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# EXHIBIT A

This Order has been prepared and filed by the Court.

PAUL KARDOS,

**Plaintiff,**

v.

FOX HILLS AT ROCKAWAY  
CONDOMINIUM ASSOCIATION, INC.,

**Defendant.**

**SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MORRIS COUNTY  
DOCKET NO. MRS-C-102-18**

Civil Action

**CASE MANAGEMENT ORDER**

**FILED**

**JUL 24 2019**

Marliza Berdote Byrne, P.J.Ch.

A case management conference was held on July 11, 2019. The following case management order is hereby entered:

1. If counsel would like to avail themselves of the Neutral Mediator Program, they will notify the court within twenty (20) days. Otherwise they will notify the court who they have selected as a mediator within forty five (45) days of the date of this Order. If the parties in mediation reach an agreement to resolve their dispute, the terms of that settlement must be reduced to writing and signed before the mediation comes to a close.
2. All parties shall serve outstanding responsive answers to interrogatories together with responses to document productions requests by July 30, 2019.
3. Depositions of parties and non-party fact witnesses must be completed by October 15, 2019.
4. The court will conduct an in person status conference on October 18, 2019 at 9:00 a.m.
5. Requests for admissions may be served and responded to in accordance with R. 4:22-1.
6. By no later than November 29, 2019 any party proposing to call an expert witness shall furnish the name, address, qualifications and report of the proposed expert to all other parties. Any responsive reports must be filed by December 31, 2019. Depositions of all experts are to be completed by January 31, 2020.

7. No amendment(s) to the pleadings adding additional parties or additional causes of action requiring further discovery shall be permitted after December 31, 2019. Any motion to amend need be returnable before this date. Amendment(s) to the pleadings will be permitted thereafter, though, if the same conform to the discovery adduced and the amendment(s) to the pleadings shall not require additional discovery.
8. Discovery shall be completed by January 31, 2020.
9. The court will conduct a telephonic status conference on February 6, 2020 at 9:00 a.m.
10. Except for a dispositive motion, no party may file any motion without first discussing the same with the court and counsel, in a conference call, and receiving the court's permission. In the event of a discovery dispute, the parties must meet and confer in an attempt to resolve the dispute. If a good faith effort to resolve a discovery dispute is unsuccessful, the parties shall send a joint written request to the court for an informal conference to resolve the issue. The letter must present the issue(s) in dispute and the position of each party in no more than one page. The court may decide the issue on the papers or schedule a telephone or in-person conference.
11. Any case dispositive motions must be filed by February 15, 2020, or else the same shall be precluded. As such, no cross motion(s) for dispositive relief shall be permitted if the same contravenes the deadlines set herein.
12. A firm trial date has been scheduled for April 6, 2020 at 9:00 a.m. Pre-trial briefs, which shall be filed ten (10) days in advance of the trial, shall contain the information set forth in R.4:25-1(b)(1) through (5) and (9), and any other matters as deemed appropriate. Trial briefs shall set forth a summary of the parties' contentions and address any legal and evidentiary problems anticipated at trial. Trial briefs shall identify the legal and factual issues actually in dispute in order to provide a framework for the trial. No *in limine* motions may be filed unless court permission is received.
13. Whenever motions are filed and/or trial briefs submitted, the same shall be appropriately tabbed and an index setting forth a list of exhibits shall be appended to the submission.
14. Trial Exhibits: Counsel shall meet prior to trial to prepare either a combined exhibit list or individual lists which not only shall include those exhibits counsel plan to move in evidence but also shall include all exhibits (including charts, enlargements, learned treatises, and the like) that counsel reasonably anticipate marking for identification. Exhibits shall be pre-marked P-1 for plaintiff, D-1 for defendant, J-1 for joint exhibits. Exhibit and witness lists shall be exchanged and forwarded to the court by no later than 9:00 a.m. on the Wednesday before the date trial is scheduled to commence. Trial time is not to be wasted by interruptions to mark exhibits.

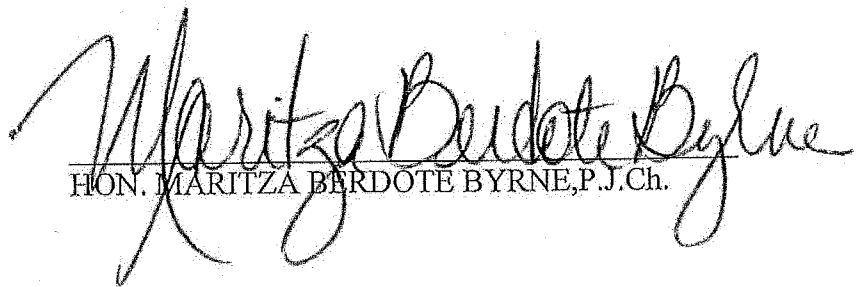
At least five (5) days prior to the scheduled trial date, the parties shall confer and shall stipulate which exhibits may be introduced into evidence without objection, which exhibits shall be marked for identification only, and shall file particularized written objections to

exhibits when legal and/or evidentiary issues are implicated. Except for good cause shown, no party will be permitted to offer any exhibits not identified or not submitted by said party for examination by opposing counsel in compliance with this Order. Any objections not made in writing at least three (3) business days prior to the scheduled trial date may be considered waived. Copies of each party's list of pre-marked exhibits shall be provided to the trial judge, along with copies of all exhibits which are to be introduced into evidence without objection. Copies of the reports of proposed expert witnesses are to be submitted should there be no objection to the same.

15. If any witness might be unavailable for trial, their testimony shall be videotaped for trial.
16. No trial shall be adjourned due to outstanding discovery. Discovery difficulties shall be promptly brought to the court's attention at which time a determination shall be made on how best to proceed.
17. A jury demand may require transfer of the matter to the Law Division. This should be addressed early in litigation. Therefore, if the pleadings contain a jury demand any party seeking a jury trial shall file a motion for a jury trial within ten (10) days or the jury demand shall be deemed waived.

Dated: \_\_\_\_\_

7/24/19

  
HON. MARITZA BERDOTE BYRNE, P.J.Ch.

# EXHIBIT B

**EXECUTIVE ORDER NO. 103**

WHEREAS, Coronavirus disease 2019 ("COVID-19") is a contagious, and at times fatal, respiratory disease caused by the SARS-CoV-2 virus; and

WHEREAS, COVID-19 is responsible for the 2019 novel coronavirus outbreak, which was first identified in Wuhan, the People's Republic of China in December 2019 and quickly spread to the Hubei Province and multiple other countries; and

WHEREAS, symptoms of the COVID-19 illness include fever, cough, and shortness of breath, which may appear in as few as two or as long as 14 days after exposure, and can spread from person to person via respiratory droplets produced when an infected person coughs or sneezes; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak a "public health emergency of international concern," which means "an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response," and thereafter raised its global risk assessment of COVID-19 from "high" to "very high"; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, as of March 9, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 114,000 confirmed cases of COVID-19 worldwide, with over 4,000 of those cases having resulted in death; and

WHEREAS, as of March 9, 2020, there were more than 500 confirmed cases of COVID-19 in the United States, with 22 of those cases having resulted in death; and

WHEREAS, as of March 9, 2020, there were 11 presumed positive cases of COVID-19 in New Jersey, with 24 additional "Persons Under Investigation" spread across the counties of Bergen, Camden, Cumberland, Essex, Hunterdon, Middlesex, Monmouth, Passaic, Union, and Sussex; and

WHEREAS, as of March 9, 2020, there were 142 positive cases of COVID-19 in the State of New York and seven presumptive positive cases in the Commonwealth of Pennsylvania; and

WHEREAS, the CDC expects that additional cases of COVID-19 will be identified in the coming days, including more cases in the United States, and that person-to-person spread is likely to continue to occur; and

WHEREAS, if COVID-19 spreads in New Jersey at a rate comparable to the rate of spread in other affected areas, it will greatly strain the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, such as COVID-19, and the situation may become too large in scope to be handled in its entirety by the normal county and municipal operating services in some parts of this State, and this situation may spread to other parts of the State; and

WHEREAS, the spread of COVID-19 may make it difficult or impossible for citizens to obtain consumer goods and other necessities of life due to supply chain disruption and price increases, as well as hamper the delivery of essential services such as police, fire, and first aid; and

WHEREAS, the State's public bidding act, N.J.S.A. 52:34-6 et seq., provides a public exigency exemption, N.J.S.A. 52:34-10(b), that in the event of a threat to the life, health, or safety to the public, advertised bidding is not required to obtain those

goods and services necessary to address the public exigency where the Division of Purchase of Property provides preapproval in accordance with Treasury Circular 18-14-DPP; and

WHEREAS, in the event of a declared emergency pursuant to Treasury Circular 19-10-DPP, the threshold for delegated purchasing by individual State Departments is raised to \$100,000 such that purchases at or below that amount do not require prior approval or action by DPP; and

WHEREAS, the spread of COVID-19 may disrupt the timely delivery of State contracted goods or services, the immediate delivery and fulfillment of which is necessary for the life, safety, or health of the public; and

WHEREAS, the State of New Jersey has been working closely with the CDC, local health departments, and healthcare facilities to monitor, plan for and mitigate the spread of COVID-19 within the State; and

WHEREAS, through Executive Order No. 102, which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by COVID-19; and

WHEREAS, it is critical to prepare for and respond to suspected or confirmed COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, the State of New Jersey also acts as an employer with tens of thousands of employees, and the spread of COVID-19 requires preparedness for staffing shortages and flexibility in work rules to ensure that its employees can fully comply with all



medically appropriate measures while also ensuring the continuous delivery of State services performed by Executive branch agencies; and

WHEREAS, the continuous delivery of services at the county and municipal level performed by those governments and their employees is also essential; and

WHEREAS, the spread of COVID-19 within New Jersey constitutes an imminent public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State; and

WHEREAS, it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirms that there exists a public health emergency in the State; and

WHEREAS, New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-107 et seq., prohibits excessive price increases during a declared state of emergency, or for 30 days after the termination of the state of emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey, DO DECLARE and PROCLAIM that a Public Health Emergency and State of Emergency exist in the State of New Jersey, and I hereby ORDER and DIRECT the following:

1. I authorize and empower the State Director of Emergency Management, who is the Superintendent of State Police, in conjunction with the Commissioner of DOH, to take any such emergency measures as the State Director may determine necessary, including the implementation of the State Emergency Operations Plan and directing the activation of county and municipal emergency operations plans, in order to fully and adequately protect the health, safety and welfare of the citizens of the State of New Jersey from any actual or potential threat or danger that may exist from the possible exposure to COVID-19. The State Director of Emergency Management, in conjunction with the Commissioner of DOH, is authorized to coordinate the relief effort from this emergency with all governmental agencies, volunteer organizations, and the private sector.

2. The State Director of Emergency Management, in conjunction with the Commissioner of DOH, shall also supervise and coordinate all activities of all State, regional and local political bodies and agencies in order to ensure the most effective and expeditious implementation of this order, and, to this end, may call upon all such agencies and political subdivisions for any assistance necessary.

3. Given the concurrent invocation of both a State of Emergency pursuant to N.J.S.A. App.A.:9-33 et seq. and a Public Health Emergency as contemplated by N.J.S.A. 26:13-1 et seq., I reserve the right as specifically contemplated by N.J.S.A. 26:13-3 to exercise the authority and powers specific to the Emergency Health Powers Act as I deem necessary and appropriate to ensure the public health for New Jersey's residents.

4. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every

political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully with the State Director of Emergency Management and the Commissioner of DOH in all matters concerning this state of emergency.

5. The Coronavirus Task Force established under Executive Order No. 102 is continued with the Commissioner of DOH as the chair, and shall provide assistance on the State's efforts preparing for and responding to the public health hazard posed by COVID-19.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management and the Commissioner of DOH. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. All State agencies, and specifically the Departments of Banking and Insurance, Health, Human Services, Education, and the Civil Service Commission are authorized to take appropriate steps to address the public health hazard of COVID-19, including increasing access and eliminating barriers to medical care, protecting the health and well-being of students, and protecting the health and well-being of State, county, and municipal employees while ensuring the continuous delivery of State, county, and municipal services.

8. I authorize and empower the State Director of Emergency Management, in conjunction with the Commissioner of DOH, to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety, or welfare because of the conditions created by this emergency.

9. I authorize and empower the State Director of Emergency Management, in conjunction with the Commissioner of DOH, to utilize all property, equipment, and facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of this emergency.

10. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

11. In accordance with the N.J.S.A. App. A:9-34 and N.J.S.A. App. A:9-51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately-owned property necessary to protect against this emergency.

12. In accordance with N.J.S.A. App. A:9-40, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

13. In accordance with N.J.S.A. App. A:9-34, N.J.S.A. App. A:9-40.6, and N.J.S.A. 40A:14-156.4, no municipality or public or semipublic agency shall send public works, fire, police, emergency medical, or other personnel or equipment into any non-contiguous impacted municipality within this State, nor to any impacted municipality outside this State, unless and until such aid has been directed by the county emergency management coordinator or his or her deputies in consultation with the State Director of Emergency Management in conjunction with the Commissioner of DOH.

14. This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

GIVEN, under my hand and seal this  
9<sup>th</sup> day of March,  
Two Thousand and Twenty, and  
of the Independence of the  
United States, the Two  
Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor

# EXHIBIT C

**EXECUTIVE ORDER NO. 107**

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, in accordance with N.J.S.A. App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of my Executive Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, Executive Order No. 104 (2020) limited the scope of service and hours of operation for restaurants and certain retail establishments to balance the need to allow individuals to access food and other essential materials with the need to limit unnecessary person-to-person contact; and

WHEREAS, Executive Order No. 104 (2020) deemed a subset of businesses as "essential," including grocery/food stores, pharmacies, medical supply stores, gas stations, healthcare facilities, and ancillary stores within healthcare facilities, and it authorized the State Director of Emergency Management, who is the Superintendent of State Police, to make additions, amendments, clarifications, exceptions, and exclusions to that list; and

WHEREAS, Executive Order No. 104 (2020) made clear that such essential businesses may continue operating without limits on their scope of service or hours of operation, absent further amendments by the State Director of Emergency Management; and

WHEREAS, Executive Order No. 104 (2020) and subsequent Administrative Orders issued by the State Director of Emergency Management also placed restrictions on other businesses' scope of service and hours of operation, and also placed restrictions on the size of gatherings in the State; and

WHEREAS, as of March 20, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 234,000 confirmed cases of COVID-19 worldwide, with over 9,800 of those cases having resulted in death; and

WHEREAS, as of March 20, 2020, there were more than 15,000 confirmed cases of COVID-19 in the United States, with at least 201 of those cases having resulted in death; and

WHEREAS, as of March 20, 2020, there were at least 890 positive cases of COVID-19 in New Jersey, with at least 11 of those cases having resulted in death; and



WHEREAS, social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease; and

WHEREAS, the CDC has advised that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another; and

WHEREAS, as a result, the CDC has recommended that individuals practice "social distancing" to prevent community spread of the virus; and

WHEREAS, the CDC has defined social distancing as the practice of "remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible"; and

WHEREAS, to mitigate community spread of COVID-19, it is necessary to limit the unnecessary movement of individuals in and around their communities and person-to-person interactions in accordance with CDC and DOH guidance; and

WHEREAS, the best way for New Jersey residents to keep themselves, their families, and their communities safe during the COVID-19 outbreak is to stay at home as much as possible; and

WHEREAS, as of March 15, 2020, the CDC recommends that for the next eight weeks, gatherings of 50 or more people be canceled or postponed throughout the United States; and

WHEREAS, as of March 16, 2020, the White House went further than the CDC had and recommended that Americans avoid social gatherings in groups of more than 10 people; and

WHEREAS, restricting the physical presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, accommodating work-from-home arrangements is an effective means to ensure continuity of operations while also limiting person-to-person contact; and

WHEREAS, the CDC has recommended employers to establish policies and practices to increase the physical distance among employees and between employees; and

WHEREAS, permitting the workforce to work from home may reduce stress on the State's child care system; and

WHEREAS, as of March 19, 2020, I have instructed all State departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, given the rapidly rising incidence of COVID-19, temporarily closing non-essential retail businesses will strengthen New Jersey's efforts to slow the spread of COVID-19; and

WHEREAS, even as we institute social distancing measures, the number of COVID-19 cases in New Jersey is likely to increase for the immediate future, meaning we must take all possible steps to preserve our health care system's capacity to treat those who require emergency or intensive care; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The operative paragraphs of Executive Order No. 104 (2020) are hereby superseded in full. The factual findings of Executive Order No. 104 (2020) remain applicable except to the extent they are in conflict with the factual findings in this or any intervening Executive Order.

2. All New Jersey residents shall remain home or at their place of residence unless they are 1) obtaining goods or services from essential retail businesses, as described in Paragraph 6; 2) obtaining takeout food or beverages from restaurants, other dining establishments, or food courts, pursuant to Paragraph 8; 3) seeking medical attention, essential social services, or assistance from law enforcement or emergency services; 4) visiting family or other individuals with whom the resident has a close personal relationship, such as those for whom the individual is a caretaker or romantic partner; 5) reporting to, or performing, their job; 6) walking, running, operating a wheelchair, or engaging in outdoor activities with immediate family members, caretakers, household members, or romantic partners while following best social distancing practices with other individuals, including staying six feet apart; 7) leaving the home for an educational, religious, or political reason; 8) leaving because of a reasonable fear for his or her health or safety; or 9) leaving at the direction of law enforcement or other government agency.

3. When in public, individuals must practice social distancing and stay six feet apart whenever practicable, excluding immediate family members, caretakers, household members, or romantic partners.

4. Individuals who have to travel pursuant to Paragraph 2 should only use public transportation only if they have no other feasible choice. Individuals who ride public transportation should abide by best social distancing practices, including making

all efforts to stand or sit six feet away from other riders and frequently use sanitizing products.

5. Gatherings of individuals, such as parties, celebrations, or other social events, are cancelled, unless otherwise authorized by any part of this Order. The State Director of Emergency Management, who is the Superintendent of the State Police, shall have the discretion to make clarifications and issue orders related to this provision.

6. The brick-and-mortar premises of all non-essential retail businesses must close to the public as long as this Order remains in effect. Essential retail businesses, listed below, are excluded from this directive and may remain open during their normal business hours. Essential retail businesses must, wherever practicable, provide pickup services outside or adjacent to their stores for goods ordered in advance online or by phone. Additionally, online and telephonic delivery services are permitted to the extent the retail business is authorized to operate an online or telephonic delivery service under existing law. The State Director of Emergency Management, who is the Superintendent of the State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list:

- a. Grocery stores, farmer's markets and farms that sell directly to customers, and other food stores, including retailers that offer a varied assortment of foods comparable to what exists at a grocery store;
- b. Pharmacies and alternative treatment centers that dispense medicinal marijuana;
- c. Medical supply stores;
- d. Retail functions of gas stations;

- e. Convenience stores;
- f. Ancillary stores within healthcare facilities;
- g. Hardware and home improvement stores;
- h. Retail functions of banks and other financial institutions;
- i. Retail functions of laundromats and dry-cleaning services;
- j. Stores that principally sell supplies for children under five years old;
- k. Pet stores;
- l. Liquor stores;
- m. Car dealerships, but only to provide auto maintenance and repair services, and auto mechanics;
- n. Retail functions of printing and office supply shops; and
- o. Retail functions of mail and delivery stores.

7. Any essential retail business whose brick-and-mortar premises remain open to the public shall abide by social distancing practices to the extent practicable while providing essential services. These include all reasonable efforts to keep customers six feet apart and frequent use of sanitizing products on common surfaces.

8. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, are permitted to operate their normal business hours, but are limited to offering only food delivery and/or take-out services in accordance with their existing liquor licenses. If alcoholic beverages are to be sold from a restaurant, dining establishment or bar with a liquor license, such sales shall be

limited to original containers sold from the principal public barroom. The on-premises consumption of alcohol is prohibited. All retail sales of alcoholic beverages by limited brewery licensees, restricted brewery licensees, plenary and farm winery licensees (and associated salesrooms), craft distillery licensees and cidery and meadery licensees must be in original containers and must be sold through customer pick up and/or delivered by licensees in accordance with their existing licenses.

9. All recreational and entertainment businesses, including but not limited to the following list, must close to the public as long as this Order remains in effect. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list:

- a. Casino gaming floors, including retail sports wagering lounges, and casino concert and entertainment venues. Online and mobile sports and casino gaming services may continue to be offered notwithstanding the closure of the physical facility.
- b. Racetracks, including stabling facilities and retail sports wagering lounges. Mobile sports wagering services may continue to be offered notwithstanding the closure of the physical facility.
- c. Gyms and fitness centers and classes.
- d. Entertainment centers, including but not limited to, movie theaters, performing arts centers, other concert venues, and nightclubs.
- e. All indoor portions of retail shopping malls. Restaurants and other stores located within

shopping malls that have their own external entrances open to the public, separate from the general mall entrance, may remain open pursuant to the terms and directives of this Order for operating hours and takeout or food delivery services. All entrances and exits to the common area portions of retail shopping malls must remain closed.

- f. All places of public amusement, whether indoors or outdoors, including but not limited to, locations with amusement parks, water parks, aquariums, zoos, arcades, fairs, children's play centers, funplexes, theme parks, bowling alleys, family and children's attractions.
- g. Facilities where personal care services are performed that, by their very nature, result in noncompliance with social distancing guidelines, including but not limited to cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, tattoo parlors, and public and private social clubs, whether or not they serve alcohol, including but not limited to facilities owned or operated by the American Legion, Veterans of Foreign Wars, Knights of Columbus, and any other social clubs associated with community service organizations. This excludes any health facilities that provide medically necessary or therapeutic services.

- h. All municipal, county, and State public libraries, and all libraries and computer labs at public and private colleges and universities.

10. All businesses or non-profits in the State, whether closed or open to the public, must accommodate their workforce, wherever practicable, for telework or work-from-home arrangements. For purposes of this order, "telework" means the practice of working from home or alternative locations closer to home through the use of technology that equips the individual to access necessary materials.

11. To the extent a business or non-profit has employees that cannot perform their functions via telework or work-from-home arrangements, the business or non-profit should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue. Examples of employees who need to be physically present at their work site in order to perform their duties include, but are not limited to, law enforcement officers, fire fighters, and other first responders, cashiers or store clerks, construction workers, utility workers, repair workers, warehouse workers, lab researchers, information technology maintenance workers, janitorial and custodial staff, and certain administrative staff.

12. All public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, shall remain closed to students as long as this Order remains in effect.

13. All institutions of higher education shall continue to cease such in-person instruction as long as this Order remains in effect. The Secretary of the Office of Higher Education shall have the authority to grant a waiver to allow in-person instruction to students on a case-by-case basis where a compelling rationale to



allow such access exists. The Secretary of the Office of Higher Education shall coordinate with institutions of higher education to determine appropriate student housing conditions for those students who reside in on-campus housing as their primary residence.

14. The Commissioner of the Department of Education ("DOE"), in consultation with the Commissioner of DOH, shall be authorized to permit schools to remain open on a limited basis for the provision of food or other essential, non-educational services, or for educational or child care services if needed in emergency situations after consultation with the Commissioner of DOH. The Commissioner of DOE shall also have the authority to close any other career or training facilities over which he has oversight, after consultation with the Commissioner of DOH.

15. The Commissioner of DOE shall continue working with each public school district, and private and parochial schools as appropriate, to ensure that students are able to continue their educations during this time period through appropriate home instruction. Local school districts, charter schools, and renaissance schools, in consultation with the Commissioner of DOE, shall have the authority and discretion to determine home instruction arrangements as appropriate on a case-by-case basis to ensure all students are provided with appropriate home instruction, taking into account all relevant constitutional and statutory obligations.

16. The Secretary of the Department of Agriculture, in conjunction with the Commissioner of DOE, shall take all necessary actions to ensure that all students eligible for free or reduced meals shall continue to receive the services or supports necessary to meet nutritional needs during closures.

17. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the provision of health care or medical services to members of the public.

18. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way access to essential services for low-income residents, including but not limited to food banks.

19. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of newspapers, television, radio, and other media services.

20. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of law enforcement agencies.

21. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of the federal government, or the movement of federal officials in New Jersey while acting in their official capacity.

22. In accordance with N.J.S.A. App. A:9-33, et seq., as supplemented and amended, the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

23. The Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, shall act through the Superintendent of State Police, to determine and control the direction of the flow of

vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic, to prevent ingress or egress, and to determine the type of vehicle or vehicles to be operated on such roadways. I further authorize all law enforcement officers to enforce any such order of the Attorney General or Superintendent of State Police within their respective municipalities.

24. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

25. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and - 50.

26. This Order shall take effect on Saturday, March 21, 2020, at 9:00 p.m., and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this  
21<sup>st</sup> day of March,  
Two Thousand and Twenty, and  
of the Independence of the  
United States, the Two  
Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy  
Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor

# EXHIBIT D

**EXECUTIVE ORDER NO. 153**

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020 respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-152 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence and closed all recreational and entertainment businesses; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146 and 147 (2020), which lifted closures and/or prohibitions of parks, beaches, lakefronts, and several outdoor recreational

facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention ("CDC"), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Orders No. 148 and 152 (2020), which allowed additional numbers of individuals to gather outdoors, consistent with the same repeated observations from public health experts, Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, with social distancing requirements, and Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements; and

WHEREAS, as more outdoor activities can happen safely, and as additional businesses can begin to open to the public under the Plan, especially outdoors, it is appropriate to lift the Order requiring New Jersey residents to remain home or at their place of residence; and

WHEREAS, consistent with this Plan, most outdoor activities, including those that take place in outdoor spaces owned or operated by recreation businesses, can begin to open to the public consistent with the State's framework on outdoor recreation and the relative risks of COVID-19 transmission provided that certain social distancing measures are followed, but recreation businesses still cannot allow the public into the indoor spaces for activity because such indoor environments continue to pose a higher risk of COVID-19 transmission at this time; and

WHEREAS, a limited number of outdoor spaces owned or operated by recreation businesses, including amusement parks and arcades, cannot be open to the public at this time because they include many high touch areas that make social distancing guidelines and capacity limits difficult to implement, maintain, monitor, and enforce; and

WHEREAS, indoor recreation also entails a higher risk than indoor retail settings, as indoor recreation typically involves individuals congregating together in one location for a prolonged period of time, while in indoor retail settings, individuals neither congregate in large groups nor remain in close proximity for extended periods and so the risk of COVID-19 spread is reduced; and

WHEREAS, the CDC has issued guidance regarding social distancing, cleaning, sanitizing, and hygiene practices necessary for the safe operation of public pools and hot tubs; and

WHEREAS, pursuant to N.J.A.C. 8:26-1.3 swimming pool facilities include conventional pools, hot tubs, spas, wading pools, special purpose pools, and aquatic recreation attractions that include, but are not limited to, "pools operated by or serving campgrounds, clubs, churches, cities, common interest communities, counties, day care centers, group home facilities for six or more clients, health spas, institutions, parks, private lake, river, or bay associations, or private community lake, river, or bay associations, State, county, and municipal agencies, retirement communities, schools, specially exempt facilities, subdivisions, or cooperative living type projects of three or more living units, such as apartments, boarding homes, condominiums, hotels, mobile home parks, motels, recreational vehicle parks, townhouses, trailer parks, and youth camps"; and



WHEREAS, consistent with this Plan, most outdoor swimming pools can begin to open provided such facilities implement measures that ensure critical health standards are met, which will be issued by DOH prior to opening, but consistent with the fact that indoor environments continue to pose a higher risk of COVID-19 transmission, indoor pools cannot open at this time; and

WHEREAS, pursuant to N.J.A.C. 8:26-1.3, aquatic recreation facilities include interactive play attractions, water parks, spray parks, and water amusement rides regulated by the Department of Community Affairs at N.J.A.C. 5:14A-12; and

WHEREAS, aquatic recreation facilities cannot be open to the public at this time due to the significant high touch areas at these facilities where many different individuals are coming into contact with those areas in rapid succession; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective at 6:00 a.m. on Monday, June 22, 2020, outdoor swimming pools are permitted to open, provided that the pool facility complies with all standards issued by the DOH pursuant to Paragraph 2 of this Order.

2. The Commissioner of the DOH is directed, pursuant to her authority under the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to issue health and safety standards for use by pool facilities in order to be open consistent with this Order. Any pool facility that opens must satisfy all standards issued by DOH pursuant to this Paragraph.

3. Pool facilities may open for the purpose of lifeguard training and swimming lessons prior to Monday, June 22, 2020, consistent with paragraph 10 of Executive Order No. 107 (2020).

4. All recreational and entertainment businesses that were closed to the public by paragraph 9 of Executive Order No. 107 (2020) are permitted to reopen their outdoor spaces to the public, unless otherwise prohibited by this Order, provided that such businesses adopt policies that include, at minimum, the following requirements:

- a. The public is permitted only in such outdoor spaces, except that members of the public may enter the indoor premises of the recreation business when entering or exiting the establishment in order to access the outdoor area, or to use the restroom;
- b. Limit total capacity to a number that ensures that all individuals can remain six feet apart;
- c. Open-air rain tarps, tents, and other outdoor structures shall be allowed solely for the purpose of protecting against foul weather or for shade;
- d. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider

populations that do not have access to internet service or credit cards;

- e. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;
- f. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;
- g. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;
- h. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
- i. Provide employees break time for repeated handwashing throughout the workday;
- j. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;
- k. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;
- l. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

- i. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;
- ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and
- iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;
- m. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;
- n. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;
- o. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

- p. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and
- q. Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

5. Any type of event at an outdoor recreational and entertainment business that involves individuals who are there at a specific time and for a common reason, such as a movie, a concert, a sporting event, or a trip on a chartered vessel, shall remain subject to the restrictions on outdoor gatherings in Executive Order No. 152 (2020).

6. Any recreational and entertainment businesses that were already permitted to reopen their outdoor spaces to the public, including outdoor archery ranges, batting cages, golf courses, golf driving ranges, shooting ranges, tennis clubs, and chartered vessels, may continue to keep their outdoor spaces open to the public, provided that they comply with all applicable terms of this Order.

7. Public and private social clubs are permitted to reopen their outdoor spaces, provided that they comply with all applicable terms of this Order.

8. The following shall remain closed to the public at pool facilities and all recreational businesses:

- a. Aquatic recreation facilities;
- b. Indoor recreational areas;
- c. Playgrounds; and

- d. Water fountains (those considered recreational, not those for drinking).

9. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, all private and public social clubs, and all other holders of a liquor license with retail consumption privileges located at pool facilities and recreational businesses, including concessions, snack bars, and food trucks, shall comply with the requirements set forth in Executive Order No. 150 (2020).

10. Notwithstanding paragraph 4 of this Order, amusement parks and arcades that are recreational businesses or located at pool facilities shall remain closed pursuant to Executive Order No. 107 (2020), even if they are outdoors. Nothing in this Order prevents a business from operating an amusement game outdoors, such as a game on a boardwalk, so long as the game does not take place in an amusement park and an employee is present and adheres to all of the requirements in paragraph 1 of this Order, including sanitizing all equipment before and after each use.

11. Paragraph 2 of Executive Order No. 107 (2020), which requires New Jersey residents to remain home or at their place of residence with limited exceptions, is hereby rescinded. Paragraph 5 of Executive Order No. 142 (2020) and paragraph 5 of Executive Order No. 146 (2020) are also rescinded.

12. Total capacity at State Parks and Forests, as well as county and municipal parks, shall be limited to a number that ensures that all individuals can remain six feet apart.

13. Nothing in this Order shall replace, limit, or otherwise modify, existing sanitation and safety regulatory requirements for recreational bathing facilities to preserve public health set

forth in the New Jersey State Sanitary Code regulations, N.J.A.C. 8:26, adopted pursuant to N.J.S.A. 26:1A-7 and N.J.S.A. 26:4A-7.

14. The provisions in paragraph 9 of Executive Order No. 107 (2020), paragraphs 8 and 9 of Executive Order No. 133 (2020), paragraphs 2-3 of Executive Order No. 143 (2020), paragraph 1 of Executive Order No. 146 (2020), paragraphs 2, 5, 6, 8, and 10 of Executive Order No. 147 (2020), and paragraphs 2 and 4 of Executive Order No. 148 (2020) are hereby superseded to the extent inconsistent with this Order. To the extent provisions of these Orders are not inconsistent with this Order, they remain in full force and effect.

15. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

16. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

17. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

18. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

19. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this  
9<sup>th</sup> day of June,  
Two Thousand and Twenty, and  
of the Independence of the  
United States, the Two  
Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor



# EXHIBIT E

**To:** Fox Hills Residents  
**From:** Board of Directors  
**Date:** June  
**Subject:** Outdoor Pool

The Board of Directors deeply regrets that the outdoor pool will remain closed for the 2020 summer season. We made the decision after exploring all possible avenues for meeting our responsibility to protect our residents and the financial well-being of the association. This decision was made after extensive consultations with our attorney, insurance broker, management company and pool vender.

There were many factors that influenced our decision, but the most important was protecting the health, safety, and welfare of our residents, as well as our on-site staff and contractors. It would be extremely difficult for us to fully implement in a timely manner all of the exhaustively comprehensive requirements for operating the pool that have been imposed by the New Jersey Department of Health and Governor Murphy's Executive Orders. And more importantly, we are not confident that we could achieve full compliance with these standards. These standards would require us to carefully implement many protective measures.

The standards mandate, required among other things, hiring and training an "ambassador" to monitor and encourage social distancing of patrons on the pool deck and pool, as well as a "COVID contact person"; implementing a system, such as an electronic reservation system, to assure that the pool and pool deck do not exceed 50% of maximum capacity at any time; taking the temperature of staff and screening them for COVID-19 symptoms; ensuring that 6 feet social distancing is maintained; maintaining a record of all staff/patrons who enter the pool area in order to facilitate potential contact tracing efforts; implementing mitigation strategies to limit COVID-19 exposure; documenting cleaning protocols; installing sanitizer stations throughout the pool facility; conducting sanitization multiple times per day of areas open to pool patrons, including frequently touched surfaces and shared objects after each use; encouraging staff/patrons to wear a cloth face covering while not in the pool when social distancing of 6 feet cannot be maintained; and implementing a robust communications plan (notices, email, mobile communications, and signage) that conveys the importance of social distancing, hygiene and rules associated with use of the pool facility.

There are also other serious legal, insurance and financial considerations that could have a very adverse impact on the association. The State of New Jersey has established standards that are exhaustive and comprehensive which places significant responsibility on the Association. As explained by our attorney, while a tightly drawn waiver with indemnification and hold harmless provision would strengthen a defense, there is no guarantee that it would stand up in court. Even if we prevailed, the risk and associated legal costs would not be considered prudent. One lawsuit could result in a significant financial burden on the association that could require the imposition of a special assessment on all homeowners, the borrowing of funds, or even result in the insolvency of the association.

The Board shares in the feelings of loss and disappointment. The pool is one of the most coveted amenities in Fox Hills, but we believe we have made the right decision. Over the past few months, we have handled many unfortunate circumstances and expect we will continue to face difficult decisions. This is unprecedented territory lacking solid guidance. The Board has been meeting at least once a week as the situation evolves. We will be glad to answer any questions you may have at our Quarterly meeting on July 13, 2020. As part of our new normal, we will be conducting the meeting virtually. We will provide instructions well in advance and allow you the opportunity to submit questions prior to the call.

# EXHIBIT F

**WHEREAS**, it has not yet been established how long COVID-19 droplets remain in the air when breathed, coughed, or sneezed out of a person's mouth; and

**WHEREAS**, as noted in Governor Murphy's Executive Order No. 122:

- the CDC has recommended that all residents wear cloth face coverings in public settings where other social distancing measures are difficult to maintain, particularly in areas of significant community-based transmission;

- the CDC has stated that older adults and people of any age who have serious underlying medical conditions might be at higher risk for severe illness from COVID-19;

**WHEREAS**, the Association is an active adult community, and residents who are 65 years of age or older and/or have serious underlying medical conditions are at higher risk for severe illness from COVID-19; and

**WHEREAS**, Governor Murphy's Executive Order No. 153, issued June 9, 2020, permits the opening of swimming pools operated by and serving condominium associations as of June 22<sup>nd</sup>, subject to complying with numerous detailed requirements imposed by the State; and

**WHEREAS**, while the Board is encouraged by the overall decline in New Jersey of new reported cases of COVID-19, the Board notes that the number of cases in Morris County and Rockaway as of June 30, 2020 have recently increased according to the website of the County of Morris Office of Health Management;

**WHEREAS**, the Board notes that reported cases of COVID-19 are rising in other states due to the apparent failure to adequately implement COVID-19 mitigation measures such as social distancing and face coverings and that the Governors of New York, New Jersey and Connecticut announced on June 24, 2020 a joint incoming travel advisory that all individuals traveling from states with significant community spread of COVID-19 must quarantine for a 14-day period from the time of last contact within the identified state; and

**WHEREAS**, Governor Murphy's Executive Order No. 153 requires community associations to comply with new detailed standards issued by the New Jersey Department of Health ("DOH")

to open and operate their swimming pool and associated facilities, and these standards would require the Association to carefully implement many protective measures, including mandating that the Association:

- Hire adequate staff and develop and implement protocols for staff training and pool operations, which includes training personnel on COVID-19 awareness, cleaning and sanitizing. These personnel include an “ambassador” to monitor and encourage social distancing of patrons on the pool deck and pool, as well as a “COVID contact person”;
- Assure that the Association’s pool facility does not exceed 50% of its maximum capacity at any time, using a non-discriminatory method to ensure those limits are not exceeded, such as a reservation system;
- Establish protocols for personal protective equipment use and acquisition for staff, and conducting staff health screening each day (temperature taking, symptoms screening);
- Establish a police notification policy in case pool patrons fail to comply with the Executive Order/DOH standards;
- Designate entry and exit points and take steps to stagger access to avoid congestion, and post signage to alert incoming pool patrons to be on the lookout for signs of illness and to stay home when they have symptoms of COVID-19 or are otherwise sick;
- Ensure that 6 feet social distancing is maintained in the pool and on the pool deck;
- Maintain a record of all staff and patrons who enter the pool area in order to facilitate potential contact tracing efforts;
- Implement prevention and mitigation strategies to slow and limit COVID-19 exposure and spread, including documented cleaning protocols using EPA approved disinfectants and following CDC guidance, and procedures for communication and cooperation with local health authorities to report any COVID-19 cases or other illnesses and protocols for safely isolating and transporting those with signs or symptoms;
- Install sanitizer stations throughout the pool facility, have sufficient onsite cleaning

supplies (such as soap, hand sanitizer, surface disinfectant), conduct frequent (multiple times per day) sanitization of areas open to pool patrons, including frequently touched surfaces and shared objects after each use, such as staff booths, lifeguard stands, life jackets, lifesaving equipment, railings, towel decks, medical area supplies and equipment, particularly in spaces that are accessible to staff, the public, or other individuals in accordance with CDC guidance;

- Preclude the sharing of furniture and equipment provided to pool users for use by the pool facility, including but not limited to lounge chairs, umbrellas, towels, and other equipment, except among immediate family members, caretakers, household members, or romantic partners; and requiring that these items must be cleaned and disinfected after each use;

- Encourage staff and anyone at the pool to wear a cloth face covering while not in the pool when social distancing of 6 feet cannot be maintained, unless doing so would inhibit the individual's health, except that face coverings should not be worn by children under the age of 2, by lifeguards, or by anyone while in the pool;

- Require proper and frequent hand washing by staff;

- Develop and implement a robust communications plan (notices, email, mobile communications, and signage) to reach out to our residents that conveys the importance of social distancing, hygiene and rules associated with use of the pool facility; and

**WHEREAS,** In addition to complying with the new DOH Standards, the Association must also comply with Governor Murphy's Executive Order No. 153, which arguably adds a number of requirements such as:

- Requiring that any reservation system that the Association sets up to reserve time at the pool be touchless/not in-person, via electronic or telephone reservation systems, with an option for those without Internet access;

- Installing a physical barrier, such as a shield guard, at the point of entry into the pool, between the staff member who is checking people in and the people using the pool;

- Providing staff with break time for repeated hand washing throughout the day;

- Immediately sending home any staff who appear to have symptoms consistent with COVID-19; and

**WHEREAS**, the Board finds that complying with the DOH standards and Governor Murphy's Order 153 will require meticulous attention and will cause the Association to incur substantial additional costs beyond those normally involved in the operation of its pool facilities and for which the Association has not budgeted and that would likely require a special assessment on all unit owners; and

**WHEREAS**, the Board finds that given the comprehensive nature of the DOH standards and the critical importance of fully complying with them, the Board is not confident that any pool management company will possess adequate, appropriately trained staffing to meet that burden; and

**WHEREAS**, the Board finds that it is quite likely that many residents who normally would enjoy the Association's pool facility will not do so this year due to concern about contracting COVID-19, so the Association would be paying significantly more to operate the pool for significantly fewer pool-goers; and

**WHEREAS**, the Board finds that even if the Association and its pool management company utilize the utmost care in implementing all of the mitigation standards required by the DOH and Executive Order No. 153, opening the swimming pool will expose the Association to potential future lawsuits alleging that due to the Association's negligence in opening the pool and in implementing those and other standards, a resident became ill with or died from COVID-19; and

**WHEREAS**, the Board has been advised that it is quite likely that the Association will not have insurance coverage due to the fact the general liability policies normally contain exclusions for such claims; that without insurance, the Association would be required to pay from its own funds the substantial legal fees and costs that would be incurred in defending against such a lawsuit even if the lawsuit is frivolous; even though it might be difficult to prove the Association liable in some cases, there are other scenarios in which liability may be less difficult to establish; the cost to defend such a lawsuit could exceed \$100,000; any settlement that might be reached, and any judgment that might be awarded against the Association, would need to be paid from Association funds, namely, from the common expenses paid by unit owners each month; and it is quite likely that to pay these expenses the Association would be compelled to impose a large special assessment on all unit owners and/or to borrow funds; and

**WHEREAS**, the Board has been advised that although the Association could require anyone who wishes to use the pool to sign a release of any claims against the Association, the release may not stand up in court if challenged, as New Jersey courts do not favor such releases and may strike them down based on

various factors; and

**WHEREAS**, the Board has a fiduciary duty to all of the Condominium's residents and employees to exercise reasonable care to protect their health, safety, and welfare, and in fulfilling that duty must exercise its independent judgment, based on a thorough and objective evaluation of all relevant factors, to make an informed decision; and

**WHEREAS**, the Board has carefully reviewed numerous factors, including but not limited to all of the reasons, factual findings, and legal requirements set forth above, and has engaged in detailed communication with the Association's management team, attorney, and insurance professional, with regard to whether the pool should be opened at this time in light of current conditions, and given the risks and costs of implementing all of the requirements mandated by the State;

**NOW THEREFORE ON THIS 13 DAY OF July 2020, IT IS HEREBY RESOLVED AS FOLLOWS:**

Based on the reasons, factual findings, and legal requirements set forth above, the Association's swimming pool shall remain closed for 2020 other than to allow required maintenance to be performed by its pool management company, and no unit owner or other resident or person shall be permitted to swim in, enter, or otherwise use the swimming pool in any way.

**Vote of Board**

**Directors**

**Yes**

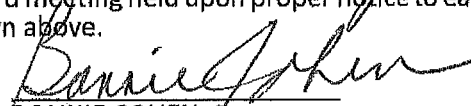
**No**

**Abstain**

Eleanor Hunt  
Gloria Stahl  
Bonnie Cohen  
Peter Forman  
Connie Kelly  
Jay Amdur  
Larry Gerard

✓  
✓  
✓  
✓  
✓  
✓  
✓

The undersigned, Secretary of Fox Hills at Rockaway Condominium Association, Inc., certifies that the foregoing is a true copy of the Resolution adopted on the 13 day of July 2020, by a roll call vote by the Board of Directors at a Board meeting held upon proper notice to each Board member and that the vote of each Director was as shown above.

  
BONNIE COHEN, Secretary

S:\Clients\Fox Hills at Rockaway\General Corporate\Resolutions\Resolution re keeping pool closed.wpd