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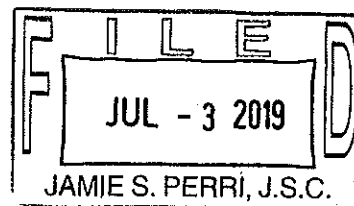
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**IN THE MATTER OF THE
APPLICATION OF THE BOROUGH OF
ATLANTIC HIGHLANDS, COUNTY OF
MONMOUTH**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY**

DOCKET NO.: MON-L-2520-15

Civil Case
(*Mount Laurel*)**ORDER OF JUDGMENT OF
COMPLIANCE AND REPOSE**

THIS MATTER having been opened to the Court by Jeffrey R. Surenian and Associates, LLC, on behalf of declaratory plaintiff, Borough of Atlantic Highlands (hereinafter “the Borough” or “Atlantic Highlands”) via a Declaratory Judgment Complaint filed on July 2, 2015 to approve the Borough’s Housing Element and Fair Share Plan in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel IV”); and the Court having granted the Borough immunity from Mount Laurel lawsuits from the time of the filing of the Borough’s Declaratory Judgment action (hereinafter “DJ Action”), which is still in full force and effect; and the Court having appointed Francis J. Banisch, III, P.P., A.I.C.P. as the Special Mount Laurel Court Master (hereinafter the “Court Master”); and Fair Share Housing Center (“FSHC”) having participated in the Borough’s DJ Action as an “interested party”; and FSHC’s expert, David Kinsey, Ph.D., P.P., F.A.I.C.P., having issued an expert report that calculated fair share obligations for all of the municipalities in the state; and the Borough having hired Econsult Solutions, Inc., which produced its own expert report calculating fair share obligations for all municipalities in the state; and the Borough’s professionals and Adam M. Gordon, Esq. of FSHC

having entered into mediation supervised by the Court Master to try to settle the Borough's DJ Action globally; and the Borough and FSHC having entered into a Settlement Agreement on January 26, 2018 (hereinafter the "FSHC Settlement Agreement")(Appendix A of Exhibit P-1); and said FSHC Settlement Agreement having set agreed upon fair share obligations and how the Borough would satisfy same; and the FSHC Settlement Agreement having been approved during a Fairness Hearing held on May 8, 2018, which was memorialized by an Order entered by the Court on May 24, 2018 (Appendix B of Exhibit P-1); and as per the requirements in the FSHC Settlement Agreement and the Court's May 24, 2018 Order, the Borough Planning Board having adopted a Housing Element and Fair Share Plan on September 13, 2018 (hereinafter "2018 Affordable Housing Plan"), which was endorsed by the Borough Council on September 26, 2018; and the Borough having also adopted other required supporting ordinances and resolutions on September 26, 2018 (Exhibits P-5 to P-10); and the Court having scheduled a Compliance Hearing for April 4, 2019 to entertain approval of the Borough's 2018 Affordable Housing Plan; and counsel for the Borough having prepared a Notice Certification (Exhibit P-4) to document that proper notice of the Compliance Hearing had been given; and residents of Atlantic Highlands having filed objections to the 21 Leonard Avenue project, a project that was part of the Borough's 2018 Affordable Housing Plan; and the Court Master having issued a report on March 20, 2019 (Exhibit P-14), in which he recommended approval of the Borough's 2018 Affordable Housing Plan, subject to the Borough satisfying certain conditions; and the Borough and the objectors having entered into a Settlement Agreement on March 29, 2019 (hereinafter "Objector Settlement Agreement")(Exhibit P-17), in which it was agreed that the 21 Leonard Avenue project would be reduced from two Habitat for Humanity duplexes to one duplex; and the Court having subsequently carried the Compliance Hearing on the record to June 26, 2019, and then to June 27, 2019, so that the Borough could satisfy the conditions required by the Court Master in his March 20 2019 report, as well as implement the Objector Settlement Agreement by

amending the FSHC Settlement Agreement and the 2018 Affordable Housing Plan; and the Borough and FSHC have amended the FSHC Settlement Agreement to reflect said changes (hereinafter “First Amendment to FSHC Settlement Agreement”)(Exhibit P-15), which was later executed by FSHC and the Mayor of Atlantic Highlands; and the Borough’s professionals having prepared an Amended Housing Element and Fair Share Plan (hereinafter “Amended Affordable Housing Plan”)(Exhibit P-1), which was adopted by the Planning Board during a meeting held on June 13, 2019 (Exhibit P-2), and subsequently endorsed by the Borough Council on June 26, 2019 (Exhibit P-3); and the Court Master having issued a follow up report on June 20, 2019 (Exhibit P-18); and Erik C. Nolan, Esq. having submitted a Certification to the Court on June 27, 2019 (Exhibit P-19), which indicated that the Borough had satisfied all of the conditions in the Court Master’s March 20, 2019 and June 20, 2019 reports; and the Compliance Hearing having been held on June 27, 2019, during which Exhibits P-1 to P-19, which are attached hereto, were marked into evidence; and the Court having considered the reports of the Court Master, the testimony taken during the Compliance Hearing, as well as the comments of counsel; and the Court having reviewed Exhibits P-1 to P-19; and good cause having been shown;

It is hereby ordered on this 3^d day of July, 2019, as follows:

1. The Borough of Atlantic Highlands’s Amended Affordable Housing Plan (Exhibit P-1) is hereby approved and the Borough is granted a final Judgment of Compliance and Repose with no conditions as to its Rehabilitation Share, its Prior Round Obligation (1987-1999), and its Third Round Obligation (1999-2025), pursuant to the Court approved Settlement Agreement entered into between the Borough and FSHC on January 26, 2018, the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.)(“FHA”), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) (“UHAC”), applicable Council on Affordable Housing (hereinafter “COAH”) substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court’s Mount Laurel IV decision.

2. The Borough's Judgment of Compliance and Repose shall remain in effect for ten (10) years beginning on July 2, 2015 and ending on July 2, 2025, and during this ten (10) year period the Borough shall have repose from all Mount Laurel lawsuits, including, but not limited to, Builder's Remedy lawsuits, other than actions brought to enforce the terms of the FSHC Settlement Agreement or the Court's orders.

3. The Court finds and determines pursuant to the judicial standards prescribed by the Appellate Division in East/West Venture v. Bor. Of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), and through analysis of the First Amendment to the FSHC Settlement Agreement (Exhibit P-15), entered into between the Borough and FSHC, that said First Amendment is fair, reasonable and adequately protects the interest of very low, low and moderate income households, and the Court hereby approves the First Amendment to the FSHC Settlement Agreement.

4. As per the Court approved FSHC Settlement Agreement between the Borough and FSHC, as amended, and as established in the Borough's Amended Affordable Housing Plan, the Borough's Rehabilitation Obligation is 51, the Borough's Prior Round Obligation (1987-1999) is 86 and the Borough's Third Round Obligation (1999-2025) is 207.

5. A crediting chart showing how the Borough will satisfy its affordable housing obligations is attached hereto as Exhibit A.

6. The Borough has prepared a vacant land analysis, and, as a result of that analysis, the Borough, FSHC and the Court Master have agreed that the Borough is entitled to a Vacant Land Adjustment ("VLA"), such that it has a combined Prior Round (1987-1999) + Third Round (1999-2025) Realistic Development Potential ("RDP") of 42, and a remaining combined Prior Round and Third Round Unmet Need of 251. The Court hereby approves the Borough's RDP of 42 and the Borough's mechanisms for addressing its Unmet Need.

7. The Borough will address its 51-unit Rehabilitation Obligation by working with Monmouth County, or by hiring a separate entity, to rehabilitate units within the Borough.

8. The Borough will address its combined Prior Round and Third Round (1999-2025) RDP of 42 as follows:

- a) Springpoint Living Project: Ten (10) affordable age restricted units from the constructed and occupied 57-unit Springpoint Living one hundred percent (100%) affordable age restricted project located at 202 First Avenue (Block 103, Lot 1.01).
- b) 95 First Avenue Project: One (1) affordable family rental unit from the four (4) units constructed and occupied 95 First Avenue (Block 114, Lot 2) inclusionary project.
- c) 82-84 Memorial Parkway Habitat For Humanity Project: One (1) affordable family for-sale unit and one (1) affordable family rental unit from the constructed and occupied 82-84 Memorial Parkway (Block 62, Lot 4) Habitat for Humanity duplex project.
- d) 35 First Avenue/2 Hennessey Blvd. Project: Five (5) affordable family rental units from the constructed and occupied 22-unit 35 First Avenue/2 Hennessey Blvd. inclusionary project (Block 117, Lots 8.01 and 8.02).
- e) 21 Leonard Avenue Habitat For Humanity Project: One (1) affordable family for-sale unit and one (1) affordable family rental unit from the proposed one duplex Habitat for Humanity 21 Leonard Avenue project (Block 136, Lot 1). The Borough will donate the site to Habitat for Humanity for the project.
- f) 60 First Avenue Project: Two (2) affordable family rental units from the under construction 10-unit 60 First Avenue inclusionary project (Block 97, Lot 14).
- g) 44-48 First Avenue Project: Three (3) affordable family rental units from the proposed 13-unit 44-48 First Avenue inclusionary project (Block 97, Lot 17), which has been approved by the Planning Board.
- h) 158 First Avenue Project: Four (4) affordable family rental units from the proposed 18-unit 158 First Avenue inclusionary project (Block 101, Lots 4.02 and 5), which has been approved by the Planning Board.
- i) 15 West Lincoln Avenue Project: Two (2) affordable family rental units from the proposed ten (10) unit project on 15 West Lincoln Avenue (Block 107, Lots 4 and 5), which has been approved by the Planning Board.
- j) 11 rental bonus credits.

9. The Borough will address its combined remaining Prior Round and Third Round (1999-2025) Unmet Need of 251 as follows:

- a) Springpoint Living Project: 47 affordable age restricted units from the constructed and occupied 57-unit Springpoint Living age restricted project located at 202 First Avenue (Block 103, Lot 1.01).
- b) Modification of the Borough's OR, CBD, HBD, LI and R-TH Zones: The Borough has modified its OR, CBD, HBD, LI and R-TH zones to ensure that multi-family and/or mixed use developments constructed in these zones provide a twenty percent (20%) affordable housing set-aside, proper bedroom mixes and the correct number of very low, low and moderate income units.
- c) Mandatory Set-Aside Ordinance: The Borough has adopted a Mandatory Set-Aside Ordinance ("MSO"), which requires a twenty percent (20%) affordable housing set-aside for any residential developments consisting of five (5) or more dwelling units that are approved by the Borough and/or the Borough's Planning Board. The MSO does not apply to the Borough's OR, CDB, HBD, LI, and R-TH zones.

10. The Borough's Spending Plan, which is part of Exhibit P-8, is hereby approved. The Borough is free to expend funds in its Affordable Housing Trust Funds in accordance with the FSHC Settlement Agreement, the Borough's Fair Share Plan, the FHA, applicable COAH regulations and all other applicable law.

11. The Borough's updated and adopted Development Fee Ordinance (Exhibit P-11) is hereby approved by the Court.

12. The Borough will comply with the notice requirements in Paragraphs 21 and 22 of the FSHC Settlement Agreement (Appendix A to Exhibit P-1).

13. Counsel for the Borough shall provide copies of this Order to the Borough's Service List within seven (7) days of receipt.



HONORABLE JAMIE S. PERRI, J.S.C.

EXHIBIT A: SUMMARY OF FAIR SHARE COMPLIANCE

Rehabilitation Obligation	51
Monmouth County Rehabilitation Programs	51
Realistic Development Potential	42
Springpoint Living Project	10
95 First Avenue	1
Memorial Parkway Habitat for Humanity Project	2
35 First Avenue/2 Hennessey Blvd. Project	5
60 First Avenue Project	2
44-48 First Avenue Project	3
158 First Avenue Project	4
21 Leonard Avenue Habitat for Humanity	2
15 West Lincoln Avenue Project	2
Rental Bonus Credits	11
Unmet Need	251
Springpoint Living Project	47
Modification to OR Zone	
Modification to Existing Set-Aside Ordinance for CBD, HBD, LI & R-TH Zone	
Borough-Wide Mandatory Set-Aside Ordinance	
Total Obligation	344