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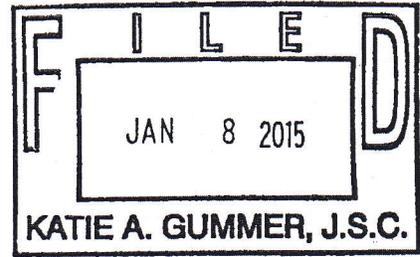
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SIMONE ENTERPRISES, LLC,

Plaintiff,

v.

BOROUGH OF BRADLEY BEACH, MAYOR  
AND COUNCIL OF THE BOROUGH OF  
BRADLEY BEACH, MARY ANN SOLINSKI,  
in her official capacity as the Clerk of the  
Borough of Bradley Beach, and JOHN DOES 1-  
10,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
MONMOUTH COUNTY  
LAW DIVISION

DOCKET No. L-3907-13

Civil Action

**FINAL JUDGMENT**

SIMONE ENTERPRISES, LLC,

Plaintiff,

v.

ZONING BOARD OF ADJUSTMENT OF THE  
BOROUGH OF BRADLEY BEACH,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
MONMOUTH COUNTY  
LAW DIVISION

DOCKET No. L-2936-14

Civil Action

THIS MATTER having been brought before the Court upon motion for summary judgment by Robert A. Kasuba, Esquire of the law firm of Bisgaier Hoff, LLC, attorneys for Plaintiff, Simone Enterprises, LLC ("Simone"); and appearances having been made by William T. McGovern, Esq. of the law firm of McKenna, DuPont, Higgins and Stone, attorneys for Defendants, Borough of Bradley Beach ("Borough"), the Mayor and Council of the Borough of

Bradley Beach ("Mayor and Council"), Mary Ann Solinski ("Clerk"), in her official capacity as Clerk of the Borough of Bradley Beach, (collectively referred to as the "Defendants") and Mark Kitrick, Esq., of the law firm of King, Kitrick, Jackson & McWeeney, LLC, counsel for Defendant, Zoning Board of Adjustment of the Borough of Bradley Beach ("Zoning Board") having notice of this matter; and the Court having considered the submissions of all parties and oral argument of counsel; and the Court having determined that this Final Judgment fairly and justly resolves all of the issues in both of the above captioned litigations.

IT IS ON THIS 5<sup>th</sup> DAY OF <sup>JAN-M-1</sup> ~~DECEMBER~~, 2014<sup>15</sup> HEREBY ORDERED THAT:

1. The Court *sua sponte* consolidates the above-captioned litigations, and this Final Judgment fully disposes of both litigations.

2. This Final Judgment pertains to the use of the four townhomes located at 811 Ocean Avenue, Bradley Beach, New Jersey ("Property") as a residence for individuals, who are in active recovery for substance misuse and are receiving counseling and therapy off-site (the "Use"). A more detailed description of the Use is attached hereto as **Exhibit A** and is incorporated herein by reference.

3. The Use is permitted under the Borough Code and shall be grandfathered if there any changes to the Borough Code. Defendants are required pursuant to the Federal Fair Housing Act, 42 U.S.C. § 3601, et seq., and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq., to make reasonable accommodations in the Borough's ordinances for the Use.

4. Group Rental Licenses, which were previously issued to each of the four townhomes (Units 1, 2, 3 and 4) located at the Property, are subject only to the following conditions:

a. Pursuant to section 365-11 of the Bradley Beach Municipal Code, provided the license fees are paid annually, the Group Rental Licenses shall be renewed. The annual renewal of the Group Rental Licenses shall be conditioned upon compliance with the regulatory provisions of the Municipal Code governing group rentals set forth in Chapter 365, as modified below, and the provisions of the State Uniform Construction Code, which were not raised in the litigations and are not addressed in this Final Judgment.

b. In lieu of the provisions of the Municipal Code regarding the names, addresses and other information concerning the residents set forth in Sections 365-3.A, -3.B, -12.A and -12.B, the following requirements shall apply: A floor plan and identification of each resident by first name and the initial of the last name shall be posted on the inside of the front door of each unit. A copy of the foregoing floor plan and resident identification shall be made available for review at the site by the Borough Code Enforcement Officer, Housing Inspector or Police Department upon reasonable request as the parties shall reasonably agree. In addition, Simone and any successor-in-interest shall not be required to provide the affidavit as set forth in Section 365-3.A of the Borough Code.

c. The provisions of the Municipal Code Section 365-9.A shall not apply to Simone (but shall apply to a potential successor-in-interest) and the provisions of Municipal Code Section 365-10 shall apply to Simone and any successor-in-interest.

d. The Property and its occupants shall be monitored by one or more staff member(s) twenty-four (24) hours a day and seven days a week. The onsite staff member(s) of Operator (see Exhibit A) shall be considered to be the "representative" of the licensee pursuant to Sections 365-7 and -12.A of the Municipal Code.

5. The terms of this Final Judgment shall apply to Simone as property owner and licensee. If Simone or a successor-in-interest sells, assigns or transfers the Property, then the

successor-in-interest will need to apply for a new Group Rental License for each unit. The successor-in-interest may apply for the Group Rental License when a contract is entered into but before such a sale, assignment or transfer of interest has been made. Provided the successor-in-interest will maintain the Proposed Use as contemplated by this order, and Simone or the prior successor-in-interest is otherwise in compliance with the provisions of this Final Judgment, new Group Rental Licenses shall issue to the successor-in-interest for each unit. The purpose of this provision is to grandfather the rights to the Group Rental Licenses for a successor-in-interest subject to continued compliance with the provisions of Article 365 of the Bradley Beach Code regarding group rental licenses and this Final Judgment.

6. Each party shall pay its own attorney's fees and costs. No damages are awarded to Simone.

7. Should any dispute arise between the parties regarding the terms of this Final Judgment, the parties shall attempt to amicably resolve this dispute with Judge Eugene D. Serpentelli (retired), who shall make a written recommendation regarding the resolution of the issues. If any party is not satisfied with the resolution of the issues by Judge Serpentelli, such a party may file a motion in aid of litigant's rights with the Court, and the Court shall be provided with a copy of the written recommendation made by Judge Serpentelli.

8. The Court has served a copy of this Final Judgment on counsel for each of the Parties.

  
HON. KATIE M. GUMMER, J.S.C.

## **EXHIBIT A TO FINAL JUDGMENT**

### **NARRATIVE OF THE USE**

This narrative ("Narrative") describes in greater detail the Use of the four townhomes located at 811 Ocean Avenue, Bradley Beach, New Jersey ("Property") provided that this Narrative is not intended to restrict other lawful uses of the Property. "Operator" refers to any entity or person which is an owner or lessee of the Property or otherwise provides residential housing for individuals, who are in active recovery for substance misuse and are receiving counseling and therapy off-site as contemplated by the permitted Use.

#### **Financial Arrangements**

- Residents shall pay rent to the Operator for the resident's lodging, utilities, and transportation to and from a treatment center located off-site. Residents are expected to pay the first 30 days rent upfront before residing at the house. If the Operator terminates a resident's stay at the Property or if the resident decides to leave before their treatment is complete, the resident shall forfeit all monies paid to the Operator.
- Residents shall also be responsible for an additional security deposit for any damage beyond normal "wear and tear."
- Residents shall also be responsible for fines that may be issued for breaking any house rules. If a fine is not paid by the resident, the resident is subject to disciplinary action, which may include termination of residency.

#### **Zero Tolerance Policies**

- The Property will have a zero tolerance policy for all drug/alcohol use. This includes all controlled substances, mind and mood alternating substances, and any products that contain alcohol (i.e., mouth wash, hand sanitizer). Residents who break this policy are subject to disciplinary action as determined by the house rules, which may include termination of residency.
- The Property will have a zero tolerance policy for all stealing, destruction of all property, sexual activity between residents, and physical/verbal confrontation with staff and other residents. Residents who break these policies are subject to disciplinary, which may include termination of residency.

#### **Treatment / Meeting Requirements**

- Residents are to attend daily group sessions at the off-site treatment center. Transportation will be provided to and from the Property. Residents must have prior approval from staff due to illness to miss any portion of their treatment at the off-site treatment center.

- Residents are required to attend weekly house meetings at the Property.
- Residents shall attend daily AA/NA meetings.
- Residents must submit to all drug screening tests as mandated by staff.
- Residents are expected to abide by the confidentiality and anonymity of other residents.

### **General Rules**

- Curfew is set for 11 pm Sunday through Saturday and all external activities are staff monitored.
- All residents are required to sign in and sign out of the house and identify where he/she is going and what time he/she is expected to return to the house. If a resident expects that he/she will return to the house after the time identified on the sign out sheet, he/she must immediately inform staff. All outside activities are staff supervised.
- Residents will be required to complete chores as assigned to them. Residents must complete all chores assigned. If a resident fails to complete any chore, the resident is subject to disciplinary action as determined by the house rules.
- Residents shall not loiter on the nearby streets of the Property.
- Residents shall not bring any pets or animals onto the Property at any time.
- Residents are not permitted to burn any candles onto the Property at any time.
- Residents are only to have free standing picture frames. No décor of any kind is permitted to be hung on the walls. All décor must be tasteful and approved by staff.
- Residents are to be respectful of noise levels within or near the Property. No loud music is to be played from the house at any time.
- Residents are to use closets, shelving and any designated storage spaces inside the house to store any personal belongings, hygiene items, toiletries and similar items.
- Residents are not to remove any furniture or fixtures from the house or from one room to another.
- Residents are not permitted in other residents' rooms, except that residents are anticipated to share a bedroom with another resident.
- Residents bring valuables onto the property at their own risk. The Operator is not responsible for any belongings that are damages, lost or stolen.

- Residents are not to borrow from and/or lend money to other residents at any time.
- Residents are not permitted to eat food in their bedrooms. Food must be eaten and stored in the kitchen. Countertops, microwaves and stovetops must be cleaned after each use. All food must be labeled with the resident's name and the date the food was placed in the refrigerator, cabinet or other storage location.
- Residents are only permitted to smoke or use tobacco products in designated areas outside. All ash trays are to be emptied once a day. Cigarette butts are not to be thrown onto the ground.
- If a phone is installed, residents are only permitted to say "hello" and take a message. Residents are not permitted to provide any information about the residents or the program.
- If a resident is aware that another resident is breaking the house rules, he/she is urged to report this to staff.

#### **Termination of Residency**

- Residents must take all of their belongings with them when residency ends. If a resident leaves any of his/her belongings on the Property after the residency ends, arrangements must be made to have all belongings picked up within seven (7) days after termination of the residency. Any belongings left on the Property after seven (7) days become the property of the Operator and may be donated to a worthy cause or otherwise disposed of by Operator.
- If a resident wishes to make a donation to the house, he/she must notify staff. Any items donated to the house must stay at the house.