

**Arkad Residential Holdings IV, LLC
Block 108, Lot 113.06
9 Jay Road
Chatham Township, NJ 07928**

STATEMENT

The Applicant seeks relief from §30-96.20.g.7(j) of the Township code, which that “Design and construction of drywells shall comply with New Jersey Department of Environmental Protection's Stormwater Best Management Practices Manual”.

The maximum drain time requirement of 72 hours of NJDEP's Stormwater Best Management Practices Manual is not satisfied.

The strict enforcement of that requirement constitutes an undue hardship under N.J.S.A. 40:55D-70(c)(1) because the post-construction performance of the drywells differs from the pre-construction expectations. The design was fully expected to perform as required. Pre-construction perc tests indicated a level of performance that was not realized. There is no other meaningful stormwater option using infiltration that does not depend on soil conditions.