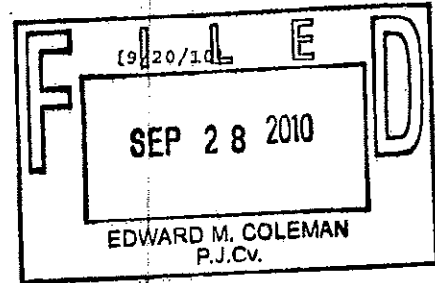


TRUE COPY

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(609) 896-4222  
Attorneys for Defendants



FULPER FAMILY, LLC, FULPER  
PRESERVATION, LLC, ROBERT J.  
FULPER, SARAH E. FULPER,  
ROBERT J. FULPER, II, and  
FREDERICK R. FULPER,

Plaintiffs,

v.

THE TOWNSHIP OF WEST AMWELL,  
a Municipal Corporation,  
TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF WEST AMWELL, the  
GDP COMMITTEE OF THE TOWNSHIP  
OF WEST AMWELL, and BOARD OF  
HEALTH OF THE TOWNSHIP OF  
WEST AMWELL

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
SOMERSET COUNTY

DOCKET NO. SOM-L-1061-09

CIVIL ACTION

ORDER SCHEDULING WHISPERING  
WOODS HEARING ON PROPOSED  
STIPULATION OF SETTLEMENT

This matter having been opened before the Honorable Edward M. Coleman, P.J. Cv. upon joint application of Connell Foley (Patrick J. McAuley, Esq. appearing), attorneys for plaintiffs and Parker McCay, P.A. (Howard D. Cohen, Esq. appearing), attorneys for defendants; and the Court having been advised that the parties have agreed to a proposed Stipulation of Settlement which is subject to a hearing before this Court pursuant to Whispering Woods v. Middletown Township, 220 N.J. Super. 161 (Law Div. 1987); and the Court having been further advised that notice of said

hearing will be given by publication in an official newspaper of the Township, not less than 10 days prior to the hearing date fixed by the Court; and the Court having read and considered the proposed Stipulation of Settlement; and having heard argument of counsel; and for good cause shown;

IT IS ON THIS 28 day of Sept 2010;

ORDERED that a hearing to consider and approve the proposed Stipulation of Settlement, a copy of which is annexed to this Order, be and the same is hereby scheduled for OCT 13 2010 at 1<sup>30</sup> pm at the Somerset County Courthouse in Somerville, New Jersey, in the Court Room of the Honorable Edward M. Coleman, P.J. Cv.; and it is

FURTHER ORDERED that duly authorized representatives of plaintiffs and defendants be present at the above hearing for the purpose of consideration and approval of the proposed Stipulation of Settlement; and it is

FURTHER ORDERED that notice of this hearing, together with a copy of this Order shall be given by publication in an official newspaper of the Township, which notice shall be published not later than 10 days prior to the hearing date fixed herein; and it is

FURTHER ORDERED that no objections to the terms of the proposed Stipulation of Settlement shall be entertained by the Court unless such objections are received in writing by the Court and counsel for the parties by OCT 6 2010; and 9 AM it is

FURTHER ORDERED that this Order shall be duly published in an official newspaper of the Township.

  
EDWARD M. COLEMAN, P.J. Cv.

{9/20/10}

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Defendants

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
SOMERSET COUNTY

DOCKET NO. SOM-L-1061-09

CIVIL ACTION

STIPULATION OF SETTLEMENT

The parties, having amicably resolved to settle this case on the terms set forth herein,  
agree as follows:

1. The First Amended Complaint shall be dismissed with prejudice, subject to the  
terms hereinbelow as pre-conditions of such dismissal:

a) Adoption of an ordinance by the Township of West Amwell Board of  
Health, in the form attached hereto, which ordinance amends Chapter 173 of the Code of the  
Township of West Amwell to exempt any General Development Plan approved prior to the  
adoption of the BOH Ordinance 01-2006 on September 27, 2006 from the provisions of  
Section 173-21 applicable to reserve septic disposal fields, notwithstanding amendments to

any such General Development Plan as may be permitted or approved thereafter pursuant to the Municipal Land Use Law.

b) Upon adoption of the aforesaid ordinance, all claims asserted in the above captioned matter, including but not limited to claims for damages and attorneys fees, shall be dismissed with prejudice and without costs by Stipulation of Dismissal in the form attached hereto.

c) The parties agree to execute any and all documents and to take any and all actions necessary or appropriate in furtherance of the settlement set forth herein.

3. This Stipulation shall be subject to a public hearing pursuant to Whispering Woods v. Middletown Township, 220 N.J. Super. 464 (App. Div. 1984) and Gandolfi v. Town of Hammonton, 367 N.J. Super. 527 (App. Div. 2004), and a finding by the Court that the terms of this Stipulation are not illegal or void as against public policy.

4. The Court shall retain jurisdiction for the purpose of enforcing the terms of this Stipulation.

**CONNELL FOLEY**  
Attorneys for Plaintiffs

BY: \_\_\_\_\_  
PATRICK J. McAULEY, Esq.

Dated: \_\_\_\_\_

**PARKER McCAY, P.A.**  
Attorneys for Defendants

BY: \_\_\_\_\_  
HOWARD D. COHEN, Esq.

Dated: \_\_\_\_\_

W OFFICE  
PARKER McCAY P.A.

AN ORDINANCE AMENDING CHAPTER 173  
OF THE CODE OF THE TOWNSHIP OF  
WEST AMWELL, HUNTERDON COUNTY NEW JERSEY

BE IT ORDAINED by the Board of Health of West Amwell Township, Hunterdon County New Jersey that Chapter 173-21B and 173-21G be amended in Sections 1 and 2 below as follows:

Section 1:

Section 173-21B. Exemptions.

The following are exempt from the provisions of Section 173-21;

- (1) Agricultural divisions of land.
- (2) Lot line adjustments.
- (3) The remaining lands in a subdivision that will be restricted in their entirety against any future development.
- (4) Any General Development Plan approved prior to the adoption of BOH Ordinance 01, 2006 on September 27, 2006, notwithstanding amendments to any such General Development Plan as may be permitted or approved thereafter pursuant to the Municipal Land Use Law.

Section 2:

Section 173-21G. This Ordinance shall not apply to pending subdivisions for which applications have been deemed complete by the West Amwell Planning Board or Board of Adjustment prior to September 27, 2006, to undivided lots for which current applications for individual Subsurface Sewerage Disposal Systems have been filed prior to September 27, 2006; or to General Development Plans approved prior to September 27, 2006, notwithstanding amendments to any such General Development Plan as may be permitted or approved thereafter pursuant to the Municipal Land Use Law.

Section 3:

This Ordinance shall become effective immediately upon final adoption and publication in accordance with the laws of the State of New Jersey.

Section 4:

Upon Adoption this Ordinance shall become part of the  
Code of the Township of West Amwell.

APPROVED BY THE BOARD OF HEALTH

---

Kenneth T. Hart, Chair

ATTEST:

---

Lora L. Olsen, Secretary

[9/20/10]

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WEST AMWELL

Defendants

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
SOMERSET COUNTY

DOCKET NO. SOM-L-1061-09

CIVIL ACTION

STIPULATION OF DISMISSAL  
WITH PREJUDICE AND  
WITHOUT COSTS

The parties having amicably resolved their differences by way of Stipulation of Settlement, which settlement was the subject of a Whispering Woods hearing before the Honorable Edward M. Coleman, P.J. Cv. on October \_\_\_\_\_, 2010, it is hereby agreed that the First Amended Complaint in the above-referenced matter is dismissed with prejudice and without costs.

CONNELL FOLEY  
Attorneys for Plaintiffs

PARKER McCAY, P.A.  
Attorneys for Defendants

BY: \_\_\_\_\_  
PATRICK J. McAULEY, Esq.

BY: \_\_\_\_\_  
HOWARD D. COHEN, Esq.