

**FILED**

**AUG 31 2015**

**PREPARED BY THE COURT**

**SUPERIOR COURT OF NJ  
MERCER VICINAGE  
CIVIL DIVISION**

**TOWNSHIP OF HOPEWELL,  
COUNTY OF MERCER STATE OF  
NEW JERSEY, A MUNICIPAL  
CORPORATION OF THE STATE OF  
NEW JERSEY,**

**Plaintiff,**

**v.**

**STATE OF NEW JERSEY; THE  
DEPARTMENT OF THE TREASURY,  
ANDREW P. SIDAMON-ERISTOFF,  
TREASURER; AND THE NEW  
JERSEY COUNCIL ON AFFORDABLE  
HOUSING,**

**Defendants.**

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION –  
MERCER COUNTY**

**DOCKET NO. MER-L-563-15**

**CIVIL ACTION**

**ORDER GRANTING IN PART CROSS-  
MOTIONS FOR SUMMARY  
JUDGMENT, DISMISSING THE STATE  
DEFENDANTS, AND TRANSFERRING  
COUNT III OF THE COMPLAINT TO  
BE CONSOLIDATED WITH  
HOPEWELL TOWNSHIP'S  
DECLARATORY JUDGMENT  
PROCEEDING IN MER-L-1557-15**

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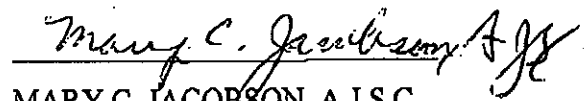
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**THIS MATTER** having been opened to the court by way of plaintiff's motion for summary judgment and defendants' cross-motions to dismiss and alternatively for summary judgment; and the court having reviewed the pleadings, briefs, and appendices of the parties; and the court having held oral argument on the motions on August 27, 2015; and for the reasons set forth on the record on August 27, 2015; and for good cause shown:

**IT IS** on this 31st day of August 31, 2015, **HEREBY ORDERED** that:

1. COUNT I of plaintiff's complaint is hereby DISMISSED.
2. A declaratory judgment is entered in the State's favor on that aspect of Count II of the Complaint through which Hopewell Township sought reimbursement from the New Jersey Affordable Housing Trust Fund for the non-residential development fee returned by Hopewell to Capital Health as a result of adoption of the Stimulus Act. The court hereby declares that no money for reimbursement is currently available in the Fund and no relief can be entered against the State defendants on Count II of the Complaint.
3. Defendants' application to be dismissed as parties to this litigation is granted.
4. A declaratory judgment is entered in plaintiff's favor on that aspect of Count II of the Complaint through which Hopewell sought alternative relief under N.J.S.A. 52:27D-311.3(b) in the form of a credit against its affordable housing obligation. While entitled to a credit since Hopewell has shown that there are insufficient funds in the Trust Fund to reimburse the Township for the development fee returned to Capital Health, the number of credits sought by Hopewell shall be determined in the declaratory judgment proceeding brought by Hopewell to determine its affordable housing obligation under the Mt. Laurel doctrine in MER-L-1557-15.
5. The claims set forth in COUNT III of the Complaint, which seek credits against Hopewell's affordable housing obligation, are severed from this action, and both transferred to, and consolidated with the declaratory judgment action brought by Hopewell in MER-L-1557-15.

6. With the severance and transfer of the claims brought in Count III to MER-L-1557-15, the court shall dismiss MER-L-563-15. The file shall be maintained as part of MER-1557-15.

  
MARY C. JACOBSON, A.J.S.C.