

Our File No.: W525
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IN THE MATTER OF THE TOWNSHIP OF WARREN FOR A JUDGMENT OF COMPLIANCE OF ITS THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN : SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: SOMERSET COUNTY
: DOCKET NO.: SOM-L-904-15
: (MOUNT LAUREL)
: *Civil Action*
: **ORDER ON FAIRNESS AND
PRELIMINARY COMPLIANCE HEARING**

THIS MATTER, having been opened to the Court by the law firm of DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C., attorneys for the Township of Warren (the “Township”) by way of declaratory judgment action brought pursuant to Mount Laurel IV, 221 N.J. 1 (2015), Jeffrey B. Lehrer, Esq. and Steven A. Kunzman, Esq., appearing, in the presence of Adam G. Gordon, Esq., attorney for Interested Party, Fair Share Housing Center, Inc. (“FSHC”), and Robert A. Kasuba, Esq. of Bisgaier Hoff, LCC. for K. Hovnanian North Jersey Acquisitions, LLC (“K. Hovnanian”); Brett E. Tanzman, Esq. of the Wilf Law Firm, LLP for Hillcrest Crossing, LLC d/b/a Premier Developers (“Premier”) and North Hill Developers, Inc., and Tracy A. Siebold, Esq. of Nehman, Perillo & Davis, P.C. for Chase Partners Warren, LLC and 284 King George Road LLC (collectively “Chase”) by way of Fairness and Preliminary Compliance Hearing held on December 4, 2018 pursuant to and in accordance with East/West

Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996); and sufficient notice of this hearing having been given in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”) and Morris County Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div. 1984); and the Court having considered the report dated November 30 , 2018 and the testimony of the Court-appointed Special Master, Francis J. Banisch III, PP, AICP, the testimony of the Township’s Planner, John T. Chadiwck, IV, and the Court having considered the Settlement Agreement entered into between the Township, FSHC, K. Hovnanian, Premier, and Chase signed by the Township on October 12, 2018 (the ‘Settlement Agreement’); and the Court having considered the testimony and presentations of the Township, the Special Master, and counsel for FSHC; and objections to the Settlement Agreement having been submitted in writing and in person to the Court by (i) Linda Coughlin, appeared as a self-represented litigant on her own behalf, Mark McCarthy, appeared as a self-represented litigant on his own behalf, Rick dePinho, appeared as a self-represented litigant on his own behalf, James C. Burd, appeared as a self-represented litigant on his own behalf, Berkeley Heights Township, appeared through its counsel, Erik Nolan, Esq. of the firm of Jeffrey R. Surenian and Associates, LLC, and Matt Jessup, Esq. of the firm of McManimon, Scotland & Bauman, LLC, George Vetter, appeared as a self-represented litigant on his own behalf, and Derrick Freijomil, Esq, of the law firm of Riker, Danzig, Scherer, Hyland & Perretti, LLP appeared on behalf of the Warren Township Sewerage Authority (the “Authority”); and the following exhibits having been entered into the record by the Township at the time of the hearing:

- A. Settlement Agreement dated as of October 12, 2018-Plaintiff’s Exhibit 1;

B. Affidavit of Service dated November 29, 2018-Plaintiff's Exhibit 2; and

C. Affordable Housing Project Locations dated October 10, 2018 prepared by John T. Chadwick, IV, PP, Township Planner-Exhibit 3; and good cause having been shown;

IT IS on this 18th day of December, 2018, **ORDERED** that:

1. The Court, by and through its opinion dated December 10, 2018 (the terms of which are incorporated herein as though set forth at length herein) finds that: (a) the Settlement Agreement has apparent merit; (b) notice was given to those who have an interest in the settlement; (c) a hearing was conducted on the Settlement Agreement where those affected had sufficient time to prepare and submit written comment; and (d) the Settlement Agreement is fair and reasonable to members of the protected class, low and moderate income persons.

2. The Court further finds that the Settlement Agreement is fair and adequately protects the interests of low and moderate income persons within the Township's housing region based upon the criteria set forth in East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) for approving a settlement of Mount Laurel litigation; and

3. The Court preliminarily finds that the Township's Planner's testimony and that of the Special Master regarding the steps to implement the Settlement Agreement is facially constitutionally compliant and provides a fair and reasonable opportunity of at least 150 days from the date of this Order for the Township to meet its obligation under Mount Laurel IV, including satisfaction of the list of conditions set forth in the Court's Special Master's report of November 30, 2018, attached as **Exhibit A** thereto, and as set forth on the Opinion of the Court dated December 10, 2018, and subject to the Court's approval by way of a Final Compliance Hearing to be held after the one-hundred and fifty (150) day period as hereinafter set forth; and

4. A Final Compliance Hearing shall be scheduled after one-hundred and fifty (150) days from the date of this Order, by which time the Township shall have complied with the above-referenced conditions, shall have submitted to the Special Master for review and comment the Township's Housing Element and Fair Share Plan and all Resolutions, Ordinances and other documents required to implement the Housing Element and Fair Share Plan, and shall have provided for the Township Planning Board to finalize and adopt the Housing Element and Fair Share Plan and the Township Committee to endorse same and to adopt all necessary effectuating Resolutions and Ordinances; and

5. It is recognized by this Court that a certain First Amendment to Settlement Agreement (the 'First Amendment') has been negotiated by the Township Attorney for the Township and Adam Gordon, Esq. of FSHC regarding implementation of all deadlines to comply with the above-referenced conditions. The Township shall proceed in good faith and continuity of purpose to meet the deadlines in the First Amendment, it being understood, however, that the one-hundred and fifty (150) day time frame set forth in this Order shall be controlling; and

6. The temporary immunity previously granted to the Township herein is hereby extended until the entry of a Final Judgement of Compliance and Repose in this matter, whereupon the Township will be entitled to a final Judgment of Compliance and Repose through July 1, 2025; and

7. The Township is relieved from any further obligation to contribute to the costs of the Special Methodology Master, Richard Reading; and

8. A copy of this Order shall be served upon all parties on the service list in this matter within five (5) days of the Borough's receipt thereof.

/s/ THOMAS C. MILLER, P.J.Cv.
HONORABLE THOMAS C. MILLER, P.J.Civ.

Opposed

Unopposed