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SOUTH JERSEY AGAINST AIDS, INC.  
d/b/a SOUTH JERSEY AIDS ALLIANCE,  
D.G., R.K. and F.J.,

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
ATLANTIC COUNTY  
DOCKET NO.

Plaintiffs,

Civil Action

vs.

CITY OF ATLANTIC CITY,

VERIFIED COMPLAINT

Defendant.

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Plaintiffs South Jersey Against AIDS, Inc. d/b/a South Jersey AIDS Alliance, Inc., and D.G., R.K. and F.J., by way of complaint against defendant, hereby aver:

**GENERAL ALLEGATIONS**

1. South Jersey Against AIDS, Inc. d/b/a South Jersey AIDS Alliance, is a duly organized New Jersey non-profit corporation in good standing, having its principal place of business at 19 Gordon's Alley, Atlantic City, New Jersey. The Alliance operates another location in Atlantic City at 32 Tennessee Avenue informally

known as "Oasis." At the Tennessee Avenue location, the Alliance operates a syringe access (or needle exchange) program and provides other prevention and treatment healthcare services to those in need.

2. Individual Plaintiffs D.G., R.K., and F.J. are all Atlantic City residents, clients of Oasis and utilize its syringe access services. The actions of defendant Atlantic City have violated their rights under New Jersey common and statutory law; Article 1, Paragraph 1 of the New Jersey Constitution; and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

3. Defendant City of Atlantic City is a municipal corporation, organized and existing under the laws of New Jersey, with its principal place of business at 1301 Bacharach Boulevard, Atlantic City, New Jersey. The term "Defendant City of Atlantic City" includes the Atlantic City Council, the Mayor's Office, and any other city agency, official, or employee having jurisdiction or authority over the operations of the services provided at Oasis, including syringe access services.

4. Prevention and treatment services performed at the Oasis location, including syringe access, are funded almost entirely by the New Jersey Department of Health, primarily through the award of program-specific grants.

5. The New Jersey Department of Health receives funding from, among other sources, the United States Center for Disease Prevention and Control (CDC) for prevention services, and from the U.S. Health Resources and Administration for treatment services. The New Jersey Department of Health's current grants to the Alliance for treatment and prevention services approximate \$3 million. All prevention grants for syringe access services are for services deemed by the CDC to be "evidenced-based."

6. Prevention funds are allocated by the CDC and the State of New Jersey to entities such as the Alliance based on the number of clients and their needs.

7. Oasis and the CDC share the same goals: to minimize the spread of disease and to save lives.

8. The most recent statistics provided by the New Jersey Department of Health establish that as of December 31, 2018, Atlantic City has the ninth highest number of cumulative HIV/AIDS cases in the State.

9. These statistics also establish that as of December 31, 2018, the rate of transmission of HIV/AIDS to Atlantic City residents through injection drug use totaled 45% (42% for males and 52% for females). 82% of Atlantic City residents diagnosed with HIV/AIDS are African-American or Hispanic. One in every 35 African Americans in the City is HIV+.

10. In the United States, HIV is mainly spread by having sex or sharing syringes and other injection equipment with someone who is infected with HIV. Substance use can contribute to these risks indirectly because alcohol and other drugs can lower people's inhibitions and make them less likely to use condoms.

11. Oasis provides a multitude of health care and related services to its clients. It has a staff of 15 full-time employees, including three licensed health care professionals. Its mission, and that of the Alliance, is to be "a caring, compassionate organization dedicated to the fight against HIV/AIDS."

12. Oasis's responsibilities, particularly its obligation to serve the needs of its clients, increased significantly when the Atlantic City Health Department closed its Baltic Avenue Clinic in 2015 and essentially transferred the provision of direct health care services to Atlantic County, New Jersey. On information and belief, Atlantic County never opened a physical location in Atlantic City for the types of services described in Paragraph 13 below.

13. The Atlantic City Health Department's closure adversely affected and increased the health care responsibilities of Oasis by essentially eliminating municipal provision of HIV testing, Hepatitis C testing, sexually transmitted infection testing, and treatment and wound care and treatment services. Consequently,

Oasis has assumed public health care responsibilities abdicated by the City, making Oasis the sole source of these services in Atlantic City for those who do not have a private physician or who cannot access hospital services.

14. In addition to syringe access services, the services currently provided at the Alliance's Oasis site are designed for the prevention, care and treatment of persons with or at risk for HIV/AIDS. The services include: HIV and Hepatitis C testing; testing and treatment for sexually transmitted infections; wound care and treatment; condom distribution; harm reduction services (a combination of syringe access, nursing services, and drug-related overdose prevention and education); health education targeted at injection drug users; health education programs targeting men who have sex with men; case management for HIV+ clients, many of whom are classified as non-adherent to care; community health workers who also perform home visits and accompany clients to medical appointments; a low-threshold medication for opioid use disorder program that includes counseling and prescription of buprenorphine; Narcan (the medicine that reverses an opioid overdose) education; and the provision of fentanyl strips to alert a client that a street drug may be more potent if fentanyl is present.

15. Given the desperate and vulnerable nature of its client population, the Alliance does not charge its clients for any of its services, including the provision of syringes. In addition, the Alliance does not seek information on whether its clients are insured or have any funds to pay for such services. All services provided are fully funded by New Jersey or other fundraising efforts of the Alliance.

16. The authority and responsibility to operate a needle exchange in Atlantic City was as a result of Atlantic City City Council introduction and passage of Atlantic City Ordinance No. 55 of 2004 and Ordinance No. 85 of 2007 (collectively "the Enabling Ordinances"), both duly adopted by the City of Atlantic City in conformance with New Jersey law. Since the effective date of the Enabling Ordinances, the Alliance has been the sole provider of syringe access services in Atlantic City.

17. On information and belief, the majority of Oasis's clients walk to Oasis to access services including syringe access. Were Oasis to relocate its operations, the new location must be "walkable." Furthermore, were Oasis unable to operate in Atlantic City, under the current state law standards, Camden would be the city closest to Atlantic City that could provide syringe access services.

18. The majority of Oasis's clients, including the Individual Plaintiffs, are Atlantic City residents.

19. During the 20 years that the Alliance has been delivering its services, including syringe access, at 32 Tennessee Avenue, there have been no major incidents requiring police enforcement actions at that location, beyond the routine events one would reasonably expect given the nature of the clientele who frequent Oasis.

20. Whether deliberately or otherwise, Atlantic City officials have failed to adequately inform themselves about the nature, scope, efficacy, and benefits of the Alliance's Oasis operation, and have overstated or exaggerated any difficulties associated with that operation.

21. In contravention of the Individual Plaintiffs' rights under Article 1, Paragraph 1 of the New Jersey Constitution and the NJ LAD, and in arbitrary and capricious disregard of the harm that will befall the many hundreds of Oasis's clients who obtain new, sterile syringes at its Oasis location in Atlantic City, on June 16, 2021, City Council adopted Ordinance No. 32 of 2021, which repealed the Enabling Ordinances and terminated the Alliance's syringe access program.

22. Pursuant to law and the provisions of Ordinance No. 32, the Alliance's syringe access programs must cease operations on or before October 12, 2021.

23. As a proximate result of the enactment of Ordinance No. 32, and the repeal of the Enabling Ordinances, the Alliance has been immediately and irreparably injured in that it has been deprived of the ability to provide essential health services and care for its hundreds of clients, and has been subjected to arbitrary, illegal and unconstitutional action by defendant.

24. As a proximate result of the enactment of Ordinance No. 32, and the repeal of the Enabling Ordinances, the Individual Plaintiffs have been immediately and irreparably injured in that they have been deprived of essential health care and services, and have been subjected to arbitrary, illegal, discriminatory, and unconstitutional action by defendant.

25. Neither the Alliance nor the Individual Plaintiffs have an adequate remedy at law for the injuries that defendant's actions have caused them.

26. Defendant's actions were undertaken under color of state law, and they constitute an official policy or practice of the municipality.

27. As averred below, and as confirmed by the Certifications of plaintiff's President and CEO Carol Harney and of the Individual



Plaintiffs, defendant's actions were arbitrary and capricious under New Jersey law, and violated both the state Constitution and the NJ LAD.

**COUNT ONE**  
**ARBITRARY AND CAPRICIOUS ACTION**

28. The averments of Paragraphs 1-27 are incorporated as if fully set forth.

29. Ordinance No. 32 was adopted without regard to the impact it would have upon the health and safety of the Individual Plaintiffs, or upon the Alliance's responsibility to service its clients, consistent with the funds allocated by the New Jersey Department of Health through the CDC and others.

30. Prior to adoption of Ordinance No. 32, Defendant received advice from health care professionals, advising City Council members that repeal of the enabling Ordinances would have serious public health consequences, all negative.

31. Defendant's obdurate disregard of the aforesaid advice, and of the factual basis for that advice, was reckless and without rational basis. Consequently, defendant's repeal of the enabling Ordinances was arbitrary and capricious as defined by New Jersey law.

32. As explained in the certifications that accompany this Complaint, the repeal of the Enabling Ordinances and the outright

ban of the syringe access program within the City of Atlantic City benefits no one, and imperils the health and safety of many hundreds of people, including the Individual Plaintiffs, all of whom are Atlantic City residents and all of whom desperately need Oasis's syringe access services.

WHEREFORE, the Plaintiffs seek judgment in their favor and against defendant as follows:

A. Declaring Ordinance No. 32 null and void and in violation of New Jersey law.

B. Temporarily, preliminarily and permanently enjoining defendant, and all acting for or in concert with defendant, from enforcing Ordinance No. 32 or taking any action to hinder or obstruct Oasis's syringe access operation.

C. For costs, attorneys' fees, and any other appropriate relief.

**COUNT TWO**  
**VIOLATION OF PLAINTIFFS' RIGHTS**  
**UNDER THE NEW JERSEY CONSTITUTION**

33. The averments of Paragraphs 1-32 are incorporated as if fully set forth.

34. This Count is brought pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq.

35. New Jersey's Constitution, Article 1, Paragraph 1, entitled "Natural and unalienable rights" provides:

All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

(emphasis added).

36. Ordinance No. 32 was adopted without a rational basis and without regard to the impact it would have upon the "safety and happiness" of the individual Plaintiffs.

37. Ordinance No. 32 recklessly harms the individual Plaintiffs by depriving them of essential health care services and jeopardizes their "safety and happiness" as guaranteed by the New Jersey Constitution.

38. Ordinance No. 32 recklessly undermines the mission of the Alliance in the exercise of its responsibilities.

39. The enactment of Ordinance 32 serves no countervailing municipal or state interest that outweighs the rights of plaintiffs under Article I, Paragraph I of the state constitution.

WHEREFORE, the Plaintiffs seek judgment in their favor and against defendant as follows:

A. Declaring Ordinance No. 32 null and void and in violation of New Jersey law.

B. Temporarily, preliminarily and permanently enjoining defendant, and all acting for or in concert with

defendant, from enforcing Ordinance No. 32 or taking any action to hinder or obstruct Oasis's syringe access operation.

C. For costs, attorneys' fees pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-2(f), and any other appropriate relief.

**COUNT THREE**  
**VIOLATION OF THE N.J. LAW AGAINST DISCRIMINATION**

40. The averments of Paragraphs 1-39 are incorporated as if fully set forth.

41. Individual Plaintiffs are all clients of the Alliance's Oasis program and Atlantic City residents. As confirmed by their certifications, each of the Plaintiffs (1) are citizens of Atlantic City suffering from the disability of substance abuse disorder; (2) regularly walk to the Oasis offices and (3) their lives are such that they require the regular provision of new, sterile needles.

42. The Individual Plaintiffs are each entitled to protection of their rights as persons living with a disability or handicap pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

43. New Jersey's Courts have found that alcoholism and drug addiction are disabilities under the LAD. Accordingly, the Individual Plaintiffs are afforded rights thereunder.

44. The adoption of Ordinance No. 32 by the Defendant was an intentional and invidious violation of the rights of the Individual Plaintiffs as guaranteed under the NJ LAD, and as a proximate result of that action, the Individual Plaintiffs have been injured as set forth herein.

45. If the adoption of Ordinance No. 32 is not declared null and void and vacated by this Court, the Individual Plaintiffs will suffer irreparable harm in that they will be denied the safety and happiness afforded by full and free access to the regular exchange of used needles and receipt of new, sterile needles.

46. As confirmed by the certification of Carol Harney, President and CEO of the Alliance, pursuant to Ordinance No. 32, as of October 12, 2021, she and her staff will no longer be permitted to provide for the distribution and/or exchange of syringes.

47. The adoption of Ordinance No. 32 was done in willful disregard of the impact upon the Individual Plaintiffs' disability of substance use disorder and their reliance upon the syringe access program administered by the Alliance at the Oasis site.

48. The adoption of Ordinance No. 32 was an act of discrimination. As per N.J.S.A. 10:5-3, "...such discrimination threatens not only the rights and proper privileges of the inhabitants of the State but menaces the institutions and

foundation of a free democratic State..." and cannot be condoned by New Jersey's courts.

WHEREFORE, the Plaintiffs seek judgment in their favor and against defendant as follows:

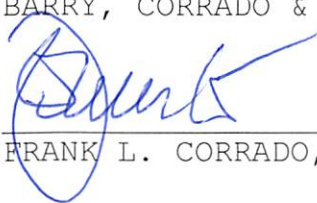
- A. Declaring Ordinance No. 32 null and void and in violation of New Jersey law.
- B. Temporarily, preliminarily and permanently enjoining defendant, and all acting for or in concert with defendant, from enforcing Ordinance No. 32 or taking any action to hinder or obstruct Oasis's syringe access operation.
- C. For costs, attorneys' fees pursuant to the NJ LAD, and any other appropriate relief.

BARRY, CORRADO & GRASSI, P.C.

Dated:

9/29/21

By:



FRANK L. CORRADO, ESQUIRE

**CERTIFICATION**

It is hereby certified that there are no other known actions or arbitrations relating to this action and there are no known parties who should be joined with respect to the matter in controversy.

BARRY, CORRADO & GRASSI, P.C.

Dated: 9/29/21

By:   
FRANK L. CORRADO, ESQUIRE

**DESIGNATION OF TRIAL COUNSEL**

TAKE NOTICE that Frank L. Corrado, Esquire, is hereby designated as trial counsel in the above captioned litigation for the firm of BARRY, CORRADO & GRASSI, P.C., pursuant to R. 4:25-1.

BARRY, CORRADO & GRASSI, P.C.

Dated: 9/29/21

By:   
FRANK L. CORRADO, ESQUIRE

**CONFIDENTIAL PERSONAL IDENTIFIERS**

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 Rule 1:38-7(b).

BARRY, CORRADO & GRASSI, P.C.

Dated: 9/29/21

By:   
FRANK L. CORRADO, ESQUIRE

CERTIFICATION OF VERIFICATION AND NON-COLLUSION

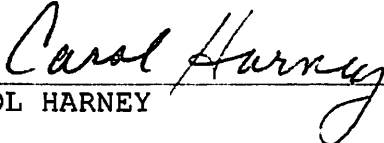
1. I am the President and Chief Executive Officer of South Jersey Against AIDS, Inc. d/b/a South Jersey AIDS Alliance ("the Alliance"), one of the plaintiffs in the foregoing complaint to which this is annexed.

2. The allegations of the complaint are true to the best of my knowledge and belief. The complaint is made in trust and good faith and without collusion for the causes set forth therein.

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

SOUTH JERSEY AGAINST AIDS, INC.  
d/b/a SOUTH JERSEY AIDS ALLIANCE

DATED: September 22, 2021

  
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CAROL HARNEY