

representing the housing rights of New Jersey's poor, for a combined fairness and compliance hearing to determine whether the terms of a settlement by and between the Township and FSHC is fair and reasonable to the interests of low and moderate income persons and whether the Township's plan of compliance and implementation of that plan are constitutionally compliant with the Mount Laurel doctrine as codified in the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (the "FHA"), as recently expounded upon in Mount Laurel IV and In re Declaratory Judgment Actions filed by various Municipalities, 227 N.J. 508 (2017) (Mount Laurel V); and the terms of the settlement are set forth in a written agreement entered into by and between the Township and FSHC dated September 18, 2017, last signed on September 27, 2017 (the "initial agreement"), and a third amendment to the initial agreement dated January 22, 2019, last signed January 25, 2019 (the "third amendment") (the initial agreement and the third amendment constitute the settlement and are referred to as the "Settlement Agreement"), which Settlement Agreement is expressly subject to approval by the Court following a combined fairness and compliance hearing¹; and the Court conducted the combined fairness and compliance hearing on June 18, 2019 in

¹ The initial agreement was approved by the Court as fair and reasonable to low- and moderate-income persons at a fairness hearing conducted on December 7, 2017, and an order approving the initial agreement and preliminarily approving the Township's then compliance plan was entered on December 22, 2017. Because the third amendment substantially changed the initial agreement, a new fairness hearing was required to review it. Additionally, the Township's initial compliance plan was also substantially changed. The within order replaces and supersedes the December 22, 2017 order and also includes a final judgment of compliance and repose.

the presence of Mr. Drill on behalf of the Township and Mr. Gordon on behalf of FSHC, and on proper notice as reflected in the Proof of Service and Publication of Notice of Fairness and Compliance Hearing which was entered into evidence as Exhibit P-1 during the hearing; and the Court heard and considered the testimony of the Township's affordable housing planner Elizabeth ("Beth") McManus, PP, AICP as well as from the Court's special master, Francis ("Frank") Banisch, III, PP & AICP (the "master") during the hearing; and the Court also reviewed and considered the report dated June 14, 2019 submitted by the master (the "master's report") which was entered into evidence as Exhibit C-1 during the hearing; and the master having recommended in the master's report and during his testimony during the hearing that the Court approve the Settlement Agreement as fair and reasonable to low and moderate income persons and that the Court grant a final judgment of compliance and repose to the Township; and the Court determining for the reasons set forth in the master's report and for the reasons set forth on the record on June 18, 2019 that: (a) the Settlement Agreement (which was submitted to the Court via eCourts on May 8, 2019 and is part of the record in this matter) is fair and reasonable to, and adequately protects the interests of, low- and moderate-income persons, and (b) the Township's Housing Element and Fair Share Plan as well all implementing resolutions and ordinances (all of which were submitted to the Court via eCourts on

May 24, 2019 and are part of the record in this matter) are constitutionally compliant; and the Court therefore determining that the within order should be entered approving the Settlement Agreement and granting the Township a Final Judgment of Compliance and Repose; and for good cause otherwise shown;

IT IS ON THIS 28th DAY OF JUNE, 2019, DECLARED, ORDERED AND ADJUDGED AS FOLLOWS:

1. Approval of Settlement Agreement. The Settlement Agreement is hereby approved as fair and reasonable to, and adequately protecting the interests of, low- and moderate-income persons.

2. Grant of Final Judgment of Compliance and Repose. Final Judgment of Compliance and Repose ("FJCR") is hereby entered in favor of the Township in the within declaratory judgment action. The particulars of the FJCR are set forth below.

3. Township is Constitutionally Compliant with its Mount Laurel Affordable Housing Obligations. It is hereby declared, adjudged and ordered that the 2019 Housing Element and Fair Share Plan (the "2019 HE&FSP") adopted by the Township Land Use Board and endorsed by the Township, as well as all resolutions, ordinances and other documents that were adopted by the Planning Board and the Township to implement the 2019 HE&FSP, satisfy the Township's Mount Laurel constitutional obligations under the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. (the "FHA") and under the Mount Laurel

doctrine and line of cases, specifically as set forth in Mount Laurel IV, 221 N.J. 1 (2015), and Mount Laurel V, 227 N.J. 508 (2017).

4. Term of Repose. It is hereby declared, adjudged and ordered that the within FJCR shall remain in effect for 10 years, beginning on July 2, 2015 and ending on July 2, 2025, and during this 10-year period the Township, and the Township Land Use Board shall have repose and immunity from any and all exclusionary zoning lawsuits, including but not limited to "constitutional compliance" lawsuits and "builder's remedy" lawsuits. The grant of repose shall not prohibit action(s) brought by FSHC to enforce the terms of the Settlement Agreement or the court's orders.

5. Third Round Obligations. It is declared, adjudged and ordered that the Township's Mount Laurel affordable housing obligations for the Third Round (1999-2025) period are as follows:

- a. The Township's present need (rehabilitation) obligation is 8 units;
- b. The Township's Prior Round obligation is 41 units; and
- c. The Township's Third Round Gap and Prospective Need obligation is 204 units.

6. Satisfaction of Present Need (Rehabilitation) Obligation. As to satisfaction of the Township's present need obligation, it is declared, adjudged and ordered that the Township's participation in the Warren County Housing Rehabilitation Program ("WCHRP") which provides funds to income-eligible homeowners to repair major systems

in their home in exchange for 99-year affordability controls complies with the Township's 8-unit present need (rehabilitation) obligation. The Township reserves the right to discontinue its participation in the WCHRP for any reason and at any point during the Third Round period provided that, if it does discontinue its participation in the WCHRP it shall satisfy its present need (or its remaining present need) with surplus units from the Third Round. Finally, due to the small present need obligation and the satisfaction of its Third Round Gap and Prospective Need obligation largely if not entirely through rental units, there is no need for the Township to establish a rental rehabilitation program and the Court grants a waiver to the Township from having to establish such a program.

7. Satisfaction of Prior Round Obligation. As to the satisfaction of the Township's Prior Round obligation, it is declared, adjudged and ordered that the 41-unit obligation has been satisfied through the construction of the Greenwich Chase inclusionary family development, which consists of 70 affordable units, 41 of which satisfy the Prior Round obligation in total, and the 29 of which will be applied to the Third Round Gap and Prospective Need obligation as set forth below in the following paragraph.

8. Satisfaction of Third Round Gap and Prospective Need Obligation and Surplus Credits. As to the satisfaction of the Township's Third Round Gap and Prospective Need obligation, it is

declared, adjudged and ordered that the compliance mechanisms set forth on the following chart, including the bonus credits set forth on the chart, satisfy the Township's Third Round Gap and Prospective Need obligation of 204 units:

Development	Credits
Greenwich Chase (29 credits from existing development)	29
Dumont Road Site, Block 26, Lot 2 - 100% Affordable Family Rental development (66 units)	66
Furhman site (Block 40, Lot 1.01) - 100% Affordable Rental Development (64 units)	64
ARC Warren County Group Home (3 bedrooms)	3
Rental Bonuses (from 100% Affordable and ARC above)	51
Total Credits	213
Surplus Credits for use in Future Round	9

As set forth in the chart, if all of the proposed 100% affordable rental housing development is constructed, the Township will have 9 surplus credits. As such, it is declared, adjudged and ordered that the Township may carry over and use the additional credits towards its future rounds of affordable housing obligation in accordance with then existing law.

9. Specific Approval of Spending Plan. It is declared, adjudged and ordered that the Spending Plan adopted by the Township is approved.

10. Specific Approval of Development Fee Ordinance. It is declared, adjudged and ordered that the Development Fee Ordinance

adopted by the Township is approved and the Township is authorized to impose and collect development fees and to maintain those fees in the Township's Affordable Housing Trust Fund and to spend said collected fees in accordance with the Township's Spending Plan. The authorization to impose and collect development fees and to maintain those fees in the Township's Affordable Housing Trust Fund is retroactive to July 2, 2015, the date the Township filed the within declaratory judgment action.

11. Specific Approval of Affirmative Marketing Plan. It is adjudged and declared that the Township's Affirmative Marketing Plan is approved as adopted.

12. Change in the Law. It is hereby adjudged and declared that if a decision of the Superior Court of New Jersey having jurisdiction in Hunterdon County, the Appellate Division of the Superior Court of New Jersey, the New Jersey Supreme Court, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than ten (10%) percent than the total Third Round Gap and Prospective Need Fair Share obligation set forth in the within FJCR, and if that calculation is memorialized in a final judgment that becomes non-appealable, the Township may seek to amend the within FJCR to reduce its Third Round Gap and Prospective Need Fair Share Obligation accordingly. Notwithstanding

any such reduction, the Township shall be obligated to: (a) leave in place any site-specific zoning adopted or relied upon in connection with the 2019 HE&FSP; (b) take all steps necessary to support the development of the 100% affordable rental developments referenced above, and (c) otherwise fulfill fully any remaining Third Round Gap and Prospective Need Fair Share Obligation as set forth above.

Finally, any reduction of the Township's obligation below that set forth above shall not provide a basis for seeking leave to amend the Settlement Agreement and/or the FJCR pursuant to R. 4:50-1 and, if the Township prevails in reducing its Third Round Gap and Prospective Need Fair Share obligation, the Township may carry over and use the additional credits towards its future rounds of affordable housing obligation in accordance with then existing law.

13. Final Judgment but Retention of Jurisdiction for Monitoring Compliance and Resolving Issues. While this order is a final judgment which resolves all issues raised in the litigation, the Court retains jurisdiction over this matter for the purpose of monitoring compliance and being in a position to assist the Township and FSHC in promptly resolving any issues that may arise.

14. Continuation of Special Master. The Court continues the appointment of Frank Banisch, PP, AICP, as special master in this matter for the purpose of assisting the Township and advising the Court regarding the Township's compliance efforts. The special master shall issue reports annually to the Court with copies to the

Township and FSHC. The special master's services shall be paid for by the Township.

15. Service of Order. Counsel for the Township shall provide all parties on the Supreme Court Service List and the Municipal Service List with a copy of this Order within five (5) days of receipt by counsel for the Township of the within Order.

/S/ THOMAS C. MILLER, P.J.Cv.

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

THE COURT FINDINGS OF FACT AND
CONCLUSIONS OF LAW WERE PLACED
ON THE RECORD IN OPEN COURT ON
June 18, 2019.