

FILED

April 23, 2026

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

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Attorneys for Declaratory Plaintiff, Borough of Farmingdale

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

**In the Matter of the Application
of Borough of Farmingdale,
County of Monmouth.**

SUPERIOR COURT OF NEW JERSEY
Law Division, Monmouth County
Docket No. MON-L-267-25

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

WHEREAS, the Borough of Farmingdale (the "Borough" or "Farmingdale") 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 Borough and FSHC having settled the issues between the parties, resulting in a mediation agreement, which was filed with the Court on December 31, 2025 and which mediation agreement is incorporated herein by reference; and

WHEREAS, the Borough having filed its Amended HEFSP and implementing ordinances and resolutions with the Court on March 6, 2026; and

WHEREAS, Fair Share Housing Center ("FSHC") having reviewed the Borough's filing in accordance with the parties' mediation agreement and confirmed that the Borough has complied with all terms outlined in the mediation agreement; 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; 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-8 (inclusive) and herein as the "Implementing Ordinances & Resolutions", are hereby admitted into evidence and entered into the record.

2. The Borough of Farmingdale's Amended 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 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 Amended HEFSP and earlier court orders, the Borough's Present Need or Rehabilitation Obligation is 0, the Borough's Prior Round Obligation (1987-1999) is 19, the Borough's Third Round Obligation (1999-2025) is 51, and the Borough's Fourth Round Prospective Need (2025-2035) is 22 units.
5. The Borough's Prior Round Obligation is 19 and has been met with the following mechanisms resulting in a 1-unit surplus:

MECHANISM	TYPE	UNITS	BONUS	STATUS
ARC of Monmouth	Group Home	5	5	Completed
St. John's	Group Home	4	1	Completed
SHG	Age-restricted	5	0	Completed
Total: 20		14	6	

6. The Borough's Third Round Obligation is 51, which had a Court-approved Realistic Development Potential (RDP) of 3; however, FSHC and the Borough have agreed that the Borough's Third Round RDP should be adjusted to zero (0), due to the vacant front portion of property located on the Farmingdale Garden Apartments site that had generated the Round 3 RDP has been shown to be located within a FEMA 100-year floodplain and thus should be excluded as environmentally sensitive land pursuant to N.J.S.A. 5:93-4.2(e)2.
7. The Borough's prior round unmet need is addressed through the following unmet need mechanism:

MECHANISM	ZONING SPECIFICATIONS	UNITS	STATUS
Sterns Property Overlay	MF-AH Multi-family affordable housing overlay option to existing (LI) Light Industrial zone; multifamily residential at 10du/acre with max height of 3 stories.	TBD	Zoned

8. The Borough's Fourth Round Prospective Need Obligation is 22 with a calculated RDP of zero (0) units, which shall be addressed through the following unmet need mechanism:

MECHANISM	ZONING SPECIFICATIONS	UNITS	STATUS
Chestnut Street / 2 nd and 3 rd Avenue Overlay Zone	Overlay zone option to existing Light Industrial (LI); multifamily residential at 14du/acre with 20% set aside for affordable sale units.	TBD	Zoning amendment adopted March 3, 2026

			(Ordinance 2026-01)
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9. With regard to the 25% requirement in the FHA related to unmet need, the Borough and FSHC have different interpretations of the language; however, given that the Borough has adopted zoning that will satisfy its entire Fourth Round Unmet Need, the issue has become moot as it relates to Farmingdale. The parties will revisit the issue in the next round if the issue has not been resolved by the Courts during the Fourth Round.
10. 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.
11. The Borough and FSHC agree that following conditions remain to be met as conditions of compliance certification:

Short Term:

- The Borough will complete the affirmative marketing plan worksheet within 60 days of the State's publication of the new model form.

Long Term:

- The parties have agreed that the Borough will work with a group home provider or nonprofit to create three (3) creditworthy units within the Borough by the Midpoint Review (July 1, 2030), at which time the Borough shall report whether the three (3) units have been created or are in the process of being created (demonstration of a fully-executed agreement between the Borough and the nonprofit or group home, or approvals from the Borough's land use board for a development containing affordable units shall be submitted with its Midpoint Review Report).
- If by the Midpoint Review, the Borough has been unsuccessful in demonstrating that the three units have been created, the Borough agrees to begin an Area in Need of Redevelopment (AINR) study for the "Shop N Bag" supermarket property located at 58-74 Main Street (Block 4, Lot 2, and containing approximately 3.1 total acres), at a density to be determined, with commercial use on

the ground floor and inclusionary residential on the second and third floors (maximum 3.0 stories in height), including a 20% set-aside for affordable units. This is anticipated to provide approximately 40 total units, of which 20% (8 units) would be affordable.

- Any units created in excess of three (3) units may be applied to future affordable housing obligations.

12. 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.

13. 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.
14. 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 Farmingdale:

/s/ Nancy L. Holm

Nancy L. Holm, Esq.

On behalf of Fair Share Housing Center:

/s/ Ariela Rutbeck-Goldman

Ariela Rutbeck-Goldman, Esq.

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: Adopted Amended Fourth Round Housing Element and Fair Share Plan ("Amended HEFSP").

P-2: Planning Board Resolution Adopting the Amended HEFSP.

P-3: Resolution No. 2026-49 Endorsing the Amended HEFSP.

P-4: Resolution No. 2026-44 Adopting an Amended Fourth Round Spending Plan and Amended Spending Plan.

P-5: Ordinance No. 2026-01 which amends Chestnut Street/2nd & 3rd Avenue Overlay Zone in accordance with the terms of the Mediation Agreement and adoption of same.

P-6: Ordinance No. 2026-02, the Borough's Amended Affordable Housing Ordinance and Development Fee Ordinance.

P-7: Resolution No. 2026-51, Adopting an Affordability Assistance Program Manual.

P-8: Resolution No. 2026-53, Adopting an Affirmative Marketing Plan.