

RESOLUTION NO.: 2017 - 172

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING AND AUTHORIZING THE PAYMENT OF ESCROW FEES IN THE SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, MORRIS COUNTY DECLARATORY JUDGMENT ACTION FOR THE SPECIAL REGIONAL MASTER, RICHARD B. READING, EXPERT FEES**

**WHEREAS**, the Borough of Mount Arlington is a party to the Declaratory Judgment action that was filed in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015); and

**WHEREAS**, on June 20, 2017, the Honorable Maryann L. Nergaard, J.S.C. entered an order appointing Richard B. Reading as Special Regional Master, a copy of which is incorporated herein as if set forth at length. The order requires the Borough to deposit the initial sum of \$5,000 into an escrow account for payment of Richard B. Reading's expert fees; and

**WHEREAS**, on October 25, 2017, the Honorable Maryann L. Nergaard, J.S.C. entered a second amended order appointing Richard B. Reading as Special Regional Master and appointing escrow agent, a copy of which is incorporated herein as if set forth at length. The order requires the Borough to deposit the initial sum of \$5,000 into an escrow account for payment of Richard B. Reading's expert fees; and

**WHEREAS**, the Borough of Mount Arlington Planner has recommended; and the Mayor and Council has determined that it is the most cost-effective option and in the best interests of the citizens of the Borough of Mount Arlington to comply with Judge Nergaard's order; and to authorize the Municipal Administrator to pay the fee from the Borough's Affordable Housing Trust Fund.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Mount Arlington hereby authorizes the Municipal Administrator to pay the initial sum of \$5,000 into an escrow account for payment of Richard B. Reading's expert fees.

**BE IT FURTHER RESOLVED**, that this Resolution shall take effect immediately.

**I HEREBY CERTIFY** this to be a true and correct Resolution of the Borough Council of the Borough of Mount Arlington and adopted on December 5, 2017.

Approved:

\_\_\_\_\_  
Michael Stanzilis, Mayor

Attest:

  
\_\_\_\_\_  
Linda DeSantis, RMC, Borough Clerk

**FILED**

**OCT 25 2017**

Maryann L. Nergaard  
J.S.C.

Prepared by the Court:

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – MORRIS COUNTY

IN ALL DECLARATORY JUDGMENT  
ACTIONS FILED BY VARIOUS  
MUNICIPALITIES, COUNTY OF MORRIS  
PURSUANT TO THE SUPREME COURT’S  
DECISION IN In Re Adoption of N.J.A.C.  
5:96.221 N.J. 1 (2015)

Civil Action  
SECOND AMENDED ORDER  
APPOINTING RICHARD B. READING  
AS SPECIAL REGIONAL MASTER  
AND APPOINTING ESCROW AGENT

**THIS MATTER** having been opened by the court *sua sponte* as a result of a telephone conference to clarify the Orders entered June 20, 2017 (the “June 20 Order”) and June 30, 2017 (the “June 30 Order”) regarding the appointment of Richard B. Reading as Special Regional Master (collectively, the “Reading Orders”); and the court having considered the letter of August 16, 2017 submitted by Edward J. Buzak, Esq. of The Buzak Law Group, LLC on behalf of the Morris Municipalities affected by the Reading Orders; the Special Regional Master’s letter of September 20, 2017; and the argument of counsel participating in a telephone conference call on the record on September 11, 2017; and for good cause shown;

It is on this 25<sup>th</sup> day of October 2017 **ORDERED** as follows:

1. The Reading Orders remain in full force and effect, except as specifically set forth hereinafter.
2. As Rockaway Township has advised the court that it will be seeking a period of repose until 2015 and requests a Fairness and Compliance hearing, paragraph 2 of the June 20 Order is amended to add the matter of Morris Commons, LLC v. Rockaway Township, Dkt. No. MRS-L-3271-07.

3. The firm of Inglesino Webster Wyciskala Taylor, LLC is hereby appointed as Escrow Agent.

4. Paragraph 6 of the June 20 Order is amended to require that all escrow payments shall be made to the Escrow Agent within fifteen (15) days of the date of entry of this Second Amended Order.

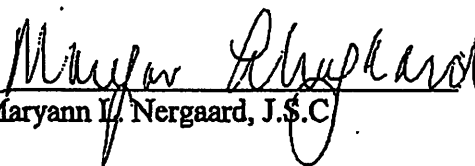
5. Paragraph 7 of the June 20 Order is hereby revised to read as follows:

7. The Special Regional Master shall submit monthly invoices to the Escrow Agent, who shall then forward copies of that monthly invoice to counsel for each Morris Municipality and respective Intervenor within five (5) days of receipt. If the Escrow Agent receives no challenge or objection within ten (10) days of the sending of the invoices to counsel for the Morris Municipalities and Intervenors as set forth above, the Escrow Agent shall pay the invoice to the Special Regional Master from the Escrow Fund. Each Morris Municipality and Intervenor shall replenish the Escrow Account within thirty (30) days of request by the Escrow Agent or the Special Regional Master, such that the amount on deposit for each Morris Municipality does not fall below \$3,000.00. Unless and until further Order of the court, all payments from the Escrow Account for Morris Municipalities that have Intervenors shall be paid fifty percent (50%) by the Morris Municipality and fifty percent (50%) allocated equally among the Intervenors for that Morris Municipality. All payments into these Escrow Accounts, and payment of the Special Regional Master's fees and costs, shall be without prejudice and subject to further allocation by the court.

4. Paragraph 8 of the June 20 Order is hereby amended to read as follows:

8. Any challenge or objection to the invoices, fees and costs of the Special Regional Master or the allocation of the same shall be made in writing to the Escrow Agent and all counsel for the Morris Municipalities and for the Intervenor within ten (10) days of the date that the invoice was submitted to counsel for the Morris Municipalities and counsel for the Intervenor. If a timely challenge or objection is filed with the Escrow Agent, the Escrow Agent shall then confer with the other Morris Municipalities and Intervenor to determine if the issue so challenged is unique to that Morris Municipality or Intervenor, or if it is of common concern which may be resolved directly within the Special Regional Master. If the matter cannot be amicably resolved, the Escrow Agent shall so advise the court that its intervention is required. Any challenges to the Special Regional Master's fees and costs or allocation of same shall not relieve that Morris Municipality or Intervenor from the obligation to timely pay the amounts charged, subject to subsequent determination by the court. In the event of such challenge, the Escrow Agent is fully authorized to make such payment from the Escrow Account, subject to further allocation by the court.

The court shall provide copies of this Second Amended Order to the Special Regional Master and to counsel for all Morris Municipalities and Fair Share Housing Center. Counsel for the Morris Municipalities shall provide copies to all interested parties within seven (7) days of receipt of this Order.

  
Maryann I. Nergaard, J.S.C.