

TOWNSHIP OF SOUTH BRUNSWICK

NOTICE OF MOUNT LAUREL FAIRNESS HEARING ON THE SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP OF SOUTH BRUNSWICK AND FAIR SHARE HOUSING CENTER AND OF THE COMPLIANCE HEARING ON THE AMENDED THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF SOUTH BRUNSWICK, COUNTY OF MIDDLESEX

Docket Number: MID-L-4433-17 (consolidated)

PLEASE TAKE NOTICE that, on November 13, 2024, beginning at 10:00 a.m., the Honorable Michael V. Crestitello, Jr., P.J.Cv. of the Middlesex County Superior Court will conduct a "Fairness and Compliance Hearing" in the Matter of the Application of the Township of South Brunswick, Middlesex County, bearing Docket No. MID-L-4433-17 (consolidated) at the Middlesex County Courthouse, Courtroom 401, 56 Paterson Street, New Brunswick, New Jersey, 08903.

The purpose of the Fairness and Compliance Hearing is for the Court to determine: 1) whether the September 18, 2024 Settlement Agreement between Fair Share Housing Center ("FSHC") and the Township of South Brunswick (hereinafter "2024 Settlement Agreement") is fair and reasonable to the region's low- and moderate-income households according to the principles set forth in Morris County Fair Housing Council v. Bonton Twp., 197 N.J. Super. 359 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), and 2) whether the 2024 Amended Third Round Housing Element and Fair Share Plan (hereinafter "2024 Amended Third Round HEFSP") of the Township of South Brunswick satisfies the Township's obligation to provide a realistic opportunity for satisfaction of its Third Round "fair share" of the regional need for housing affordable to low- and moderate-income households, which includes the Township's Third Round Rehabilitation, Prior Round, and Third Round Gap/Prospective Need obligations. The 2024 Settlement Agreement also establishes the Township's Fourth Round Prospective Need obligation, which the parties seek Court approval of as part of the Fairness Hearing portion of this November 13, 2024 Court Hearing, although the compliance measures to address the Township's Fourth Round Prospective Need shall be the subject of a future Fourth Round housing element and fair share plan and future compliance hearing. The Township's fair share obligations have been established based upon the Fair Housing Act ("FHA"), N.J.S.A. 52:27D-301 et seq., and other applicable laws, and the regulations of the Council on Affordable Housing ("COAH") at N.J.A.C. 5:93 et seq., and are memorialized in the 2024 Settlement Agreement entered into between FSHC and the Township of South Brunswick. If the Court determines that the Township has satisfied its obligation to provide a realistic opportunity to satisfy its Third Round Rehabilitation, Prior Round, and Third Round Gap and Prospective Need obligations, it will enter an Amended Final Third Round Judgment of Compliance and Repose ("JOR"), which among other things, will provide South Brunswick Township continued immunity and legal protection (repose) from all Mount Laurel exclusionary zoning lawsuits through July 6, 2025 per the Court's Final Third Round JOR issued on July 6, 2021.

The Township has presented to the Court, and placed on file with the Township Clerk, a copy of the 2024 Settlement Agreement and the 2024 Amended Third Round HEFSP together with appendices, and various other related documents in support of the Township's efforts to secure an approved 2024 Settlement Agreement as well as an approved Amended Final Third Round Judgment of Compliance and Repose. These documents are available for public inspection at the office of the Township Clerk located at 540 Ridge Road, Monmouth Junction, NJ, 08852, and available for review during normal business hours between the hours of 8:30 am and 4:30 pm, Monday through Friday, excepting official holidays.

The Township's fair share can be summarized as follows:

A. The Township's fair share is broken down as follows:

1. The Township's Third Round Rehabilitation obligation is 109.
2. The Township's Prior Round obligation (1987-1999) per N.J.A.C. 5:93 is 841.
3. The Township's Third Round Gap/Prospective obligation (1999-2025) is 1,450.
4. The Township's Fourth Round Prospective obligation (2025-2035) is 1,070.
5. The Township's Fourth Round Rehabilitation obligation will be determined in the future per the 2024 Settlement Agreement.

B. The Township proposes to satisfy each component of its fair share as follows, all through previously approved compliance mechanisms reflected in the Court's issuance of the Township's 2021 Final Third Round JOR:

1. As to its Third Round Rehabilitation obligation of 109, the Township satisfies this component through 95 Third Round rehabilitation credits and through continuation of its rehabilitation program.
2. As to its Prior Round obligation of 841, the Township satisfies this component through compliance mechanisms including completed inclusionary developments providing family affordable for-sale and rental units, existing group homes and special needs housing, completed family and senior 100% affordable rental developments and Prior Round rental bonuses.
3. As to its Third Round Gap and Prospective obligation of 1,450, the Township proposes to satisfy this component through compliance mechanisms including settled and court-approved builder-remedy inclusionary developments to produce family affordable sale and rental units, completed/funded group homes, completed and approved inclusionary developments producing senior affordable units, through the extension of deed restrictions on family/senior/special needs affordable units that would otherwise expire as well as through Third Round rental bonuses.
4. Means to address the Township's Fourth Round Prospective obligation of 1,070 shall be fully set forth in a future Fourth Round HEFSP and will be the subject of a future 2025 fairness and compliance hearing.

The 2024 Settlement Agreement and the 2024 Amended Third Round HEFSP on file with the Township Clerk provides considerably more detail as to the manner in which the Township is satisfying its affordable housing obligations.

Any interested party may file written comments on, or objections to, the 2024 Settlement Agreement and 2024 Amended Third Round HEFSP. Objections must provide: 1) A clear and complete statement as to each aspect of the 2024 Settlement Agreement and 2024 Amended Third Round HEFSP contested by the objector; 2) An explanation of the basis for each objection; and 3) copies of all such expert reports, studies, or other data relied upon by the objector. In order for an objector to offer expert testimony during the Fairness and Compliance Hearing, an accompanying written

expert report must be filed with all interested parties by the deadline below. Per the Court's September 25, 2024 Order, failure to provide written objections shall specifically preclude any person seeking to object to the 2024 Settlement Agreement at the Fairness/Compliance Hearing from doing so.

Such comments or objections, together with copies of any supporting affidavits, expert reports, or other documents, **must be filed in writing**, on or before October 28, 2024, at Noon with the Honorable Michael V. Crestitello, Jr., P.J.Cv., at the Middlesex County Courthouse, 56 Paterson Street, New Brunswick, New Jersey, 08903, with copies of all papers being forwarded by mail or e-mail to:

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Any responses to written objections received, whether by the Township, FSHC or a Developer, shall be filed with the Court, the Special Adjudicator, the Township, FSHC, the Developers and the objector on or before November 4, 2024.

This Notice is intended (a) to inform all interested parties of the existence of the 2024 Settlement Agreement between the Township and FSHC and the 2024 Third Round Amended HEFSP scheduled for action by the South Brunswick Township Planning Board and by the Township Council, and of documents on file that explain the specific manner in which the Township proposes to address its "fair share" of affordable housing; and (b) to explain the consequences of court approval of the 2024 Settlement Agreement and 2024 Third Round Amended HEFSP; namely, immunity from any Mount Laurel lawsuits through July 6, 2025. This Notice does not indicate any view by the Court, the Special Court Adjudicator, the Township, or FSHC as to whether the Court will approve the manner in which the Township proposes to satisfy its fair share.