

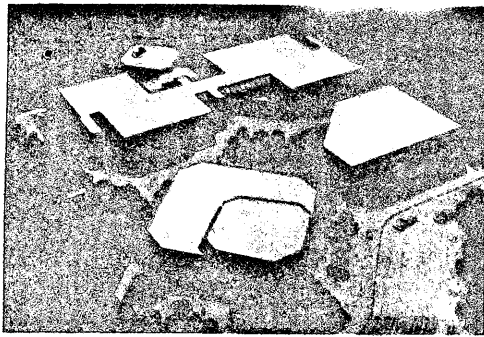
~~CA~~ CA Old Bridge 14 Jul. - 1981

O 84 v. O. B

~~Notice~~ Defendant's Notice of Motion to
to Compel Answers to Interrogatories
and to Compel more specific answers
to interrogatories

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7-31-81 I
Township of Old Bridge

MIDDLESEX COUNTY, N.J.

ONE OLD BRIDGE PLAZA • OLD BRIDGE, N.J. 08857

TOWNSHIP ATTORNEY
Louis J. Alfonso, Esq.
325 County Highway 516
Old Bridge, New Jersey 08857
(201) 238-2230

July 14, 1981

Clerk of the Superior Court
State House Annex
P. O. Box 1300
Trenton, New Jersey 08625

RECEIVED AND FILED
MIDDLESEX COUNTY CLERK
NEW BRUNSWICK, N.J.
81 JUL 15 11:08
THOMAS J. HOLYNEUX
COUNTY CLERK

Re: O & Y Old Bridge Development Corp. vs. The Township of Old Bridge, et als
Docket No. L-32516-80 P.W.

Dear Sir:

Enclosed herewith please find an original and one (1) of a Notice of Motion To Compel Answers To Interrogatories And To Compel More Specific Answers To Certain Interrogatories Within 20 Days, Certification in Support of Motion To Compel Answers To Interrogatories and Legal Memorandum on the above matter returnable July 31, 1981. Kindly file same and return a copy to me duly marked in the enclosed envelope provided.

Thank you for your attention to this request.

Very truly yours,

LJA:aab
Enclosures

LOUIS J. ALFONSO
Township Attorney

- cc: Middlesex County Clerk - hand delivered ✓
- Honorable J. Norris Harding - hand delivered
- Henry A. Hill, Esq. - hand delivered
- William E. Flynn, Esq.
- Thomas Norman, Esq.
- Louis E. Granata, Esq.

LOUIS J. ALFONSO, ESQ.
325 County Highway 516
Old Bridge, New Jersey 08857
(201) 238-2230

Attorney for Defendants, Township of Old Bridge and
Township Council of the Township of Old Bridge

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MIDDLESEX COUNTY CLERK
NEW BRUNSWICK, N.J.
81 JUL 15 11:00
THOMAS J. McLELLAN
COUNTY CLERK

O & Y OLD BRIDGE DEVELOPMENT
CORP.,
Plaintiff,
-vs.-
THE TOWNSHIP OF OLD BRIDGE,
et als.,
Defendants.

: SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY
DOCKET NO. L-32516-80
Civil Action
NOTICE OF MOTION TO COMPEL
ANSWERS TO INTERROGATORIES AND TO
COMPEL MORE SPECIFIC ANSWERS TO
CERTAIN INTERROGATORIES WITHIN
20 DAYS.

TO: HENRY A. HILL, ESQ.
BRENER, WALLACE & HILL, ESQS.
Attorney for Plaintiff
15 Chambers Street
Princeton, New Jersey 08540


S I R :

PLEASE TAKE NOTICE that on Friday, July 31, 1981, at 9:00 o'clock in the forenoon or as soon thereafter as counsel can be heard, the undersigned, attorney for the defendants, Township of Old Bridge and Township Council of the Township of Old Bridge, will apply to the Superior Court of New Jersey, Law Division, Middlesex County, at the Court House, New Brunswick, New Jersey, for an Order compelling the plaintiff, O & Y Old Bridge Development Corp., to answer interrogatories Nos. 2, 3, 4, 5, 6, 7, 8, 9, 14, 15, 17, 19, 20, 22, 23 and 26, submitted to it by the defendants, Township of Old Bridge and Township Council of the Township of Old Bridge, and for an Order compelling the said

plaintiff to more specifically answer interrogatories Nos. 12, 13, 16, 18, 27A through 27K, 29, 31, 32, 33, 37 and 38, submitted to it by the aforesaid defendants pursuant to the Rules governing the Courts of the State of New Jersey and served upon it April 29, 1981, which interrogatories listed firstly aforesaid the plaintiff has refused to answer and which interrogatories listed secondly aforesaid the plaintiff has answered vaguely, partially or otherwise in an evasive manner. Annexed to this Notice of Motion is a copy of the interrogatories submitted and of the plaintiff's answers thereto. Answers to the aforesaid are requested within twenty (20) days.

The moving party will rely upon the attached Certification and Legal Memorandum.

DATED: July 8, 1981

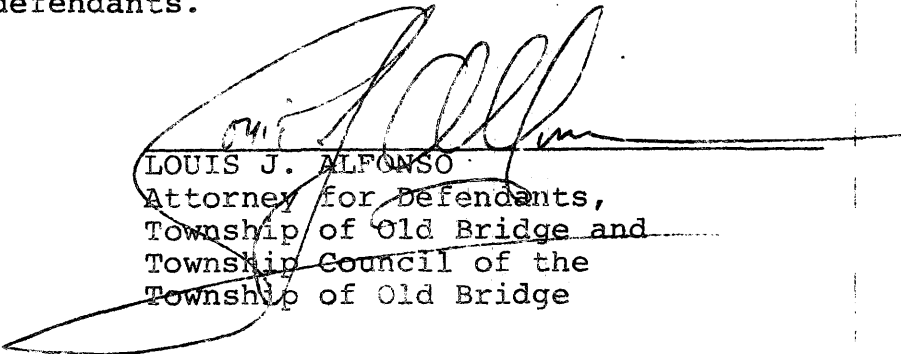


LOUIS J. ALFONSO
Attorney for Defendants,
Township of Old Bridge and
Township Council of the
Township of Old Bridge

CERTIFICATION

I hereby certify that the original of the within Notice of Motion has been filed with the Clerk of the Superior Court, State House Annex, P. O. Box 1300, Trenton, New Jersey 08625; and a copy has been hand delivered to the Middlesex County Clerk, Administration Building, New Brunswick 08903; and a copy has been hand delivered to Honorable J. Norris Harding, Middlesex County Court House, New Brunswick, New Jersey 08903; and a copy has been hand delivered to Henry A. Hill, Esq., Brener, Wallace & Hill, Esqs., Attorney for Plaintiff, 15 Chambers Street, Princeton, New Jersey 08540; and a copy has been mailed to William E. Flynn, Esq., 550 Highway 9, Old Bridge, New Jersey 08857; and to Thomas Norman, Esq., 101 Olde Buttonwood Building, Stokes Road, Medford, New Jersey 08055; and to Louis E. Granata, Esq., 210 Main Street, P. O. Box 389, Matawan, New Jersey 07747, attorneys for the co-defendants.

DATED: July 15th, 1981


LOUIS J. ALFONSO
Attorney for Defendants,
Township of Old Bridge and
Township Council of the
Township of Old Bridge

RECEIVED AND FILED
MIDDLESEX COUNTY CLERK
NEW BRUNSWICK, N.J.
81 JUL 15 1981
THOMAS J. NORRIS HARDING
COUNTY CLERK

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 MIDDLESEX COUNTY CLERK
 NEW BRUNSWICK, N.J.
 81 JUL 15 11:08
 THOMAS J. HOLYMEUX
 COUNTY CLERK

LOUIS J. ALFONSO, esq.
 325 County Highway 516
 Old Bridge, New Jersey 08857
 (201) 238-2230

Attorney for Defendants, Township of Old Bridge and
 Township Council of the Township of Old Bridge

<hr/>		:	SUPERIOR COURT OF NEW JERSEY
O & Y OLD BRIDGE DEVELOPMENT	:	:	LAW DIVISION
CORP.,	:	:	MIDDLESEX COUNTY
	:	:	DOCKET NO. L-32516-80
Plaintiff,	:		
	:		
-vs.-	:		Civil Action
	:		
THE TOWNSHIP OF OLD BRIDGE,	:	:	CERTIFICATION IN SUPPORT OF
et als.,	:	:	MOTION TO COMPEL ANSWERS TO
	:	:	INTERROGATORIES
Defendants.	:		
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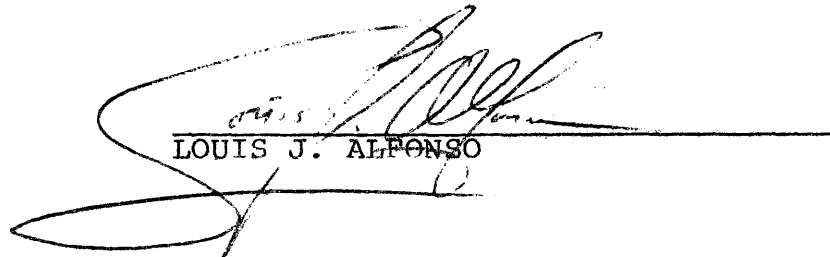
LOUIS J. ALFONSO, of full age, hereby certifies as follows:

1. I am the attorney for the defendants in the within matter. Interrogatories were served upon the plaintiff on April 29, 1981. What was purported to be answers to same were received by the defendants July 2, 1981. However, a considerable number of questions were not answered and additionally numerous questions were only partially answered or were answered vaguely or by giving the plaintiff the unlimited right to supplement.

2. The position of the Township of Old Bridge and the Township Council of the Township of Old Bridge that the answers requested are needed for either a proper defense or in furtherance of the counterclaim.

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

DATED: July 14, 1981



LOUIS J. ALFONSO

LEGAL MEMORANDUM

In this action not only are the defendants defending a zoning action but plaintiff makes broad allegations regarding the conduct of the defendants, their actions and their various activities. The defendants additionally have filed broad counter-claims which include but are not limited to allegations of malicious prosecution. The Court by previous Order has permitted plaintiff to renew again after discovery by the defendants a motion to dismiss part of the counterclaims. The defendants also reserve the right to file for summary judgment after completion of discovery. It is in this broad context that the within motion to compel either answers to interrogatories which plaintiff have refused to answer or to compel more specific answers to other interrogatories is brought by these defendants, the Township of Old Bridge and the Township Council.

Rule 4:10-2 sets out the scope of discovery and a review of that rule clearly indicates that the scope is a broad one and permits inquiry of "any matter, not privileged, which is relevant to the subject matter involved in the pending action". In addition, the Rule permits and allows pre-trial discovery of information inadmissible at trial "if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Our New Jersey Courts recognize in interpreting the scope of discovery that the subject matter involved in an action, to which an interrogatory must be relevant, is to be distinguished from the narrow issues raised by pleadings.

RECEIVED
MIDDLESEX COUNTY CLERK
NEW BRIDGE
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THOMAS H. HOLLAND
COUNTY CLERK

GIERMAN V. TOMAN, 1962, 77 N.J. Super. 18, 185 A.2d 241. It is, therefore, recognized by our Courts that the subject matter which may be inquired into by interrogatories is broader than the issues raised by the pleadings.

In the case at bar, it is submitted that the questions not answered by plaintiff are relevant to the matters involved in either the Complaint or Counterclaims and additionally, may lead to admissible evidence. The defendants will rely upon oral argument to show the relevancy of same. Additionally, a review of the answers in which more specific answers are demanded show the answers do not fully answer the question, are vague or general and give the plaintiff the opportunity to supplement same right up to trial. To permit answers such as 27A, where plaintiff says it can supplement names in the future and 32, wherein plaintiff says as to its list of expert witnesses "additional names may be supplied as decided upon later" is unfair to the defendant. The discovery and pre-trial procedures are designed to eliminate the element of surprise. CAPARELLA V. BENNET, 85 N.J. Super. 567, 205 A.2d 466 (App. Div. 1964); SAIA V. BELLIZIO, 103 N.J. Super. 465 247 A.2d 683 (App. Div. 1968), affm'd. 53 N.J. 24, 247 A.2d 865 (1968). These defendants should know now who the experts are and plaintiff should be limited to that list so discovery can proceed and there will be no surprises at trial and unfair advantage of the defendants by the plaintiff. The relevancy and need of the defendants to obtain more specific answers to the other answers set forth in the Notice of Motion will be shown at oral argument. Additionally, a reasonable time limit should be imposed upon plaintiff to supply said answers. It should be noted that these questions were served upon plaintiff more than sixty (60) days

ago and the time to answer ran on June 29, 1981.

Respectfully submitted,



LOUIS J. ALFONSO
Attorney for Defendants,
Township of Old Bridge and
Township Council of the
Township of Old Bridge