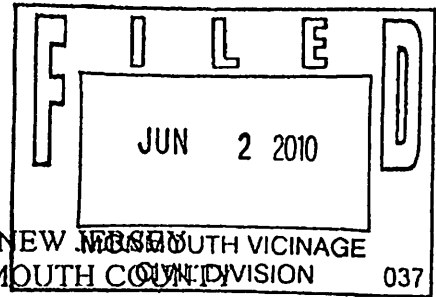


BRIAN D. ASARNOW
55 Community Place
Long Branch, NJ 07740
732-870-2570
Pro Se Plaintiff



BRIAN D. ASARNOW,

Plaintiff,

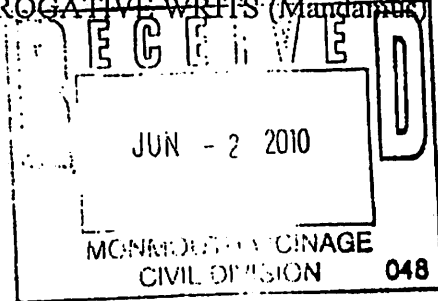
vs.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MONMOUTH COUNTY DIVISION 037

Docket No. L-2153-10
Civil Action

City of Long Branch,
A Municipal Corporation of NJ;
Edward Bruno and E&L Paving, Inc.;
Atlantic Paving (& Coating), LLC.;
Rosario Contracting Corp. dba Rosario Mazza
Demolition & Recycling Co.;
Custom Lawn Sprinkler Co., LLC.;
R. Brothers Concrete, LLC.

AMENDED VERIFIED COMPLAINT
IN LIEU OF PREROGATIVE WRITS (Mandamus)
(R:4-69-1)



Defendants,

Plaintiff, Brian Asarnow, located and doing business at those premises commonly known as 55 Community Place, referenced on the Municipal Tax Map as Block 237 Lot 22, in the City of Long Branch, County of Monmouth and State of New Jersey, by way of Complaint against the defendant herein says:

FIRST COUNT
(Voiding of Permit)

1. Plaintiff Brian D. Asarnow (hereinafter "plaintiff") as of August 1995, is the owner in fee of the above mentioned property which is located in the industrial zone adjacent to, within 200 feet of and directly across the street from lots illegally acquired and used by Ed Bruno & E & L Paving Co. (hereinafter "Bruno/E&L") The property is located at the end of a dead end street with no legal turnaround for trucks and other traffic. Plaintiff uses the property as an office, lab and for light manufacturing and rents space to other businesses.
2. E&L Paving Company is the owner in fee of lot 13.02, which when purchased in 1965 was in the R zone (no map available) and later became part of the I zone and is presently so, and upon which a garage and office was built as its headquarters. E&L also owns lots 19, 20, 21 which when purchased in 1972 were in the R7 zone, currently the R4 zone and which adjoin a brook in a flood zone. E&L also owns lots 32.02 (aka 32b), purchased 1974, 38.02 (1971), 39 (1965) and 40 (1977), all now known as lot 32.02, which were previously in the R(lot 39) and R7 zone and now the C-2 zone, and adjoin same brook opposite lot 13.02.

E&L also owns lot 37.01 which was in the R7 zone then the C-2 zone and is now somehow part of lot 32.01 in the I zone. Lot 32.01 has always been in the I zone and contained a preexisting, non-conforming residential property which was demolished subsequent to Plaintiff's occupation. (see history of lots, tax maps and assessor exhibits attached hereto as Exhibit A). E&L also uses or owns and uses a portion of lot 52 opposite its headquarters which was previously in the R-7 zone, currently the C-2 zone, and which adjoins same brook. Bruno/E&L, and Atlantic Paving and Rosario Mazza Demolition and Recycling, Custom Lawn Sprinkler, R. Brothers & others, use the lots for operating heavy equipment, stockpiling equipment and materials, and conducting other non-permitted activities detrimental to the general welfare and to Plaintiff in particular. Bruno/E&L's principal is Edward Bruno who is the sole stockholder of the corporation.

3. Defendant Long Branch, is a municipal corporation organized and existing under the laws of the State of New Jersey, located in Monmouth County

4. On May 31, 1955, Defendant Long Branch adopted Ordinance #235 (Exhibit B, pg.12), a comprehensive zoning and planning ordinance pursuant to the Municipal Planning Act of 1953 (chapter 433, laws of 1953). The ordinance was still in use on Dec. 9, 1965 when Ordinance 465 (Exhibit C, pg 34) was adopted and which amended and supplemented part of Ord 235.

Section 12 states "no land shall be occupied or used in whole or in part for any purpose whatsoever except for the alteration of or addition to a dwelling unit until a certificate of occupancy shall have been issued by the Building Inspector stating that the premises or building complies with the requirements of this ordinance and all other applicable ordinances. Bruno/E&L's use is not permitted in any zone and even the industrial zone prohibits "any other trade or use that is noxious or offensive by reason of the emission of odor, dust, smoke, gas or noise

5. In or around 1970, Ordinance 284 (Exhibit D, pg 36) was adopted and replaced Ordinance 235. It was still in use on Dec. 28, 1972 when Ordinance 622 was adopted and which amends and supplements Ord 284. (Exhibit E pg.77) Chapter XX of Ord. 284 (Zoning) also requires CO's and section 502 states in part "...nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone by this Ordinance and meeting the requirements set forth in the Schedule; Section 1202.1 further requires

a zoning permit and states "Zoning permits shall hereafter be secured from the Zoning Officer prior to the issuance of a building permit for the construction, erection, or alteration of any structure or part of a structure or upon any change in the use of the land or a structure." Section 504.3 (Storage of Materials) states "No persons shall store materials of any kind on the premises in any district except for the construction of a structure to be erected on the premises upon which the materials are stored for a period of one year from the date of commencement of such storage, unless a permit is granted by the governing body."

Section 505.1 (Prohibited Uses) states "Any use not specifically permitted in a zoning district established by this Ordinance is hereby expressly prohibited from that district and further provided that the following uses and activities shall be specifically prohibited in any zone in the City of Long Branch; 505.7 "Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products."

Section 504 (Preservation of Natural Features) states "No structure shall be built within 50 feet of the bed of a stream..." As defined in section 302.78, Structure is "A combination of materials to form construction on, under or above ground level and that is safe and stable and includes, among other things (including improved parking areas), stadiums, platforms, radio towers, sheds, storage bins, fences and display signs."

Long Branch Zoning Ordinance 345 was subsequently adopted in 1989 and is still in effect.

6. Chapter IX of Long Branch Ordinance 284 (Land Subdivision), pursuant to 19-2 (Purpose) states "It shall be administered to insure the orderly growth and development, the conservation, protection and proper use of land and adequate provision for circulation, utilities and services." To effect proper circulation for traffic, section 19-8.2a. (Design Standards - Streets) provides "Where appropriate existing streets abutting the subdivision shall be extended and incorporated into the design of the tract." 19-18.2k requires a cul de sac at the end of a dead end street. (Sec. 20, Chap. 433, Laws of 1953 similarly provides for vehicular access) 19-5 requires subdivision approval, even for minor subdivisions, by the planning board before filing and recording with the county clerk. Chapter 377 of the 1953 laws provides for enforcement in Superior Court for violation of the preceding. and Chapter 141 of the Laws of 1960 provides detailed requirements for the approval of any maps to be filed with a county recording officer.

Long Branch Subdivision Ordinance 300 was subsequently adopted March 12 1991 and is still in effect.

7. Based upon these regulations in effect at the time of use or improvement of lots initially acquired, and the lack of any approvals received by Plaintiff in his OPRA requests to Long Branch (Exhibit F, pg 78), Bruno/E&L unilaterally, and unlawfully, commenced and thereafter expanded his non-permitted use and failed to obtain subdivision approval on any parcels he acquired or sold. Bruno/E&L, a developer, has bought, sold and assembled illegally subdivided lots and has evaded and failed to provide a cul de sac, or otherwise provide consistent, unfettered vehicular access as intended and required in Ordinance 284 or provide a 50' buffer along the brook as also required therein. (current requirements are 100')

8. Bruno/E&L and Long Branch have long been well aware of the non-permitted use and expansion thereof and the evasion of three site plans.(p 81-96) Bruno/E&L pled guilty in Nov. 2, 1983 to "Storing of Vehicles & Equipment Outdoors and Moving of Soil" and evaded its first site plan. A restraining order was entered in January 1986 on one of the lots. (p 82) In late 1998, Bruno/E&L was cited for allowing tractor-trailers (containing municipal waste) to park across from Plaintiff, violation of the restraining order, expansion of a non-conforming use and numerous other violations. A summons issued. (p. 86) The zoning officer confirms that "nothing should be on this property, except for natural growth, until such time as Mr. Bruno is granted site plan approval to use it for something else." (p 87) Under pressure, Bruno/E&L submits a site plan in 2000 which was dismissed for lack of prosecution, and in 2002 which was thereafter evaded. Another violation notice issues March 15, 2002 for parking of vehicles, and dumping/stockpiling of soil on the same lots violated in 1983. The report of the zoning board engineer confirms " a construction yard is not a permitted use in either the I or C-2 zone. A variance for the expansion of a non-conforming use is required." (p 95) Additional variances for a 100 ft buffer, outside storage of materials, and others are indicated as being required. The site plan applications are made with the zoning board instead of the planning board, though having no jurisdiction to decide subdivisions or site plans. E&L/Bruno's site plan applications affirm his knowledge of and need to obtain these use and other variances (, pg. 81) In 1999, Bruno/E&L demolished the house across the street and subsequently expanded the non-permitted use without any site plan approval. Defendants code enforcement personnel were regularly seen visiting the area. Yet despite all this, Bruno/E&L has been permitted to operate, expand and thereby create a nuisance, to the detriment of the general welfare and

Plaintiff in particular.

9. Despite knowledge of the above, on Aug. 3, 2009 Long Branch zoning officer Bernich unlawfully granted a zoning permit (p 98) to Bruno/E&L and successor tenant/prospective owner Atlantic Paving, to “continue pre-existing partially(?) non-conforming use for Paving company for two buildings, yard and parking area” thereby grandfathering the illegal use. No other companies or uses are listed. Owners of Atlantic Paving and Rosario-Mazza had earlier approached and told Plaintiff that they wanted to buy the properties and continue the same use to which Plaintiff replied he would resist such efforts due to the detrimental effect on his property (as well as being illegal under the Statutes, common law and ordinances of the City of Long Branch).

Nevertheless, increasing intensity and detrimental use of the properties by various businesses occurred and Plaintiff called zoning and was informed a zoning permit had issued to Bruno/E&L and Atlantic Paving to continue the existing use. Upon obtaining a copy of the permit the end of September 2009 in response to his OPRA request (Exhibit H, pg 97), Plaintiff visited the zoning officer to point out the aforementioned facts, to no avail, and then delivered a letter to the Mayor and Administrator on October 1, 2009. (p. 104) Plaintiff continued to make public and otherwise try to have the illegal permit rescinded and presented these facts to the City Council on Jan.26, 2010 and Feb. 23, 2010 (Exhibit I, pg 102). The city attorney said a notice of violation was being issued to Atlantic Paving as Rosario Mazza was not on the illegal permit. and had established a demolition and recycling yard across from Plaintiff.

The March 13, 2010 letter from the City Attorney refuses to rescind the permit and instead targets and retaliates against Plaintiff who has already obtained permits following two administrative reviews, (including site plan approval), in effect at the time. (Exhibit J, pg 120) Plaintiff’s permits have previously never been an issue. Defendant’s arbitrary and capricious claim is evident particularly by the statement “The fact that zoning permits are issued does not cure the fact that site plan approval was and still is necessary” (for Plaintiff but not for Defendants?!) The April 7 letter from same attorney does nothing to change this. Defendant Long Branch’s long time inability to stop the violations, refusal to rescind the permit and to illegally grandfather the non-permitted use stems from corruption, is causing severe inconvenience to Plaintiff and is a detriment to the general welfare. Defendant’s special relationship with Bruno/E&L is evident as its zoning board, using a

neighbor's application, unlawfully takes jurisdiction of matters involving subdivisions and site plans and includes subdivisions and consolidations and bulk variances thereto of lots owned by Bruno/E&L Paving. (No use variance for Bruno/E&L was considered or granted and cannot therefore be the basis for Defendant's issuing the illegal zoning permit) No prior notice of consideration of these E&L lots was received. The chairperson, and board attorney, previously recused themselves in front of the board and public in E&L's own site plan applications, which E&L evaded, and in which the zoning board again had no jurisdiction (minutes missing). Defendant's municipal judge, earlier heard the summons (p.86) against Bruno/E&L though simultaneously and continuing to serve as their attorney in real estate transactions. (p 9, 83) A councilwoman lives across the street from the Morris Ave. eyesore (lots 19, 20, 21) yet remains silent as the neighborhood deteriorates.

10. Prior to Plaintiff leasing a portion of the 6000 sf building, the building, which lacked sewer service, was used for automobile restorations and was in a deplorable and neglected condition with wrecks strewn about the outside. Residential neighbors also complained about the exhaust from the illegal paint spray booth. (No such neighbors have ever complained about Plaintiff's use of the building.)

11. Three months into the lease, Plaintiff was informed the building was in the process of foreclosure and that he had to leave or buy the building. Plaintiff purchased the building and obtained either informal minor site plan approval or waiver thereof and a zoning permit after renouncing the auto body shop use in his application. Plaintiff continues to use a portion of the building for his business and rents the rest out as provided for in his site plan approvals and zoning permit (Exhibit J, p 132, 135-141)

12. Since purchasing the property, Plaintiff will have expended \$200,000 in restoring, improving and expanding the building to include another tenant space and a 2 story office addition. Following litigation, sewer service was provided to the area and handicap baths have been installed to serve all occupants. Plaintiff was granted minor site plan approval for the expansion, with no neighbors appearing in opposition, and the board reaffirming the permitted use. The plan provides no parking zones around and opposite the entrances to Plaintiff property in order to provide full access thereto. Another zoning permit thereafter issued. (Exhibit J, pg 135)

13 All throughout Plaintiff's occupancy, Plaintiff has endured congestion in the narrow street due to parking

on both sides by employees of E&L and trucks from a previous adjoining commercial bakery. Plaintiff has endured vehicles trespassing onto his property and limited access thereto due to lack of a cul de sac and parking in the dead end area, which was subject to the whims of Mr. Bruno. Plaintiff has also endured unreasonable noise, dirty streets and dust from the operating of heavy machinery and stockpiling dirt, and a deplorable visual element due to Bruno/E&L's and other's use of the subject lots.(See photos, Exhibit L) Flooding occurred once due to the brook becoming blocked up, and entered Plaintiff's building.

An appraisal shows this is having a detrimental effect on Plaintiff's property values and the area in general and will continue to do so if the permit is not voided. Not only is the use not permitted, the person owning these lots has demonstrated a blatant disregard for the welfare of his neighbors and the rule of law.

14. Plaintiff would like to complete his building and hire employees for his high tech green business but is wary of significant further investment until peaceful possession is obtained. Recent developments, in particular, have made it extremely difficult for Plaintiff to operate his property and run his business.

15. Defendant Long Branch has issued an invalid zoning permit to E&L and Atlantic Paving despite knowledge thereto that it is unlawful, and refuses to rescind and void same.

16. The continued illegal use of lots by Bruno/E&L, Atlantic Paving, Rosario Mazza Co., Custom Lawn Sprinkler, R. Brothers and others and the failure by Defendant Long Branch to prevent said use violates provisions of N.J.S.A. 40:55D-1 et seq and Long Branch Ordinances 300 and 345.

17. Plaintiff is an interested party pursuant to N.J.S.A. 40:55D-18 and Ord 345-79, to bring the within action. There is no adequate remedy at law and action by this court is required pursuant to R.4:69-1.

WHEREFORE, Plaintiff requests judgment against Defendant Long Branch

(A) Voiding and invalidating the permit issued August 3, 2009 to E&L Paving and Atlantic Paving.

(B) For attorney's fees, costs of suit, and such other relief as the court may deem proper

SECOND COUNT
(Enforcement of Notice of Violation)

18. The Plaintiff repeats and incorporates each of the preceding allegations as if fully set forth herein.

19. On January 27, 2010, Defendant issued a notice of violation to Atlantic Paving which states "you have

expanded the use of the property beyond the scope of your approved zoning permit dated 8/3/08. You must comply with the following:

1) The demolition /disposal business must be removed from the property. All trucks, equipment, dumpster containers and any other items related to this business must be removed.

2) You must remove all piles of construction material, firewood, and dirt/soil that is being stockpiled on the site.

A re-inspection will be made on or about February 26, 2010. Failure to comply will result in a summons being issued in Municipal Court.”

20. To date, upon information and belief, no summons or fines have issued. Rosario Mazza Demolition & Recycling and the owner’s other business, Custom Lawn and Sprinkler, R. Brothers, and other tenants and uses not listed on the zoning permit remain. The scrap metal processing has stopped but dirt and other materials continue to be stockpiled. Vehicles of Rosario Mazza and R. Brothers regularly trespass on Plaintiff’s property.

21. The Notice of Violation is insufficient to obtain compliance with the zoning permit since other businesses not on the permit also illegally use the properties for stockpiling equipment and materials and parking.

22. Defendant’s failure to issue a meaningful notice of violation and abate the violations is palpably unreasonable

WHEREFORE, Plaintiff requests judgment against Defendant Long Branch

(A) That the Jan. 27, 2010 notice of violation is incomplete and must provide for all companies and equipment not specifically listed in the August 3, 2009 zoning permit, i.e.

E&L Paving and Atlantic Paving.

(B) That the Jan. 27, 2010 notice of violation to Atlantic Paving, as corrected , be enforced so that the violations are completely cured within 5 days of the date set forth below.

(C) That Defendant’s failure to do, as evidenced by photos and certification submitted by Plaintiff, shall constitute a contempt of this court subject to further disposition upon notice and hearing.

(D) For attorney’s fees, costs of suit, and such other relief as the court may deem proper


THIRD COUNT
(Enforcement of No Parking Zones)

23. The Plaintiff repeats and incorporates each of the preceding allegations as if fully set forth herein.
24. Defendant Long Branch has failed to recognize and enforce the no parking zones around and across from the entrances to Plaintiff's parking lots as delineated on the site plan approval of September 16, 2003.
25. On an earlier occasion following the site plan approval, Plaintiff sought to paint yellow lines and have this enforced but Defendant refused with its attorney saying it required an ordinance by the City Council. Plaintiff pointed out to the traffic officer the yellow lines and no parking zone on the street corner which lacked approvals and was told anyone could paint yellow lines.
26. Plaintiff, in reliance upon the site plan approval, pursuant to contract law, has made significant investment on his property with the expectation that he will have full access to and reasonable, undisturbed use of the property.

WHEREFORE, Plaintiff requests judgment against Defendant Long Branch;

- (A) That full and unfettered access shall be provided to and from Plaintiffs property as indicated on his site plan PB-03-4.V. approved by resolution September 16, 2003, and otherwise.
- (B) That Defendant's failure to do, as evidenced by photos and certification submitted by Plaintiff, shall constitute a contempt of this court subject to further disposition upon notice and hearing
- (C) For attorney's fees, costs of suit, and such other relief as the court may deem proper

Dated: May 25, 2010

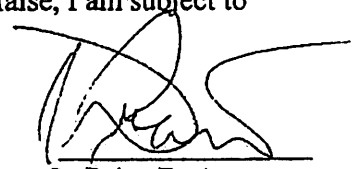


Brian D. Asarnow

CERTIFICATION PURSUANT TO RULE 4:5-1

To the best of my knowledge, the matter in controversy is not the subject of any other court or arbitration proceeding, nor is any other court or arbitration proceeding contemplated. To the best of my knowledge, no other parties should be joined in this action. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: May 25, 2010

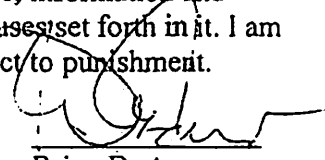


Brian D. Asarnow

CERTIFICATION OF VERIFICATION

The allegations of the Amended Complaint are true to the best of my knowledge, information and belief. The Complaint is made in truth and good faith, and without collusion, for the causes set forth in it. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: May 25, 2010



Brian D. Asarnow

Appendix XII-B1



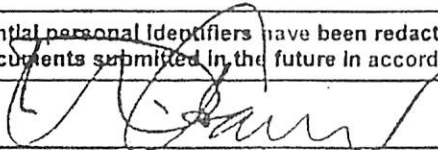
	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY		
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA		
			CHG/CK NO.		
			AMOUNT:		
				OVERPAYMENT:	
				BATCH NUMBER:	
ATTORNEY / PRO SE NAME Brian D. Asamow, pro se		TELEPHONE NUMBER (732) 870-2570		COUNTY OF VENUE Monmouth	
FIRM NAME (if applicable)			DOCKET NUMBER (when available)		
OFFICE ADDRESS 55 Community Place Long Branch, NJ 07740			DOCUMENT TYPE Complain/Order to Show Cause		
			JURY DEMAND <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
NAME OF PARTY (e.g., John Doe, Plaintiff) Brian D. Asamow, Plaintiff		CAPTION Brian D. Asarnow v. Long Branch			
CASE TYPE NUMBER (See reverse side for listing) Prerogative Writs (PW)		IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.			
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS			
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN			
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.					
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION					
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS			
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION Temporary Restraints sought. R. 4:52-2 . Expedited Basis					
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION			
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?			
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).					
ATTORNEY SIGNATURE: 					

EXHIBIT B