

FILED

April 23, 2026

Hon. Linda Grasso Jones, J.S.C.

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Attorneys for Declaratory Plaintiff, Borough of Avon-by-the-Sea

By: Nancy L. Holm (Attorney ID:013442006)

**In the Matter of the Application
of the Borough of Avon-by-the-
Sea, County of Monmouth.**

SUPERIOR COURT OF NEW JERSEY
Law Division, Monmouth County
Docket No. MON-L-376-25

**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 Avon-by-the-Sea (the "Borough" or "Avon-by-the-Sea") via counsel Nancy L. Holm, Esq., as well as Fair Share Housing Center, via counsel Ariela Rutbeck-Goldman, Esq. (on behalf of Fair Share Housing Center), seeking a certification of compliance with the Fair Housing Act ("FHA"); and

WHEREAS, the Borough of Avon-by-the-Sea (the "Borough" or "Avon-by-the-Sea") having filed a binding resolution and declaratory judgment action, pursuant to N.J.S.A. 52:27D-301 et

seq. and Administrative Office of the Courts Directive #14-24 ("AOC Directive") with the Affordable Housing Dispute Resolution Program (the "Program") on January 28, 2025; and

WHEREAS, the Borough and FSHC having previously presented a consent order to the Court, which was entered on February 19, 2026, and which consent order is incorporated herein by reference; and

WHEREAS, the Borough having filed its Fourth Round Housing Element and Fair Share Plan on June 24, 2025 ("Fourth Round HEFSP") and implementing ordinances and resolutions on March 11, 2026; and

WHEREAS, Fair Share Housing Center ("FSHC") having reviewed the Borough's filing in accordance with the parties' consent order and confirmed that the Borough has partially complied with all terms outlined in the consent order; and

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

WHEREAS, the Court having reviewed the Borough's Fourth Round HEFSP, attachments, and implementing ordinances and resolutions, incorporating therein any changes from the 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; and

WHEREAS, the Court incorporates the Court's prior orders and for good cause shown:

IT IS on this 23rd day of April, 2026, **ORDERED** as follows:

1. The Borough's Fourth Round HEFSP, attachments, and applicable implementing ordinances and resolutions, collectively referenced at SCHEDULE-1 hereto as Exhibit P-1 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 satisfaction of the conditions in Paragraph 6 herein, the Borough of Avon-by-the-Sea's Fourth Round HEFSP (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 by FSHC to the Borough and all interested parties and good cause shown, at any time during the pendency of the Fourth Round Housing cycle, in accordance with Fair Housing Act requirements.
4. As per the Borough's HEFSP and earlier Court Order, the Borough's Present Need or Rehabilitation Obligation is 5, the Borough's Prior Round Obligation (1987-1999) is 20, the Borough's Third Round Obligation (1999-2025) is 173, and the Borough's Fourth Round Prospective Need (2025-2035) is 29.
5. The Borough will satisfy its Present Need obligation of 5 through its participation in the Monmouth County Housing Improvement Program which is administered by the Monmouth County Community Development Block Grant Program.
6. As per the Borough's HEFSP, the Borough conducted a Vacant Land Adjustment which showed the Borough has a Realistic

Development Potential ("RDP") of 6. The Borough will satisfy its RDP of 6 as follows:

- 4 units from the 801 Main Street redevelopment project.
- 2 units from the 719 Main Street redevelopment project.
- 1.5 bonus credits.

7. The Borough will satisfy its Fourth Round unmet need of 23 as follows:

- Mandatory Set-Aside Ordinance which requires a 20% set-aside for all developments consisting of five or more dwelling units.
- R-Single Family Residential Accessory Apartments.
- Accessory Apartment Conditional Uses which will be amended to require at least 20% of apartments generated to be affordable units, with a minimum of one affordable unit.
- North End Redevelopment Plan which allows townhouse development with a 15% affordable housing set-aside for rental units and a 20% affordable housing set-aside for for-sale units.

8. The Borough and FSHC agree that the following conditions remain to be met as conditions of this Compliance Certification:

- Borough will adopt the Affirmative Marketing Plan worksheet within 60 days of publication of the State's new worksheet.
- The Borough will hire an administrative agent within 60 days.
- Long Term Conditions:
 - i. 719 Main - the Borough will provide an update on the project and all documentation, as applicable, by the Midpoint Review.
 - ii. Spending Plan - the parties have reviewed and discussed the Borough's adopted Spending Plan and understand that the totals included in the Borough's Spending Plan are projections, as the Borough began collecting development fees in 2025. As a long-term condition, the Borough commits to expending all collected development fees in accordance with the Borough's Spending Plan, as well as all applicable statutory and regulatory requirements.

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 affordable of housing units actually constructed, construction starts, certificates of occupancy granted, 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 municipality 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 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 limited purpose of allowing FSHC and the Borough the opportunity to enforce 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.

SO ORDERED:

/s/ Linda Grasso Jones, J.S.C.

HON. LINDA GRASSO JONES, J.S.C.

Designated Mt. Laurel Judge - Monmouth County

SEE ATTACHED RIDER/STATEMENT OF REASONS

On behalf of the Borough of Avon-by-the-Sea:

/s/ Nancy L. Holm

Nancy L. Holm, Esq.

On behalf of Fair Share Housing Center:

/s/ Ariela Rutbeck-Goldman

Ariela Rutbeck-Goldman, Esq.
4/21/2026

Rider/Statement of Reasons pursuant to R. 1:7-4(a):

Having reviewed and considered the Municipality's adopted and approved HEFSP, together with the now adopted implementing ordinances and resolutions for the effectuation and implementation of the same, the court is satisfied that the HEFSP, as adopted and endorsed by the Municipality and the accompanying and now timely adopted implementing ordinances and 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 Municipality and is thereby in the best interests of the protected class of low- and moderate-income households in the Municipality. This certification of compliance confirms the Municipality's complete and satisfactory compliance with the provisions and requirements of the FHA and Directive #14-24.

Accordingly, the court hereby **APPROVES** of the Municipality's adopted HEFSP, implementing ordinances and resolutions, and herewith issues its certification of compliance and repose in accordance with the FHA and Directive #14-24. As a result, the Municipality 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 the court shall retain jurisdiction for purpose of enforcing the terms and conditions of this certification of compliance and repose and the Municipality'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:

/s/ Linda Grasso Jones, J.S.C.

HON. LINDA GRASSO JONES, J.S.C.

Designated Mt. Laurel Judge - Monmouth Vicinage

SCHEDULE-1

P-1: The Borough's Fourth Housing Element and Fair Share Plan was filed with the Program on June 24, 2025.

P-2: Ordinance No. 3-2026, Repealing and Replacing the Borough's Affordable Housing Ordinance, which includes the amended Mandatory Set-Aside Ordinance, as well as the Planning Board consistency resolution.

P-3: Ordinance No. 4-2026, Repealing and Replacing the Borough's Development Fee Ordinance, as well as the Planning Board's consistency resolution.

P-4: Resolution No. 71-2026, Adopting an Affordability Assistance Manual, with manual attached.

P-5: Resolution No. 70-2026, Adopting an Affirmative Marketing Plan.

P-6: Resolution No. 72-2026 Adopting an Accessory Apartment Manual, with manual attached.