewish residents with regular and sustained surveillance based on resident complaints expressing generalized grievances and animus against Orthodox Jews.

134. The unlawful discriminatory actions by Defendants do not serve any legitimate, non-discriminatory purpose.

COUNT TWO

DISCRIMINATORY APPLICATION OF TOWNSHIP CODE 244-22 AS TO SUKKAHS IN VIOLATION OF N.J.S.A. 10:5-12.5

(As to Defendants Township; Township Council; Zoning Board; and Mayor Michael Reina in His Official Capacity)

135. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

136. N.J.S.A. 10:5-12.5 makes it unlawful for a municipality or an officer, employee, or agent thereof, to exercise its power to regulate land use or housing in a manner that discriminates on the basis of creed.

137. Defendants have taken repeated actions to exercise their power to regulate land use and housing by enforcing Jackson Township Code § 244-22 against sukkahs, which requires an application "to the administrative officer for issuance of a development permit" in order to "[c]onstruct a new building or structure."

138. Defendants changed their interpretation of the term "front yard" and issued notices of violation on that basis in an unlawfully discriminatory manner, with the general purpose of deterring Orthodox Jewish religious practices.

139. The discriminatory enforcement of the Code creates an impediment to erecting sukkahs within the Township, which interferes with the ability of observant Orthodox Jews to live within Jackson.

140. The unlawful discriminatory actions by Defendants do not serve any legitimate, non-discriminatory purpose.

COUNT THREE

DISCRIMINATORY ENACTMENT OF ORDINANCE 03-17 AS TO YESHIVAS IN VIOLATION OF N.J.S.A. 10:5-12.5

(As to All Defendants)

141. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

142. N.J.S.A. 10:5-12.5 makes it unlawful for a municipality or an officer, employee, or agent thereof, to exercise its power to regulate land use or housing in a manner that discriminates on the basis of creed.

143. Defendants have exercised their power to regulate land use and housing in a discriminatory manner by the passage of Ordinance 03-17, which prohibits private and parochial schools, such as yeshivas, from locating in the Township's residential zoning districts and also prohibits all dormitories in the Township.

144. Responding to animus directed at Orthodox Jews expressed by numerous Jackson residents in complaints and at hearings, Defendants passed Ordinance 03-17 with the purpose of deterring the establishment of Orthodox Jewish schools and dormitories in the Township.

145. The lack of yeshivas within the Township interferes with the ability of observant Orthodox Jews to live within Jackson.

146. The unlawful discriminatory actions by Defendants do not serve any legitimate, non-discriminatory purpose.

COUNT FOUR

DISCRIMINATORY ENACTMENT AND APPLICATION OF ORDINANCE 20-17 IN VIOLATION OF N.J.S.A. 10:5-12.5

(As to All Defendants)

147. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

148. N.J.S.A. 10:5-12.5 makes it unlawful for a municipality or an officer, employee, or agent thereof, to exercise its power to regulate land use or housing in a manner that discriminates on the basis of creed.

149. Defendants have exercised their power to regulate land use and housing in a discriminatory manner by the passage and enforcement of Ordinance 20-17, which amended Township Code § 372-8, to effectively prohibit the establishment of eruvim throughout the Township.

150. Ordinance 20-17 prohibits the placement of articles of any nature in the right of way of any street or public place and was adopted with the purpose of deterring the establishment of eruvim within the Township.

151. Responding to animus directed at Orthodox Jews expressed by numerous Jackson residents in complaints and at hearings, Defendants have taken repeated actions, including the issuances of notices of violations to Orthodox Jewish residents, to remove eruvim from Jackson.

152. The lack of eruvim within the Township interferes with the ability of observant Orthodox Jews to live within Jackson.

153. The unlawful discriminatory actions by Defendants do not serve any legitimate, non-discriminatory purpose.

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully petition this Court for judgment as follows:

a) Finding that Defendants committed the acts or omissions set forth in this Complaint;

b) Finding that such acts and omissions constitute violations of the LAD or actions in furtherance of violating the LAD;

c) Granting Plaintiffs appropriate equitable relief, including but not limited to enjoining Ordinances 03-17 and 20-17 and other permanent injunctive relief pursuant to the provisions of the LAD;

d) Assessing Defendants a civil monetary penalty for each violation of the LAD in accordance with N.J.S.A. 10:5-14.1a;

e) Granting Plaintiffs attorney's fees, expenses, and costs in accordance with N.J.S.A. 10:5-27.1; and

f) Affording Plaintiffs and other affected parties any additional relief the Court may deem just and equitable.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: _____
Renee Greenberg
Joanna R. Loomis
Micauri Vargas
Deputy Attorneys General

Mayur P. Saxena
Assistant Attorneys General

Dated: April 27, 2021
Newark, New Jersey

RULE 4:5-1(b)(2) CERTIFICATION

I certify that Plaintiffs are not aware of any other action pending in any court or any pending arbitration proceeding in which the matter in controversy here is the subject. I further certify that no other action or arbitration proceeding is contemplated by Plaintiffs concerning the matter in controversy here. I further certify that Plaintiffs are not aware of any other party who should be joined in this action at the current time.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: _____
Renee Greenberg
Deputy Attorney General

Dated: April 27, 2021
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Assistant Attorney General Mayur P. Saxena and Deputy Attorney General Renee Greenberg are hereby designated as trial counsel for the Plaintiffs in this action.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: _____
Renee Greenberg
Deputy Attorney General

Dated: April 27, 2021
Newark, New Jersey

RULE 4:5-1(b)(3) COMPLIANCE

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).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: _____
Renee Greenberg
Deputy Attorney General

Dated: April 27, 2021
Newark, New Jersey