

FILED

March 17, 2026

Hon. Thomas Daniel McCloskey, J.S.C.

The Hon. Thomas Daniel McCloskey, J.S.C.

Superior Court of New Jersey
Law Division – Civil Part
Middlesex County
Middlesex County Courthouse
56 Paterson Street, 3rd Floor
Chambers/Courtroom 306
New Brunswick, New Jersey 08903-0964

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE BOROUGH
OF DUNELLEN, MIDDLESEX
COUNTY PURSUANT TO P.L.
2024, CHAPTER 2 (N.J.S.A.
52:27D-304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
MIDDLESEX COUNTY
DOCKET NO. MID-L-433-25

Civil Action

Mt. Laurel Program

**CERTIFICATION OF COMPLIANCE
AND REPOSE FOR THE
FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on referral from the Affordable Housing Dispute Resolution Program (“Program”), pursuant to the Complaint for Declaratory Judgment filed on January 22, 2025 (“DJ Complaint”) by the Petitioner, **BOROUGH OF DUNELLEN** (“Petitioner”, “Borough” or “Dunellen”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24” or “the Directive”) of the “Program”, seeking a certification of compliance with the FHA;

AND THE COURT, having entered its “*Decision and Order Approving Municipal Housing Element and Fair Share Plan for the Fourth Round Housing Cycle*” on January 9, 2026 (“Approval Order”) for the Municipality to meet and ensure satisfaction of its previously fixed “present need” obligation of **79** affordable housing units, and a “prospective need” obligation of **23** affordable housing units (collectively, the “Fourth Round Affordable Housing Obligation”),¹ and therein authorizing the Municipality to adopt its implementing Ordinance(s) to satisfy its Fourth Round Affordable Housing Obligation;

AND IT APPEARING that, the Municipality, upon having given due notice to all interested parties as provided for by the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12, et seq. and the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., as required, adopted implementing ordinances and resolutions to ensure implementation of its approved Fourth Round Housing Element and Fair Share Plan (“HEFSP”), incorporating therein any changes from the Program and this Court’s prior Order, and on March 2, 2026, for the implementation of its Fourth Round Affordable Obligation, and thus by or before March 16, 2026;

AND THE COURT, having previously and here again determined that the Municipality’s Fourth Round HEFSP 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. Boonton 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. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) and, therefore, approved by the Court;

AND THE COURT, having been satisfied and further determined that the Municipality has timely adopted implementing ordinances and resolutions to ensure implementation of its

¹ Per prior “*Order Fixing Municipal Obligations for ‘Present Need’ and ‘Prospective Need’ for the Fourth Round Housing Cycle*” of this Court entered on March 14, 2025 (see Trans. ID: LCV2025830286).

approved Fourth Round HEFSP, incorporating therein any changes from the Program and this Court's prior Order(s), and for the satisfaction of its Fourth Round Affordable Obligation, as provided for and in accordance with N.J.S.A. 52:27D-304.1f (2)(c) of the FHA and Section III.A of Directive #14-24 (as amended), and which Plan contained the elements set forth in the "Addendum" attached to Directive #14-24 (as amended), having thereby qualified for immunity, and for good cause having otherwise been shown:

IT IS on this 17th day of **MARCH 2026, ADJUDGED AND ORDERED**, as follows:

1. That the approved Fourth Round HEFSP (Exhibit P-1), and applicable implementing ordinances and resolutions, collectively referenced at **SCHEUDLE-1** hereto as Exhibit P-2 through Exhibit P-14 (inclusive) and herein as the "Implementing Ordinances & Resolutions", are hereby admitted into evidence and entered into the record.

2. That the Borough has provided adequate notice of its proposed and adopted Implementing Ordinances & Resolutions for implementation of its approved Fourth Round HEFSP to the public and all interested parties and in strict accordance with the Court's prior Approval Order.

3. That the Borough's approved Fourth Round HEFSP and constituent compliance mechanisms contained therein, and the Implementing Ordinances & Resolutions, are hereby determined to be fair and reasonable to the interests of the region's low- and moderate-income households and to represent a realistic opportunity for the provision of affordable housing in accordance with the Mt. Laurel doctrine, and specifically in accordance with the principles set forth in Morris County Fair Housing Council v. Boonton 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. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996).

4. That the Borough and those parties implicated or otherwise involved and referenced therein are directed and ordered to proceed, *forthwith*, to implement the approved Fourth Round HEFSP and approved compliance mechanisms contained therein and in accordance with its terms and the Implementing Ordinances & Resolutions; and, accordingly,

5. That the Borough's immunity from builder's remedy and/or exclusionary zoning litigation, be, and is hereby continued and shall remain in full force and effect for the Fourth Round period of **July 1, 2025 to June 30, 2035**, *subject, however*, to revocation or other Order of the Court that does or may hereafter issue, on notice of motion to the Borough and all interested parties and good cause shown, at any time during the pendency of the Fourth Round Housing cycle.

6. **The Court shall retain jurisdiction for the purpose of enforcing the terms and conditions of this Certification of Compliance and Repose and the Borough's adopted Fourth Round HEFSP.**

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and counsel for FSHC upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:



HON. THOMAS DANIEL McCLOSKEY, J.S.C.
Designated Mt. Laurel Judge – Middlesex Vicinage

(X) Uncontested; by the Court.

R. 1:7-4(a): Having reviewed and considered the Borough's adopted and approved HEFSP, together with the now adopted Implementing Ordinances & Resolutions for the effectuation and implementation of the same, the Court is satisfied that the HEFSP, as adopted and endorsed by the Borough, and the accompanying and now timely adopted Implementing Ordinances & Resolutions, is fair and equitable, shall provide a "realistic opportunity" for the construction and/or delivery of housing affordable to those of the protected class of low- and moderate-income households in the Borough, and is thereby in the best interests of the protected class of low- and

moderate-income households in the Borough. This Certification of Compliance confirms the Borough's complete and satisfactory compliance with the provisions and requirements of the FHA and Directive #14-24.

Accordingly, the Court hereby APPROVES of the Borough's adopted HEFSP, Implementing Ordinances & Resolutions, and herewith issues its **Certification of Compliance** and repose in accordance with the FHA and Directive #14-24. As a result, the Borough of Dunellen retains all the protections of the above-referenced amendments to the FHA, shall continue to retain immunity from builder's remedy and/or exclusionary zoning litigation, and that the Court shall retain jurisdiction for purpose of enforcing the terms and conditions of this Certification of Compliance and repose and the Borough's adopted Fourth Round HEFSP, in accordance with the statutory framework and AOC Directive #14-24.

The Court's Certification of Compliance and repose implementing the Court's Decision accompanies this statement of reasons.

SO ORDERED.

SCHEDULE -1**DOCUMENTS MARKED INTO EVIDENCE²**

P-1: Fourth Round Housing Element and Fair Share Plan (“HEFSP”) of the Borough of Dunellen adopted by the Planning Board of the Borough of Dunellen on June 23, 2025 and endorsed by Resolution #269 adopted by the Borough Council of Dunellen on July 7, 2025, as approved by the Court’s Approval Order entered on January 9, 2026. (Certif., Exhibit A).

P-2: Borough Council Resolution 01-01-2026 #45 adopted on January 1, 2026 appointing CGP&H for the Borough’s Affordable Housing Administrative Agent and Awarding a Professional Services Contract for the Borough. (Certif., Exhibit B).

P-3: Borough Council Resolution 02-17-26 #77 adopted on February 17, 2026 Appointing a Municipal Housing Liaison. (Certif., Exhibit C).

P-4: Ordinance No. 2026-03 introduced by the Borough Council on February 17, 2026, entitled “An Ordinance of the Borough of Dunellen, in the County of Middlesex, New Jersey, Adopting an Amended and Restated Dunellen Downtown Redevelopment Plan, Phase 1” (the “Amended Downtown Redevelopment Plan”), referred to the Planning Board for a consistency review, pursuant to the Local Land Use and Redevelopment Law, N.J.S.A. 40A:12A-1 to -49 (the “LRHL”). (Certif., ¶ 11).

P-5: Ordinance No. 2026-04 introduced by the Borough Council on February 17, 2026, entitled “An Ordinance of the Borough of Dunellen, in the County of Middlesex, New Jersey, Adopting Redevelopment Plan for Block 85, Lot 3 on the Official Tax Map of the Borough” (the “South Second Street Redevelopment Plan”), referred to the Planning Board for a consistency review, pursuant to the LRHL. (Certif., ¶ 12).

P-6: Ordinance No. 2026-05 introduced by the Borough Council on February 17, 2026, entitled “An Ordinance Establishing Affordable Housing Program Requirements and Adopting Regulations Governing the Administration of Very-Low, Low- and Moderate-Income Units” (the “AHO”), referred to the Planning Board for consistency review, pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 to -139 (the “MLUL”). (Certif., ¶ 13).

P-7: Planning Board confirmation of February 23, 2026, finding Ordinance No. 2026-03, 2026-04, and 2026-05 consistent with the Borough’s Master Plan. (Certif., ¶ 14).

P-8: Ordinance No. 2026-03 adopted by the Borough Council on March 2, 2026, adopting the Amended Downtown Redevelopment Plan. (Certif., Exhibit D).

² See Certification of Counsel dated/filed on March 4, 2026 at Exhibits “B” through “J”, respectively, at Trans. ID: LCV2026535102, and referenced below as “Certif., Exhibit ____.”

P-9: Ordinance No. 2026-04 adopted by the Borough Council on March 2, 2026, adopting the South Second Street Redevelopment Plan. (Certif., Exhibit E).

P-10: Ordinance No. 2026-05 adopted by the Borough Council on March 2, 2026, adopting the AHO. (Certif., Exhibit F).

P-11: Resolution 03-02-2026 #87 adopted by the Borough Council on March 2, 2026, approving an Affordable Housing Spending Plan. (Certif., Exhibit G).

P-12: Resolution 03-02-2026 #88 adopted by the Borough Council on March 2, 2026, approving an Affordable Housing Marketing Plan. (Certif., Exhibit H).

P-13: Resolution 03-02-2026 #89 adopted by the Borough Council on March 2, 2026, approving an Affordable Housing Operating Manual. (Certif., Exhibit I).

P-14: Resolution 03-02-2026 #90 adopted by the Borough Council on March 2, 2026, approving an Affordable Housing Affordability Assistance Manual. (Certif., Exhibit J).