



ORDER PREPARED BY THE COURT

IN THE MATTER OF THE MT. LAUREL
DECLARATORY JUDGMENT
ACTIONS FILED IN THE COUNTY OF
SOMERSET, STATE OF NEW JERSEY,
PURSUANT TO In Re Adoption of
N.J.A.C. 5:96, 221 N.J. 1 (2015)¹

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY

CIVIL ACTION
(Mount Laurel)

IN THE MATTER OF THE MT. LAUREL
DECLARATORY JUDGMENT
ACTIONS FILED IN THE COUNTY OF
HUNTERDON, STATE OF NEW
JERSEY, PURSUANT TO In Re Adoption
of N.J.A.C. 5:96, 221 N.J. 1 (2015)²

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
HUNTERDON COUNTY

CIVIL ACTION
(Mount Laurel)

IN THE MATTER OF THE MT. LAUREL
DECLARATORY JUDGMENT
ACTIONS FILED IN THE COUNTY OF
WARREN, STATE OF NEW JERSEY,
PURSUANT TO In Re Adoption of
N.J.A.C. 5:96, 221 N.J. 1 (2015)³

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
WARREN COUNTY

CIVIL ACTION
(Mount Laurel)

**OMNIBUS CASE
MANAGEMENT ORDER #2**

¹ The complete list of the matters filed within each County is listed in Appendix A to this Order.

² The complete list of the matters filed within each County is listed in Appendix A to this Order.

³ The complete list of the matters filed within each County is listed in Appendix A to this Order.

THE MATTERS set forth below in Appendix A to this Order having come before the Court on April 7, 2016 at a Joint Case Management Conference; and the Court having reviewed with the parties during the Joint Case Management Conference the provisions of the Amended Omnibus Order previously entered on February 17, 2016 as to status and progress; and the Court having considered during the Joint Case Management Conference comments and arguments made by various parties; and the Court having determined that a further Omnibus Case Management Order should be entered for purposes of efficiently and fairly managing the matters set forth below in Appendix A; and for other good cause appearing;

It is on this 19th day of April, 2016, **ORDERED** as follows:

1. Paragraph 1 of the Amended Omnibus Order entered on February 17, 2016 remains in full force and effect in that the matters set forth below in Appendix A to this Order (that is all of Somerset, Hunterdon and Warren County Mt. Laurel matters) have been consolidated for the limited purpose of conducting the necessary hearing(s) / trial to determine the appropriate methodology for establishing the state and regional need for low and moderate income housing and allocating the appropriate portion of such need among the municipalities within the Counties of Somerset, Hunterdon and Warren. The Court considers that all “compliance issues” and any issue or issues concerning the applicability of the so called “gap period from 1999 to 2015” shall be included within the ambit methodology determination to be made by the Court. See paragraph 16 of the within Order as to briefing and summary judgment decisions on these issues. See paragraph 17 of the within Order as to scheduling of the hearing(s) / trial on issues that cannot be decided as a matter of summary judgment. Adjustment issues shall be handled separately, outside the hearing(s) / trial on the fair share numbers.

2. Any municipality which has not entered into the Municipal Shared Services Defense Agreement (“MSSDA”) shall not be entitled to rely on any of the reports prepared by Econsult Solutions, Inc. on the issue of the appropriate methodology for establishing the state and regional need for low and moderate income housing and allocating the appropriate portion of such need among the municipalities within the Counties of Somerset, Hunterdon and Warren, and on the issue of what obligation, in any, there is for the “gap period.” Additionally, if any municipality which has not entered into the MSSDA wishes to participate in the hearing(s) / trial to determine the appropriate methodology for establishing the state and regional need for low and moderate income housing and allocating the appropriate portion of such need among the municipalities

within the Counties of Somerset, Hunterdon and Warren, the municipality shall be required to (1) identify their expert(s) on those issues and provide expert reports by April 11, 2016 in accordance with paragraph 10 of the within Order, and (2) provide expert testimony by said experts during the hearing(s)/ trial.

3. The experts that have been identified to date and the parties proffering said experts on the issues to be addressed during the hearing(s) / trial which will be conducted pursuant to paragraph 1 of the Amended Omnibus Order are as follows:

- a. David Kinsey, Ph.D., FAICP by Fair Share Housing Center (“FSHC”).
- b. Arthur Bernard, AICP by New Jersey Builders Association (“NJBA”).
- c. Daniel T. McCue by FSHC.
- d. Jeffrey Otteau (The Otteau Valuation Group) by NJBA.
- e. Robert S. Powell, Jr., Ph.D. (Nassau Capital Advisors, LLC) by the New Jersey League of Municipalities (“NJLOM”).

f. Peter A. Angelides, Ph.D, AICP (Econsult Solutions, Inc.) by those municipalities that have entered into the MSSDA.

(Additional experts who will testify on the issue of individual municipal adjustments to fair share numbers have not been identified and do not have to be identified at this time because adjustment will shall be handled separately, outside the hearing(s) / trial on the fair share numbers.)

4. (Intentionally omitted)

5. Paragraph 5 of the Amended Omnibus Order entered on February 17, 2016 remains in full force and effect.

6. Paragraph 6 of the Amended Omnibus Order entered on February 17, 2016 remains in full force and effect.

7. Depositions of experts are permitted. Parties and interested parties shall work cooperatively to schedule times for depositions of any expert witnesses who will be presented at the hearing(s) / trial scheduled in paragraph 17 of this Order. The dates of depositions on the issues of methodology and calculation of the state, regional and municipal fair share housing need and allocation and housing compliance standard shall be scheduled no later than July 1, 2016, and all depositions shall be completed no later than August 15, 2016. The Court is mindful that depositions of many, if not all of the experts that will be offered by the parties in these cases, will be subject to depositions in other “Mt. Laurel” cases that have been filed in other Vicinages around the State.

The parties are ordered to strive to minimize duplicative and/or burdensome questions. Transcripts of depositions of “common experts” that have been conducted in other Vicinages shall be shared electronically by the parties without cost. Oppressive, burdensome and/or duplicative depositions shall be avoided.

8. (Intentionally omitted)

9. (Intentionally omitted)

10. Final expert reports on behalf of the parties on the issues of methodology and calculation of the state, regional and municipal fair share housing need and allocation, as well as on the “gap period” issues, shall be exchanged and submitted to the Court, Special Masters, intervenors, and interested parties no later than April 11, 2016. Any and all responses / critiques to expert reports shall be exchanged and submitted to the Court, Special Masters, intervenors, and interested parties no later than May 2, 2016.

11. The Regional Special Master (Richard B. Reading of Richard B. Reading and Associates of Princeton, New Jersey)⁴ shall submit a Draft Final Report on the issues of methodology and calculation of the state, regional and municipal fair share housing need and allocation on a date to be established by the Court.

12. Any Deposition of the Regional Special Master on the issues of methodology and calculation of the state, regional and municipal fair share need and allocation shall be permitted but only in accordance with the Court’s direction. Such deposition will not be limited to written questions.

13. All parties and intervenors shall submit comments to the Regional Special Master’s Draft Final Report at a time to be addressed at the Court’s next Case Management Conference.

14. The Regional Special Master shall submit a Final Report at a time to be addressed at the Court’s next Case Management Conference.

15. A Pre-Trial Conference shall be scheduled at the next Case Management Conference. At the Pre-Trial Conference the parties shall identify “lead” and “second seat” counsel for the hearing(s) / trial referenced in paragraph 1 of the within Order. At the present time, it is anticipated that “lead” counsel for FSHC will be Kevin Walsh, Esq., “lead” counsel for NJBA will be Thomas Carroll, Esq., and “lead” counsel for NJLOM will be Edward Buzak, Esq. Richard Hoff, Esq. will coordinate the selection of “lead” and “second seat” counsel for all participating

⁴ Richard B. Reading was appointed by the Court by Order entered on February 5, 2016.

defendant intervenors. John Belardo, Esq. will coordinate the selection of “lead” and “second seat” counsel for all participating plaintiff municipalities which are members of the Vicinage 13 Municipal Group. Any municipality which is not a member of the Vicinage 13 Municipal Group shall not be entitled to participate in the hearing(s) / trial referenced in paragraph 1 of the within Order unless it has directly retained an expert to testify during the hearing(s) / trial.

16. Briefs regarding (1) Affordable Housing Compliance Issues; and (2) the issue of whether there is an obligation for the “so-called gap period” (from 1999 – 2015), shall be filed and served on all counsel no later than April 15, 2016. Any and all responding briefs shall be filed and served no later than May 6, 2016. The issues shall be decided by the Court as motions for summary judgment to the extent that issues may be decided on undisputed material facts. Argument will be scheduled at the Court’s discretion and a decision made as soon as thereafter as practicable. No formal notices of motion need be filed.

17. The hearing(s) / trial on the issues of methodology and calculation of the state, regional and municipal fair share housing need and allocation and housing compliance standards is anticipated to be no earlier than September 5, 2016. Once scheduled, the Court shall strive to continue the trial “day to day” until completed.⁵ Municipalities that are not members of the Vicinage 13 Municipal Group shall not be entitled to rely upon any discovery, motions, briefs or work product produced or filed with the Court on behalf of and/or by counsel for the Vicinage 13 Municipal Group.

18. Sixty (60) days from the conclusion of the hearings / trial referenced in paragraph 17 above and the entry of an Order establishing Third Round municipal fair share allocations, all Housing Element and Fair Share Plans shall be adopted and endorsed and submitted to the Court, the Special Masters, the intervenors and interested parties.

19. The “temporary immunity” from “Mt. Laurel Lawsuits” previously awarded to all of the Municipal parties in the matters within Vicinage 13 as listed below (paragraph 20) shall be extended and continued without prejudice to October 31, 2016. Any party who seeks to challenge the award of “temporary immunity” or this Court’s extension of the immunity award provided to any particular Municipalit(ies) shall do so by Notice of Motion filed in accordance with the New Jersey Court Rules. Copies of any Motion filed shall be served upon counsel for the Municipality,

⁵ The Court recognizes the difficulties that will likely be encountered when scheduling all of the parties, counsel, Special Masters and experts so that it is anticipated that scheduling will require flexibility.

FSHC, the Court-Appointed Special Master for that Municipality, the Special Regional Master, any parties recognized by the New Jersey Supreme Court as parties entitled to notice of all Mt. Laurel issues in In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), as well as the Court. Any such Motion shall provide, with particularity, the reasons why the award of temporary immunity should be reevaluated, including, if applicable, (1) any claims that the Municipality has not complied with the conditions for the issuance of temporary immunity that was imposed by the Court, or (2) matters that materially undermine representations made by the particular Municipality in this matter, or (3) matters that have materially changed or arisen during the pendency of this Court grant of temporary immunity that are inimical to the Municipality's constitutional obligation to provide for low and moderate income housing. In that regard, the Court will seek input from the Court-Appointed Special Master concerning the particular issue(s) that may be raised.⁶

20. A copy of this Order shall be served electronically upon all counsel of record and otherwise be made available to all interested parties as directed by the New Jersey Supreme Court in Mount Laurel IV within 3 days of receipt hereof.


HON. THOMAS C. MILLER, P.J.Cv.

⁶ This paragraph shall not apply to Branchburg Township which is the subject of a particular "immunity" Order issued simultaneously herewith.

APPENDIX A

The following is a complete list of the matters filed within each County:

SOMERSET COUNTY

In the Matter of the Township of Bedminster	SOM-L-914-15
In the Matter of the Township of Bernards	SOM-L-899-15
In the Matter of the Borough of Bernardsville	SOM-L-925-15
In the matter of the Township of Branchburg	SOM-L-898-15
In the Matter of the Township of Bridgewater	SOM-L-934-15
In the Matter of the Borough of Far Hills	SOM-L-903-15
In the Matter of the Township of Franklin	SOM-L-866-15
In the Matter of the Township of Green Brook	SOM-L-929-15
In the Matter of the Township of Hillsborough	SOM-L-900-15
In the Matter of the Township of Montgomery	SOM-L-924-15
In the Matter of the Borough of North Plainfield	SOM-L-935-15
In the Matter of the Borough of Peapack-Gladstone	SOM-L-905-15
In the Matter of the Borough of Raritan	SOM-L-926-15
In the Matter of the Borough of Rocky Hill	SOM-L-901-15
In the Matter of the Township of Warren	SOM-L-904-15
In the Matter of the Borough of Watchung	SOM-L-902-14

HUNTERDON COUNTY

In the Matter of the Township of Alexandria	HNT-L-300-15
In the Matter of the Township of Bethlehem	HNT-L-316-15
In the Matter of the Borough of Bloomsbury	HNT-L-298-15
In the Matter of the Township of Clinton	HNT-L-315-15
In the Matter of the Town of Clinton	HNT-L-304-15
In the Matter of the Township of East Amwell	HNT-L-306-15
In the Matter of the Borough of Flemington	HNT-L-308-15
In the Matter of the Township of Franklin	HNT-L-314-15
In the Matter of the Township of Frenchtown	HNT-L-309-15
In the Matter of the Borough of Glen Gardner	HNT-L-302-15
In the Matter of the Borough of High Bridge	HNT-L-310-15
In the Matter of the Township of Kingwood	HNT-L-317-15
In the Matter of the City of Lambertville	HNT-L-311-15
In the Matter of the Borough of Lebanon	HNT-L-321-15
In the Matter of the Township of Lebanon	HNT-L-299-15
In the Matter of the Township of Milford	HNT-L-303-15
In the Matter of the Township of Raritan	HNT-L-312-15
In the Matter of the Township of Readington	HNT-L-301-15
In the Matter of the Township of Tewksbury	HNT-L-313-15
In the Matter of the Township of Union	HNT-L-305-15
In the Matter of the Township of West Amwell	HNT-L-307-15

WARREN COUNTY

In the Matter of the Township of Allamuchy	WRN-L-232-15
In the Matter of the Borough of Alpha	WRN-L-233-15
In the Matter of the Town of Belvidere	WRN-L-238-15
In the Matter of the Township of Blairstown	WRN-L-226-15
In the Matter of the Township of Franklin	WRN-L-224-15
In the Matter of the Township of Frelinghuysen	WRN-L-231-15
In the Matter of the Township of Greenwich	WRN-L-228-15
In the Matter of the Township of Hackettstown	WRN-L-234-15
In the Matter of the Township of Hardwick	WRN-L-240-15
In the Matter of the Township of Harmony	WRN-L-239-15
In the Matter of the Township of Hope	WRN-L-237-15
In the Matter of the Township of Independence	WRN-L-246-15
In the Matter of the Township of Knowlton	WRN-L-215-15
In the Matter of the Township of Lopatcong	WRN-L-241-15
In the Matter of the Township of Mansfield	WRN-L-242-15
In the Matter of the Township of Oxford	WRN-L-243-15
In the Matter of the Township of Pohatcong	WRN-L-220-15
In the Matter of the Borough of Washington	WRN-L-230-15
In the Matter of the Township of Washington	WRN-L-244-15
In the Matter of the Township of White	WRN-L-245-15