

Filed with the Court

APR 08 2024

Eric G. Fikry, J.S.C.

PREPARED BY THE COURT:

INDEPENDENT FIRE CO. #1 OF
MAPLE SHADE, INC.,

Plaintiff,

v.

TOWNSHIP OF MAPLE SHADE,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CIVIL PART
BURLINGTON COUNTY
DOCKET NO. L-1162-23

CIVIL ACTION

CASE MANAGEMENT ORDER

This matter being brought before to the court by Ellen M. McDowell, Esquire of McDowell Law, P.C., attorneys for Plaintiff, Independent Fire Company #1 of Maple Shade, Inc., seeking relief by way of injunction at the return date set forth below pursuant to R. 4:52, based upon the facts set forth in the Second Amended Verified Complaint filed herewith and for good cause shown.

IT IS on this 8th day of April, 2024 **ORDERED:**

1. As per the court's Order entered on March 22, 2024, Defendant shall file its Answer to Plaintiff's Second Amended Verified Complaint in Lieu of Prerogative Writs no later than **April 19, 2024**.
2. As it is anticipated that Ordinance No. 2024-8, repealing Ordinance No. 2023-23, will be adopted prior to the hearing date for Plaintiff's Order to Show Cause previously scheduled in the court's Order of March 22, 2024, and as the sole relief sought in Plaintiff's Order to Show Cause was an Order voiding Ordinance No. 2023-23, Plaintiff's Order to Show Cause is **DENIED AS MOOT**.
3. As both parties have confirmed that plaintiff's claims in the Second Amended Complaint are ripe for adjudication, the **Trial** of this matter shall be conducted on **May 13, 2024 at 10:00 a.m.** The

Trial will be conducted **IN PERSON** in Court Room 3 of the Burlington County Courts Facility.

4. For the reasons set forth on the record, **IT IS FURTHER ORDERED** that pending further Order of the court, all appointments to leadership positions by the Township Manager approved by the Maple Shade Township Council further to §16-4 of Ordinance No. 2023-12 are **EFFECTIVE** and **SHALL** be **ENFORCED**. For the avoidance of doubt, Dan Kerr shall serve as the Fire Chief of the Maple Shade Township Fire Department (“MSFD”), and Andrew Simonsick, Jr. shall serve as Deputy Fire Chief of the MSFD. Additional appointments by the Township Manager approved by the Maple Shade Township Council are similarly **EFFECTIVE** and **SHALL** be **ENFORCED** pending trial. The Township has not sought to modify or interfere with the Independent Fire Co. #1 of Maple Shade, Inc.’s (“IFC”) selection of its own internal leadership structure.
5. As set forth on the record on April 8, 2024, the court construes Ordinance No. 2023-12 as providing for the establishment of a municipal fire department staffed by paid and or part-paid employees who will work with the IFC which will be part of the department’s firefighting force. **IT IS FURTHER ORDERED** that in order to ensure that once the MSFD and the IFC are activated, fire service in Maple Shade is conducted safely, effectively, professionally and efficiently, the parties shall comply with the provisions set forth in Ordinance No. 2023-12 pending further Order of the court. Pursuant to §16-6 of Ordinance No. 2023-12, the IFC and all paid and/or part-paid MDSF personnel shall perform their work subject to the direction and oversight of Mr. Kerr as MSFD Fire Chief. To the extent that there are conflicts between regulations and/or standard operating procedures of the MSFD and the IFC, the regulations and/or standard operating procedures of the MSFD shall govern, consistent with §16-3 of Ordinance No. 2023-12. The MSFD Fire Chief shall have primary and ultimate authority at fire scenes, subject to the chain of command provision in §16-6A(f) of Ordinance No. 2023-12, pending further Order of the court.
6. As both parties have agreed that it is in the best interest of the community for both Independent Fire Co. #1 of Maple Shade, Inc. (“IFC”) as well as the Maple Shade Township Fire Department (“MSFD”) to both be housed in and work out of the facility located on South Maple Avenue, **IT IS FURTHER ORDERED** that the parties shall cooperate with each other to begin consolidation of facilities and equipment effective immediately. The Township

SHALL immediately begin the return of equipment and firefighting apparatus to the South Maple Avenue facility. The IFC **SHALL** cooperate with and expeditiously respond to requests for information and directives from the MSFD Fire Chief and/or the Fire Department Administrator as per §16-6B of Ordinance No. 2023-12 pending further Order of the court. MSFD paid and/or part-paid personnel shall be given full access to the South Maple Avenue facility. All MSFD and IFC personnel shall work together cooperatively so as to expedite their activation to service. All MSFD and IFC personnel shall engage with each other in a professional manner to provide the residents of Maple Shade with fire protection service.

7. **Pretrial Submissions.** Trial briefs, witness lists and exhibit lists shall be filed with the court and served on counsel for the opposing party no later than **April 22, 2024**. Counsel shall cooperate so as to avoid redundancy by submitting joint exhibits when possible. Any motions *in limine* shall be filed no later than **April 29, 2024**. No later than **April 29, 2024** both sides shall file replies to the opposing side's trial brief, as well as opposition(s) to any motion(s) *in limine*. Argument on any motion(s) *in limine* will be heard on the morning of trial.
8. **Provisions in Prior Orders Not Modified Herein Remain in Effect.** Any provision(s) in prior Orders of the Court not modified herein remain in full force and effect.
9. **IT IS FURTHER ORDERED** that a copy of this Order shall be deemed served upon all counsel and parties of record upon its being posted to eCourts.

s/ Eric G. Fikry, J.S.C.

HON. ERIC G. FIKRY, J.S.C.