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FILED

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

**In the Matter of the Application
of the Borough of Middlesex,
County of Middlesex.**

SUPERIOR COURT OF NEW JERSEY
Law Division, Middlesex County
Docket No. MID-L-615-25

**CIVIL ACTION
(Mount Laurel)**

**Consent Order Final Compliance
Certification (N.J.S.A.
52:27D-304 (q))**

THIS MATTER having come before the Court via the joint request of the Borough of Middlesex, via counsel Alexander G. Fisher, Esq. (of Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher P.A.), as well as Fair Share Housing Center, via counsel Joshua Bauers, Esq. (on behalf of Fair Share Housing Center); and

WHEREAS, the Borough of Middlesex (the "Borough" or "Middlesex") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action on January 29, 2025; and

WHEREAS, the Court entered an order on March 14, 2025 setting the Borough's Fourth Round fair share obligations as a Present Need of fourteen (14) units and a Prospective Need of eighty-one

(81) units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 19, 2025; and

WHEREAS, FSHC having filed a letter pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's HEFSP on August 31, 2025 seeking additional information and documentation before the HEFSP may be approved by the Program and trial court; and

WHEREAS, no other interested-party filed a challenge or any other communication; and

WHEREAS, the above-named parties having previously presented a consent order was filed on eCourts on January 15, 2026 and which consent order is incorporated herein by reference; and

WHEREAS, the Court having reviewed the Borough's HEFSP, attachments, and proposed implementing ordinances and resolutions and determined that they meet the "objective standard" and are in compliance with the Fair Housing Act and the Mount Laurel doctrine so long as the conditions set forth in this order are met;

WHEREAS, the Court incorporates the Court's prior orders and

for good cause shown:

IT IS on this 4TH day of MAY,

2026, **ORDERED** as follows:

1. The Borough of Middlesex's Fourth Round Fair Share Plan filed herein June 19, 2025, is hereby marked and admitted into evidence as Exhibit P-1, and is further hereby approved and deemed to meet the "objective standard" pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) of complying with the Fair Housing Act and the Mount Laurel doctrine and the Borough is granted a Compliance Certification as to its Rehabilitation Obligation ("Present Need"), its Prior Round Obligation (1987-1999), its Third Round Obligation (consisting of both its Gap Obligation for 1999-2015 and its Prospective Need Obligation for 2015-2025), and its Fourth Round obligation pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) ("FHA"), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) ("UHAC"), applicable Council on Affordable Housing (hereinafter "COAH") substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court's Mount Laurel IV decision.
2. The Borough's Compliance Certification shall remain in effect for ten (10) years beginning on July 1, 2025 and ending on June 30, 2035, and during this ten (10) year period the Borough shall have repose from exclusionary zoning

litigation, including, but not limited to, Builder's Remedy lawsuits, as provided for in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq.

3. The Borough's Present Need or Rehabilitation Obligation is fourteen (14), the Borough's Prior Round Obligation (1987-1999) is one hundred five (105), the Borough's Third Round Obligation (1999-2025) is one hundred fifty-seven (157), the Borough's Fourth Round Prospective Need (2025-2035) is eighty-one (81).
4. The Borough will address its Present Need via participation in the Middlesex County Housing Rehabilitation Program or may establish a municipal rehabilitation program.
5. The Borough's Prior Round Obligation is 105 and has been met with the following mechanisms:

NAME	TYPE	UNITS	BONUSES	STATUS
Vacant Land Adjustment				
RDP Mechanisms				
Watchung Terrace	100% affordable Age-restricted/rental	4	0	complete
Alternative living arrangements	Alternative living arrangements	11	4	complete
Unmet need mechanisms				
Watchung Terrace	100% affordable Age-restricted/rental	81	0	complete

Prior Round RDP:19	15	4	
Prior Round Total:100	96	4	
Remaining Unsatisfied Obligation: 5*			

*unmet need addressed in subsequent rounds

6. The Borough's Third Round Obligation is 157. Due to the fact that the Borough did not participate in the Third Round, the Third Round Obligation shall be addressed in conjunction with the Fourth Round Obligation of 81 for a total combined Third and Fourth Round obligation of two hundred thirty-eight (238) units.

7. The Borough's combined Third and Fourth Round Obligation is 238 and shall be met with the following mechanisms:

NAME	TYPE	UNITS	BONUSES	STATUS
Vacant Land Adjustment				
Mechanisms for RDP of 3				
Zoning Ordinance-Fairfield Avenue and Bound Brook Road (Block 15, Lots 18, 20, and 22)	Rezoning; Density of 29 units per acre/20% set-aside	2	0	proposed
ARC of Middlesex Group Home	Group home	1	0	proposed
Mechanisms for Unmet Need of 235				
ACME Supermarket Overlay Zone	Overlay zone; Density of	9	0	proposed

(Block 6, Lot 2)	20 units per acre/20% set-aside			
Overlay Zone (Block 286, Lots 1 and 1.01)	Overlay zone; Density of 115 units per acre/20% set-aside	60	0	proposed
Town Center Overlay Zone	Overlay zone; unspecified density/20% set-aside	TBD	TBD	proposed
West Market Overlay Zone	Overlay zone; unspecified density/20% set-aside	TBD	TBD	proposed
Gateway Overlay Zone	Overlay zone; unspecified density/20% set-aside	TBD	TBD	proposed

8. The Borough and FSHC recognize that substantial changes in circumstances affecting the Borough's RDP are possible pursuant to the holding in *Fair Share Housing Center v. Cherry Hill*, 173 N.J. 393, (2002) and related law. In the event such a substantial changed circumstance occurs, the Borough shall have one hundred twenty (120) days to present to the trial court and FSHC a plan to address such change in circumstances on notice and opportunity to be heard from FSHC. The Borough agrees that any additional RDP generated due to changed

circumstances must be addressed in a manner that is consistent with controlling law.

9. The Borough's Compliance Certification shall be subject to required ongoing monitoring as follows:

- The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1st to December 31st.
- The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including

housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations.

- For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Borough or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

10. A copy of this Order shall be entered on eCourts and shall be effective as of the date of filing.



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

On behalf of the Borough of Middlesex:

Alexander G. Fisher

Alexander G. Fisher, Esq.

On behalf of Fair Share Housing Center:

Joshua Bauers

Joshua Bauers, Esq.