



February 23, 2014

Hon. Dennis F. Carey, III
Essex County Historic Courthouse
470 Martin Luther King, Jr. Blvd.
Newark, New Jersey 07102

Re: In re Initiated Petition Regarding a Proposed Save Our
Water Ordinance and Councilman Ras J. Baraka, Councilman Ronald C. Rice,
and the Committee of Petitioners, Docket No. ESX-L-6649-12

Dear Judge Carey:

As you know, New Jersey Appleseed Public Interest Law Center represents the Counter-Claimants/Third-Party Plaintiffs, Councilman Ras J. Baraka, Councilman Ron C. Rice, William Chappel, Kenneth Gibson, Wynnie-Fred Hinds, Wilbur McNeil and Terri Seuss (“Plaintiffs” or the “Committee of Petitioners”) in this matter with respect to their claims against the Newark Watershed Conservation and Development Corporation, Oscar James II, William T. Merritt and Rodney Johnson (“Defendants” or “NWCDC”). In these claims, which are still pending, Plaintiffs allege that Defendants violated their fiduciary duties of care, loyalty and obedience to the mission to the NWCDC, the City of Newark and its residents with respect to a decision made (in September 2012) to fundamentally change the nature and purposes of the corporation without formally dissolving. Although we are not moving this court to enter summary judgment on our Counter-Claims, at this time, we believe that the issues raised in Plaintiffs’ Counter-Claims are directly implicated in NWCDC’s Motion to Compel Funding and Other Relief from the City of

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Newark. For the reasons explained below, Plaintiffs believe that the City of Newark is neither contractually nor otherwise responsible for funding the dissolution of the NWCDC, including legal fees associated with that dissolution, and in fact, we assert that as of September 13, 2012, the City became NWCDC’s primary creditor.

TABLE OF CONTENTS

STATEMENT OF FACTS 2

PROCEDURAL HISTORY 8

LEGAL ARGUMENT 9

I. THE CITY OF NEWARK HAS NO CONTRACTUAL OR OTHER LEGAL RELATIONSHIP TO THE NWCDC. 10

II. IF THE 1994 GOVERNING DOCUMENTS HAD BEEN REINSTATED, THE PROVISIONAL TRUSTEES WOULD HAVE BEEN REQUIRED TO RETAIN NEW COUNSEL 11

III. AS OF SEPTEMBER 13, 2012, THE NWCDC EFFECTIVELY DISSOLVED AND THE CITY OF NEWARK BECAME ITS PRIMARY CREDITOR. 12

CONCLUSION 16

STATEMENT OF FACTS

In 1973, the Newark City Council caused to be created, at the recommendation of former Mayor Kenneth A. Gibson, the NWCDC. In accordance with a Newark City Council resolution, this entity was organized under Title 15A , the New Jersey Nonprofit Corporations Act, “to implement[] the recommendations for a community based agency which, under contract with the City of Newark can . . . provide the services of planning and general watershed administration.” (Counter-Claims, Ex. R). The general purpose of the NWCDC had been, since 1973 until September 2012, “to promote the common good and general welfare of the City of Newark, and of its inhabitants and businesses, through civic betterments, educational opportunities and social

improvements relating to the planning, conservation, development and management of the City's [Pequannock] watershed properties.” (Id; see also Ex. M¹). Mayor Gibson was one of the incorporators of the NWCDC, and sat on its first Board. (Hartwyck Cert. dated 11/19/12, Ex. G).² As an arm of the City of Newark until September 2012, with a social welfare or civic improvement purpose relating to planning and conservation of Newark property, NWCDC was a charitable corporation. (Counter-Claims, ¶¶20, 27)

Over the past four decades, Newark entered into numerous service contracts with the NWCDC to manage, plan, conserve and develop the Newark Watershed Properties; and from 1998 until August 2012, Newark also retained by contract this nonprofit corporation to manage and operate the Pequannock Water Treatment Plant. (Verified Answer, ¶3; Neals Cert. ¶5). In 2009, management of the Water Storage Reservoirs was added as well, including the Cedar Grove reservoir, which is nowhere near the Pequannock watershed. For years, however, there was serious contention among several Mayors, City Councils and residents of Newark as to how best to manage and conserve Newark's precious Watershed Properties and manage, operate and improve its Water and Sewage Systems.

In February 2012, an attorney with the Office of the State Comptroller advised Newark's Business Administrator, Julien X. Neals, that he found NWCDC's contract with Newark to operate the Pequannock Water Treatment Plant and Water Storage Reservoirs to be unlawful.

¹ The Certificate of Incorporation was amended in 1974 to include promotion of “educational opportunities” in its mission.

² Exhibit G appears to be the actual Certificate of Incorporation that was filed with the State in 1973. Defendants attached to their pleadings as Exhibit M the version of the Certificate that was approved by the Newark City Council in 1973. It appears from a comparison that the only difference between the two exhibits is that the former includes the names of the incorporators and the members of the first Board of Directors.

(Counter-Claims, Ex. D). One month earlier in January 2012, the Newark Water Group, whose members include the Committee of Petitioners, issued a report entitled, Hog Wild: An Analysis of the Activities of the Newark Watershed Conservation and Development Corporation, (Id., Ex. O), which triggered the City Council's attempts to investigate the operations of the NWCDC through issuing subpoena duces tecum and direct questioning,³ and requests to the Attorney General to do the same. (Id., Ex. Q). And, in May 2012, the City Council took an initial step through resolution, dated May 16, 2012, to cause the dissolution of the NWCDC by urging its Board to do so and return all files and records belonging to Newark. (Id., Ex. G)

For the past several years, the NWCDC had been operating with only five to seven directors/trustees. (Id., ¶4). From October 2011 through 2012, however, it had been conducting its affairs with only a five member Board – fewer than 50% of the Board members required by its By-Laws. During 2012, the Board consisted of the Mayor, *ex officio*, Council President Donald Payne, and three other directors who were appointed by the Mayor and approved by the Newark City Council. Id. After November 2012, its numbers dwindled to four trustees, and decisions were typically made by three trustees, given the fact that the Mayor never attended meetings. (Comptroller's Report at p., 37, Steinhagen Cert., Ex. A). See also Id., at 31 (noting that from October 2011 through March 25, 2013, only three trustees actually appeared for Board meetings). During this same period of time, NWCDC's By-Laws required the Board to consist

³ The NWCDC, represented by Elnardo J. Webster II, then with the firm Trenk DiPasquale, responded to the Newark City Council's attempts to investigate by filing an Order to Show Cause seeking a Temporary Restraint. (Counter-Claims, Ex. P)(where Council President Payne, who also served as a trustee of the NWCDC at the time, stated that the "NWCDC [had taken] legal action [without my approval] against the City of Newark seek[ing] to invalidate the Council's resolution 7R9-b 120811 creating the investigative committee."). After being sued, the City Council backed down from conducting its own investigation. Since Council President Payne's election to Congress in November 2012, he has not served as a trustee of the NWCDC.

of 11 directors, with three City officials serving on the Board, and 8 trustees appointed by the Mayor with the advice and consent of the City Council. (Counter-Claims., Ex. N). As a “quasi City agency,” the NWCDC received regular appropriations from Newark through service contracts, and had been authorized to collect fees, assessments and other revenue on behalf of Newark arising from its management of the Newark watershed properties. (Id., ¶13).

According to the State Comptroller, the NWCDC did not receive other public or private funding to support its conservation, planning and development activities executed solely on behalf of Newark. (Comptroller’s Report at p. 4)(“The City provides taxpayer funds to the NWCDC . . . for more than 99% of NWCDC’s income since 2008”).

In accordance with Article Six of its 1994 Certificate of Incorporation, as amended, the NWCDC was, as a general matter, entrusted with administering and maintaining Newark’s public Watershed properties. (Id., ¶24). Therefore, many of its enumerated powers required authorization by the City Council, adoption by the Council, or approval by the Council. (Id., ¶22). Net revenues were required to be annually transferred and paid to the City of Newark, (Id., ¶25);⁴ and in the event of dissolution, the balance of all money and other property received by NWCDC from any source, was required to be “distributed solely to or for the benefit of the City of Newark.” (Id., ¶26.). In addition, pursuant to Article 14 of the Certificate, all “purchase contracts and agreements by the NWCDC are subject to the requirements of New Jersey’s ‘local public contracts law.’” (Id., Ex. M).

On August 8, 2012, the Committee of Petitioners filed an initiated ordinance entitled “Save Our Water Ordinance,” with the City Clerk (the “Initiated Ordinance”). (Order, dated

⁴ It is clear from the Comptroller’s Report that the NWCDC did not comply with the net revenue requirement. If it had complied, it would not have been able to accumulate the financial assets that it appears to have gambled and lost on the stock market. (Comptroller’s Report at pp. 12-15)

October 24, 2012, Hartwyck Cert.11/19/12, Ex. A). This Initiated Ordinance contemplated the eventual dissolution of the NWCDC, and permitted the establishment of a new nonprofit corporation with whom the Newark City Council could contract for planning, conservation, development and management of the City's Pequannock Watershed Properties. Such entity would have had the same mission as the NWCDC, but would have been "restricted by its charter to engaging in those activities and only those activities," and would have been explicitly covered by the Open Public Meetings Act, the Open Public Records Act, the Local Public Contract Law, and the Local Government Ethics Law. (Initiated Ordinance, Newark's Verified Complaint, Ex. E).

On September 11, 2012, the Newark City Council adopted the Committee's Initiated Ordinance. The previous day, the Board of NWCDC had amended its Certificate of Incorporation at a Regular Board meeting; and two days later on September 13, 2012, it amended its By-Laws at a Special Meeting. (Hartwyck Cert., 11/19/12, Ex. C). On information and belief, the NWCDC did not give "adequate notice" of either meeting as defined by the Open Public Meeting Act. (Id., Am. Counter-Claims, ¶¶26-27). Neither Mayor Booker nor Council President Donald Payne was present at either one of these Board meetings, and neither of them voted. Elnardo J. Webster II, by then a partner at the firm Genova Burns Giantomasi Webster, LLC, led a discussion about the ordinance and informed trustees that "the Newark Watershed is prepared to file an action challenging the Save Our Water Ordinance" in addition to participating in the discussion about the proposed new By-Laws. (Hartwyck Cert.,11/19/12 Ex. C). The three remaining directors adopted by unanimous vote changes to NWCDC's Certificate of Incorporation and By-Laws that eliminated all references to the City of Newark and its residents. Id.

On March 25, 2013, these same trustees adopted by resolution a plan of dissolution. Neals Cert., ¶9. This resolution was adopted within weeks of an interview conducted by the Office of State Comptroller with the NWCDC's accountant and investment broker regarding NWCDC's high-risk securities brokerage account. (Comptroller's Report at p. 5). Although "the resolution recognized that the NWCDC existed for the limited purpose of promoting the City's interests," *id.*, the 1994 Certificate of Incorporation and By-Laws were not reinstated.

Plaintiffs were not informed by counsel for the NWCDC, Christopher Hartwyck, about this resolution; rather, we were informed by the *Star-Ledger*. Upon hearing of such decision, Plaintiffs offered to dismiss their Counter-Claims but requested that dissolution be approved by the Chancery Division of the Superior Court (due to the inadequate number of trustees), and requested appointment of an independent monitor to ensure that an audit would be done, and that all Newark's physical and financial assets, including records, would be properly returned (E-Mail to Provisional Trustees, dated 6/21/13, Steinhagen Cert., Ex. B). NWCDC, and its counsel, however, chose a different route to dissolution. Although Councilman Baraka, Councilman Rice, and the Committee of Petitioners participated in the selection of the provisional trustees, they all assumed, when signing the consent decree appointing four provisional trustees, that dissolution would occur swiftly and that all its assets would be properly returned to the City of Newark as soon as possible.

As of May 31, 2013, the City took over and reintegrated those operations that the NWCDC previously performed into its Water and Sewer Department, and rehired many of NWCDC's employees. Neals Cert., ¶13. On June 30, 2013, the NWCDC and the City of Newark executed a Waiver, Release, Modification and Indemnity Agreement, which acknowledged that all contracts between the NWCDC and the City had terminated, and that the

NWCDC had ceased providing any services to the City. Neals Cert., ¶23. A financial accounting has not been complete and revenue, in accordance with the net revenue requirement (in effect until September 13, 2012), has not been transferred to the City.

PROCEDURAL HISTORY

This action was commenced in early September 2012 by the Mayor of Newark, who was then chairman of the Board of the NWCDC. The City of Newark, filed an Order to Show Cause and Verified Complaint in Lieu of Prerogative Writ, dated September 6, 2012, seeking to prohibit the Newark City Council from adopting the Save Our Water Ordinance that was initiated by the Committee of Petitioners. On September 18, 2012, the NWCDC sought to intervene in that matter and filed its own Verified Complaint against the Committee of Petitioners and the Newark City Council, which by that date, had adopted the Ordinance. In accordance with a Consent Order, dated September 24, 2012, the individual members of the Committee of Petitioners and Councilman Ras Baraka and Councilman Ron Rice filed a Verified Answer in response to both Complaints and asserted Counter-Claims against the NWCDC concerning a related matter --- *i.e.*, fundamental changes to the corporation's governing documents seemingly in response to the Committee of Petitioner's Initiated Ordinance. The Committee of Petitioners served that pleading both on the NWCDC and the three directors participating in the "change of governance" decision. A summary hearing was held on October 22, 2012, at which time the Court found the Ordinance invalid. An Order disposing of the claims of the City and the NWCDC was entered on October 24, 2012. (Hartwyk Cert., 11/19/12, Ex. A).

On November 19, 2012, the NWCDC then moved to dismiss the Committee of Petitioners' Counter-Claims, pursuant to R. 4:6-2(e). In response to NWCDC's motion,

Plaintiffs filed a Cross-Motion to transfer the remaining claims in this action to the Chancery Division for final disposition, pursuant to R. 4:3-1(b), and to allow them to amend their Counter-Claims to re-instate those claims independent from their Verified Answer . Soon thereafter, the NWCDC withdrew its Motion to Dismiss, and the Committee of Petitioners filed their Amended Counter-Claims on January 25, 2013. A Consent Order was filed on February 22, 2013, staying this action, requiring the parties to mediate the Counter-Claims from March 15, 2013, through no later than July 1, 2013. The Consent Order permitted Plaintiffs to re-file their motion to transfer venue in the event the Counter-Claims were not resolved.

Mediation did not occur due to the NWCDC's decision to dissolve in March 2013. Instead, on May 23, 2013, the City of Newark sought to intervene in this matter by Order to Show Cause in order to protect Newark's financial, real estate and operational assets still sitting in the NWCDC. Now, NWCDC, almost one year after it adopted a plan of dissolution is before this court seeking additional revenues from the City of Newark ratepayers to compensate its provisional trustees and to pay, it appears, an additional \$843,078 for services through January 2014, to NWCDC's attorneys. (NWCDC Br., Addendum A).

LEGAL ARGUMENT

This court has already decided in this matter that the City of Newark, as a matter of law, had no authority to dissolve the NWCDC. (Hartwyk Cert., 11/19/12, Ex. B at 4 (to permit the Council “to unilaterally dissolve an independent non-profit corporation created under State law’ would result in the independent status of such a corporation being nothing more than an illusory term.”)). But now the NWCDC is seeking additional revenues from the City to consummate such dissolution. In addition, since September 13, 2012, the NWCDC has been operating pursuant an Amended Certificate of Incorporation and Amended By-Laws that indicate no relationship to the

City of Newark, other than the preservation of “Newark” in its name. But now the NWCDC is seeking additional revenue to support its plan of dissolution and continuing operation over which the City of Newark has no control. The irony of the situation renders the NWCDC’s request for fees (including legal fees) blatantly unfair. Plaintiffs also assert that such request cannot be sustained as a matter of law.

I. THE CITY OF NEWARK HAS NO CONTRACTUAL OR OTHER LEGAL RELATIONSHIP TO THE NWCDC.

As the City has presented, it has not had a contractual relationship or agreement with the NWCDC to provide Newark with any services since August 2012. (Neals Cert., ¶5)(“The Watershed Contract expired on June 30, 2012, and the Pequannock Water Treatment Plant Memorandum of Understanding in August 2012”). Services, however, continued to be provided to the City pursuant to an Emergency Executive Order, issued by Mayor Booker on October 1, 2012 (still a member of the NWCDC’s Board), and payments for those services were also made. Services completely ended in June, 2013, when the NWCDC transferred its employees, equipment and documents to the City, assumed control over certain youth programs, and assumed control for security of the Pequannock Watershed properties and the Echo Lake property. (Id., ¶¶13-16).

At the time Mayor Booker issued the Emergency Order, the City Council, had indicated its intent to sever its relationship with the NWCDC. That is, by adopting the citizen initiated Save Our Water Ordinance, the City Council made clear that it was no longer going to approve the annual Watershed Contract, and the tri-annual Memorandum of Understanding for the Water Treatment Plant that the State Comptroller had found unlawful, and instead it was going to return the essential government functions historically performed by the NWCDC to Newark’s Water and Sewer Department. In May 2012, the City Council had urged the NWCDC’s Board to

dissolve and to return all files and records belonging to Newark via resolution, (Counter-Claims, Ex. G). Now, at the urging of the Committee of Petitioners and the 5,000 Newark residents who signed their petition, the City Council was taking steps to make sure that such dissolution happened, and Newark's water assets would not be turned over to a private Municipal Utility Authority allegedly at the State's urging – an option, however, promoted by Mayor Booker and other trustees of the NWCDC.

The NWCDC, then advised by Elnardo J. Webster, II, of the firm Genova Burns Giantomasi Webster, responded to the City Council by amending its governing papers to eliminate all references to Newark and its residents, except that it maintained Newark in its name. The first Three Counts of Plaintiffs' Counter-Claims against the NWCDC allege that such amendments were invalid;⁵ however, for purposes of this motion to compel fees, Plaintiffs note that for the past year and one-half (since September 13, 2012), the NWCDC has been operating under those 2012 By-Laws. For the NWCDC to now couch their motion in the context of the "City's Creation and Historical Control of the NWCDC," as a quasi-governmental agency, is thus somewhat disingenuous.

For several years, as the Comptroller's Report documents, the City Council has not in fact controlled the operation of the NWCDC, despite the formal control it was given in the 1994 Certificate of Incorporation and 1994 By-Laws. Accordingly, since June 2013, when the emergency order effectively ended and NWCDC employees and property were returned to the

⁵ Plaintiffs allege in Count I of their Counter-claims that because the NWCDC had been operating with more than 50% of its Board seats vacant, it was not entitled to change its governing documents. In Count II, they allege that the NWCDC did not provide adequate notice to the public of its special meeting held on September 13, 2012, as required by the Open Public Meetings Act, and, in Count III, they assert that by removing the City of Newark from the mission, purpose, dissolution clause, board membership, and other clauses of its governing documents, the NWCDC violated their fiduciary duty to the City of Newark and all its residents.

City of Newark, the City has had no contractual or other legal relationship to the NWCDC that can justify further payments to that corporation by the taxpayers and ratepayers of Newark. As this Court has already decided, the NWCDC is an independent nonprofit corporation, and as such, it is responsible for its own dissolution.

II. IF THE 1994 GOVERNING DOCUMENTS HAD BEEN REINSTATED, THE PROVISIONAL TRUSTEES WOULD HAVE BEEN REQUIRED TO RETAIN NEW COUNSEL.

On the other hand, if the NWCDC, at the time it decided to dissolve had acknowledged that it had been operating unlawfully with only five trustees and three decision-makers since 2011, and, as a result of that admission, had reinstated its 1994 governing papers, it would then have also taken appropriate steps to appoint new board members with City Council approval, including two City Council people in addition to the Mayor. Under such hypothetical circumstances, the NWCDC's current motion to compel would be seen in a different context, and the City's historical relationship and control would be reflected in its governing documents.

That is, although still a nonprofit corporation, it would be a quasi-government agency under control of the City of Newark through the City Council's board appointments and the restrictions imposed in its Certificate of Incorporation and its By-Laws.⁶ Moreover, if the 1994 governing documents had been reinstated, the four new provisional trustees, who were approved by the Mayor and Councilmen Baraka and Rice individually, not the City Council as a whole, would have realized that the NWCDC had to retain different counsel from the firm that had been

⁶ A review of the NWCDC's Certificate of Incorporation, as amended, and its By-Laws (Counter-Claims, Exhibits M & N, respectively) indicates that it manages and operates Newark Watershed Properties in trust for the City, has the power to "undertake development of properties under the service contract, in its own name or on behalf of the City," to negotiate and with the approval of the City Council to enter into agreements with other governments on matters affecting the properties," and to charge fees for use of the property. *Id.*, Ex. M at 4. NWCDC's sole source of revenue comes from Newark's budget and user charges from property owned by Newark; and thus Newark in effect pays its legal fees.

representing the NWCDC during the period of time that the NWCDC took positions adverse to the City.

Namely, the NWCDC, represented by Elnardo J. Webster II, then with the firm Trenk DiPasquale, responded to the Newark City Council's attempts to investigate the NWCDC by taking legal action against the City of Newark seeking to invalidate the Council's resolution 7R9-b 120811 creating an investigative committee. Secondly, Mr. Webster permitted the NWCDC to operate and conduct business with less than 50% of the required number of board members in violation of its fiduciary duty to the City of Newark, and then in September 2012, since joining the firm Genova Burns Giantomasi Webster, permitted only three board members to change the fundamental nature and purpose of the corporation without formally dissolving (in direct violation of its fiduciary duty to the City and its residents). Finally, Christopher Hartwyk, also with the Genova firm, represented the NWCDC when it took action against the City Council to invalidate the Save Our Water Ordinance, which the Council had adopted in order to regain control of Newark's water assets.

It is apparent that the NWCDC, operating pursuant to the 1994 governing documents, is a public body of Newark, and thus any lawyer representing such entity is certainly within the Newark municipal family governed by R.P.C. 1.8(k). That is, rules of professional conduct applicable to the City of Newark and its Water and Sewer Department are equally applicable to the NWCDC. Accordingly, once it became apparent that Mr. Webster and Mr. Hartwyk had sued the City, and Mr. Webster had for years advised the NWCDC to take positions that were adverse to the City and its taxpayers, the new trustees, operating the NWCDC through the lens of the 1994 By-Laws, would have realized that they were required to retain new attorneys. Pursuant to R.P.C. 1.8 (l) , which prohibits municipalities from waiving a conflict of interest, the

continued retention of the Genova firm was not permitted; and accordingly, even if one reinstated the 1994 By-Laws retroactive to September 13, 2012, the City Council cannot be held responsible for the legal fees that the NWCDC may owe to that firm for services rendered through January 2014.

III. AS OF SEPTEMBER 13, 2012, THE NWCDC EFFECTIVELY DISSOLVED AND THE CITY OF NEWARK BECAME ITS PRIMARY CREDITOR.

Nonetheless, the provisional trustees upon appointment did not vote to reinstate the 1994 By-Laws, did not act to ensure the appointment of two City Council members, and did not retain new counsel that did not have a conflict of interest with the City of Newark. Rather, they decided to proceed under the 2012 By-Laws that terminated the NWCDC's status as a quasi-government agency, and proceeded to operate that entity under those fundamentally different governing documents. Although the NWCDC returned custody of all physical assets, programs, and employees to Newark as of June 30, 2013, there has not been an accounting of the revenue remaining in in the NWCDC as of September 13, 2012, revenue that Plaintiffs assert, on behalf of all Newark taxpayers, belongs to the City of Newark.

This conclusion is consistent with the theory behind Count IV of the Committee of Petitioners' Counter-Claims. Count IV rests on the theory that the changes made to the corporate governance documents in 2012 resulted in a diversion of the NWCDC's assets due to significant alterations to the basic purpose of the NWCDC; which was to provide the City of Newark with planning, conservation, management and development services concerning its Watershed Properties, not to provide such services to any municipality in the State. Cf. Bible Presbyterian Church of Collingwood, Inc. v. Harvey Cedars Bible, 84 N.J. Super. 441 (App. Div. 1964), cert. denied, 43 N.J. 258 (1965)(action to set aside certificate changes to Bible Conference's

Certificate of Incorporation and enjoin diversion of assets). Specifically, the Committee of Petitioners assert that because of such significant changes to its Certificate of Incorporation --- changes that eliminate the City of Newark from its mission, participation in its governance, and control over some of its operations --- the NWCDC in effect dissolved on September 13, 2012, and in effect reincorporated with the same name, but with a different mission.

Seen in this light, Count IV states a cause of action for conversion upon which equitable relief may be granted. Instead of officially dissolving as demanded by Councilman Rice and the Newark City Council generally, the NWCDC in September 2012 refused to return the financial and nonfinancial assets that it has received and accumulated on behalf the City of Newark to the City, and instead diverted or converted those assets for its own use. Cf. Cargill Global Trading v. Applied Dev. Co., 606 F.Supp.2d 563, 578 (D.N.J. 2010)(to establish conversion, a plaintiff must have actual interest in the asset, and defendant is capable of misuse of that asset in a way that would deprive plaintiff of its benefit), cited in Bondi v. Citigroup, Inc., 423 N.J. Super. at 431. Accordingly, despite the NWCDC's transfer of all its property, operations and employees to the City of Newark in June 2013, it still has not returned all revenues that were sitting in its bank accounts on September 13, 2012. Because those funds must be returned to the City of Newark, the City is the NWCDC's primary creditor, not its debtor.

CONCLUSION

For all the reasons fully set forth above, the Committee of Petitioners, including former Mayor Kenneth Gibson, Councilman Ras J. Baraka, and Councilman Ron C. Rice, oppose the NWCDC's Motion to Compel Funding and other relief from the City. The NWCDC is no longer a quasi-government agency under its 2012 Certificate of Incorporation and By-Laws; and even if this court were to reinstate the 1994 governing documents retroactively, the City would not be able to waive its conflict with the Genova Burns Giantomasi Webster law firm. Rather than owing the NWCDC monies, it is Plaintiffs' position that the NWCDC must return all revenues in its accounts as of September 13, 2012, which is the date that the NWCDC converted to a fundamentally different nonprofit corporation without formally dissolving. Accountability to the taxpayers of Newark requires no less.

Respectfully submitted,

NEW JERSEY APPLESEED
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By: _____
Renée Steinhagen, Esq.