

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

COMMUNITY PRESERVATION CORPORATION,	:	CIVIL ACTION NO. 07-2427 (MLC)
	:	
Plaintiff,	:	MEMORANDUM OPINION
	:	
v.	:	
	:	
HERMITAGE HEROES, LLC, et al.,	:	
	:	
Defendants.	:	
_____	:	

THE COURT ordering the plaintiff to show cause why the complaint should not be dismissed – without prejudice to recommence the action in state court within thirty days of the dismissal – for lack of jurisdiction under 28 U.S.C. § 1332 (dkt. entry no. 24, Order to Show Cause (“OTSC”)); and the Court expressing concerns at length therein (id. at 1-5); and

THE PLAINTIFF having requested – and the Court having granted – several enlargements of time to respond to the order to show cause in order for the parties to facilitate a settlement of the dispute herein (dkt. entry nos. 25-29); and the plaintiff, in the last request for an enlargement, stating that it (1) expected the dispute to be resolved by September 19, 2008, (2) would withdraw the complaint at that point, and (3) sought another enlargement of time to respond to the order to show cause to September 23, 2008 (dkt. entry no. 29, 9-8-08 Pl. Letter); and

the plaintiff seeking no further enlargement of time to respond to the order to show cause; and

THE COURT thus intending to (1) vacate the order to show cause, and (2) dismiss the complaint, without costs and without prejudice to either (a) move to reopen the action in this Court on good cause shown within sixty days if the settlement is not consummated, or (b) recommence the action in state court within thirty days of the dismissal if the plaintiff concedes that the Court lacks jurisdiction here, as the limitations period for the cause of action is tolled by the filing of the federal complaint; but the Court advising the plaintiff that if it elects to move to reopen the action in this Court, then – in support of such a motion – it must address all of the jurisdictional issues raised by the Court in the order to show cause (see OTSC at 1-3); and for good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Dated: October 27, 2008