

U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
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In the
United States District Court
for the
DISTRICT OF NEW JERSEY

DOCKET NO. 2:17-cv-11988-JMV-JBC

Robert Moss, *pro se*
17 New Street
Bloomfield, N.J. 07003-3603
Phone: 973-743-5203

COURTESY COPY

CHRISTOPHER S. PORRINO,
Attorney General of New Jersey

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CRAIG SASHIHARA,
*Director, N.J. Division on
Civil Rights, and*

Docket NO. 2:17-cv-11988

Motion date Jan. 2, 2018

BOB MARTIN,
*Commissioner of the Department
of Environmental Protection,*

Oral argument requested if
opposed

v.

TOWNSHIP of MAHWAH, and

MAHWAH TOWNSHIP COUNCIL

NOTICE OF MOTION TO INTERVENE

Pleased be advised that on January 2, 2018, Robert Moss will move to intervene in the above-captioned matter.

Movant seeks to intervene to protect his interest in preserving Green Acres encumbrances on Defendant Mahwah's parklands. These encumbrances restrict the use of the parkland to recreation and/or conservation purposes, and were placed in consideration of grant money received by Mahwah from the New Jersey Green Acres open space program.

Plaintiffs seek repayment of all Green Acres funds granted to Mahwah. Movant asserts that New Jersey law prohibits requiring such repayment, when injunctive and specific performance remedies are sought simultaneously, as they are in this action. Movant further asserts that should such repayment be required, the Green Acres encumbrances would be lifted, allowing Mahwah to use the land for non-recreation or non-conservation purposes, or sell it for such purposes.

Movant requests oral argument in the event that his motion is opposed.

A handwritten signature in black ink that reads "Robert Moss". The signature is written in a cursive, flowing style.

Robert Moss, *pro se*
December 4, 2017

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BRIEF IN SUPPORT OF MOTION TO INTERVENE

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STANDING

Movant seeks to challenge a remedy sought by Plaintiffs under New Jersey law, the repayment of Green Acres grant money received by Mahwah. He asserts that this remedy would result in the lifting of Green Acres encumbrances from Mahwah's parklands. These encumbrances restrict the use of parkland to recreation and/or conservation purposes and were placed in consideration of the Green Acres grant money received by Mahwah.

Movant is an advocate for increasing the amount of land under Green Acres encumbrances, and resisting the weakening of these encumbrances through elastic interpretations of Green Acres law.

Movant intervened in *Hannon v. West Milford* (NJ PAS-L-1675-03) to successfully oppose a stay of a municipal council vote to sell land to the Green Acres program, and has joined as a party in *Melvin v. Seaside Heights*, NJ A-004585-15, combined with NJ A-005372-15 (disposal of Green-Acres-encumbered beach). In the latter case, Movant describes himself as an environmental activist who had formally objected to the disposal. His standing was not challenged.

Movant has offered oral and written comments in opposition to lifting Green Acres encumbrances in Toms River (Ocean County College access road), North Bergen (pre-K trailers in Braddock Park), Montclair (water pumping facility in Nishuane Park), Edi-

son (proposed Recreation and Open Space Inventory amendment when no evidence of error on Inventory), Sparta (lease of Green Acres land for TV broadcast tower), and other locations. He has advocated against measures to weaken Green Acres restrictions in West Orange (McLoon's restaurant, South Mountain Reservation), Rahway (revenue-generating stadium in Rahway Park), Clinton Wildlife Management Area (indoor tennis facility), Kenilworth (bar, restaurant, conference room, banquet hall, and New Jersey State Golf Association headquarters at the Galloping Hill golf course), and other locations.

Movant's position is analogous to that of the plaintiffs in *People for Open Government v. Roberts*, 397 N.J. Super. 502, 510-511 (A 2008), who sought to challenge the lack of enforcement of anti-pay-for-play legislation, and had standing because they had been "personally involved" in the effort to enact the legislation.

Movant's interest is clearly greater than that of the general public. "We have consistently held that in cases of great public interest, any 'slight additional private interest' will be sufficient to afford standing." *Salorio v. Glaser*, 82 N.J. 482, 491 (1980).

Movant therefore has standing under New Jersey law to challenge the granting of the aforesaid relief.

REQUIREMENTS FOR INTERVENTION

New Jersey Rule 4:33-1 requires that, for intervention as of right, Movant claim an interest in the transaction at issue, and is so situated that his ability to protect that interest may be impeded, unless one of the existing parties adequately represents that interest.

Movant's claim of an interest in preserving Green Acres encumbrances on Mahwah's parklands, over and above that of the general public, is established by his arguments for standing.

None of the existing parties adequately represents or protects Movant's interest. Plaintiffs seek repayment of all Green Acres grants to Mahwah. Movant asserts that New Jersey law prohibits requiring such repayment when injunctive and specific performance remedies are sought simultaneously, as they are in this action. Movant further asserts that should such repayment be required, the encumbrances would be lifted, allowing Mahwah to use the land for non-recreation or non-conservation purposes.

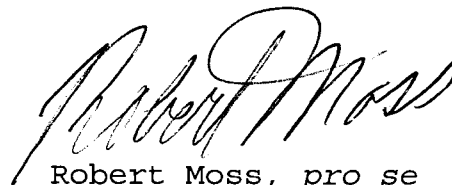
Plaintiffs disagree with all points of Movant's legal analysis, and therefore do not represent his interest. In proceedings in New Jersey Superior Court, Defendants made no claim that they represent Movant's interest.

Movant's situation is distinguished from that of the would-be intervenor in *Builders' League v. Gloucester Co.*, 386 N.J.Super.

462 (A 2006). There, in a challenge to sewer connection fees, the would-be intervenor maintained the same legal position as one of the parties, and also had an opportunity to be heard.

The present action is also distinguishable from *Division of Youth and Family Services v. D. P.*, 422 N.J. Super. 583, 590 (2011). There, a specific official was designated by statute as legal representative of child; thus the would-be intervenors, foster parents who opposed the child's placement with relatives, had no independent legal interest. Such a concept does not even exist in this action. Further, the foster parents participated in "bonding evaluations", and were allowed to present a statement in court.

Movant's interest is therefore not represented or protected by existing parties.

A handwritten signature in black ink that reads "Robert Moss". The signature is written in a cursive style with a large, prominent initial "R".

Robert Moss, pro se
December 4, 2017

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CERTIFICATION OF SERVICE

I, Robert Moss, hereby certify that on December 4, 2017, I served two copies each of this motion by U.S. Mail upon

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PROPOSED ORDER

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Robert Moss having moved for leave to intervene as a defendant,
and established good cause therefore, it is this __ day of
_____,

ORDERED

that Movant be permitted to intervene in the above-captioned
matter.

/s/ _____