

BRACH EICHLER LLC

Charles X. Gormally, Esq. (023581979)
Paul M. Bishop (024462005)
101 Eisenhower Parkway
Roseland, New Jersey 07068
Phone: 973-228-5700
Attorneys for Plaintiffs

TOWNSHIP OF MONTCLAIR
COMMITTEE OF PETITIONERS,
AND MONTCLAIR PROPERTY
OWNERS ASSOCIATION;

Plaintiffs,

v.

TOWNSHIP OF MONTCLAIR;
MAYOR AND COUNCIL OF THE
TOWNSHIP OF MONTCLAIR and
STATE OF NEW JERSEY,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY
DOCKET NO.: ESX-L-

Civil Action

**ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS**

THIS MATTER, having been opened to the court by Brach Eichler, L.L.C., attorneys for Plaintiffs, Township of Montclair Committee of Petitioners and the Montclair Property Owners Association (collectively, "Plaintiffs"), by way of Order to Show Cause seeking temporary and permanent injunctive relief pursuant to R. 4:52; and the Court having reviewed Plaintiffs' Verified Complaint and Brief in Support of Order to Show Cause; and the Court having found that immediate, irreparable and substantial harm may occur before the return date of this Order to Show Cause; and for good cause shown;

IT IS on this _____ day of April 2020;

HEREBY ORDERED that Defendant, the Township of Montclair ("Defendant"), shall appear and show cause before the above named court at _____ o'clock in the _____ noon or as soon thereafter as counsel can be heard, on the _____ day of _____ 2020, why a preliminary

injunction order should not be issued:

1. Tolling the commencement of the twenty (20) day period prescribed by N.J.S.A. 40:69A-185 for the preparation of a referendum petition and submission of the requisite number of voter signatures to protest through referendum the Ordinance amending the Code of the Township of Montclair to include Chapter 257 Rent Regulation (“Ordinance”) until the New Jersey State of Emergency and Executive Orders 103 and 107 are lifted;

2. Tolling the effective date of the Ordinance and staying same until Executive Orders 103 and 107 are lifted and the twenty (20) day period prescribed by N.J.S.A. 40:69A-185 has expired thereafter;

3. Enjoining the Defendant from enforcing or implementing the provisions of the Ordinance until further Order of this Court;

4. Declaring that the Defendant’s enactment and enforcement of the Ordinance is in violation of the Defendant’s police powers and is therefore invalid, void and of no purpose and effect; and

5. Declaring that the Ordinance is in violation of Executive Order 108 and is therefore invalid, void and of no purpose and effect.

And it is further **ORDERED** that pending the return date of this application the Court is hereby **TEMPORARILY RESTRAINING AND ENJOINING**:

1. The commencement of the twenty (20) day period prescribed by N.J.S.A. 40:69A-185 for the preparation of a petition protesting the Ordinance and for the collection of the requisite number of voter signatures;

2. Enjoining and restraining the Defendant from taking any actions to implement or enforce the Ordinance.

And it is further **ORDERED** that:

1. Defendant may move to dissolve or modify the temporary restraints herein contained on two (2) days' notice to Plaintiffs' counsel.

2. A copy of this Order to Show Cause, Verified Complaint, and Brief submitted in support of this application, shall be served upon Defendant personally within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this Order being the original process.

3. Plaintiff must file with the Court its proof of service of the pleadings and this Order on the Defendant no later than three (3) days before the return date of this Order to Show Cause.

4. Defendant shall file and serve a written response to this Order to Show Cause and proof of service by_____. 2020. The original document must be filed with the Clerk of the Superior Court in Essex County, Law Division. Defendant must also send a copy of its opposition papers directly to the Honorable _____, whose chambers are located at the Essex County Superior Court in Newark, New Jersey. Defendant must also send a copy of its opposition papers to the Plaintiffs' attorney whose name and address appear above. A telephone call will not protect Defendant's rights. Defendant must file its opposition and pay the required fee of \$ _____ and serve its opposition on Plaintiffs' counsel if it wants the Court to hear opposition to the injunctive relief the Plaintiffs are seeking.

5. Plaintiffs must file and serve any written reply to Defendant's Order to Show Cause opposition by_____. 2020. The reply papers must be filed with the Clerk of the Superior Court, Essex County, Chancery Division and a copy of the reply papers must be sent directly to the chambers of the Honorable _____.

6. If the Defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default,

provided that the Plaintiffs file a proof of service and a proposed form of order at least three (3) days prior to the return date.

7. If the Plaintiffs have not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date of this Order to Show Cause.

8. Defendant take notice that the Plaintiffs have filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court, Essex County, Law Division in the county listed above. Include a \$_____ filing fee payable to the “Treasurer State of New Jersey.” You must also send a copy of your Answer to the plaintiff’s attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory

with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at njcourts.gov/forms/10153_deptyclerklawref.pdf. 10.

10. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than days before the return date.

HON.