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<p>HENRY REALTY COMPANY, LLC,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>TOWNSHIP OF CRANBURY; TOWNSHIP COUNCIL OF CRANBURY TOWNSHIP; JOHN DOES A-Z; CORPORATION A-Z,</p> <p style="text-align: right;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION MIDDLESEX COUNTY DOCKET NO.</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">COMPLAINT IN LIEU OF PREROGATIVE WRITS</p>
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Plaintiff, Henry Realty Company, LLC (“Plaintiff” or “Henry Realty”), by way of Complaint against the Defendants Township of Cranbury and Township Council For Township of Cranbury, says:

NATURE OF ACTION

1. Plaintiff files this prerogative writ action to challenge the decision of the Defendants memorialized in Ordinance No. 04-25-05 (the “Ordinance”) which authorized and directed the Defendants to acquire Plaintiff’s real property rights for the alleged purpose of allowing the Defendants to meet their needs and requirements of its Round Four Mount Laurel affordable housing obligations.

2. Plaintiff believes the actions of the Defendants are arbitrary, capricious and unreasonable, and the Ordinance should be deemed invalid. Neither New Jersey statutes, nor the State or Federal Constitutions allow the power of eminent domain to be used to implement an affordable housing plan that is facially unconstitutional.
3. Plaintiff seeks leave to conduct discovery on the site selection process and role of certain third parties, including the selected builder.
4. Plaintiff expressly reserves all defenses and claims in any future action filed to take the Plaintiff's real property rights, including but not limited to the alleged public use supporting the taking.

THE PARTIES

5. Plaintiff Henry Realty is a limited liability company with a business operation located at 1234 South River Road, Cranbury New Jersey 08512.
6. Henry Realty is owned by Andy Henry and Christopher Henry.
7. Defendant Township of Cranbury is believed to be a municipal corporation of the State of New Jersey, having offices located at 23-A North Main Street, Cranbury New Jersey (the "Cranbury").
8. Township Council of Cranbury Township is believed to be a municipal governing body of the Township of Cranbury, having offices located at 23-A North Main Street, Cranbury New Jersey (the "Township Council"). Cranbury and Township Council are collectively referred to as the "Defendants".

RELEVANT FACTS

A. Henry Farm

9. Henry Realty owns real estate commonly known as 1234 South River Road, Cranbury New Jersey, designated as Block 2.01, Lot 1 and 1Q on the Tax Map of the of the Township of Cranbury, New Jersey (the “Henry Farm”).
10. The Henry Farm consists of about 21 acres of land, with a historic home and outbuildings, and is an operating farm.
11. The Henry Farm has been owned by members of the Henry family for about 175 years. Andy Henry and Christopher Henry are the fourth generation of the Henry family and oversee the family farm.
12. The Henry Farm is a historic and iconic part of Cranbury Township, with families often visiting the Henry Farm to visit the animals, including Ms. Moo Jersey.
13. The Henry family intends to keep the Henry Farm in the family and operating as a productive farm for the next generation as part of a family legacy. The Henry Farm is a valued part of Cranbury and its long history as a farming community.

B. Master Plan and Zoning

14. Cranbury adopted a Master Plan in 2010 whose overriding goals were:
 - (a) *Preservation of the Cranbury’s rural character*, including scenic views, country roads, *open space, farmland*, hedgerows and tree lines, barns, streams and ponds, and historic structures; and in Cranbury Village, a distinctive, well-preserved historic district, a compact development form, a mix of residential, commercial and civic land uses, a distinguishable

border or “hard edge,” a pedestrian orientation, and varied lot and building sizes.

- (b) Provide a *sufficient ratable base to sustain Cranbury’s fiscal* and community needs in the long term, focused on the *Route 130 Corridor and areas east of Route 130*.

15. The 2010 Master Plan sought to address certain problems, including:

c. Route 130 Corridor

- (1) Maintain the warehouse-office character of land on the east side of Route 130, but improve the image and visibility of the Route 130 highway commercial corridor.

* * * * *

d. Area East of Route 130

- (1) Maintain a strong non-residential ratable base.
- (2) Encourage a mix of uses in planned industrial parks, and allow for limited accessory retail uses associated with warehouse/office uses.

16. The 2010 Master Plan has an Agricultural Preservation section which provides:

Objectives

- (1) Maintain Cranbury Township’s agricultural heritage through the preservation of large, contiguous areas of farmland.
- (2) Preserve the natural amenities that contribute to the Township’s rural character, including scenic vistas, historic structures and farmland.
- (3) Protect and preserve environmentally sensitive areas.
- (4) Retain open space areas having important historical, cultural or locational significance.

17. The 2010 Master Plan is clear that the goals and objectives of Cranbury were to protect farmland and encourage development of industrial parks and warehouses in the area between Route 130 and the New Jersey Turnpike.
18. In 2019, Cranbury adopted its 2019 Master Plan Redevelopment Reexamination Report (the “2019 Reexamination Report”). The 2019 Reexamination Report acknowledged the greatest change in the Township is the number of new developments in the warehouse/industrial area east of Route 130.
19. The 2019 Reexamination Report again set forth agricultural preservation goals, including preservation of large tracts of farmland and open space, and the preservation of historic structures and environmentally sensitive areas.
20. Under the Land Use Section of the Goals and Objectives of the 2019 Reexamination Report seeking to address certain zoning issues in Cranbury, the 2019 Reexamination Report discussed why a certain parcel of vacant land was not suitable for affordable housing (emphasis added):

Residents of Cranbury Station Hamlet and their neighbors have indicated that the zoning of the last remaining vacant parcel that is developable (the Summit Associates 14-acre property) be rezoned from warehouse/industrial to residential. Cranbury has considered this change, including in relationship to the prior 2010 Master Plan, the prior second and third round Housing Element and Fair Share Plans, and has come to the same conclusion in every case. *A residential development in this location would leave it isolated and distant from the existing established residential areas within the Village, distant from the Cranbury School, and from other community facilities and services, and itself surrounded by warehouse development in Cranbury. Rather than solve any problems related to a conflict of land uses, such development would exacerbate such problems.*

21. The 2019 Reexamination Report confirmed the obvious, which is that affordable housing should not be built in an area that will leave the residents of the development isolated from other residents within the Township, and far away from schools and community services, and “surrounded by warehouse development.”
22. Building affordable housing on the Henry Farm just exacerbates the problems of an unfair affordable housing plan as clearly acknowledged by Cranbury in the 2019 Examination Report.
23. In 2000, Cranbury adopted a Master Plan Amendment (the “2000 Amendment”) setting forth a Farmland Preservation Plan and Open Space and Recreation Plan. The 2000 Amendment once again states that the Township’s Farmland Preservation objectives are to maintain Cranbury’s agricultural heritage and preserve natural amenities.
24. The Master Plan and amendments clearly set forth and implement a zoning and development scheme that seeks to protect and preserve farmland while pushing development of warehouse ratables to a segregated section of town away from residential development.
25. The objectives and goals of Cranbury have been mostly achieved to date as the area surrounding the Henry Farm has been developed with large and successful warehouses, with virtually no residential development in the area, and away from schools, playgrounds, parks and shopping areas.
26. The Henry Farm and area surrounding the Henry Farm are anything but a blighted area.

C. **Round Four Affordable Housing Plan and Ordinance.**

27. As set forth in the Ordinance, on January 28, 2025, Cranbury instituted a declaratory judgment action in the Superior Court of New Jersey – Middlesex County, entitled In the Matter of the Application of the Township of Cranbury in Middlesex County, bearing Docket No. MID-L-000572-25, seeking a judgment granting Cranbury “fourth round” compliance certification.
28. On March 14, 2025, the Superior Court of New Jersey entered an Order Fixing Cranbury’s Obligations for Present Need and Prospective Need For The Fourth Round Housing Cycle fixing the prospective need at 265 units.
29. On April 28, 2025, Cranbury had the first reading on the proposed Ordinance.
30. On April 28, 2025, Cranbury did not have a plan for the Henry Farm for the development of affordable housing on the Henry Farm, just a rough concept in the discussion phase.
31. On May 12, 2025, Cranbury had the second reading on the proposed Ordinance and adopted it at a public meeting.
32. On May 12, 2025, Cranbury did not have a plan for the Henry Farm for the development of affordable housing on the Henry Farm, just a rough concept in the discussion phase, as evidenced by the questions asked by the public at the meeting.
33. The Ordinance states the Township is “authorized pursuant to N.J.S.A. 40A:12-1, *et seq.* to acquire the Properties, or an interest therein, for the public purposes set forth herein.”

34. The June 13, 2025, draft Fourth Round Housing Element and Fair Share Plan (the “4th Round Plan”) includes the Henry Farm as a proposed site for a development consisting of 130 affordable family rental units.
35. The 4th Round Plan states that The Walters Group (“Walters Group”) will develop the Henry Farm in partnership with Cranbury.
36. Neither the 4th Round Plan nor documents produced in response to the OPRA indicated whether Cranbury issued a Request for Qualifications to invite design/building companies to state their interest in participating in the contemplated developments, and to submit their qualifications. Upon information and belief, the Walters Group submitted its qualifications but may have been the only builder considered (i.e., only horse in the race).
37. The 4th Round Plan states Cranbury will enter into a developer’s agreement with the Walters Group and will contribute at least “(a) real property donations that enable siting and construction of the project” and may make other trust fund contributions.”
38. The 4th Round Plan in its draft form does not attach the Developers Agreement with the Walters Group.
39. The 4th Round Plan states “Cranbury Township will utilize affordable housing trust funds and municipal bonding as necessary to purchase the land to support the development.”
40. The 4th Round Plan does not specify or even estimate the land acquisition cost for the Henry Property.

41. The 4th Round Plan states that the Walters Group will develop 1274 South River Road with 60 affordable rental units.
42. The 4th Round Plan states “to address N.J.A.C. 5:93-5.5(a)3.ii as well as to address these same requirements repeated in the Administrative Directive #14-24, the Township shall adopt a resolution of intent to fund any shortfall in anticipated outside funding, including through future Township bonding, for the municipally sponsored affordable housing construction program. Appendix S contains a copy of a pro forma for each phase of the 100% affordable family rental development.”
43. The 4th Round Plan states that “the Township anticipates designating the site as an *Area in Need of Redevelopment*, adopting a Redevelopment Plan and entering into a Redeveloper’s Agreement to address HMFA’s LIHTC scoring requirements.”
44. The New Jersey State Constitution deems redevelopment of “blighted areas” to be a public purpose and public use, meaning a municipality may acquire land in a blighted area for redevelopment using the power of eminent domain.
45. N.J.S.A. §§ 40A:12A-1 *et seq.* establishes criteria for designating an area as blighted and outlines the procedures a municipal authority must follow to deem an area in need of redevelopment. As an initial step in the process, a governing body must first authorize its planning board to conduct a preliminary investigation to determine whether the proposed area is blighted.
46. Upon information and belief, no resolution has been adopted requesting the planning board to conduct a preliminary investigation.

47. Upon information and belief, no blight study has been prepared. More important, there is no evidence to support even a preliminary finding that the Henry Farm meets the criteria to have it designated as a blighted property.

D. Site Selection For 4th Round Plan

48. The Plaintiff served an Open Public Records Request Act (“OPRA”) on Cranbury seeking, among other things, information on (a) the selection of sites for the 4th Round Plan, (b) selection and retention of consultants, and (3) emails and text messages between certain parties.

49. Based upon documents received in response to the OPRA request, public records and statements made at public meetings, Cranbury appears to have formed an Affordable Housing sub-committee.

50. Based upon documents received in response to the OPRA request, it appears that the Walters Group was selecting and evaluating potential sites for development.

51. Based upon documents received in response to the OPRA request, it does not appear that the Henry Farm was on the initial list of sites to be considered for affordable housing.

52. Based upon documents received in response to the OPRA request and public records, Walters Group may have selected the Henry Farm for inclusion in the 4th Round Plan.

53. During the site selection process, Cranbury identified certain “constraints” which would often disqualify a property for consideration.

54. For example, constraints include:

(a) Property owner was not willing to sell the property; and

(b) Property approved for another use.

55. By way of example, Cranbury sent Walters Group an email on November 14, 2024, stating “Was hoping to get an update on where we are with finding a suitable property? Let me know. Thanks.”

56. On the same day, the Walters Group responded to Cranbury stating “Our goal is to get you a comprehensive update on all the properties that we discussed next week (a few have fallen off the table due to owners’ unwillingness to sell). But we also found a few other alternatives that would score favorably.”

57. On September 26, 2024, Cranbury confirmed a certain property was not on the list because the owner is not willing to sell.

58. Based upon documents produced in response to the OPRA, other sites were not selected because owners would not agree to sell their property or others received approvals for certain business uses.

59. Henry Realty is operating a legally permitted business on the Henry Farm which, like owners who were excluded from the selected site list since they obtained approvals for a certain use, should cause the Henry Farm to be removed from the 4th Round Plan.

60. Henry Realty does not want to sell the Henry Farm which, like other owners who did not want to sell, should cause the Henry Farm to be removed from the 4th Round Plan.

61. The selection criteria is not being applied in an even and fair way, and violates the Henry Farm’s equal protection rights.

62. There are other properties in Cranbury that are more suitable for building affordable housing so the Henry Property is not necessary to build affordable housing.

63. The Henry Farm is not a suitable site for affordable housing for, among other things:

- (a) The Henry Farm is surrounded by warehouses caused by the intentional planning of Cranbury.
- (b) The Henry Farm is not close to schools, libraries, churches, food stores or local retail businesses.
- (c) The Henry Farm is not close to public transportation.
- (d) The selection of the Henry Farm is anything but inclusive and will not integrate people with diverse income levels into the community.
- (e) The selection of the Henry Farm will isolate this apartment complex and will not promote social and economic integration.
- (f) As set forth in the 2019 Reexamination Report, affordable housing should not be built in an area that will leave the residents of the development isolated from other residents within the Township, and far away from schools and community services, and “surrounded by warehouse development.” This is an admission by the Defendants that the Henry Farm is not a suitable location for an affordable housing project.

64. Building an affordable housing project on the Henry Farm is not consistent with the goals and policies of the affordable housing initiatives and mandates of the State of New Jersey and does not create a realistic opportunity for the production of affordable housing units to meet Cranbury’s constitutional obligation.

FIRST COUNT

65. Plaintiff repeats the allegations of the previous paragraphs and incorporates same as if set forth at length herein.

66. Cranbury's decision to adopt the Ordinance was arbitrary, capricious and unreasonable because, among other things:

- (a) The Ordinance does not provide for a lawful basis for any type of condemnation action permitted by New Jersey law.
- (b) Cranbury cannot rely upon N.J.S.A. 40A:12-1, *et seq.* as legal support for the Ordinance since the property has not been designated as an area in need of redevelopment, there is no evidence the redevelopment process has started, and there is no evidence the Henry Farm is blighted.
- (c) Any effort to use the power of eminent domain to take the Henry Farm is unconstitutional since the alleged project is not for a public use, but for a private project of a private entity, and is not allowed under New Jersey law. Cranbury is not building the affordable housing but transferring the Henry Farm to a private entity for profit.
- (d) The alleged public purpose in question is to acquire real estate for an unconstitutional and discriminatory affordable housing plan which is unlikely to be approved by the Court or State of New Jersey. The affordable housing plan is inconsistent with the policies of providing affordable housing in New Jersey and unconstitutional as being discriminatory.

- (e) The Henry Farm is not a suitable site for the affordable housing plan set forth in the 4th Round Plan for the reasons set forth above.
- (f) The alleged basis for the use of the power of eminent domain are not supported by the evidence in the record.
- (g) The Henry Farm is not necessary to a project that serves a public use or purpose.
- (h) The process used by Cranbury leading to the adoption of the Ordinance was tainted by the inherent conflict of having the Walters Group select, score and advise on the final sites for the plan, while being the entity who will financially gain from the process.
- (i) The process used by Cranbury leading to the adoption of the Ordinance is an impermissible delegation of a governmental process since Cranbury delegated too much of the power and authority over this process to the Walters Group.
- (j) The 4th Round Plan is inconsistent with Cranbury's Master Plan.

WHEREFORE, Plaintiff requests judgment against Defendants:

- A. Declaration that the actions of the Defendants are arbitrary, capricious and unreasonable, and the Ordinance is null and void;
- B. Leave to take discovery; and
- C. Such other relief as is just and equitable.

STARK & STARK, P.C.
Attorneys for Plaintiff

Dated: June 24, 2025

By:/s/ TIMOTHY P. DUGGAN

RULE 4:5-1 CERTIFICATION

The undersigned attorneys for plaintiff certify that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding. Plaintiff reserves the right to file a challenge to any plan submitted by the Defendants for their 4th Round Affordable Housing obligations. At this time, Plaintiff is not aware of any other parties who should be named.

STARK & STARK, P.C.
Attorneys for Plaintiff

Dated: June 24, 2025

By:/s/ TIMOTHY P. DUGGAN

CERTIFICATION PURSUANT TO RULE 4:69-4

I hereby certify that all necessary transcripts of local agency proceedings in this cause have been ordered.

Dated: June 24, 2025

STARK & STARK, P.C.
Attorneys for Plaintiff

By:/s/ TIMOTHY P. DUGGAN

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Timothy P. Duggan, Esq. is hereby designated as trial counsel for Plaintiff.

Dated: June 24, 2025

STARK & STARK, P.C.
Attorneys for Plaintiff

By:/s/ TIMOTHY P. DUGGAN

RULE 1:4-8(a) CERTIFICATION

I am the attorney for the plaintiff and hereby certify that the Complaint and all documents annexed thereto comport with the requirements of Rule 1:4-8(a).

Dated: June 24, 2025

STARK & STARK, P.C.
Attorneys for Plaintiff

By:/s/ TIMOTHY P. DUGGAN