

DECOTHS, FITZPATRICK, COLE & GIBLIN, LLP

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Attorneys for Plaintiff, The Avenir, LP

<hr/>		:	SUPERIOR COURT OF NEW JERSEY
THE AVENIR, LP,		:	CIVIL DIVISION: HUDSON COUNTY
		:	
	Plaintiff,	:	DOCKET NO.:
		:	
vs.		:	CIVIL ACTION
		:	
CITY OF JERSEY CITY, AND JOHN		:	COMPLAINT AND JURY DEMAND
DOES 1-5.		:	
		:	
	Defendants.	:	
		:	
<hr/>		:	

Plaintiff, The Avenir, LP, by way of complaint alleges and says:

PARTIES

1. Plaintiff is the owner of real estate in the City of Jersey City (hereinafter “City”), composed of block 9204, lot 1 and block 9301, lots 24, 28, 29, 30, and 27, more commonly known as the Westside Square development on the west side of the City.

2. The Defendant City is a municipal corporation and a taxing district pursuant to New Jersey State Law. It is obligated to treat all taxpayers in a non-discriminatory manner pursuant to the Equal Protection Clause of the United States Constitution and the Uniformity Clause of the New Jersey Constitution.

3. Eduardo Toloza is the tax assessor of the City and pursuant to Title 54 of the New Jersey Statutes he is charged with placing assessments on real estate within the City and maintaining those assessments consistent with the applicable standards established by the New

Jersey Constitution, New Jersey Statutes and regulations of the New Jersey Division of Taxation.

4. The law firm of Blau and Blau (the “law firm”) is a New Jersey partnership engaged in the practice of law. Charles Blau is a licensed real estate appraiser and a member of the law firm. On February 20, 2020, the law firm was authorized by the City Council to engage in a policy practice and custom to target specific taxpayers within a discrete, non-residential class for the purpose of increasing their real estate taxes. The law firm was to be rewarded on the basis of a contingent fee in the amount of \$250,000 per case or one-third of the increase in taxes. Charles Blau would then undertake to create settlement proposals in his capacity as a real estate appraiser by giving opinions of fair market value with respect to the targeted properties based upon his obvious bias to create opinions that inflate the value of taxpayers property. Consequently, his putative values supporting any settlement proposal would have given him a share of the potentially enormous recovery as a result of his actions.

5. The defendants John Does 1-5 are individuals yet to be identified who are the responsible parties with respect to an illegal program of tax assessment that violates applicable New Jersey Law. They are authorized agents of the City.

BACKGROUND FACTS

6. As tax assessor of the City, Toloza is obligated to comply with the regulations of the New Jersey Division of Taxation and County Tax Boards as promulgated by Title 54 and the New Jersey Administrative Code found in N.J.S.A. 54:1.1 et. seq and N.J.A.C. 18:12A-1.1 et. seq. The aforementioned statutes and code are predicated on the Uniformity Clause found in the New Jersey Constitution. Art. VII, Sec.1., Para 1, and the Equal Protection Clause of the United States Constitution.

7. The City, by and through its tax assessor, is obligated to ensure equal treatment under law so that non-discriminatory tax assessments are prohibited.

8. Based upon the Constitutional Provisions embodied in both State and Federal Constitutional law, the New Jersey Judicial system has carefully protected the practice and policy of singling out taxpayers within a discrete class unfairly targeted by Municipal officials acting under color of law.

9. Indeed, if a tax assessor has reason to believe that property comprising all or a part of a taxing district has been under assessed, that tax assessor is obligated under N.J.A.C. 18:12A-1.14(c)(2) to notify the Mayor, the local governing body, the New Jersey Division of Taxation, the Board of Taxation and the County Tax Administrator for a Lawful determination that a proposed reassessment is required.

10. Upon a proper application by the tax assessor of the City, the Hudson County Tax Board would have to determine whether the application is approved through the Director of the New Jersey Division of Taxation. At no time did the City, through its tax assessor or any other authorized agent, make such an application for approval for a reassessment of a portion of the City.

11. Toloza is obligated to annually undertake a study of real estate sales transactions that occur during a specific time frame in order to report his findings to the New Jersey Division of Taxation. The purpose of the study is the critical distribution of public school aid Statewide in order to ensure a thorough and efficient education pursuant to the New Jersey Constitution.

12. In this case, plaintiff's real estate was involved in a purchase and sale transaction of its property that was the subject of the compulsory review by Toloza. At no time did the defendant Toloza dispute that the New Jersey Division of Taxation determined that plaintiff's sale

transaction was not useable in determining the assessment-sales ratio pursuant to N.J.S.A. 54:1-35.1 et seq. in that it was not fair market value.

13. Despite the fact that the city through its authorized agent made a determination that the sale of plaintiff's real estate of sale was not indicative of fair market value, the City arbitrarily engaged a law firm for the purpose of filing actions in both the Tax Court of New Jersey and the Hudson County Board of Taxation for the purpose of increasing plaintiff's tax assessment contrary to the position taken and reported to the New Jersey Division of Taxation.

14. The City through its authorized agents instituted a program, policy and practice to seek increases in a discrete class of assessment of properties throughout the City and purposely ignored sales transactions with respect to other classes of real estate, including but not limited to single-family or multi-family real estate.

COUNT ONE

15. The plaintiff repeats and realleges all of its prior allegations as if more fully set forth at length herein.

16. On or about February 20, 2020, the city, through John Doe's 1 through 5, authorized, encouraged and directed a private Law Firm to engage in a policy practice and custom that targeted specific taxpayers in the City in order to unlawfully increase its tax assessments.

17. The law firm commenced the filing of complaints in the Tax Court of New Jersey and the Hudson County Tax Board that were served by regular mail on a class of taxpayers consisting of commercial property owners in the city. No effort was made to scrutinize any other class of taxpayers.

18. The use of a Tax Court proceeding in a targeted manner was contrary to the Equal Protection Clause of the United States Constitution.

19. Plaintiff's constitutional right to equal treatment under the law was violated.

20. As a direct result of the actions of all defendants, plaintiff has been damaged.

21. 42 U.S.C. section 1983 provides a remedy for individuals against governmental entities on a local and county level acting under color of law for violations of the United States Constitution.

Wherefore, plaintiff respectfully alleges that the court enter an order,

- a. restraining and enjoying the illegal policy practice and custom as set forth above,
- b. awarding damages inclusive of exemplary damages on account of the willful actions of the defendant,
- c. awarding costs of suit inclusive of attorney's fees pursuant to 42 USC section 1988.

COUNT TWO

22. The plaintiff repeats and re-alleges all of its prior allegations as if more fully set forth herein.

23. The New Jersey Civil Rights Act found in N.J.S.A. 10:6-1 and 2 protects the rights of persons deprived of any substantive right by a person acting under color of law.

24. The Uniformity Clause of the New Jersey Constitution guarantees uniform treatment under the Law. The targeting of a specific class of property has been declared to be unconstitutional since the Supreme Court standard articulated in Baldwin Construction Company v. Essex County Tax Board, 16 N.J. 329 (1954).

25. The actions of all defendants have deprived the plaintiff and other similarly situated taxpayers of their constitutional right to uniform treatment under the New Jersey Constitution.

26. As a result of the actions of all defendants the plaintiff has been damaged.

Wherefore, plaintiff respectfully alleges that the court enter an order,

- a. restraining and enjoying the illegal policy practice and custom as set forth above,
- b. awarding damages inclusive of exemplary damages on account of the willful actions of the defendant,
- c. awarding costs of suit inclusive of attorney's fees.

COUNT THREE

27. The plaintiff repeats and alleges all of its allegations as if more fully set forth herein.

28. The defendants represented to the New Jersey Division of Taxation that plaintiff's property was sold and did not reflect the fair market value of the real estate of plaintiff.

29. Contrary to the representation made to the New Jersey Division of Taxation it engaged a Private Law Firm to undertake the prosecution of a lawsuit in the Tax Court of New Jersey that asserted the opposite of the position that defendants took before the New Jersey Division of Taxation.

30. The use of a Tax Court and Hudson County Tax Board proceeding was an abuse of process and arbitrary, capricious and unreasonable.

31. The defendants have engaged in an illegal action that has harmed the plaintiff and violated its rights.

Wherefore, plaintiff respectfully alleges that the court enter an order,

- a. restraining and enjoying the illegal policy practice and custom as set forth above,
- b. awarding damages inclusive of exemplary damages on account of the willful actions of the defendant,
- c. awarding costs of suit inclusive of attorney's fees.

JURY DEMAND

Please take notice that demand is hereby made for trial by jury on all issues so triable.

CERTIFICATION PURSUANT TO R.4:5-1



I hereby certify that there is a related action pending in the Tax Court of New Jersey that is the subject of the allegations contained in the within complaint. Additionally, subject to further Discovery, the plaintiff will likely amend this complaint to assert a class-action on behalf of similarly situated taxpayer owners of real estate in the city of Jersey City.

DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP

**Attorneys for Plaintiff,
The Avenir, LP**

By: /S/ George Frino
George G. Frino, Esq.

Dated: July 6, 2020

	<h2 style="margin: 0;">Civil Case Information Statement</h2> <h3 style="margin: 0;">(CIS)</h3> <p style="margin: 0;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1 Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed</p>		For Use by Clerk's Office Only		
			Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca		
			Chg/Ck Number:		
			Amount:		
			Overpayment:		
		Batch Number:			
Attorney/Pro Se Name George G. Frino, Esq.		Telephone Number (201) 928-1100		County of Venue Hudson	
Firm Name (if applicable) DeCotiis, FitzPatrick, Cole & Giblin, LLP				Docket Number (when available)	
Office Address 61 South Paramus Road, Suite 250, Paramus, NJ 07603				Document Type Complaint	
				Jury Demand <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Name of Party (e.g., John Doe, Plaintiff) The Avenir, LP, Plaintiff		Caption The Avenir, LP v. City of Jersey City and John Does 1-5.			
Case Type Number (See reverse side for listing) 005		Are sexual abuse claims alleged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Is this a professional malpractice case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If you have checked "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.	
Related Cases Pending? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," list docket numbers			
Do you anticipate adding any parties (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Name of defendant's primary insurance company (if known) <input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown			
The Information Provided on This Form Cannot be Introduced into Evidence.					
Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation					
Do parties have a current, past or recurrent relationship? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," is that relationship: <input type="checkbox"/> Employer/Employee <input type="checkbox"/> Friend/Neighbor <input type="checkbox"/> Other (explain) <input type="checkbox"/> Familial <input type="checkbox"/> Business			
Does the statute governing this case provide for payment of fees by the losing party? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition					
 Do you or your client need any disability accommodations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, please identify the requested accommodation:			
Will an interpreter be needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, for what language?			
I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b).					
Attorney Signature: <i>/s/ George Frino</i>					

Side 2



Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days discovery

- | | |
|---|---|
| 151 Name Change
175 Forfeiture
302 Tenancy
399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
502 Book Account (debt collection matters only)
505 Other Insurance Claim (including declaratory judgment actions) | 506 PIP Coverage
510 UM or UIM Claim (coverage issues only)
511 Action on Negotiable Instrument
512 Lemon Law
801 Summary Action
802 Open Public Records Act (summary action)
999 Other (briefly describe nature of action) |
|---|---|

Track II - 300 days discovery

- | | |
|---|---|
| 305 Construction
509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD))
599 Contract/Commercial Transaction
603N Auto Negligence – Personal Injury (non-verbal threshold) | 603Y Auto Negligence – Personal Injury (verbal threshold)
605 Personal Injury
610 Auto Negligence – Property Damage
621 UM or UIM Claim (includes bodily injury)
699 Tort – Other |
|---|---|

Track III - 450 days discovery

- | | |
|---|--|
| 005 Civil Rights
301 Condemnation
602 Assault and Battery
604 Medical Malpractice
606 Product Liability
607 Professional Malpractice | 608 Toxic Tort
609 Defamation
616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases
617 Inverse Condemnation
618 Law Against Discrimination (LAD) Cases |
|---|--|

Track IV - Active Case Management by Individual Judge / 450 days discovery

- | | |
|---|---|
| 156 Environmental/Environmental Coverage Litigation
303 Mt. Laurel
508 Complex Commercial
513 Complex Construction | 514 Insurance Fraud
620 False Claims Act
701 Actions in Lieu of Prerogative Writs |
|---|---|

Multicounty Litigation (Track IV)

- | | |
|--|--|
| 271 Accutane/isotretinoin
274 Risperdal/Seroquel/Zyprexa
281 Bristol-Myers Squibb Environmental
282 Fosamax
285 Stryker Trident Hip Implants
286 Levaquin
289 Reglan
291 Pelvic Mesh/Gynecare
292 Pelvic Mesh/Bard
293 DePuy ASR Hip Implant Litigation
295 AlloDerm Regenerative Tissue Matrix
296 Stryker Rejuvenate/ABG II Modular Hip Stem Components
297 Mirena Contraceptive Device
299 Olmesartan Medoxomil Medications/Benicar
300 Talc-Based Body Powders | 601 Asbestos
623 Propecia
624 Stryker LFIT CoCr V40 Femoral Heads
625 Firefighter Hearing Loss Litigation
626 Abilify
627 Physiomesh Flexible Composite Mesh
628 Taxotere/Docetaxel
629 Zostavax
630 Proceed Mesh/Patch
631 Proton-Pump Inhibitors
632 HealthPlus Surgery Center
633 Prolene Hernia System Mesh |
|--|--|

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59 ☐ Consumer Fraud

Civil Case Information Statement

Case Details: HUDSON | Civil Part Docket# L-002432-20

Case Caption: AVENIR LP VS CITY OF JERSEY CITY

Case Initiation Date: 07/06/2020

Attorney Name: GEORGE G FRINO

Firm Name: DE COTIIS FITZPATRICK COLE & GIBLIN LLP

Address: 61 S. PARAMUS RD STE 250

PARAMUS NJ 07652

Phone: 2019281100

Name of Party: PLAINTIFF : Avenir LP

Name of Defendant's Primary Insurance Company

(if known): None

Case Type: CIVIL RIGHTS

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: Avenir LP? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

07/06/2020

Dated

/s/ GEORGE G FRINO

Signed