

Edward Blumenthal
11 S. Adams Avenue
Unit 8
Margate, New Jersey 08402
(267) 278-0475
ed@somacomputer.com
Plaintiff *Pro Se*

EDWARD BLUMENTHAL,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
Plaintiff,	:	ATLANTIC COUNTY
	:	
vs.	:	DOCKET NO. ATL-L-609-18
	:	
CITY OF MARGATE PLANNING	:	<u>CIVIL ACTION</u>
BOARD and ADVENTURE GOLF	:	
SOUTH, LP,	:	SUMMONS
	:	
Defendants.	:	

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of these offices is available in the Civil Division Management Office in the county listed above and online at: http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to the plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.nicourts.gov/forms/10153_deptyclerklawref.pdf.

Dated: March 23, 2018

/s/ Michelle M. Smith

Michelle M. Smith,
Clerk of the Superior Court

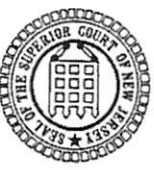
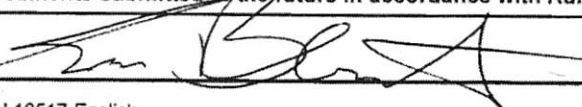
Name of Defendant to Be Served:

City of Margate Planning Board

Address of Defendant to Be Served:

9001 Winchester Avenue
Margate, New Jersey 08402

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	
			CHG/CK NO.	
			AMOUNT:	
			OVERPAYMENT:	
		BATCH NUMBER:		
ATTORNEY / PRO SE NAME Edward Blumenthal		TELEPHONE NUMBER (267) 278-0475	COUNTY OF VENUE Atlantic	
FIRM NAME (if applicable) N/A		DOCKET NUMBER (when available) ATL-L-609-18		
OFFICE ADDRESS 11 S. Adams Avenue, Unit 8 Margate, NJ 08402		DOCUMENT TYPE Complaint in Lieu of Prer. Writs		
		JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Edward Blumenthal, Plaintiff		CAPTION Edward Blumenthal v. City of Margate Planning Board and Adventure Golf South, LP		
CASE TYPE NUMBER (See reverse side for listing) 701		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:53 A -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 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 type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
<input checked="" type="checkbox"/> 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		
<input type="checkbox"/> 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 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: 				

Edward Blumenthal
11 S. Adams Avenue
Unit 8
Margate, New Jersey 08402
(267) 278-0475
ed@somacomputer.com
Plaintiff *Pro Se*

RECEIVED/FILED

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SUPERIOR COURT OF NJ

EDWARD BLUMENTHAL,

Plaintiff,

vs.

CITY OF MARGATE PLANNING
BOARD and ADVENTURE GOLF
SOUTH, LP,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

DOCKET NO. ATL-L-609-18

CIVIL ACTION

**COMPLAINT IN LIEU OF
PREROGATIVE WRITS**

Plaintiff Edward Blumenthal, by way of Complaint in Lieu of Prerogative Writs against defendants City of Margate Planning Board and Adventure Golf South, LP, says the following:

PARTIES

1. Plaintiff Edward Blumenthal ("Blumenthal") is the owner of the property commonly known as at 11 S. Adams Avenue, Unit 8, Margate, New Jersey 08402.
2. Defendant City of Margate Planning Board ("Planning Board") is an appointed municipal body organized and existing under the laws of the State of New Jersey and maintaining its principal offices at 9001 Winchester Avenue, Margate, New Jersey 08402.
3. Upon information and belief, defendant Adventure Golf South, LP ("Adventure Golf") is a New Jersey limited partnership maintaining its principal offices at 822 Boardwalk, Suite D, Ocean City, New Jersey 08226.

OPERATIVE FACTS

4. Plaintiff incorporates all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.
5. In or about November 2017, Adventure Golf submitted an application to the Planning Board which proposed the construction of an 18-hole miniature golf course on the property located at 9312 Ventnor Avenue, Margate, New Jersey, which property is designated as Block 127, Lot 85 on the Margate City Tax Map (the "Subject Property").
6. The Subject Property was formerly owned by Ocean First Bank until it was sold to Bennie Management, Inc. on November 6, 2017 for the sum of \$1,250,000.00.
7. Until recently, the Subject Property was improved with a building which was previously utilized as a bank.
8. The Subject Property is situated within the Margate City Commercial Business District ("CBD") which Margate City's 2016 Comprehensive Master Plan Update describes as follows:

The Central Business District (CBD) Zone was crafted to provide a dense retail commercial core in heavily traveled, high visibility areas of the City. The Central Business District is intended to be an active commercial area with high turnover shops, restaurants and businesses. The grouping of these businesses into concentrated areas is ideal for creating an active, attractive atmosphere and allowing patrons to visit multiple nearby businesses during one trip.
9. Adventure Golf's application sought preliminary and final site plan approval as well as variances pursuant to N.J.S.A. 40:55D-70.c to permit a deficient number of parking spaces, nonconforming fence height and a nonconforming freestanding sign.
10. The CBD Zoning District, the zoning district in which the Subject Property is situated, permits, inter alia, "retail services".

11. Section 175-2 of the Margate City Land Use Ordinance defines the term "retail services" as meaning:

Establishments engaged in providing services for individuals, businesses, government and other organizations and includes finance; insurance; real estate and personal services; business services and miscellaneous repair services; motion pictures; amusement and recreation services; health services and educational services; social services, museums, art galleries, botanical garden and zoological gardens.

12. The CBD Zoning District, the zoning district in which the Subject Property is located, does not permit "recreation facilities."

13. Section 175-2 of the Margate City Land Use Ordinance defines the term "recreational facility" as meaning:

A place where sports, leisure-time activities and customary and usual recreational activities are carried out.

14. The Planning Board conducted a hearing on Adventure Golf's application on December 14, 2017.

15. In advance of the hearing, the Planning Board received postponement requests from multiple interested parties.

16. The Planning Board wholly rejected all requests to postpone the hearing, determining that notice was adequate, that the hearing was well attended and that no prejudice would accrue to the interest parties who could not attend and/or secure legal representation.

17. During the hearing, the Planning Board considered testimony from its planner as well as from witnesses appearing on behalf of Adventure Golf.

18. When the hearing was opened to the public, Blumenthal and others objected to the approval of the application on various grounds, citing various factual and legal deficiencies.

19. Notwithstanding the lack of proofs and justification for the requested relief by Adventure Golf as well as other relief which was required but not requested, the Planning Board voted 9-0 to approve Adventure Golf's application.

20. The Planning Board subsequently memorialized its action in Decision and Resolution 03-2018, which it adopted on January 25, 2018.

21. The Planning Board caused notice of its decision to be published on January 30, 2018.

COUNT I

22. Plaintiff incorporates all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.

23. Adventure Golf's application proposed the development of an 18-hole miniature golf course on the Subject Property.

24. The CBD Zoning District, the zoning district in which the Subject Property is situated, does not permit miniature golf courses.

25. The CBD Zoning District, the zoning district in which the Subject Property is situated, does not permit "recreational facilities" as that term has been defined by the Margate City Land Use Ordinance.

26. Adventure Golf's application necessitated the obtainment of a use variance pursuant to N.J.S.A. 40:55D-70.d(1).

27. Notwithstanding this situation, the Planning Board determined that the proposed 18-hole miniature golf course constituted a "retail service" and, as such, qualified as a permitted use in the CBD Zoning District.

28. The Planning Board's actions in this regard were arbitrary, capricious, unreasonable and contrary to law.

WHEREFORE, plaintiff Edward Blumenthal demands the entry of judgment in his favor and against defendants City of Margate Planning Board and Adventure Golf South, LP, for the following:

- (a) An Order vacating and setting aside Planning Board Decision and Resolution 03-2018;
- (b) An Order vacating and setting aside any and all relief granted by the Planning Board to Adventure Golf as memorialized by Planning Board Decision and Resolution 03-2018; and
- (c) All such other relief the Court should deem equitable and just.

COUNT II

29 Plaintiff incorporates all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.

30. Adventure Golf's application proposed a freestanding sign on the subject property.

31. The CBD Zoning District, the zoning district in which the Subject Property is situated, does not permit freestanding signs.

32. Consequently, Adventure Golf's application necessitated the obtainment of a use variance pursuant to N.J.S.A. 40:55D-70.d(1).

33. Notwithstanding this situation, Adventure Golf did not request, and the Planning Board did not require, a use variance pursuant to N.J.S.A. 40:55D-70.d(1).

34. The Planning Board approved Adventure Golf's application including the freestanding sign in the absence of appropriate relief.

35. The Planning Board's actions in this regard were arbitrary, capricious, unreasonable and contrary to law.

WHEREFORE, plaintiff Edward Blumenthal demands the entry of judgment in his favor and against defendants City of Margate Planning Board and Adventure Golf South, LP, for the following:

- (a) An Order vacating and setting aside Planning Board Decision and Resolution 03-2018;
- (b) An Order vacating and setting aside any and all relief granted by the Planning Board to Adventure Golf as memorialized by Planning Board Decision and Resolution 03-2018; and
- (c) All such other relief the Court should deem equitable and just.

COUNT III

36. Plaintiff incorporates all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.

37. Adventure Golf's application necessitated multiple bulk and area variances pursuant to N.J.S.A. 40:55D-70.c.

38. Adventure Golf failed to apply for, and the Planning Board did not grant, all of the bulk and area variances necessitated by the application.

39. For example, Section 175-33.C(1) of the Margate City Land Use Ordinance prohibits accessory buildings and structures from exceeding eight feet or one story in height above adjacent finished grade.

40. Adventure Golf's application proposed accessory buildings and structures which exceeded Section 175-33.C(1)'s height limitation.

41. Notwithstanding this situation, the Planning Board granted Adventure Golf's application as if Adventure Golf had actually requested and justified all necessary bulk and area variances.

42. The Planning Board's actions in this regard were arbitrary, capricious, unreasonable and contrary to law.

WHEREFORE, plaintiff Edward Blumenthal demands the entry of judgment in his favor and against defendants City of Margate Planning Board and Adventure Golf South, LP, for the following:

- (a) An Order vacating and setting aside Planning Board Decision and Resolution 03-2018;
- (b) An Order vacating and setting aside any and all relief granted by the Planning Board to Adventure Golf as memorialized by Planning Board Decision and Resolution 03-2018; and
- (c) All such other relief the Court should deem equitable and just.

COUNT IV

43. Plaintiffs incorporate all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.

44. Adventure Golf applied for variances pursuant to N.J.S.A. 40:55D-70.c to permit a deficient number of parking spaces, excessive fence height and an oversized freestanding sign.

45. Adventure Golf failed to proffer the necessary proofs to substantiate the grant of “c” variances to permit a deficient number of parking spaces, excessive fence height and an oversized freestanding sign.

46. Moreover, although Adventure Golf and the Planning Board calculated a parking requirement of two (2) spaces, this calculation only accounted for the ticket booth and not the other structures proposed by the application.

47. In actuality, Adventure Golf’s application required far more than two parking spaces.

48. Notwithstanding this situation, the Planning Board granted Adventure Golf’s application, including the requested “c” variances.

49. The Planning Board’s actions in this regard were arbitrary, capricious, unreasonable and contrary to law.

WHEREFORE, plaintiff Edward Blumenthal demands the entry of judgment in his favor and against defendants City of Margate Planning Board and Adventure Golf South, LP, for the following:

- (a) An Order vacating and setting aside Planning Board Decision and Resolution 03-2018;
- (b) An Order vacating and setting aside any and all relief granted by the Planning Board to Adventure Golf as memorialized by Planning Board Decision and Resolution 03-2018; and
- (c) All such other relief the Court should deem equitable and just.

COUNT V

50. Plaintiff incorporates all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.

51. Decision and Resolution 03-2018 failed to set forth adequate findings of fact and conclusions of law.

52. Decision and Resolution 03-2018 failed to articulate or cogently explain how the purported findings of fact supported the alleged conclusions of law, particularly in regard to the grant of variance relief.

53. For example, Decision and Resolution 03-2018 states that the proposed development advanced several purposes of zoning, including N.J.S.A. 40:55D-2.a, promotion of the general welfare and public safety, because it “will fill a need for [an amusement and recreation] use in the district”.

54. In fact, during the hearing, no testimony was elicited suggesting that a need existed for an amusement and recreation use in the Commerce Business District.

55. Decision and Resolution 03-2018 failed to articulate an adequate basis for the Planning Board’s approval.

56. Decision and Resolution 03-2018 constitutes net opinion.

57. The Planning Board’s actions in this regard were arbitrary, capricious, unreasonable and contrary to law.

WHEREFORE, plaintiff Edward Blumenthal demands the entry of judgment in his favor and against defendants City of Margate Planning Board and Adventure Golf South, LP, for the following:

- (a) An Order vacating and setting aside Planning Board Decision and Resolution 03-2018;
- (b) An Order vacating and setting aside any and all relief granted by the Planning Board to Adventure Golf as memorialized by Planning Board Decision and Resolution 03-2018; and
- (c) All such other relief the Court should deem equitable and just.

COUNT VI

58. Plaintiff incorporates all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.

59. Multiple interested parties requested the Planning Board to postpone the application due to scheduling conflicts with the hearing, insufficient time to retain legal counsel to present their positions and for other reasons.

60. The Planning Board unreasonably refused the postponement requests, asserting, inter alia, the lack of prejudice to the interested parties.

61. The Planning Board's rationale lacks a basis in the record.

62. The Planning Board's actions in this regard were arbitrary, capricious, unreasonable and contrary to law.

WHEREFORE, plaintiff Edward Blumenthal demands the entry of judgment in his favor and against defendants City of Margate Planning Board and Adventure Golf South, LP, for the following:

- (a) An Order vacating and setting aside Planning Board Decision and Resolution 03-2018;

- (b) An Order vacating and setting aside any and all relief granted by the Planning Board to Adventure Golf as memorialized by Planning Board Decision and Resolution 03-2018; and
- (c) All such other relief the Court should deem equitable and just.

COUNT VII

63. Plaintiff incorporates all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.

64. Until November 6, 2017, the Subject Property was owned by Ocean First Bank.

65. Since November 6, 2017, the Subject Property has been owned Bennie Management, Inc.

66. Adventure Golf is neither the legal nor beneficial owner of the Subject Property, and otherwise has no proprietary interest in the Subject Property.

67. Adventure Golf lacked standing to make an application to the Planning Board.

68. Notwithstanding this situation, the Planning Board considered and approved Adventure Golf's application for the Subject Property.

69. The Planning Board's actions in this regard were arbitrary, capricious, unreasonable and contrary to law.

WHEREFORE, plaintiff Edward Blumenthal demands the entry of judgment in his favor and against defendants City of Margate Planning Board and Adventure Golf South, LP, for the following:

- (a) An Order vacating and setting aside Planning Board Decision and Resolution 03-2018;

- (b) An Order vacating and setting aside any and all relief granted by the Planning Board to Adventure Golf as memorialized by Planning Board Decision and Resolution 03-2018; and
- (c) All such other relief the Court should deem equitable and just.

COUNT VIII

70. Plaintiff incorporates all of the foregoing paragraphs by reference as if those paragraphs were fully set forth at length herein.

71. The application submitted by Adventure Golf to the Planning Board included a completed "Minor Subdivision and Minor Site Plan" checklist.

72. Item #7 of the "Minor Subdivision and Minor Site Plan" checklist requires "Signature of the applicant, and, if the applicant is not the owner, the signed consent of the owner."

73. The "Minor Subdivision and Minor Site Plan" checklist submitted by Adventure Golf indicated that Item #7 had been satisfied.

74. In fact, Adventure Golf's application was signed by its attorney, and did not include a required notarized statement by the applicant.

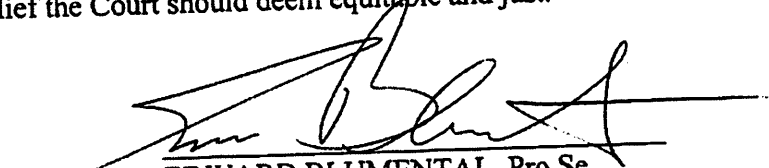
75. Adventure Golf's application did not include the required signed consent from the owner of the Subject Property.

76. Notwithstanding this situation, the Planning Board deemed the application completed and granted approvals to Adventure Golf.

77. The Planning Board's actions in this regard were arbitrary, capricious, unreasonable and contrary to law.

WHEREFORE, plaintiff Edward Blumenthal demands the entry of judgment in his favor and against defendants City of Margate Planning Board and Adventure Golf South, LP, for the following:

- (a) An Order vacating and setting aside Planning Board Decision and Resolution 03-2018;
- (b) An Order vacating and setting aside any and all relief granted by the Planning Board to Adventure Golf as memorialized by Planning Board Decision and Resolution 03-2018; and
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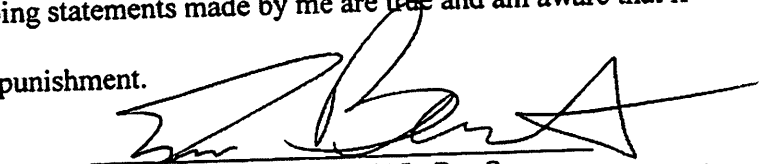

EDWARD BLUMENTHAL, Pro Se

Dated: 3-16-18

CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify that the matter in controversy, herein, is not the subject of any other action pending in any other Court or arbitration process. Further, I hereby certify that no other action or arbitration process is contemplated. I further certify that it is not contemplated that any other party should be joined in this action.

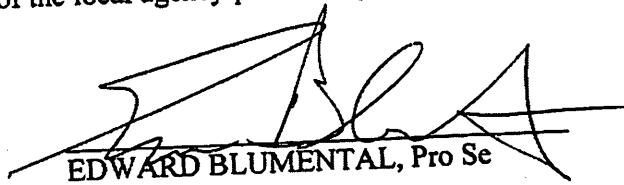
I hereby certify that the foregoing statements made by me are true and am aware that if any of them are false, I am subject to punishment.


EDWARD BLUMENTHAL, Pro Se

Dated: 3-16-18

CERTIFICATION PURSUANT TO RULE 4:69-4

I hereby certify that a transcript of the local agency proceedings in this cause has been ordered.


EDWARD BLUMENTAL, Pro Se

Dated: 3/16/18