

BOROUGH OF UPPER SADDLE RIVER

PUBLIC NOTICE OF "FAIRNESS AND COMPLIANCE HEARING" TO APPROVE SETTLEMENT OF MOUNT LAUREL LITIGATION

PLEASE TAKE NOTICE that a "Fairness and Compliance Hearing" will be held on March 25, 2020 at 1:30 p.m. before the Honorable Christine A. Farrington, J.S.C., Superior Court of New Jersey, Law Division, at the Bergen County Justice Center, 10 Main Street, Hackensack, New Jersey 07601 to consider the proposed Settlement Agreement between the Borough of Upper Saddle River ("Borough") and Fair Share Housing Center ("FSHC") in the Mount Laurel action entitled In the Matter of the Application of the Borough of Upper Saddle River, Docket No. BER-L-6121-15. Through this judicial proceeding, the Court will evaluate whether the proposed Settlement Agreement is fair and reasonable to the region's very-low, low and moderate income households according to the principles set forth in Morris County Fair Housing Council v. Boonton Tp., 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). In addition, the purpose of the hearing is to consider whether the Borough's plan as summarized in the Settlement Agreement provides a realistic opportunity to satisfy the Borough's rehabilitation, Prior Round and Third Round "fair share" of the regional need for housing affordable to very-low income, low income and moderate income households pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq., the substantive, applicable regulations of the New Jersey Council on Affordable Housing ("COAH"), the New Jersey Supreme Court's March 10, 2015 decision in the matter of In re: N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015) and other applicable laws and judicial decisions.

Fair Share Housing Center ("FSHC"), a public interest organization representing the housing rights of New Jersey's poor and an interested party in connection with the above-referenced lawsuit, has sought to enhance opportunities for very-low, low and moderate income housing. The Borough and FSHC have resolved various substantive issues concerning the Borough's affordable housing obligation and the means by which the Borough intends to satisfy that obligation, subject to all required public hearings. The terms of the settlement have been memorialized in a final Settlement Agreement executed on behalf of the Borough and FSHC which is available for public inspection and copying during regular business hours at the Office of the Borough Clerk, Borough of Upper Saddle River, 376 West Saddle River Road, Upper Saddle River, New Jersey 07458.

The terms of the settlement with FSHC include, but are not limited to, the following:

1. The Borough has a Prior Round obligation of 206 units, which has been met in part through the following compliance mechanisms which result in 164 credits:

- 17 credits from a Regional Contribution Agreement with Jersey City
- 18 credits for affordable rental units from Pinnacle (East & West)
- 7 credits for affordable sales units from Lancaster (Bendel-Skymark Ct.)
- 24 credits for affordable sales units from Crescent Village
- 52 of 69 credits from Porcelanosa (34 senior and 18 non-age-restricted affordable supportive units for veterans)

- 5 of 25 credits for affordable family rental units at 160-168 East Crescent Avenue
- 41 rental bonus credits (18 from Pinnacle, 5 from 160 East Crescent and 18 from Porcelanosa).

As the result, the Borough has a Prior Round unmet need of 42 units which shall be addressed along with the Borough's Third Round unmet need as set forth in Paragraph 4 below. In addition, the Borough will maintain the zoning adopted as part of Prior Round court proceedings for the following two sites that have not developed: a) Dynasty Building Corp. (Block 302, Lots 18 & 19, Block 307, Lots 4 & 5); and b) Wojcik/Creative Gardens (Block 810, Lot 6).

2. For the purposes of settlement, the parties agree that the Borough's Third Round (1999-2025) Prospective Need obligation is 529.

3. The parties agree that the Borough has a Third Round Realistic Development Potential of 78 units. The Borough intends to satisfy that 78 unit Realistic Development Potential as follows:

- 22 affordable family sales units at Mack-Cali
- 3 affordable assisted living units at 172-176 East Crescent Avenue
- 20 of 25 affordable family rental units at 160-168 East Crescent Avenue
- 17 of 69 affordable age-restricted units at Porcelanosa
- 20 rental bonus credits (20 from 160 East Crescent)

4. The 82 units/credits to be created as set forth above, subtracted from the Third Round obligation of 529 units and added to the remaining Prior Round unmet need of 42 units, results in an unmet need of 489 units which shall be addressed as follows:

- The adoption of Overlay Zoning Ordinances for the following properties:

- Block 1301, Lot 13 – gross density of 20 development units per acre (du/a) with 20% set-aside
- Marron and Company Site (Block 1304, Lots 6, 9 and 10) – gross density of 22 du/a with 20% set-aside
- Block 1304, Lot 7.01 – gross density of 15 du/a with 20% set-aside
- Block 1301, Lots 1.04, 1.11, 1.15, 1.16, 1.18, 1.19, 1.20, 1.21, 1.22, 1.23, 1.24 and 1.25 – gross density of 20 du/a with 20% set-aside (gross density of 25 du/a is permitted for developments over 3 acres)

- The adoption of a Mandatory Set-Aside Ordinance that will require a set-aside of 20% for all new multi-family residential development of 5 or more units that becomes permissible through a use variance, density variance, rezoning or new redevelopment plan.

5. FSHC agrees that the Third Round Prospective Need obligation and the manner of satisfying it as summarized above fully satisfies the Borough's responsibilities regarding its affordable housing obligations under the applicable law.

6. The parties have agreed that should the Borough's Third Round Prospective Need obligation be reduced by more than 10 percent as a result of the application of an opinion or decision by any Court or administrative agency having jurisdiction, the Borough can seek to reduce its Third Round Prospective Need obligation accordingly.

7. Upon the Court's approval of the Settlement Agreement, the Borough shall be granted a 10 year Judgment of Compliance and Repose for the time period of July 1, 2015 to July 1, 2025.

Any interested party, including, without limitation, any very-low, low or moderate income person residing in the housing region, any organization representing the interests of very-low, low and moderate income persons, any owner of property in the Borough, or any organization representing the interests of owners of property in the Borough may file comments on, or objections to, the Settlement Agreement. Such comments or objections, together with copies of any supporting affidavits or other documents, must be filed in writing, on or before March 11, 2020. In addition, any person wishing to be heard, whether or not a written objection has been filed, shall advise of that intention in writing on or before March 11, 2020. Failure to provide such written notice will preclude presentation of any evidence, oral presentation or augment. Written responses by any of the parties to the comments or objections shall be filed on or before March 18, 2020. Such comments, objections and responses, together with copies of any supporting affidavits or other documents, must be filed in writing with the Honorable Christine A. Farrington, J.S.C., Superior Court of New Jersey, Law Division, at the Bergen County Justice Center, 10 Main Street, Hackensack, New Jersey 07601 with copies of all papers being forwarded by mail or e-mail to:

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This Notice is intended to inform all interested parties of the existence of the Settlement Agreement and the possible consequences of Court approval of the Settlement Agreement. It does not indicate any view by the Court as to the merits of the above referenced Mount Laurel action, the fairness, reasonableness, or adequacy of the settlement, or whether the Court will approve the settlement or enter a Judgment of Compliance and Repose.

Dated: February 18, 2020

/s/ Joy Convertini
Joy Convertini, Borough Clerk