

**Fair Share Housing Center**

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**FILED**

**MAY 04 2026**

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

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

SUPERIOR COURT OF NEW JERSEY  
Law Division, Middlesex County  
Docket No. MID-L-422-25

**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 Milltown via counsel Donna M. Jennings, Esq. (Wilentz), as well as Fair Share Housing Center, via counsel Joshua D. Bauers, Esq. (on behalf of Fair Share Housing Center), seeking a certification of compliance with the Fair Housing Act ("FHA"); and

**WHEREAS**, the Borough of Milltown (the "Borough" or "Milltown") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action on January 22, 2025; and

**WHEREAS**, the above-named parties having previously presented a settlement agreement (a.k.a. mediation agreement) to

the Court which was filed on eCourts on February 9, 2026, and which settlement agreement is incorporated herein by reference; and

**WHEREAS**, the agreement having been presented to the Program and the Program having issued a recommendation of approval of the agreement on February 18, 2026; and

**WHEREAS**, the Court having entered an Order on February 24, 2026 accepting and adopting the Program Member's Report and Recommendations for approval of the Settlement and the Amended Housing Element and Fair Share Plan ("HEFSP") of the Municipality;

**WHEREAS**, the Borough having filed its HEFSP and implementing ordinances on March 13, 2026; and

**WHEREAS**, FSHC having reviewed the Borough's filing in accordance with the parties' settlement agreement and confirmed that the Borough has complied with all terms outlined in the settlement agreement; and

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

**WHEREAS**, the Court having reviewed the Borough's Amended HEFSP, attachments, and implementing ordinances and resolutions, incorporating therein any changes from the Program and Court's prior order(s) 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; and

**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's Amended Fourth Round HEFSP, attachments, and applicable implementing ordinances and resolutions, collectively referenced at SCHEUDLE-1 hereto as Exhibit P-2 through Exhibit P-7 (inclusive) and herein as the "Implementing Ordinances & Resolutions", are hereby admitted into evidence and entered into the record.
2. Subject to the ongoing conditions in Paragraph 9 of this Order, the Borough of Milltown's Amended Fourth Round Fair Share Plan (Exhibit P-1) is 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.

3. 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. The Borough's Compliance Certification shall remain 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.

4. As per the Borough's Amended HEFSP and earlier court orders, the Borough's Present Need or Rehabilitation Obligation is 13, the Borough's Prior Round Obligation (1987-1999) is 64, the Borough's Third Round Obligation (1999-2025) is 128, the Borough's Fourth Round Prospective Need (2025-2035) is 51 units.

5. The Borough will address its Present Need via its Home Improvement Program administered by CGPH, as described in the Amended HEFSP.
6. The Borough's Prior Round Obligation is 64 and has been met with the compliance mechanisms outlined on Pages 39 and 40 of the Borough's Amended HEFSP.
7. The Borough's Third Round Obligation is 128, and the Borough had a Third Round RDP of 8 and an unmet need of 120, which is addressed with the mechanisms described on Pages 40 and 41 of the Amended HEFSP.
8. The Borough's Fourth Round obligation is 51, with an RDP of 23 and an unmet need of 28, which shall be met with the mechanisms described on Page 46 through 52 in the Amended HEFSP.
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

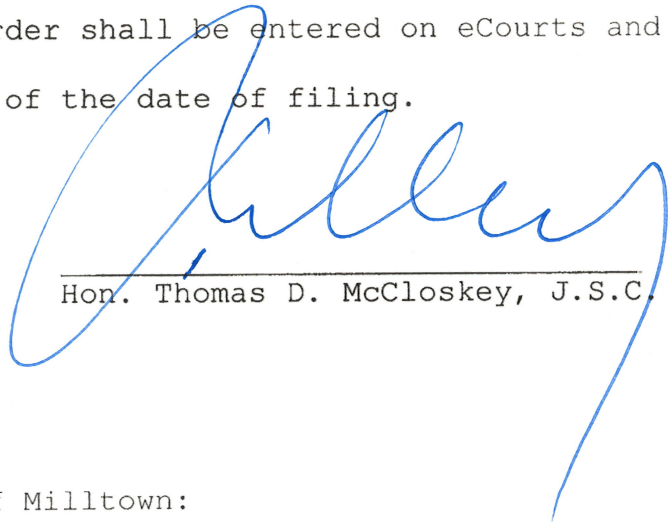
as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1st to December 31st.

- 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.

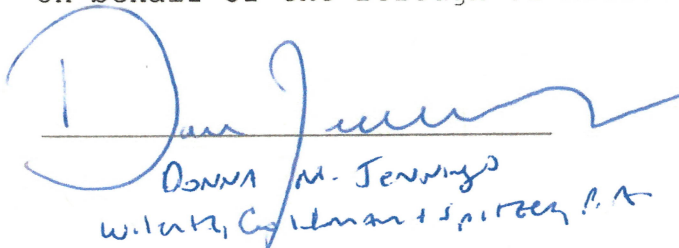
10. The Court shall retain jurisdiction for the purpose of enforcing the terms and conditions of this Certification of Compliance and Repose and the Borough's adopted Fourth Round HEFSP.

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



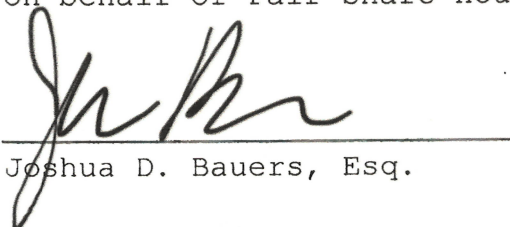
Hon. Thomas D. McCloskey, J.S.C.

On behalf of the Borough of Milltown:



Donna M. Jennings  
W. L. Kelly, Callahan & Spitzer, P.A.

On behalf of Fair Share Housing Center:



Joshua D. Bauers, Esq.

SCHEDULE-1

- P-1 Fourth Round Housing Element and Fair Share Plan amended as of February 13, 2026
- P-2 Ordinance 26-1583, “Amending Chapter 34 ‘Comprehensive Development’ to Address the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls Regarding Compliance with the Borough’s Affordable Housing Obligations”
- P-3 Borough Resolution 2026-096, “Designating a Municipal Housing Liaison for the Administration of the Affordable Housing Program”
- P-4 Borough Resolution 2026-107, “Endorsing a Fourth Round Housing Element and Fair Share Plan”
- P-5 Borough Resolution 2026-108, “Approving a Round Four Spending Plan for Affordable Housing Compliance”
- P-6 Borough Resolution 2026-111, “Adopting the Affordable Housing Affirmative Marketing Plan for the Borough of Milltown”
- P-7 Planning Board Resolution PB05-2026 “Approving Amendments to Housing Element and Fair Share Plan as an Amendment to the Master Plan of the Borough of Milltown”.