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IN THE MATTER OF THE ADOPTION
OF THE TOWNSHIP OF
WESTAMPTON HOUSING ELEMENT
AND FAIR SHARE PLAN AND
IMPLEMENTING ORDINANCE.

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BURLINGTON
COUNTY

DOCKET NO.: BUR-L-1625-15

CIVIL ACTION
Mount Laurel Action

**FINAL JUDGMENT OF
COMPLIANCE AND REPOSE**

THIS MATTER comes before the Court upon the Declaratory Judgment Complaint of Petitioner Township of Westampton (“Township” or “Petitioner”), seeking a determination that the Township has complied with its *Mount Laurel Obligation*, in accordance with the procedures set forth 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) (*Mount Laurel IV*), and

THE COURT HAVING conducted a Final Hearing, in accordance with the requirements of Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 359, 364 (Law Div. 1984), aff’d o.b., 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328 (App. Div. 1996), upon the Township’s proposed plan to provide for affordable housing, Ronald H. Gordon, Esq. and Christopher D. Zingaro, Esq. of Rainone,

Coughlin & Minchello, LLC appearing on behalf of Petitioner, Barbara Fegley appearing on behalf of the Township as Township planner, Bassam Gergi, Esq. appearing on behalf of Intervenor Fair Share Housing Center (“Intervenor FSHC”), Richard Hoff, Esq. of Bisgaier Hoff LLP appearing on behalf of Intervenor the Diocese of Trenton (“Intervenor Diocese,” and together with Intervenor FSHC “Intervenors”), Craig Gianetti, Esq. of Day Pitney LLP appearing on behalf of interested party Hancock Family LLC, John DeSimone, Esq. of Day Pitney LLP appearing on behalf of interested party Woodmont Properties, LLC, Cheryl Lynn Walters, Esq. of Nehmad, Davis & Goldstein, PC appearing on behalf of DR Horton NJ/PA Inc., and Special Master Francis Banisch AICP, PP (“Special Master”) appearing; and

THE COURT HAVING received the testimony of the Special Master; and

THE COURT HAVING noted receipt of correspondence and exhibits submitted by the Township on May 3, 2021; and

THE COURT HAVING received into evidence the following documents offered by the Special Master:

C-1 Special Master’s Report for Final Compliance Hearing dated May 01, 2021

THE COURT HAVING received into evidence the following documents offered by Petitioner:

P-1 Affidavit of Service filed to the docket on April 28, 2021

P-2 Proof of Publication filed to the docket on April 28, 2021

IT IS this on this 18th day of May, 2021 **HEREBY**

ORDERED AND ADJUDGED:

1. The Court finds that the Township provided adequate notice to the public and all interested parties prior for the scheduled Final Hearing on May 04, 2021.

2. The Court hereby accepts the Township's Housing Element and Fair Share Plan and finds that it creates a realistic opportunity for satisfaction of the Township's Fair Share of low and moderate income housing.
3. The Court hereby grants Final Judgment of Compliance and Repose, subject to the submission of the two documents set forth hereafter at paragraph four, and declares the Township is entitled to protection from Mount Laurel/Constitutional Compliance litigation for the period concluding on July 1, 2025.
4. The Township shall provide to the Special Master and FSHC, within forty-five (45) days from the date of this Final Judgment, with written notification to the Court of such delivery:
 - a. A copy of an Affordability Assistance Manual.
 - b. A copy of a Resolution by the Governing Body Endorsing and Supporting the Township's Housing Element and Fair Share Plan.
5. The Township shall comply with the following condition, as agreed to by counsel for DR Horton NJ/PA Inc. on the record at the Final Hearing:
 - a. On April 7, 2021, the Westampton Township Land Development Board granted DR Horton NJ/PA Inc.'s application for preliminary and final site plan approval and preliminary and final major subdivision approval for Block 204, Lot 2. (Resolution No. 8-2021.) Westampton will ensure that, consistent with the January 29, 2021 review letter of the Board's Planner incorporated into the resolution of approval, the 75 affordable family rental units to be constructed by the applicant shall comply with, among other terms, the bedroom and income distribution (including 13% very-low income within bedroom distribution)

requirements in the R-9 Residential Zone ordinance, shall be integrated within multifamily buildings with market-rate units consistent with the R-9 Residential Zone ordinance, and shall be deed restricted for at least 30 years from the date of initial occupancy unless and until the Township, in its sole discretion, chooses to release the controls. Westampton will also ensure that the 75 affordable family rental units and the 423 market-rate units are constructed in accordance with the phasing schedule in N.J.A.C. 5:93-5.6(d).

6. On the first anniversary of the Settlement Agreement dated December 24, 2019 between the Township and Fair Share Housing Center (the “FSHC Agreement”), and every anniversary thereafter through the end of the FSHC Agreement, the Township agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
7. On the first anniversary of the FSHC Agreement, and every anniversary thereafter through the end of the FSHC Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share

Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

8. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in FSHC Agreement. The Township agrees to comply with those provisions as follows:

- a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms to continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
- b. For the review of very-low-income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the FSHC Agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very-low income requirements, including the family very-low income requirements referenced herein. Such posting shall invite any interested

party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very-low income housing obligation under the terms of the FSHC Agreement.

9. The Township's Spending Plan, which was adopted by the Township on October 20, 2020, is approved by the Court and the Township is authorized to immediately expend funds in its Affordable Housing Trust Funds in accordance with said Spending Plan.
10. The expenditure of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and 329.3 with the four-year time period designated pursuant to those provisions beginning to run with the entry of this Order in accordance with the provisions of In Re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super 563).
11. The Township shall not repeal, modify, or amend its Affordable Housing Ordinance, or any zoning ordinance in effect as of the date of this Judgment that affects the use or development of the affordable housing committed to in the FSHC Agreement, except with the Court's approval upon notice and opportunity to be heard to FSHC.

ORDERED that entry of this Final Judgment resolves all issues raised in the Township's Declaratory Judgment Complaint (BUR-L-1625-15). This Judgment constitutes the final judgment in said Declaratory Judgment Complaint;

ORDERED that the Court retains jurisdiction over this matter solely for purposes of enforcement of the Final Judgment of Compliance and Repose and the FSHC Agreement dated December 24, 2019; and

IT IS FURTHER ORDERED that this Order shall be served upon all interested parties within seven (7) days of the date hereof.

/s/ Jeanne T. Covert

Honorable Jeanne T. Covert, A.J.S.C.