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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

MATTHEW JOHNSON, ET AL.,

*Plaintiffs,*

v.

GOVERNOR PHILIP D. MURPHY, ET AL.,

*Defendants.*

Case No. 1:20-cv-06750-NLH-JS

Motion Return Date:

November 2, 2020

NOTICE OF MOTION FOR LEAVE TO APPEAR AND FILE A BRIEF AS *AMICI CURIAE*

PLEASE TAKE NOTICE that on November 2, 2020, or as soon as the Court may allow, the undersigned, counsel for non-party proposed *amici curiae* Fair Share Housing Center, Lawyers’ Committee for Civil Rights Under Law, Housing & Community Development Network of New Jersey, National Association for the Advancement of Colored People – New Jersey State Conference, and the New Jersey Latino Action Network (collectively, “Movants”),

shall move before the Honorable Noel L. Hillman, United States District Judge, for entry of an order granting them leave to appear and file a brief as *amici curiae* in support of Defendants' motion to dismiss (ECF No. 26); and

PLEASE TAKE FURTHER NOTICE that Movants will rely upon the attached Memorandum of Law in Support of Their Motion for Leave to Appear and File a Brief as *Amici Curiae*, the proposed *amicus* brief, with exhibits, and the proposed order, which are electronically filed and submitted herewith; and

PLEASE TAKE FURTHER NOTICE that pursuant to Local Civil Rule 78.1(b)(1), oral argument is requested if any opposition is submitted.

Dated: October 7, 2020  
New York, New York

Respectfully submitted,

PROSKAUER ROSE LLP

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November 2, 2020

MEMORANDUM OF LAW IN SUPPORT OF MOTION  
FOR LEAVE TO APPEAR AND FILE A BRIEF AS *AMICI CURIAE*

Proposed *amici curiae* Fair Share Housing Center, Lawyers’ Committee for Civil Rights Under Law, Housing & Community Development Network of New Jersey, National Association for the Advancement of Colored People – New Jersey State Conference, and the New Jersey Latino Action Network (collectively, “Movants”), respectfully move this Court for leave to appear and file a brief as *amici curiae* in support of Defendants’ motion to dismiss (ECF No. 26).

District courts have the inherent power to permit third parties to participate in an action as *amici curiae*. See *United States v. Alkaabi*, 223 F. Supp. 2d 583, 592 (D.N.J. 2002) (“The extent, if any, to which an *amicus curiae* should be permitted to participate in a pending action is solely within the broad discretion of the district court.”). There is no rule governing the appearance of *amici* in district court, but courts in the District of New Jersey are guided by the Third Circuit’s interpretation of Federal Rule of Appellate Procedure 29 governing such appearance in circuit court. Rule 29 permits a private *amicus* brief upon motion where the movant has an interest in the matter, the movant’s participation would be desirable, and the movant’s brief will address matters “relevant to the disposition of the case.” Fed. R. App. P. 29(a)(2)–(3). Indeed, the Third Circuit has explained that a motion for leave to file an *amicus* brief should be granted “unless it is obvious that the proposed brie[f] do[es] not meet Rule 29’s criteria as broadly interpreted.” *Neonatology Assocs., P.A. v. Comm’r of Internal Revenue*, 293 F.3d 128, 133 (3d Cir. 2002) (Alito, J.). Under this broad reading, it is “preferable to err on the side of granting leave.” *Id.* Numerous courts in this District have granted *amici* leave to file briefs on this basis. See, e.g., Order, *Islamic Soc’y of Basking Ridge v. Twp. of Bernards*, No. 16-cv-1369-MAS (D.N.J. Dec. 12, 2016), ECF No. 74; *Acra Turf Club, LLC v. Zanzuccki*, No. 12-cv-2775-MAS, 2014 WL 5465870, at \*5 (D.N.J. Oct. 28, 2014); *Foley v. Horizon Blue Cross Blue Shield of NJ*, No. 06-cv-6219-FSH, 2007 WL 2694069, at \*1 (D.N.J. Sept. 11, 2007); *Alkaabi*, 223 F. Supp. 2d at 592.

The Movants satisfy Rule 29’s criteria here. As the proposed *amicus* brief demonstrates, Movants are national, state, and local fair housing advocates and civil rights organizations with expertise on the laws, policies, and history relating to issues of fair housing; landlord-tenant law; racial, ethnic, and socio-economic discrimination; as well as homelessness and poverty in the United States. The Movants have extensive experience advocating for and litigating on behalf of

the interests of lower-income tenants and homeowners, nonprofit landlords, consumers, and households experiencing poverty and homelessness. The Movants therefore have a substantial interest in this litigation.

The Movants' participation in this matter also is desirable and likely to aid the Court. The Movants' *amicus* brief highlights the important issues in this matter that are of grave concern and consequence to New Jersey tenants, particularly its tenants of color. It explains how COVID-19 disproportionately affects the health and survival of certain racial and ethnic minorities, including Black and Hispanic Americans. It further explains tenants' inability to pay rent, due to no fault of their own, and how that is expected to translate into an avalanche of evictions. The brief examines the widespread public health problems caused by housing insecurity, evictions, and homelessness, as well as how landlords have received multiple financial protections during the pandemic, but tenants have received few protections. The *amicus* brief therefore provides highly relevant context regarding the potential impact of the Court's ruling on New Jersey renters. *See Neonatology Assocs.*, 293 F. 3d at 132 (explaining that an *amicus* brief may be helpful if it can explain "the impact a potential holding might have on an industry or other group"); *Harris v. Pernsley*, 820 F.2d 592, 603 (3d Cir. 1987) ("[P]ermitting persons to appear in court . . . as friends of the court . . . may be advisable where third parties can contribute to the court's understanding of the consequences" of the matter.).

We note that other fair-housing organizations have filed similar *amicus* briefs in support of state governors in similar litigations in New York and Connecticut, which have been accepted by those courts and cited in their opinions. *See Elmsford Apartment Assocs., LLC v. Cuomo*, No. 20-cv-4062-CM, ECF No. 18 (granting *amici*'s motion for leave to file *amicus* brief); *id.*, 2020 WL 3498456, at \*1 (S.D.N.Y. June 29, 2020) (granting New York Governor Andrew M.

Cuomo's motion for summary judgment). *Auracle Homes, LLC v. Lamont*, No. 3:20-cv-00829-VAB, ECF No. 29 (text order granting *amici*'s motion for leave to file *amicus* brief); *id.*, 2020 WL 4558682 (D. Conn. Aug. 7, 2020) (denying plaintiffs' motion for a restraining order and preliminary injunction challenging Connecticut Governor Ned Lamont's executive orders).

In connection with this motion, we have conferred with counsel for the parties: the Office of the Attorney General of New Jersey consents to our motion and Plaintiffs' counsel states that Plaintiffs take no position on the filing of our motion.

For these reasons, the Movants respectfully request that the Court grant their motion for leave to appear and participate in this action as *amici curiae*.

Dated: New York, New York  
October 7, 2020

Respectfully submitted,

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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*Plaintiffs,*

v.

GOVERNOR PHILIP D. MURPHY, ET AL.,

*Defendants.*

Case No. 1:20-cv-06750-NLH-JS

BRIEF OF *AMICI CURIAE* FAIR SHARE HOUSING CENTER,  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW,  
HOUSING & COMMUNITY DEVELOPMENT NETWORK OF NEW JERSEY,  
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE – NEW  
JERSEY STATE CONFERENCE, AND THE NEW JERSEY LATINO ACTION NETWORK  
IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS

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**STATEMENT OF INTEREST OF THE *AMICI CURIAE***

This brief is submitted on behalf of proposed *amici curiae* Fair Share Housing Center (“FSHC”), Lawyers’ Committee for Civil Rights Under Law (“Lawyers’ Committee”), Housing & Community Development Network of New Jersey (“HCDNNJ” or the “Network”), National Association for the Advancement of Colored People – New Jersey State Conference (“NAACP”), and the New Jersey Latino Action Network (“LAN”) in support of Defendants’ motion to dismiss.<sup>1</sup>

*Amici* are national, state, and local fair housing advocates and civil rights organizations with expertise on the laws, policies, and history relating to issues of fair housing; landlord-tenant law; racial, ethnic, and socio-economic discrimination; as well as homelessness and poverty in the United States. *Amici* have extensive experience advocating for and litigating on behalf of the interests of lower-income tenants and homeowners, nonprofit landlords, consumers, and households experiencing poverty and homelessness.

The outcome of this action will have tremendous implications on the missions and activities of these *amici*, as the Court is asked to decide whether hundreds of thousands of New Jersey’s working families—Black and Latinx, disproportionately—will be allowed to use their security deposits to pay rent and remain in their homes, while many struggle to provide food and other necessities for their children in the midst of an unprecedented global pandemic that has caused widespread suffering and death across New Jersey, and left millions of New Jerseyans out of work or with substantially reduced incomes.

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<sup>1</sup> This brief was principally authored by *amici* along with Proskauer Rose LLP, counsel for *amici*. No party’s counsel authored this brief in whole or in part. Neither any party nor any party’s counsel contributed money related to the preparation or submission of this brief. No person other than *amici*, their members, and their counsel contributed money related to the preparation or submission of this brief.

Fair Share Housing Center, founded in 1975, is a public interest organization dedicated to defending the housing rights of New Jersey’s working families. FSHC’s mission is to end discriminatory and exclusionary housing patterns that deprive lower-income households of the realistic opportunity to live in safe, decent, and affordable housing with equal access to educational and economic opportunities. FSHC’s primary work has been to enforce the *Mount Laurel* doctrine, which is a series of landmark decisions from the New Jersey Supreme Court that requires each town in New Jersey to provide for its “fair share” of its region’s need for affordable housing.

The Lawyers’ Committee for Civil Rights Under Law is a national nonpartisan, nonprofit organization that was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. The mission of the Lawyers’ Committee is to secure equal justice under law, through the rule of law, targeting in particular the inequities confronting African-Americans and other racial and ethnic minorities. The Fair Housing & Community Development Project at the Lawyers’ Committee fights discrimination in housing and promotes greater opportunity for lower-income people of color.

The Housing & Community Development Network of New Jersey, founded in 1989, is the statewide association of over 250 nonprofit housing and community development corporations, landlords, individuals, professional organizations, and prominent New Jersey corporations that support the creation of housing choices and economic opportunities for low- and moderate-income community residents. The Network is a policy advocate at the state and local level for increased economic opportunities for lower-income households, and stronger, healthier communities for all New Jerseyans. The Network and its members share a commitment to promoting economic justice and the empowerment of lower-income individuals



and communities, and encouraging wider participation in the framing and implementation of public policies.

The National Association for the Advancement of Colored People – New Jersey State Conference is part of the nation’s oldest, largest, and most preeminent civil rights organization. Founded in 1909, the NAACP has 2,200 units and branches across the nation, along with well over two million activists. The NAACP’s mission is to secure the political, educational, social, and economic equality of rights in order to eliminate race-based discrimination and ensure the health and well-being of all persons.

The New Jersey Latino Action Network, founded in 2009, is a grassroots organization composed of individuals and organizations that are committed to engaging in collective action at the local, state, and national level in order to advance the equitable inclusion of the diverse Latino community in all aspects of American society. LAN seeks to be the voice for all Latinos in New Jersey, and its members include tenants, landlords, parents, community leaders, student leaders, religious leaders, law enforcement professionals, entrepreneurs, and business professionals.

### **PRELIMINARY STATEMENT**

*Amici curiae* respectfully submit this brief in order to highlight the important issues in this matter that are of grave concern and consequence to New Jersey’s working families, particularly its working families of color. As the Court is well aware, the nation is gripped by a deadly and devastating pandemic caused by COVID-19, which has impacted the lives of all Americans, killing hundreds of thousands and leaving countless others unemployed or underemployed. Efforts are being made at all levels of government to stem the pandemic’s tragic consequences.

Governor Philip D. Murphy’s issuance of Executive Order 128 (“E.O. 128”) in April 2020 is one such endeavor. E.O. 128 helps New Jersey renters by allowing them to use their security deposits to contribute to their rent payments. And the benefits are not limited to renters: E.O. 128 also helps landlords meet their financial obligations. The Order’s reasonable and appropriate protections for public welfare, made against the backdrop of a national public health emergency, the deaths of hundreds of thousands, and record levels of unemployment, easily passes constitutional muster under well-established and longstanding precedent.

*Amici curiae* have a special interest in the case at bar because *amici* collectively represent the interests of thousands of New Jersey residential tenants, a majority of whom belong to various racial and ethnic minority groups. These working families were disadvantaged even before the COVID-19 pandemic began. Many New Jersey renters lack access to basic health care and live paycheck to paycheck, often working grueling low-wage jobs that are undeniably “essential,” requiring them to be in close proximity during the pandemic in order to ensure that others have continued access to basic necessities. These renters now face overlapping crises of illness—often exacerbated due to their living arrangements—and unemployment, which ripple

through all aspects of life, affecting their ability to buy food, obtain medical care, ensure school continuity for their children, and keep a roof over their heads.

If Plaintiffs prevail in their challenge to E.O. 128, many New Jersey renters stand to suffer the severe and traumatic harm of being evicted from their homes. The most vulnerable members of the New Jersey community, working families that are disproportionately Black and Latinx, will be among those hurt the most. *Amici curiae* respectfully urge the Court to avert this needless and disastrous outcome by granting Defendants' motion to dismiss.

Simply put, Defendants' motion should be granted because Plaintiffs have failed to allege a violation of the Contract Clause. As courts have long acknowledged, the Contract Clause only precludes state action that (i) substantially impairs the rights and obligations of a contract, and (ii) is not reasonably drafted to advance a legitimate public interest. Plaintiffs' claims fail to meet either prong and should be dismissed.

Plaintiffs' claims fail to allege a substantial impairment because E.O. 128 does not deprive them of their right to recoup for damages from a tenant's security deposit. Instead, E.O. 128 allows tenants to use *their own* security deposit, which is the tenants' property under New Jersey law, to pay rent that is currently owed. And E.O. 128 does so while simultaneously guaranteeing that landlords are still entitled to recover from a tenant's security deposit when a lease expires and to have it replenished when the lease is renewed.

Moreover, the United States Supreme Court has long recognized that where the subject matter of a contract is highly regulated by the state, additional regulations affecting such a contract are unlikely to constitute a substantial impairment. As Plaintiffs are well aware, the duration, use, and ownership of security deposits are highly regulated in New Jersey. E.O. 128 does not impair Plaintiffs' ability to recover damages from their tenants; it simply regulates the

way in which a tenant may use their security deposits. Indeed, courts in the Southern District of New York and the District of Connecticut have denied challenges to executive orders—issued by each states’ respective governors and implementing almost identical provisions to those challenged in this case—because they failed to allege a substantial impact of contract. *See e.g., Elmsford Apartment Assocs., LLC v. Cuomo*, No. 20-cv-4062-CM, 2020 WL 3498456 (S.D.N.Y. June 29, 2020); *Auracle Homes, LLC v. Lamont*, No. 3:20-cv-00829-VAB, 2020 WL 4558682 (D. Conn. Aug. 7, 2020). In each case, the court relied on the highly regulated nature of security deposits and the landlord-tenant relationship to support its finding that the executive order at issue did not constitute a substantial impact on contract. Accordingly, E.O. 128 does not constitute a substantial impairment.

Even assuming E.O. 128 were somehow found to constitute a substantial impairment, Plaintiffs’ claims fail because E.O. 128 is reasonably tailored to address a legitimate public purpose. Specifically, E.O. 128’s overriding aim is to assist New Jersey tenants in paying their rent and avoiding eviction during the unprecedented COVID-19 pandemic. Courts have routinely recognized that the State has a significant interest in guaranteeing housing for its residents where there is a declared public health emergency. Additionally, the relief offered by E.O. 128 is temporary. Governor Murphy specifically limited the length of time in which tenants are allowed to use their security deposits towards rent payments to the duration of the COVID-19 pandemic and for two months thereafter. The narrow duration and relief offered by E.O. 128 is thus eminently reasonable and clearly addresses a legitimate public interest. Plaintiffs therefore have failed to allege a violation of the Contract Clause. E.O. 128 is a constitutional and desperately needed exercise of the State’s police power to protect its citizens in light of the COVID-19 pandemic, which this Court should uphold by dismissing Plaintiffs’ claims.

## ARGUMENT

### **I. Executive Order 128 Responded to an Unprecedented Public Health Crisis That Has, and Will, Disproportionately Harm Working Families of Color in New Jersey.**

The COVID-19 pandemic needs little introduction. Well before Governor Murphy issued E.O. 128 on April 24, 2020, the pandemic's effects were rippling through all areas of American life, threatening lives and livelihoods alike, and they continue to this day. New Jersey was one of the first states to be hit hard by the virus. By April 24, it was one of eight states accounting for two-thirds of the COVID-19 cases identified nationwide, with more than 100,000 COVID-19 cases and 7,000 related deaths reported in-state.<sup>2</sup> E.O. 128 was issued that day, as part of Governor Murphy's concerted efforts to stem the foreseeable and widespread consequences of this devastating public health emergency.

#### **A. Racial and Ethnic Minorities Are Especially Vulnerable to COVID-19's Pervasive Harms.**

The brunt of COVID-19's impact has fallen most heavily on some of its New Jersey's most vulnerable families. The virus itself disproportionately affects the health and survival of certain racial and ethnic minorities, including Black and Hispanic Americans.<sup>3</sup> According to one report, Black Americans make up 13 percent of the United States population, yet constitute 30 percent of COVID-19 cases, and available data indicate that persons of color have increased rates of hospitalization and death compared with white households.<sup>4</sup>

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<sup>2</sup> See, e.g., Centers for Disease Control and Prevention ("CDC"), [\*Geographic Differences in COVID-19 Cases, Deaths, and Incidence — United States, February 12–April 7, 2020\*](#), Morbidity and Mortality Weekly Report, April 10, 2020; Johns Hopkins University, [\*Impact of Opening and Closing Decisions by State: New Jersey\*](#).

<sup>3</sup> See, e.g., CDC, [\*Health Equity Considerations & Racial & Ethnic Minority Groups\*](#) (last updated July 24, 2020) ("CDC Health Equity").

<sup>4</sup> See U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Double Jeopardy: COVID-19 and Behavioral Health Disparities for Black and Latino Communities in the U.S.*, available at

These tragic outcomes are the product of longstanding systemic health and social inequities that disproportionately affect many racial and ethnic minorities. Disparities in the social determinants of health, such as poverty and healthcare access, correlate with a wide range of health and quality-of-life outcomes and risks.<sup>5</sup> Minorities frequently work in “essential” jobs that cannot be performed remotely, increasing the chance of exposure to the virus.<sup>6</sup> Certain minorities are more likely to live in close proximity to each other (residential crowding) due to economic and cultural considerations, which poses challenges to preventing viral spread.<sup>7</sup> The disparate health consequences to minorities from COVID-19 have also been aggravated by racial imbalances in access to health insurance. Before the pandemic, Black and Hispanic Americans were already more likely to be uninsured compared to their white counterparts, and they have since experienced a greater proportional loss of health insurance coverage.<sup>8</sup>

The economic consequences of efforts to contain COVID-19’s deadly spread also have disproportionately harmed minorities. Governors nationwide initially instituted quarantines and temporary closures of numerous businesses, many of which have now closed permanently in New Jersey and elsewhere.<sup>9</sup> These necessary attempts to limit public exposure to the virus

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<https://www.samhsa.gov/sites/default/files/covid19-behavioral-health-disparities-black-latino-communities.pdf> (undated) (last visited October 7, 2020).

<sup>5</sup> See CDC Health Equity, *supra* n.3.

<sup>6</sup> See CDC Health Equity, *supra* n.3.

<sup>7</sup> See CDC Health Equity, *supra* n.3.

<sup>8</sup> Hackett, [COVID-19 disproportionately affects health coverage of minorities, study finds](#), Healthcare Finance News, September 18, 2020 (reporting 13% loss of coverage for Black and Hispanic people compared to 6% for white people).

<sup>9</sup> See, e.g., Sundaram, [Yelp data shows 60% of business closures due to the coronavirus pandemic are now permanent](#), CNBC, September 16, 2020.

resulted in unprecedented levels of unemployment nationwide, particularly among workers in low-wage industries such as food service and retail, many of whom are minorities.<sup>10</sup>

In consequence, many Americans have or will have difficulty paying their rent. Hundreds of thousands of New Jersey residents, including a disproportionate number of minorities, face this grim prospect. One July 2020 study predicted that approximately 450,000 households—40% of all New Jersey renter households—would be unable pay rent in August, and that nearly half of Black New Jersey renter households would be unable to do so—a higher percentage than for any other race or ethnicity.<sup>11</sup>

Tenants' inability to pay rent, due to no fault of their own, is expected to translate into an avalanche of evictions. According to one estimate, between 401,000 and 559,000 New Jersey renter households—approximately 34% to 50% of these households—are at risk of eviction, which is forecasted to culminate in New Jersey with an estimated 600% increase from pre-COVID-19 levels.<sup>12</sup>

New Jersey's working families of color will be disproportionately hurt by this looming eviction and homelessness crisis. One study has found that approximately 40% to 50% of Black and Hispanic renter households had little or no confidence that they would be able to pay the coming month's rent on time, compared with just 22% of white renter households.<sup>13</sup> Without

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<sup>10</sup> See, e.g., Ho, [\*April's staggering job losses were felt most by women, minorities, and the lowest paid workers\*](#), Quartz, May 8, 2020.

<sup>11</sup> See Stout, *The Potential Impact of COVID-19 Related Evictions in New Jersey*, July 23, 2020 ("Stout") at 4. The Stout Report is appended hereto as Exhibit A.

<sup>12</sup> Benfer, et al., [\*The COVID-19 Eviction Crisis: an Estimated 30-40 Million People in America Are at Risk\*](#), The Aspen Institute, August 7, 2020 ("Aspen"); see also Stout (Ex. A) at 4, 7.

<sup>13</sup> See Aspen, *supra* n.12.; see also Stout (Ex. A) at 27 (reporting that approximately "42% of non-White New Jersey renter households have no or slight confidence in their ability to pay next month's rent, while only 18% of White New Jersey renter households have no or slight confidence in their ability to pay next month's rent").

protection against evictions, these families can be expected to lose their homes at comparatively high rates, aggravating the problem of homelessness. And minorities in New Jersey are already disproportionately homeless: one report found that, even before the pandemic, nearly half of homeless individuals in the state are Black.<sup>14</sup>

This is a cold and sobering reality that calls for a concerted response. New Jersey cannot merely rely upon the benevolence of landlords and their potential willingness to negotiate voluntary payment plans to address this profound crisis. Indeed, eviction activity has spiked when temporary measures to prevent COVID-19-related evictions expire.<sup>15</sup> In jurisdictions that have lifted bans on both eviction hearings and filings, data show that eviction filings were 19% higher than the prior year level, on average.<sup>16</sup> Troublingly, eviction filings have already spiked in New Jersey despite the existing moratorium, with over 15,000 filings as of early August.<sup>17</sup>

The consequences of this eviction and homelessness crisis are far-reaching, and already-vulnerable minorities will be among the worst affected. It is difficult for evicted or homeless individuals to maintain steady employment, for example, which frequently results in job loss.<sup>18</sup> Eviction can also impact a person's credit score. As a result, an evicted person will likely encounter substantial difficulty in getting approved for future housing, even after the pandemic becomes a painful memory.<sup>19</sup>

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<sup>14</sup> Monarch Housing Associates, [\*New Jersey 2019 Point-in-Time Count of the Homeless\*](#), January 22, 2019.

<sup>15</sup> Cowin, *et al.*, [\*Measuring Evictions during the COVID-19 Crisis\*](#), Federal Reserve Bank of Cleveland, July 17, 2020, (“Cowin”).

<sup>16</sup> See Cowin, *supra* n.15.

<sup>17</sup> Nieto-Munoz, [\*15K evictions have been filed despite Murphy moratorium. Renters, landlords terrified about what's next\*](#), NJ.com, August 2, 2020.

<sup>18</sup> See Stout (Ex. A) at 17–18.

<sup>19</sup> See Stout (Ex. A) at 18.



Evictions also lead to a wide range of public health problems. The COVID-19 virus can spread when an evicted household moves in with others.<sup>20</sup> Families facing eviction may be forced to accept substandard living conditions that can lead to other health concerns.<sup>21</sup> According to the American Journal of Public Health, housing instability is a risk factor for suicide.<sup>22</sup> Black mothers who experience homelessness often have worse birth outcomes than other homeless mothers.<sup>23</sup>

COVID-19-related housing instability and eviction are expected to significantly and traumatically disrupt children's education and behavior, with long-term effects.<sup>24</sup> Homelessness also increases the likelihood that children will be placed into foster care.<sup>25</sup> In turn, children in foster care are more likely to experience adverse outcomes such as higher rates of expulsion, lower achievement, and lower likelihood of high school graduation.<sup>26</sup>

COVID-19's economic toll has also increased food insecurity, a material hardship already experienced by more renters than homeowners.<sup>27</sup> By May 2020, the percentage of food-insecure households in New Jersey more than doubled from 11% before the pandemic to nearly

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<sup>20</sup> See, e.g., Bliss & Rios, [\*Tracing the Invisible Danger of Household Crowding\*](#), Bloomberg CityLab, July 21, 2020; Logan, [\*Study links crowded housing in Greater Boston's poorer neighborhoods with spread of COVID-19\*](#), Boston Globe, July 16, 2020; Botts, [\*How we analyzed the link between COVID-19 and crowded housing in California\*](#), Cal Matters, June 12, 2020.

<sup>21</sup> See Stout (Ex. A) at 21–23.

<sup>22</sup> See Stout (Ex. A) at 23.

<sup>23</sup> See Stout (Ex. A) at 20–21.

<sup>24</sup> See Stout (Ex. A) at 24.

<sup>25</sup> See Stout (Ex. A) at 24 (citing *Keeping Families Together*, New Mexico Appleseed (2013)).

<sup>26</sup> See, e.g., Pears, *et al.*, 81 CHILD DEVELOPMENT 1550 (2010); Zima, *et al.*, 9 J. CHILD & FAMILY STUDIES 87 (2000); Blome, 14 CHILD & ADOLESCENT SOCIAL WORK J. 41 (1997).

<sup>27</sup> Scally and Gonzalez, [\*Homeowner and Renter Experiences of Material Hardship\*](#), Urban Institute, November 1, 2018.

23%.<sup>28</sup> In tandem, residents' reliance on food banks has surged by more than 50% since March 2020.<sup>29</sup>

These reports make clear that households most likely to suffer the worst consequences of the COVID-19-related eviction crisis are least able to bear them. Their resulting displacement will promote existing patterns of poverty and other racial inequities, with wide-ranging collateral consequences for public health and welfare in New Jersey and elsewhere.

**B. Landlords Have Benefitted from Multiple Financial Protections During the Pandemic.**

Homeowners and landlords have received various COVID-19-related protections. One early form of relief was the bipartisan passage of the federal Coronavirus Aid, Relief, and Security ("CARES") Act in late March 2020. Recognizing the pandemic's unprecedented economic circumstances, the CARES Act provided direct relief to many Americans in the form of a stimulus check. It also allowed those with federally backed mortgage loans to obtain forbearances, but it did not provide similar relief to tenants, even though tenants are (on aggregate) less well off than homeowners.

The CARES Act's forbearance requirements have been a major source of government-mandated relief for landlords during the pandemic. P.L. 116-136, §§ 4022-23 (2020). Under the Act, landlords of properties with up to four units are entitled to up to 360 days of forbearance on their federally backed mortgage loans while landlords of larger multifamily properties with such loans are entitled to up to 90 days of forbearance. *See id.* Although the CARES Act provided

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<sup>28</sup> Lanni, *N.J. Needs Food Pantries More Than Ever. The Growing Line of Cars Outside Them Illustrates Why*, NJ.com, June 23, 2020; Kulish, *'Never Seen Anything Like It': Cars Line Up for Miles at Food Banks*, N.Y. Times, April 8, 2020.

<sup>29</sup> Tully, *Food Lines a Mile Long in America's Second-Wealthiest State*, N.Y. Times, April 30, 2020; Hurdle, *Food Banks Expect Demand to Remain High for Months as NJ Starts to Reopen*, N.J. Spotlight, June 9, 2020.

temporary relief from eviction for tenants in certain federally subsidized properties and properties with federally backed mortgage loans, it did not relieve tenants' obligation to make monthly rent payments. *See id.* § 4024.

On top of the relief afforded by the CARES Act, many lenders, including some of the largest financial institutions in the country, have voluntarily adopted mortgage forbearance programs.<sup>30</sup> Regardless of whether Plaintiffs are or have been eligible for forbearance under the CARES Act, it appears that many of them may be eligible under such programs.<sup>31,32</sup>

The Paycheck Protection Program ("PPP") is another recent federal intervention protecting landlords' financial interests. The PPP provided forgivable loans to help employers meet payroll without resorting to layoffs. *See* P.L. 116-136, §1102 (2020). Although Congress's intent may have been to exclude certain real estate entities from the PPP, it is reported that property management companies have been able to apply successfully.<sup>33</sup> To the extent that landlords incur costs of doing business beyond mortgage payments, the potential availability of PPP loans to meet payroll is another example in which landlords have greater capacity than tenants to absorb risk in the context of a looming eviction and homelessness crisis.

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<sup>30</sup> *See, e.g.,* Wells Fargo, [Answers to Frequently Asked Mortgage and Home Equity Questions](#), (last visited October 7, 2020).

<sup>31</sup> Based on publicly available land and mortgage records, JP Morgan Chase Bank appears to own the mortgage of the rental property of Plaintiffs Margarita Johnson, John Johnson, and Two Bears Property Management (referred to as the Sixth Street Property, Am. Compl. ¶ 25). *See* Exhibit B at 3. JP Morgan Chase Bank's payment assistance program allows for a forbearance period of a minimum of ninety days, with the option to extend payment assistance for up to twelve months. *See* JP Morgan Chase Bank, [COVID-19 Resources Website](#) (last visited October 7, 2020).

<sup>32</sup> Based on publicly available land and mortgage records, OceanFirst Bank appears to own the mortgage of the rental property of Plaintiffs Andrew Van Hook and Union Lake Enterprises, LLC (referred to as the Millville Property, Am. Compl. ¶ 31). *See* Exhibit C at 5. OceanFirst Bank allows for a forbearance period of up to ninety days. *See* OceanFirst Bank, [COVID-19 Resources Website](#) (last visited October 7, 2020).

<sup>33</sup> The Real Deal, [Loophole allowed big-name landlords to get bailout funds](#), May 26, 2020.

**C. Tenants Nationwide Received Limited Financial Protections During the Pandemic.**

In the early months of the COVID-19 pandemic, anticipating the looming threat of mass evictions due to increased unemployment, many state governments implemented eviction and utility shutoff moratorium laws and foreclosure bans.<sup>34</sup> These protections generally do not relieve tenants or homeowners of the obligation to pay their rent or mortgage; rather, they suspend the ability of landlords or lenders to file new eviction or foreclosure cases, or enforce orders to vacate property. In early September, the Centers for Disease Control and Prevention (“CDC”) ordered a temporary halt to evictions for individuals meeting certain income requirements in order to prevent the spread of COVID-19.<sup>35</sup> Many state eviction moratoriums have expired or are nearing expiry, however.<sup>36</sup>

Multiple governors also adopted the strategy of allowing a tenant to apply a security deposit towards unpaid rent. In May, New York allowed its residents facing COVID-related hardship to pay rent using their security deposit and repay the deposit over time. *See* New York Executive Order 202.28 (May 7, 2020). Connecticut’s Executive Order 7-DDD similarly provides that, if a tenant becomes unemployed due to the COVID-19 pandemic, “a landlord . . . shall withdraw an amount of [the tenant’s security deposit]... and apply it toward the rent due in April, May, or June, July or August 2020.” *See id.* § 1(a) (June 29, 2020).

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<sup>34</sup> Justia, [Eviction, Mortgage, & Foreclosure Relief During COVID-19: 50-State Resources](#) (“Justia”) (last updated September 2020).

<sup>35</sup> Order of the CDC and Department of Health and Human Services: *Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19*, 85 FED. REG. 55292, September 4, 2020,

<sup>36</sup> *See* Justia, *supra* n.34.

**D. Executive Order 128 Is One of Many Critical Efforts to Curb the Grave Public Health and Economic Consequences of the COVID-19 Pandemic in New Jersey.**

In March and April, as the severity of the COVID-19 pandemic became widely apparent, Governor Murphy enacted a series of executive orders to protect New Jersey residents.<sup>37</sup> Certain orders address the public health risks associated with evictions. In Executive Order 106, which placed a moratorium on tenant evictions, Governor Murphy noted that the “removals of residents pursuant to evictions or foreclosure proceedings can increase the risk to those residents contracting COVID-19, which in turn increases the risks to the rest of society and endangers public health.” E.O. 106 at 2 (March 19, 2020).

Other orders issued by Governor Murphy, including E.O. 128, are directed at the economic fallout of the COVID-19 pandemic. Recognizing that many tenants faced “one or more financial hardships” related to the pandemic, including healthcare expenses and a “substantial loss of or drop in income,” E.O. 128 enables renters to pay portions of their rent with their security deposits, allowing them to mitigate the consequences of eviction, including negative credit reports and the accumulation of interest and late fees. *See* New Jersey E.O. 128 at 2–3 (April 24, 2020). Its protections are not one-sided: E.O. 128 creates a source of funds to help landlords meet their own financial obligations, and tenants remain obligated to pay for any damages caused to the property. *See id.* at 4.

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<sup>37</sup> As examples: on March 9, 2020, New Jersey E.O. 103 declared both a Public Health Emergency and State of Emergency due to the pandemic. On March 21, E.O. 107 directed residents to follow social distancing recommendations and to stay home. On March 25, E.O. 110 directed child care centers not certified as Emergency Child Care Centers to close to the public. On April 9, E.O. 123 provided insurance grace periods, ordering certain entities not to cancel during the emergency grace period any policy or contract as a result of a nonpayment. On April 13, E.O. 126 prohibited providers of residential internet and voice services to New Jersey residents from terminating such internet and voice service due to nonpayment.

The careful balance of tenant and landlord interests in E.O. 128 reflects a sensible and appropriate effort to shield New Jersey residents from the devastating consequences of the COVID-19 pandemic. Its tenant protections are especially needed because landlords—including one or more of Plaintiffs here—have had access to support such as forbearances under the CARES Act, mitigating their financial risk during the pandemic more thoroughly than the relief available to tenants. *See supra* § I.B. With this backdrop of landlord assistance, similar government action to protect tenants—including many vulnerable minorities—appears all the more reasonable.

Far from somehow infringing on federal law, E.O. 128 in fact complies with federal civil rights requirements. Mass evictions due to COVID-19-related unemployment would disproportionately harm a tremendous number of minority New Jersey tenants, with enormous and far-reaching consequences for public welfare. *See supra* § I.A.

## **II. Executive Order 128 Does Not Violate the Contract Clause.**

### **A. Legal Standards.**

The United States Supreme Court has held repeatedly that “not all laws affecting pre-existing contracts violate the [Contract] Clause.” *Sveen v. Melin*, 138 S. Ct. 1815, 1821 (2018). Indeed, a statute “does not violate the Contract Clause simply because it has the effect of restricting, or even barring altogether, the performance of duties created by contracts entered into prior to its enactment.” *Exxon Corp. v. Eagerton*, 462 U.S. 176, 190 (1983).

Rather, a two-step test is applied to determine whether a law violates the Contract Clause.<sup>38</sup> *Sveen*, 138 S. Ct. at 1821. “The threshold issue is whether the state law has operated

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<sup>38</sup> In the Third Circuit, this test is characterized as having three parts rather than two, but the inquiries are functionally the same. *See, e.g., United Steel Paper & Forestry Rubber Mfg. Allied Indus. & Serv. Workers Int’l Union v. Gov’t of Virgin Islands*, 842 F.3d 201, 210 (3d Cir. 2016).

as a substantial impairment of a contractual relationship.” *Id.* (internal alterations and quotation marks omitted). Courts may consider “the extent to which the law undermines the contractual bargain, interferes with a party’s reasonable expectations, and prevents the party from safeguarding or reinstating his rights.” *Id.* at 1821–22. Courts further consider “whether the industry the complaining party has entered has been regulated in the past.” *Energy Reserves Group v. Kan. Power & Light Co.*, 459 U.S. 400, 411 (1983).

If the law is found to constitute a “substantial impairment” under step one, “the inquiry turns to the means and ends of the legislation.” *Sveen*, 138 S. Ct. at 1822. In this second step of the test, a court asks “whether the state law is drawn in an ‘appropriate’ and ‘reasonable’ way to advance ‘a significant and legitimate public purpose’” behind the regulation. *Id.* at 1817 (quoting *Energy Reserves*, 459 U.S. at 411–12). A “significant and legitimate public purpose” can be, for example, “the remedying of a broad and general social or economic problem.” *Energy Reserves*, 459 U.S. at 411–12. When a contract is between private parties, “courts properly defer to legislative judgment as to the necessity and reasonableness of a particular measure.” *Id.* at 413 (internal alterations omitted); *see also Troy Ltd. v. Renna*, 727 F.2d 287, 297 (3d Cir. 1984) (same).

**B. Executive Order 128 Does Not Substantially Impair Plaintiffs’ Contract Rights.**

Plaintiffs allege that E.O. 128 substantially impaired their leasehold contracts and “destroyed or nullified agreed-upon and bargained-for contract terms” (Am. Compl. ¶¶ 149, 160) by allowing tenants to use their security deposit towards rent. This allegation is not only factually incorrect, it is a misleading interpretation of Contract Clause precedent.

When a contract is within a regulated industry, additional regulations are unlikely to “substantially impair” the contract. *See Energy Reserves*, 459 U.S. at 411; *see also Am. Exp. Travel Related Servs., Inc. v. Sidamon-Eristoff*, 669 F.3d 359, 369 (3d Cir. 2012) (“[C]hanges in



the regulation that may affect [the parties'] contractual relationships *are foreseeable* [e.g. less substantial].”) (emphasis added). The Supreme Court “has consistently affirmed that States have broad power to regulate housing conditions in general and the landlord-tenant relationship in particular[.]” *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 440 (1982); *Bowles v. Willingham*, 321 U.S. 503 (1944) (upholding rent control); *Home Bldg. & Loan Ass’n v. Blaisdell*, 290 U.S. 398, 439 (1934) (“*Blaisdell*”) (upholding mortgage moratorium); *Edgar A. Levy Leasing Co. v. Siegel*, 258 U.S. 242 (1922) (upholding emergency housing law). Accordingly, changes to regulations in the New Jersey rental market should not be considered a “substantial impairment” of existing contracts within that industry.

Indeed, in a recent decision considering an almost identical set of facts to the case at bar, the Chief Judge of the U.S. District Court for the Southern District of New York granted the motion of Governor Andrew M. Cuomo and dismissed the claims of three landlords who brought suit to enjoin an executive order that permitted tenants to apply their security deposits to their rent due. *Elmsford Apartment Assocs., LLC v. Cuomo*, No. 20-cv-4062-CM, 2020 WL 3498456, at \*1 (S.D.N.Y. June 29, 2020). In determining whether the executive order at issue violated the Contract Clause, the court observed that “past regulation puts industry participants on notice that they may face further government intervention in the future . . . [and that] there is no question that residential leases are subject to a number of regulations that do not implicate the Contracts Clause.” *Id.* at \*13. Concluding that the New York Governor’s executive order “should have come as [ ] no surprise to the landlord Plaintiffs, and thus could not amount to a substantial impairment of their rights under their rental agreements” (*id.*), the court held that Governor Cuomo’s executive order did not substantially impair Plaintiffs’ contract rights and dismissed the case. *See id.* at \*12.



Less than two months after *Elmsford* was decided, the U.S. District Court for the District of Connecticut denied a motion for a restraining order and preliminary injunction challenging Connecticut Governor Ned Lamont’s executive orders that “temporarily limit[ed] the ability of residential landlords to initiate eviction proceedings against tenants and allow[ed] tenants to apply security deposit funds to past due rents.” *Auracle Homes, LLC v. Lamont*, No. 3:20-cv-00829-VAB, 2020 WL 4558682, at \*1 (D. Conn. Aug. 7, 2020). The court found that plaintiffs, a group of residential landlords, were unlikely to succeed on the merits of their Contract Clause claims because they could not show their contract rights had been substantially impaired. *Id.* at \*17. The court relied on *Elmsford*’s holding that businesses operating in a heavily regulated industry do not suffer substantial impairments when future regulations impact their contracts. *See id.* (quoting *Elmsford*, 2020 WL 3498456, at \*12). As such, the court held that “[t]he Executive Order’s modification of statutorily permissible uses of security deposits thus [could not] amount to a substantial impairment of Plaintiffs’ rights under their rental agreements.” *Id.*

Similarly, Plaintiffs’ allegations here of substantial impairment should fail entirely. By their own admission, the rental market is “a heavily regulated area of law.” Am. Compl. ¶ 169. Thus, their assertion that they “could not have expected the Governor to unilaterally waive the application of certain statutory provisions” (*id.*) rings hollow. Plaintiffs’ arguments regarding a “substantial impairment” also fail because the state in which their contracts were formed—New Jersey—is in a declared state of emergency due to the COVID-19 pandemic. The Supreme Court has long recognized that “emergency conditions will warrant limited and temporary interpositions with respect to the enforcement of contracts if made necessary by a great public calamity such as a significant economic downturn.” *Blaisdell*, 290 U.S. at 439 (upholding mortgage foreclosure moratorium). In light of well-established and longstanding Supreme Court

precedent, Plaintiffs could have—and, in light of the national COVID-19 pandemic, *should have*—expected the issuance of such protective measures as E.O. 128.

Nor are Plaintiffs harmed by E.O. 128. Plaintiffs acknowledge that under New Jersey law, a security deposit is the property of the tenant, not their landlord. *See* Am. Compl. ¶ 80. As previously noted, E.O. 128 protects landlords’ contractual rights to payment for damages to their properties. *See supra* § I.D. E.O. 128 therefore does not change landlords’ rights with respect to tenants’ security deposits: they remain entitled to compensation for damage done to the property when the lease terminates.<sup>39</sup>

**C. Courts Routinely Hold That Laws Protecting Tenants’ Rights Are Not Substantial Contract Impairments.**

Plaintiffs’ claims of “substantial impairment” are also unpersuasive because they ignore the Supreme Court’s long history of upholding laws which modify existing contractual relationships between landlord and tenant. The Third Circuit has done the same.

As one early example, in *Block v. Hirsh*, the Court upheld a temporary emergency law that removed a landlord’s ability to repossess a home provided the tenant continued to pay rent. 256 U.S. 135, 158 (1921). The Court found that, although “the use of the land and the right of the owner to do what he will with his own and to make what contracts he please[d] [were] cut down,” the temporary emergency law was justified in light of the legislature’s interest in curtailing the public health dangers posed by post-war evictions. *See id.* at 157. The Court was further persuaded that the temporary emergency law did not substantially impair the landlord’s

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<sup>39</sup> Plaintiffs’ allegations of Contract Clause violations under New Jersey’s Constitution would fail for the same reasons articulated above. The New Jersey Supreme Court has recognized that “the Federal and State Contracts Clauses provide parallel guarantees.” *Burgos v. State*, 222 N.J. 175, 193 (N.J. 2015) (internal quotations and citations omitted). The New Jersey Supreme Court also employs the same test as the Supreme Court for determining when legislation unconstitutionally impairs a contract. *See id.*

contract rights because it was “only [] a temporary measure,” observing that a “limit in time, to tide over a passing trouble, well may justify a law that could not be upheld as a permanent change.” *Id.*

That same year, in *Marcus Brown Holding Co. v. Feldman*, the Court upheld Chapters 942 and 947 of the Laws of New York of 1920, which declared a public emergency and precluded a landlord from evicting a tenant that continued to pay rent unless the landlord sought to personally occupy the premises. *See* 256 U.S. 170, 197–98 (1921). The Court refused to find that the laws substantially interfered with the leases. *Id.* at 198. It reasoned that the exercise of power by the State to alter a contract’s terms is itself an assumed term of any contract. *Id.* (“[C]ontracts are made subject to this exercise of the power of the State when otherwise justified, as we have held this to be.”); *see also, Edgar A. Levy Leasing Co.*, 258 U.S. at 249 (same).<sup>40</sup>

Similarly, the Third Circuit has upheld rent control and rent reduction statutes because they did not substantially impair the underlying leases. In *Troy Ltd.*, for example, the Third Circuit upheld the New Jersey Tenancy Act, which provided rent increase and eviction protections for seniors and persons with disabilities, finding that “[s]uch an enlargement of an already-regulated statutory tenancy is probably not an impairment at all.” *See* 727 F.2d at 297. Indeed, the court questioned whether “*any* impairment of a contractual relationship ha[d] occurred.” *Id.* (emphasis in original).

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<sup>40</sup> Many of the seminal opinions from the Supreme Court concerning the scope of the Contract Clause arose in or around the Great Depression or similar economic crises and related directly to housing. In each of these cases, the Court made clear that leases and other housing contracts are not substantially impaired by state action that temporarily alters contractual rights in order to alleviate a public health crisis or state of emergency. *See, e.g., Block*, 256 U.S. 135; *Marcus Brown Holding Co.*, 256 U.S. 170; and *Edgar A. Levy Leasing Co.*, 258 U.S. 242 (described *supra*; sometimes referred to as the “Rent Cases”); *see also Blaisdell*, 290 U.S. 398 (upholding under the Contract Clause an enactment by the Minnesota legislature during the Great Depression that extended the time for a mortgagee to redeem a home after foreclosure).

Thus, where the subject matter of a contract is already subject to substantial state regulation—as landlord-tenant relationships and security deposits are—precedent dictates that further legislation affecting that subject matter is unlikely to cause a substantial impairment.

**D. Executive Order 128 Effectuates a Significant Public Purpose.**

Assuming *arguendo* that E.O. 128 were somehow found to substantially impair Plaintiffs’ contract rights, E.O. 128 does not violate the Contract Clause because it advances a significant and legitimate public purpose. *See Energy Reserves*, 459 U.S. at 411–12 (“If the state regulation constitutes a substantial impairment, the State, in justification, must have a significant and legitimate public purpose behind the regulation ... such as the remedying of a broad and general social or economic problem.”). In particular, E.O. 128 seeks to shield many New Jersey residents from the grim prospect of eviction during the COVID-19 pandemic.

A state has a significant and legitimate public purpose when it acts pursuant to its “authority to safeguard the vital interests of its people.” *Blaisdell*, 290 U.S. at 434. The Court has recognized that states have a legitimate public purpose in “protect[ing] the public health against the maintenance of nuisances despite insistence upon existing contracts” and “to protect the public safety.” *Id.* at 436.

Ensuring housing stability during COVID-19 is unquestionably a legitimate public purpose. *See Troy Ltd.*, 727 F.2d at 298 (finding “a broad remedial purpose in protecting the mental and physical health of citizens who could suffer greatly by evictions”). As explained above, the spread of COVID-19 led to historical spikes in unemployment nationwide that disproportionately impacted working families, racial and ethnic minorities, and low-wage workers, leading to the ongoing potential that hundreds of thousands of New Jersey renter households would be unable to pay their rent and that evictions would skyrocket. *See supra* § I.A. In the face of these overlapping concerns, E.O. 128’s purpose of protecting New Jersey

residents from evictions during COVID-19 is a desperately needed, crucial, and legitimate exercise of gubernatorial authority. *Cf. Block*, 256 U.S. at 156 (“Housing is a necessary of life. All the elements of a public interest justifying some degree of public control are present.”).

**E. Executive Order 128’s Means Are Reasonable and Appropriate.**

Even if a contract is substantially impaired—and there is no substantial impairment in this case, as explained above—a court must also consider whether the law challenged is drawn in an “appropriate” and “reasonable” way to advance “a significant and legitimate public purpose.” *Sveen*, 138 S. Ct. at 1817 (quoting *Energy Reserves*, 459 U.S. at 411–12). Where, as here, New Jersey is not a party to the affected contract, a reviewing court applies a lower level of scrutiny. *See Energy Reserves*, 459 U.S. at 412. Courts defer to the State, and provided the “legislature is functioning properly, selection of a public purpose and determinations of necessity and appropriateness should be left to it.” *A Process-Oriented Approach to the Contract Clause*, 89 YALE L.J. 1623, 1645 (1980) (quoted in *Energy Reserves*, 459 U.S. at 417).

As recognized more than a century ago, the state’s use of its police power to legislate on behalf of the common welfare should not run afoul of the Contract Clause.

It is the settled law of this court that the interdiction of statutes impairing the obligation of contracts does not prevent the State from exercising such powers as are vested in it for the promotion of the common weal, or are necessary for the general good of the public, though contracts previously entered into between individuals may thereby be affected. This power...is known as the police power... and is paramount to any rights under contracts between individuals.

*Keystone Bituminous Coal Ass’n v. DeBenedictis*, 480 U.S. 470, 503 (1987) (quoting *Manigault v. Springs*, 199 U.S. 473, 480 (1905)). Accordingly, “[a]lthough the language of the Contract Clause is facially absolute, its prohibition must be accommodated to the inherent police power of the State ‘to safeguard the vital interests of its people.’” *Energy Reserves*, 459 U.S. at 410 (quoting *Blaisdell*, 290 U.S. at 434). As such, when “the protective power of the state is

exercised in a manner otherwise appropriate in the regulation of a business, it is no objection that the performance of existing contracts may be frustrated by the prohibition of injurious practices.” *Blaisdell*, 290 U.S. at 438. Such laws should therefore survive scrutiny under the Contract Clause.

Here, the careful balance of protections crafted in E.O. 128 reflects a reasonable and appropriate use of Governor Murphy’s executive powers. As explained above, the order promotes public welfare during a national pandemic by alleviating a significant financial burden on a suffering population. *See supra* § I.D. Such measures do not run afoul of the Contract Clause; indeed, rent control and rent reduction statutes long have been upheld as reasonable and appropriate uses of the state’s police power. *See, e.g., Troy Ltd.*, 727 F.2d at 298; *Gateway Apartments, Inc. v. Mayor & Township Council of Nutley*, 605 F. Supp. 1161, 1172 (D.N.J. 1985). Moreover, E.O. 128 helps landlords meet their own financial obligations by permitting their use of an available resource—the security deposit—while ensuring that landlords’ property interests remain protected by other means. *See supra* § I.D. The “character” of E.O. 128 is therefore appropriate to the public purpose justifying its issuance, and it should be upheld.

### **CONCLUSION**

New Jersey Executive Order 128 is a reasonable and appropriate exercise of executive authority to promote the welfare of New Jersey residents—particularly its most vulnerable households—in light of the devastating nationwide COVID-19 health crisis. Such efforts have long survived scrutiny under the Contract Clause. E.O. 128 likewise passes constitutional muster, and should be upheld.

Respectfully submitted,

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# Exhibit A



# **The Potential Impact of COVID-19 Related Evictions in New Jersey**

Prepared for: Coalition of Housing Advocates  
in New Jersey

July 23, 2020



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# Section I

## Executive Summary



1. The economic fallout of COVID-19 has financially strained households throughout the country, including those in New Jersey. As is often the case, the most vulnerable populations are negatively impacted the most and face uncertain circumstances around necessities like housing, healthcare, and education. Stout analyzed publicly available data and estimates that:
  - Approximately 40% (450,000 renter households) of all New Jersey renter households will not be able to pay their rent next month.
  - Approximately 42% of non-White New Jersey renter households compared to 18% of White New Jersey renter households will not be able to pay their rent next month. Approximately 49% of all African American New Jersey renter households will not be able to pay their rent next month, the highest in New Jersey among all ethnicities.
  - The unpaid rent from these households over the past several months is estimated to be approximately \$687 million and will only continue to increase due to the economic fallout of COVID-19.
  - New Jersey could experience between 304,000 eviction filings in the coming four months, an estimated 600% increase from pre-COVID-19 levels.<sup>1</sup>
  - Any number of evictions, but especially evictions of this magnitude, can have devastating impacts to renter households, the community, the economy, and state and local government budgets.
  - Nationally, more than 75% of all medium multi-family (25-49 units) and large multi-family (50+ units) buildings have a mortgage. About 60 percent of smaller multi-family property (5-24 units) owners report having mortgage debt and approximately 65 percent of 2-4 unit buildings have a mortgage. Landlords of larger buildings will have greater access to capital and the ability to negotiate forbearance with lenders.
  - Under the CARES Act, landlords with 1-4 unit residential buildings can request mortgage forbearance for 180 days and a subsequent 180 days for a maximum of 360 days. Landlords with residential buildings having 5 or more units can request mortgage forbearance for a maximum of 90 days, in three 30-day increments.
  - Smaller landlords are more likely to have the financial flexibility afforded by not having a mortgage. However, greater risk is posed to smaller landlords (with fewer properties) that have significant mortgage debt (not backed by the federal

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<sup>1</sup> Stout's methodology for this calculation can be reviewed in the Appendix starting on page 30.



- government) associated with their rental properties. Many private lenders have also offered forbearance or mortgage assistance to mitigate the financial challenges faced by landlords.
- If New Jersey renter households face increased housing instability and eviction, they will rely more heavily on expensive social safety net programs, often paid for in part by state and local governments. These social impacts include but are not limited to:
    - Increased need for homeless shelters and alternative housing programs (e.g., Rapid Re-housing, Permanent Supportive Housing, Transitional Housing);
    - Increased Medicaid spending related to physical and mental health issues as well as likely increases in COVID-19 cases due to overcrowded housing arrangements and overcrowded shelters;
    - Increased need for foster care and child welfare services for children who are experiencing homelessness or housing instability;
    - Further disruption to the education system and children's ability to learn; and
    - Long-term trauma to households, families, children, and communities in New Jersey.
  - As the New Jersey Legislature recognizes in N.J.S.A. 2A:18-61.1a., the negative impact of housing instability and eviction is significant and far-reaching. Furthermore, Governor Phillip D. Murphy recognizes the public health risks associated with evictions during the pandemic in Executive Order 106, "removals of residents pursuant to evictions or foreclosure proceedings can increase the risk to those residents contracting COVID-19, which in turn increases the risks to the rest of society and endangers public health."
  - **Stout estimates that the economic impact of housing instability and evictions in New Jersey is likely to be billions of dollars if immediate action is not taken to provide renters the opportunity to repay unpaid rent and remain in their homes.**



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## Section II

# Analysis and Research Findings



## Introduction

2. Like the rest of the country, New Jersey is facing a public health crisis and an economic crisis that has resulted in significantly increased expenses to curb COVID-19 and provide relief to people in need and drastically decreased revenues from income, sales, and corporate taxes. This budget imbalance comes at a time when New Jersey's most vulnerable populations are most likely to need assistance from government programs. Also like the rest of the country, New Jersey residents who are Black and Brown are disparately impacted not only by COVID-19 but also by the economic fallout of the virus. Black and Brown communities in New Jersey face one of the largest racial wealth gaps in the country. In New Jersey, the median net worth for a White family is \$352,000 while the median net worth of Black and Brown families is \$6,100 and \$7,300, respectively.<sup>2</sup> This divide impacts Black and Brown families' ability to access proper healthcare and to take precautionary measures.
3. In addition to being victims of systemic and institutionally racist policies, a disproportionate number of low-income Black and Brown New Jerseyans are likely to have "essential" jobs that cannot be done remotely and therefore are at a greater risk of contracting COVID-19. Many Black and Brown New Jerseyans working "essential" jobs are also undocumented immigrants, of whom 91% were worried about being able to pay utilities or other bills, 83% were worried about accessing enough food for their families, and 70% were worried about buying medicine for themselves or their families. New Jersey's undocumented immigrant population has largely not sought healthcare, even during the pandemic, over worries related to immigration enforcement or their immigration status. The deep racial disparities in wealth, access to healthcare, and types of jobs already present before the pandemic now combined with COVID-19 will contribute to severe community and economic instability as well as prolong the generational poverty for Black and Brown households in New Jersey if no action is taken.

## Estimated New Jersey Households Experiencing Rental Shortfall and Potentially Facing Eviction

4. Using publicly available data, Stout estimates that 450,000 renter households – approximately 40% of all renter households – throughout New Jersey will be unable to pay their rent next month. Stout estimates that these households will have accumulated unpaid rent of \$687 million over the last several months – an amount that will continue to grow as these households face ongoing unemployment and hardship resulting from COVID-19. Based on Stout's methodology detailed in the Appendix, Stout estimates that after the lifting of eviction moratoriums, New Jersey could experience 304,000 eviction filings in the coming four months. By comparison, there are an estimated 150,000 evictions

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<sup>2</sup> N.J. Inst. for Social Justice, *Erasing New Jersey's Red Lines 5* (April 2020), available at [https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/689/attachments/original/1588358478/Erasing\\_New\\_Jersey's\\_Red\\_Lines\\_Final.pdf?1588358478](https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/689/attachments/original/1588358478/Erasing_New_Jersey's_Red_Lines_Final.pdf?1588358478).



filed in New Jersey each year – approximately 12,500 each month. Before COVID-19, more than 15% of all New Jersey renter households had “extremely low-incomes,” meaning that they had incomes of less than 30% of the area median income. Nearly 75% of these extremely low-income renter households were also severely rent-burdened, paying more than 50% of their income toward rent. These dire circumstances for the lowest income New Jersey renters, who are disproportionately Black and Brown, have only been made worse by the pandemic.

### Confidence in Ability to Pay Next Month’s Rent by Household Income

5. Housing burden (i.e., how much a household pays for housing cost relative to its income) is high for New Jersey renters with 52% of these households paying more than 30% of their household income on rent in 2016.<sup>3</sup> For New Jersey homeowners, housing burden is less, with approximately 33% of homeowner households paying more than 30% of their household income on housing costs.<sup>4</sup> Many of these already financially strained households will be facing additional challenges with paying their housing costs amid the COVID-19 pandemic and its economic repercussions.
6. Stout analyzed New Jersey renter households’ confidence in the ability to pay next month’s rent by household income using survey data recently published by the U.S. Census Bureau. Unsurprisingly, New Jersey renter households in lower income brackets (i.e., brackets with incomes of \$49,999 or lower) have the least confidence in their ability to pay next month’s rent. The analyses by renter household income bracket are as follows<sup>5</sup>:

#### *For renter households with incomes of less than \$25,000*

- Approximately 51% had no confidence or slight confidence in their ability to pay next month’s rent
- Approximately 33% had moderate confidence in their ability to pay next month’s rent
- Approximately 11% had high confidence in their ability to pay next month’s rent
- Over the past 8 weeks, the confidence level of renter households in this income bracket has generally decreased

#### *For renter households with incomes between \$25,000 and \$34,999*

- Approximately 39% had no confidence or slight confidence in their ability to pay next month’s rent
- Approximately 43% had moderate confidence in their ability to pay next month’s rent
- Approximately 10% had high confidence in their ability to pay next month’s rent
- Over the past 8 weeks, the confidence level of renter households in this income bracket has generally decreased

<sup>3</sup> ALICE Report – New Jersey. United Way. October 18, 2018.

<sup>4</sup> Ibid.

<sup>5</sup> Percentages may not equal 100% due to rounding.





*For renter households with incomes of between \$35,000 and \$49,999*

- Approximately 12% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 23% had moderate confidence in their ability to pay next month's rent
- Approximately 66% had high confidence in their ability to pay next month's rent
- Over the past 8 weeks, the confidence level of renter households in this income bracket has generally remained consistent. However, confidence levels between July 15 and July 22 changed unusually. This change should be interpreted with caution until additional weekly data is available

*For renter households with incomes of between \$50,000 and \$74,999*

- Approximately 19% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 27% had moderate confidence in their ability to pay next month's rent
- Approximately 54% had high confidence in their ability to pay next month's rent
- Over the past 8 weeks, the confidence level of renter households in this income bracket has generally remained consistent

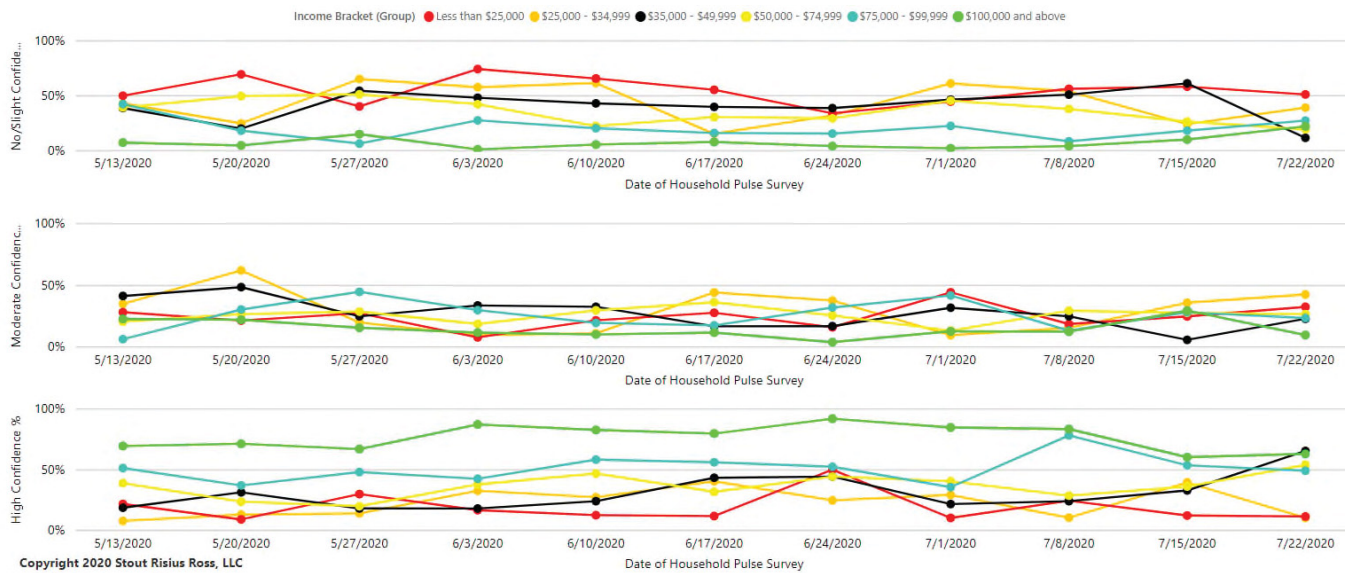
*For renter households with incomes of between \$75,000 and \$99,999*

- Approximately 27% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 24% had moderate confidence in their ability to pay next month's rent
- Approximately 49% had high confidence in their ability to pay next month's rent
- Over the past 8 weeks, the confidence level of renter households in this income bracket has generally increased

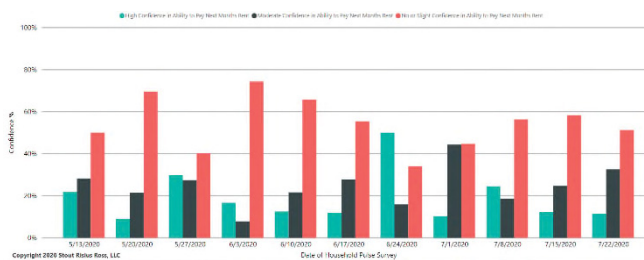
*For renter households with incomes of \$100,000 or more*

- Approximately 22% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 10% had moderate confidence in their ability to pay next month's rent
- Approximately 63% had high confidence in their ability to pay next month's rent
- Over the past 8 weeks, the confidence level of renter households in this income bracket has generally increased

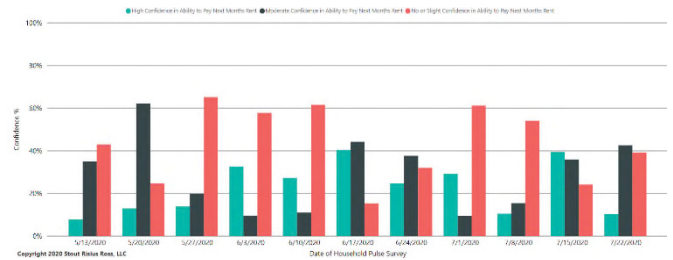
7. The following charts show the weekly trend in renter household confidence regarding the ability to pay next month's rent for renter households in New Jersey for each confidence level and colored lines for each renter household income bracket.



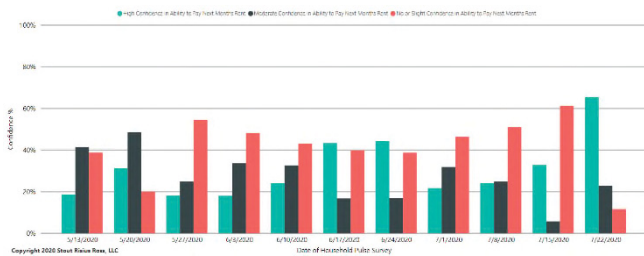
8. Each of the following charts is for an income bracket and shows the weekly trend in renter household confidence regarding the ability to pay next month's rent for renter households in New Jersey. The colored bars are for the three different confidence levels.



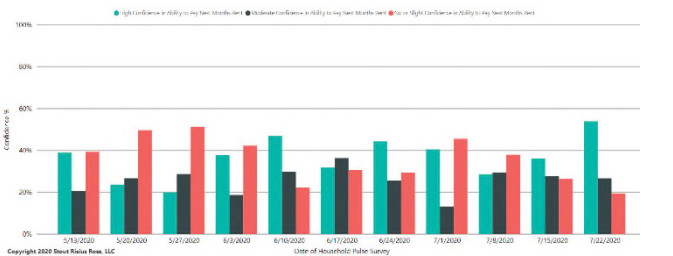
Less than \$25,000



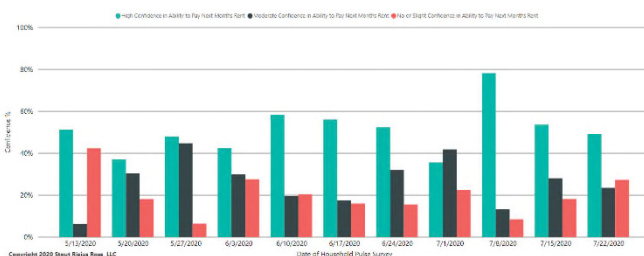
\$25,000 - \$34,999



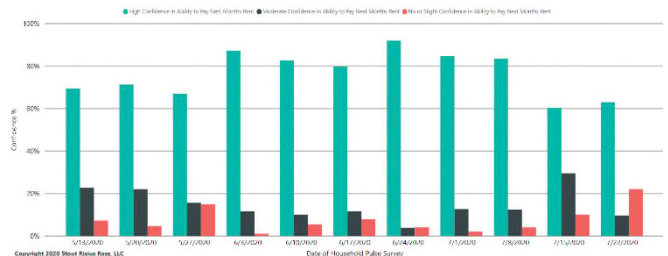
\$35,000 - \$49,999



\$50,000 - \$74,999



\$75,000 - \$99,999



\$100,000 and above



### Confidence in Ability to Pay Next Month's Rent by Ethnicity

9. Stout also analyzed New Jersey renter households' confidence in ability to pay next month's rent by ethnicity. New Jersey non-White (i.e., African American, Asian, Hispanic, and Latinx) renter households have the least confidence in their ability to pay next month's rent. Because of overt, systemic, and structural racism, tenants are often people of color, particularly Black and Brown. Economic and housing discrimination have resulted in approximately 60% of Black and 64% of Brown households in New Jersey remaining renters, often effectively barred from achieving homeownership.<sup>6</sup> This effect is exacerbated as many wealthier, White households are fleeing New York City for tri-state suburbs given COVID-19. Anecdotally, landlords have indicated that finding new tenants would be difficult and are thus hesitant to evict tenants right now. However, there has been an increase in leases signed in smaller cities and towns outside of New York City since the beginning of COVID-19, further racially segregating housing and cities alike.<sup>7</sup> The non-White renter households that are left behind are often in lower household income brackets. The analyses by renter household ethnicity are as follows<sup>8</sup>:

#### *For African American alone, not Hispanic renter households*

- Approximately 49% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 27% had moderate confidence in their ability to pay next month's rent
- Approximately 23% had high confidence in their ability to pay next month's rent

#### *For Asian alone, not Hispanic renter households*

- Approximately 13% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 21% had moderate confidence in their ability to pay next month's rent
- Approximately 38% had high confidence in their ability to pay next month's rent

#### *For Hispanic or Latino (may be of any race) renter households*

- Approximately 41% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 15% had moderate confidence in their ability to pay next month's rent
- Approximately 42% had high confidence in their ability to pay next month's rent
- Over the past 8 weeks, the confidence level of Asian renter households has declined

#### *For Two or More Races + Other Races, not Hispanic renter households*

- Approximately 64% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 3% had moderate confidence in their ability to pay next month's rent

<sup>6</sup> Stirling, Stephen. "Black and Hispanic NJ residents less likely to own homes following housing crisis, US Census reveals." Citing 2010 Census data. March 30, 2019.

<sup>7</sup> Hughes, C.J. "Coronavirus Escape: To the Suburbs." The New York Times. May 8, 2020.

<sup>8</sup> Percentages may not equal 100% due to rounding.

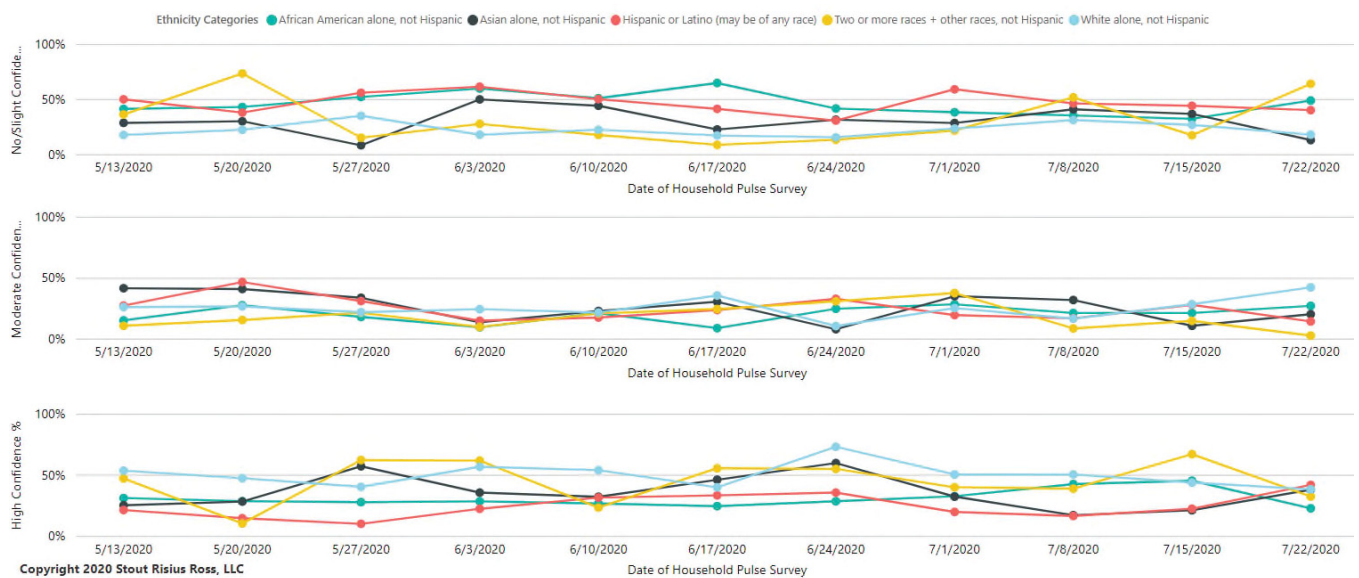


- Approximately 33% had high confidence in their ability to pay next month's rent

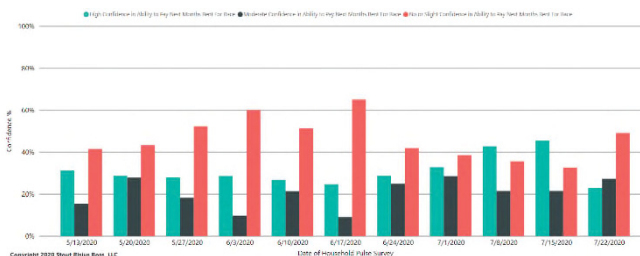
*For White alone, not Hispanic renter households*

- Approximately 18% had no confidence or slight confidence in their ability to pay next month's rent
- Approximately 43% had moderate confidence in their ability to pay next month's rent
- Approximately 39% had high confidence in their ability to pay next month's rent

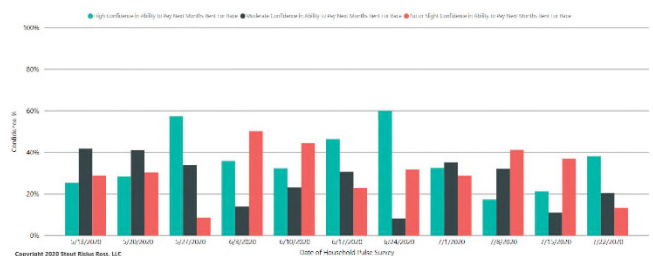
10. The following charts show the weekly trend in renter household confidence regarding the ability to pay next month's rent for renter households in New Jersey for each confidence level and colored lines for each renter household ethnicity.



11. Each of the following charts is for an ethnicity and shows the weekly trend in renter household confidence regarding the ability to pay next month's rent for renter households in New Jersey. The colored bars are for the three different confidence levels.

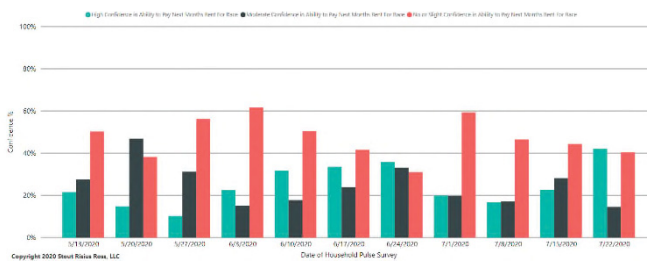


African American alone, not Hispanic

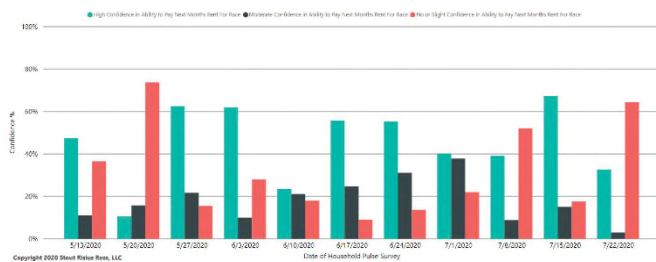


Asian alone, not Hispanic

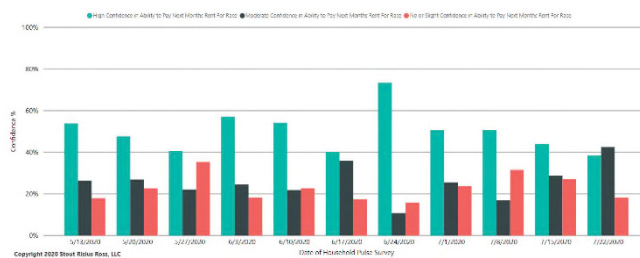




Hispanic or Latino (may be of any race)



Two or More Races + Other Races, not Hispanic



White alone, not Hispanic

12. Over the past 8 weeks, confidence levels for Asian, Hispanic, and multi-racial renter households in New Jersey have declined. Confidence levels for African American renter households in New Jersey have remained consistent, and confidence levels for White renter households in New Jersey have increased over the past 8 weeks.

### Landlord Size and Mortgage Properties

13. While 90 percent of homeowners live in single-family homes, renters live in a variety of housing types, including single-family homes, small multi-family buildings with fewer than five units, and large multi-family buildings with hundreds of units.<sup>9</sup> In response to COVID-19, Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA) have paused evictions of renters living in properties that they finance, an estimated 28 percent (12.3 million) of the total rental units in the country.<sup>10</sup>
14. Under the CARES Act, landlords with 1-4 unit residential buildings can request mortgage forbearance for 180 days and a subsequent 180 days for a maximum of 360 days. Landlords with residential buildings having 5 or more units can request mortgage forbearance for a maximum of 90 days, in three 30-day increments. Many private lenders are also offering forbearance to struggling landlords.
15. Tenants living in properties financed by federally backed mortgages are protected against eviction notices and proceedings for 120 days following March 27 – that is, until July 25 –

<sup>9</sup> Warnock, Rob and Salvati, Chris. "Missed Housing Payments Continue Piling Up in July." Apartment List. July 8, 2020.

<sup>10</sup> Goodman, Lori et al. "The CARES Act Eviction Moratorium Covers All Federally Financed Rentals – That's One in Four US Rental Units." The Urban Institute. April 2, 2020.



as are federally subsidized tenants and those living in Low Income Tax Credit properties.<sup>11</sup> These protections are extended to renters living in multi-family properties as well as any single family homes or 2-4 unit properties that are financed through federally backed single-family mortgages.<sup>12</sup> In the past, renters in these smaller properties have been excluded from relief as policymakers have viewed this segment of housing stock as owner-occupied even though these properties account for 51 percent of all occupied rentals in the United States.<sup>13</sup>

16. More than 75 percent of all medium multi-family (25-49 units) and large multi-family (50+ units) buildings have a mortgage, while only about 60 percent of smaller multi-family property (5-24 units) owners report having mortgage debt.<sup>14</sup> Approximately 65 percent of 2-4-unit buildings have a mortgage, and only 44 percent of single-family rental buildings have a mortgage.<sup>15</sup>

### The Economic Impacts of Eviction

17. The impacts and costs of eviction to states, cities, and municipalities are significant and multi-dimensional. Substantial research and reporting have documented the severe and negative impacts eviction has on individuals, families, businesses, and communities. Many of these impacts are unquantifiable, but clear costs exist. This section details these impacts by topic.
18. *Homelessness– Shelter Entry and the Likelihood of Disruptive Displacement.*<sup>16</sup> While homelessness may not always be experienced immediately following an eviction, eviction is a leading cause of homelessness. According to the 2019 New Jersey Point-in-Time Count, there were 8,864 people experiencing homelessness in New Jersey, of whom 796 (9%) indicated eviction was the cause of their homelessness.<sup>17</sup> An additional 918 people (10%) indicated that job loss or reduction in income was the cause of their experiencing homelessness.<sup>18</sup> A 2018 study of homelessness in Los Angeles County, citing surveys conducted as part of recent homeless counts, stated that 40 percent of unsheltered adults cited unemployment and lack of money, which encompassed inability to pay for shelter, as the reason for experiencing homelessness.<sup>19</sup> This factor was identified more than twice as

<sup>11</sup> Jakabovics, Andrew. "Understanding Relief for Homeowners and Renters Impacted by COVID-19." Enterprise Community. March 27, 2020.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Homelessness can take many forms, including but not limited to: "doubling or tripling up"; "couch surfing"; living in vehicles; and living in motel/hotel rooms occupied by entire households. Additionally, in some circumstances, people experiencing homelessness may need to use public facilities such as bathrooms in supermarkets, libraries, and government buildings, which could increase the risk of contracting COVID-19 or other diseases.

<sup>17</sup> Matthau, David. "Homelessness Declines in NJ but Many Living in Shelters, Encampments." New Jersey 101.5. January 7, 2020.

<sup>18</sup> Ibid.

<sup>19</sup> Flaming, Daniel et al. "Escape Routes: Meta-Analysis of Homelessness in L.A." Economic Roundtable. April 2018.



often any other factor, and eviction or foreclosure was specifically identified as the primary reason for homelessness by 11 percent of unsheltered adults.<sup>20</sup> A 2018 study of shelter use in New York City suggests that evictions: (1) increase the probability of applying for shelter by 14 percentage points compared to a baseline probability of approximately three percent for households not experiencing an eviction; and (2) increase the number of days spent in shelter during the two years after an eviction filing by five percentage points, or about 36 days.<sup>21</sup> The researchers concluded that because the estimated effects persist long-term, avoiding eviction does not simply delay a period of homelessness, it leads to lasting differences in the probability of experiencing homelessness.<sup>22</sup> A 2014 San Francisco study of an eviction defense pilot program, citing a recent survey of families experiencing homelessness, stated that 11 percent of families in San Francisco homeless shelters identified evictions (legal and illegal) as a reason for experiencing homelessness.<sup>23</sup> The Housing and Homeless Division Family and Prevention Services Program Manager in San Francisco has stated that the number of families experiencing homelessness as a result of an eviction is potentially over 50 percent – much higher than 11 percent – when considering the intermediate living arrangements made with friends and family before the families who have been evicted access the shelter system.<sup>24</sup> The 50 percent estimate is supported by the survey of families experiencing homelessness, in which 45 percent of respondents stated that the cause of their homelessness was being asked to move out.<sup>25</sup> Furthermore, a 2013 demographics report of adult shelters in San Francisco found that 36 percent of its population was living with friends or relatives before experiencing homelessness.<sup>26</sup> The Massachusetts Interagency Council on Housing and Homelessness analyzed a variety of reports generated by the state’s shelter system to determine that 45 percent of people experiencing homelessness or who are at risk of experiencing homelessness cite eviction as the reason for their housing instability.<sup>27</sup> Similar statistics were observed in Hawai’i where 56 percent of families experiencing homelessness cite inability to afford rent as the reason for their experiencing homelessness.<sup>28</sup> An additional 18 percent of families cited eviction specifically, as the reason for their experiencing homelessness.<sup>29</sup> In Seattle, a survey of tenants who were evicted revealed that nearly 38 percent were living unsheltered and half were living in a shelter, transitional housing, or

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<sup>20</sup> Ibid.

<sup>21</sup> Collinson, Robert and Reed, Davin. “The Effects of Evictions on Low-Income Households.” New York University Law. December 2018.

<sup>22</sup> Ibid.

<sup>23</sup> San Francisco Right to Civil Counsel Pilot Program Documentation Report. John and Terry Levin Center for Public Service and Public Interest, Stanford Law School. May 2014.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid, citing 2013 Demographics Report – San Francisco Single Adult Shelters.

<sup>27</sup> “Regional Networks to End Homelessness Pilot Final Evaluation Report.” Massachusetts Interagency Council on Housing and Homelessness. February 15, 2011.

<sup>28</sup> “Homeless Service Utilization Report.” Center on Family at the University of Hawai’i and the Homeless Programs Office of the Hawai’i State Department of Human Services. 2010.

<sup>29</sup> Ibid.



with family and friends.<sup>30</sup> Only 12.5 percent of evicted respondents secured another apartment to move into.<sup>31</sup> The New York City Department of Homeless Services found that eviction was the most common reason for families entering city shelters between 2002 and 2012.<sup>32</sup> Robin Hood, a New York City-based non-profit organization that provides funding to more than 200 programs in New York City, estimates that 25 percent of tenants who are evicted enter homeless shelters.<sup>33</sup>

19. *Homelessness – Shelter and Other Support Costs.* The Massachusetts Housing and Shelter Alliance estimates that a homeless individual residing in Massachusetts creates an additional cost burden for state-supported services (shelter, emergency room visits, incarceration, etc.) that is \$9,372 greater per year than an individual who has stable housing.<sup>34</sup> Each time a homeless family enters a state-run emergency shelter, the cost to the state is estimated at \$26,620.<sup>35</sup> The Central Florida Commission on Homelessness has reported that the region spends \$31,000 per year per homeless person related to law enforcement, jail, emergency room, and hospitalization for medical and psychiatric issues.<sup>36</sup> The City of Boise, Idaho reported that costs associated with chronic homelessness are \$53,000 per person experiencing homelessness annually including day shelters, overnight shelters, policing / legal, jail, transportation, emergency medical services and drug and alcohol treatment.<sup>37</sup> In contrast, providing homeless individuals with permanent housing and case managers would cost approximately \$10,000 per person annually.<sup>38</sup> By way of comparison, MaineHousing, the state agency providing public and private housing to low and moderate-income tenants in Maine, found that the average annual cost of services per person experiencing homelessness to be \$26,986 in the greater Portland area and \$18,949 statewide.<sup>39</sup> The services contemplated in the average annual cost were associated with: physical and mental health, emergency room use, ambulance use, incarceration, and law enforcement.<sup>40</sup> Investing in eviction prevention helps a community save valuable resources by stopping homelessness before it starts.<sup>41</sup> A three-year study by RAND Corporation found that providing housing for very sick individuals experiencing homelessness saved taxpayers thousands of dollars by reducing hospitalization and

<sup>30</sup> “Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

<sup>31</sup> Ibid.

<sup>32</sup> “The Rising Number of Homeless Families in NYC, 2002-2012: A Look at Why Families Were Granted Shelter, the Housing They Had Lived in and Where They Came From.” New York City Independent Budget Office. 2014.

<sup>33</sup> <https://www.robinhood.org/what-we-do/metrics/>

<sup>34</sup> Wood-Boyle, Linda. “Facing Eviction: Homelessness Prevention for Low-Income Tenant Households.” Federal Reserve Bank of Boston. December 1, 2014.

<sup>35</sup> Ibid.

<sup>36</sup> Santich, Kate. “Cost of homelessness in Central Florida? \$31k per person.” Orlando Sentinel. May 21, 2014.

<sup>37</sup> Crossgrove Fry, Vanessa. “Reducing Chronic Homeless via Pay for Success, A Feasibility Report for Ada County, Idaho.” City of Boise. N.d.

<sup>38</sup> Santich, Kate. “Cost of homelessness in Central Florida? \$31k per person.” Orlando Sentinel. May 21, 2014.

<sup>39</sup> Acquisito, Alex and Rhoda, Erin. “The \$132k idea that could reduce Bangor’s eviction problem.” Bangor Daily News. September 24, 2018.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.





emergency room visits.<sup>42</sup> For every dollar invested in the program, the Los Angeles County government saved \$1.20 in health care and social service costs.<sup>43</sup> New Jersey does not have a right to shelter for people experiencing homelessness, and therefore does not have a comprehensive shelter or social services system for addressing homelessness.

20. *Employment and Housing Instability.* Eviction can lead to job loss making it more difficult to find housing, further burdening an already struggling family. Matthew Desmond, author of *Evicted: Poverty and Profit in the American City*, describes how job loss and eviction can be interconnected. When an evicted tenant does not know where his or her family will sleep the next night, maintaining steady employment is unlikely. If the evicted tenant is unemployed, securing housing after being evicted may take precedence over securing a job. If the evicted tenant is employed, the instability created by eviction often affects work performance and may lead to absenteeism, causing job loss.<sup>44</sup> The period before an eviction may be characterized by disputes with a landlord or stressful encounters with the court system.<sup>45</sup> These stressors can cause workers to make mistakes as they are preoccupied with non-work matters.<sup>46</sup> After an eviction, workers may need to miss work to search for new housing, and because they now have an eviction record, finding a landlord willing to rent to them may increase the time it takes to secure new housing.<sup>47</sup> Workers may need to live farther from their jobs, increasing the likelihood of tardiness and absenteeism.<sup>48</sup> A recent Harvard University study suggests the likelihood of being laid off to be 11 to 22 percentage points higher for workers who experienced an eviction or other involuntary move compared to workers who did not.<sup>49</sup> A similar analysis in Wisconsin, the Milwaukee Area Renters Study, found that workers who involuntarily lost their housing were approximately 20 percent more likely to subsequently lose their jobs compared to similar workers who did not.<sup>50</sup> Approximately 42 percent of respondents in the Milwaukee Area Renters Study who lost their job in the two years prior to the study also experienced an involuntary move.<sup>51</sup> The impact of job loss and eviction disproportionately affects Black people who face significant discrimination in both the housing and labor markets.<sup>52</sup> Eviction not only adversely affects unemployed and employed tenants' job prospects but also the potential future earnings of children. Robin Hood estimates a child's average future earnings could decrease by 22 percent if the child experienced juvenile delinquency, which can be

<sup>42</sup> Holland, Gale. "Study find L.A. County saves money by housing sick homeless people." Los Angeles Times. December 4, 2017.

<sup>43</sup> Ibid.

<sup>44</sup> Desmond, Matthew and Tolbert Kimbro, Rachel. "Eviction's Fallout: Housing, Hardship, and Health." Social Forces. February 24, 2015.

<sup>45</sup> Desmond, Matthew and Gerhenson, Carl. "Housing and Employment Insecurity among the Working Poor." Harvard University. January 11, 2016.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Desmond, Matthew. "Unaffordable America: Poverty, housing, and eviction." Institute for Research on Poverty. March 2015.

<sup>51</sup> Desmond, Matthew and Gerhenson, Carl. "Housing and Employment Insecurity among the Working Poor." Harvard University. January 11, 2016.

<sup>52</sup> Ibid.



associated with the disruption to families from eviction.<sup>53</sup> When families and children earn less (now or in future periods) the associated financial strains can result in various costs to the cities and communities in which they live. Research has shown that forced moves can perpetuate generational poverty and further evictions.<sup>54</sup> In addition, the reduction in earning capacity for these families can increase the demand on various social services provided by these cities and communities. Further, cities lose the economic benefit of these wages, including the economic stimulus of community spending and potential tax revenue. These impacts – potential earning capacity, generational poverty, and other economic consequences – are long-term and incredibly challenging to reverse.

21. *Ability to Re-Rent and Credit Score.* Tenants with an eviction case brought against them may have the case on their record whether they are ultimately evicted or not. Because of open record laws in many states, this information is easily accessible, free, and used to create tenant blacklists, making it difficult for tenants with eviction records to re-rent and exacerbating housing discrimination.<sup>55</sup> Data aggregation companies are now creating “screening packages” that landlords can use to select their tenants.<sup>56</sup> These packages often include a full credit report, background check, and an eviction history report. Using data and technology to streamline and automate the screening process will only exacerbate the impact of eviction on tenants. One data aggregation company stated the “it is the policy of 99 percent of our [landlord] customers in New York to flat out reject anybody with a landlord-tenant record, no matter what the reason is and no matter what the outcome is...”.<sup>57</sup> In cities where there is a right to counsel, the number of eviction filings has declined, indicating that a right to counsel can reduce the harmful effects of being exposed to the eviction process regardless of case outcomes. Many landlords and public housing authorities will not rent to tenants who have been recently evicted. Therefore, renters with an eviction on their record will often be forced to find housing in less desirable neighborhoods that lack adequate access to public transportation, are farther from their jobs, have limited or no options for child care, and lack grocery stores.<sup>58</sup> A University of North Carolina Greensboro study found that 45 percent of tenants who were evicted had

<sup>53</sup> <https://www.robinhood.org/what-we-do/metrics/>

<sup>54</sup> Lundberg, Ian and Donnelly, Louis. “A Research Note on the Prevalence of Housing Eviction among Children Born in U.S. Cities.” Princeton University, Woodrow Wilson School of Public and International Affairs, Center for Research on Child Wellbeing. 2019.

<sup>55</sup> Desmond, Matthew. “Unaffordable America: Poverty, housing, and eviction.” Institute for Research on Poverty. March 2015.

<sup>56</sup> Greene, Kimberly. “Online screening process gives landlords peace of mind.” Mortgage Professional America. November 12, 2019.

<sup>57</sup> Kleysteuber, Rudy. “Tenant Screening Thirty Years Later: A Statutory Proposal To Protect Public Records.” The Yale Law Journal. 2007. Referencing Rogers, Teri Karush. “Only the Strongest Survive.” The New York Times. November 26, 2006 (quoting Jake Harrington, founder of On-Site.com). While the inclination to reject tenant applicants regardless of the outcome of their prior eviction case might appear to nullify the impact of providing representation, system representation may cause a deterrent effect in terms of landlords’ decisions of whether to file an eviction in the first place. New York City and San Francisco, which are the only cities where a right to counsel has existed long enough to have data, have both experienced significant declines in their respective eviction filing rates. See: “Press Release: Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law.” February 24, 2020. & “New York City Residential Eviction Filings Decline.” NYU Furman Center. November 18, 2019.

<sup>58</sup> Desmond, Matthew and Tolbert Kimbro, Rachel. “Eviction’s Fallout: Housing, Hardship, and Health.” Social Forces. February 24, 2015.



difficulty obtaining decent, affordable housing after their evictions.<sup>59</sup> Additionally, evictions can have a detrimental impact on tenants receiving federal housing assistance, such as Section 8 vouchers. In some cases, court-ordered evictions may cause revocation of Section 8 vouchers or render the tenant ineligible for future federal housing assistance.<sup>60</sup> Landlords often view a potential tenant's credit score as a key factor in determining whether they want to rent to the potential tenant or not. A low credit score brought about by a past eviction can make it difficult for renters to obtain suitable housing.<sup>61</sup> A tenant who was interviewed in the University of North Carolina Greensboro study stated, "it [eviction] affected my credit and it is hard to get an apartment...three landlords have turned me away."<sup>62</sup> Damage to a renter's credit score from an eviction can also make other necessities more expensive since credit scores are often considered to determine the size of initial deposit to purchase a cell phone, cable and internet, and other basic utilities.<sup>63</sup> Another tenant from the University of North Carolina Greensboro study stated, "I have applied for at least three different places and was turned down because of the recent eviction. The only people I can rent from now are slumlords who neglect their properties. The ones that don't even care to do any kind of record check."<sup>64</sup> In Milwaukee, tenants who experienced an involuntary move were 25 percent more likely to have long-term housing instability compared to other low-income tenants.<sup>65</sup> A 2018 survey of tenants who had been evicted in Seattle found that 80 percent of survey respondents were denied access to new housing because of a previous eviction, and one-third of respondents were not able to re-rent because of a monetary judgment from a previous eviction.<sup>66</sup> In 2019, a Massachusetts bill was introduced in the state legislature that would require courts to automatically seal eviction filings unless and until there was a final eviction judgment and automatically seal all eviction judgments after three years while allowing tenants to move to seal a prior eviction for good cause.<sup>67</sup> These actions would hinder landlords' ability to discriminate against tenants for prior eviction filings.

<sup>59</sup> Sills, Stephen J. et al. "Greensboro's Eviction Crisis." The University of North Carolina Greensboro Center for Housing and Community Studies. N.d.

<sup>60</sup> Desmond, Matthew and Tolbert Kimbro, Rachel. "Eviction's Fallout: Housing, Hardship, and Health." Social Forces. February 24, 2015.

<sup>61</sup> An eviction itself is not reported to credit bureaus even if the landlord is successful in court, although money judgments are reported. The effects of the eviction may appear on a credit report if the tenant failed to pay rent and the landlord sent the delinquency to a collection agency. While there is not a set timeframe for when this information appears on a credit report, the item is treated like any other delinquent debt. It will remain there for seven years from the date of delinquency, even if it is paid off. There are also screening reports that landlords use that report eviction data, criminal records, etc. See <https://aaacreditguide.com/eviction-credit-report/>.

<sup>62</sup> Sills, Stephen J. et al. "Greensboro's Eviction Crisis." The University of North Carolina Greensboro Center for Housing and Community Studies. N.d.

<sup>63</sup> [https://www.investopedia.com/terms/c/credit\\_score.asp](https://www.investopedia.com/terms/c/credit_score.asp).

<sup>64</sup> Sills, Stephen J. et al. "Greensboro's Eviction Crisis." The University of North Carolina Greensboro Center for Housing and Community Studies. N.d.

<sup>65</sup> Desmond, Matthew. "Evicted: Poverty and Profit in the American City." 2016.

<sup>66</sup> "Losing Home: The Human Cost of Eviction in Seattle." The Seattle Women's Commission and the Housing Justice Project of the King County Bar Association. September 2018.

<sup>67</sup> Beiers, Sophie et al. "Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color." ACLU Report. January 2020.



22. *Unpaid Utility Bills and Property Taxes.* A recent study of the costs of eviction in Seattle connected income instability and having unpaid utility or property tax bills to possible eviction.<sup>68</sup> After an income disruption (i.e., job loss, health emergency, unexpected expenses), financially insecure households are three times more likely to miss a utility payment and 14 times more likely to be evicted than financially secure households.<sup>69</sup> Additionally, missed rent payments can result in landlords missing property tax payments, which are a primary source of revenue for local governments.<sup>70</sup>
23. *Health Impacts – Mental and Physical.* As COVID-19 continues to spread throughout communities, the importance of having safe, clean housing is imperative to renter households' health. Research from early in the pandemic has shown increased COVID-19 death rates in cities with overcrowded housing compared to cities without overcrowded housing.<sup>71</sup> If renter households lose their housing and need to enter crowded homeless shelters, they will not be able to maintain social distancing as recommended by the Centers for Disease Control or practice sufficient personal hygiene.<sup>72</sup> At least one confirmed outbreak of COVID-19 at a shelter in San Francisco resulted in more than 70 sick residents and staff.<sup>73</sup> This is becoming a deeper concern as recent evidence has shown the potential for aerosol transmission of COVID-19. There is also a growing body of research documenting the impact of housing instability on health beyond COVID-19. Researchers at Boston Medical Center have found that housing instability can affect the mental and physical health of family members of all ages.<sup>74</sup> Their study revealed that caregivers of young children in low-income unstable housing are two times more likely than those in stable housing to be in fair or poor health, and almost three times more likely to report symptoms of depression. Children aged four and under in these families had almost a 20 percent higher risk of hospitalization, and more than a 25 percent higher risk of developmental delays.<sup>75</sup> A recent study published by the American Academy of Pediatrics examining the effects of homelessness on pediatric health found that the stress of both prenatal and postnatal homelessness was associated with increased negative health outcomes compared to children who never experienced homelessness.<sup>76</sup> Black mothers who are experiencing homelessness have worse birth outcomes than other mothers who

<sup>68</sup> Elliot, Diana and Kalish, Emma. "The Cost of Eviction and Unpaid Bills of Financially Insecure Families for City Budget." Urban Institute. January 2017.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ryan, Andrew and Lazar, Kay. "A new analysis: Coronavirus death rate surged in Massachusetts locations that already faced challenges." Boston Globe. May 9, 2020.

<sup>72</sup> Layser, Michelle D. et al. "Mitigating Housing Instability During a Pandemic." SSRN. June 15, 2020.

<sup>73</sup> Ibid.

<sup>74</sup> Butera, Candace. "The Burden of a Late Rent Check Can Harm the Health of Both Parents and Kids." Pacific Standard. January 23, 2018.

<sup>75</sup> Ibid.

<sup>76</sup> Sandel, Megan, et. al. "Timing and Duration of Pre- and Postnatal Homelessness and the Health of Young Children." The American Academy of Pediatrics. September 2018.



are experiencing homelessness – a reflection of the disparate health outcomes experienced by the general Black population.<sup>77</sup>

24. Families who are evicted often relocate to neighborhoods with higher levels of poverty and violent crime.<sup>78</sup> Researchers at Boston Medical Center and Children’s Hospital found that homes with vermin infestation, mold, inadequate heating, lead, and in violent areas were connected to increased prevalence of respiratory disease, injuries, and lead poisoning in children.<sup>79</sup> Living in a distressed neighborhood can negatively influence a family’s wellbeing.<sup>80</sup> Moreover, families experiencing eviction who are desperate to find housing often accept substandard living conditions that can bring about significant health problems.<sup>81</sup> Data from the Third National Health and Nutrition Examination Survey estimated that 40 percent of children living with asthma are so because of their housing environments.<sup>82</sup> An Associate Professor of Pediatrics at Drexel University College of Medicine testified at a Philadelphia City Council hearing that, “science has shown that children who live in stressful environments, such as substandard housing, the threat of eviction, homelessness and poverty, have changes in their neurological system that affects their ability to learn, to focus, and to resolve conflicts.”<sup>83</sup> The Associate Professor also stated that this “toxic stress” affects many of the body’s critical organ systems resulting in an increased prevalence of behavioral issues, diabetes, weight issues, and cardiovascular disease.<sup>84</sup> Furthermore, major life stressors have been found to increase rates of domestic violence.<sup>85</sup> According to a nationwide survey of domestic violence shelters and programs, approximately 41 percent of respondents indicated evictions and home foreclosures as a driver of increased demand for domestic violence services.<sup>86</sup> In Seattle, approximately 38 percent of survey respondents who had experienced eviction reported feeling stressed, eight percent experienced increased or new depression, anxiety, or insomnia, and five percent developed a heart condition they believed to be connected to their housing instability.<sup>87</sup> Among respondents who had school-age children, approximately 56 percent indicated that their children’s health suffered “very much” as a result of eviction, and

<sup>77</sup> Gay Dawes, Elizabeth. “Housing Instability Is an Important (Yet Overlooked) Factor in the Maternal Health Crisis.” Rewire.News. April 12, 2018.

<sup>78</sup> Desmond, Matthew and Tolbert Kimbro, Rachel. “Eviction’s Fallout: Housing, Hardship, and Health.” Social Forces. February 24, 2015.

<sup>79</sup> “Not Safe at Home: How America’s Housing Crisis Threatens the Health of Its Children.” The Doc4Kids Project, Boston Medical Center and Children’s Hospital. 1998.

<sup>80</sup> Desmond, Matthew and Tolbert Kimbro, Rachel. “Eviction’s Fallout: Housing, Hardship, and Health.” Social Forces. February 24, 2015.

<sup>81</sup> Ibid.

<sup>82</sup> Sandel, Megan and Desmond, Matthew. “Investing in Housing for Health Improves Both Mission and Margin.” The Journal of the American Medical Association. 2017.

<sup>83</sup> Taylor, Daniel R. Testimony Presented to City Council Committee on Licenses and Inspections and the Committee on Public Health and Human Services Regarding Resolution 160988. March 20, 2017.

<sup>84</sup> Ibid.

<sup>85</sup> Makepeace, J. “Life Events Stress and Courtship Violence.” Family Relations. January 1983.

<sup>86</sup> “Homeless Service Utilization Report.” Center on Family at the University of Hawai’i and the Homeless Programs Office of the Hawai’i State Department of Human Services. 2010. Referencing “Domestic Violence Counts 2009: A 24-Hour Census of Domestic Violence Shelters and Services.” National Network to End Domestic Violence. 2009.

<sup>87</sup> “Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.





approximately 33 percent indicated that their children's health suffered "somewhat" for a total of 89 percent of respondents' children experiencing a negative health impact because of eviction.<sup>88</sup> A recent study by Case Western University found that approximately 21 percent of interviewed tenants facing eviction self-reported that they were experiencing poor health.<sup>89</sup> Forty-five percent of interviewed tenants reported that they had been mentally or emotionally impacted by the eviction process and that their children were also mentally or emotionally impacted.<sup>90</sup>

25. A survey of approximately 2,700 low-income mothers from 20 cities across the country who experienced an eviction consistently reported worse health for themselves and their children, including increased depression and parental stress.<sup>91</sup> These effects were persistent. Two years after experiencing eviction, mothers still had higher rates of material hardship and depression than mothers who had not experienced eviction.<sup>92</sup> In a study of the effects of forced dislocation in Boston's West End, approximately 46 percent of women and 38 percent of men expressed feelings of grief or other depressive reactions when asked how they felt about their displacement.<sup>93</sup> A study on the effects of eviction in Middlesex County, Connecticut included interviews with individuals who had experienced an eviction. In almost every case, interviewees expressed that their eviction negatively impacted their physical and mental health.<sup>94</sup> Approximately two-thirds of interviewees reported feeling more anxious, depressed, or hopeless during the eviction process.<sup>95</sup> Individuals who had previously struggled with mental health issues reported that the stress from the eviction exacerbated their conditions, with three interviewees reporting hospitalization for mental health issues following their evictions.<sup>96</sup> Inadequate sleep, malnourishment, physical pain, and increased use of drugs and alcohol were also cited by the interviewees.<sup>97</sup>
26. As with many of the negative impacts of eviction, both physical and mental health issues can be long-term, difficult to reverse, and extremely costly to treat. A study of Medicaid beneficiaries in New Jersey found that health care spending for Medicaid beneficiaries who were experiencing homelessness was between 10 and 27 percent higher than for Medicaid beneficiaries who were stably housed, all else equal.<sup>98</sup> The 10 to 27 percent increase in

<sup>88</sup> Ibid.

<sup>89</sup> "The Cleveland Eviction Study: Observations in Eviction Court and the Stories of People Facing Eviction." Center on Urban Poverty and Community Development, Case Western University. October 2019.

<sup>90</sup> Ibid.

<sup>91</sup> Desmond, Matthew and Tolbert Kimbro, Rachel. "Eviction's Fallout: Housing, Hardship, and Health." Social Forces. February 24, 2015.

<sup>92</sup> Ibid.

<sup>93</sup> Fried, Marc. "Grieving for a Lost Home: Psychological Costs of Relocation." The MIT Press. 1966.

<sup>94</sup> Babajide, Rilwan, et. al. "Effects of Eviction on Individuals and Communities in Middlesex County." The Middlesex County Coalition on Housing and Homelessness. May 12, 2016.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

<sup>98</sup> Cantor, Joel C. et al. "Medicaid Utilization and Spending among Homeless Adults in New Jersey: Implications for Medicaid-Funded Tenancy Support Services." The Milbank Quarterly. January 22, 2020.



Medicaid spending for beneficiaries experiencing homelessness equates to an additional \$1,362 to \$5,727, of which at least 75 percent is attributed to inpatient hospital and emergency department services.<sup>99</sup> A study of cohort families in Michigan found that Medicaid spending for adults experiencing homelessness was 78 percent higher than the statewide average and 26 percent higher for children experiencing homelessness than the statewide average.<sup>100</sup>

- The connection between housing stability and a household's mental and physical health is evident. Having a safe, habitable home can provide solace, especially in times of crisis when mental and physical health issues may become exacerbated. During the global pandemic of COVID-19, numerous cities and states throughout the country instituted eviction moratoriums, recognizing the crucial role housing plays in public health and safety.

27. *Suicide*. In 2015, the American Journal of Public Health published the first comprehensive study of housing instability as a risk factor for suicide.<sup>101</sup> Researchers identified 929 eviction- or foreclosure-related suicides, which accounted for one to two percent of all suicides and 10 percent to 16 percent of all financial-related suicides from 2005 to 2010.<sup>102</sup> In 2005, prior to the "housing bubble" bursting, there were 58 eviction-related suicides.<sup>103</sup> At the peak of the housing crisis in 2009, there were 94 eviction-related suicides, an increase of 62 percent from 2005.<sup>104</sup> These statistically significant increases were observed by researchers relative to the frequency of all other suicides during the same period and relative to suicides associated with general financial hardships, suggesting that the increase in eviction- or foreclosure-related suicides was not only a part of a general increase in the number of suicides.<sup>105</sup> After the housing crisis, eviction-related suicides began to revert to pre-crisis levels. Approximately 79 percent of suicides occurred before the actual loss of housing, and 39 percent of people dying as a result of suicide had experienced an eviction- or foreclosure-related crisis (e.g., eviction notice, court hearing, vacate date) within two weeks of the suicide.<sup>106</sup> Researchers in Seattle seeking to examine the most extreme consequences of eviction conducted a detailed review of 1,218 eviction cases in Seattle, finding four individuals with eviction cases died by suicide.<sup>107</sup> In a Middlesex County, Connecticut report, a tenant experiencing eviction had shared with the

<sup>99</sup> Ibid.

<sup>100</sup> Spellman, Brooke, et. al. "Costs Associated With First-Time Homelessness for Families and Individuals." U.S. Department of Housing and Urban Development, Office of Policy Development and Research. March 2010.

<sup>101</sup> Fowler, Katherine A. et al. "Increase in Suicides Associated With Home Eviction and Foreclosure During the US Housing Crisis: Findings From 16 National Violent Death Reporting System States, 2005-2010." American Journal of Public Health. February 2015.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> "Losing Home: The Human Cost of Eviction in Seattle." The Seattle Women's Commission and the Housing Justice Project of the King County Bar Association. September 2018.



interviewer that she “ended up having a breakdown, and I ended up in the hospital and I had a suicide attempt.”<sup>108</sup>

28. *Impacts on Children.* In New Jersey, approximately 36 percent of children are living in households with a high housing cost burden, which could indicate housing instability and potentially eviction.<sup>109</sup> When families are evicted, children experience a variety of disruptions that can negatively impact their education and behavior. Data from The National Assessment of Education Progress, known as “the Nation’s Report Card,” suggests that children who frequently change schools (i.e., more than twice in the preceding 18 months) are half as likely to be proficient in reading as their stable peers.<sup>110</sup> A study of third grade students who frequently changed schools found that mobile students were approximately twice as likely to perform below grade level in math compared to non-mobile students.<sup>111</sup> Not only do mobile students perform worse in reading and math than their stable peers, they are also nearly three times more likely to repeat a grade, and the likelihood that they will graduate is reduced by more than 50 percent.<sup>112</sup> In Seattle, approximately 88 percent of survey respondents with school-aged children reported their children’s school performance suffered “very much” because of the eviction the family experienced, and approximately 86 percent of respondents reported their children had to move schools after the eviction.<sup>113</sup> A University of Michigan study of the role of housing instability in school attendance found that 40 percent of students experiencing homelessness were chronically absent (i.e., missing 10 percent or more of school days) in the 2016-2017 school year.<sup>114</sup> Students experiencing homelessness were chronically absent more than two-and-a-half times more frequently than students who were housed and more than four times as often as higher income students.<sup>115</sup> In Atlanta, there is an ongoing program that embeds housing attorneys and community advocates in high schools in neighborhoods where many residents are experiencing housing instability.<sup>116</sup> As a result of the program, the enrollment turnover rate decreased by 25 to 51 percent in certain schools, and attorneys stopped 20 evictions and assisted with 81 other housing-related cases.<sup>117</sup>

<sup>108</sup> Babajide, Rilwan et al. “Effects of Eviction on Individuals and Communities in Middlesex County.” The Middlesex County Coalition on Housing and Homelessness. May 12, 2016.

<sup>109</sup> 2020 Data Center. Kids Count. New Jersey Metrics.

<sup>110</sup> Isaacs, Julia and Lovell, Phillip. “The Impact of the Mortgage Crisis on Children and Their Education.” First Focus. May 1, 2008., citing Rumberger, Russell. “The Causes and Consequences of Student Mobility.” Journal of Negro Education. 2003.

<sup>111</sup> Isaacs, Julia and Lovell, Phillip. “The Impact of the Mortgage Crisis on Children and Their Education.” First Focus. May 1, 2008., citing “Elementary School Children: Many Change Schools Frequently, Harming Their Education.” United States General Accounting Office Report. 1994.

<sup>112</sup> Ibid. And Isaacs, Julia and Lovell, Phillip. “The Impact of the Mortgage Crisis on Children and Their Education.” First Focus. May 1, 2008., citing Rumberger, 1993.

<sup>113</sup> Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

<sup>114</sup> Erb-Downward, Jennifer and Watt, Payton. “Missing School, Missing A Home: The Link Between Chronic Absenteeism, Economic Instability and Homelessness in Michigan.” University of Michigan Poverty Solutions. November 2018.

<sup>115</sup> Ibid.

<sup>116</sup> Starnes, Ashleigh and King, Katie. “Standing with Our Neighbors Featured on CBS This Morning.” Atlanta Volunteer Lawyers Foundation. March 23, 2018.

<sup>117</sup> Ibid.





Children who frequently move are also more likely to experience behavioral issues. Researchers analyzed survey data from the Mothers and Newborns Study, a longitudinal birth cohort maintained by the Columbia Center for Children's Environmental Health, to ascertain certain characteristics of children born to approximately 500 mothers.<sup>118</sup> Researchers found that children who experienced housing instability were approximately twice as likely to have thought-related behavioral issues and were approximately one-and-a-half times more likely to have attention-related behavioral health issues than children who were stably housed.<sup>119</sup>

29. New Jersey also has the sixth most segregated public school system in the United States with respect to Black and White students and seventh most segregated public school system with respect to Latinx students.<sup>120</sup> There are approximately 53,000 Black students in New Jersey attending public schools that are more than 99% non-White, and approximately 53,400 Latinx students in New Jersey attending public schools that are at least 99% non-white.<sup>121</sup> This school segregation is often accompanied by housing segregation, which perpetuates poverty by excluding poor children of color from integrated education and housing.
30. *Family Instability – Child Welfare and Foster Care Systems.* Poverty, housing instability, and child welfare/foster care system involvement are connected. Low-income children of parents who are experiencing homelessness are four times more likely to become involved with the child welfare system than low-income, stably housed children.<sup>122</sup> Homelessness not only increases the likelihood that a child will be placed in foster care, but also creates barriers to family reunification once a child is placed in foster care or with other family members.<sup>123</sup> According to U.S. Department of Health and Human Services, approximately 10 percent of children are removed from their homes because of housing issues.<sup>124</sup> California spends approximately \$167 million annually in federal funds on foster care and services for children separated because of housing instability, but the state could save approximately \$72 million if it could use those funds to ensure housing was readily available when parents are eligible for reunification.<sup>125</sup> This family separation is a lesser-known consequence of the affordable housing crisis throughout the country. In a survey of 77 families living in Worcester, Massachusetts shelters, approximately 19 percent of their children were placed in foster care compared to 8 percent of low-income, housed children

<sup>118</sup> "Housing Instability Is Linked to Adverse Childhood Behavior." Urban Institute. May 8, 2019. Referencing Gaylord, Abigail et al. "Impact of Housing Instability on Child Behavior at Age 7 Years." International Public Health Journal. July 1, 2018.

<sup>119</sup> Ibid.

<sup>120</sup> Orfield, Gary. "New Jersey's Segregated Schools: Trends and Paths Forward." UCLA Civil Rights Project. 2017.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> "Keeping Families Together." New Mexico Appleseed. 2013.

<sup>124</sup> "The AFCARS Report." U.S. Department of Health and Human Services, Administration for Children and Families. October 20, 2017.

<sup>125</sup> Ibid.



in Worcester.<sup>126</sup> Findings from a similar survey of families experiencing homelessness in New York City indicated that 35 percent of families had an open child welfare case and 20 percent had one or more children in foster care.<sup>127</sup> A study of approximately 23,000 mothers living in Philadelphia found that approximately 37 percent of mothers experiencing homelessness became involved with child welfare services within the first five years of a child's birth compared to approximately 9 percent of mothers living in low-income neighborhoods and 4 percent of other mothers.<sup>128</sup> The risk of child welfare services involvement at birth is nearly seven times higher for mothers who have ever experienced homelessness compared to mothers who have neither experienced homelessness nor are in the lowest 20 percent bracket of income.<sup>129</sup> Children born into families that have experienced homelessness were placed into foster care in approximately 62 percent of cases compared to approximately 40 percent of cases involving low-income families.<sup>130</sup>

- A first of its kind study in Sweden recently examined to what extent children from evicted households were separated from their families and placed in foster care. The study found that approximately four percent of evicted children were placed in foster care compared to 0.3 percent of non-evicted children.<sup>131</sup> An American study, using a nationally representative longitudinal data set, explored the prevalence of inadequate housing among families under investigation by child welfare agencies.<sup>132</sup> Findings indicated that inadequate housing contributed to 16 percent of foster care placements among families under investigation by child protective services.<sup>133</sup>
- Physical and psychological aggression toward children has also been connected to housing instability.<sup>134</sup> Mothers experiencing homelessness and mothers living “doubled-up” (i.e., with family and/or friends) reported higher levels of physically aggressive behaviors toward a child compared to other low-income, housed mothers – 29 percent, 18 percent, and 13 percent, respectively.<sup>135</sup> Approximately 39 percent of mothers experiencing homelessness or mothers living “doubled-up”

<sup>126</sup> Bassuk, E.L., et al. “Homelessness in Female Headed Families: Childhood and Adult Risk and Protective Factors.” American Journal of Public Health. 1997.

<sup>127</sup> Nunez, R.D. “Hopes, Dreams, and Promise: The Future of Homeless Children in America.” Institute for Children and Poverty, Homes for the Homeless Inc. 1994.

<sup>128</sup> Culhane, Jennifer, et. al. “Prevalence of Child Welfare Services Involvement among Homeless and Low-Income Mothers: A Five-year Birth Cohort Study.” Journal of Sociology and Social Welfare. 2003.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

<sup>131</sup> Berg, Lisa. “Evicted children and subsequent placement in out-of-home care: A cohort study.” Centre for Health Equity Studies, Department of Public Health Sciences, Stockholm University. April 18, 2018.

<sup>132</sup> Fowler, PJ, et. al. “Inadequate housing among families under investigation for child abuse and neglect: prevalence from a national probability sample.” American Journal of Community Psychology. 2013.

<sup>133</sup> Ibid.

<sup>134</sup> Park, Jung Min et al. “Physical and Psychological Aggression towards a Child among Homeless, Doubled-up, and Other Low-Income Families.” Journal of Social Service Research. March 31, 2015.

<sup>135</sup> Ibid. The federal government includes people living in “doubled up” environments in its definition of homeless.



reported psychologically aggressive behaviors toward a child compared to 22 percent of other low-income, housed mothers.<sup>136</sup> Mothers who had experienced homelessness were approximately twice as likely to engage in a physical aggression toward a child compared to other low-income, housed mothers.<sup>137</sup>

31. *Community Instability*. Researchers have investigated how high eviction rates unravel the social fabric of communities. When evictions take place on a large scale, the effects are felt beyond the family being evicted; a social problem that destabilizes communities occurs.<sup>138</sup> More than middle- and upper-income households, low-income households rely heavily on their neighbors. For example, individuals in low-income communities depend on each other for childcare, elder care, transportation, and security because they cannot afford to pay for these services independently. Matthew Desmond has indicated through his work that eviction can account for high residential instability rates in neighborhoods with high levels of poverty, holding all other factors equal.<sup>139</sup>
32. New Jersey renter households – particularly those that are low-income and households of color – are facing an extraordinarily unstable housing environment spurred by COVID-19. Approximately 40% of all renter households in New Jersey are unable to pay their rent, and an estimated 304,000 evictions could be filed in the next four months. On average, approximately 34% of New Jersey renter households with incomes less than \$50,000 have no or slight confidence in their ability to pay next month's rent. Furthermore, an average of 42% of non-White New Jersey renter households have no or slight confidence in their ability to pay next month's rent, while only 18% of White New Jersey renter households have no or slight confidence in their ability to pay next month's rent. Approximately 49% of African American renter households have no or slight confidence in their ability pay next month's rent, the highest among all ethnicities. Disparities like these are also prevalent in COVID-19 deaths for New Jersey where Black and Brown people are dying at disproportionately higher rates relative to their proportion of the population. New Jersey's immigrant population, the third largest in the country, is experiencing significant challenges related to accessing healthcare due to fears of immigration enforcement and the impact on immigration status. Many small business owners in New Jersey are immigrants who have had their livelihoods disappear as their businesses have been shut down during the pandemic. This, in combination with numerous other negative impacts of the pandemic, has left countless families with financial instability and subsequent housing instability.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

<sup>138</sup> Blumgart, Jake. "To reduce unfair evictions tenants need lawyers." Plan Philly. March 16, 2017

<sup>139</sup> Johns-Wolfe, Elaina. "You are being asked to leave the premises: A Study of Eviction in Cincinnati and Hamilton County, Ohio, 2014-2017." The Cincinnati Project. June 2018. Referencing Desmond, Matthew. "Community in Crisis: Understanding Housing Insecurity." Northern Kentucky University. 2018.



33. The potential negative impact of eviction not only on tenants but also on states, cities, and communities is staggering. Research has shown that people facing eviction and people actually evicted have higher likelihoods of experiencing homelessness, mental and physical health challenges, employment loss, challenges re-renting, challenges in school for their children, and interactions with child welfare services and the foster care systems. These impacts often trigger a social safety net response (e.g., use of homeless shelters, Medicaid spending for increased instances of physical and mental health challenges, payment of unemployment benefits for employment loss, transportation to school of origin for children experiencing homelessness, and out-of-home placements for children interactive with the foster care system) that is extremely expensive for states and cities. Furthermore, these impacts are likely to be significantly worse when coupled with COVID-19. The virus's community transmission could worsen its already detrimental effects, including contributing to an increase in COVID-19 cases, particularly among vulnerable populations. If this were to happen, generational poverty in New Jersey, especially for Black and Brown renter household would undoubtedly be exacerbated.
34. If New Jersey renter households facing eviction because of the economic fallout of COVID-19 are subjected to the standard eviction process, hundreds of thousands of people will likely experience the negative impacts of eviction, including but not limited to homelessness and further economic hardship. However, if New Jersey renter households are provided a sufficient time period over which to repay unpaid rent, some level of financial and societal stability could be achieved, and the most detrimental impacts could be avoided.

### Assumptions and Limiting Conditions

35. Stout's analyses are based on information reviewed to date. Stout reserves the right to change these analyses should additional information become available.
36. Stout's review, research, and analyses were conducted on an independent basis. No one who worked on this report has any known material interest in the outcome of the analyses.

A handwritten signature in black ink, appearing to read "Neil Steinkamp", written over a horizontal line.

Neil Steinkamp  
Managing Director  
Stout Risius Ross, LLC



# APPENDIX

## Statement of Methodology and Considerations in Developing the Estimates

Provided below is information to assist in understanding the methodology used in the development of the estimates of households experiencing rental shortfall and potentially facing evictions and the relief needed to stabilize those households, as well as other information considered in the development of these calculations.

- Household data by income level by rent burden is based on the U.S. Census Bureau table B25074 for each State from its 2018 American Community Survey.
  - This dataset reflects the 2018 1-year estimates and was initially released on September 26, 2019 and has been supplemented periodically, with the most recent update occurring on January 30, 2020.
  - The Census Bureau uses a 90% confidence level to determine the margins of error in the B25074 table.
- Rent payment confidence data is based on U.S. Census Bureau Household Pulse data for Week 5 (May 28 - June 2) – Table 2b: Confidence in Ability to Make Next Month's Payment for Renter Occupied Housing Units, by Select Characteristics for each State.
  - The U.S. Census Bureau explains that, “sample sizes for the Household Pulse Survey were determined such that a two-percentage point detectable difference in weekly estimates for an estimate of 40 percent of the population would be detectable with a 90% confidence interval within each sample area. The overall sample sizes within the sampling areas were adjusted for an anticipated response rate of five percent.”
  - Between Weeks 3 and 9 of the Household Pulse survey rent occupied households have demonstrated a consistent concern that they will be unable to make the next month's rent. This is particularly the case for the lowest income categories with approximately two-thirds of respondents only moderately confident or less.
    - In recent weeks, renter confidence in states experiencing significant increases in COVID infection rates has decreased. There appears to be a strong inverse correlation between COVID infection rates and renter confidence, likely caused by the economic and employment response by business and government to rising COVID infection rates.
  - Rent payment confidence does not include responses to the survey indicating “Payment is or will be deferred” or “No response”. The number of these



respondents is relatively small. They are included in the denominator of our calculations but are not separately identified as households potentially facing a rent shortfall.

- Household Pulse data is reported based on the number of respondents (individuals). U.S. Census Table B25074 is a measure of households. We have used the proportion of respondents in the Household Pulse data as a reasonable proxy of the number of households to apply to the numbers provided in Table B25074.
- Household Pulse income categories are based on the 2019 annual income levels reported by the respondents. The economic impact of COVID-19 has likely reduced that income in 2020 for many households.
- We have not included renter occupied households with non-cash rent or occupied without rent.
- Household Pulse income categories are slightly different than the income categories used in table B25074. The lowest reported income category in table B25074 is “Less than \$20,000”. The lowest reported income category for the Household Pulse data is “Less than \$25,000”. The second income category in table B25074 is “\$20,000 - \$34,999”. The second income category in the Household Pulse data is \$25,000 - \$34,999”. Household income categories greater than \$100,000 are combined into a single category. All other income categories are aligned. For purposes of this analysis we have used the income categories in table B25074 and have assumed that the proportions indicated in the Household Pulse data for the lowest two income categories would reasonably align with the income categories in B25074.
- We have assumed that all renter households estimated to have No or Slight confidence in the ability to make next month’s rent will need some degree of relief.
- We have assumed that 50% of all renter households estimated to have Moderate confidence in the ability to make next month’s rent will need some degree of relief.
  - It is possible that the proportion of respondents who indicated they have a Moderate confidence in paying next month’s rent that would need rental relief could vary based on income levels or rent burden. That is, respondents at higher income levels or lower rent burden who responded with Moderate confidence may have a lesser likelihood of needing rent relief. The inclusion of 50% of the respondents with Moderate confidence is intended to consider that certain incomes and rent burden may have a higher or lower likelihood of needing relief. A more refined analysis of this variation could cause the total estimated relief to be different (possibly higher or lower).





- We have estimated the average monthly rent using the midpoint income level and rent burden for each row. For the lowest income and rent burden levels we have estimated a reasonable average income and expected rent for these households.
- For purposes of this analysis, we have assumed that each household that will need some degree of relief will need an average amount of relief consistent with 50% of their monthly rent. One would expect that some households would require more and some household may require less.
  - A recent survey by Gracie Hill found that "12% of renters did not expect to pay rent at all during May; 15% expected to pay partial rent in May; 21% said they didn't know what they would be able to pay during May". These ratios suggest that for those that do not expect to be able to pay their rent (relative proportion), 25% do not expect to pay anything and up to 69% may only be able to pay a portion of their rent.
- Based on analysis of the Public Use Files of the Household Pulse survey data, we have assumed that 60% of households were able to make last month's rent but do not expect to make next month's rent. We then assume that 20% of households unable to make next month's rent also did not pay rent last month (2-month of rental arrears), 10% are 3 months in arrears and 10% are 4 months in arrears.
  - This is consistent with the methodology described below regarding our estimation of the number of potential eviction filings that may result from these rental shortfalls.
- We have assumed that only 80% of the estimated number of households that the Household Pulse data indicates would require relief in the two lowest income brackets would require actual rental assistance. We assume, based on the ratio of subsidized units to the total number of renter households in the United States for those income levels, that 20% of those households that may require relief are in subsidized units for whom other forms of relief or rental adjustment may be available. We have excluded these households from the calculation.
  - When collecting information about rent burden the U.S Census Bureau instructions direct the respondent to, "report the rent agreed to or contracted for, even if the rent for your home, apartment, or mobile home is unpaid or paid by someone else. Do not include any subsidy amount which may be paid by a local housing authority or other agency."
    - The U.S. Census Bureau published a survey indicating that for this question, 25% of respondents are likely answering the question as it was intended to be answered; 71% are reporting rent amounts that are less than the contract amount (they are reporting net of subsidy); and 4% are reporting an amount higher than the contract amount.



- This is relevant to consider when assessing rent burden reported, particularly by low-income levels that may be receiving rental subsidies.
- We have assumed that households with the greatest rent burden would be most likely to respond to the survey indicating they would not be able to make next month's rent. As such, we have measured the amount of relief necessary for renter households with the greatest rent burden first. We then apply this to successive levels of lower rent burden until the total number of expected households requiring relief has been included (for No/Slight Confidence and Moderate Confidence separately). While it would certainly be expected that employment disruption and rental confidence has been impacted across all rent burden levels for all income categories, it is also reasonable to expect that the greatest risk would be faced by those with the highest rent burden especially at lower income levels. Therefore, certain of the income-level/rent burden cohorts in the model are displayed as having no impacted households due to the assumed application of need at the highest rent burden levels first. Modifying this assumption to distribute the impacted population across all rent burdens would reduce the estimate of needed relief (as the distribution of monthly rent relief needed for lower rent burdens would be modified) but would not change the overall number of households likely to experience a rent shortfall.
- We have not included consideration of other funding or relief that may be available to renter households, including CARES or unemployment compensation.
  - Based on the timing of the survey results, it would be reasonable to expect that the survey responses have been informed by the receipt of CARES stimulus funding as well as unemployment benefits for most households.
- We have not considered the status of any specific moratoriums in any specific state. Rather, the estimated number of evictions should be considered based on the status of local moratoriums and would apply after those moratoriums are lifted.
- The calculations do not adjust for or otherwise consider the number of households that are facing a pending eviction case. Households that indicated they will not be able to pay next month's rent may already be facing a pending eviction filing.
- In order to estimate the number of eviction filings that may occur over the next four months resulting from this rent shortfall, we first applied the percentage of respondents to the U.S. Census Household Pulse Survey who said that they were both unable to meet last month's rent and had No or Slight confidence in the ability to make next month's rent, to the total number of estimated renter households that will experience a shortfall this month, resulting in the number of renter households that are estimated to be one-month in arrears. We then stratified the remaining households into two-, three-, and four-months in arrears cohorts, with twice as many two-months in arrears households as three- and four-months households which we assumed to be equal.





- Additionally, we have assumed that, in each subsequent month, half of each cohort of renter households in arrears (current month behind, 2 months behind, etc.) will remain in their same cohort (representing payment of one month's rent that is most delinquent), and half of the households will fall one month further behind in rent payments.
- When estimating the number of monthly eviction filings, we have assumed that in the current economic climate landlords will (on average) file an eviction notice after a tenant falls three months behind in rent payments. Therefore, in each subsequent month, we assumed that any households which have fallen three or more months into arrears on rent payments will receive an eviction notice. We remove from the population the household that are estimated to receive an eviction notice for purposes of calculating the next month's estimates.
- Finally, we calculated the average estimated number of eviction filings that could be filed over the next two months and over the two months after that (months 3 and 4), separately.

#### Additional Data Sources and Considerations

- A recent national online survey by the website Property Nest found that roughly 39 percent of respondents said that they would be unable to pay rent if they lost their job during the coronavirus pandemic.
- The NAR estimates that 42% of households across the country would struggle to pay for housing solely with unemployment benefits. Parsed further, the organization says that 31% of renters have monthly housing costs that are higher than the amount they can pay with unemployment benefits.
- An analysis of the Household Pulse Survey Public Use File (PUF) data files for Weeks 1 to 5 shows that about half of those respondents who indicated they have No/Slight confidence in making next month's rent also indicated they were unable to pay last month's rent as well.
- At a time of historically low unemployment in 2019, the Fed reported that 38% of Americans did not have the resources to pay an unexpected expenditure of \$400.
- A pre-COVID analysis of eviction filings in Rochester, NY indicates that 47% of evictions were filed based on less than 1.5 months of rent. 65% involved 2 months of rent. 77% involved 2.5 months.
- The Rochester (NY) Metro Area Poverty Initiative published data recently showing that over 30% of respondents indicate that they are unable to pay their rent, haven't paid their rent, don't know how they will pay their rent or has a landlord that is trying to evict them.



- The NMHC and Entrata reported at the end of April that:
  - New York State had one of the lowest overall percentages in the country of units that made a rent payment as of April 22 (89.8%) and one of the highest percentages of uncollected rent.
  - This same report indicated a significant increase (nationwide) in payments being made by credit card in April and in repayment plans negotiated with tenants (note: this report has not yet been updated for May).
- A recent survey by Gracie Hill indicated “The evolution in sentiment may continue to reflect the timing of stimulus payments from the federal government. When our survey closed in mid-May, the portion of residents who said they would ask landlords to defer their rent was set to be 30%, compared to 40% in April. Sixty-eight percent reported receiving stimulus assistance, and of those 38% said it helped them feel more financially secure, whereas 49% said it made no difference. Fourteen percent of residents reported they believed they would be more financially secure in three to six months compared to how they were before COVID-19. Forty-eight percent anticipated they would be somewhat (28%) or significantly (20%) less secure financially 3-6 months from now than they were before COVID-19.”
  - This is an early indicator of the possibility of modest short-term improvement in the ability to pay rent – but also the expectation of longer-term instability as well.
- The Furman Center reports that, “About 20 percent of New York City renters live in 2-4 unit buildings. Across the nation, 34 percent of renters live in single-family homes, with an additional 17 percent in 2-4 unit buildings. Rental arrears may pose particular problems for owners of smaller buildings, placing those owners at risk of maintaining mortgage payments.”
  - A pre-COVID analysis of eviction filings in Rochester, NY indicates that 69.2% of all eviction filings in Rochester involved buildings with 4 units or less (65.1% of all rental units are in buildings with 4 units or less).
- Another Furman Center study, based on an examination of unemployment insurance claims in New York State, estimates that, “1.1 million renter households in New York State have at least one member who has lost their job due to COVID-19,” and that the related rental assistance required would amount to \$391 million for low-income households and \$743 million for all renter households in New York State.
  - While this Furman Center analysis uses a different calculation methodology, its estimates of the number of rent insecure households and the rent relief funding needed is consistent with the results of the Stout model, as described above.
- A recent survey conducted by the website Apartment List (in partnership with SurveyMonkey) found that in June 2020, 32% of American rental households missed their



rent payments, of which, about two-thirds missed their full payment and one-third made only a partial payment.

- The survey determined that delayed payments in one month was a strong predictor for missed payments in the next month with 70% of respondents who were late making May's payment also making no or partial payment for June and 91% of respondents who made no payment for May making no or partial payment for June, more than half of which made no payment.
- The survey showed that over one-third of renters are at least somewhat concerned that they will be served an eviction notice in the next six months with that figure climbing to 56% among those households who did not pay their full rent for the month of June.
- The survey also reported that a majority of households that missed their rent payment at the beginning of the month were able to close the gap with late payments in the following weeks, with only about 10% of households remaining delinquent by the end of the month.
- A new study of American renter households' income, savings, and housing cost burdens by the COVID-19 Eviction Defense Project (CEDP) states that between 19 million and 23 million Americans are at risk of eviction by the end of September 2020, assuming between 25% and 30% renter unemployment.
- An article published in March by Multi-Housing News (MHN) reported that a recent study found that of the average, "\$22 billion in monthly rent collected by apartment landlords, renters may require between \$7 billion and \$12 billion in temporary assistance over the next three to six months," due to the economic freeze caused by the coronavirus. The article also states that between 15% and 26% of U.S. renters will likely be affected by COVID-19 related business closures resulting in the reported rent shortfall and required assistance funding.
- In May, the Amherst Group reported on the disparity between renter and homeowner households and the impact of COVID-19 on these households. The report notes, "that only 39% of U.S. households have received government housing relief, leaving tens of millions of renters at risk of eviction or foreclosure in the event of a prolonged downturn." The report also found that roughly 28 million renter households are estimated to be at greatest risk of eviction – 23% of all households whose homes are not owned or financed through government vehicles. The report highlights that approximately 25% of all renters spend more than 50% of their incomes on rent vs. only 11% of homeowners with a mortgage and renters who live in properties not within the government supported infrastructure are not receiving any targeted housing relief programs at the national level. As a result, the Amherst analysis indicates that, "absent




additional intervention, there is a risk America will experience evictions and foreclosures in excess of the levels we saw in the wake of the Great Recession.”

- In a brief published in June summarizing their findings on the level of assistance needed to support renters through the COVID-19 crisis, the Urban Institute estimated that it will cost \$5.5 billion a month - without state unemployment insurance and the CARES Act financial support - to bring renter households back to their pre-coronavirus rent-to-income levels, and \$1.8 billion a month with state and federal supplemental support. Further, the brief estimated that, “in order to alleviate housing cost burdens for the nearly half of renters who were spending more than 30 percent of their income on rent before the crisis in addition to the renters who lost income due to the COVID crisis, rental assistance of \$15.5 billion a month [without the state unemployment insurance and the CARES Act \$600 weekly supplement] would be required.”
- An analysis by ApartmentList.com published on July 8, 2020 indicates:
  - “32 percent of Americans did not make a full on-time housing payment in July, up slightly from 30 percent in June.
  - Missed payments continue to concentrate among renters, young and low-income households, and residents of dense urban areas.
  - Compared to last month more Americans are concerned about evictions and foreclosures, even as federal and certain local displacement protections are extended.
  - For the fourth straight month, a historically high number of renters and homeowners were unable to pay their full housing bill.”
  - In early April, the percentage of Americans unable to make a full on-time housing payment jumped to 24 percent, then rose to 31 percent in May. This missed payment rate has since stabilized, dipping slightly to 30 percent in June before ticking back up to 32 percent in July. During the first week of this month, 19 percent of Americans had made no housing payment, while an additional 13 percent paid only a portion of their monthly bill.
  - While eviction protections today vary dramatically from place to place, our survey shows widespread and growing concern about housing insecurity. From June to July, the share of renters who are either “very” or “extremely” concerned about being evicted rose from 18 percent to over 21.”

# Exhibit B

**RECORDING INFORMATION SHEET**

**CUMBERLAND COUNTY CLERK'S OFFICE**  
**60 WEST BROAD STREET**  
**BRIDGETON NJ 08302**


<b>INSTRUMENT NUMBER:</b> <p style="text-align: center;"><b>556397</b></p> <p style="text-align: center;"><b>Official Use Only</b></p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p style="text-align: center;">CELESTE RILEY, COUNTY CLERK CUMBERLAND COUNTY, NJ</p> <p style="text-align: center;">INSTRUMENT NUMBER 556397 RECORDED ON 06/22/2018 10:19:34 AM BOOK: 04167 PAGE: 9394 KH</p> <p style="text-align: center;">Consideration:</p> </div> <p>MAIL COPY _____          NO COPY _____          ENVELOPE _____</p> <p>ADDITIONAL STAMPINGS _____</p>	<b>DOCUMENT TYPE:</b> <p style="text-align: center;"><b>MORTGAGE</b></p> <p><b>Return Address (for recorded documents)</b></p> <p>DOMINION TITLE SERVICES AGENCY              55 EAST COMMERCE STREET              BRIDGETON NJ              08302</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"><b>No. of Pages (excluding Summary Sheet)</b></td> <td style="width: 40%;">17</td> </tr> <tr> <td><b>Recording Fee (excluding Transfer Tax)</b></td> <td>\$193.00</td> </tr> <tr> <td><b>Realty Transfer Tax</b></td> <td>\$0.00</td> </tr> <tr> <td><b>Amount Charged</b></td> <td>\$193.00</td> </tr> <tr> <td><b>Parcel Information</b></td> <td>Block: Lot: Municipality: VINELAND</td> </tr> <tr> <td><b>First Party Name</b></td> <td>MARGARITA JOHNSON</td> </tr> <tr> <td><b>Second Party Name</b></td> <td>JPMORGAN CHASE BANK</td> </tr> <tr> <td><b>Payment(s)</b></td> <td>Check <b>Redacted</b></td> </tr> </table> <p style="text-align: center;"><b>Additional Information (Official Use Only)</b></p> <div style="text-align: center;">  </div>	<b>No. of Pages (excluding Summary Sheet)</b>	17	<b>Recording Fee (excluding Transfer Tax)</b>	\$193.00	<b>Realty Transfer Tax</b>	\$0.00	<b>Amount Charged</b>	\$193.00	<b>Parcel Information</b>	Block: Lot: Municipality: VINELAND	<b>First Party Name</b>	MARGARITA JOHNSON	<b>Second Party Name</b>	JPMORGAN CHASE BANK	<b>Payment(s)</b>	Check <b>Redacted</b>
<b>No. of Pages (excluding Summary Sheet)</b>	17																
<b>Recording Fee (excluding Transfer Tax)</b>	\$193.00																
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<b>Parcel Information</b>	Block: Lot: Municipality: VINELAND																
<b>First Party Name</b>	MARGARITA JOHNSON																
<b>Second Party Name</b>	JPMORGAN CHASE BANK																
<b>Payment(s)</b>	Check <b>Redacted</b>																

\*\*\*\*\* **DO NOT REMOVE THIS PAGE.** \*\*\*\*\*

**COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF CUMBERLAND COUNTY FILING RECORD**

\*\*\*\*\* **RETAIN THIS PAGE FOR FUTURE REFERENCE** \*\*\*\*\*

NOTE: If the document data differs from this cover sheet, the document data always supersedes the cover page.  
 COVER PAGE DOES NOT INCLUDE ALL DATA. PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION.

<b>Cumberland County Recording Data Page</b> <b>Honorable Celeste M. Riley</b> <b>Cumberland County Clerk</b> 	<i>Official Use Only – Barcode</i>
<i>Official Use Only – Record &amp; Return</i>	<i>Official Use Only – Realty Transfer Fee</i>
Date of Document: June 20, 2018	Type of Document: Mortgage
First Party Name: Margarita Johnson, married	Second Party Name: JPMorgan Chase Bank, N.A.
Additional Parties:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY	
Block:	Lot:
Municipality:	
Consideration:	
Mailing Address of Grantee:	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY	
Original Book:	Original Page:

<b>CUMBERLAND COUNTY RECORDING DATA PAGE</b> Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.
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7



**Return To:** JPMorgan Chase Bank, N.A.  
Chase Records Center Attn: Collateral  
Trailing Documents, RE:MC 8000  
700 Kansas Lane  
Monroe, LA 71203

**Prepared By:** Kenya Moore  
300 South Grand Avenue  
Los Angeles, CA 90071

*Record + Return to*  
Dominion Title Services/Bridgeton Inc.  
55 East Commerce Street  
Bridgeton, NJ 08302  
856-455-1008

**Redacted**

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## Mortgage

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**Definitions.** Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "*Security Instrument*" means this document, which is dated June 20, 2018, together with all Riders to this document.

(B) "*Borrower*" is Margarita Johnson, married. Borrower is the mortgagor under this Security Instrument.

(C) "*Lender*" is JPMorgan Chase Bank, N.A.. Lender is a National Banking Association organized and existing under the laws of the United States of America. Lender's address is 1111 Polaris Parkway, Columbus, OH 43240-2050. Lender is the mortgagee under this Security Instrument.

(D) "*Note*" means the promissory note signed by Borrower and dated June 20, 2018. The Note states that Borrower owes Lender one hundred seventeen thousand two hundred seventy-one and 00/100 Dollars (U.S. \$117,271.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than July 1, 2048.

(E) "*Property*" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "*Loan*" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "*Riders*" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider              | <input type="checkbox"/> Second Home Rider           |
| <input type="checkbox"/> Balloon Rider         | <input type="checkbox"/> Planned Unit Development Rider | <input checked="" type="checkbox"/> 1-4 Family Rider |
| <input type="checkbox"/> VA Rider              | <input type="checkbox"/> Biweekly Payment Rider         | <input type="checkbox"/> Other(s) [specify]          |

(H) "*Applicable Law*" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) "*Community Association Dues, Fees, and Assessments*" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.



(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) "Escrow Items" means those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, RESPA refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

**Transfer of Rights in the Property.** This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For these purposes, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County [Type of Recording Jurisdiction] of Cumberland [Name of Recording Jurisdiction]: See Attached Exhibit A **Redacted** which currently has the address of 728 S 6th St [Street] Vineland [City], New Jersey 08360 [Zip Code] ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**Uniform Covenants.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's



### EXHIBIT A - LEGAL DESCRIPTION

Tax Id Number(s): Block 4918 Lot 6

Land situated in the City of Vineland in the County of Cumberland in the State of NJ

BEGINNING AT A CORNER ON THE WESTERLY SIDE OF SIXTH STREET AT THE DISTANCE OF 100 FEET NORTHWARDLY FROM THE INTERSECTION OF THE WESTERLY SIDE OF SIXTH STREET WITH THE NORTHERLY SIDE OF WASHINGTON AVENUE; THENCE

- 1) NORTH 82 DEGREES WEST, 100 FEET TO A CORNER; THENCE
- 2) NORTH 08 DEGREES EAST, 47 FEET TO A CORNER; THENCE
- 3) SOUTH 82 DEGREES EAST, 100 FEET TO A CORNER ON THE WESTERLY SIDE OF SIXTH STREET; THENCE
- 4) ALONG THE WESTERLY SIDE OF SIXTH STREET, SOUTH 08 DEGREES WEST, 47 FEET TO THE PLACE OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: KNOWN AS LOT 6 BLOCK 4918 ON THE TAX MAP OF THE CITY OF VINELAND.

NOTE: The Company is prohibited from insuring the area or quantity of the land. The Company does not represent that any acreage or footage calculations are correct. References to quantity are for identification purposes only.

Commonly known as: 728 South 6th Street, Vineland, NJ 08360

THE PROPERTY ADDRESS AND TAX PARCEL IDENTIFICATION NUMBER LISTED ARE PROVIDED SOLELY FOR INFORMATIONAL PURPOSES

check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future. If Lender accepts such payments, it shall apply such payments at the time such payments are accepted. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender



shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.





If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage.



If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period





that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

**(A) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.**

**(B) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.**

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower



and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.



**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require

*[Handwritten initials]*



immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws



of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**Non-Uniform Covenants.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property; (e) the Borrower's right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure; and (f) any other disclosure required under the Fair Foreclosure Act, codified at Sections 2A:50-53 et seq. of the New Jersey Statutes, or other Applicable Law. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, attorneys' fees and costs of title evidence permitted by Rules of Court.

**23. Release.** Upon payment of all sums secured by this Security Instrument, Lender shall cancel this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

**24. No Claim of Credit for Taxes.** Borrower will not make deduction from or claim credit on the principal or interest secured by this Security Instrument by reason of any governmental taxes, assessments or charges. Borrower will not claim any deduction from the taxable value of the Property by reason of this Security Instrument.





BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

**Borrower**

Margarita Johnson 6-20-18 John O Johnson Sr \* 6-20-18  
Margarita Johnson Date John O Johnson Sr \*  
Seal \*Non Borrowing Spouse Seal

This document was signed and delivered in front of

[Signature] 6-20-18  
Date  
Witness

**Acknowledgment****State of New Jersey****County of Cumberland**

On 6-20-2018, before me, Carolyn D King, a Notary Public, personally appeared

Margarita Johnson \*  
John O Johnson Sr.

who, I am satisfied, is/are the makers of the foregoing instrument, and acknowledged that he/she/they executed the same as his/her/their own act.

[Signature]  
Notary Public  
My commission expires:

CAROLYN D KING  
NOTARY PUBLIC #2069391  
STATE OF NEW JERSEY  
MY COMMISSION EXPIRES DEC. 22, 2019

**Loan Origination Organization: JPMorgan Chase Bank, N.A.**

NEW JERSEY-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
Bankers Systems™ VMP®  
Wolters Kluwer Financial Services

2018061916.1 4.4217-J20171018Y

\*MPX1538437251 0233 7003\*

Initials: [Signature]

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Form 3031 1/01  
10/17  
Page 12 of 13



NMLS ID: 399798

Loan Originator: Joseph Seth Lane

NMLS ID: 937407

NEW JERSEY Single Family Freddie Mac UNIFORM INSTRUMENT  
Bankers Systems™ VMP®  
Wollers Kluwer Financial Services

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## 1-4 Family Rider

### (Assignment of Rents)

THIS 1-4 FAMILY RIDER is made this 20th day of June, 2018, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to JPMorgan Chase Bank, N.A. (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

728 S 6th St, Vineland, NJ 08360

[Property Address]

**1-4 Family Covenants.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**(A) Additional Property Subject to the Security Instrument.** In addition to the Property described in the Security Instrument, the following items now or hereafter attached to the Property to the extent they are fixtures are added to the Property description, and shall also constitute the Property covered by the Security Instrument: building materials, appliances and goods of every nature whatsoever now or hereafter located in, on, or used, or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, attached mirrors, cabinets, paneling and attached floor coverings, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Property covered by the Security Instrument. All of the foregoing together with the Property described in the Security Instrument (or the leasehold estate if the Security Instrument is on a leasehold) are referred to in this 1-4 Family Rider and the Security Instrument as the "Property."

**(B) Use of Property; Compliance with Law.** Borrower shall not seek, agree to or make a change in the use of the Property or its zoning classification, unless Lender has agreed in writing to the change. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property.

**(C) Subordinate Liens.** Except as permitted by federal law, Borrower shall not allow any lien inferior to the Security Instrument to be perfected against the Property without Lender's prior written permission.

**(D) Rent Loss Insurance.** Borrower shall maintain insurance against rent loss in addition to the other hazards for which insurance is required by Section 5.

**(E) "Borrower's Right to Reinstate" Deleted.** Section 19 is deleted.

**(F) Borrower's Occupancy.** With regard to non-owner occupied investment properties, the first sentence in Uniform Covenant 6 (or if this Rider is attached to an FHA Security Instrument, the first two sentences in Uniform Covenant 5) concerning Borrower's occupancy of the Property is (are) deleted.

**(G) Assignment of Leases.** Upon Lender's request after default, Borrower shall assign to Lender all leases of the Property and all security deposits made in connection with leases of the Property. Upon the assignment, Lender shall have the right to modify, extend or terminate the existing leases and to execute new leases, in Lender's sole discretion. As used in this paragraph G, the word "lease" shall mean "sublease" if the Security Instrument is on a leasehold.

**(H) Assignment of Rents; Appointment of Receiver; Lender in Possession.** Borrower absolutely and unconditionally assigns and transfers to Lender all the rents and revenues ("Rents") of the Property, regardless of to



whom the Rents of the Property are payable. Borrower authorizes Lender or Lender's agents to collect the Rents, and agrees that each tenant of the Property shall pay the Rents to Lender or Lender's agents. However, Borrower shall receive the Rents until: (i) Lender has given Borrower notice of default pursuant to Section 22 of the Security Instrument, and (ii) Lender has given notice to the tenant(s) that the Rents are to be paid to Lender or Lender's agent. This assignment of Rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of default to Borrower: (i) all Rents received by Borrower shall be held by Borrower as trustee for the benefit of Lender only, to be applied to the sums secured by the Security Instrument; (ii) Lender shall be entitled to collect and receive all of the Rents of the Property; (iii) Borrower agrees that each tenant of the Property shall pay all Rents due and unpaid to Lender or Lender's agents upon Lender's written demand to the tenant; (iv) unless applicable law provides otherwise, all Rents collected by Lender or Lender's agents shall be applied first to the costs of taking control of and managing the Property and collecting the Rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the Property, and then to the sums secured by the Security Instrument; (v) Lender, Lender's agents or any judicially appointed receiver shall be liable to account for only those Rents actually received; and (vi) Lender shall be entitled to have a receiver appointed to take possession of and manage the Property and collect the Rents and profits derived from the Property without any showing as to the inadequacy of the Property as security.

If the Rents of the Property are not sufficient to cover the costs of taking control of and managing the Property and of collecting the Rents any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by the Security Instrument pursuant to Section 9.

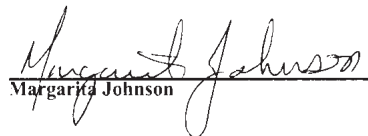

Borrower represents and warrants that Borrower has not executed any prior assignment of the Rents and has not performed, and will not perform, any act that would prevent Lender from exercising its rights under this paragraph.

Lender, or Lender's agents or a judicially appointed receiver, shall not be required to enter upon, take control of or maintain the Property before or after giving notice of default to Borrower. However, Lender, or Lender's agents or a judicially appointed receiver, may do so at any time when a default occurs. Any application of Rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of Rents of the Property shall terminate when all the sums secured by the Security Instrument are paid in full.

**(I) Cross-Default Provision.** Borrower's default or breach under any note or agreement in which Lender has an interest shall be a breach under the Security Instrument and Lender may invoke any of the remedies permitted by the Security Instrument.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this 1-4 Family Rider.

Borrower

	
Margarita Johnson	John O Johnson Sr *
Date	Date
6-20-18	6/20/18
Seal	Seal
	*Non Borrowing Spouse



# Exhibit C

**RECORDING INFORMATION SHEET**

CUMBERLAND COUNTY CLERK'S OFFICE  
60 WEST BROAD STREET  
BRIDGETON NJ 08302

INSTRUMENT NUMBER:

**592981****Official Use Only**

CELESTE RILEY, COUNTY CLERK  
CUMBERLAND COUNTY, NJ

INSTRUMENT NUMBER  
592981  
RECORDED ON  
02/05/2020 01:06:01 PM  
BOOK: 04190 PAGE: 3551  
KT

Consideration:

MAIL COPY \_\_\_\_\_  
NO COPY \_\_\_\_\_  
ENVELOPE \_\_\_\_\_

ADDITIONAL STAMPINGS \_\_\_\_\_

DOCUMENT TYPE:

**MORTGAGE****Return Address** (for recorded documents)

BEACON TITLE SERVICES AGENCY  
727 LANDIS AVENUE  
VINELAND NJ  
08360


<b>No. of Pages</b> (excluding Summary Sheet)		10
<b>Recording Fee</b> (excluding Transfer Tax)		\$125.00
<b>Realty Transfer Tax</b>		\$0.00
<b>Amount Charged</b>		\$125.00
<b>Parcel Information</b>	Block: Lot: Municipality: MILLVILLE	
<b>First Party Name</b>	ANDREW P VAN HOOK	
<b>Second Party Name</b>	OCEANFIRST BANK	
<b>Payment(s)</b>	Escrow Account (BEACON TITLE SERVICES AGENCY)	

Additional Information (Official Use Only)



\*\*\*\*\* DO NOT REMOVE THIS PAGE. \*\*\*\*\*  
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF CUMBERLAND COUNTY FILING RECORD  
\*\*\*\*\* RETAIN THIS PAGE FOR FUTURE REFERENCE \*\*\*\*\*

NOTE: If the document data differs from this cover sheet, the document data always supersedes the cover page.  
COVER PAGE DOES NOT INCLUDE ALL DATA. PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION.

<b>Cumberland County Recording Data Page</b> Honorable Celeste M. Riley Cumberland County Clerk 	<i>Official Use Only – Barcode</i>
<i>Official Use Only – Record &amp; Return</i>	<i>Official Use Only – Realty Transfer Fee</i>
Date of Document: JANUARY 27, 2020	Type of Document: MORTGAGE
First Party Name: ANDREW P VAN HOOK	Second Party Name: OCEANFIRST BANK
Additional Parties:	

<b>THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY</b>	
Block:	Lot:
Municipality:	
Consideration:	
Mailing Address of Grantee:	

<b>THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING &amp; PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES &amp; OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY</b>	
Original Book:	Original Page:

<b>CUMBERLAND COUNTY RECORDING DATA PAGE</b> Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.
--

When recorded, return to:  
**OceanFirst Bank, N.A.**  
**ATTN: Final Document Department**  
**975 Hooper Avenue**  
**Toms River, NJ 08753**

This document was prepared by:  
**OceanFirst Bank, N.A.**  
**975 Hooper Avenue**  
**Toms River, NJ 08753**  
**732-240-4500**

Signature of Preparer

LOAN #:

[Space Above This Line For Recording Data]

**MORTGAGE**

**Redacted**

**MERS PHONE #: 1-888-679-6377**

**DEFINITIONS**

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated **January 27, 2020**, together with all Riders to this document.

(B) "Borrower" is **ANDREW P VAN HOOK, MARRIED MAN.**

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the mortgagee under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is **OceanFirst Bank, N.A..**

Lender is **a National Bank,**  
**The United States of America.**  
**River, NJ 08753**

organized and existing under the laws of  
 Lender's address is **975 Hooper Avenue, Toms**

(E) "Note" means the promissory note signed by Borrower and dated **January 27, 2020**. The Note states that Borrower owes Lender **ONE HUNDRED SEVENTY THOUSAND SEVEN HUNDRED FIFTY AND NO/100\*** plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **February 1, 2035**.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."  
 (G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider              | <input type="checkbox"/> Second Home Rider  |
| <input type="checkbox"/> Balloon Rider         | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Other(s) [specify] |
| <input type="checkbox"/> 1-4 Family Rider      | <input type="checkbox"/> Biweekly Payment Rider         |   |
| <input type="checkbox"/> V.A. Rider            |   |   |

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

**CHICAGO TITLE INSURANCE COMPANY**File Number: **BT-18112****SCHEDULE C****LEGAL DESCRIPTION**

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the **City of Millville, County of Cumberland, State of New Jersey**, bounded and described as follows:

BEGINNING at a point in the Westerly line of Cecile Drive (50 feet wide), said point being the division line of Lots 3 and 2 on said Block and Plan hereinafter mentioned; thence

- 1) South 03 degrees 40 minutes 00 seconds East, 136.07 feet to a point; thence
- 2) Southwestwardly following a curve to the right, said curve having a radius of 25.00 feet and a length of 39.27 feet; thence
- 3) South 86 degrees 20 minutes 00 seconds West, a distance of 100.00 feet to a point; thence
- 4) North 03 degrees 40 minutes 00 seconds West, a distance of 161.07 feet to a point; thence
- 5) North 86 degrees 20 minutes 00 seconds East, a distance of 125.00 feet to the point and place of BEGINNING.

BEING Lot 3, Block 495.01 on a plan entitled, "Final Plan of Lots Newcombtown Crossing, Block 495, Lots 5 and Lot 64, City of Millville, Cumberland County, New Jersey", prepared by Key Engineers, Inc., dated June 23, 2004, last revised on May 9, 2005 as Project No. 10-1186SJ0203 and filed in the County Clerk's Office on July 8, 2005, as Instrument No. 201101.

**NOTE: Being Lot(s) 3, Block: 495.01; Tax Map of the City of Millville, County of Cumberland, State of New Jersey.**

**NOTE: Lot and Block shown for informational purposes only.**



**LOAN #:**

**(M) "Miscellaneous Proceeds"** means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

**(N) "Mortgage Insurance"** means insurance protecting Lender against the nonpayment of, or default on, the Loan.

**(O) "Periodic Payment"** means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

**(P) "RESPA"** means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

**(Q) "Successor in Interest of Borrower"** means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

**TRANSFER OF RIGHTS IN THE PROPERTY**

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For these purposes, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS the following described property located in the **County** [Type of Recording Jurisdiction] of **Cumberland**

[Name of Recording Jurisdiction]:

**SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS "EXHIBIT A".**

which currently has the address of **6 Cecile Dr, Millville,**

[Street] [City]

New Jersey **08332**

("Property Address"):

[Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

**BORROWER COVENANTS** that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

**THIS SECURITY INSTRUMENT** combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future. If Lender accepts such payments, it shall apply such payments at the time such payments are accepted. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

**LOAN #:**

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

**LOAN #:**

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.



**LOAN #:**

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. Borrower shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease. Borrower shall not, without the express written consent of Lender, alter or amend the ground lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

**LOAN #:**

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay



**LOAN #:**

all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property; (e) the Borrower's right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure; and (f) any other disclosure required under the Fair Foreclosure Act, codified at §§ 2A:50-53 et seq. of the New Jersey Statutes, or other Applicable Law. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, attorneys' fees and costs of title evidence permitted by Rules of Court.

**LOAN #:**

**23. Release.** Upon payment of all sums secured by this Security Instrument, Lender shall cancel this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

**24. No Claim of Credit for Taxes.** Borrower will not make deduction from or claim credit on the principal or interest secured by this Security Instrument by reason of any governmental taxes, assessments or charges. Borrower will not claim any deduction from the taxable value of the Property by reason of this Security Instrument.


BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

  
ANDREW P VAN HOOK

1/27/2020 (Seal)  
DATE

State of NEW JERSEY  
County of CUMBERLAND, ss

On 1/27/2020, before me, JUDITH BLACK, Notary Public in and for said county, personally appeared ANDREW P VAN HOOK and stated to my satisfaction, that this person (or if more than one, each person) a) was the maker of the within instrument and, b) executed this instrument as his or her own act.

  
Notary's signature  
1/27/2020  
DATE  
My commission expires \_\_\_\_\_

JUDITH BLACK  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
MY COMMISSION EXPIRES DEC. 10, 2022

Lender: OceanFirst Bank, N.A.  
NMLS ID: 409701  
Loan Originator: Kimberly Rizzotte  
NMLS ID: 1753872



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*Counsel for Amici Curiae*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

MATTHEW JOHNSON, ET AL.,

*Plaintiffs,*

v.

GOVERNOR PHILIP D. MURPHY, ET AL.,

*Defendants.*

Case No. 1:20-cv-06750-NLH-JS

PROPOSED ORDER

Proposed *amici curiae* Fair Share Housing Center, Lawyers’ Committee for Civil Rights Under Law, Housing & Community Development Network of New Jersey, National Association for the Advancement of Colored People – New Jersey State Conference, and the New Jersey Latino Action Network (collectively, “Movants”), by and through their attorneys, Proskauer Rose LLP, have moved for leave to appear and file an amicus brief as *amici curiae*; and all

parties, by and through their counsel, having received due notice of the motion and having the opportunity to be heard; and for good cause shown,

IT IS on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, ORDERED:

1. The Movants' Motion for Leave to Appear and File a Brief as *Amici Curiae* is hereby **GRANTED**;
2. The Movants' proposed *amicus* brief is hereby deemed **FILED**.

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Hon. Noel L. Hillman, U.S.D.J

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

MATTHEW JOHNSON, ET AL.,

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Case No. 1:20-cv-06750-NLH-JS

**ECF CASE**

**CERTIFICATE OF SERVICE**

I, JOSEPH C. O'KEEFE, of full age, hereby certify as follows:

I am an attorney at law admitted in the States of New Jersey and New York and a partner at the law firm of Proskauer Rose LLP, counsel for *amici curiae* in this matter.

I caused true and correct copies of (i) Notice of Motion for Leave to Appear and File a Brief as *Amici Curiae*; (ii) Memorandum of Law in Support of Motion for Leave to Appear and File a Brief as *Amici Curiae*; (iii) the Proposed Amicus Brief, with exhibits attached thereto; and

(iv) the Proposed Order Granting Motion for Leave to Appear and File a Brief as *Amici Curiae*, to be filed via the CM/ECF system for the U.S. District Court for the District of New Jersey, thereby effectuating service upon all counsel of record.

Dated: October 7, 2020  
New York, New York

Respectfully submitted,

/s/ Joseph C. O'Keefe  
Joseph C. O'Keefe