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Nonprofit Permitted to Bring LAD Claim Against Objectors to Land Purchase

Efforts by a New Jersey nonprofit to purchase a group home for autistic individuals were allegedly sabotaged by a handful of neighbors who resorted to intimidation, sham offers, trespass and other neighborhood pressure to stifle the acquisition. The nonprofit then filed suit under the Law Against Discrimination (LAD). The trial court dismissed the suit as not cognizable under the LAD since (1) the defendants were neighbors and not selling or renting the property to individuals with developmental disabilities, and (2) the nonprofit bringing the action was not technically a protected class. The Appellate Division, in *Oasis Therapeutic Life Centers, Inc. v. Wade et al.*, (December 10, 2018), reversed the trial court, holding that the plaintiff had standing to sue since it served the protected class and that a neighbor's interference with a protected class' transaction with discriminatory intent violated LAD.

The alleged facts of what otherwise would be a run-of-the-mill NIMBY (not in my backyard) case can only be described as disturbing. Plaintiff Oasis (an acronym for Ongoing Autistic Success in Society) is a nonprofit charitable organization established to create transitional residential adult independent learning centers (TRAILS) for challenged individuals diagnosed with autism.

In early 2015, Oasis offered to purchase a large residential property on the Navesink River in Middletown Township for the purposes of establishing a farm. Oasis' purchase offer of \$2.2 million was contingent upon receipt of a grant of \$600,000 from the Monmouth County Conservation Foundation (MCF).

MCF's approval was delayed when a member of the MCF board, who apparently lived near the property, indicated a concern there may be a link between autism and the 2012 shooting at the Sandy Hook Elementary School in Connecticut. Following this expression of concern, certain defendants and others allegedly undertook a series of actions against the Oasis project, including a door-to-door campaign, a petition submitted to the MCF board objecting to the grant and a sham offer to induce the property owner to back out of his commitment to sell to Oasis. Ultimately, the seller terminated its contract with Oasis and pursued the sham offer (which the sham buyer walked away from on the eve of closing), following which the sale to Oasis was resurrected. Again, unidentified sham buyers attempted to purchase the property, or alternatively, pay the owner \$250,000 not to sell to Oasis. Ultimately, Oasis purchased the property in mid-2015.

After the closing, Oasis experienced additional harassment, including graffiti on its property, as well as the dumping of significant quantities of manure there. A fence was also constructed over an easement in favor of Oasis, and a resident attempted to have Oasis' property tax exemption impaired.

In 2016, Oasis' neighbors sued, and Oasis filed a third-party complaint against defendant-neighbors and others. Oasis alleged, *inter alia*, interference with its easement rights and violations of the LAD. The defendants moved to dismiss for failure to state a claim, which was granted by the trial court, holding, among other things, that Oasis lacked standing under the LAD and Oasis failed to plead a cognizable LAD claim. On appeal, Oasis contended the trial court erred in dismissing the complaint on these bases.

In reversing the trial court on the LAD claim, the Appellate Division held there was "no doubt" that Oasis had standing to assert the LAD claims on behalf of those who benefit from its charitable works. The court noted the "claim of economic damage allegedly resulting from defendants' alleged discriminatory conduct sufficiently meets the standing required by the LAD." The Appellate Division went further, viewing Oasis' claims broadly—that Oasis may also incur "stigmatic and associational damage"—because "defendants' conduct may be viewed as interfering with Oasis's relationship to those who benefit from its existence and good works." Likewise, the Appellate Division found that Oasis presented a viable LAD claim,

noting the "LAD's 'overarching goal ... is nothing less than the eradication of the cancer of discrimination.'" Though a typical LAD claim involves a seller or landlord with a discriminatory intent, the Appellate Division noted the statute is not limited to that scenario and can include a third party's discriminatory conduct in interfering with a transaction. The Appellate Division reasoned the defendants' purported actions "were alleged to have induced or attempted to induce a discriminatory result by interfering with the prior owner's dealings with Oasis," which is prohibited by the LAD.

The *Oasis* decision, which is precedential, adds another arrow in the quiver of those up against a NIMBY objector. Purchasers or aspiring applicants constituting a protected class now potentially have the LAD on their side when faced with discriminatory interference or sham claims that are mere subterfuge for discrimination.

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