

~~CA~~ CA Old Bridge 1- Apr. - 1981

O & Y v. O.B.

Answer, separate Defenses and  
Counterclaim

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ATTORNEYS FOR Defendant Old Bridge  
Township Sewerage Authority

*Plaintiff*

O & Y OLD BRIDGE DEVELOPMENT CORP., a  
Delaware Corporation

vs.

*Defendant*

THE TOWNSHIP OF OLD BRIDGE, in the County  
of MIDDLESEX, a municipal corporation of  
the State of New Jersey, et al.

SUPERIOR COURT OF  
NEW JERSEY  
LAW DIVISION  
MIDDLESEX COUNTY

Docket No. L-32516-80

**CIVIL ACTION**

ANSWER, A SEPARATE PROGRAM  
DEFENSES AND COUNTERCLAIM

Defendant, Old Bridge Township Sewerage Authority, with its  
principal office at 71 Boulevard West, Township of Old Bridge,  
County of Middlesex, New Jersey, by way of answer says:

1. There are no allegations contained in the 1st, 2nd, 3rd,  
4th, 5th, 8th and 9th Counts made concerning it and therefore it  
does not respond.

2. As to the 6th Count, it says:

a. It admits the 2nd paragraph.

b. It leaves the plaintiff to its proofs as to the 3rd  
paragraph.

c. It leaves the plaintiff to its proofs as to the 4th  
paragraph.

d. It denies the allegation in the 5th paragraph that the plaintiff is required by the Sewerage Authority Law, Service Contract or Municipal Utilities Authority Law to comply with its rules and regulations, and denies the remaining allegations.

e. It leaves the plaintiff to its proofs as to the allegations of the 6th and 7th paragraphs.

f. It denies the allegations of the 8th, 9th, 10th, 11th and 12th paragraphs.

3. As to Count 7, the plaintiff denies each and every allegation.

4. As to Count 10, it denies all the allegations.

5. As to Count 11, it denies all the allegations.

WHEREFORE, plaintiff demands judgment dismissing the complaint together with costs.

#### FIRST SEPARATE DEFENSE

The plaintiff has failed to exhaust its administrative remedies, this action is therefore not maintainable under R. 4:69.

#### SECOND SEPARATE DEFENSE

The plaintiff has failed to state a claim upon which relief can be granted. R. 4:6-2(e).

#### THIRD SEPARATE DEFENSE

The plaintiff has failed to make any application for determination by the defendant Old Bridge Township Sewerage Authority. The Court therefore lacks jurisdiction over the subject matter. R. 4:6-2(a).

#### FOURTH SEPARATE DEFENSE

The plaintiff is estopped from asserting any of its claims. It has owned the property subject to rules and regulations at or prior to the Old Bridge Township Sewerage Authority adopting its rules and regulations, it failed to appear at any public hearings, it made no application for review within the time provided by the Rules.

#### FIFTH SEPARATE DEFENSE

The Rules, Regulations and Rate Schedules developed by the defendant Old Bridge Township Sewerage Authority comply with the mandate of the Sewerage Authority Law, Laws of 1946, Chapter 138, and amendments thereto (N.J.S. 40:14A-1 et seq.)

#### COUNTERCLAIM

The Old Bridge Township Sewerage Authority, by way of counterclaim against the plaintiff, O & Y Development Corp. says:

1. The Old Bridge Township Sewerage Authority is a body politic and corporate of the State of New Jersey.
2. It is charged with duties and powers and acts pursuant to authority granted it by "The Sewerage Authority Law," N.J.S.A. 40:14A-1 et seq.
3. On or about the 18th day of February, 1981, the plaintiff filed a complaint with the Clerk of the Superior Court, Law Division, Middlesex County, in lieu of Prerogative Writ.
4. The plaintiff named the defendant Old Bridge Township Sewerage Authority in that matter improperly.
5. It named the Old Bridge Township Sewerage Authority in that matter for an ulterior motive other than the relief sought.

6. As a result of the filing of the complaint and naming of the defendant Old Bridge Township Sewerage Authority, it has caused this defendant damages and will in the future cause damages.

WHEREFORE, this defendant demands judgment against the plaintiff for damages, both compensatory and exemplary, prejudgment interest and costs of suit.

DATED: April 1, 1981

YACKER, GRANATA & CLEARY, P. A.  
Attorneys for Defendant Old Bridge  
Township Sewerage Authority

BY: 

LOUIS E. GRANATA

I hereby certify that a copy of the within answer has been served upon the adversaries in this matter and the original has been forwarded to the Clerk of Superior Court for filing.

YACKER, GRANATA & CLEARY, P. A.  
Attorneys for Defendant Old Bridge  
Township Sewerage Authority

BY: 

LOUIS E. GRANATA