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<p>TOWNSHIP OF TOMS RIVER,</p> <p>Plaintiff,</p> <p>v.</p> <p>JOHN P. HERLIHY; USBANKCUSFOR PRO CAPITAL I, LLC; TTLBL, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., and KS STATE BANK,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: OCEAN COUNTY</p> <p>DOCKET NO. OCN-L-002050-22</p> <p>Civil Action ORDER FOR FINAL JUDGMENT AND AWARD OF INTEREST</p>
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THIS MATTER having been initiated by the filing of a Verified Complaint on September 16, 2022, and Order to Show Cause by plaintiff, **TOWNSHIP OF TOMS RIVER**, (Plaintiff) to acquire by way of Eminent Domain property owned by **JOHN P. HERLIHY**. (Defendant) and the case coming on for trial on January 21, 2025 through January 24, 2025 before the Honorable Craig L. Wellerson, sitting with a jury, and the jury having reached a verdict of \$3,157,000.00, and plaintiff being represented by the firm of DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C. (**Paul Rizzo, Esq (appearing)**) .(and the defendant having been represented by the firm of Bathgate, Wegener & Wolf, P.C. (**Peter H. Wegener, Esq. appearing**) and there being no other parties to the appeal from the report of commissioners, and good cause appearing for the entry of the within Order,

IT IS on this _____ day of August, 2025,

ORDERED, that final judgment be and the same is hereby entered in favor of defendant, **JOHN P. HERLIHY** and against the plaintiff, **TOWNSHIP OF TOMS RIVER**, in the amount of \$3,157,000.00

ORDERED, that plaintiff shall be entitled to a credit in the amount of \$2,130,000.00 previously deposited with the Clerk of the Superior Court, which sum was subsequently withdrawn by defendant, John P. Herlihy and Order to Withdraw Funds on Deposit and Adjudicate the Interests in Any Award, Settlement or Judgment and Dismissing Certain defendants having been entered by the Hon. Francis R. Hodgson, Jr. A.J.S.C. on March 3, 2023, and it is further

ORDERED, that interest shall be paid on this judgment at the rate of 7.5% per annum compounded annually to the date of payment and it is further

ORDERED, that the principal balance of this judgment in the amount of \$1,027,000.00, together with interest as indicated above shall be paid by plaintiff by check or wire made payable to “**BATHGATE, WEGENER & WOLF, P.C.**, as attorneys for defendant, **JOHN P. HERLIHY**”. within (60) days from execution of this Order; and it is further

ORDERED, that this Judgment resolves all issues raised in the Verified Complaint and any counterclaims or other claims asserted by the defendant, which arose or will arise out of this action. However, in accord with paragraphs 7 and 8 and of the Verified Complaint, as to any issues relating to contamination, hazardous material or solid waste existing as of the filing of the Verified Complaint, which may be found upon or beneath the subject property, such environmental issues shall be preserved and may be the basis of a future action in accordance with substantive law as recited in *Housing Authority of City of New Brunswick v. Snydam Investors, LLC*, 177 N.J. 2 (2003) and *New Jersey v. Cat in the Hat, LLC*, 177 N.J. 29 (2003), without being bared by the principles of res judicata, collateral estoppel or entire controversy doctrine, it is further

ORDERED, that the Court reserves as to the merit of any contamination claims. Defendant shall also retain the right to raise any and all defenses, when and if such claims are raised, except for the defendant of *res judicata* , collateral estoppel, and/or the entire controversy doctrine premised upon this proceeding, it is further

ORDERED, that whereas the within order for judgment would be subject to process for enforcement, and whereas the within order for judgment constitutes a complete adjudication of the claim for just compensation, this court certifies this judgment to be a final judgment notwithstanding any future claims relating to contamination of the property.

ROBERT E. BRENNER, P.J.Cv.

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August 14, 2025

Via e-courts

Honorable Robert E. Brenner, P.J.C.v.
Superior Court of New Jersey
Ocean County Court House
100 Hooper Avenue Court Room 9
Toms River, NJ 08754

Re: Twp of Toms River v. Herlihy, et al
Docket No. OCN-L-2050-22
Our File No. 16724.0001

Dear Judge Brenner:

This law firm represents the defendant-property owner, John Herlihy in relation to the above captioned matter.

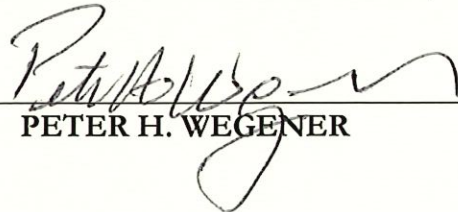
Pursuant to the Court's directive at the conclusion of the Court's decision on August 12, 2025, enclosed please find the proposed Order, which is being submitted pursuant to the five-day rule, and would request that if there are no objections that the same be entered.

Thank you for your consideration.

Respectfully submitted,
BATHGATE, WEGENER & WOLF, P.C.

PHW/ny

BY:



PETER H. WEGENER

cc: Paul Rizzo, Esq.(via e-courts)

