

**DASTI, MURPHY, McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS**  
GREGORY P. MCGUCKIN, ESQ. [ID No. 004501988]  
620 West Lacey Road  
Post Office Box 1057  
Forked River, New Jersey 08731  
(609) 971-1010 FAX (609) 971-7093  
Attorneys for Defendants Township of Berkeley &  
Township Council of the Township of Berkeley

DONALD WHITEMAN,  
PATRICIA A. DOLOBACS, JUDITH A.  
ERDMAN and 282 other PETITION  
SIGNERS OF SOUTH SEASIDE  
PARK HOMEOWNERS  
& VOTERS ASSOCIATION,

Plaintiff,

v.

TOWNSHIP COUNCIL OF  
BERKELEY TOWNSHIP, TOWNSHIP  
OF BERKELEY, JOHN DOES 1-10,  
ABC CORPS. 1-10

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
OCEAN COUNTY

DOCKET NO. OCN-L-002667-20

**ANSWER TO PLAINTIFF'S  
COMPLAINT IN LIEU OF  
PREROGATIVE WRITS**

Defendants, Berkeley Township and the Township Council of Berkeley Township, whose principal place of business is located at 627 Pinewald-Keswick Road, Bayville, New Jersey, 08721, by way of answer to the Plaintiffs' Complaint in Lieu of Prerogative Writs says as follows:

**COUNT ONE – ARBITRARY, UNREASONABLE AND CAPRICIOUS**

**DENIAL OF PETITION FOR DE-ANNEXATION**

1. Admitted.
2. Admitted.
3. Admitted.

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4. These Defendants are without information sufficient to form a belief as to the allegations set forth in the fourth paragraph of the Plaintiffs' Complaint and leave the Plaintiffs to their proofs thereon.

5. These Defendants are without information sufficient to form a belief as to the allegations set forth in the fifth paragraph of the Plaintiffs' Complaint and leave the Plaintiffs to their proofs thereon.

6. Defendants admit that South Seaside Park is part of Berkeley Township and is separated from the mainland portion of the Municipality. The balance of this paragraph is denied.

7. Said petition shall speak for itself.

8. Admitted.

9. Admitted, however, Plaintiff fails to note that said acreage constitutes more than ten (10%) percent of the Township's overall property value and includes the only oceanfront beach the Township controls.

10. Admitted, however, these Defendants note that it is also subject to the ward system.

11. Admitted.

12. Admitted.

13. The provisions of N.J.S.A. 40A:7-12 shall speak for themselves.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

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19. Admitted, however, Plaintiff fails to note the international COVID-19 pandemic and State of Emergency which continues to this day.
20. Admitted, however said Resolution was also based upon Mr. Wisser's report.
21. Admitted.
22. Admitted.
23. Admitted.
24. Admitted.
25. Said Resolution of Denial shall speak for itself.
26. Admitted.
27. Denied.
28. Denied.

**Economic and Social Well-Being of Plaintiffs**

- A. This paragraph does not assert a factual statement and no response is made thereto.
- B. The record and proceedings before the Township and Planning Board shall speak for themselves.
- C. Denied.
- D. These Defendants are without information sufficient to form a belief as to the allegations set forth in this paragraph of the Plaintiffs' Complaint and leave the Plaintiffs to their proofs thereon.
- E. These Defendants make no response to this paragraph as same constitutes argument as opposed to statements of fact. These Defendants shall rely upon the record and proceedings before the Berkeley Township Planning Board with respect to such facts.

