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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BERGEN ROCKLAND ERUV ASSOCIATION,
YISROEL FRIEDMAN, S. MOSHE
PINKASOVITS, SARAH BERGER, MOSES
BERGER, CHAIM BREUER, YOSEF
ROSEN, AND TZVI SCHONFELD,

Plaintiffs,

v.

THE BOROUGH OF UPPER SADDLE
RIVER,

Defendant.

Civil No.: 2:17-CV-05512-JMV-
CLW

Civil Action

**DECLARATION OF
STEVEN FORBES**

I, Steven Forbes, declare under penalty of perjury:

1. I am an employee of the Borough of Upper Saddle River (USR).

2. Prior to my employment with USR I was worked for a utility company for 8 years and then an electrician for 2 years.

3. As such, I have personal experience in stringing telecommunication wires to utility poles.

4. Currently, I serve as a part-time Code Official in USR's Building Department.

5. I have served in this capacity for nearly 2 years.

THE REGULATION OF UTILITY POLES IN USR

1. USR prohibits the attachment of signs, devices and other matter to its utility poles. This prohibition is codified in the following USR Code provisions: §76-46, §122-17G, and §150-21.

2. It is the responsibility of USR's Police Department ("USR PD") and the Department of Public Works ("DPW") to enforce the USR Code by removing unauthorized signs and devices which have been placed on utility poles.

3. If a sign or device which violates law is within a USR PD officer's reach and affixed to the utility pole in a manner in which an officer could independently remove the unauthorized sign, device, or other matter then the unauthorized sign, device, or other matter would be removed by a USR PD officer.

4. If an unauthorized sign, device, or other matter is out of reach or affixed in a manner which prevented an officer from simply removing the unauthorized sign, device, other matter with ones hands, then the DPW would be notified and a DPW staff member would be dispatched to remove the unauthorized sign, device, or other matter using a truck or other device that could reach the appropriate height.

5. If the unauthorized sign, device, or other matter identified its owner, the owner would be notified that the sign, device, or other matter was at the USR PD. However, should they fail to retrieve the unauthorized sign, device, or other matter it would be discarded. Alternatively, USR PD officers might notify the unauthorized sign, device, or other matter owner of the violation and require the unauthorized sign, device, or other matter be removed immediately.

6. USR has consistently enforced and continues to consistently enforce its code provisions even against extensions of its own government.

7. I have reviewed the photographs appended to Plaintiffs' First Amended Complaint, Exhibit F, those same photographs have been appended to the Declaration of S. Moshe Pinkasovits, Exhibit A. To my knowledge, these are the same photographs that were included in the original motion for a temporary restraining order that was filed by the Plaintiffs in July, 2017. I can confirm that all of the alleged violations identified by Plaintiffs have been removed.

THE ERUV

8. My interaction with the eruv and the Vaad haEruv is limited.

9. Contrary to the Declaration of Rabbi Chaim Steinmetz ("Steinmetz Decl."), I recall two members of the Vaad haEruv came

to the Borough Hall on June 15, 2017, not "the next day," from when my coworker James Dougherty spoke to the Vaad haEruv on June 12, 2017. Steinmetz Decl., at 12. As Rabbi Steinmetz admitted in his declaration, Mr. Dougherty made clear that USR was still evaluating whether the lechis violated any laws and/or required action by USR. Id.

10. During this meeting, the Vaad haEruv representatives discussed the purpose of an eruv and the installation/inspection of lechis which were constructed of white PVC pipe. In general, this conversation consisted of a discussion of the mechanics of the construction and materials. I told them the lechis would likely be considered a device; and I then explained the Ordinance 16-15 (codified as §122-17G) and gave the Vaad haEruv a copy of same.

11. Eventually, Mr. Dougherty excused himself without stating where he was going. When Mr. Dougherty returned, he did not state where he went or with whom he spoke. When Mr. Dougherty returned, he told the Vaad haEruv representatives that they could continue their work temporarily, but were to comply with all USR PD requirements and he suggested they have a pre-construction meeting with the Chief of Police. At no time were they told that the obligations under USR law were waived for them.

INSPECTIONS OF UTILITY POLES

12. On October 19, 2017, at the direction of Borough Administrator Theodore Preusch, I made an inspection of all utility

poles on the streets impacted by the eruv (i.e., West Saddle River Road, Old Stone Church Road, East Saddle River Road, Weiss Road, Sparrowbush Road, and Hillside Avenue).

13. I memorialized my observations in a list which set forth the date of inspection, whether the utility pole has lechis attached, the number of lechis on the utility pole, location of the utility pole, the utility pole number and the utility pole sub-number. See attached as **Exhibit "A"** a true and correct copy of a list I created memorializing my observations of utility poles and lechis within USR.

14. I hereby declare that Exhibit A is, to the best of my ability, a true and accurate reflection of my observations.


15. I observed the lechis installed in USR consist of white ungrounded PVC plumbing grade pipes. It is my understanding that it is not an intended use for PVC plumbing grade pipe to be attached to utility poles.

16. I further observed that the lechis make physical contact with Verizon's conduit. In my experience, such contact should not be made and certainly not without the permission of the conduit owner.

17. See attached as **Exhibit "B"** a true and correct copy of a zoning map of USR on which I highlighted the roads affected by the eruv and drew dots depicting the location of utility poles on those affected roads. The black dots represent utility poles that

have one or more lechis. The red dots represent utility poles which do not have lechis. I hereby declare that Exhibit B is, to the best of my ability, a true and accurate reflection of my observations.

I declare under penalty of perjury that the foregoing is true and correct.

By: 
Steven Forbes
Code Official
Borough of Upper Saddle River
Building Department

Executed on: November 2, 2017

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JP

EXHIBIT A

				West Saddle River Rd		
Verify	Lechis	#	side of street	location	pole#	sub #
10/19/2017	N		East	SOUTH OF OLD STONE CHURCH RD	56432/39117	29029
10/19/2017	Y	1	East	NORTH OF OLD STONE CHURCH RD	56433/39128	BT 29045
10/19/2017	Y	1	East	NORTH OF OLD STONE CHURCH RD	56432/39136	BT 29044
10/19/2017	Y	1	East	NORTH OF OLD STONE CHURCH RD	56432/39148	29043
10/19/2017	Y	1	East	FRONT OF 508	56431/39161	
10/19/2017	Y	1	East	BETWEEN 508 & 512 W RD	56430/39172	
10/19/2017	Y	1	East	FRONT OF 512 W RD	56429/39185	
10/19/2017	Y	1	East	FRONT OF 516 W RD	56420/39198	
10/19/2017	N		East	BETWEEN 516 & 520 W RD	/39211	
10/19/2017	Y	1	East	BETWEEN 520 & 524 W RD	56424/39223	
10/19/2017	Y	3	East	INTERSECTION OF SPAROWBUSH AND W RD	56423/39239	29086
10/19/2017	Y	1	East	FRONT OF 528 W RD	56425/39246	
10/19/2017	Y	2	East	FRONT OF 536 W RD	56427/39260	
10/19/2017	Y	1	East	FRONT OF 536 W RD	56427/39270	29008
10/19/2017	Y	1	East	NORTH OF 536 W RD	56427/39828	29009
10/19/2017	Y	1	East	ACROSS THE ROAD FROM 543 W RD	56428/39292	29010

10/19/2017	Y	1	East	FRONT OF 544 W RD	56430/39302	29011
10/19/2017	Y	1	East	DRIVEWAY OF 544 W RD	56432/39312	29012
10/19/2017	Y	1	East	FRONT OF 548 W RD	56436/39322	29013
10/19/2017	Y	1	East	BETWEEN 548 & 556 W RD	56440/3 332	29014
10/19/2017	Y	2	East	DRIVEWAY OF 556 W RD	56444/39353	29015
10/19/2017	Y	1	West	FRONT OF 557 W RD	56444/39353	
10/19/2017	Y	1	West	DRIVEWAY OF 557 W RD	56448/39368	29017
10/19/2017	Y	1	West	FRONT OF 563 W RD	56452/39373	
10/19/2017	Y	1	West	FRONT OF 569 W RD	56456/39384	29019
10/19/2017	Y	1	West	NORTH SIDE OF 569 W RD	56460/39393	29020
10/19/2017	Y	1	West	SOUTH CORNER AT APPLEWOOD	56463/39404	29021
10/19/2017	Y	1	West	NORTH CORNER AT APPLEWOOD AND W RD	56466/39412	29022
10/19/2017	Y	1	West	ACROSS FROM 582 W RD	56469/39420	
10/19/2017	Y	1	West	FRONT OF 577 W RD	56471/39430	
10/19/2017	Y	1	West	SOUTH CORNER OF ROBIN RIDGE	56472/39439	
10/19/2017	Y	1	West	ACROSS FROM 590 W RD	56474/39453	
10/19/2017	Y	3	North	NORTH CORNER AT HILLSIDE AND W RD		BT327
10/19/2017	Y	1	East	FRONT OF 594 W RD		20137

10/19/2017	Y	2	East	SOUTH CORNER OF CHERRY AND W RD	56478/39484	21036
10/19/2017	Y	2	South	ACROSS FROM 600 W RD ON CHERRY	56480/39486	
				OLD STONE CHURCH RD		
Verify	Lechis	#	side of street	location	pole#	sub #
10/19/2017	Y	2	North	OLD STONE CHURCH East of the West RD		20056
10/19/2017	Y	1	North	EAST OF W RD	56450/39117	20125
10/19/2017	N		North	WEST OF YEOMAN	56467/39111	20124
10/19/2017	N		North	YEOMAN AND OLD STONE CHURCH RD	56475/39109	
10/19/2017	N		North	ACROSS FORM 16 OLD STONE CHURCH	56485/39106	E20122
10/19/2017	N		North	ACROSS FORM 18 OLD STONE CHURCH	56496/39103	E20121
10/19/2017	N		North	ACROSS FROM 20 OLD STONE CHURCH	56511/39099	E20120
10/19/2017	N		North	ACROSS FORM 26 OLD STONE CHURCH	56525/39095	
10/19/2017	N		North	ACROSS FORM 32 OLD STONE CHURCH		20118
10/19/2017	Y	1	North	ACROSS FROM 36 OLD STONE CHURCH	56550/39087	BT20117
10/19/2017	Y	1	North	EAST CORNER OF DEERHAVEN	56564/39083	BT20116
10/19/2017	Y	1	North	ACROSS FROM 40 OLD STONE CHURCH	56576/39080	20115
10/19/2017	Y	1	North	ACROSS FROM 44 OLD STONE CHURCH	56589/39076	20114
10/19/2017	Y	1	North	FRONT OF 47 OLD STONE CHURCH	56603/9073	20113

10/19/2017	Y	1	North	FRONT OF 51 OLD STONE CHURCH	56615/39069	BT20112
10/19/2017	N		North	WEST SIDE OF THE DRIVEWAY OF 55	56624/39067	
10/19/2017	Y	1	North	EAST OF DRIVEWAY OF 59 OLD STONE CHURCH	56628/39066	
10/19/2017	Y	1	North	ACROSS FROM 60 OLD STONE CHURCH		BT20110
10/19/2017	N		North	WEST OF PATRIOTS LN	56656/39058	
10/19/2017	N		North	WEST OF PATRIOTS LN		20109
10/19/2017	N		North	EAST OF PATRIOTS LN	56668/39054	BT20108
10/19/2017	N		North	WEST OF SHERWOOD	56681/39051	BT20107
10/19/2017	N		South	EAST OF SHERWOOD	56691/39048	
10/19/2017	N		North	FRONT OF 75 OLD STONE CHURCH	56696/39057	BT20102
10/19/2017	N		South	ACROSS FOR 81 OLD STONE CHURCH	56701/39052	20334
10/19/2017	N		South	WEST OF HOPPER FARM RD	56714/39040	20333
10/19/2017	N		South	ACROSS FROM HOPPER FARM RD	56726/39035	20332
10/19/2017	N		South	BETWEEN 86 & 90 OLD STONE CHURCH RD	56736/39033	20333
10/19/2017	N		South	FRONT OF 90 OLD STONE CHURCH RD	56747/39029	20334
10/19/2017	N		South	EAST OF 90 OLD STONE CHURCH RD	56755/39025	
10/19/2017	Y	1	North	WEST OF BURRWOOD CT	56765/39022	
10/19/2017	Y	1	South	EAST OF BURRWOOD CT	56774/39010	BT20331

10/19/2017	Y	1	South	ACROSS FROM THE OLD STONE CHURCH PARKING LOT	56787/38999	20329
				EAST SADDLE RIVER RD		
Verify	Lechis	#	side of street	location	pole#	sub #
10/19/2017	Y	2	East	FRONT OF 480 E SADDLE RIVER RD	56796/38991	20400
10/19/2017	Y	1	East	FRONT OF 484 E SADDLE RIVER RD	56804/39002	20399
10/19/2017	Y	1	East	DRIVEWAY OF 488 E SADDLE RIVER RD		20398
10/19/2017	Y	1	East	FRONT OF 488 E SADDLE RIVER RD	56819/39018	20397
10/19/2017	Y	1	East	FRONT OF 488 E SADDLE RIVER RD	56827/39025	20396
10/19/2017	Y	1	East	SOUTH OF WEISS RD ON E RD	56831/39028	
10/19/2017	Y	2	East	N CORNER OF WEISS AND E RD	56844/39037	
10/19/2017	Y	1	East	FRONT OF 500 E SADDLE RIVER RD	56854/39043	20393
10/19/2017	Y	1	East	FRONT OF 500 E SADDLE RIVER RD		20392
10/19/2017	Y	1	East	NORTH FRONT OF 500 E SADDLE RIVER RD	56873/39057	21165
10/19/2017	N		East	FRONT OF 517 E SADDLE RIVER RD	56885/39065	56885
10/19/2017	N		East	ACROSS FROM 515 E SADDLE RIVER RD	56895/39072	20389
10/19/2017	N		East	NORTH CORNER OF GRISTMILL AND E RD	56904/39083	
10/19/2017	N		East	ACROSS FROM 519 E SADDLE RIVER RD		
10/19/2017	N		East	FRONT OF 524 E SADDLE RIVER RD	56909/39105	

10/19/2017	N		East	ACROSS FROM 523 E SADDLE RIVER RD			
10/19/2017	N		East	SOUTH CORNER OF MALLARD RUN AND E RD	56912/39125	20384	
10/19/2017	N		East	FRONT OF 530 E SADDLE RIVER RD		20383	
10/19/2017	N		East	BETWEEN 530 & 536 EAST SADDLE RIVER RD	56916/39148	20310	
10/19/2017	N		East	NORTH OF 536 EAST SADDLE RIVER RD	56919/39163	20309	
10/19/2017	N		East	SOUTH OF FOXHILL ON E RD	56912/39174	20308	
10/19/2017	N		East	FRONT OF 550 EAST SADDLE RIVER RD	56924/39131	20306	
10/19/2017	N		East	FRONT OF 554 EAST SADDLE RIVER RD	56926/39209	BT20305	
10/19/2017	N		East	ACROSS FROM 559 EAST SADDLE RIVER RD	56928/39223	20304	
10/19/2017	N		East	SOUTH OF RAMAPO LN ON E RD	56390/39234		
10/19/2017	N		East	NORTH OF RAMAPO LN ON E RD	56933/39250		
				WEISS RD			
Verify	Lechis	#	side of street	location	pole#	sub #	
10/19/2017	Y	1	North	EAST OF E RD ON WEISS	56848/39032	20464	
10/19/2017	Y	1	North	SIDE OF 500 E RD ON WEISS	56858/39027	20465	
10/19/2017	Y	1	North	REAR DRIVE WAY OF 500 E RD ON WEISS	56873/39020	20466	
10/19/2017	Y	1	North	WEST OF 19 WEISS RD	56890/39012	20468	

10/19/2017	Y	2	North	DRIVEWAY OF 23 WEISS RD	56901/39007	
10/19/2017	Y	1	North	DRIVEWAY OF 29A WEISS RD	56911/39002	BT20470
10/19/2017	Y	1	North	DRIVEWAY OF 29 WEISS RD	56925/38995	20471
10/19/2017	Y	1	South	ACROSS FROM 33 WEISS RD	56934/38987	20472
10/19/2017	Y	1	South	WEST OF MAPLE ON WEISS RD	56945/38982	20473
10/19/2017	Y	1	South	WEST CORNER OF MAPLE AND WEISS RD	56955/38978	20474
10/19/2017	Y	1	South	FRONT OF 38 WEISS RD	56970/38972	
10/19/2017	Y	1	South	FRONT OF 42 WEISS RD	56984/38966	
10/19/2017	Y	1	South	EAST CORNER OF ARROWHEAD AND WEISS	56998/38960	
10/19/2017	Y	1	North	FRONT OF 51 WEISS RD	57014/38957	21055
10/19/2017	Y	1	North	ACROSS FROM 50 WEISS RD	57025/38950	21056
10/19/2017	Y	1	North	WEST CORNER OF IVEY AND WEISS RD	57037/38943	
10/19/2017	Y	1	North	EAST CORNER OF IVEY AND WEISS RD	57047/38937	
10/19/2017	Y	1	North	BETWEEN IVEY AND WOODS HOLLOW	57060/38929	
10/19/2017	Y	1	North	EAST OF WOODS HOLLOW ON WEISS RD	57070/38920	20255
10/19/2017	Y	1	North	WEST OF DEFIELD ON WEISS	57081/38910	20254
10/19/2017	Y	1	North	WEST OF COTTAGE PL	57090/38901	

10/19/2017	N		South	EAST OF COTTAGE PL ON WEISS SOUTH SIDE OF ST	57103/38892	20252
10/19/2017	N		South	WEST OF HUFF TERR ON WEISS SOUTH SIDE OF ST	57116/38894	
				HILLSIDE AVE		
Verify	Lechis	#	side of street	location	pole#	sub #
10/19/2017	Y	1	North	BETWEEN W RD AND 7 HILLSIDE AVE	56492/39460	21124
10/19/2017	Y	1	North	FRONT OF 7 HILLSIDE AVE	56501/39459	
10/19/2017	Y	1	South	FRONT OF 10 HILLSIDE AVE	56513/39453	21125
10/19/2017	Y	1	South	FRONT OF 14 HILLSIDE AVE	56527/39451	21126
10/19/2017	Y	1	South	WEST CORNER OF 20 HILLSIDE AVE	56540/39449	NY21120
10/19/2017	Y	2	South	FRONT OF 20 HILLSIDE AVE	56553/39446	20139
10/19/2017	Y	2	North	ON BEND AT 20 HILLSIDE AVE	56567/39446	
10/19/2017	Y	2	South	CROSS FROM BEND AT 20 HILLSIDE AVE	56576/39439	
10/19/2017	Y	2	South	WEST OF CASTEL HILL CT	56585/39429	20142
10/19/2017	Y	2	South	EAST OF CASTEL HILL CT	56598/39424	20143
10/19/2017	Y	1	South	BETWEEN CASTEL HILL AND PLYMOUTH DR	56612/39422	
10/19/2017	Y	1	South	WEST CORNER OF PLYMOUTH DR	56624/39420	

10/19/2017	Y	2	South	EAST CORNER OF PLYMOUTH DR	56636/39418	
				SPARROWBUSH RD		
Verify	Lechis	#	side of street	location	pole#	sub #
10/19/2017	Y	1	South	WEST OF W RD ON SPARROWBUSH RD	56412/39240	20463
10/19/2017	Y	2	South	ACROSS FOR 3 SPARROWBUSH RD	59401/39242	20462
10/19/2017	Y	1	South	ACROSS FOR 7 SPARROWBUSH RD	56389/39244	20461
10/19/2017	Y	1	South	FRONT OF 6 SPARROWBUSH RD	56376/39248	20460
10/19/2017	Y	2	South	ACROSS FROM COBBLESTONE DR	56368/39253	20459
10/19/2017	Y	1	North	WEST OF COBBLESTONE DR	56360/39265	20458
10/19/2017	Y	1	North	EAST OF STREAM ON SPARROWBUSH DR	56357/39268	2457
10/19/2017	Y	2	North	EAST OF COLDSTREAM LN	56346/39273	20456
10/19/2017	Y	1	North	ACROSS FROM COLDSTREAM LN	56335/39276	20455
10/19/2017	N		North	FRONT OF 25 SPARROWBUSH RD	56325/39277	
10/19/2017	N		South	DRIVEWAY OF 4 PHARIS PL	56313/39275	
10/19/2017	N		South	EAST OF PHARIS PL	56302/39277	20452
10/19/2017	N		South	WEST OF PHARIS PL	56286/39281	20451

10/19/2017	Y	1	South	ACROSS FROM NORTHERN TRAIL	56275/39285	20450
10/19/2017	Y	1	South	ACROSS FROM 3 SPARROWBUSH RD	56262/39290	20449
10/19/2017	Y	1	North	ACROSS FROM BRIARCLIFF RD	56251/39300	20448
10/19/2017	N		North	FRONT OF 53 SPARROWBUSH RD	56239/39305	20447
10/19/2017	N		North	FRONT OF 73 SPARROWBUSH RD	56225/39309	
10/19/2017	N		South	FRONT OF 58 SPARROWBUSH RD		BT1130
10/19/2017	Y	1	South	FRONT OF 62 SPARROWBUSH RD		
10/19/2017	Y	1	South	BETWEEN 64 & 68 SPARROWBUSH RD	56176/39323	11228
10/19/2017	Y	1	South	BETWEEN 68 & 72 SPARROWBUSH RD	56163/39328	
10/19/2017	Y	1	South	FRONT OF 76 SPARROWBUSH RD	56150/39333	11226
10/19/2017	Y	1	South	EAST OF CARLOUGH RD ON SPARROWBUSH RD	56135/39338	BT1125
10/19/2017	Y	2	South	BETWEEN 159 & 20 CARLOUGH RD	56127/39337	