

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MARGATE CITY, NEW JERSEY,

Plaintiff,

v.

UNITED STATES ARMY CORPS OF
ENGINEERS and NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Defendants.

Civil Action No.

14 -cv- 7303 (RMB)(AMD)

**TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

THIS MATTER having been brought before the Court by the City of Margate ("Margate"), through its attorneys Dilworth Paxson LLP, pursuant to Rule 65 of the Federal Rules of Civil Procedure and Local Rule of Civil Procedure 65.1 for a Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue to enjoin the Defendants from violating the Administrative Procedure Act, 5 U.S.C. § 701-706, the New Jersey Eminent Domain Act of 1971, N.J.S.A. § 20:3-1 *et seq.*, and other applicable federal and state law for the purpose of affecting an unlawful taking of Margate's beachfront property; the awarding of a contract to construct sand dunes on Margate's property; and the immediate commencement of construction; and the Court having considered the papers submitted in support of the Application; ^{and Council for Margate having represented that notice to} and for good cause shown; _{Defendants was given;}

IT IS HEREBY ORDERED that Plaintiff's Application for a Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue is GRANTED, the Court having found: *based on the Declaration of Michael Becker and the Certification of Council,*

1. Plaintiff will suffer immediate and irreparable harm if the temporary injunction is denied, because Defendants are likely to award a contract for the contested Project at any hour, with construction to begin immediately thereafter, damaging Plaintiff's beachfront property;
2. Granting this temporary relief will merely preserve the status quo and will not result in greater harm to Defendants;
3. The public interest will be served by the requested relief;

~~Plaintiff is likely to succeed on the merits of the underlying claims against Defendants; and~~

~~Temporary relief should be issued without prior notice to Defendants, given the likelihood of imminent harm to Plaintiff's property.~~

6. The balance of the equities weighs overwhelmingly in favor of the Plaintiff, and the Defendants will not be harmed by not requiring the posting of security.

IT IS HEREBY FURTHER ORDERED that **DEFENDANTS ARE TEMPORARILY ENJOINED** from awarding any contract for the purpose of causing in the City of Margate any construction related to the Absecon Island Coastal Storm Risk Reduction Project (the "**Project**"), or any related project which includes, but is not limited to, the construction of dunes on breaches in the City of Margate, from commencing such construction or from otherwise entering upon land owned by the City of Margate or asserting any right and/or title thereto, and granting such other relief as the Court deems appropriate pending the return date of this Order to Show Cause.

IT IS HEREBY FURTHER ORDERED that Defendants shall appear and show cause before this Court at 9:00a.m. on the 4th day of December, 2014 as to why a preliminary injunction should not issue enjoining the Defendants from awarding any contract for the purpose of causing in the City of Margate any construction related to the Project, or any related project which includes, but is not limited to, the construction of dunes on breaches in the

City of Margate, from commencing such construction or from otherwise entering upon land owned by the City of Margate or asserting any right and/or title thereto.

IT IS HEREBY FURTHER ORDERED that Plaintiff shall ~~not~~ be required to post a bond while temporary restrains are in place, *such amount to be \$10,000. Such bond shall be posted no later than Monday, December 1, 2014 at 4:30p*

IT IS HEREBY FURTHER ORDERED that a copy of this Order and all papers filed by Margate herewith shall be served upon Defendants *(email immediately via e-mail and upm)* within 1 days of the date hereof in accordance with L. R. Civ. P. 65.1(c). *and*

IT IS FURTHER ORDERED that the parties may file any submission to the Court by December 1, 2014.

THIS ORDER shall be in effect from its entry at 2:50pm on November 24, 2014 until 9:00 on December 4, 2014.

IT IS SO ORDERED.


United States District Judge