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MARIO M. KRANJAC, MAYOR OF THE
BOROUGH OF ENGLEWOOD CLIFFS,

Plaintiff,

vs.

GLORIA OH, COUNCIL MEMBER OF THE
BOROUGH OF ENGLEWOOD CLIFFS,
EDWARD AVERSA, COUNCIL MEMBER OF
THE BOROUGH OF ENGLEWOOD CLIFFS,
DEBORAH TSABARI, COUNCIL MEMBER
OF THE BOROUGH OF ENGLEWOOD
CLIFFS, and JIMMY SONG, COUNCIL
MEMBER OF THE BOROUGH OF
ENGLEWOOD CLIFFS,

Defendants,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

DOCKET NO.

Civil Action

**VERIFIED COMPLAINT IN LIEU OF
PREROGATIVE WRIT AND FOR
DELCARATORY JUDGMENT**

Plaintiff, Mario Kranjac, Mayor of the Borough of Englewood Cliffs, New Jersey (“Plaintiff” or the “Mayor”), by way of Verified Complaint in Lieu of Prerogative Writ against Gloria Oh, Edward Aversa, Deborah Tsabari, and Jimmy Song (the “Council Person Defendants”), hereby alleges as follows:

PARTIES

1. Plaintiff is the Mayor of the Borough of Englewood Cliffs.
2. Defendant Gloria Oh is a Council Member of the Borough of Englewood Cliffs, with a residence on Irving Avenue, Englewood Cliffs, NJ 07632.
3. Defendant Edward Aversa is a Council Member of the Borough of Englewood Cliffs, with a residence of 25 Karens Lane, Englewood Cliffs, NJ 07632.
4. Defendant Deborah Tsabari is a Council Member of the Borough of Englewood Cliffs, with a residence of 106 Hollywood Avenue, Englewood Cliffs, NJ 07632.
5. Defendant Jimmy Song is a Council Member of the Borough of Englewood Cliffs, with a residence of 25 New Street, Englewood Cliffs, NJ 07632.

FACTS

6. In or about 2015, Englewood Cliffs, under the caption *In re the Borough of Englewood Cliffs*, BER-L-6119-15 filed a Declaratory Judgment Action seeking immunity from builders'-remedy suits under the *Mount Laurel* line of New Jersey Supreme Court cases (the "*Mt. Laurel Action*").
7. Plaintiff, a Republican, was elected in November 2015 and he became Mayor of Englewood Cliffs on January 3, 2016.
8. In November 2018 (effective January 3, 2019), Defendants Tsabari and Song were elected to the Council of the Borough of Englewood Cliffs, joining Defendant Aversa and former councilwoman Ellen Park, giving the Democrats a majority on the Council.
9. From that time going forward, the Council Person Defendants set about to freeze-out the Mayor from Borough Governance and to usurp his statutory authority as chief executive of the Borough.

10. Specifically, and among other things, the Council Person Defendants instructed Borough Counsel and Borough Special Counsel not to provide information concerning ongoing litigation (and settlement discussions with respect to litigation) to Plaintiff.

11. In that regard, on April 12, 2019, under the caption *Kranjac v. Council of the Borough of Englewood Cliffs*, Docket No. BER-L-300-19 Plaintiff received an Amended Order that Albert Wunsch, Esq., then Borough Attorney, provide Plaintiff all information involving any litigation involving the Borough of Englewood Cliffs and allow, and not impede, the Mayor to participate in the negotiations of any potential settlement of litigation involving the Borough. *See Exhibit A.*

12. However, the Court further ruled that information related to *Mt. Laurel* litigation must be sought in that action, and, in the *Mt. Laurel* Action, Judge Farrington found Plaintiff to lack standing to bring the claim that he is being wrongfully denied information concerning the *Mr. Laurel* Action, notwithstanding his status as a member of the governing body, the Mayor and Council of the Borough of Englewood Cliffs.

13. In about November 2016, 800 Sylvan Avenue, LLC (“800 Sylvan”) the owner of real property located at 800 Sylvan Avenue, Englewood Cliffs (the “Sylvan Property”) filed, in the *Mt. Laurel* Action, a builders-remedy lawsuit against Englewood Cliffs under the *Mount Laurel* line of New Jersey Supreme Court cases, seeking court approval for the Sylvan Property to be converted to a residential site, including affordable housing.

14. On March 7, 2019, the Court in the *Mt. Laurel* Action ordered settlement negotiations to take place between 800 Sylvan, Englewood Cliffs, and the Fair Share Housing Commission. *See Exhibit B.*

15. The Mayor was never involved in, or informed of, any such settlement communications.

16. Indeed, in a letter to the Court, Englewood Cliffs counsel (without the knowledge or input of Plaintiff) mis-stated that the negotiations would in fact take place with the so-called “Mount Laurel Subcommittee of the Borough of Englewood Cliffs” when in reality such Subcommittee was only intended to be a liaison of the Governing Body with no authority independent of the Governing Body. *See Exhibit C.*

17. This subcommittee only had three members and thus was not authorized to engage in binding settlement communications on behalf of the Borough pursuant to N.J.S.A. 40A:60-1A, *et seq.*

18. More, the Mayor was never involved in or apprised of the settlement communications. Indeed, the Council Person Defendants – through their consistent instructions to Borough Counsel – in defiance of all precepts of Borough governance, transparency, and minority-party rights, made concerted, consistent efforts to exclude Plaintiff from all aspects of the *Mt. Laurel* Action. Indeed, on August 19, 2019, Thomas J. Trautner, Jr., Esq., litigation counsel for Englewood Cliffs in the *Mt. Laurel* Action informed Plaintiff – after repeated requests by Plaintiff for information and communications concerning the *Mt. Laurel* Action that he was “instructed by the Borough’s legal department that until the Governing Body has had an opportunity to discuss your demands . . . the Borough does not authorize our firm to produce to you all of our communications [concerning the *Mt. Laurel* Action] . . . and no longer authorizes us to produce or disclose to you documents or information that would be subject to privilege as an attorney-client communication or as attorney work-product.” *See Exhibit D.*

19. The “Governing Body” (i.e., the Borough Council, controlled by the Council Person Defendants) never provide the referenced “authorization” for Plaintiff (himself a *member* of the Governing Body) to receive the above-referenced crucial information about the *Mt. Laurel* Action.

20. Rather, as noted, the subcommittee and 800 Sylvan engaged in secret settlement communications the terms of which were intentionally hidden from the Mayor and the public. Indeed, a principal of 800 Sylvan certified in the *Mt. Laurel* Action that, after the Council Person Defendants took control of the Counsel, Mr. Wunsch stated there was a “new sheriff in town” which was not concerned about “public opposition.” See Exhibit E.

21. 800 Sylvan ultimately prevailed at trial (and again, Plaintiff was excluded from meaningful participation in trial strategy), and the case is currently on appeal.

22. It now appears, however, that the Council Person Defendants seek, before the appeal can even be heard, to ram through a capitulatory “settlement” with 800 Sylvan, the terms of which are not known and were never discussed with the Mayor or the full Council, let alone the public.

23. Given the extreme (and grossly improper) exclusion of Plaintiff from all aspects of the *Mt. Laurel* litigation, and given Mr. Wunsch’s communications with 800 Sylvan, Plaintiff, and the public (i.e., the victims of the Council Person Defendants’ lack of transparency) are justifiably concerned that not only is any purported settlement extremely disadvantageous the Englewood Cliffs but also as to whether the Council Person Defendants – who plainly have something to hide – are interested in the settlement and/or any aspect of the 800 Sylvan Project.

24. Accordingly, at a regular June 10, 2020 Council Meeting, Councilman William Woo moved for a resolution as follows:

WHEREAS, since January 3, 2019 through today Gloria Oh (“Oh”), Edward Aversa (“Aversa”), Deborah Tsabari (“Tsabari”) and Jimmy Song (“Song”) have controlled the Borough Council;

WHEREAS, Ellen Park (“E. Park”) was a Council Member through December 31, 2019;

WHEREAS, the facts addressed herein include E. Park only through December 31, 2019;

WHEREAS, Oh, Aversa, Tsabari, Song and E. Park affirmatively and by their own admissions (and as confirmed by Borough Counsels) excluded Mayor Mario M. Kranjac and Councilman William Woo (and Ramon Ferro in 2020) from communications provided to and received from the various Borough attorneys in 2019 and 2020 (the “Communications”);

WHEREAS, Oh, Aversa, Tsabari, Song and E. Park affirmatively and by their own admissions (and as confirmed by Borough Counsels) excluded Mayor Mario M. Kranjac and Councilman William Woo (and Ramon Ferro in 2020) from participating in litigation strategy and negotiations in 2019 and 2020 (the “Litigation Strategy”);

WHEREAS, Mayor Kranjac repeatedly demanded access to communications and participation in litigation strategy and negotiations in 2019 and 2020;

WHEREAS, Oh, Aversa, Tsabari, Song and E. Park secretly negotiated a Memorandum of Understanding and draft Settlement Agreement with 800 Sylvan and Fair Share Housing Council in 2019;

WHEREAS, Oh, Aversa, Tsabari, Song and E. Park took an oath of office to uphold the laws of the United States of America and the State of New Jersey;

WHEREAS, in order to protect the interests of the Borough and its residents, an investigation of Oh, Aversa, Tsabari, Song and E. Park is required; and

WHEREAS, pursuant to and consistent with NJSA 40A: 60-5, the Mayor recommends to the Council such measures set forth herein as being necessary or expedient for the welfare of the Borough and its residents.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of Englewood Cliffs, County of Bergen, State of New Jersey that the Mayor be, and hereby is, authorized and empowered (i) to retain special independent counsel having investigatory experience to investigate the actions and omissions of Oh, Aversa, Tsabari, Song and E. Park relating to the Communications and the

Litigation Strategy, (ii) to provide the Governing Body with a report of her or his findings (the “Report”), and (iii) to take all necessary and appropriate legal actions, including, but not limited to, the payment of reasonable attorney fees, to assert any of the Borough’s rights as outlined in the Report.

See Exhibit F (the “Councilman Woo Motion”)

25. Astoundingly, despite the fact that the Counsel Person Defendants are plainly interested, Borough Counsel Jason Bonica, opined that for purposes of the June 10, 2020 meeting, the Council Person Defendants could vote on the Councilman Woo motion. He also said that there “may” be a re-vote at the next meeting.

26. Unsurprisingly, the Council Person Defendants voted unanimously not to investigate themselves, defeating the Councilman Woo Motion.

27. Councilman Woo attempted to include his motion on the agenda for a June 18, 2020 Special Council Meeting, but was blocked by the Council Person Defendants.

28. Thus, the *Mt. Laurel* Action and settlement remain shrouded in mystery and the Council Person Defendants blocking from the Mayor and public not only information about that litigation and settlement, but also from investigating the very fair question as to why the Council Person Defendants twice-elected-Mayor is being denied any role (or indeed information) in this crucial aspect of Borough governance.

29. Pursuant to New Jersey law, the Mayor of a Borough is the head of the municipal government and is charged with ensuring that all laws of the State and ordinances of the Borough are faithfully executed. See N.J.S.A. 40A:60-5.

30. The interested actions of the Council Person Defendants are frustrating the Mayor’s ability to execute his statutorily-mandated law-enforcement role.

FIRST COUNT

(Violation of Local Government Ethics Law, N.J.S.A. 40A:9-22.1, et seq.)

34. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if set forth at length herein.

35. The Council Person Defendants were interested in, and thus precluded from, voting on the Councilman Woo Motion pursuant to the Local Government Ethics Law, N.J.S.A. 40A:9-22.1, *et seq.*

36. As a direct and proximate result of the foregoing, Plaintiff has sustained and continues to sustain damages, including non-monetary damages.

SECOND COUNT

(Declaratory Judgment)

37. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if set forth at length herein.

38. As set forth above, as they were made in violation of 40A:9-22.1, *et seq.* the June 10, 2020 votes of the Council Person Defendants defeating the Councilman Woo Motion were improper and Plaintiff is entitled to a declaratory judgment declaring those votes to be stricken and of no force and effect.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court grant the following relief:

- (a) Striking the June 10, 2020 vote of the Council of the Borough of Englewood Cliffs on the Councilman Woo Motion and declaring that vote to be null and void;
- (b) Restraining and enjoining the Council Person Defendants from voting on the subject matter of the Councilman Woo Motion;
- (c) Awarding costs, including reasonable attorneys' fees; and
- (d) Awarding such other relief as the Court deems just and proper.

Dated: June 30, 2020

KRANJAC TRIPODI & PARTNERS LLP

/s/ James Van Splinter

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CERTIFICATION PURSUANT TO RULE 4:5-1(b)(2)

I certify that the matter in controversy is not the subject of any other pending action or arbitration proceeding, and that no such action or arbitration proceeding is contemplated at this time. I further certify that there are no other parties who should be joined in this action.

Dated: June 30, 2020

/s/ James Van Splinter
James Van Splinter

DESIGNATION OF TRIAL COUNSEL

James Van Splinter is hereby designated as trial counsel for Plaintiff.

Dated: June 30, 2020

/s/ James Van Splinter
James Van Splinter

CERTIFICATION OF ORDERING OF TRANSCRIPTS

The undersigned hereby certifies that the minutes, audio/visual recordings, and certified transcriptions of the June 10, 2020 Council Meeting and June 18, 2020 Special Session have been requested.

Dated: June 30, 2020



Mario M. Kranjac

VERIFICATION

I have reviewed the allegations within the foregoing Verified Complaint in Lieu of Prerogative Writes and hereby verify that the facts set forth therein are true and correct to the best of my knowledge.

Dated: June 30, 2020



Mario M. Kranjac