

GILMORE & MONAHAN, P.A.

Ten Allen Street

P.O. Box 1540

Toms River, NJ 08754

(732) 240-6000

Attorneys for **Plaintiff, Borough of Seaside Heights**

ROBIN LA BUE, ESQ. ATTY ID# 021872009

<p>BOROUGH OF SEASIDE HEIGHTS Plaintiff,</p> <p style="text-align: center;">v.</p> <p>2-4-6-8 BOULEVARD, LLC; SADDY FAMILY, LLC; ROBERT BENNETT d/b/a VENICE AMUSEMENTS, LLC; TRYSTONE CAPITAL ASSESTS, LLC</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY OCEAN COUNTY LAW DIVISION</p> <p>DOCKET NO.:OCN-L- 1200 -18</p> <p style="text-align: center;">VERIFIED COMPLAINT FOR SUMMARY ACTION</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The Borough of Seaside Heights (the “Borough”), a municipal corporation of the State of New Jersey, with its principal place of business located at 901 Boulevard, Seaside Heights, by way of Verified Complaint against the defendants says:

1. The Plaintiff, Borough of Seaside Heights, is a municipal corporation of the State of New Jersey.
2. The Defendant, 2-4-6-8 Boulevard, LLC, with an address of 720 Woodchuck Lane, Toms River, NJ 08755 is the owner of real property located within the Borough and commonly known as 308 Boulevard, Seaside Heights, New Jersey, designated as Block 4.01, Lot 66 on the Tax Map of the Borough of Seaside Heights (hereinafter the “Structure” or “Property”).

4. Defendant Saddy Family, LLC, with an address of 720 Woodchuck Lane, Toms River NJ is an owner and interested party of the Subject Property.

5. Defendant Trystone Capital Assets, LLC is the holder of a Tax Sale Certificate on the subject property in the amount of \$23,770.14, sold on December 18, 2017 and recorded on April 24, 2018.

6. On or about October 21, 2012, the structure was damaged by a fire occurring on the second floor and in the attic area, the business was empty, having closed after Labor Day weekend in 2012. (Certification of Charles Lasky, ¶ 2)

7. On or about October 29, 2012, a substantial number of public and private properties the Borough of Seaside were devastated by Superstorm Sandy.

8. The subject property appears to have been substantially damaged by the 2012 Storm and fire, however the structure has not been operational since the Summer of 2012. The liquor license associated with the structure is in "inactive" status. (Certification of Charles Lasky, ¶ 3)

9. The subject property has become unsafe since it has been vacant and damaged, prompting the Borough to engage an engineer to determine the building's safety and whether or not it poses a hazard to the surrounding neighborhood. (Certification of Charles Lasky, ¶ 13)

10. On or about July 17, 2017, Peter H. Chase, P.E. visited the property and drafted a report (August 7, 2017 Engineers Report, attached to Certification of Charles Lasky as Exhibit A).

11. On September 19, 2017, the Borough Construction Official, Charles Lasky, inspected the property and determined that the structure was open and in a dangerous, unsafe and unsanitary condition. (Certification of Charles Lasky, ¶ 6).

12. On or about November 2, 2017, another inspection occurred and a Notice of Unsafe Structure was issued, stating that the building is structurally unsafe and a fire hazard, and in danger

of collapse or failure of the structure. The Notice required immediate demolition of the structure. The Notice of Unsafe Structure was posted on the location and served upon the Defendants Saddy Family LLC and Robert Bennett (Certification of Charles Lasky, ¶ 7).

13. Or about December 13, 2017, another Notice of Unsafe Structure was issued to 2-4-6-8 Boulevard, LLC, requiring the demolition of the structure by January 13, 2018 (Certification of Charles Lasky, ¶ 8).

14. On or about December 15, 2017, a second report was issued by Peter Chase, P.E., the Borough's structural engineer, following an internal inspection of the structure. The Report notes that "[p]ortions of the roof have been damaged extensively by fire and neglect. This has contributed to the distress noted in the attic floor. The roof is missing at the east end of the structure, admitting weather, and parts of the roof have been removed: some for fire-fighting access and some for the anticipated crane removal of the roof. ... these cuts have led to weather ingress." Portions of the first-floor flooring are distressed or missing, parts of the foundation are distressed and in need of repair. The west wall of the building bows out by approximately 5 inches at the second-floor level, the north and south walls are in generally poor condition with numerous openings and areas of distress. The report concludes with a recommendation for demolition, that the majority of the building is in such poor condition it is unlikely to be saved, that the structural elements are unreliable, and that the structure should be removed. (Certification of Charles Lasky, ¶ 9)

15. On or about May 8, 2018, the Construction Official issued an Order to Vacate on the subject property, and Notice of Imminent Hazard, due to a partial collapse of the roof.

16. On or about May 11, 2018, the Structural Engineer issued a second update to his report. The engineer noted the partial roof collapse and an increase in the bulging of the west wall which has increased from to eight or nine inches. In addition, there are new vertical cracks that have

developed along the north-west corner that are most likely related to the movement of the wall. The bulging condition poses a risk to the adjacent public sidewalk, and it cannot be determined when the wall will collapse. The engineer also noted bulging at the north wall, and pieces of siding and secondary support framing that are falling onto the public sidewalk. The report notes that there is “ample” reason to demolish the structure and that the instability of the roof “will lead to further and more dramatic failures.” (May 11, 2018 Engineer Report, Certification of Charles Lasky, Exhibit F).

17. Despite the numerous violations and the numerous attempts of Borough Officials to contact the defendants in order for the defendants to remedy the dangerous condition that persists on the property, the violations are ongoing and continue to the present day.

18. As a result of the defendants’ failure to correct or demolish the unsafe condition, the remaining structure constitutes an imminent hazard to the safety and welfare of the surrounding neighborhood and public at large, particularly with the Borough’s summer season and increased vehicular and pedestrian travel imminent.

19. Pursuant to N.J.S.A. 40:48-2.3, whenever a municipality finds that there exists any building which is unfit for habitation or occupancy due to conditions rendering such building dangerous or inimical to the welfare of the residents of the municipality, the municipality has the power to demolish, or to cause the demolition of the building.

20. Pursuant to N.J.S.A. 40:48-2.5, the defendant is liable to the Borough for the costs relating to the demolition of the unsafe structure including the cost of filing legal papers and the cost of the demolition.

21. Pursuant to N.J.S.A. 40:48-2.5, the municipality may seek a judgment in summary proceedings for the demolition of a structure if it poses an actual and immediate danger to life by the threatened collapse of any fire damaged or other structurally unsafe building.

WHEREFORE, Plaintiff, Borough of Seaside Heights, demands judgment against the defendants:

1. Authorizing the demolition of the structure located at 308 Boulevard, Seaside Heights, as Block 4.01, Lot 66 on the Tax Map of the Borough of Seaside Heights.
2. Ordering that the cost of the filing of legal papers, search fees and advertising charges incurred in the course of this proceeding and the demolition, including man-hours, equipment, and disposal fees, be assessed against the property as a lien.
3. Attorneys fees and costs of suit.
4. Other and further relief as the Court may deem just and equitable.

GILMORE & MONAHAN, P.A.

Attorneys for Plaintiff, Borough of Seaside Heights



ROBIN LA BUE

For the Firm

DESIGNATION OF TRIAL COUNSEL


Pursuant to Rule 4:25-4, Jean L. Cipriani, Esq., has been designated as trial counsel in connection with this matter.

CERTIFICATION

Pursuant to Rule 4:5-1 upon belief and based on information known to the undersigned at the time of the filing of this pleading, it appears that there are no other actions or arbitrations related to this suit which are pending or presently contemplated and it appears that there are no other persons who should be joined as parties.

GILMORE & MONAHAN, P.A.
Attorneys for **Plaintiff,**
BOROUGH OF SEASIDE HEIGHTS,
A Municipal Corporation of the State of
New Jersey

Dated: May 15, 2018

By 

ROBIN LA BUE, ESQ.
For the Firm.

GILMORE & MONAHAN
A Professional Corporation
COUNSELLORS AT LAW
Allen Street Professional Center
Ten Allen Street
P.O. Box 1540
Toms River, New Jersey 08754