IN THE

Superior Court of New Jersey

APPELLATE DIVISION

Nos. A-191-06, A-192-06, A-194-06, A-195-06, A-196-06, A-197-06, A-198-06, A-199-06 and A-654-06 *and* A-067-06

CITY OF LONG BRANCH,
a Municipal Corporation in the State of New Jersey,
Plaintiff-Respondent,

v.

GREGORY P. BROWER, et al.,
Defendants-Appellants,

CITY OF LONG BRANCH,
a Municipal Corporation in the State of New Jersey,
Plaintiff-Respondent,

v.

LOUIS THOMAS ANZALONE and LILLIAN ANZALONE,
Defendants-Appellants.

ON APPEAL FROM A FINAL JUDGMENT OF THE SUPERIOR COURT OF NEW JERSEY, LAW DIVISION (SAT BELOW: HON. LAWRENCE M. LAWSON, A.J.S.C.)

BRIEF OF *AMICUS CURIAE* PUBLIC ADVOCATE OF NEW JERSEY IN OPPOSITION TO RESPONDENT'S MOTION TO STRIKE

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PRELIMINARY STATEMENT

Amicus Department of the Public Advocate respectfully submits this brief in opposition to the Motions by Plaintiff-Respondent City of Long Branch to Strike *Amicus*'s Brief and Appendix.

First, the City incorrectly claims that the Public Advocate has raised a new issue by arguing that the record contains no evidence that the City gave the homeowners clear notice that the redevelopment process might result in the condemnation of their homes. The City's contention ignores the evidence and arguments of the parties, as well as the language of the trial court opinion itself. Both the City and the homeowners addressed the issue of notice. The City repeatedly asserted that it provided the homeowners with notice of the risk of condemnation. For their part, the homeowners could not have been clearer in contending that the City misled them to believe their homes were safe from condemnation instead of providing clear notice to the contrary. Moreover, the trial court expressly found that the City gave the homeowners "proper notice," a finding that the Public Advocate as *amicus curiae* challenges in this appeal.

Second, the City's motions object generally to the Public Advocate's appendices, but fail to specify any objectionable document. In fact, the Public Advocate's appendix consists of three types of documents, all properly before this Court: (1) documents that appear in the trial court record and/or the Appellate Division appendices of the parties themselves; (2) scholarly reports; and (3) matters of public record submitted to illustrate that the trial court erred in failing to permit discovery and an evidentiary hearing.

STATEMENT OF FACTS AND PROCEDURAL HISTORY [1]

Amicus Public Advocate relies upon the Statement of Facts and the Procedural History in its merits brief, but emphasizes the following critical aspects of the proceedings below. This matter is on appeal from a *summary* condemnation action initiated by Plaintiff-Respondent City of Long Branch (the City), on January 11, 2006, by Order to Show Cause. The proceedings below consist of the City's Order to Show Cause and supporting documents, and the Defendant-Appellants' (the homeowners') motion to dismiss the City's complaint, along with its supporting documents. With no opportunity for discovery, no plenary hearing, and no findings of fact resolving disputed issues, the trial court denied the homeowners' motion to dismiss, and allowed the City to proceed to condemnation. This appeal followed. The Public Advocate filed its brief on January 11, 2007. These motions followed.

ARGUMENT

POINT I

THE PUBLIC ADVOCATE PROPERLY ARGUES THAT THE CITY FAILED TO PROVIDE THE HOMEOWNERS CLEAR NOTICE THAT THEIR HOMES WOULD BE SUBJECT TO CONDEMNATION.

A. All Parties Below and the Trial Court Decision Addressed the Issue of Notice.

The City and the homeowners raised and argued the issue of notice, and the trial court ruled on the question. In its condemnation action, the City argued that the Redevelopment Plan proposed by the Planning Board and adopted by the City Council on May 14, 1996, by Ordinance 15-96, provided notice to the homeowners that their homes might be taken. Da 245-266; Da268-269. The City's own Assistant Director of Planning, Carl Turner, certified in

[1] Citations to the appendix of amicus Public Advocate are Am. __, to the appendix of the Anzalone Appellants are Da __, and to the appendix of the City of Long Branch in support of its brief in opposition to the Anzalone Appellants' Motion for a Stay are Pa __.

support of the City's Order to Show Cause that the City provided the homeowners with notice of the blight designation, the Redevelopment Plan, Resolution 38-96, and another unnumbered resolution. Turner Cert. ¶¶ 26-27, Pa 219-221, Am. 78-80.[2] The City Business Administrator argued, in his trial court certification, that Appellants should have known that the City might condemn their homes, since their preservation as "infill housing is an alternative which was allowable, but not a requirement pursuant to the [Redevelopment] Plan." Am. 92, ¶ 16; Long Branch, slip op. at 13. When the homeowners argued that the drawings in the City's Redevelopment Plan failed to notify them that their homes might be taken, but instead showed their homes surviving as residential infill, the City asserted that, "[a]ny drawings in the [Redevelopment] plan which may show infill, were and are for illustrative purposes only." Am. 92, ¶ 16; slip op. at 13. The City claimed that Appellants received notice that their homes might be subject to condemnation because the Redevelopment Plan included the statement that "[t]he City reserves the right to condemn property if private negotiations fail and the property or properties in question are judged essential to achieve objectives intended by the Plan." Da 261; Am. 91 ¶ 14.

The homeowners hotly contested that the City clearly notified them that their homes were subject to condemnation. In fact, the homeowners submitted evidence that the City affirmatively misrepresented that their homes were safe. For example, Appellants Louis and Lillian Anzalone, long-time residents of Long Branch, allege in their certification in opposition to the condemnation action that one or more City officials, including the Mayor, assured them that their home would not be condemned. Da 178, ¶ 5. Moreover, the homeowners certified that they relied upon the City's Redevelopment Plan and other materials, which consistently illustrated

[2] Nevertheless, Mr. Turner did not provide a copy or state the content of the actual notices, if any, sent by the City to Appellants. Id.

that their homes were safe. Specifically, among its objectives, the Redevelopment Plan includes as a goal to "[c]onserve sound, well-maintained single-family housing to the extent possible, and encourage residential development through infill." Da 251, ¶ k; see also Da 178, ¶¶ 5-6; Long Branch, slip op. at 12. The Plan also states, "The amount of relocation required to implement the Redevelopment Plan is expected to be moderate at most, given the policy encouraging infill." Da 262. The City, its consultants, and attorneys prepared Design Guideline Handbooks that outlined "the Development rules for the Oceanfront Redevelopment Zone," including Appellants' homes. Da 271-275; Da 272-275. One of those Handbooks includes color-coded maps showing the MTOTSA neighborhood as "infill residential." Da274-275; Da 178, ¶¶ 5-6; Long Branch, slip op. at 12. Appellants' homes are not marked for condemnation on these maps. Those Handbooks were circulated to the public in early 1996, and Appellants certified that these materials led them to believe that their homes would not be condemned. Da 178, ¶ 5. At either the January 1996 hearing on the blight designation or the May 1996 hearing on the Redevelopment Plan, the City displayed a three-dimensional model of the redevelopment area that shows the small homes of the MTOTSA neighborhood intact. Am 86.[3] Based on the objectives stated in the Redevelopment Plan, the color-coded maps, the three-dimensional model, and the express statements of City officials, Appellants have certified that they "had 'no reason to believe that their property would be condemned'" and no reason to object to the redevelopment designation or Plan. Da 178, ¶¶ 5, 6; Long Branch, slip op. at 12. Thus, the homeowners at all times vigorously disputed the City's claim that they received adequate notice.

[3] The April 1996 Plan contained density targets, in dwelling units per acre, and it is unclear how the existing single family homes might have been incorporated into a plan to meet these targets, Da 258. Whatever inferences might be drawn from these density targets, however, they do not constitute meaningful notice to homeowners that their homes might be condemned.

The trial court ruled that the City provided the homeowners with "proper notice." First, with respect to Ordinance 9-00, the court ruled, that its "passage . . . was procedurally proper in that notice and a public hearing preceded the passage of the Ordinance." Slip op. at 15, n. 1. This finding is subject to challenge in this appeal because it is not supported by the facts presented to the court. Specifically, Ordinance 9-00, adopted by the City Council on April 11, 2000, Am. 105-108; Am. 94, amends the Redevelopment Plan by adding a new paragraph that authorizes the City to "acquire through eminent domain or otherwise" those properties listed on Schedule B of an agreement dated February 22, 2000, and entitled, "An Agreement Between The City Of Long Branch And Beachfront North LLC For The Redevelopment Area Designated As Beachfront North." Am. 107; Am. 109-135. Although the attachments to this Agreement list properties within the MTOTSA neighborhood for acquisition in Phase II of the redevelopment, Appellants' properties are not listed among those to be acquired through eminent domain. Am. 121-132. The record is devoid of evidence that the City in fact provided the homeowners with notice of Ordinance 9-00 or that the City provided the homeowners with any other notice that clearly indicates that their homes were subject to condemnation.

Similarly, the trial court ruled that the City passed Ordinance 2-01 "[a]fter proper notice and a hearing." Slip op. at 15. Ordinance 2-01, authorized the City to acquire, through negotiation or condemnation, all properties within the redevelopment area, listing on its Exhibit A the tax block and lot numbers of the MTOTSA neighborhood. Da 16-18. Here, too, the court failed to point to any evidence in the record demonstrating that the City provided any notice of that Ordinance to the homeowners at all, much less clear notice that the effect of the Ordinance was to subject the homeowners' homes to condemnation. Slip op. at 15.

Thus, the papers submitted below demonstrate beyond cavil that the parties presented the issue of notice and that the trial court decided this issue. The court's findings of "proper notice" – unsupported by the facts in the record – are therefore now properly on appeal.

B. The Homeowners Were Deprived of the Opportunity To Litigate This Matter Fully Below.

When deciding whether to review an issue, an appellate court will consider the parties' opportunity to litigate the issue below. "Appellate courts will decline to consider questions or issues not properly presented to the trial court when there was an opportunity to do so unless the question is one of jurisdiction or great public interest." Saul v. Midlantic National Bank/South, 240 N.J. Super. 62, 82 (App. Div. 1990) (quoting Skripek v. Bergamo, 200 N.J. Super. 620, 629 (App. Div.), certif. denied, 102 N.J. 303 (1985)) (emphasis added). Given the procedural posture of this matter, the homeowners were deprived of the opportunity for a full hearing on any issue, including the issue of whether the City provided adequate notice. In this matter, the homeowners appeal from the trial court's summary decision on the City's condemnation action, and on the court's denial of their motions to dismiss, for discovery, and for a hearing. While the pleadings below both challenge the adequacy of notice and furthermore contend that the information the City provided to the homeowners misled them, the homeowners did not have an opportunity to fully litigate the issue.

C. When an Issue Is Raised Below, a Litigant May Amend Its Legal Theory on Appeal, and an Appellate Court May Even Consider New Issues Raised by Litigants or *Amici Curiae* When They Are Matters of Great Public Importance.

Given the volume of notice-related material in the record below, it is difficult to ascertain the nature of the City's objection to the Public Advocate's argument. To the degree that the City's unarticulated objection is that the Public Advocate characterized the issue as one of constitutional due process for the first time in these proceedings, that objection lacks merit.

As a general rule, an appellate court ordinarily will not consider an issue raised by a litigant for the first time on appeal unless it relates to "jurisdiction of the trial court or concern[s] matters of great public interest," or otherwise constitutes "plain error." Docteroff v. Barra Corp., 282 N.J. Super. 230, 237 (App. Div. 1995). An appellate court will, however, consider a new argument as to an issue presented and decided at the trial level. Id. In Docteroff, the plaintiff brought suit against a supplier of roofing materials for breach of warranty. At trial, the plaintiff did not dispute that the Uniform Commercial Code (U.C.C.) governed the applicable statute of limitations, but argued that the ordinary four-year statute of limitations should be tolled or, alternatively, that a six-year strict liability statute of limitation governed. On appeal, the plaintiff instead asserted that U.C.C. statutes of limitations were inapplicable, and argued for the first time that the six-year statute of limitation for contract cases must govern. The Court agreed to consider the new theory, stating:

> Because the issues before the trial judge dealt with whether the suit was timely and what the controlling limitations period was, we will consider the same issues as presented to us, regardless of whether plaintiffs' principal theory has changed.

Id.

Similarly, here, the issue of adequacy of notice was argued below by both parties and decided by the trial court. The only possible distinction is that the Public Advocate has characterized the legal theory as one of constitutional due process. While it is a truism that *amicus curiae* "as a general rule . . . may not interject new issues, but must accept the issues as framed and presented by the parties," this is not a new issue interjected by the Public Advocate – it is merely another legal theory under which a previously raised issue may be litigated, as in Docteroff. See also Saul, 240 N.J. Super. at 81. If an *amicus curiae* were limited to parroting

the words and regurgitating the arguments already raised by the parties, there would be no point in having an *amicus* participate.

Moreover, in Saul v. Midlantic National Bank/South, 240 N.J. Super. 62, this Court made clear that "public importance alone will warrant a departure from the [general] rule" that *amici* may not raise new issues. Id. at 82. The plaintiff in Saul contended that the defendant charged usurious interest in a retail installment sales contract for a car. On appeal, the New Jersey Bankers Association appeared as *amicus curiae* and argued that because the lender was a national bank, (1) state law was pre-empted; and (2) the defendant national bank was therefore permitted to charge a higher interest rate under the federal "most favored lender" doctrine. This Court ruled that "[t]he defenses of pre-emption and 'most favored lender' are matters of public importance, which should be considered on appeal even though they were initially raised by the *amicus curiae*." Id.

As *Amicus* explains at length in its merits brief at Point I, the current record in this case suggests serious due process violations in the municipal and trial court proceedings below. The exercise of eminent domain for private redevelopment raises a number of procedural (and substantive) questions that are of critical interest to the people of New Jersey, and indeed across the United States. Accordingly, the issue of notice is properly before this Court.

POINT II

THERE IS NO BASIS TO STRIKE ANY DOCUMENT FROM THE APPENDIX OF THE PUBLIC ADVOCATE.

The Public Advocate's appendix consists of sixteen items, all of which are properly before this Court.

Ten items are contained in the record below and/or are part of the parties' appendices to their Appellate Division briefs. Of these ten items, five were placed in the record before the trial

court, but were not included in the appendix to the only merits brief filed to date by a party, i.e., the Anzalones:

1. Letter from Edward Williams, City of Long Branch Fire Official, to Carl Turner, regarding the inspections of homes in the area of North Bath Avenue, east of the Boulevard, and south of Seaview Avenue (August 29, 1995). This document was prepared by the City's own Fire Official, and was relied upon by the City to declare Appellants' homes blighted. This document was placed in the record below by the Brower Appellants as Exhibit 2 to the March 2, 2006, Certification of Danielle A. Maschuci, Esq., in support of Defendants' Motion to Dismiss, Request for a Plenary Hearing and Request for Discovery ("Maschuci Cert.").
2. Long Branch Fire Bureau, "Inspections of Homes in the Area of North Bath Avenue, east of the Boulevard, and south of Seaview Avenue," (August 1995). Like the letter from Edward Williams, this document was prepared by the City's own Fire Official and relied upon by the City in declaring Appellants' homes blighted, and was placed in the record below by the Brower Appellants as part of Exhibit 2 to the Maschuci Certification.
3. Photograph, 3-D Model of the Long Branch redevelopment area, image taken at the Redevelopment Symposium at the Hilton Hotel, Long Branch (undated). This is a photograph of a model prepared on behalf of the City, placed in the record below by the Brower Appellants as Exhibit 5 to the Maschuci Certification.
4. An Agreement Between the City of Long Branch and Beachfront North, L.L.C., for the Redevelopment Area Designated As Beachfront North: Table of Contents, pages 86 – 91, Exhibits A - F (Feb. 22, 2000). This document was prepared by

the City and one of its redevelopers, relied upon by the City in its redevelopment process, and placed in the record below by the Brower Appellants as Exhibit 9 to the Maschuci Certification.

5. Second Amended and Restated Agreement Between the City of Long Branch and Beachfront North, L.L.C. for the Redevelopment Area Designated As Beachfront North: Table of Contents, pages 1 – 5, Certification of Chief Financial Officer. This document was prepared by the City and its redevelopers, relied upon by the City in its redevelopment process, and placed in the record below by the Brower Appellants as Exhibit 14 to the Maschuci Certification.

The following five documents in the Public Advocate's appendix were in both the record below and the parties' submissions to this Court:

1. City of Long Branch, Resolution No. 38-96 (Jan. 23, 1996). This official enactment of the City of Long Branch, relied upon in its redevelopment process, appears as Pa 511 in Volume III of the City's Appendix in support of its brief in opposition to the Anzalone Appellants' Motion for a Stay.
2. Certification of Carl Turner (undated). This certification of the City's own Assistant Director of Planning, appears as Pa 208 in Volume II of the City's Appendix in support of its brief in opposition to the Anzalone Appellants' Motion for a Stay.
3. Certification of Howard Woolley (undated). This certification of the City's own Business Administrator appears as Pa 31 in Volume I of the City's Appendix in support of its brief in opposition to the Anzalone Appellants' Motion for a Stay.

4. City of Long Branch, Ordinance No. 9-00 (April 11, 2000). This official enactment of the City of Long Branch, relied upon by the City in its redevelopment process, appears as Pa 75 in Volume I of the City's Appendix in support of its brief in opposition to the Anzalone Appellants' Motion for a Stay.

5. City of Long Branch, Resolution No. 226-02 (June 25, 2002). This official enactment of the City of Long Branch, relied upon in its redevelopment process, appears as Pa 82, in Volume I of the City's Appendix to its brief in opposition to the Anzalone Appellants' Motion for a Stay.

Three of the sixteen documents in the Public Advocate's appendix are official government studies, offered as references on their respective subjects:

1. Department of the Public Advocate, Reforming the Use of Eminent Domain for Private Redevelopment in New Jersey (May 18, 2006). This document is a scholarly work prepared by the Department of the Public Advocate within the scope of its statutory duty, reviewing the historic and constitutional limits on the exercise of eminent domain in New Jersey and recommending reforms. The Public Advocate cites this document in its brief on two points: to show statewide public interest in the issue of eminent domain and to bring to the Court's attention deliberations on the subject of eminent domain at the 1947 New Jersey Constitutional Convention. The former is the essence of the Public Advocate's *amicus* function. The latter is a discussion of legal authority. The report was appended for the convenience of the Court.

2. U.S. Department of Housing and Urban Development, American Housing Survey for the United States: 2005 (August, 2006): to page 10, Appendices A – D, and

Index. The Public Advocate offered relevant portions of this report, which is the official biennial survey of housing conditions in the United States prepared by the United States Census Bureau for the United States Department of Housing and Urban Development. This report is also an official, public reference document, appended for the convenience of the Court.

3. United States Government Accountability Office, Eminent Domain: Information about Its Uses and Effect on Property Owners and Communities Is Limited, GAO-07-28 (November 2006). The United States Congress mandated that the General Accountability Office prepare this national eminent domain report, under the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006. Am. 310. The Public Advocate offers this official, public reference material for the convenience of the Court, to demonstrate the nationwide public interest in eminent domain.

One of the sixteen documents in the Public Advocate's appendix is a press account of the federal bribery conviction of former Long Branch City Council President John Zambrano. Carol Gorga Williams, "Zambrano admits $1,000 bribe," Asbury Park Press, July 21, 2006. Again, the Public Advocate does not offer this account as evidence, but cites the source in the course of arguing that the trial court should have allowed discovery on the ethics allegations raised by the homeowners. *Amicus* submits that admissible evidence of the fact of Mr. Zambrano's conviction may or may not prove relevant if this Court remands for discovery and fact-finding on the ethics issues, among others. If, however, the Court wants admissible evidence of the conviction at this juncture, the Public Advocate will obtain a certified record of the conviction from the United

States District Court for the District of New Jersey. Such a record would be judicially noticeable under N.J.R.E. 201(b)(4) ("Notice of Facts. Facts which may judicially noticed include . . . records of the court in which the action is pending and of any other court of this state or federal court sitting for this state.")

One of the sixteen documents in the Public Advocate's appendix is the official Notice of Annual Meeting for Central Jersey Bancorp (April 25, 2006), to page 18. This document was offered to show that several Long Branch City Council members are shareholders in this bank, formerly known as the Monmouth Community Bank, a lender to one of the developers involved in the redevelopment project at issue. The Notice of Annual Meeting constitutes a disclosure required by the securities laws and is therefore a matter of public record. In addition, it is publicly posted on the internet site of the New Jersey Judiciary, at http://www.judiciary.state.nj.us/dwek/, PNC Bank v. Solomon Dwek, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. C-133-06, as Exhibit C to the June 15, 2006, Certification of James Vaccaro, President, Chief Executive Officer, and member of the Board of Directors of the Central Jersey Bancorp. The document is judicially noticeable under N.J.R.E. 201(b)(3) because the "specific facts" therein "are capable of immediate determination by resort to sources whose accuracy cannot reasonably be questioned." Id.

The remaining document in the Public Advocate's appendix is an unpublished decision: Housing Auth. of the City of New Brunswick v. New Brunswick UAW Hous. Corp., No. MID-L-2207-06 (Oct. 3, 2006). The Public Advocate inadvertently included this opinion, as per R. 1:36-3 and R. 2:6-1(a)(1)(H), before editing the relevant text from its brief. The Public Advocate no longer relies upon or cites this decision in its brief.

Thus, none of the documents contained in the Appendix are offered to establish a substantive fact in contention in this case; to the contrary, the principal point of *Amicus*'s brief is that the trial court erred in not allowing the parties to adduce a fully developed record below. Some of the documents in the Appendix, therefore, merely highlight that error by demonstrating what the contours of a properly framed factual inquiry would have been.

POINT III

THE PUBLIC ADVOCATE APPEARS IN THE PROPER ROLE OF AN *AMICUS CURIAE*, BY LEAVE OF THIS COURT.

The Public Advocate's brief and appendix are well within the proper role of *amicus curiae.* The purpose of amicus curiae is "to call the court's attention to law or facts or circumstances . . . that may otherwise escape its consideration." 4 Am. Jur. 2d, *Amicus Curiae* § 6 (2006); Casey v. Male, 63 N.J. Super. 255, 258 (Cty. Ct. 1960). Our courts consider additional information submitted by an *amicus* in the interest of justice, and have based important decisions upon such information. In South Burlington County NAACP v. Mt. Laurel, 67 N.J. 151 (1975), for example, the *amicus* supplemented the record by providing figures, maps, studies, and literature "so that the court had a clear picture of land use regulation and its effects in the developing municipalities of the state." Id. at 160. The Supreme Court used information that was submitted by the *amicus* in deciding that a municipality must afford meaningful opportunities for adequate low- and moderate-income housing. Id. at 190, 200-201. In his concurring opinion, Justice Pashman noted that our courts may take notice of information compiled by various governmental agencies. Id. at 194 (Pashman, J., concurring). There, the Court took judicial notice of federal and state government reports showing "the physical and social reality" that housing for those of low and moderate incomes is a problem, and finding that the Court must remedy "abuses of the municipal zoning power."

In State v. Bey, *amici curiae* supplemented the record with information about the racial, socioeconomic, and gender factors in capital sentencing cases. 137 N.J. 334, 390-391 (1994). The Court not only accepted the additional information, but relied upon it in coming to its decision on the appropriateness of the defendant's death sentence. Id. at 391. See also State v. Downie, 117 N.J. 450, 457 (1990) (court considered in its decision voluminous scientific evidence and proposed findings of fact filed by an *amicus*); Mourning v. Corr. Medical Servs., 300 N.J. Super. 213, 231 (App. Div. 1997) (trial court accepted numerous inmate certifications submitted by *amicus* about prison medical care on the eve of oral argument); Harris v. Pernsley, 820 F.2d 592, 603 (3d Cir. 1987) ("permitting persons to appear in court . . . as friends of the court . . . may be advisable where third parties can contribute to the court's understanding . . ."); but see Keenan v. Board of Chosen Freeholders, 106 N.J. Super. 312 (App. Div. 1969) (additional documents in appendix of *amicus* Attorney General not considered by Appellate Division where Court requested submission of *amicus* brief). The Public Advocate might have cited the additional public information contained in the Appendix without including it in a separate Appendix, but as a practical matter such an arrangement would inconvenience this Court.

By order dated December 21, 2006, this Court granted the Public Advocate's motion for *amicus* status to bring to the Court's attention information that may guide its deliberations on the use of eminent domain for private economic redevelopment, an issue of critical public importance. The City's motions would deny *amicus* the opportunity to provide that information to the Court. The arguments raised by the Public Advocate are not only well within the scope allowed an *amicus*, but consistent with the statutory obligation of this Department, to "represent

the public interest in such administrative and court proceedings . . . as the Public Advocate deems shall best serve the public interest." N.J.S.A. 52:27EE-57.

The purpose of the Department of the Public Advocate is "to hold the government accountable to those it serves." See, e.g., Township of Mount Laurel v. Department of the Public Advocate, 83 N.J. 522, 535-36 (1980). As set forth in its merits brief, the Public Advocate has determined that this case, which involves the use of eminent domain to take modest seaside homes for private redevelopment, implicates the "public interest." N.J.S.A. 52:27EE-12. The people of New Jersey are concerned that the exercise of eminent domain for private economic redevelopment can be abused to deprive them of their homes without adequate substantive and procedural safeguards. Given the broad statewide and national public concern about eminent domain practices, and the constitutional rights at stake, the City's motions are not in the public interest and should be denied.

CONCLUSION

Because the City's motions to strike have no factual or legal bases, *Amicus* Public Advocate respectfully requests that the Court deny the motions.

Respectfully submitted,

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Dated: February 13, 2007