

RULS-AD-1976-60

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• Answer in lieu of prerogative writ

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SOMERSET COUNTY
LAW DIVISION CLERK

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BOWLBY, WOOLSON, GUTERL & ANDERSON

A PROFESSIONAL CORPORATION
17 EAST HIGH STREET
SOMERVILLE, NEW JERSEY 08876
(201) 725-2011
ATTORNEYS FOR Defendants

RULS - AD - 1976 - 60

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY
DOCKET NO. L-39401-75

THE ALLAN-DEANE CORPORATION, a
Delaware corporation qualified
to do business in the State of
New Jersey,

Plaintiff,

Civil Action

-vs-

ANSWER TO COMPLAINT
IN LIEU OF
PREROGATIVE WRITS

THE TOWNSHIP OF BEDMINSTER
in the County of Somerset, a
municipal corporation of the
State of New Jersey, and THE
TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF BEDMINSTER,

Defendants.

Defendants, the Township of Bedminster in the County of
Somerset, a Municipal Corporation of the State of New Jersey,
and the Township Committee of the Township of Bedminster, having

their principal offices at the Municipal Building, Hillside Avenue, Bedminster, New Jersey, by way of answer to the Complaint say:

FIRST COUNT

1. The allegation of Paragraph 1 of the First Count of the Complaint that plaintiff is the owner of property in the Township of Bedminster and a taxpayer in the Township of Bedminster is admitted; the allegation that the plaintiff has standing to bring this action is denied.

2. Paragraph 2 of the First Count of the Complaint is admitted.

3. Paragraph 3 of the First Count of the Complaint is admitted.

4. Paragraph 4 of the First Count of the Complaint is admitted.

5. Paragraph 5 of the First Count of the Complaint is denied.

6. Defendants admit that they have been advised that there is a health problem in the village of Pluckemin; in all other respects the allegations of Paragraph 6 of the First Count of the Complaint are denied. Defendants particularly deny that there ever has been or that they ever have been advised of a health problem regarding plaintiff's property.

7. Defendants admit that what has been described as a health problem in the village of Pluckemin has never been rectified; in all other respects the defendants deny the allegations of Paragraph 7 of the First Count of the Complaint. Defendants particularly deny that they have "failed" or "refused" to correct any health problem, saying that they have taken and are taking all reasonable steps to inquire into and rectify the "health" problem which exists in the village of Pluckemin, and these steps have included and do include planning for a public sewerage system for the village of Pluckemin. Defendants repeat their denial that there is or ever has been a health problem regarding plaintiff's property.

8. Defendants admit the allegations contained in Paragraph 8 of the First Count of the Complaint that Ordinance No. 75-3 calls for the expenditure of Township monies and admit that the ordinance, like all borrowing, tends to reduce the borrowing capacity of the Township. The defendants deny the implication that Ordinance No. 75-3 as amended would reduce the Township's ability to provide public sanitary sewers for the village of Pluckemin or, if the Township wished to undertake the project, for the plaintiff's property.

9. The allegations of Paragraph 9 of the First Count of the Complaint are denied.

10. The allegations of Paragraph 10 of the First Count of the Complaint are denied.

SECOND COUNT

1. Defendants repeat their answers to the allegations of the First Count of the Complaint.
2. Paragraph 2 of the Second Count of the Complaint is admitted.
3. The allegations of Paragraph 3 of the Second Count of the Complaint are denied, defendants saying that the treatment of sewerage to be collected by the system authorized and financed by Ordinance No. 75-3, as amended, has been separately provided for by the Township. The treatment plant is presently complete and ready for operation.

FIRST SEPARATE DEFENSE

To the extent that it seeks to challenge the actions or inactions of the Township with the respect to the village of Pluckemin, the plaintiff lacks standing.

SECOND SEPARATE DEFENSE

Plaintiff's action against Ordinance No. 75-3 (Exhibit A of the Complaint) is barred by NJS 40A:2-49.

THIRD SEPARATE DEFENSE

Plaintiff's action against Ordinance No. 75-3 (Exhibit A of the Complaint) is barred by R.4:69-6.

FOURTH SEPARATE DEFENSE

Plaintiff's action seeks to substitute the judgment of the Court for that of the Township Committee, and the issues presented are therefore not justiciable.

FIFTH SEPARATE DEFENSE

The defendants have breached no legal duty to the plaintiff or its lands within the Township of Bedminster.

SIXTH SEPARATE DEFENSE

The plaintiff has accepted the responsibility for providing sewers on its undeveloped tract and the defendant's actions in providing public sanitary sewers elsewhere in the Township without including plaintiff's land are therefore reasonable.

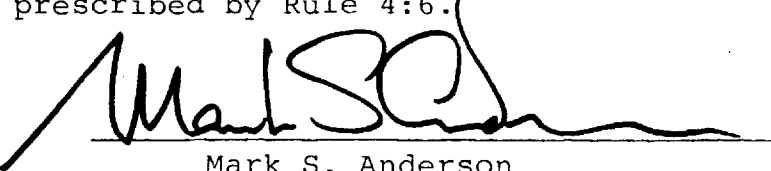
WHEREFORE, defendants demand that the Complaint be dismissed with costs.

BOWLBY, WOOLSON, GUTERL & ANDERSON
A Professional Corporation

BY: 

Mark S. Anderson

I hereby certify that a copy of the within Answer was served within the time prescribed by Rule 4:6.


Mark S. Anderson

SOMERSET COUNTY COURT
ASSIGNMENT CLERK'S OFFICE
Somerville, New Jersey 08876

Copy

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Phone: (201) 725-4700
Ext. 315

W. J. Wintermute, Sr.
Assignment Clerk



July 2, 1976

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Y

Bowlby, Woolson, Guterl & Anderson, Esqs.
17 East High Street
Somerville, New Jersey 08876

ATTENTION Edward D. Bowlby, Esq.

Re: Allan-Deane Corporation
vs.

Township of Bedminster, &c.
Docket No. L-39401-75 P.W.

Dear Mr. Bowlby:

Receipt is acknowledged of your Motion for Summary Judgment on the above matter returnable on July 9, 1976.

Please be advised that said Motion will be heard before The Honorable B. Thomas Leahy on Thursday, July 8, 1976, at 1:30 P.M.

Counsel will be expected to proceed at that time.

Very truly yours,

William J. Wintermute, Sr.
William J. Wintermute, Sr.

WJW/gh

CC: Honorable B. Thomas Leahy (w/papers) ✓
Lawrence R. Olson, County Clerk
William W. Lanigan, Esq.