

**PREPARED BY THE COURT:**

**IN THE MATTER OF THE  
DECLARATORY JUDGMENT  
ACTION OF THE TOWNSHIP  
OF BERKELEY HEIGHTS,  
UNION COUNTY PURSUANT  
TO P.L. 2024, CHAPTER 2  
(N.J.S.A. 52:27D-304.1, et seq.),**

**Petitioner.**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – CIVIL PART  
UNION COUNTY  
DOCKET NO. UNN-L-340-25

Civil Action

Mt. Laurel Program

**CERTIFICATION OF COMPLIANCE  
AND REPOSE FOR THE  
FOURTH ROUND HOUSING CYCLE**

**THIS MATTER**, having come before the Court on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program (“Program”), pursuant to the Complaint for Declaratory Judgment filed on January 23, 2025 (“DJ Complaint”) by the Petitioner, **TOWNSHIP OF BERKELEY HEIGHTS** (“Petitioner” or “Township” or “Berkeley Heights”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the “Program”, seeking a certification of compliance with the FHA;

**AND THE COURT**, having entered its “*Consent Order for Conditional Compliance Certification*” on December 8, 2025 (“Approval Order”) for the Township to meet and ensure satisfaction of its previously fixed “present need” obligation of 0 affordable housing units, and a “prospective need” obligation of 240 affordable housing units (collectively, the “Fourth Round”

Affordable Housing Obligation”),<sup>1</sup> and therein authorizing the Township to adopt its implementing Ordinance(s) to satisfy its Fourth Round Affordable Housing Obligation;

**AND IT APPEARING** that, the Township, upon having given due notice to all interested parties as provided for by the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12, et seq. and the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., as required, adopted implementing ordinances and resolutions to ensure implementation of its approved Fourth Round Housing Element and Fair Share Plan (“HEFSP”), incorporating therein any changes from the Program and this Court’s prior Order, and addressing all terms, conditions or other requirements or responsibilities set forth in the Approval Order on or before **March 16, 2026**, for the implementation of its Fourth Round Affordable Obligation, and thus by or before March 15, 2026;

**AND THE COURT**, having previously and here again determined that the Township’s Fourth Round HEFSP is fair and reasonable to the region’s low- and moderate-income households according to the principles set forth in Morris County Fair Housing Council v. Boonton Twp., 197 N.J. Super. 359 (Law Div. 1984), *aff’d o.b.* 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996) and, therefore, approved by the Court;

**AND THE COURT**, having been satisfied and further determined that the Township has timely adopted implementing ordinances and resolutions to ensure implementation of its approved Fourth Round HEFSP, incorporating therein any changes from the Program and this Court’s prior Order(s), and for the satisfaction of its Fourth Round Affordable Obligation, as provided for and in accordance with N.J.S.A. 52:27D-304.1f (2)(c) of the FHA and Section III.A of Directive #14-

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<sup>1</sup> Per prior “*Decision and Order Fixing Municipal Obligations for ‘Present Need’ and ‘Prospective Need’ for the Fourth Round Housing Cycle*” of this Court entered on April 14, 2025 (see Trans. ID: LCV20251092143).

24 (as amended), and which Plan contained the elements set forth in the “Addendum” attached to Directive #14-24 (as amended), having thereby qualified for immunity, and for good cause having otherwise been shown:

**IT IS** on this 1<sup>st</sup> day of APRIL, 2026, **ADJUDGED AND ORDERED**, as follows:

1. That the approved Fourth Round HEFSP (Exhibit P-1), and applicable implementing ordinances and resolutions, collectively referenced at SCHEUDLE-1 hereto as Exhibit P-2 through Exhibit P-10 (inclusive) and herein as the “Implementing Ordinances & Resolutions”, are hereby admitted into evidence and entered into the record. All exhibits were filed with the Court by uploading same on eCourts by cover letter dated 3/17/26 [LCV2026694957], which cover letter, being executed by counsel, was deemed a certification of counsel. (R. 1:4-8(a)).

2. That the Township has provided adequate notice of its proposed and adopted Implementing Ordinances & Resolutions for implementation of its approved Fourth Round HEFSP to the public and all interested parties and in strict accordance with the Court’s prior Approval Order.

3. That the Township’s approved Fourth Round HEFSP and constituent compliance mechanisms contained therein, and the Implementing Ordinance(s), are hereby determined to be fair and reasonable to the interests of the region’s low- and moderate-income households and to represent a realistic opportunity for the provision of affordable housing in accordance with the Mt. Laurel doctrine, and specifically in accordance with the principles set forth in Morris County Fair Housing Council v. Boonton Twp., 197 N.J. Super. 359 (Law Div. 1984), *aff’d o.b.* 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996).

4. That the Township and those parties implicated or otherwise involved and referenced therein are directed and ordered to proceed, *forthwith*, to implement the approved Fourth Round HEFSP and approved compliance mechanisms contained therein and in accordance with its terms.

5. That the Township's immunity from builder's remedy and/or exclusionary zoning litigation, be, and is hereby continued and shall remain in full force and effect for the Fourth Round period of July 1, 2025 to June 30, 2035, *subject, however*, to revocation or other Order of the Court that does or may hereafter issue, on notice of motion to the Township and all interested parties and good cause shown, at any time during the pendency of the Fourth Round Housing cycle..

6. **That the Court shall retain jurisdiction for the purpose of enforcing the terms and conditions of this Certification of Compliance and Repose and the Township's adopted Fourth Round HEFSP.**

**IT IS FURTHER ORDERED**, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and counsel for all Challengers upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:



HON. DANIEL R. LINDEMANN, J.S.C.  
*Designated Mt. Laurel Judge – Union Vicinage*

(X) By the Court.

**On this date, pursuant to R. 1:6-2, the Court's Statement of Reasons has been set forth on the record.**

(X) Uncontested; by the Court.

**R. 1:7-4(a):** Having reviewed and considered the Township's adopted and approved HEFSP, together with the now adopted Implementing Ordinances & Resolutions for the effectuation and implementation of the same, the Court is satisfied that the HEFSP, as adopted and endorsed by the Township, and the accompanying and now timely adopted Implementing Ordinances & 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 Township, and is thereby in the best interests of the protected class of low- and moderate-income households in the Township. This Certification of Compliance confirms the Township's complete and satisfactory compliance with the provisions and requirements of the FHA and Directive #14-24. Accordingly, the Court hereby APPROVES of the Township's adopted HEFSP, Implementing Ordinances & Resolutions, and herewith issues its **Certification of Compliance** and repose in accordance with the FHA and Directive #14-24. As a result, the Township of Berkeley Heights 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 that the Court shall retain jurisdiction for purpose of enforcing the terms and conditions of this Certification of Compliance and repose and the Township'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.**

**SCHEDULE-1**  
**DOCUMENTS MARKED INTO EVIDENCE**

**P-1) Amended Housing Element and Fair Share Plan:** The Township amended its Fourth Round Housing Element and Fair Share Plan ("Amended Fourth Round Plan") to address the requirements of the December 5, 2025 Consent Order entered into between the Township and FSHC. As per the Consent Order, the Township provided certain documentation to the FSHC by February 15, 2026 for review. The Amended Fourth Round Plan was adopted by the Planning Board on February 18, 2026, and was endorsed by the Township Council on March 16, 2026. See attached Exhibit A.

**P-20 Connell Project Ordinance:** The Township Council introduced a zoning ordinance for the proposed Connell inclusionary project on March 3, 2026, and said ordinance was adopted by the Township Council on March 16, 2026. See attached Exhibit B.

**P-3) Nokia Project:** For the proposed Nokia inclusionary project, on February 17, 2026 the Township Council adopted Resolution No. 2026-104 authorizing the Planning Board to conduct an area in need of redevelopment study, and the Planning Board authorized the study on February 18, 2026. See attached Exhibit C. The Township's affordable housing planner is currently working on drafting the study.

**P-4) Water and Sewer Capacity:** The Township has sewer and water infrastructure and capacity. Each individual project will be reviewed and confirmed by the developer's Engineer.

**P-5) Site for the proposed 24-unit 100% Affordable Project:** The site the Township is evaluating for a one hundred percent (100%) affordable project is located at 31-41 Snyder Avenue (Block 208, Lots 38 and 39). See attached Exhibit D.

**P-6) Spending Plan:** The Township's Fourth Round Spending Plan was adopted by the Township Council on March 16, 2026. See attached Exhibit E.

**P-7) Affordable Housing Ordinance, Mandatory Set-Aside Ordinance and Development Fee Ordinance:** At the February 17, 2026 Township Council meeting the Township introduced an Affordable Housing Ordinance. This ordinance also contains a Mandatory Set-Aside section and a Development Fee section. After introduction, the ordinance was sent to the Township Planning Board for a consistency with the Master Plan review on February 18, 2026, and was adopted by the Township Council on March 16, 2026. See attached Exhibit F.

**P-8) Affordable Housing Manuals:** The Township Council adopted an Administrative Agent Operating Manual and an Affordability Assistance Manual on March 16, 2026. See attached Exhibit G.

**SCHEDULE-1**  
**DOCUMENTS MARKED INTO EVIDENCE**

**P-9) Affirmative Marketing Plan:** The Township's Affirmative Marketing Plan was drafted to comply with the new UHAC requirements, and was adopted by the Township Council on March 16, 2026. See attached Exhibit H.

**P-10) Ordinance Increasing the Set Aside for the Downtown Zone District:** The Township Council adopted this ordinance on March 3, 2026. See attached Exhibit I.