

Superior Court of New Jersey
Camden Vicinage

Chambers of
NAN S. FAMULAR
Presiding Judge Chancery



RECEIVED
JUN 28 2016
LAW DEPARTMENT

Camden County Hall of Justice
101 S. Fifth Street, Suite 640
Camden, New Jersey, 08103-4001
(856) 379-2367

June 27, 2016

Robert N. Wright, Jr., Esquire
820 Mercer Street
P.O. Box 5002
Cherry Hill, New Jersey 08034

Kevin D. Walsh, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, New Jersey 08002

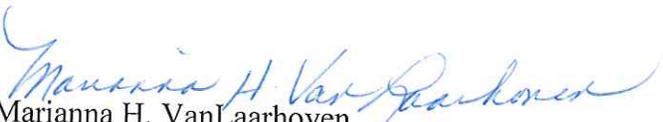
Jeffrey R. Surenian, Esquire
707 Union Avenue, Suite 301
Brielle, New Jersey 08730

Re: In the Matter Township of Cherry Hill, County of Camden
Docket No.: L-2609-15

Dear Counsel:

Enclosed please find an Order in the above captioned matter. Please provide a copy to all parties. Thank you.

Very truly yours,


Marianna H. VanLaarhoven
Secretary to the Hon. Nan S. Famular, P.J.Ch.

/mv
Encl.

TRUE COPY

RECEIVED
JUN 28 2016
LAW DEPARTMENT

ROBERT N. WRIGHT, JR. ESQUIRE (034382000)

Solicitor, Cherry Hill Township

820 Mercer Street

P.O. Box 5002

Cherry Hill, NJ 08034-0358

(856) 488-7842

Attorney for Township of Cherry Hill

IN THE MATTER
TOWNSHIP OF CHERRY HILL,
COUNTY OF CAMDEN

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CAMDEN COUNTY

DOCKET NO: L -2609-15

THIRD ROUND JUDGMENT OF
COMPLIANCE AND REPOSE

THIS MATTER having come before the Court for a Compliance Hearing on March 30, 2016 to evaluate the Township of Cherry Hill's Compliance with its obligations under the Fair Housing Act by Robert N. Wright Jr., Solicitor for Cherry Hill Township; and

WHEREAS, Adam Gordon, Esq., appearing on Plaintiffs Fair Share Housing Center, Inc., and Plaintiffs Camden County and Southern Burlington County Branches of the NAACP, Plaintiffs in the matter captioned Fair Share Housing Center, Inc., Camden County Branch of The N.A.A.C.P.; Southern Burlington County Branch of The N.A.A.C.P vs. Township of Cherry Hill, Township of Cherry Hill Planning Board; Township of Cherry Hill Zoning Board, Docket No.: L-04889-01; and

WHEREAS, on July 7, 2015 the Township of Cherry Hill (“Township”) filed a Complaint for Declaratory Relief Pursuant to the Mount Laurel Doctrine to determine whether the Township was in compliance with its Third Round obligations under the Fair Housing Act and related issues; and

WHEREAS, on July 22, 2015 a Prior Round Judgment of Compliance and Repose was granted in favor of the Township; and

WHEREAS the Court scheduled the Township’s Housing Element and Fair Share Plan (“Plan” or “Third Round Plan”) for a Compliance Hearing to be held March 30, 2016, and for the Township to provide notice thereof; and

WHEREAS, Notice of the Compliance Hearing was provided to all parties on the Service List for this matter; and

WHEREAS, the Notice of Compliance Hearing was published in the Courier Post on February 19, 2015; and

WHEREAS, the Plan and related documents were made available for public review in the Township Clerk’s office as well the Township’s website on December 23, 2015 and at all times thereafter; and

WHEREAS, the Notice of Compliance Hearing provided that objections to the Plan were to be filed with the Court and provided to all parties to this matter on or before March 18, 2016; and

WHEREAS, no objections were filed or received to the proposed Plan, except that filed by Plaintiffs in Docket No.: L-04889-01, which was resolved prior to the commencement of the Compliance Hearing as set forth on the record and herein; and

WHEREAS, the Court has considered the argument of counsel, and testimony placed the record on March 30, 2016, and for good cause shown;

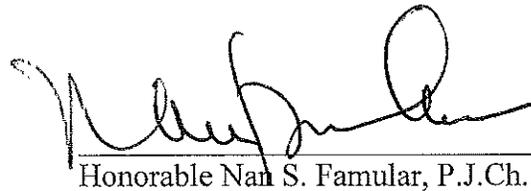
IT IS on this 21st day of ~~April~~ June, 2016 Ordered and Adjudged nunc pro tunc as follows: WSP

1. The Court hereby accepts and incorporates by reference the Township's Housing Element and Fair Share Plan admitted into evidence at the Compliance Hearing of March 30, 2016 which was adopted by the Cherry Hill Township Planning Board on March 7, 2016 and endorsed by Cherry Hill Township on March 14, 2016, except as specifically set forth herein ("Third Round Plan").
2. Judgment of Compliance and Repose for the Township is hereby entered in favor of the Township formally declaring that the Township has satisfied its fair share obligations with respect to its Prior Round and Third Round.
3. The Township is hereby granted a final judgment of repose and immunity from exclusionary zoning lawsuits for a period of ten (10) years from the entry of this Order.
4. The Court hereby declares that the Township has satisfied its Prior Round Obligation as set forth in the July 22, 2015 Judgement of Compliance, as amended and superseded by the Third Round Plan filed in this action and this Judgement.
5. Specifically, the Township's unmet need shall be met with the mechanisms set forth in the Third Round Plan, except as amended by the Stipulation of the Parties attached hereto as Exhibit A, and not the mechanisms approved in the Second Round Judgment of Compliance and Repose entered in Fair Share Housing Center, Inc., Camden County Branch of The N.A.A.C.P.; Southern Burlington County Branch of The N.A.A.C.P vs. Township of Cherry Hill, Township of Cherry Hill Planning Board; Township of Cherry Hill Zoning Board, Docket No.: L-04889-01.
6. All other requirements of the Second Round Judgment of Compliance and Repose, as well as the Settlement Agreement entered into between Plaintiffs and the

Township of Cherry Hill in Fair Share Housing Center, Inc., Camden County Branch of The N.A.A.C.P.; Southern Burlington County Branch of The N.A.A.C.P vs. Township of Cherry Hill, Township of Cherry Hill Planning Board; Township of Cherry Hill Zoning Board, Docket No.: L-04889-01 which is Appendix C to the Third Round Plan (“Settlement Agreement”) shall remain in full force and effect, except as amended by the Stipulation of the Parties attached hereto as Exhibit A.

7. The Court hereby declares the Township is entitled to a vacant land adjustment in accordance with the N.J.A.C. 5:93-4.2.
8. The Court finds and declares that the Township’s Realistic Development Potential (RDP) is fixed and is hereby established at a total of 1,912 units and shall not be revisited absent a substantial changed circumstance as set forth in the Third Round Plan.
9. The Township’s Cumulative Round Prospective Need Compliance Chart included in the Township’s Third Round Plan shall be replaced with the Amended Cumulative Round Prospective Need Compliance Chart attached as Exhibit B to this Judgment, which excludes the Wallworth-Cherry Parke and Syms overlays as the parties have agreed that these are not viable mechanisms for addressing the Township’s unmet need at this time.
10. The Court finds and declares that the Township has created a realistic opportunity for affordable housing in excess of its RDP as set forth in the Amended Cumulative Round Prospective Need Compliance Chart of the Township’s Third Round Plan, and has further adequately addressed its unmet need as set forth in its Third Round Plan.
11. The Township shall take such necessary steps in implementing the Township’s Housing Element and Fair Share Plan within 45 days of the entry of the Judgment of Repose and Compliance.
12. The Township may amend its Third Round Plan to lower its Third Round Obligation, consistent with and if permitted by Paragraph 4.b.ii. of the Settlement Agreement.

13. The within Judgment fully disposes of and adjudicates all affordable housing issues associated with the Township's Prior and Third Round Obligation pursuant to the Fair Housing Act. The said Complaint is hereby dismissed with prejudice and without costs.
14. The Township is hereby determined and adjudged to have committed funds within its Affordable Housing Trust Fund pursuant to N.J.S.A. 52:27D-329.2 and 329.3, in furtherance of the implementation of the Township's Third Round Plan.
15. The Township is further authorized to utilize funds from its Affordable Housing Trust Fund in furtherance of its Third Round Plan.



Honorable Nan S. Famular, P.J.Ch..

EXHIBIT "A"

FINAL 5-6-16

ROBERT N. WRIGHT, JR. ESQUIRE (034382000)
Solicitor, Cherry Hill Township
820 Mercer Street
P.O. Box 5002
Cherry Hill, NJ 08034-0358
(856) 488-7842
Attorney for Township of Cherry Hill

FAIR SHARE HOUSING CENTER, INC.; ET
AL

v.

CHERRY HILL TOWNSHIP; ET AL

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CAMDEN COUNTY

DOCKET NO: L -04889-01

STIPULATION RESOLVING OBJECTION
FILED BY FAIR SHARE HOUSING
CENTER AND CAMDEN COUNTY AND
SOUTHERN BURLINGTON COUNTY
BRANCHES OF THE NAACP.

WHEREAS on March 28, 2016, Kevin Walsh, Esq., of Fair Share Housing Center, attorney for Fair Share Housing Center and Camden County and Southern Burlington County Branches of the NAACP ("Objectors") filed an objection to the Housing Element and Fair Share Plan ("Third Round Plan") of the Township of Cherry Hill in the above captioned matter; and

WHEREAS, on March 29, 2016, Robert N. Wright, Jr., Esq., Solicitor for the Township of Cherry Hill ("Township") submitted a letter to the Court opposing said objection; and

WHEREAS, the claim asserted by the Objectors was that the Township was in default of the terms of the Settlement Agreement entered into between the Township and the Plaintiffs in the matter captioned Fair Share Housing Center, Inc., Camden County Branch of The N.A.A.C.P.; Southern Burlington County Branch of The N.A.A.C.P. vs. Township of Cherry Hill, Township of Cherry Hill Planning Board; Township of Cherry Hill Zoning Board, Docket No.: L-04889-01, and dated on June 18, 2015 ("Settlement Agreement"); and

WHEREAS, on March 30, 2016, prior to the scheduled Compliance Hearing on the Township's Third Round Plan, the parties were able to amicably resolve the objection filed by the Objectors consistent with the terms set forth herein; and

WHEREAS, at the Compliance Hearing the Court heard testimony and argument of Counsel, consistent with the terms set forth herein, and granted the Township a Third Round Judgement of Compliance and Repose; and

NOW THEREFORE, IN CONSIDERATION OF THE PROMISES, TERMS AND CONDITIONS SET FORTH HEREIN, INTENDING TO BE LEGALLY BOUND HEREBY, PLAINTIFFS AND TOWNSHIP STIPULATE AND AGREE AS FOLLOWS:

1. As used herein, the term "Plaintiffs" shall have the same meaning as used in the Settlement Agreement, and all parties included in the term Plaintiffs in the Settlement Agreement are bound by and agree to the terms set forth in this Stipulation.
2. All the terms and conditions set forth in the Settlement Agreement shall remain in full force and effect, and neither party has waived their rights to enforce those terms under the Settlement Agreement unless expressly modified by this Stipulation.
3. The Settlement Agreement and all its terms and conditions are incorporated into this Stipulation as if fully stated herein. The parties agree that neither party is in default in compliance with the terms of that Settlement Agreement; any alleged default having been cured by the terms of this Stipulation.
4. The Settlement Agreement shall be modified as follows:
 - a. References to Kimco-Brace Road, Kimco-Route 70, and Woodcrest Shopping Center in paragraph 2, on page 5 and on page 6 shall be deleted. The Township shall have no obligation to adopt overlay zoning on the Kimco-Brace Road, Kimco-Route 70, and Woodcrest Shopping Center.
 - b. The Parties stipulate and agree that the Third Round Plan presented to the Court at the Compliance Hearing on March 30, 2016 fully satisfies the Township's obligations under paragraph 4 of the Settlement Agreement.

- c. Paragraph 9 g. shall be deleted and replaced with the following:

EFE intends to apply to apply for tax credits as part of the Family Housing cycle of the New Jersey Housing and Mortgage Finance Agency's Qualified Allocation Plan. If that application is successful, EFE will include seven (7) units within the project for individuals with special needs. These units shall be applied toward the project and the Township's obligation to provide housing for very low income households. The Township agrees to make \$125,000 of the affordability assistance referenced in paragraph 9.d.ii. available at the initial construction closing relative to Low Income Housing Tax Credits. EFE shall also seek ongoing project-based rental subsidies available through various state or federal housing programs. In the event that EFE is unsuccessful at obtaining ongoing project-based rental subsidies available through state or federal housing programs prior to closing, and in view of the low rents projected to be charged for units occupied by people with special needs (affordable at 20% of AMI), Cherry Hill agrees to provide \$12,500 annually for a period of ten (10) years to EFE on or before January 5th of each year beginning on the January 5th following the first year that the units of the project are occupied, which funds shall be used to pay staff who coordinate services for or otherwise directly assists persons with special needs.

5. Within five (5) years of the entry of the Judgement of Compliance and Repose in this matter, in accordance with N.J.S.A. 52:27D-310.1, the Township shall create an opportunity for thirty-seven (37) additional units of family affordable housing, which meet the affordability spread and bedroom distribution required by N.J.A.C. 5:80-26.3 through mechanisms and on sites that are not identified in the Cumulative Round Prospective Need Compliance Chart ("Compliance Chart") attached as Exhibit B to the Judgement of Compliance and Repose. If sites identified in the Compliance Chart yield more opportunities for affordable housing than set forth in the Compliance Chart, the additional units shall be applied toward the 37 unit obligation. Of the 37 units, at least 5 shall be 3 bedroom units, and no more than 7 shall be one bedroom or studio units. If the Township fails to create said opportunities, Plaintiffs may recommend, in writing, no later than thirty (30) days of the five (5) year anniversary of the Judgement of Compliance and Repose, a site or sites which Plaintiffs believe would be

appropriate for mixed income overlay zoning to satisfy the remainder of this thirty-seven (37) unit unmet need.

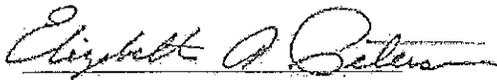
- a. Upon receipt of the recommendations of Plaintiffs, the Planning Board shall consider Plaintiffs' recommendation and either take appropriate steps to amend the Third Round Plan to incorporate Plaintiffs' recommendation or include other mechanisms to satisfy the remainder of this thirty-seven (37) unit unmet need with family units in accordance with the standards set forth above.
- b. If the Township does not adopt the recommended overlays of Plaintiffs within ninety (90) days of the request being made, Plaintiffs may request that the Special Master review whether the Township's response is acceptable in the context of the Township's overall plan to meet unmet need. If the Special Master finds that the Township's response is acceptable, Plaintiffs shall have no further rights to challenge the Township's manner of addressing unmet need. If the Special Master finds the response unacceptable, the Special Master shall attempt to mediate the dispute for a 60-day period before any further proceedings may occur.
- c. Should the Township create an opportunity for affordable housing through mechanisms that are not set forth in the Cumulative Round Prospective Need Compliance Chart, but not the full thirty-seven (37) units set forth above, the Township's obligation to adopt overlay zones under the terms of this Stipulation shall be limited to a site or sites that would yield the difference between the number of additional opportunities created and the thirty-seven (37) units agreed upon.
- d. The Parties agree that the sites listed in paragraph 3 of the Settlement Agreement shall not be recommended nor considered as available for overlays to meet the obligations under this paragraph.
- e. For the purposes of this paragraph, the Township shall be considered to have satisfied its obligation to create an opportunity for affordable housing if the unit has a pending or approved site plan application in full conformance with applicable zoning, GDP approval or an approved variance, or is otherwise actually available for occupancy by low- and moderate-income families in conformance with the standards set forth in this paragraph as of the five (5) year anniversary and creditable pursuant to N.J.A.C. 5:93.

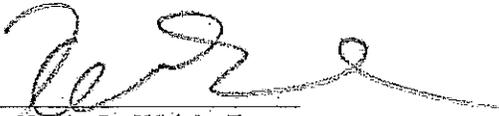
6. The Parties agree that the Cumulative Round Prospective Need Compliance Chart attached as Exhibit B to the Judgment of Compliance and Repose, and as testified to by Art Bernard at the Compliance Hearing on March 30, 2016 demonstrates that the Township has created a realistic opportunity for affordable housing in excess of its RDP and has further adequately addressed its unmet need with the mechanisms set forth there and in the Township's Third Round Plan.
7. The Settlement Agreement, as amended by the terms set forth in this Stipulation constitutes the entire Agreement between the Parties hereto and supersedes all prior oral or written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.

IN WITNESS WHEREOF, the Plaintiffs and Township hereto have caused this Agreement to be properly executed and attested to this 20th day of June, 2016.

ATTEST:

Plaintiffs Fair Share Housing Center and
Camden County and Southern Burlington
Branches of the NAACP

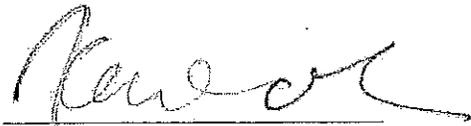


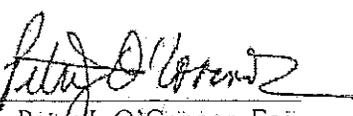
By: 

Kevin D. Walsh, Esq.
Fair Share Housing Center
Counsel for Plaintiffs

Dated: 6/14/2016

Fair Share Housing Development, Inc. and
Evans-Francis Estates Associates, LP



By: 

Peter J. O'Connor, Esq.
Fair Share Housing Development
Executive Director

Dated: 6/16/2016

Cherry Hill Township

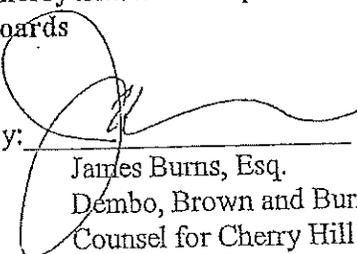
Mary C. Romanoli

By: 
Robert N. Wright, Esq.
Solicitor, Cherry Hill Township

Dated: 6/17/16

Cherry Hill Township Planning and Zoning
Boards

Mary C. Romanoli

By: 
James Burns, Esq.
Dembo, Brown and Burns
Counsel for Cherry Hill Township Planning
and Zoning Boards

Dated: 6/17/2016

FINAL 5-6-16

Joan E Young

Cherry Hill Township Zoning Board

By: 

Allen S. Zetter, Esq.
Zeller & Wieliczko, LLP
Counsel for Cherry Hill Township
Zoning Board

Dated: June 20, 2016

EXHIBIT "B"

CUMULATIVE ROUND PROSPECTIVE NEED COMPLIANCE CHART

Development	For Sale	Rental	Special Needs/Supportive	Very Low	Senior	Units	Bonus Credits	Bonus Type	Total Credits
Credits Without Controls	31	-	-	-	-	31			31
Alternative Living	-	4	4	4	-	4			4
Village of St. Mary's	-	-	-	-	150	150			150
Jewish Federation (Saltzman)	-	104	-	-	104	104			104
Gesher House (Dubin)	-	75	-	-	75	75			75
Sergi Farms	-	120	-	-	-	120	120	FR	240
Sergi Commons (aka MSAA Commons)	-	26	26	26	-	26	26	SN/S	52
Brunetti	-	36	-	-	-	36	36	FR	72
Legnola	2	-	-	-	-	2			2
ARHAT	-	38	-	-	-	38	38	FR	76
Scattered Site Sales	70	-	-	-	-	70			70
Alternative Living	-	-	56	56	-	56	56	SN/S	112
Dwell At Cherry Hill	-	35	-	-	-	35	35	FR	70
Garden State Park - Constructed	14	12	-	-	-	26	12	FR	38
Garden State Park - Planned/Approved	53	161	-	-	105	188			188
Centura	32	-	-	-	-	32			32
Benedict's Place	-	74	-	-	74	74	18	AR/S	92
St. Thomas	-	6	-	-	6	6			6
The Grand	-	3	-	1	-	3	3	FR	6
Least Cost Housing	116	-	-	-	-	116			116
Regency Court	-	7	7	7	-	7	6	SN/S	13
Spring Hills	-	15	15	15	15	15			15
Group Homes 2013	-	35	35	35	-	35			35
Group Homes 2015	-	17	-	17	-	17			17
EFE	-	54	7	7	-	54	54	FR	108
Probuild	-	23	-	3	-	23			23
Hampden Road Redevelopment	-	45	-	6	-	45	45	FR	90
Park Boulevard Redevelopment	-	29	-	4	-	29	29	FR	58
Victory Redevelopment	-	56	-	7	-	56			56
Coastline Assisted Living	-	6	-	6	6	6			6
Village of St. Mary's Extension of Controls	-	150	-	-	150	150			150
ARHAT	-	10	-	-	-	10			10
Subtotal	318	1,141	150	194	685	1,639	478		2,117
Caps					70%		478		
Golden Triangle	-	-	-	-	-	137			137
PATCO	-	-	-	-	-	128			128
LIFED	-	-	32	-	22	54			54
Subtotal						319			319
Cumulative Round Total Credits & Overlays									2,436
Fair Share Ordinance & Development Fee Ordinance									393
Total									2,829
Cumulative Round RDP									1,912
Excess Credits over RDP									205
Cumulative Round Obligation									2,829
Cumulative Round Unmet Need									712

AR/S: Age-Restricted/Senior

FR: Family Rental

R: Rental

SN/S: Special Needs/Supportive Housing

Prior Cycle Credits

Built

Unmet Need Sites

CUMULATIVE ROUND PROSPECTIVE NEED COMPLIANCE CHART

Development	For Sale	Rental	Special Needs/Supportive	Very Low	Senior	Units	Bonus Credits	Bonus Type	Total Credits
Credits Without Controls	31	-	-	-	-	31			31
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Village at St. Mary's	-	-	-	-	150	150			150
Jewish Federation (Saltzman)	-	104	-	-	104	104			104
Gesher House (Dubin)	-	75	-	-	75	75			75
Sergi Farms	-	120	-	-	-	120	120	FR	240
Sergi Commons (aka MSAA Commons)	-	26	26	26	-	26	26	SN/S	52
Brunetti	-	36	-	-	-	36	36	FR	72
Legnola	2	-	-	-	-	2			2
ARHAT	-	38	-	-	-	38	38	FR	76
Scattered Site Sales	70	-	-	-	-	70			70
Alternative Living	-	-	56	56	-	56	56	SN/S	112
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St. Thomas	-	6	-	-	6	6			6
The Grand	-	3	-	1	-	3	3	FR	6
Least Cost Housing	116	-	-	-	-	116			116
Regency Court	-	7	7	7	-	7	6	SN/S	13
Spring Hills	-	15	15	15	15	15			15
Group Homes 2013	-	35	35	35	-	35			35
Group Homes 2015	-	17	-	17	-	17			17
EFE	-	54	7	7	-	54	54	FR	108
Probuild	-	23	-	3	-	23			23
Hampton Road Redevelopment	-	45	-	6	-	45	45	FR	90
Park Boulevard Redevelopment	-	29	-	4	-	29	29	FR	58
Victory Redevelopment	-	56	-	7	-	56			56
Coastline Assisted Living	-	6	-	6	6	6			6
Village at St. Mary's Extension of Controls	-	150	-	-	150	150			150
ARHAT	-	10	-	-	-	10			10
Subtotal	318	1,141	150	194	685	1,639	478		2,117
Caps					707		478		
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PATCO	-	-	-	-	-	128			128
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	Prior Cycle Credits
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	Unmet Need Sites