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CHRISTOPHER S. PORRINO, Attorney General of
New Jersey; CRAIG SASHIHARA, Director of the
New Jersey Division on Civil Rights, and BOB
MARTIN, Commissioner of the Department of
Environmental Protection,

Plaintiffs,

v.

TOWNSHIP OF MAHWAH and MAHWAH
TOWNSHIP COUNCIL,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY

DOCKET NO. _____

CIVIL ACTION

COMPLAINT

Christopher S. Porrino, Attorney General of New Jersey (the “Attorney General”), having offices at 25 Market Street, Trenton, New Jersey, and 124 Halsey Street, Newark, New Jersey; Craig Sashihara, the Director of the Division on Civil Rights (the “Director”), having offices at 31 Clinton Street, Newark, New Jersey; 140 East Front Street, Trenton, New Jersey; 5 Executive Campus, Cherry Hill, New Jersey and 1325 Boardwalk, Atlantic City, New Jersey, and Bob Martin, Commissioner of the New Jersey Department of Environmental Protection (the “Commissioner” and together with the Attorney General and Director, “Plaintiffs”), with offices at 401 East State Street, Trenton, New Jersey, by way of Complaint, allege the following:

INTRODUCTION

1. This case seeks to remedy unlawful and discriminatory actions of the Township of Mahwah (“Township” or “Mahwah”) and the Mahwah Township Council (“Council” or collectively “Defendants”) against the rights of Orthodox Jews to visit the Township and to construct an eruv within it.

2. An eruv is a ritual enclosure of a designated geographical area within which Jews who hold certain religious beliefs may push or carry objects, such as a stroller, wheelchair, keys, or identification, during the Sabbath (Friday evening to Saturday evening) and during the Jewish holiday of Yom Kippur. For those who hold these religious beliefs, the act of pushing or carrying objects on the Sabbath or Yom Kippur is permitted only inside the home or within the confines of a properly established eruv. An eruv is commonly created by affixing thin plastic strips known as “lechis” to utility poles to mark the boundaries of the area. Because an eruv can be created using material that might otherwise appear on a utility pole, it is often unnoticeable to the general public.

3. Following the installation of the eruv in the Township, some members of the public expressed concern about the “infiltration” of Orthodox Jews, particularly from Rockland County, New York, and demanded that Township officials take action to address it. These sentiments were expressed publicly at council meetings as well as on social media and through a petition. Some of the comments contained stark anti-Semitic slurs and stereotypes concerning members of the Orthodox Jewish community. Rather than address the problematic nature of these comments, Defendants promptly took steps towards removal of the eruv, and to prevent and discourage Orthodox Jews from using public parks located in the Township.

4. During the past several months, Defendants have taken various steps to address the feared “infiltration” of the Township by Orthodox Jewish people. These actions include enacting an

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ordinance (Ordinance 1806) that precludes out-of-State residents from using the Township's public parks; issuing directives that the eruv be removed under the Township's ordinance governing signs (the "Sign Ordinance"); and seeking to amend the sign ordinance to specifically outlaw the installation of lechis. Members of the Township Council have also encouraged residents to take actions that interfere with the ability of Orthodox Jews to access and enjoy the public parks in Mahwah.

5. Following investigation, the Attorney General finds that Ordinance 1806 is an unlawful and unconstitutional effort to prevent certain individuals from using public parks because of their religion. The Attorney General and Commissioner also find that the residency restriction imposed by Ordinance 1806 violates the obligations imposed by the State Green Acres program, which the town participated in to receive funding for its parks. The Attorney General also finds that application of the Sign Ordinance, and its proposed amendment, to prohibit the placement of lechis on utility poles within the Township has discriminatory intent and constitutes an unlawful and unconstitutional effort to interfere with the free exercise of religion and the ability of individuals with certain religious beliefs to live in the Township.

6. Plaintiffs file this action to prevent violations of the Constitution of the United States, the Constitution of the State of New Jersey, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to 49 (the "LAD"), the New Jersey Green Acres Land Acquisition and Recreational Opportunities Act, N.J.S.A. 18:8A-35 to 54 (the "Green Acres Act"); and potentially other state and federal laws governing civil rights and nondiscriminatory land use.

7. On behalf of the State of New Jersey (the "State"), Plaintiffs seek to (1) preliminarily and permanently enjoin the Township from enforcement of Ordinance 1806, which prohibits nonresidents of the State from entering or using the Township's public parks; (2) preliminarily and

permanently enjoin the Township from the enforcement of the Sign Ordinance, which prohibits and orders the removal of lechis placed on utility poles within the Township; and (3) preliminarily and permanently enjoin the Township from taking any other actions to prohibit or remove lechis recently placed on utility poles within the Township, including by amending the Sign Ordinance for that purpose.

JURISDICTION AND PARTIES

8. The Attorney General is authorized to bring action on behalf of the State to protect against violation of the rights, privileges, and immunities set forth in the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 to 2 (the “CRA”) and the LAD.

9. The Director is charged with the responsibility of administering the LAD on behalf of the Attorney General. The Division on Civil Rights (“DCR”) is charged, inter alia, with the responsibility of preventing and eliminating discrimination in employment, housing and access to public accommodations, as well as preventing the interference with rights protected under the LAD. N.J.S.A. 10:5-4, 10:5-6, 10:5-12. This action is brought by the Director in his official capacity pursuant to his authority under N.J.S.A. 10:5-13.

10. The Commissioner is charged with administering and enforcing the Green Acres Act on behalf of the State. This action is brought by the Commissioner in his official capacity pursuant to his authority under N.J.S.A. 13:8A-53 and N.J.A.C. 7:36-9.1 and 14.1.

11. Defendants are subject to the provisions of the CRA as “persons” and, as alleged below, have acted in furtherance of depriving other persons of their equal protection and free exercise rights and privileges under the United States Constitution, the New Jersey State Constitution, the LAD, and the Green Acres Act. The Township Council uses its municipal police power to propose ordinances and enact ordinances, while the Township makes determinations as to

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how those ordinances will be applied and carries out enforcement. The Township's offices are located at 475 Corporate Drive, Mahwah, New Jersey 07430.

12. At all times relevant to this complaint, the Township Council consisted of Council President Robert Hermansen and Council members Jonathan Wong, Janet Ariemma, George Ervin, David May, Steven Sbarra and James Wysocki. Councilmen Ervin and May were not elected, but instead appointed to fill the seats of elected Council members who either declined or vacated their seats. Both May and Ervin are candidates in this year's election to complete the full remaining terms of these seats.

13. The Attorney General brings this action both in the public interest and on behalf of those persons who are or will be directly affected by the actions and proposed actions of the Township that form the basis for this Complaint.

FACTUAL ALLEGATIONS

ERUV ASSOCIATION AND PLACEMENT OF LECHIS

14. In or around 2015, Vaad haEruv and Rabbi Chaim Steinmetz as agents of the Bergen Rockland Eruv Association ("Eruv Association") sought to extend an existing eruv in Rockland County, New York to cover the full southern part of Rockland County. The Eruv Association met with Orange and Rockland Utilities ("O&R") and obtained authorization to attach lechis to O&R utility poles along the path of the proposed eruv extension. The proposed path included areas within a small portion of the Township near the New York border.

15. The Eruv Association entered into an agreement with O&R that permitted the Eruv Association as a "licensee to install and maintain attachments on poles owned by Orange and Rockland Utilities in Rockland and Bergen counties" with the attachments being "conduits which are solely used for the purpose of the licensee's ERUV system."

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16. In or around May 2017, the Eruv Association began the work of expanding the existing eruv into parts of Mahwah. On May 3, 2017, the Township Police observed the work and notified the Eruv Association that the work must cease until police supervision was arranged to ensure traffic and construction safety.

17. Township officials sought and received confirmation from O&R that it had previously authorized the installation of lechis on the specific utility poles at issue within Mahwah. The Mayor informed the Council President, the Township Administrator and Township Attorney that O&R had authorized the installation of lechis on the utility poles in Mahwah.

18. Following discussions over the required insurance coverage and costs associated with police supervision, the Township entered into an agreement with the Eruv Association whereby the Eruv Association agreed to (i) pay the Township to have off-duty police officers monitor and provide traffic control for the work, and (ii) name the Township as an additional insured on its insurance coverage.

19. The Township Administrator received and reviewed the certificate of insurance from the Eruv Association on or about May 18, 2017, and forwarded the information to the Township's insurance agent, who identified changes the Township should require prior to providing the traffic services by the police department. The requested changes were made, and the insurance coverage was deemed satisfactory on June 15, 2017.

20. In June 2017, the Eruv Association resumed construction of the eruv in accordance with the insurance and police supervision agreement. Over the course of four days, the Eruv Association affixed approximately 120 lechis to utility poles in accordance with its agreements with O&R and the Township. The Township provided an invoice to the Eruv Association for the police supervision services, which was paid by the Eruv Association.

ORDINANCE 1806

21. Mahwah maintains several large public parks, which include open space, playground equipment and sports fields. Through the years, Mahwah has applied for and received more than \$3.4 million in funding pursuant to the State Green Acres program for purchase and maintenance of its parks.

22. The Green Acres Act provides that the use of any lands acquired under the Green Acres program is not to be restricted by any conditions of religion, nor shall it be restricted by any condition of residence except by direction of or with the approval of the Commissioner of the Department of Environmental Protection. N.J.S.A. 13:8A-51.

23. In connection with its receipt of funds through the Green Acres Program, Mahwah entered into various project agreements and acquisition grant contracts with the State Department of Environmental Protection. These contracts require that Mahwah abide by the antidiscrimination provisions of the Green Acres Act and the LAD, as well as all other applicable Federal and State laws, rules and regulations. Mahwah also agreed not to restrict the use of facilities within land covered by the Green Acres program because of residency, except at the direction of or with the approval of the Commissioner. The contracts also provide that if Mahwah does not comply with any of the requirements of the agreements or Green Acres laws, that the State is entitled to remedies, including but not limited to specific performance of the contracts and repayment of all Green Acres funds that Mahwah has received.

24. On June 8, 2017, the Council introduced Ordinance 1806 to amend and supplement Chapter IX, Section 9-1.3 of the Mahwah Revised General Ordinances, to read as follows: "The use of the Township's parks and playgrounds are open to the public and may be used by New Jersey

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residents only.” All seven members of the Council voted in favor of Ordinance 1806 when it was introduced.

25. Mahwah did not request, and the Commissioner did not provide, any approval to make any condition as to residency in connection with any parkland in Mahwah.

26. Around the time the Council was considering Ordinance 1806, Council President Hermansen directed an inquiry to the Police Chief while in a meeting of the Council’s Ordinance Committee asking whether it was true that the Police Chief had recently given a tour of police headquarters to a group of Hasidic children.

27. The Council held a public hearing on Ordinance 1806 on June 29, 2017. The Council heard comments from the public at the hearing, and also received comments from residents by way of email and social media. Many of these comments expressed concern over what was perceived as the use of Mahwah’s parks by members of the Orthodox Jewish community, including the following:

- “I also don’t approve of the usage of our parks. We just spent all that money to winters park playground and when I go there with my kids it has been taken over by dozens and dozens of them!! My kids just stare and don’t want to get out and use playground.”
- “They should stay where they are and leave our town alone. One last thought, they use our parks and playgrounds on Sunday and their children are unruly and rough with playground equipment.”
- “What is the best way to voice my concern about non-Mahwah residents using our fields and playgrounds? I saw this type of thing destroy Suffern.”

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- “A group of 25 Hasidic girls and a leader got off the train in Mahwah and went to Winters Pond Gazebo and also to the playground up on the hill.”
- “I was wondering if there are any thoughts and procedures in place to keep the hasidic jewish people from moving into Mahwah? They have chased us out of two towns we lived in and now they are buying up houses in Suffern. This is too close for comfort. I see them in our parks and remember that’s how it starts. I heard rumors that they brought a business in Mahwah. Is this true?”
- “I don’t know if you noticed, but the Hasidics have been making themselves very comfortable in our Town Parks.”
- After one resident comments that she saw Orthodox Jews using the park while walking her dog, another wrote, “please continue to bring your dog with you...hopefully your dog can scare them away... they are horrible horrible people...no respect for others and property... drive through Monsey and Spring Valley and see how they keep their neighborhoods.”

28. Despite the overtly anti-Semitic nature of these public comments and others, the Council enacted Ordinance 1806 by a vote of 5-0, with Council members May and Wysocki being absent and not voting. Council President Hermansen commented at the public meeting that while May and Wysocki were not present to vote on Ordinance 1806, both were a “great help” in getting the ordinance enacted.

29. Around the time Ordinance 1806 was enacted, some Mahwah residents began to closely scrutinize who was coming into the town and/or using Township public parks. The Township Police Department, for example, received multiple calls from residents reporting that

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individuals who appeared to be Orthodox Jews were using the parks, but not that these individuals were engaging in any problematic conduct.

30. The Township's actions around the time Ordinance 1806 was enacted indicate that the ordinance was not targeted at all out-of-State residents, but rather to those who are Orthodox Jews. The Township worked on the preparation of signs it planned to place in the parks to address the restrictions in the ordinance. The proposed signage stated that parks were open only to New Jersey residents, but also included the statements that "GUEST OF A RESIDENT ARE PERMITTED USE" and "EMPLOYEES OF LOCAL BUSINESSES ARE PERMITTED USE." Neither of these exceptions was included in the ordinance.

31. A Mahwah resident who is not of the Orthodox Jewish faith sent an email to Council President Hermansen expressing concern that her mother who lives in New York would not be able to take her grandchildren to the Mahwah parks. The Council President replied to this resident she had nothing to worry about and that Ordinance 1806 was not intended to cover her situation.

32. Some Mahwah residents took pictures of individuals they suspected to be Orthodox Jews and posted the pictures on social media requesting users to identify who was in the photographs.

DISCOVERY OF AND REACTION TO LECHIS

33. In or around July 2017, Brett Coplin, a Township resident who is a self-professed supporter of Council Member David May, posted a picture of a utility pole with the lechis on a town-wide social media site with a query "Does anyone have a clue what these white PVC pipes are on the telephone poles?" An invitation was later posted for residents to come to an event organized by Councilman May to find out more about what was on the utility poles.

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34. An online petition by Mahwah residents was then started with a stated goal to “Protect the Quality of Our Community in Mahwah” and noted that utility poles were used to create “an eruv used by the Hasidic sect.” The petition demanded “the removal of these eruvs in order to prevent further illegal incursions into our community.” The petition purported to have 1,200 supporters.

35. Individuals supporting the petition posted comments on the petition’s website that included the following:

- “This group of people is known for entering a community and taking it over for their own advantage. They are known for taking a lovely community and turning it into a run down, dirty, unwanted place to live.”
- “Our town is such a great place and if these things move in they will ruin it.”
- “I do not want these things coming into my town and ruining it.”
- “They are trying to move into Mahwah once they do our schools will suffer, our taxes will go up. And Mahwah will reach new levels of welfare recipients.”
- “They are clearly trying to annex land like they’ve been doing in Occupied Palestine.”
- “I don’t want these rude, nasty, dirty people who think they can do what they want in our nice town.”
- “I don’t want my town to be gross and infested with these nasty people.”
- “They destroy what they have and run things to the ground. Give them one piece of property and before you know it there are thousands of non tax payers in our great town.”

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- “This is a soft invasion. Next, we will see homes called ‘places of worship or schools’ for this religious[sic] organization as a way for the members of this religious organization to avoid paying property taxes. I do not want to pick up the tab!”
- “They will ruin the town like they have done elsewhere!”
- “I see what they did to Rockland County, and I don’t want the same thing [sic] happen to Bergen County”
- “We need to protect our quality of life. There is absolutely no benefit in allowing the orthodox jewish contingent into Mahwah.”
- “Keep these people out!”
- “THEY ARE VERY NASTY PEOPLE”
- “They are unsanitary.”

36. Township residents also took to social media to support their cause, making comments that included the following:

- “If I see one of those, I’m tearing it down. I propose others do the same. They are out to destroy our country just as they continue to take over Rockland. They don’t care in the SLIGHTEST about anyone but themselves.”
- “I understand this is how they avoid paying taxes as well. Wives don’t take their names & they qualify for everything with the dozen plus kids they have as well! How can the checks & balances be done more thouroughly[sic]?”
- “What’s happening in town is going to become a big issue. I see the writing on the wall. This will affect our home values and the neighborhood you and I both live in. Something needs to be done.”

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- “These folks thrive on corruption, trying to make the heads of law enforcement turn to the left as they progress their agent to the right. They have a history of doing WHATEVER they want to do in order to achieve their agenda.”
- “They put these pipes outside my home and I took an axe and broke them right off.”

37. Members of the Council posted on these social media sites as well, indicating their support for the removal of eruv from the Township. By way of example, Council President Robert Hermansen posted the following on one social media site: “We need something similar to neighborhood watch. We need your help as much as you need ours. The goal is to have everybody working together to make sure that our poles stay clean in Mahwah.”

38. Township residents continued to express their concerns at public Council meetings about the eruv and fears of changes in the Township should the eruv remain up. At the meeting of July 27, 2017, and at other times, in a transparent attempt to disguise the discriminatory nature of the comments being made, members of the public were repeatedly advised not to specifically mention religion or the eruv in their public comments, to which several attendees replied, “Then why are we here.” Officials at the meeting went on to state that the purpose of limiting specific mention of religion or the eruv was to “avoid liability” for any comments that might be made.

39. During the public comment portion of the Council meetings, members of the public continued to express their views that they did not want Mahwah to become like Lakewood, New Jersey or Monsey, New York, municipalities with large Orthodox Jewish populations. Comments at the public meetings include the following:

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- “We have to play chess while they are playing checkers. We need to reach out to the communities of Lakewood, New Jersey... We should bury the cables---put them underground---there will be no poles to put PVC piping.”
- “You have no idea what you’re up against ... I grew up in this mess.”
- “I hope everyone here understands the fear in the community and the children.”
- “They are not going to change our laws. They are going to abide by our laws.”
- “Why are we allowing people from another state to come in?”
- “How the hell did they get up that pole? Who allowed them to go up that pole?”
- “When that thing went up it should have been taken down.”

SIGN ORDINANCE

40. The Mahwah Land Development Ordinances prohibit the placement of signs on utility poles. Mahwah Land Development Ordinances, Chapter XXIV, Section 24-6.8F(c)(3) (the “Sign Ordinance”). “Signs” are defined therein as “any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.” Chapter XXIV, Section 24-2.2.

41. On or about July 21, 2017, the Township Zoning Officer sent a letter to both the Eruv Association and O&R stating the Township believed the lechis were in violation of the Sign Ordinance and demanding that they be removed by August 4. The Eruv Association replied that it believed there was authorization to install the lechis and would not remove them.

42. On or about July 27, 2017, the Council proposed Ordinance 1812 (“Ordinance 1812”) to add a new section to Mahwah’s Sign Ordinance. The new section, titled “Unlawful Acts” (Section 15-1.3), states, in part, as follows: “It shall be unlawful to . . . Post or affix any sign, advertisement, notice, poster, paper, device, or other matter to any public utility pole, shade tree,

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lamp post, curbstone, sidewalk, or upon any public structure or building, except as may be authorized or required by law.”

43. Without the expanded list of materials proposed by Ordinance 1812, the Township currently prohibits only the placement of “signs” on utility poles, as provided in the Sign Ordinance quoted above. The Township intends for Ordinance 1812’s expanded list to capture, specifically, the placement of lechis.

44. On or about August 10, 2017, over the objection of the Mayor, the Township Council voted to authorize the Zoning Officer to issue summonses to the Eruv Association charging violations of the Sign Ordinance. Following the unanimous vote of the Council, Council President Hermansen explained his reasoning for the vote. He said that “this is a Rockland County issue” and “Rockland County should take care of its own problem.” He said that Rockland County should find a new route for the eruv within the State of New York.

45. Mahwah has regularly allowed, over the course of at least the past ten years, other persons and groups to affix signs to utility poles within the Township without the issuance of summonses or notices of violation. Without citing a health or safety hazard, and without making a distinction between the signs and other materials it has allowed to be affixed to utility poles, the Township now seeks to single out lechis for removal from utility poles.

46. Since the proposal of Ordinance 1812, there have been multiple instances of vandalism of the lechis in Mahwah. The Police Chief has indicated that the police department is investigating these incidents as hate crimes, a designation that Council President Hermansen has objected to.

47. The Council has continued to focus its efforts on “protecting” its constituency from a purported invasion by the Orthodox Jewish community. On September 14, 2017, the Township

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Council proposed two additional ordinances: (1) a “no knock” ordinance to address rumors of door-to-door solicitation of the purchase of homes by members of the Jewish faith despite the existence of few or no reports of such conduct, and (2) a set of rules of conduct for the Township’s public parks, including a ban on running or stringing any public service utility into, upon or across park land without consent of the municipality. The Council voted to adopt these ordinances on September 28, 2017.

COUNT I

**ORDINANCE 1806 IS AN UNREASONABLE, ARBITRARY,
AND CAPRICIOUS EXERCISE OF MUNICIPAL POWER
AND VIOLATES THE FOURTEENTH AMENDMENT OF
THE UNITED STATES CONSTITUTION**

48. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

49. On or about June 29, 2017, the Township used its municipal power to enact an ordinance, Ordinance 1806, in an unreasonable, arbitrary, and capricious manner. The Township either had no compelling health, safety, or welfare reason to enact Ordinance 1806, or the Township failed to tailor Ordinance 1806 to serve a compelling government interest.

50. Defendant Council’s purpose in enacting Ordinance 1806, and Defendant Township’s planned enforcements efforts, are targeted at preventing use of the Township’s public parks by Orthodox Jews, and is an exercise of municipal power in an unreasonable, arbitrary, or capricious manner, constituting a violation of the Fourteenth Amendment of the United States Constitution.

51. Because Ordinance 1806 was enacted without a legitimate purpose, each instance of enforcing Ordinance 1806 will constitute a violation of the Fourteenth Amendment of the United States Constitution.

52. The potential for the Township to enforce Ordinance 1806 in any instance and the chilling effect Ordinance 1806 may have on the constitutional rights of affected persons is cause for preliminary and permanent injunctive relief pursuant to the provisions of N.J.S.A. 10:6-2.

COUNT II

ENFORCEMENT OF ORDINANCE 1806 WILL INTERFERE WITH THE RIGHTS OF AFFECTED PERSONS TO BE FREE FROM UNREASONABLE SEARCHES IN VIOLATION OF ARTICLE I OF THE NEW JERSEY STATE CONSTITUTION AND THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION

53. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

54. On or about June 29, 2017, the Township enacted Ordinance 1806 for a constitutionally impermissible purpose and without safeguards against the collateral constitutional violations that will occur as a result of its enforcement. Since there are no reasonable means to conclude a park user is an out-of-State resident without a search, any effort to enforce Ordinance 1806 would require Township officers to stop park users without regard to any actual impermissible conduct or to identify potential violators by using an impermissible proxy (such as appearing to be of the Orthodox Jewish faith).

55. Each instance of enforcing Ordinance 1806 will subject affected persons to an unreasonable search and constitute a violation of Article I of the New Jersey State Constitution and the Fourth Amendment of the United States Constitution.

56. The potential for the Township to enforce Ordinance 1806 in any instance and the chilling effect Ordinance 1806 may have on the constitutional rights of affected persons is cause for preliminary and permanent injunctive relief pursuant to the provisions of N.J.S.A. 10:6-2.

COUNT III

ENFORCEMENT OF ORDINANCE 1806 WILL DENY AFFECTED PERSONS THE USE OF A PUBLIC ACCOMMODATION BASED ON CREED IN VIOLATION OF N.J.S.A. 10:5-12f

57. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

58. N.J.S.A. 10:5-12f makes it unlawful for any owner of any place of public accommodation to directly or indirectly withhold from or deny to any person any of the accommodations, advantages, facilities or privileges of the accommodation based on religion.

59. On or about June 29, 2017, the Township enacted Ordinance 1806 with the unlawful purpose of denying Orthodox Jews from Rockland County, New York use of the Township's parks and playgrounds.

60. Each instance of enforcing Ordinance 1806 for the purpose of excluding a person from a place of public accommodation based on his or her religion will constitute a violation of N.J.S.A. 10:5-12f.

61. The potential for the Township to enforce Ordinance 1806 in any instance for the purpose of excluding a person from its parks or playgrounds based on his or her religion is cause for preliminary and permanent injunctive relief pursuant to the provisions of N.J.S.A. 10:6-2 and N.J.S.A. 10:5-14.1.

COUNT IV

**ORDINANCE 1806 INTERFERES WITH THE RIGHTS OF
AFFECTED PERSONS TO BE FREE OF DISCRIMINATION
IN ACCESS TO PUBLIC ACCOMMODATIONS IN
VIOLATION OF N.J.S.A. 10:5-12d**

62. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

63. N.J.S.A. 10:5-12d makes it unlawful to interfere with any person in the exercise or enjoyment of his or her rights under the LAD.

64. On or about July 27, 2017, the Township enacted Ordinance 1806 with the unlawful purpose of denying Orthodox Jews from Rockland County, New York use of the Township's parks and playgrounds.

65. Ordinance 1806, as an active law known to the public, and whether or not enforced by the Township, interferes with the rights of affected persons to be free from discrimination in access to the Township's parks and playgrounds.

66. Each instance of interfering with the right of a person to access a place of public accommodation based on his or her religion constitutes a violation of N.J.S.A. 10:5-12f and renders Defendant liable for all damages suffered as a result.

67. Each instance of interfering with the right of a person to access a place of public accommodation based on his or her religion is a separate violation of N.J.S.A. 10:5-12f and cause for the assessment of a civil monetary penalty pursuant to N.J.S.A. 10:5-14.1a.

COUNT V

**ENFORCEMENT OF ORDINANCE 1806 WILL CONSTITUTE
A DISCRIMINATORY RESTRICTION ON USE OF PARK
LAND FUNDED OR ACQUIRED BY THE STATE IN
VIOLATION OF N.J.S.A. 13:8A-51 AND N.J.A.C. 7:36-25.10(d)**

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68. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

69. N.J.S.A. 13:8A-51 provides that any parkland covered under the Green Acres program shall not be restricted by any conditions of religion or by any condition of residency except as directed by or with the approval of the Commissioner.

70. In furtherance of N.J.S.A. 13:8A-51, N.J.A.C. 7:36-25.10(d) provides that parkland covered by the Green Acres program shall not be restricted by on residency or as otherwise may be in violation of the LAD.

71. On or about June 29, 2017, the Township enacted Ordinance 1806 with the purpose of interfering with use of the Township's parks and playgrounds by persons who are Orthodox Jews.

72. Each instance of enforcing Ordinance 1806 for the purpose of excluding a person from a place of public accommodation based on his or her religion will constitute a violation of N.J.S.A. 13:8A-51 and N.J.A.C. 7:36-25.10(d), which require that park land acquired or funded by the State be accessible to the public without any discriminatory restriction, condition of residence, or use that will be in violation of the LAD.

73. On or about June 29, 2017, the Township enacted Ordinance 1806 with a restriction based on residency that was not authorized by the Commissioner.

74. The potential for the Township to enforce Ordinance 1806 in any instance for the purpose of excluding a person from its parks or playgrounds based on his or her religion or residency is cause for preliminary and permanent injunctive relief pursuant to the provisions of N.J.S.A. 10:6-2 and the equity powers of the Court.

COUNT VI

**BREACH OF GREEN ACRES CONTRACTS BY TAKING
ACTION TO PRECLUDE USE OF ITS PARKS ON THE BASIS
OF RELIGION AND BY IMPOSING A RESIDENCY
RESTRICTION WITHOUT APPROVAL OF THE
COMMISSIONER**

75. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

76. As part of its receipt of substantial funding from the Green Acres program, Mahwah entered into contracts with the State of New Jersey whereby it agreed to comply with the LAD and Green Acres law by not making any restriction of access to any parkland in Mahwah on the basis of religion, and by not making any restriction as to residency without the approval of the Commissioner.

77. By taking action to restrict access to parkland in Mahwah on the basis of religion and by restricting access based on residency without approval of the Commissioner, the Township has violated these provisions of its Green Acres agreements.

78. Pursuant to the Green Acres agreements, as well as N.J.A.C. 7:36-9.1(j) and (k) and N.J.A.C. 7:36-14.1 (j) and (k), Mahwah's breach entitles the State to injunctive relief, specific enforcement of the agreements and other remedies, including but not limited to repayment of all Green Acres funding that Mahwah has received.

COUNT VII

**APPLICATION OF THE SIGN ORDINANCE TO PROHIBIT
OR PENALIZE THE PLACEMENT OF LECHIS ON UTILITY
POLES WILL INTERFERE WITH AFFECTED PERSONS'
FREE EXERCISE OF RELIGION IN VIOLATION OF
ARTICLE I OF THE NEW JERSEY STATE CONSTITUTION
AND THE FIRST AND FOURTEENTH AMENDMENTS OF
THE UNITED STATES CONSTITUTION**

79. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

80. The Township has taken actions, including but not limited to the August 10, 2017, authorization to issue summonses for each lechi placed on a utility pole within the Township, with the intention and probable effect of interfering with the religious freedom of persons seeking to attach lechis to utility poles in accordance with a religious observance.

81. Because application of the Sign Ordinance to lechis is without a legitimate purpose, each instance of applying the Sign Ordinance to the placement of a lechi on a utility pole within the Township, or issuing a summons for the placement of a lechi on a utility pole within the Township as a violation of the Sign Ordinance, will constitute a violation of Article I of the New Jersey State Constitution, the First Amendment of the United States Constitution, and the Fourteenth Amendment of the United States Constitution.

82. The potential for the Township to apply the Sign Ordinance to prohibit or penalize the attachment of a lechi to a utility pole within the Township and the chilling effect the Township's actions may have on the constitutional rights of affected persons is cause for preliminary and permanent injunctive relief pursuant to the provisions of N.J.S.A. 10:6-2.

COUNT VIII

APPLICATION OF THE SIGN ORDINANCE TO PROHIBIT OR PENALIZE THE PLACEMENT OF LECHIS ON UTILITY POLES IS AN UNREASONABLE, ARBITRARY, AND CAPRICIOUS EXERCISE OF MUNICIPAL POWER AND VIOLATES THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION

83. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

84. On August 10, 2017, the Township used its municipal power to authorize the issuance of summonses for each lechi placed on a utility pole as a violation of the Sign Ordinance.

85. The Township had no compelling health, safety, or welfare reason to authorize the issuance of summonses for the placement of lechis on utility poles. The Township's action was, therefore, taken in an unreasonable, arbitrary, and capricious manner.

86. Each instance of exercising municipal power in an unreasonable, arbitrary, or capricious manner constitutes a violation of the Fourteenth Amendment of the United States Constitution.

87. Because the Township acted without a legitimate purpose, each instance of issuing a summons for the placement of a lechi on a utility pole as a violation of the Sign Ordinance will constitute a violation of the Fourteenth Amendment of the United States Constitution.

88. The potential for the Township to issue summonses for the placement of a lechi on a utility pole as a violation of the Sign Ordinance and the chilling effect its action may have on the constitutional rights of affected persons is cause for preliminary and permanent injunctive relief pursuant to the provisions of N.J.S.A. 10:6-2.

COUNT IX

APPLICATION OF THE SIGN ORDINANCE TO PROHIBIT OR PENALIZE THE PLACEMENT OF LECHIS ON UTILITY POLES INTERFERES WITH THE RIGHTS OF AFFECTED PERSONS TO BE FREE OF HOUSING DISCRIMINATION IN VIOLATION OF N.J.S.A. 10:5-12d.

89. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

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90. N.J.S.A. 10:5-12g makes it unlawful to discriminate on the basis of religion with respect to housing opportunities.

91. Defendants have taken repeated actions, including the authorization of the issuance of a summons for each lechi placed on a utility pole within the Township, to remove the eruv from Mahwah. The lack of an eruv would interfere with the ability of observant Orthodox Jews to live within the area should the eruv be removed.

92. Defendants' actions have the intention and probable effect of interfering with the ability of Orthodox Jews to move into and inhabit areas of Mahwah.

93. Each instance of applying the Sign Ordinance to the placement of a lechi on a utility pole within the Township, or issuing a summons for the placement of a lechi on a utility pole within the Township, will constitute an act of interference with the rights of those persons affected to be free of discrimination in housing on the basis of religion in violation of N.J.S.A. 10:5-12d.

94. The potential for the Township to apply the Sign Ordinance to prohibit or penalize the attachment of a lechi to a utility pole within the Township is cause for preliminary and permanent injunctive relief pursuant to the provisions of N.J.S.A. 10:6-2.

DEMAND FOR RELIEF

ACCORDINGLY, Plaintiffs petition this Court for judgment as follows:

- (a) Finding that Defendants committed the acts or omissions set forth in this Complaint;
- (b) Finding that such acts or omissions constitute violations of Article I of the New Jersey State Constitution or in furtherance of violating Article I of the New Jersey State Constitution;

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- (c) Finding that such acts or omissions constitute violations of the First and Fourteenth Amendments of the United States Constitution or in furtherance of violating the First and Fourteenth Amendments of the United States Constitution;
- (d) Finding that such acts or omissions constitute violations of the LAD or in furtherance of violating the LAD;
- (e) Finding that such acts or omissions constitute violations of the Green Acres Act, in furtherance of violating the Green Acres Act, or in violation of written agreements Defendants have made pursuant to the Green Acres Act;
- (f) Granting Plaintiffs appropriate equitable relief, including preliminary and permanent injunctive relief pursuant to the provisions of the CRA, the LAD, and the equity powers of this Court;
- (g) Granting Plaintiffs appropriate equitable relief, including preliminary and permanent injunctive relief to ensure compliance with the requirements of the Green Acres Act;
- (h) Assessing appropriate remedies for Defendants' breach of the Green Acres contracts, including but not limited to repayment of Green Acres funds received;
- (i) Assessing Defendants a civil monetary penalty for each violation of the LAD in accordance with N.J.S.A. 10:5-14.1a.;
- (j) Assessing Defendants a civil monetary penalty for each violation of the CRA in accordance with N.J.S.A. 10:6-2(e);
- (k) Granting Plaintiffs attorney's fees, expenses, and costs in accordance with N.J.S.A. 10:6-2(f) and N.J.S.A. 10:5-27.1; and

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- (l) Affording Plaintiffs and other affected parties any additional relief the Court may deem just and equitable.

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By: 

James R. Michael
Deputy Attorney General

Dated: October 24, 2017

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

I certify that other than as specified herein, Plaintiffs in this matter have not initiated any other civil action in any court of this State against Defendants and are not now engaged in any arbitration proceeding against Defendant, nor is any other civil action or arbitration proceeding contemplated. I certify that Plaintiffs are not aware of any other party who should be joined in this action at the current time.

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By: _____

James R. Michael
Deputy Attorney General

Dated: October 24, 2017

DESIGNATION OF TRIAL COUNSEL
PURSUANT TO R. 4:5-1(c)

Deputy Attorney General James R. Michael is hereby designated as trial counsel for this matter.

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By: 

James R. Michael
Deputy Attorney General

Dated: October , 2017