

Fair Share Housing Center

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**In the Matter of the Application
of the Borough of Sea Girt,
County of Monmouth.**

SUPERIOR COURT OF NEW JERSEY
Law Division, Monmouth County
Docket No. MON-L-337-25

**CIVIL ACTION
(Mount Laurel)**

**Consent Order Conditional
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 Sea Girt, via counsel Andrew Bayer, Esq. (of Pashman Stein Walder Hayden, P.C.), as well as Fair Share Housing Center, via counsel Ariela Rutbeck-Goldman, Esq. (on behalf of Fair Share Housing Center); and

WHEREAS, the Borough of Sea Girt (the "Borough" or "Sea Girt") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action on January 27, 2025; and

WHEREAS, the Court entered an order on April 1, 2025 setting the Borough's Fourth Round fair share obligations as a Present Need of zero (0) units and a Prospective Need of seventy three

(73) 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 23, 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 September 2, 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 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 _____ day of _____, 2026, **ORDERED** as follows:

1. Subject to the satisfaction of the Conditions in Paragraph 8 of this Order and the deadlines established therein, the Borough of Sea Girt's 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.

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 zero (0), the Borough's Prior Round Obligation (1987-1999) is one hundred and fifteen (115), the Borough's Third Round

Obligation (1999-2025) is one hundred and seventy one (171), the Borough's Fourth Round Prospective Need (2025-2035) is seventy three (73).

4. The Borough's cumulative Prior Round and Third Round Obligation is 286, having been adjusted through a vacant land adjustment ("VLA") to a realistic development potential ("RDP") of 5, which shall be addressed with the following mechanism:

NAME	TYPE	UNITS	BONUSES	STATUS
AH-1 Zone/Sitco	Family Rental	3	2	Approved

5. The Borough's cumulative Prior Round and Third Round unmet need is 281, which shall be addressed with the following mechanisms:

- Adoption of the AH-3 Overlay zone over portions of the 2 East Convenience Commercial ("2E") and the 2 West Convenience Commercial ("2W") zoning districts;
- Adoption of the AH-3 Overlay Zone over certain parcels along Route 71; and
- Adoption of a mandatory set-aside ordinance for all multifamily residential developments of 5 units or more, requiring a 20 percent affordable set-aside regardless of tenure.

6. The Borough's Fourth Round Obligation is 73, having been adjusted through a VLA to an RDP of 0.

7. The Borough's Fourth Round unmet need is 73, which shall be addressed with the following mechanism:

- The Borough shall amend the AH-3 Overlay over portions of the 2E and 2W zones to include language complying with current UHAC regulations and the very-low-income and low-income requirements at N.J.S.A. 52:27D-329.1.
- The Borough shall amend its mandatory set-aside ordinance to include a 20% affordable set-aside regardless of tenure and update the ordinance to include the language included in the FSHC Plan Filing at para 4.

8. The Borough's Compliance Certification is deemed conditional until the following conditions are met:

- Within 30 days, the Borough shall provide the following information regarding the development on Block 76, Lots 1 and 2 and Block 77, Lots 16 and 17:
 - a. Construction timetable;
 - b. Final bedroom and income distribution;
 - c. Sample deed restriction;
 - d. Identification of Administrative Agent; and
 - e. Affirmative Marketing Plan.

- The Borough shall provide the draft amendment to the AH-3 Overlay as described in Paragraph 7 for comment by FSHC and adopt the amendment before March 15, 2026.
 - The Borough shall adopt a Spending Plan that complies with the current regulations at N.J.A.C. 5:99 before March 15, 2026.
 - The Borough shall update its Affordable Housing Ordinance, Development Fee Ordinance, Affirmative Marketing Plan, and other administrative documents in accordance with the current regulations at N.J.A.C. 5:80-26.1, et seq, and N.J.A.C. 5:99 before March 15, 2026.
9. No later than 48 hours after adoption or March 16, 2026, whichever is sooner, the Borough shall file the information required by Paragraph 8 and any other adopted ordinances and resolutions on eCourts.
10. No later than April 15, 2026, the Borough and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review, or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
11. 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.

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

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

On behalf of the Borough of Sea Girt:

Andrew Bayer

Andrew Bayer, Esq.

On behalf of Fair Share Housing Center:

/s/ Ariela Rutbeck-Goldman

Ariela Rutbeck-Goldman, Esq.
1/29/26