

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0712-20

ASPHALT PAVING SYSTEMS,
INC.

Plaintiff-Appellant,

v.

THE BOROUGH OF STONE
HARBOR and FRED M.
SCHIAVONE CONSTRUCTION,
INC.,

Defendants-Respondents.

APPROVED FOR PUBLICATION

November 14, 2022

APPELLATE DIVISION

Argued February 1, 2022 – Decided November 14, 2022

Before Judges Fisher, Currier and DeAlmeida.

On appeal from the Superior Court of New Jersey, Law
Division, Cape May County, Docket No. L-0345-20.

John F. Palladino argued the cause for appellant
(Hankin Sandman Palladino Weintraub & Bell,
attorneys; John F. Palladino and Colin G. Bell, on the
briefs).

Paul J. Baldini (Paul J. Baldini, PA) argued the cause
for respondent The Borough of Stone Harbor.

Vincent J. Pancari argued the cause for respondent Fred
M. Schiavone Construction, Inc. (Capizola Pancari

Lapham & Fralinger, attorneys, join in the brief of respondent The Borough of Stone Harbor).

The opinion of the court was delivered by

FISHER, P.J.A.D.

The Legislature has declared that no business entity may be awarded a public contract unless, prior to or along with its bid, the business entity submits "a statement setting forth the names and addresses" of the individuals owning more than ten percent of the entity. N.J.S.A. 52:25-24.2 (emphasis added). In this appeal, we consider and hold that the Legislature did not intend the word "addresses" to be synonymous with "home addresses" and that the statute's requirement is met when the bidder provides its owners' mailing addresses.

The relevant facts and circumstances may be as simply stated as the legal issue itself. In August 2020, the Borough of Stone Harbor issued a notice to bidders, along with instructions, specifications, and forms, inviting the submission of bids for a construction project. Fred M. Schiavone Construction, Inc. submitted the lowest bid; Asphalt Paving Systems, Inc. came in second. In the materials supplied with its bid, Schiavone identified Fred and Roberta Schiavone as its two stockholders and provided, as their address, a post office box in Malaga, a small town in Gloucester County with a population of approximately 1,500.

In October 2020, Asphalt Paving commenced this action and obtained an order to show cause that temporarily barred Stone Harbor from executing a contract for the project with Schiavone and barred Schiavone from performing any work on the project. After Schiavone and Stone Harbor responded to the order to show cause, the judge heard argument and entered an order dismissing the complaint and dissolving the temporary restraints.

In dismissing the complaint, Judge Mary C. Siracusa determined that the requirement in N.J.S.A. 55:25A-24.2 that owners of a ten percent or greater interest in the bidder disclose their "addresses" did not mean "home addresses" and that the inclusion of mailing addresses was sufficient to meet the statutory requirement. The judge also recognized that Stone Harbor's bid specifications actually called for the inclusion of the owners' "home address[es]"; but, in applying the test first described by Judge Pressler in River Vale v. R.J. Constr. Co., 127 N.J. Super. 207, 216 (Law Div. 1974), and later adopted in Meadowbrook Carting Co. v. Bor. of Island Heights, 138 N.J. 307, 315 (1994), the judge recognized that Stone Harbor's home-address requirement was waivable because waiver would not "deprive the municipality of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements" and would not give the bidder "a position of advantage

over other bidders or . . . undermin[e] the necessary common standard of competition." 127 N.J. Super. at 216.

In appealing, Asphalt Paving argues that the judge erred in both respects.¹ We find Asphalt Paving's argument that the judge erred in her application of the River Vale test to be without sufficient merit to warrant further discussion in a written opinion, R. 2:11-3(e)(1)(E), and we affirm that aspect of Judge Siracusa's ruling substantially for the reasons set forth in her oral decision. We also reject Asphalt Paving's argument that even though N.J.S.A. 52:25-24.2 required inclusion only of the bidder's owners' "addresses," the Legislature intended this to mean "home addresses."

The chief guide to understanding a statute's meaning is the court's ascertaining of the legislative intent, and the best way of divining that intent is through an understanding of the statute's language. DiProspero v. Penn, 183 N.J. 477, 492 (2005). In examining what the Legislature has enacted, we give its

¹ Stone Harbor has argued in response that the appeal should be dismissed as moot because – once we denied Asphalt Paving's motion for a stay – the contract was awarded to Schiavone and construction commenced. To be sure, there would be no relief we could award Asphalt Paving if it were correct about the merits, but we decline the invitation to dismiss the appeal because our declaration of the statute's meaning is of public importance and yet the opportunity to opine on the matter is capable of evading review if we adhered to the usual notion of mootness. See, e.g., In re Commitment of C.M., 458 N.J. Super. 563, 568-69 (App. Div. 2019).

words their ordinary and "generally accepted" meaning unless another or different meaning is "expressly indicated" or otherwise suggested by the statute's context. N.J.S.A. 1:1-1. In engaging in this process, we are not free to "rewrite a plainly-written enactment of the Legislature" nor are we entitled to "presume the Legislature intended something other than that expressed by way of the [statute's] plain language." O'Connell v. State, 171 N.J. 484, 488 (2002).

To be sure, the word "address" can suggest multiple things because persons may have multiple addresses. A person, for example, may have a home address, a business address, and a mailing address. For some, these may all be the same; for others, they may all be different; and others still may have multiple homes, multiple businesses, and multiple mailing addresses.² There is no evidence in the enactment itself, and nothing about the statutory goals the Legislature was pursuing by enacting the statute, to suggest a desire to compel the production of only one of these types of addresses.

² Now, a person is likely to also have an email address, although the Legislature enacted this statute in 1977, L. 1977, c. 33, § 1 (effective Mar. 8, 1977), before the concept of electronic mail was developed. The statute was amended in 2016 to envelop limited liability companies within its requirements, but the Legislature continued to use the word "addresses" without further elaboration in this most recent of the statute's iterations. L. 2016, c. 43, § 1 (effective Aug. 31, 2016).

Instead, in ascribing to the word its generally accepted meaning, N.J.S.A. 1:1-1; Levin v. Twp. of Parsippany-Troy Hills, 82 N.J. 174, 182 (1980), we conclude that the Legislature intended that a bid would comply with N.J.S.A. 52:25-24.2, so long as the bidder provided the home, business or mailing address for each owner of ten or more percent. Had the Legislature meant to require the owners' home addresses it would have said "home addresses" rather than "addresses."

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION