



Peter J. O'Connor, Esq.  
Kevin D. Walsh, Esq.  
Adam M. Gordon, Esq.  
Laura Smith-Denker, Esq.  
David T. Rammler, Esq.  
Joshua D. Bauers, Esq.

July 17, 2018

Jonathan E. Drill, Esq.  
Stickel, Koenig, Sullivan, & Drill, LLC  
571 Pompton Avenue  
Cedar Grove, New Jersey 07009

**Re: In the Matter of the Application of the Township of Greenwich,  
County of Warren, Docket No. WRN-L-228-16  
Amendment to Settlement Agreement dated September 18, 2017**

Dear Mr. Drill:

This letter constitutes an amendment to the Settlement Agreement dated September 18, 2017 (the "Settlement Agreement") between the Township of Greenwich ("the Township" or "Greenwich"), the declaratory judgment plaintiff, and Fair Share Housing Center ("FSHC"), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, through the Settlement Agreement, a defendant in this proceeding.

#### Background

The Settlement Agreement was signed by FSHC on September 18, 2017 and by the Township on September 27, 2017.

Paragraph 7 of the Settlement Agreement provides that the Township will satisfy and implement its Third Round affordable housing obligation through the following affordable housing developments in the following manner:

Development	Units
Greenwich Chase (existing development with 29 credits)	29
Block 26, Lot 2 – 100% Affordable Family Rental development	Up to 144
ARC Warren County Group Home	3
Rental Bonuses (100% Affordable, ARC)	51
<b>Total</b>	<b>Up to 227</b>
<b>Surplus</b>	<b>Up to 23</b>

Paragraph 21 of the Settlement Agreement provides that it must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996).

Paragraph 15 of the Settlement Agreement requires that, within one hundred and twenty (120) days of Court's approval of the Settlement Agreement, the Township shall introduce and adopt ordinance(s) amending the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement, and shall adopt a Housing Element and Fair Share Plan, including a Spending Plan, in conformance with the terms of the Settlement Agreement.

On December 7, 2017, a Fairness Hearing was held on the Settlement Agreement by the Honorable Thomas Miller, J.S.C. On December 22, 2017, an order approving the Settlement Agreement was entered by Judge Miller.

On April 11, 2018, the Township Land Use Board adopted a 2018 Housing Element and Fair Share Plan in accordance with the Settlement Agreement.

The Township introduced for first reading the two required implementing ordinances on April 19, 2018 and May 17, 2018 (the Affordable Housing Ordinance #3-2018 and the MF-1 Zone District Ordinance #4-2018) and public hearings on both ordinances were duly noticed and opened on June 21, 2018. As those ordinances were pending, the Township became aware of another potential site for providing part or all of its affordable housing obligation that the Township believes may be preferable as additional and/or replacement site to the current settlement.

The Township has requested that FSHC agree to extend the time set forth in paragraph 15 of the Settlement Agreement within which it must adopt implementing ordinances from April 22, 2018 to November 15, 2018 in order to give the Township time to attempt to negotiate or otherwise revise its affordable housing compliance plan set forth in paragraph 7 of the Settlement Agreement to move all or a portion of its Third Round affordable housing obligation to another site including possibly changing the form of affordable housing development from entirely rental for the Third Round to a mix that may include some for-sale units and at least 25% rental units across the Township's cumulative obligation.

FSHC has agreed to these changes on the condition that (a) they be memorialized in the within Amended Settlement Agreement; (b) that the ultimate ordinances that are adopted and amended Housing Element and Fair Share Plan (if required due to a change in the Township's affordable housing compliance plan as contemplated) be reviewed and approved by the court at an Amended Fairness and Compliance Hearing following a case management conference at which the Township, FSHC and the possible developer of the new site shall participate; and (c) if there is not a revised agreement reached and executed by all parties by October 15, 2018, the Township will adopt the pending ordinances #3-2018 and #4-2018 and any other remaining steps to fully comply with the original settlement agreement no later than November 15, 2018.

#### **Amended Settlement terms**

As such, the Township and FSHC hereby agree to the following terms of an Amended Settlement Agreement:

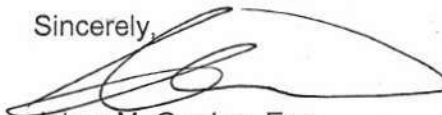
1. Paragraph 15 of the Settlement Agreement is hereby amended to extend the time within which the Township must introduce and adopt ordinance(s) amending the Township's Affordable Housing Ordinance and Zoning Ordinance and to adopt an amended Housing Element and Fair Share Plan, including a Spending Plan, from April 22, 2018 to November 15, 2018, after which time the Court shall conduct a compliance hearing on the ordinances as will the current 2018 Housing Element and Fair Share Plan.
2. If the Township and FSHC agree to revise the affordable housing compliance plan set forth in paragraph 7 of the Settlement Agreement to move all or a portion of its Third Round affordable housing obligation to another site and/or possibly change the form of affordable housing development from entirely rental for the Third Round to a mix that may include

some for-sale units and at least 25% rental units across the Township's cumulative obligation, which will also require adoption of an amended 2018 Housing Element and Fair Share Plan, the ultimate ordinances that are adopted as well as the amended Housing Element and Fair Share Plan shall be subject to approval by the Court following a combined fairness and compliance hearing in accordance with Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996), as may be further described in a further amendment to this Settlement Agreement. If there is not a revised Settlement Agreement reached and executed by all parties by October 15, 2018, then the Township shall proceed with the adoption of ordinances in conformance with the current Settlement Agreement as described in paragraphs 1 above no later than November 15, 2018.

3. Other than the amendment to paragraph 15 of the Settlement Agreement, all terms and conditions of the Settlement Agreement shall remain in full force and effect.


Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.  
Counsel for Intervenor/Interested Party  
Fair Share Housing Center

On behalf of the Township of Greenwich, with the authorization  
of the governing body:

  
\_\_\_\_\_  
PAUL BEAM, DEPUTY MAYOR  
Dated: 7/19/18