



# TOWNSHIP OF SOUTH BRUNSWICK

Municipal Building • P.O. Box 190 • Monmouth Junction, NJ 08852-0190

Phone
732-329-4000
TDD
732-329-2017
Fax
732-329-0627

January 6, 2016

Via electronic mail and regular mail

Honorable Douglas K. Wolfson, J.S.C.  
Superior Court of New Jersey  
Middlesex County Courthouse  
56 Paterson Street  
P.O. Box 964  
New Brunswick, NJ 08903-0964

Re: In the Matter of the Application of the Township of  
Old Bridge for a Judgment of Compliance of its Third  
Round Housing Element and Fair Share Plan (Mount Laurel)  
Docket No. MID-L-003997-15  
Our File No. L1347

Dear Judge Wolfson:

I am in receipt of a copy of the Notice of Motion filed by the Township of Old Bridge in the above referenced matter, dated January 5, 2015, which seeks reconsideration of this court's Case Management Order dated December 18, 2015.

To the extent that the motion seeks an order consolidating all pending Middlesex County Mount Laurel cases for purposes of a single trial on the fair share obligation of municipalities, the Township of South Brunswick supports and joins in said motion.

As indicated in my letter to the court dated December 23, 2015, it is clear that there is a wide difference of opinion on Statewide, regional and municipal need and obligations between the experts that have been identified by the parties in this and other Affordable Housing Declaratory Judgment actions pending in Middlesex County. Without question the court will have to conduct a trial on such issues to definitively establish each municipality's fair share obligation. In addition, a determination of acceptable compliance mechanisms must also occur.

Rule 4:38-1 governs the consolidation of actions in the Superior Court. Pursuant to that rule, "when actions involving a common question of law or fact arising out of the same transaction or series of transactions are pending in the Superior Court, the court on a party's or its own motion may order the actions consolidated." Given the common issues and interests of the parties in all pending Middlesex County cases, the court should consolidate all Middlesex County cases for purposes of determining the fair share obligation of each municipality and the acceptable compliance mechanisms available to meet said obligations. This will promote judicial economy, represents the most efficient use of resources of both the court and the parties involved and will result in consistency and uniformity in all pending cases while at the same time provide each party with the opportunity to participate in the determination of these issues. This process would be

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similar to the process previously used by this court in handling the issues related to the 1,000 unit cap. The alternative would involve multiple trials where the evidence presented would be repetitive and time consuming for the court and all parties involved. Separate trials on these issues could also result in inconsistent or conflicting verdicts, leading to confusion, uncertainty and a lack of uniformity in affordable housing compliance and administration.

For the foregoing reasons, as well as those expressed by Steven A. Kunzman, Esq., in his brief to the court, the Township of South Brunswick respectfully submits that the motion for reconsideration be granted and that all pending Middlesex County cases be consolidated for purposes of determining the fair share obligation of each municipality and the acceptable compliance mechanisms available to meet said obligations.

Thank you for your considerations in this matter. If you have any questions or comments, please do not hesitate to contact me.

Respectfully submitted,

Donald J. Sears  
Director of Law

Cc: Steven A. Kunzman, Esq., attorney for Old Bridge  
Robert A. Kasuba, Esq., attorney for AVB  
Henry Kent-Smith, Esq., attorney for Richardson  
Kenneth D. McPherson, Jr., attorney for SBC  
Kevin J. Moore, Esq., attorney for SG  
Brett E. Tanzman, Esq., attorney for Windsor  
Kevin Walsh, Esq., and Adam Gordon, Esq., attorneys for FSHC  
Benjamin Bucca, Jr., Esq., attorney for SB Planning Board  
Christine Nazzaro-Cofone, PP, Special Master  
Elizabeth McKenzie, PP, Special Master  
Michael W. Herbert, Esq., attorney for Plainsboro  
Ronald H. Gordon, Esq., attorney for North Brunswick  
Marguerite M. Schaffer, Esq., attorney for Monroe  
Robert F. Renaud, Esq., attorney for Metuchen  
Leslie London, Esq., attorney for Edison  
Edward Boccher, Esq., attorney for Woodbridge  
Jeffrey Surenian, Esq., attorney for Highland Park  
Kevin Van Hise, Esq., attorney for Cranbury  
John Bruder, Esq., attorney for Dunellen  
James Clarkin, Esq., attorney for Piscataway