

1 **Kevin Wine, *Pro Se***  
2 345 Lancaster Court  
3 Piscataway, NJ 08854  
4 201-401-6129 - Telephone  
5 kwine@optonline.net  
6 *Plaintiff*

7 KEVIN WINE, on behalf of himself and all  
8 others similarly situated,

9 Plaintiff,

10 vs.

11 SOCIETY HILL AT PISCATAWAY  
12 CONDOMINIUM ASSOCIATION, INC.,  
13 BOARD OF TRUSTEES OF SOCIETY  
14 HILL AT PISCATAWAY  
15 CONDOMINIUM ASSOCIATION, INC.,  
16 JOHN DOES 1-10, and ABC CORPS. 1-10,

17 Defendants.

SUPERIOR COURT OF NEW  
JERSEY CHANCERY DIVISION,  
GENERAL EQUITY PART,  
MIDDLESEX COUNTY

Civil Action:

DOCKET NO. MID-C-\_\_\_\_\_

**BRIEF**

20 **PLAINTIFF'S BRIEF IN SUPPORT OF**  
21 **ORDER TO SHOW CAUSE**

22  
23  
24 On the brief:  
25 Kevin Wine, *Pro Se*  
26  
27  
28

## INTRODUCTION

This is an application for an order to show cause and to proceed summarily for declaratory and injunctive relief under the authority of N.J.S.A. 15A:5-23 which states:

“Any election by members may be reviewed by the Superior Court in a summary manner, or otherwise, in an action brought by a member entitled to vote at the election upon notice to the persons elected, the corporation and all other persons as the court may direct. The court may confirm the election, order a new election or provide all other relief as justice may require.”

The claims are based upon the verified complaint (the “Verified Complaint”) of Plaintiff Kevin Wine and all others similarly situated, arising out of Defendants’ numerous violations of law relating to the administration of the 2025 Annual Meeting and Election, including:

- a. N.J.A.C. 5:26-8.9(d), requiring that proxies contain “a clear and prominent notice that use of the proxy is voluntary on the part of the granting owner”, yet Defendants’ proxy lacked the notice (EXHIBIT Q, at 2); and
- b. N.J.A.C. 5:26-8.9(h)(3), requiring that “ballots shall be cast in an anonymous manner”, yet the paper ballots contained a unique identifier (EXHIBIT Q, at 1); and
- c. N.J.A.C. 5:26-8.9(h)(4), requiring that “If the bylaws permit, and the association member consents, a ballot may be cast electronically...”, yet no such amendment was made to the bylaws (EXHIBIT AB); and
- d. N.J.A.C. 5:26-8.9(h)(2), requiring that “All ballot tallying shall occur publicly...”, and ballot tallying began well before the officially noticed start time of the 2025 Annual Meeting; and
- e. N.J.A.C. 5:26-8.9(l)(1)(iv)(2), requiring that “The ballot shall contain the names of all persons nominated and found to be in good standing...”, yet candidate Zahid Khan was missing from the 375 paper ballots, (EXHIBIT Q, at 1); and

- 1 f. N.J.A.C. 5:26-8.9(1)(1)(iv)(2), requiring that candidates on the ballot be listed “in  
2 alphabetical order by last name.”, yet the candidate candidates were not listed in  
3 alphabetical order by last name on both the paper and electronic ballots. (EXHIBIT  
4 Q, at 1) (EXHIBIT P); and  
5
- 6 g. N.J.A.C. 5:26-8.9(1)(1)(iv)(6), requiring that “The ballot shall include space for write-  
7 in candidates for as many seats as are up for election.”, yet the paper ballot contained  
8 four write-in slots, when three seats were up for election (EXHIBIT Q, at 1); and  
9
- 10 h. N.J.A.C. 5:26-8.11(b)(1), requiring that “The board shall not remove an elected  
11 member for disagreeing with the majority or for violating any confidentiality  
12 agreement without affording the elected member Alternative Dispute Resolution  
13 (ADR) in which the ADR provider concludes from substantial credible evidence that  
14 there was a breach that adversely affected the interests of the association members as  
15 opposed to that of the executive board”, and yet the Board President threatened to  
16 remove Plaintiff from the Board (EXHIBIT S, at 1), and attempted to engage Plaintiff  
17 in ADR, however on a topic unrelated to removal from the Board (EXHIBIT U, at 4);  
18 and  
19
- 20 i. N.J.A.C. 5:26-8.12(d), requiring that “Every elected board member shall be provided  
21 equal opportunity to participate in any meeting of board members.”, and yet a sub-set  
22 of the Board clearly discussed how to remedy the problem of candidate Zahid Khan  
23 missing from the paper ballots without including Plaintiff/trustee Kevin Wine and  
24 trustee Anthony Blanco (EXHIBIT D); and  
25
- 26 j. N.J.A.C. 5:26-8.12(g), requiring that “When a meeting of the executive board is  
27 required to deal with matters of such urgency and importance..., notice of the  
28

1 emergency meeting shall be deemed to be adequate if it is provided as soon as  
2 possible following the calling of the meeting by posting in accordance with (c)  
3 above.”, yet no such notice was given to the members; and  
4

5 k. N.J.A.C. 5:26-8.12(g)(2), requiring that “Minutes for emergency meetings shall be  
6 taken and made available to members of the association...”, yet no minutes for the  
7 September 2, 2025 special meeting of the Board were made available to the members;  
8 and

9 l. Association Bylaws section 3.10, requiring that “Votes may be cast either in person  
10 or by proxy...”, yet no electronic equivalent of a proxy was provided to members  
11 voting electronically. (EXHIBIT AC); and  
12

13 m. Association Bylaws section 3.10, again requiring that “Votes may be cast either in  
14 person or by proxy...”, yet Plaintiff and at least one other member were denied the  
15 ability to vote in person at the 2025 Annual Meeting.  
16

17 For these reasons, Plaintiff now seeks, among the other relief set forth in the Verified  
18 Complaint, a judicial order and a declaration by the Court:

19 a. that members be allowed to vote in person at Annual Meetings and Elections up to  
20 some reasonable time just before the election inspectors have completed their  
21 counting; and  
22

23 b. that Plaintiff’s own ballot and the 12 ballots given to Plaintiff by proxy at the 2025  
24 Annual Meeting and Election, be counted; and  
25

26 c. that all ballot counting must take place in public, if not during the officially  
27 announced time of the Annual Meeting and Election, then at another time publicly  
28

noticed to the entire membership and open to in-person attendance by the members;

and

d. that some reasonable mechanism be in place for members to request replacement paper election forms, proxies, and ballots, and replacement electronic voting credentials, in a reasonable amount of time from Management; and

e. that the Association Bylaws, as currently amended, do not permit electronic voting;

and

f. that the 2025 Annual Meeting and Election of the Association and Board election at said meeting is invalid.

Plaintiff seeks the above relief pursuant to R. 4:67-1 et seq. (the rule governing “Summary Actions”). R. 4:67-1 et seq. governs the procedure for cases proceeding by order to show cause, as summary actions. R. 4:67-1 is applicable to all actions in which the court is permitted by rule or by statute to proceed in a summary manner, and provided that it is likely that the matter may be completely disposed of in a summary manner. Summary disposition is deemed to be an appropriate method to dispose of declaratory judgment actions. River Vale Tp. v. R. J. Longo Const. Co., Inc., 127 N.J. Super. 207 (Law Div. 1974). The purpose of N.J.S.A. 2A:16-50 et seq. (“the New Jersey Declaratory Judgment Act”) is “to declare rights, status and other legal relations, whether or not further relief is or could be claimed.” N.J.S.A. 2A:16-52.

## FACTUAL BACKGROUND

The allegations stated in the Verified Complaint are set forth below, in relevant part, verbatim, for the convenience of the Court and Plaintiff relies on same in support of this application and the other relief requested therein:

1. Plaintiff Kevin Wine is an individual condominium owner and Board of Trustees member in good standing and entitled to vote in the 2025 Annual Meeting and Election, residing at 345 Lancaster Court, Township of Piscataway, County of Middlesex, State of New Jersey.
2. Defendant Society Hill at Piscataway Condominium Association, Inc. (the “Association”) is a New Jersey Non-Profit Title 15A Corporation with offices at 550 Chesterfield Drive, Piscataway, New Jersey 08854.
3. Defendant Board of Trustees of Society Hill at Piscataway Condominium Association, Inc. (the “Board”) are individuals named in their official capacities, and with an office at 550 Chesterfield Drive, Piscataway, New Jersey 08854.
4. The Board contacts with First Service Residential to manage the day-to-day operations of the Association, including the 2025 Annual Meeting and Election.
5. The property manager is Sonia Danquah (the “Management”) and the regional director is Meaghan Cannon (the “Regional Director”).
6. Association Counsel (the “Counsel”) is Susan Radom, Esq., of Radom and Wetter.
7. The Board members and their capacity, prior to the 2025 Annual Meeting and Election, were Mohiuddin Syed (President), Plaintiff Kevin Wine (Vice-President), Matt Phillips (Treasurer), Mark Kelsey (Secretary), Mona Wan, Anthony Blanco, and one vacant seat.
8. The Board member terms and their capacity, after the conclusion of the 2025 Annual Meeting and Election, were Mohiuddin Syed 2028 (Vice President), Matt Phillips 2027 (President), Mark Kelsey 2028 (Treasurer), Mona Wan 2027 (Secretary), Anthony Blanco 2026, Vincent Marchitto 2027, and Plaintiff Kevin Wine 2026.

- 1 9. In the 2025 Annual Meeting and Election, candidates Mohiuddin Syed, Mark Kelsey,  
2 and Yogesh Patel were campaigning together; candidates John Fakla, Zahid Khan,  
3 and Vincent Marchitto were campaigning together; and candidate Kalindee Desai was  
4 not affiliated with anyone.  
5
- 6 10. Defendants John Does 1-10 are fictitious individuals whose identities are not yet  
7 known and who are responsible for the acts and/or omissions alleged herein.  
8
- 9 11. Defendants ABC Corps. 1-10 are fictitious corporate entities whose identities are not  
10 yet known and which are responsible for the acts and/or omissions alleged herein.  
11
- 12 12. The Association is governed by a seven-member Board, which consists of volunteer  
13 members of the Association.  
14
- 15 13. For the 2025 Annual Meeting and Election, the Board allowed members to opt-in to  
16 vote electronically.  
17
- 18 14. 170 members opted in for electronic voting, and the remaining 375 continued with the  
19 conventional paper proxy and ballot.  
20
- 21 15. On July 17, 2025, the Association sent the 2025 Annual Meeting and Election notice  
22 to all members with the meeting scheduled for September 16, 2025 at 7PM.  
23  
24 (EXHIBIT A at 1)
- 25 16. The letter stated that "...two (3) seats..." seats were available, each for a 3-year term,  
26 when in fact two seats were for a 3-year term, and one seat was for the remaining 2-  
27 years of a trustee who was disqualified in March 2025.  
28
17. The letter stated that the nomination deadline was September 5, 2025, when in fact  
the deadline was August 16, 2025.

- 1 18. The nomination form incorrectly mentioned “Society Hill at Somerset II” in the first  
2 paragraph. (EXHIBIT A at 2)
- 3 19. Plaintiff was aware of at least three members who had submitted nominations prior to  
4 the August 16, 2025 nomination deadline – John Fakla, Vincent Marchitto, and Zahid  
5 Khan.
- 6 20. Management declined to release any election related mailing documents to the Board  
7 or Plaintiff for proof-reading, prior to distribution to the members, including the  
8 proxy form, ballot, and candidate profile statements.
- 9 21. Plaintiff saw the candidate profiles for the first time on August 23, 2025, after they  
10 were hand-delivered to some of the resident members in the Association.
- 11 22. One candidate, Zahid Khan, was missing from the profiles, yet was clearly mentioned  
12 in the profiles of candidates John Falka and Vincent Marchitto. (EXHIBIT B)
- 13 23. Over the weekend of August 23 to August 24, 2025, Plaintiff emailed Management  
14 and the Board asking why the profile of a qualified candidate was missing from the  
15 candidate profile distribution. (EXHIBIT C)
- 16 24. Management responded directly to Plaintiff via text message and indicated that the  
17 nomination for Zahid Khan was eventually located in Management’s email inbox,  
18 dated August 14, 2025, which was 2 days prior to the nomination deadline.
- 19 25. On Monday August 25, 2025, Management emailed the Board that the plan was to re-  
20 mail all 7 profile statements and a letter explaining the error to the approximately 375  
21 members voting by paper proxy/ballot, but not to include a revised copy of a ballot  
22 with all 7 candidates. (EXHIBIT D)
- 23  
24  
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- 1 26. In the email Management stated “After discussion with some members, we agreed  
2 that resending the entire ballot would likely create confusion.”
- 3 27. Neither Plaintiff/trustee Kevin Wine, nor trustee Anothony Blanco, were made aware  
4 of or invited to the “...discussion with some members.”, or any discussion involving  
5 Counsel for this entire controversy.
- 6
- 7 28. Management requested all Trustees to respond via email with their yes/no vote on the  
8 proposed solution, to which Trustees Mohiuddin Syed, Mark Kelsey, Matt Philips,  
9 and Mona Wan responded in the affirmative (EXHIBIT E) and trustee/Plaintiff Kevin  
10 Wine and trustee Anthony Blanco opposed.
- 11
- 12 29. Plaintiff advised Management and the Board that excluding a candidate from the  
13 ballot is inconsistent with the PREDFDA, and that Trustees Mohiuddin Syed and  
14 Mark Kelsey should recuse themselves from the vote since they were also candidates  
15 in the election. (EXHIBIT F)
- 16
- 17 30. Management sought advice from Counsel (EXHIBIT G), but no response from  
18 Counsel was ever communicated to Plaintiff.
- 19
- 20 31. Trustee Anthony Blano emailed Management and reiterated the request for a  
21 corrected ballot to be included in the new mailing and that trustees/candidates  
22 Mohiuddin Syed and Mark Kelsey should abstain on votes directly impacting the  
23 election. (EXHIBIT H)
- 24
- 25 32. Trustee/candidate Mohiuddin Syed responded that he is under no legal obligation to  
26 recuse himself from the vote on the new mailing, implied that only the omitted  
27 candidate and non-trustee Zahid Khan had standing to object to the proposed solution,  
28

1 and implied consequences if any of the internal emails on this topic were released to  
2 the members. (EXHIBIT I)

3 33. At 2:48PM on August 25, 2025, the Regional Director responded to trustee Anthony  
4 Blanco, indicating that the Management was willing to mail a corrected ballot at no  
5 cost to the Association. (EXHIBIT J).  
6

7 34. Evidently there was some internal communication delay and the Regional Director  
8 was not aware a different decision had already been made by the Board. (EXHIBIT  
9 K).  
10

11 35. In a final effort to make sure the Board was aware of its legal obligations, Plaintiff  
12 emailed Management, Management Director, Board, and Counsel, citing N.J.A.C.  
13 5:26-8.9(l)(1)(iv)(2), which stated that the ballot must contain all the qualified  
14 candidates, in alphabetical order by last name. (EXHIBIT L)  
15

16 36. Regional Director responded that the Board, in consultation with Counsel, has  
17 decided on a course of action and we need to move forward. (EXHIBIT M)  
18

19 37. Trustee Anothony Blanco again reminded Management, Management Director, the  
20 Board, and Counsel of its obligations under PREDFDA, but there was no further  
21 response. (EXHIBIT N)  
22

23 38. At 5:04PM on August 25, 2025, a community email was sent by Management  
24 explaining the allegedly accidental omission of candidate Zahid Khan from the  
25 profile statements and the ballot. (EXHIBIT O)  
26

27 39. The instructions told members voting via paper ballot and wishing to vote for  
28 candidate Khan to “write in his name as one of your selections.”

- 1 40. The instructions told members voting via electronic ballot that candidate Zahid Khan  
2 was added to the electronic ballot, and his candidate statement was now included on  
3 the link with the other 6 candidate statements.  
4
- 5 41. On the electronic ballot the candidates were not in alphabetical order by last name,  
6 and instead were almost in alphabetical order by first name, with Mohiuddin Syed  
7 listed before Mark Kelsey. (EXHIBIT P)  
8
- 9 42. On the evening of August 25, 2025, Plaintiff received the 2025 Annual Meeting and  
10 Election mailing via USPS and saw the paper ballot and proxy for the first time.  
11
- 12 43. On the paper ballot the candidates were not in alphabetical order by last name, and  
13 instead were almost in alphabetical order by first name, with Mohiuddin Syed listed  
14 before Mark Kelsey. (EXHIBIT Q, at 1)  
15
- 16 44. Candidate Zahid Khan was missing from the paper ballot.  
17
- 18 45. The ballot contained four write-in slots, when there were only three seats up for  
19 election.  
20
- 21 46. The ballot contained a unique “QR Code” looking symbol in the upper left corner of  
22 the ballot.  
23
- 24 47. The proxy lacked the clear and prominent notice “use of the proxy is voluntary on the  
25 part of the granting owner”, as required by N.J.A.C 5:26-8.9(d). (EXHIBIT Q, at 2)  
26
- 27 48. No candidate profile statements were included in the mailing to Plaintiff, and instead  
28 the profile statements were supposed to have been delivered to the door of Plaintiff,  
and all other resident members, by Association staff.

- 1 49. To the best of Plaintiff's knowledge, the 6 candidate profiles, minus the profile of  
2 candidate Zahid Khan, were included in the mailing to the remaining non-resident  
3 owners voting by paper.  
4
- 5 50. At 9:20AM on August 26, 2025, Plaintiff emailed Management, the Board, and  
6 Counsel, advising them of the additional errors on the ballot, most critically the  
7 candidate names were not in alphabetical order by last name. This was the last email  
8 in the thread as no response was received. (EXHIBIT R)  
9
- 10 51. At 1:35PM on August 26, 2025, Management emailed the Board regarding an  
11 interaction with candidate Vincent Marchitto in which Management stated that  
12 candidate Marchitto was "...repeating verbatim portions of Kevin's most recent email  
13 correspondence." (EXHIBIT S, at 3)  
14
- 15 52. On August 27, 2025, Board President/candidate Mohiuddin Syed sent an email  
16 accusing Plaintiff of breaking Board confidentiality, and threatening "Failure to  
17 address this matter satisfactorily may result in further action under the Code of  
18 Conduct, including exclusion from meetings, removal from the Board, or other  
19 remedies permitted by law and Association governance." (EXHIBIT S, at 1)  
20
- 21 53. N.J.A.C. 5:26-8.11(b)(1) requires that ADR be provided to a trustee for a breach of  
22 confidentiality, and ADR was proposed by Defendant, however the ADR was  
23 proposed for a different issue unrelated to removal from the Board. (EXHIBIT U at 4)  
24
- 25 54. On August 26, 2025, Trustee/Plaintiff Kevin Wine and Anthony Blanco, under the  
26 authority of section 5.08 of the Association's Bylaws, requested a special meeting of  
27 the Board and the meeting was scheduled. (EXHIBIT T)  
28

- 1 55. The Special Meeting took place on September 2, 2025, with no notice to the  
2 Association members and no attendance by any members, and with Counsel present  
3 via Zoom.
- 4 56. Trustee Kevin Wine moved to appoint an election inspector committee to take over  
5 and run the election, and an election oversight committee to oversee the election  
6 process. Both motions were seconded by trustee Anthony Blanco, and voted down 2-  
7 4 with trustees Mohiuddin Syed, Matthew Phillips, Mark Kelsey, and Mon Wan  
8 opposing.
- 9 57. Minutes were taken, which included the ratification of the Boards' prior email vote on  
10 the motion to mail out only the 7 candidate profile statements but not a corrected  
11 copy of the ballot.
- 12 58. N.J.A.C. 5:26-8.12(g) requires that notice of emergency meetings still be provided to  
13 the membership as soon as possible, and that the Association shall maintain a record  
14 and facts of the emergency, and that minutes shall be taken and made available to the  
15 membership.
- 16 59. To date, the minutes of the September 2, 2025 Special Meeting of the Board have not  
17 been reviewed, approved, or released to the members.
- 18 60. Around September 5, 2025, the mailing containing all 7 candidate profile statements  
19 and a letter explaining the error, but no corrected ballot, began to be received by  
20 members voting by paper.
- 21 61. On September 2, 2025, Management emailed Plaintiff stating that Management could  
22 "...issue a replacement ballot or email as appropriate" in response to Plaintiff asking  
23  
24  
25  
26  
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28

1 Management how members may obtain a replacement ballot if they lost or never  
2 received their original paper ballot or email ballot. (EXHIBIT U, at 2)

3 62. On September 10, 1025, Management emailed Plaintiff a conflicting answer, stating  
4 that "If a homeowner misplaces their mailed ballot, the Association allows them to  
5 vote **in person on election Day** using a **provisional ballot**." (EXHIBIT V, at 1)

6  
7 63. The final adjournment of the 2025 Annual Meeting and Election took place on  
8 November 5, 2025.

9 64. The Annual Meeting and Election was scheduled for 7PM, as were all the  
10 adjournments, including the November 5, 2025 adjournment. (EXHIBIT W)

11 65. Prior to the official publicly announced Annual Meeting and Election start time of  
12 7PM, Plaintiff observed that the election inspectors had already started to open,  
13 process and count the ballots.

14  
15 66. There was no mention in any of the public meeting notices that ballot processing and  
16 counting was going to begin prior to 7PM, exactly what time counting was to begin,  
17 or inviting all the members to observe the counting process.

18  
19 67. Plaintiff arrived at the meeting at approximately 6:40PM, 20 minutes before the  
20 meeting start time, and was summarily advised that it was too late to vote in person.

21 68. Plaintiff was expecting to cast his own vote in person, as well as exercise several  
22 proxies he was expecting to receive from other members.

23  
24 69. Eventually and prior to 7PM, Plaintiff was handed 7 ballots to complete composed of  
25 his vote plus 6 proxies, but the ballots were set aside and never counted.

- 1 70. Near the end of the ballot counting around 9PM, the election inspectors found 4  
2 additional proxies assigned to Plaintiff, but Plaintiff was not allowed to vote those  
3 proxies either in spite of being physically present for the entire meeting.  
4
- 5 71. The inspectors reported their vote totals as follows: Kalindee Desai – 17; John Fakla  
6 – 91; Zahid Khan – 78; Mark Kelsey – 110; Vincent Marchitto – 103; Yogesh Patel –  
7 102; Mohiuddin Syed – 108. (EXHIBIT X, at 1)
- 8 72. There were 88 paper ballots cast, and 121 electronic ballots cast (EXHIBIT X, at 5)
- 9 73. The additional 11 votes Plaintiff would have cast for candidates John Falka, Vincent  
10 Marchitto, and Zahid Khan would not have changed the 3 winning candidates.  
11
- 12 74. The additional 11 votes would have changed the ranking of the 3 winning candidates,  
13 which would have resulted in candidate Vincent Marchitto receiving a full 3-year  
14 term instead of a 2-year un-expired term, and candidate Mohiuddin Syed receiving  
15 the 2-year un-expired term instead of a full 3-year term.  
16
- 17 75. On both the paper ballot total and the electronic ballot total, candidate Zahid Khan  
18 received the least votes of the Fakla/Marchitto/Khan candidate trio, and the lowest  
19 votes of any candidate except the un-affiliated Kalindee Desai. (EXHIBIT X, at 6)
- 20 76. When candidate Zahid Khan was nominated, qualified, and ran in the 2024 election,  
21 he tied for first place in the election on October 22, 2024. (EXHIBIT Y)
- 22 77. In March of 2025, barely 5 months after being elected, the Board forcibly removed  
23 Zahid Khan from the Board over a \$54 disputed assessment balance on one of his  
24 units.  
25  
26  
27  
28

- 1 78. In the 2023 Annual Meeting and Election, Zahid Khan was also nominated as a  
2 candidate and placed on the ballot with a question mark next to his name. (EXHIBIT  
3 Z)  
4
- 5 79. The question mark was on the ballot due to another outstanding amount due on one of  
6 candidate Zahid Khan's units, which was resolved but not in sufficient time to satisfy  
7 the Board.
- 8 80. No effort was made by the Board to distribute a corrected 2023 ballot to all 545  
9 members with candidate Zahid Khan not appearing on the ballot.
- 10 81. From at least November 2022 to late 2023, and intermittently thereafter, another  
11 trustee was delinquent in his maintenance fee assessments, but no action was taken to  
12 remove the trustee from the Board. (EXHIBIT AA)  
13
- 14 82. During the course of their delinquency, several late fee credits and other adjustments  
15 were made to their account, no legal collection action was pursued, and the trustee  
16 was allowed to remain on the Board until the trustee resigned just before the 2024  
17 elections in August of 2024.  
18
- 19 83. The Association's Bylaws as originally written did not permit electronic voting in  
20 Association Annual Meetings.
- 21 84. The Board failed to adopt an amendment permitting electronic voting, and instead on  
22 the advice of Counsel, relied on the September 19, 2023 Bylaw amendment that only  
23 permitted electronic notification to Members as Bylaw authority for electronic voting.  
24 (EXHIBIT AB, at 11-12)  
25
- 26 85. None of the other Bylaw amendments address electronic voting. (EXHIBIT AB)  
27  
28



- 1 86. The electronic voting service utilized by the Board did not provide Members with an  
2 electronic proxy form. Only an electronic ballot was provided, with a link to the  
3 candidate profile statements.
- 4 87. As per section 3.10 of the Association Bylaws, “Votes may be cast either in person or  
5 by proxy. Proxies must be in writing and filed with the Secretary...” (EXHIBIT AC)
- 6 88. The electronic voting service utilized by the Board did not provide Members with a  
7 mechanism to revoke their proxy/vote, and replace their ballot with a new one.
- 8 89. On November 11, 2025, and again on November 14, 2025, Plaintiff inspected the  
9 paper proxies and ballots from the 2025 Annual Meeting and Election.
- 10 90. In the pile of qualified and counted proxies and ballots, Plaintiff counted 88 ballots  
11 and 69 proxies, meaning that 19 ballots had been counted that had no corresponding  
12 proxy form.
- 13 91. Plaintiff located an additional 2 proxies with Plaintiff designated as proxy holder that  
14 the election inspectors apparently missed, bringing Plaintiff’s proxy count to 12.
- 15 92. Of the 69 proxies, 2 had no proxy giver specified, 4 had no date, 1 had no address,  
16 and 2 had no box checked.
- 17 93. Eight units were disqualified as delinquent.
- 18 94. Three units were disqualified as “duplicate” or “wrong name”, but were from separate  
19 units owned by the same member.
- 20 95. Four units were disqualified: one for no proxy giver specified; one for no address and  
21 no proxy giver specified; one for unknown reasons; and another because there was no  
22 identifying information.
- 23  
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- 1 96. One of the proxies give to Plaintiff was flagged as “late”, even though it was known  
2 to be deposited in the election mailbox in the evening of November 3, 2025, two  
3 calendar days prior to the November 5, 2025 Annual Meeting and Election.  
4
- 5 97. On the night of the 2025 Annual Meeting and Election, at least one member arriving  
6 at the meeting well prior to 7PM was turned away.
- 7 98. If all of Plaintiff’s disqualified 10 proxy votes, Plaintiff’s own vote, Plaintiff’s two  
8 additional proxies found during ballot inspection, the turned away member on  
9 election night, and the three votes disqualified as “duplicate” or “wrong name”, which  
10 were known to support candidates Falka/Marchitto/Khan, were counted, candidate  
11 John Fakla would have received 108 votes, which would have tied him with candidate  
12 Mohiuddin Syed for third place, thus impacting the outcome of the election.  
13
- 14 99. During the course of the 2025 election campaign, Plaintiff was advised by several  
15 members that they had either never received the election mailing or misplaced it.  
16
- 17 100. Plaintiff was provided conflicting information by Management as to whether it  
18 was possible to create replacement ballots (EXHIBITS U,V), which is why several  
19 members gave their proxy to Plaintiff.
- 20 101. Over the last several years, candidates John Fakla and Vincent Marchitto have  
21 been expressing their opinion on various association matters to the current  
22 Management, past management, and to the Board at open meetings.  
23
- 24 102. During several of those interactions, the police were called to the scene and  
25 accusations were made that candidates John Falka and Vincent Marchitto made  
26 threats towards management, the Board, individual board members, and staff.
- 27 103. In spite of multiple police interactions, no criminal charges ever resulted.  
28

- 1 104. Numerous aggressively worded letters written by Counsel were sent to candidate  
2 Vincent Marchitto, unlawfully banning him from the community clubhouse, and  
3 banning him from interacting with management, staff, contractors, and board  
4 members, and ultimately banning him from attending the 2025 Candidate Night event  
5 in person. (EXHIBIT AD)  
6
- 7 105. Candidate John Fakla also received an aggressively worded letter written by  
8 Counsel, likely resulting from a single interaction between his son John Fakla, Jr. and  
9 a Trustee, and banning him from attending the 2025 Candidate Night event in person.  
10
- 11 106. Candidate Vincent Marchitto filed an ADR request on September 8, 2025, which  
12 the Board acted on after the 2025 Annual Meeting and Election had concluded, a full  
13 2 months after the request was filed, and as of this filing the hearing has yet to be  
14 confirmed, nearly 3 months after the request. (EXHIBIT AE)  
15
- 16 107. In the 2018 Annual Meeting and Election, a complaint was filed (MID-C-113-19)  
17 over several election defects, however the court declined to intervene.  
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**I. PLAINTIFF IS ENTITLED TO DECLARATORY RELIEF BY ORDER TO SHOW CAUSE AND IN ACCORDANCE WITH THE SUMMARY ACTION RULE.**

BRIEF IN SUPPORT OF OTSC  
Page 20 of 32

1           Additionally, Defendant refused to allow Plaintiff to vote his 10 or more proxies, and his  
2 own vote, in spite of being 20 minutes early to the final adjournment of the 2025 Annual  
3 Meeting and Election; turned away at least one other member attempting to vote in person prior  
4 to the officially noticed meeting start time; included 19 ballots in the voting tally that had no  
5 accompanying proxy; excluded other ballots with proxies that had errors; and included other  
6 ballots with proxies that had similar errors.  
7

8           The New Jersey Declaratory Judgment Act states, in relevant part:

9           All courts of record in this state shall, within their respective jurisdictions, have  
10 power to declare rights, status and other legal relations, whether or not further  
11 relief is or could be claimed; and no action or proceeding shall be open to  
12 objection on the ground that a declaratory judgment is demanded.

13           The enumeration in other sections of this article of the questions determinable and  
14 rights declarable in a proceeding brought under the provisions of this article does  
15 not limit or restrict the exercise of the general powers conferred by this section in  
16 a proceeding for declaratory relief, in which a judgment will terminate the  
17 controversy or remove an uncertainty.

18           The Declaratory Judgment Act further states:

19           A person interested under a deed, will, written contract or other writing  
20 constituting a contract, or whose rights, status or other legal relations are affected  
21 by a statute, municipal ordinance, contract or franchise, may have determined any  
22 question of construction or validity arising under the instrument, statute,  
23 ordinance, contract or franchise and obtain a declaration of rights, status or other  
24 legal relations thereunder.

25           In this action, Plaintiff requests that the Court declare the invalidity of certain actions  
26 taken by the Board and in contravention of the Association Bylaws and New Jersey Statute, and  
27 that the Defendants show cause as to why the relief sought should not be entered. The Rule  
28 governing summary actions, R. 4:67-1 et seq., applies to “all actions in which the court is

1 permitted by rule or by statute to proceed in a summary manner . . .” and if “it is likely that the  
2 matter may be completely disposed of in a summary manner.”

3 By the very nature of the Declaratory Judgment Act, the Court is empowered to proceed  
4 in declaring the rights of a party summarily. Moreover, if the relief requested by the Plaintiff is  
5 granted, all issues raised in the Verified Complaint will be resolved, and the entirety of the  
6 verified complaint will be rendered moot.

7  
8 Accordingly, Plaintiff respectfully requests that the relief requested be granted in its  
9 entirety.

1 **II. INJUNCTIVE RELIEF BY AND THROUGH AN ORDER REQUIRING THE**  
2 **SPECIFIC PERFORMANCE OF DEFENDANTS IS NECESSARY TO PREVENT**  
3 **IRREPARABLE HARM TO PLAINTIFF AND THOSE SIMILARLY SITUATED.**

4 In determining the propriety of injunctive relief, the law is clear that a court must  
5 consider four factors: (1) whether an injunction is “necessary to prevent irreparable harm;” (2)  
6 whether the legal right underlying applicant’s claim is unsettled; (3) whether the applicant has  
7 made a preliminary showing of a reasonable probability of ultimate success on the merits; and  
8 (4) the relative hardship to the parties in granting or denying injunctive relief. Rinaldo v. RLR  
9 Inv., LLC, 387 N.J. Super. 387, 395 (App. Div. 2006) (citing Crowe v. De Gioia, 90 N.J. 126,  
10 132-34 (1982)).

11 The issuance of an interlocutory injunction is based upon the exercise of sound judicial  
12 discretion that may permit the court to place less emphasis on any particular Crowe factor if  
13 another factor greatly requires the issuance of temporary relief. Waste Mgmt. of N.J., Inc. v.  
14 Union County Util. Auth., 399 N.J. Super. 508, 519 (App. Div. 2008).

15 For the reasons set forth herein it is respectfully submitted that Plaintiff has satisfied the  
16 requirements necessary for the issuance of an injunction requiring Defendants to:  
17

- 18
- 19 1. move Trustee Vincent Marchitto to a 3-year term on the Board, and then convene a  
20 special meeting of the Association in accordance with the Association Bylaws, at which  
21 time the Board shall:
    - 22 a. conduct an entirely new election, beginning with a call for nominations within 15  
23 days of court order, with the four seats occupied by trustees Mohiuddin Syed,  
24 Mark Kelsey, Matthew Philips, and Mona Wan up for election; and  
25
    - 26 b. schedule the new election for 45 days from court order; and  
27
- 28

- 1 c. have the entire annual meeting and election conducted by an independent outside  
2 auditor not affiliated with the Board or the Management, in a manner consistent  
3 with all applicable laws, with review by all 7 members of the Board of all election  
4 related procedures, correspondence and documents to prevent errors; and  
5  
6 d. have the entire annual meeting and election conducted on paper, as the  
7 Association Bylaws do not currently permit electronic voting.
- 8 2. or, alternatively (Alternate 1), move Trustee Vincent Marchitto to a 3-year term on the  
9 Board, and then convene a special meeting of the Association in accordance with the  
10 Association Bylaws, at which time the Board shall:  
11  
12 a. conduct a new 2025 Annual Meeting and Election with two seats up for election,  
13 one for a 3-year term, and one for a 2-year term, with candidates Kalindee Desai,  
14 John Fakla, Mark Kelsey, Zahid Khan, Yogesh Patel, and Mohiuddin Syed; and  
15  
16 b. schedule the new election for 45 days from court order; and  
17  
18 c. have the entire annual meeting and election conducted by an independent outside  
19 auditor not affiliated with the Board or the Management, in a manner consistent  
20 with all applicable laws, with review by all 7 members of the Board of all election  
21 related procedures, correspondence and documents to prevent errors; and  
22  
23 d. have the entire annual meeting and election conducted on paper, as the  
24 Association Bylaws do not currently permit electronic voting.
- 25 3. or, alternatively (Alternate 2), convene a special meeting of the Association in  
26 accordance with the Association Bylaws, at which time the Board shall:  
27  
28 a. redo the 2025 Annual Meeting and Election with three seats up for election, two  
for a 3-year term, and one for a 2-year term, with candidates Kalindee Desai, John



1 Fakla, Mark Kelsey, Zahid Khan, Vincent Marchitto, Yogesh Patel, and  
2 Mohiuddin Syed; and

3 b. schedule the new 2025 Annual Meeting and Election for 45 days from court  
4 order; and

5 c. have the entire annual meeting and election conducted by an independent outside  
6 auditor not affiliated with the Board or the Management, in a manner consistent  
7 with all applicable laws, with review by all 7 members of the Board of all election  
8 related procedures, correspondence and documents to prevent errors; and

9 d. have the entire annual meeting and election conducted on paper, as the  
10 Association Bylaws do not currently permit electronic voting.

11  
12  
13 4. or, alternatively (Alternate 3), re-convene the election inspectors from the 2025 Annual  
14 Meeting and Election, within 15 days of court order, and publicly perform a re-count of  
15 all ballots, including Plaintiff's disqualified vote and proxies, the ballot of the member  
16 that was turned away on election night prior to 7PM, any currently disqualified  
17 proxies/ballots consistent with how the previously counted 88 ballots and 69 proxies were  
18 handled, and review the delinquency status of any member disqualified for such to  
19 confirm they were delinquent by the same uniform standard across all delinquent voters  
20 and not current on a payment plan.

21  
22  
23 **A. In the Absence of Injunctive Relief, Plaintiff, and Those Similarly Situated, Will**  
24 **Incur Imminent and Irreparable Harm that Cannot be Redressed with Monetary**  
25 **Damages.**

26 To obtain injunctive relief, an applicant must show by clear and convincing evidence that  
27 an injunction is necessary to prevent imminent and irreparable harm. B & S Ltd., Inc. v.

28 Elephant & Castle Int'l, Inc., 388 N.J. Super. 160, 168 (Ch. Div. 2006); see also Crowe v. De

1 Gioia, 90 N.J. 126, 133 (1982). Harm has been considered “irreparable” if it cannot be redressed  
2 adequately by monetary damages. Crowe, 90 N.J. at 133. The Crowe court found that severe  
3 personal inconvenience may constitute irreparable injury in certain circumstances. Id.  
4 Therefore, Plaintiff must show that absent the issuance of a preliminary injunction, they will  
5 suffer irreparable harm that cannot be redressed sufficiently following a trial of the matter.  
6

7 Here, the Association and its Board have convened an election and annual meeting that is  
8 in direct violation of the Association’s Bylaws and state statutes. As homeowner Members of the  
9 Board, Plaintiff and those similarly situated have a significant property interest in the propriety  
10 and sanctity in the manner by which Association business is conducted and how the common  
11 elements, in which they have an interest, are managed and overseen. There is no monetary  
12 value that can be placed on the adherence to the Association’s governing documents and  
13 applicable law. Indeed, the failure of the Association and the Board to adhere to the law and  
14 proper procedure presents a slippery slope and a further precedent as to how business may be  
15 conducted in the future. For that reason, Plaintiff and those similarly situated will be irreparably  
16 harmed in the absence of this Court’s intervention as requested.  
17

18 According, Plaintiff has demonstrated “imminent and irreparable harm” sufficient to  
19 warrant injunctive relief and an order for specific performance.  
20

21 **B. The Legal Rights Underlying Plaintiff’s Claims are Well-Settled.**

22 The legal rights at issue are grounded in the New Jersey Condominium Act, N.J.S.A. 15A,  
23 the governing documents, and N.J.A.C. 5.26. These documents proscribe the policies, practices,  
24 and procedures that the Defendants are required to follow as a matter of law and a matter of  
25 contract. It is beyond the Boards authority to be altering the state statutes and other governing  
26 documents, and as such the Board’s ultra vires actions are not protected by the business  
27  
28

1 judgment rule, and the Court can intervene. *Verna v. Links at Valleybrook*, 852 A. 2d 202, 212  
2 (App. Div. 2004) Accordingly, all rights at issue are well-settled and cannot be disputed.

3  
4 **C. Plaintiff Has Made a Preliminary Showing of a Reasonable Probability of Ultimate**  
5 **Success on the Merits.**

6  
7 A trial court's determination whether to grant or deny an application for a preliminary  
8 injunction involves a different analysis than whether to grant a permanent injunction at the  
9 conclusion of the case. *Rinaldo v. RLR Inv., LLC*, 387 N.J. Super. 387, 397 (App. Div. 2006).  
10 The court must determine whether the applicant has made "a preliminary showing of a  
11 reasonable probability of ultimate success on the merits." *Id.* (citing *Crowe v. De Gioia*, 90 N.J.  
12 at 133). This involves predicting the probable outcome of the case based upon documentary  
13 proofs that cannot be disputed. *Id.* If there is a dispute as to whether the harm the applicant  
14 alleges can be adequately addressed by monetary damages, the court must determine not only the  
15 likelihood that the applicant will establish the other party's liability but also the need for  
16 injunctive relief to redress the harm. *Id.* Based upon the facts set forth in the Verified Complaint  
17 and the supporting case law, Plaintiff has demonstrated that the Association has not adhered to  
18 accepted laws and procedures, and therefore, is likely to succeed in the merits of their claims  
19 against Defendants.

20  
21 **D. Any Hardship to Defendants in Granting Injunctive Relief By and Through Specific**  
22 **Performance Would be De Minimis and the Hardship Suffered By Plaintiff in**  
23 **Denying the Requested Relief Would be Substantial.**  
24

25 Plaintiffs recognize that in determining whether to grant a preliminary injunction, the  
26 extent to which they will suffer hardship must be considered. *Crowe*, 90 N.J. at 132-34. Here,  
27 entry of the Order to Show Cause with injunctive relief by and through specific performance is  
28

1 unlikely to impose any burden upon Defendants. The Order proposed by Plaintiff will ensure  
2 that the very governing documents and the law dictating the election and meeting procedures  
3 Defendants are already legally bound to adhere to are indeed performed and practiced. Thus the  
4 proposed Order cannot pose any undue hardship on Defendants.  
5

6 Moreover, any injury that Defendants may suffer, to the extent that there would be any in  
7 the first instance, as a result of the issuance of the Order to Show Cause, is outweighed by the  
8 irreparable harm Plaintiff and all others similarly situated will suffer if the relief is not granted.

9 Accordingly, Plaintiff respectfully requests that the relief requested be granted in its  
10 entirety.  
11

### 12 **CONCLUSION**

13 As the evidence demonstrates, the Board not only violated several provisions of N.J.A.C.  
14 5.26, but did so in an intentional manner aimed at influencing the outcome of the 2025 Annual  
15 Meeting and Election. The Boards improperly noticed special meeting of the board and failure to  
16 provide minutes documenting their refusal to include a corrected copy of the paper ballot in a  
17 mailing that was going out anyway, and then threatening to retaliate against Plaintiff for alerting  
18 the members of the attempted cover-up, exposes the willful nature of their actions. The  
19 cumulative statutory, regulatory, and procedural violations are well beyond minor clerical error.  
20 It is difficult to imagine how a large-scale property management company that manages several  
21 thousand properties across North America and likely hundreds of properties in New Jersey, is not  
22 intimately familiar with condominium election law and is making so many “innocent” mistakes  
23 in the administration of Defendants’ Annual Election. It is equally difficult to imagine how  
24 Management proofread the candidate profile statements and failed to notice that two of those  
25 profiles directly mentioned a candidate for which the nomination and profile was missing.  
26  
27  
28

1 Plaintiff and many other members wait patiently every year for the annual elections, to settle  
2 differences in a civilized manner, only to be insulted by brazen disrespect of the law. At some  
3 point a line must be drawn. Thirteen separate violations of statute, and multiple other violations  
4 of procedure and fairness, and the intentional refusal to remedy the most egregious of all the  
5 violations – leaving a candidate entirely off the ballot, has got to be over that line. As monetary  
6 damages are not applicable in this situation, the remaining penalty is to force the four trustees  
7 who participated directly in or in support of the Board’s ultra vires actions, Mohiuddin Syed,  
8 Mark Kelsey, Matthew Phillips, and Mona Wan, to go before the members in a recall election,  
9 along with any other nominated and qualified candidates. As Defendants’ actions have unfairly  
10 tainted certain candidates, merely re-doing the 2025 Election and Annual Meeting with only the  
11 existing candidates would not sufficiently redress the harm.  
12

13  
14 Based upon the Verified Complaint and exhibits thereto, together with the law and  
15 analysis contained herein, it is respectfully submitted that the Court should grant Plaintiff’s  
16 application and enter an order:  
17

- 18 1. Plaintiff requests judgement declaring that members be allowed to vote in person at  
19 Annual Meetings and Elections up to some reasonable time just before the election  
20 inspectors have completed their counting.
- 21 2. Plaintiff requests judgement declaring that Plaintiff’s own ballot and the 12 ballots  
22 given to Plaintiff by proxy at the 2025 Annual Meeting and Election, be counted.
- 23 3. Plaintiff requests judgement declaring that all ballot counting must take place in  
24 public, if not during the officially announced time of the Annual Meeting and  
25 Election, then at another time publicly noticed to the entire membership and open to  
26 in-person attendance by the members.  
27  
28

- 1           4. Plaintiff requests judgement declaring that some reasonable mechanism be in place
- 2           for members to request replacement paper election forms, proxies, and ballots, and
- 3           replacement electronic voting credentials, in a reasonable amount of time from
- 4           Management.
- 5
- 6           5. Plaintiff requests judgement declaring that the Association Bylaws, as currently
- 7           amended, do not permit electronic voting.
- 8
- 9           6. Plaintiff requests judgment declaring that the 2025 Annual Meeting and Election of
- 10          the Association and Board election at said meeting is invalid.

11          And that Defendant be directed to:

- 12          1. Move Trustee Vincent Marchitto to a 3-year term on the Board, and then convene a
- 13          special meeting of the Association in accordance with the Association Bylaws, at
- 14          which time the Board shall:
  - 15               a. conduct an entirely new election, beginning with a call for nominations within
  - 16               15 days of court order, with the four seats occupied by trustees Mohiuddin
  - 17               Syed, Mark Kelsey, Matthew Philips, and Mona Wan up for election; and
  - 18               b. schedule the new election for 45 days from court order; and
  - 19               c. have the entire annual meeting and election conducted by an independent
  - 20               outside auditor not affiliated with the Board or the Management, in a manner
  - 21               consistent with all applicable laws, with review by all 7 members of the Board
  - 22               of all election related procedures, correspondence and documents to prevent
  - 23               errors; and
  - 24               d. have the entire annual meeting and election conducted on paper, as the
  - 25               Association Bylaws do not currently permit electronic voting.
  - 26
  - 27
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- 1           2. Or, alternatively (Alternate 1), move Trustee Vincent Marchitto to a 3-year term on  
2           the Board, and then convene a special meeting of the Association in accordance with  
3           the Association Bylaws, at which time the Board shall:
- 4                 a. conduct a new 2025 Annual Meeting and Election with two seats up for  
5                 election, one for a 3-year term, and one for a 2-year term, with candidates  
6                 Kalindee Desai, John Fakla, Mark Kelsey, Zahid Khan, Yogesh Patel, and  
7                 Mohiuddin Syed; and  
8                 b. schedule the new election for 45 days from court order; and  
9                 c. have the entire annual meeting and election conducted by an independent  
10                outside auditor not affiliated with the Board or the Management, in a manner  
11                consistent with all applicable laws, with review by all 7 members of the Board  
12                of all election related procedures, correspondence and documents to prevent  
13                errors; and  
14                d. have the entire annual meeting and election conducted on paper, as the  
15                Association Bylaws do not currently permit electronic voting.
- 16           3. Or, alternatively (Alternate 2), convene a special meeting of the Association in  
17           accordance with the Association Bylaws, at which time the Board shall:
- 18                 a. redo the 2025 Annual Meeting and Election with three seats up for election,  
19                 two for a 3-year term, and one for a 2-year term, with candidates Kalindee  
20                 Desai, John Fakla, Mark Kelsey, Zahid Khan, Vincent Marchitto, Yogesh  
21                 Patel, and Mohiuddin Syed; and  
22                 b. schedule the new 2025 Annual Meeting and Election for 45 days from court  
23                 order; and  
24                 c. have the entire annual meeting and election conducted by an independent  
25                 outside auditor not affiliated with the Board or the Management, in a manner  
26                 consistent with all applicable laws, with review by all 7 members of the Board  
27                 of all election related procedures, correspondence and documents to prevent  
28                 errors; and

1 c. have the entire annual meeting and election conducted by an independent  
2 outside auditor not affiliated with the Board or the Management, in a manner  
3 consistent with all applicable laws, with review by all 7 members of the Board  
4 of all election related procedures, correspondence and documents to prevent  
5 errors; and

6 d. have the entire annual meeting and election conducted on paper, as the  
7 Association Bylaws do not currently permit electronic voting.

8  
9 4. Or, alternatively (Alternate 3), re-convene the election inspectors from the 2025  
10 Annual Meeting and Election, within 15 days of court order, and to publicly perform  
11 a re-count of all ballots, including Plaintiff's disqualified vote and proxies, the ballot  
12 of the member that was turned away on election night prior to 7PM, any currently  
13 disqualified proxies/ballots consistent with how the previously counted 88 ballots and  
14 69 proxies were handled, and review the delinquency status of any member  
15 disqualified for such to confirm they were delinquent by the same uniform standard  
16 across all delinquent voters and not current on a payment plan.  
17  
18

19 Oral argument is respectfully requested, if opposed.

20 Respectfully submitted,

21 Kevin Wine, Plaintiff

22  
23  
24 By:  Pro Se

Kevin Wine, *Pro Se*

25 Date: December 5, 2025  
26  
27  
28