DELANCO TOWNSHIP

RESOLUTION NO. 2016-80

AUTHORIZING SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER REGARDING AFFORDABLE HOUSING OBLIGATION

WHEREAS, the Township of Delanco instituted an action in Superior Court under Docket No. BUR-L-2595-15 in order to obtain immunity from affordable housing builder's remedy suits and affirmatively establish its Third Round affordable housing obligation and plan for same; and

WHEREAS, the Township has obtained continuous Court Orders establishing immunity; and

WHEREAS, the Fair Share Housing Center (FSHC), an affordable housing advocate, is an interested party in the litigation; and

WHEREAS, FSHC's analysis indicates their position that the Township's obligation should be 187 units; and

WHEREAS, the Township submitted a preliminary plan in December, 2015 based upon an obligation of 132 units, derived by the Affordable Housing Planner based upon the Second Round methodology; and

WHEREAS, thereafter at the directive of the Court the Township and FSHC entered into settlement negotiations in attempt to agree upon the Township's fair share obligation for the Third Round; and

WHEREAS, as a result, the Parties desire to enter into the attached Settlement Agreement, under which Delanco's obligation will be 131 units (70% of the figure calculated by FSHC); and

WHEREAS, the Parties have negotiated the form of Agreement, which is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Township Committee of the Township of Delanco hereby authorizes the Mayor and Township Clerk, as may be necessary, to execute the attached Settlement Agreement in a form substantially similar to the one attached hereto and subject to the final review of the Township Attorney and Affordable Housing Planner;

BE IT FURTHER RESOLVED that the Township Attorney, Affordable Housing Planner and Administration are authorized to take such steps as may be necessary to effectuate this Agreement, including but not limited to the noticing and conducting of a fairness/ compliance hearing in Superior Court.

I certify that the foregoing Resolution No. 2016-80 is a true and correct copy of a resolution adopted by the Township Committee of the Township of Delanco at a public meeting held on June 13, 2016.

Katherine L. Martin

Katherine Martin, RMC
Deputy Municipal Clerk

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May 16, 2016

Kevin Walsh, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002

Re: In the Matter of the Application of Delanco Township (Burlington County)
Docket No.: BUR-L-2595-2015

Dear Mr. Walsh:

This letter memorializes the terms of an agreement reached between the Township of Delanco (the "Township" or "Delanco"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background
Delanco filed the above-captioned matter on July 7, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. The Township, FSHC, the Court Master, and the Court undertook the following actions and processes:

1. Numerous telephone conferences were held between the Court and the Parties;

2. By date of December 11, 2015, the Court entered an Order of continued immunity and repose, wherein the Township was directed by the Court to diligently pursue preparation and submission of a preliminary summary of its housing element and fair share plan that demonstrates the satisfaction of the Township's present need, Prior Round (1987-1999) and Third Round (1999-2025) fair share obligations in accordance with applicable law ("Township Draft Plan");

3. The Court continued the appointment of Frank Banisch, P.P., to serve as Special Master;

4. By motion dated December 7, 2015, the Township's Draft Plan was submitted to the Court and FSHC on or before November 16, 2015, and the Draft Plan included the Township's proposed calculations of its affordable housing obligation for the Third Round (1999-2025), setting that obligation at 132 units. The Township's Draft Plan was approved by the Planning Board and Governing Body on or before December 7, 2015;

5. By letter dated January 26, 2016, in response to the Township's motion, the Court Master, Frank Banisch, recommended continued immunity;

6. A February 1, 2016 phone conference was held between the Parties and the Court, and thereafter, numerous communications between the Parties and upon notice to the Court, the Parties reached a framework for a settlement of this matter;

7. On February 9, 2016, the Court issued a second Order further extending immunity and repose;

8. On or about March 22, 2016 a third Order further extending immunity and repose was entered by the Court;

9. A May 6, 2016 phone conference was held between the Parties, the Court, and the Court Master, setting forth a process for the settlement, including this agreement and a fairness hearing;

10. A May 16, 2016 Order (fourth) was submitted to the Court and is pending at the time of the drafting of this Agreement;

11. A fairness hearing is scheduled before the Court on July 20, 2016 at 2:00 p.m., which shall be duly noticed 30 days in advance by the Township; and

12. The Court Master shall submit his report to the Court, with copy to all Parties, by July 13, 2016; and

Through that action and process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement terms

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of the attached fair share plan, Exh. A, and the implementation of that plan and this agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq. for the Prior Round (1987-1999) and Third Round (1999-2025).

2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.

3. Delanco and FSHC hereby agree that Delanco's affordable housing obligations are as follows:

Rehabilitation Share	23 Units
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	61 Units
Third Round Prospective Need	131 Units

4. The Township's efforts to meet its present need/rehabilitation share include participation in the County's Home Improvement Loan Program and Community Development Block Program. Should the rehabilitation of additional units be required and there is a funding shortfall, the Township will adopt a Resolution of Intent to Bond (Exh. B - Draft resolution). The above indicated mechanisms are sufficient to satisfy the Township's 23-unit rehabilitation obligation.

5. As noted above, the Township has a Prior Round prospective need of 61 units, which is met through the following compliance mechanisms:

Delanco Township's Prior Round Compliance Mechanisms: 61-Unit Prior Round	**Credits**	**Bonuses**	**Total**
Inclusionary Developments - completed			
Russ Farm – family for-sale off-site - 404 Illinois Ave.	1	0	1
Russ Farm – family rentals off-site – multiple sites	15	15	30

Delanco Township's Prior Round Compliance Mechanisms: 61-Unit Prior Round	Credits	Bonuses	Total
Russ Farm – funded RCA with Palmyra	14	0	14
River's Edge - family affordable sale units on-site	15	0	15
River's Edge/Zurbrugg – senior affordable rentals (11 of 27)	11	0	11
Creekside – family affordable rentals (1 of 3)	1	1	2
Total	**57**	**16**	**73**
Prior Round Surplus			*12*

Maximum Prior Round Seniors = 11; (per N.J.A.C. 5:93-6.1(b) 1 · revised per COAH second round policy)

.25((61 + 23) – 23 rehab component – 14 RCAs) = 11.75, required to round down to 11

Minimum Prior Round Rentals = 16; (per N.J.A.C. 5:93-5.15(a))
.25((61 + 23) – 23 rehab component) = 15.25, required to round up to 16

6. The Township has implemented the following mechanisms to address its Third Round prospective need of 131 units:

Delanco Township Third Round Compliance Mechanisms: 131-Unit Third Round	Credits	Bonuses	Total
Surplus Credits - Prior Round - completed	**12**	**0**	**12**
Inclusionary Developments			
Creekside – affordable family rentals, 2 of 3, balance - completed	**2**	**2**	**4**
Zurbrugg – affordable senior rentals, 16 of 27 bal. – completed	**16**	**0**	**16**
High Point –in-lieu payment - approved	–		–
100% Affordable Sites			
Abundant Life/Living Springs – 94+ affordable senior rentals; (senior cap) - completed	**16**	**0**	**16**
Abundant Life/Living Manor – affordable special needs - completed	**20**	**0**	**20**
Rhawn/Cornerstone at Delanco - affordable family rental units – approved, awarded tax credits	**63**	**31**	**94**
TOTAL	**129**	**33**	**162**

Maximum Third Round Seniors = .25(131) = 32.75 required to round down to 32

7. *Minimum Third Round Rentals = .25(131) = 32.75 required to round up to 33*The Township continues to provide for not only the realistic opportunity for, but actual construction of, inclusionary development through the adoption of zoning ordinances. The Township will

provide a realistic opportunity for the development of affordable housing that will be developed or created through the 100% affordable Cornerstone at Delanco.
In accordance with N.J.A.C. 5:93-5.5, the Township recognizes that it must provide evidence that the municipality has adequate and stable funding for any non-inclusionary affordable housing developments. The municipality is required to provide documentation indicating the funding available to the municipality and any applications still pending. In the case where an application for outside funding is still pending, the municipality shall provide a stable alternative source, such as municipal bonding, in the event that the funding request is not approved. The Township meets those obligations as follows: In accordance with N.J.A.C. 5:93-5.5, the municipality has adequate and stable funding. Based on the Township's attached fair share plan the only projects requiring outside funding are the Cornerstone at Delanco and any required local rehabilitation.

a. The 100% affordable Cornerstone at Delanco (formally the Rhawn site) project received funding through permanent mortgage financing ($520,000), deferred Developer Fee ($927,410) and a 9% Low Income Housing Tax Credit ($15,843,209) awarded on November 18, 2015. The project is fully funded and per the developer there are "no outstanding sources of funding that have not been awarded."

b. The Township's spending plan (an exhibit of the attached fair share plan) projects that sufficient funds will be available over the next 10 year period to fully fund the 23 unit rehabilitation obligation, to the extent a local rehabilitation program is required to be implemented.

In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary developments, a construction or implementation schedule, or timetable, shall be submitted for each step in the development process: including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contractor and construction. The schedule shall provide for construction to begin within two years of court approval of this settlement. The municipality shall indicate the entity responsible for monitoring the construction and overall development activity. The Township meets those obligations as follows:

a. The Township's Construction and Planning Department will be responsible for monitoring the construction and overall development activity related to the Cornerstone at Delanco. The project is located in an approved area in need of redevelopment, was awarded LIHTC funding and received preliminary site plan approval. The following timeline presents an overview of the necessary additional steps:

Final Site Plan Approval - June 2016
Construction Closing - September 2016
Begin Marketing / Leasing - September 2017
Construction Completion - December 2017
Lease Up - June 2018

8. The Township agrees to require 13% of all units referenced in this plan, with the exception of units that have been constructed as of July 17, 2008, to be very low income units, with half of the very low income units being available to families. Although no more than 13 very-low income units are required (98 post-2008 units x 0.13=12.74), a total of 24 very-low units will be provided. The municipality will comply with those requirements as follows:

   a. Five (5) very low income senior rental units at Zurbrugg Mansion;

   b. One (1) very low income family rental unit at Russ Farm;

   c. 10 very-low income senior rental units at Living Springs Senior Residence; and

   d. Eight (8) very-low income family rental units at the Cornerstone at Delanco.

9. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93 (i.e. one bonus credit per eligible rental unit up to the 25 percent maximum).

10. At least 50 percent of the units in each of the Third Round Prospective Need sites shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
11. The Township agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligations for more than 25% of units developed or planned to meet its fair share obligation.
12. The Township shall add to the list of community and regional organizations in its affirmative marketing plan pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center (FSHC), Moorestown Ecumenical Neighborhood Development (MEND), Lutheran Social Ministries of New Jersey, Camden County Council on Economic Opportunity, the Burlington County Community Action Program (BCCAP) and other non-profit/civil rights organizations to be added in the future and shall as part of its regional affirmative marketing strategies during its implementation of this plan provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

13. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. or any successor regulation, and all other applicable law, provided that the Township shall require projects receiving nine percent Low Income Housing Tax Credits to have a control period of not less than a 30 year compliance period plus a 15 year extended use period The Township as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that these provisions are satisfied.

14. As an essential term of this settlement, within forty five (45) days of Court Approval of this Settlement Agreement, the Township shall introduce an ordinance providing for the amendment of the Township's Housing Ordinance to implement the terms of this settlement agreement and the zoning contemplated herein.
15. The parties agree that if a court of competent jurisdiction in Burlington County, or an administrative agency responsible for implementing the Fair Housing Act, calculates an obligation for the Township for the period 1999-2025 that is lower by more than twenty (20%) percent of the total prospective Third Round need obligation established in this agreement, and if that calculation is memorialized in an unappealable final judgment, the Township may seek to amend the judgment in this matter. Notwithstanding any such reduction, the Township shall be obligated to implement the fair share plan attached hereto, including to the extent applicable by leaving in place any site specific zone changes made or continued in connection with the plan approved pursuant to this settlement agreement; taking all steps necessary to support the development of 100% affordable developments referenced herein; and otherwise fulfilling fully the fair share obligations established herein. The reduction of the Township's obligation below that established in this agreement does not provide a basis for seeking leave to amend this agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its prospective need for the Third Round, the Township may carryover any resulting extra credits to future rounds in conformance with the then-applicable law.

16. The Township has prepared a spending plan that is attached hereto as an exhibit to the fair share plan. The parties to this agreement agree that this spending plan is valid and should be approved by the court. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Township agrees to provide annual monitoring of trust fund activity to the Court, Special Master, and Fair Share Housing Center, and all entities on the affirmative marketing list in this agreement, using forms previously developed for this purpose by the Council on Affordable Housing. The monitoring shall include an accounting of any housing trust

fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended. The parties recognize that the expenditure of trust fund fees on administrative costs is capped at 20%. The parties further recognize that in all filings before the Court, the Township filed to affirmatively comply with the Third Round obligation, and no legal or planning expenses by the Township were created in an effort to avoid its obligation, litigate the appropriateness of a site for inclusion in the plan, or the like. As such, the Parties agree that the Township may charge all legal and planning expenses spent in pursuing its Third Round plan approval to its affordable housing trust fund subject only to the 20% cap.

17. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Township agrees to provide annual monitoring of affordable housing activity to the Court, Special Master, and Fair Share Housing Center, and all entities on the affirmative marketing list in this agreement, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

18. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in this agreement. The Township agrees to comply with those provisions as follows:
    a. For the midpoint realistic opportunity review as of July 1, 2021 as required pursuant to N.J.S.A. 52:27D-313, the Township will provide to the Court, with notice to Fair Share Housing Center and other interested parties identified in this agreement, including all entities on the affirmative marketing list in this agreement, a status report as to its implementation of its Fair Share Plan and any comments as to whether any unbuilt sites continue to present a realistic opportunity, with the opportunity for any interested party to submit comments and request a hearing before the court as to whether any sites no longer present a realistic opportunity and should be replaced.

    b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this agreement, the Township will provide to the Court, with notice to Fair Share Housing Center and other interested parties identified in this agreement, including all entities on the affirmative marketing list in this agreement, a status report as to its satisfaction of its very low income requirements, including family low income requirements referenced herein, with the opportunity for any interested party to submit comments and request a hearing before the court as to whether the municipality has complied and whether any corrective actions should be taken.

19. A condition of this agreement is that FSHC shall be granted as part of any final judgment party status in this matter and shall be deemed to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading.

20. This settlement agreement must be approved by a court prior to going into effect through a fairness hearing process, as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to not challenge the attached fair share plan in court during any fairness hearing in which it is reviewed. FSHC agrees that the municipality may receive the "judicial equivalent of substantive certification" in accordance with the Supreme Court's decision in In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015).
21. This settlement agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Burlington County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.

22. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

23. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

24. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
25. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.

26. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

27. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the

Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

28. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.

29. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.

30. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.

31. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO THE TOWNSHIP:
Douglas L. Heinold, Esquire
Raymond Coleman Heinold & Norman, LLP
325 New Albany Road
Moorestown, NJ 08057
Phone: (856)222-0100
Telecopier: (856)222-0411
Email: dheinold@rclawnj.com

WITH A COPY TO THE MUNICIPAL CLERK:
Janice M. Lohr, RMC, Township Clerk
Delanco Township
770 Coopertown Road
Delanco, NJ 08075
Phone: (856)461-0561 (x224)

Telecopier: (856)461-0685
Email: jlohr@delancotownship.com

TO FSHC:

Kevin D. Walsh, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: kevinwalsh@fairsharehousing.org

Please sign below if these terms are acceptable. Upon approval by the governing body, I will countersign below.

Very truly yours,
RAYMOND COLEMAN
HEINOLD & NORMAN, LLP

DOUGLAS L. HEINOLD

_____
Kevin D. Walsh, Esquire
Counsel for Intervenor/Interested Party

Fair Share Housing Center

On behalf of the Township of Delanco, with the authorization of the governing body by Resolution dated June 13, 2016

_____
Douglas L. Heinold, Esquire
Dated: _____

Very truly yours,
Raymond Coleman Heinold & Norman, LLP

Douglas L. Heinold

B A N I S C H
ASSOCIATES, INC.
Planning and Design

August 30, 2016

(via e-mail and regular mail)

Honorable Ronald E. Bookbinder, A.J.S.C.
Burlington County Court Facility
49 Rancocas Road, 7th Floor
Mount Holly, New Jersey 08060

RE: In the matter of the Application of the Township of Delanco, Docket No. BUR-L-2595-15

Dear Judge Bookbinder:

The purpose of this letter report is to present my recommendations as the Court-appointed Special Master concerning Delanco Township's (Delanco or Township) eligibility for a Judgment of Compliance and Repose, the judicial equivalent of Substance Certification by the Council on Affordable Housing with respect to its affordable housing fair share obligation. This report also reviews the terms of the Settlement Agreement to determine whether it is fair and reasonable to low and moderate income households.

Notice of the compliance and fairness hearing scheduled for September 8, 2016 was provided in accordance with the Court's instructions by the Township Attorney, Douglas Heinold, on July 24, 2016. The Notice of Hearing provided a description of the Settlement Agreement and the Township's "Amended Third Round Housing Element and Fair Share Plan" (HEFSP or Fair Share Plan), adopted August 2, 2016 (prepared by Mary Beth Lonergan, AICP/PP, and Ashton Jones AICP), and indicated the Settlement Agreement and Plan were available for inspection and photocopying at the Delanco Township Clerk's office.

The following analysis, comments and recommendations are based on my review of the adopted HEFSP (August 2, 2016).

111 Main Street, Flemington, NJ 08822
908-782-0835/908-782-7636(fax) banisch@banisch.com

Housing Element

N.J.S.A. 52:27D-310 of the Fair Housing Act (FHA), as incorporated in N.J.S.A. 40:55D-28b(3) of the Municipal Land Use Law (MLUL), identifies the required contents of a municipal Housing Element.

The statute reads as follows:

52:27D-310 Essential components of the municipality's housing element

A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing, and shall contain at least:

a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;

b. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands.

c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;

d. An analysis of the existing and probable future employment characteristics of the municipality;

e. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing; and

f. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

The information presented in the Delanco Amended Third Round Housing Element of the Master Plan satisfies the requirements of the FHA and MLUL. The Township's Housing Element includes a discussion of housing and household conditions, population and

demographics, employment characteristics, income and consideration of lands most appropriate for affordable housing The sources for the data include the 2010 U.S. Census, the 2009-2013 American Community Survey, the Burlington County Department of Planning and Public Works, the Delaware Valley Regional Planning Commission (DVRPC), New Jersey Department of Community Affairs (NJDCA) and the N.J. Division of Labor and Workforce Development.

Fair Share Plan

The Township's Fair Share Plan ("Delanco's Affordable Housing Plan") includes sections on the fair share obligation for prior and current rounds, current round adjustments, current round credits, additional current round mechanisms, very low income requirements, a summary of strategies, cost generation, monitoring, affirmative marketing and the spending plan. The Fair Share Plan also includes a determination of the Township's present and prospective fair share of low and moderate income housing and its capacity to accommodate its present and prospective affordable housing needs, including its fair share of low and moderate income housing.

This report addresses:

- the present need (rehabilitation obligation),
- prior round obligation (1987-1999),
- estimated prospective need obligation (1999-2025),
- the affordability assistance program.

Present Need (Rehabilitation Obligation)

The Township's HEFSP indicates a present need of 23 units, based on the most current U.S. Census and American Community Survey data. The Township's rehabilitation obligation of 23 units was calculated from appropriate data sources, with consent by the FSHC. The rehabilitation of deficient units will continue under the auspices of the Burlington County Department of Human Services, Community Development Division, and using Community Development Block Grant (CDBG) and HOME Investment Partnership funding.

Prior Round Obligation (1987-1999)

The Township has a 61-unit prior round obligation, as assigned by the Council on Affordable Housing. Against this total, Delanco qualifies for 73 credits, according to Table 27 on page 30 of the HEFSP titled "Summary of Credits from Prior Round, 1987-1999". The 73 unit total includes 45

Table 27. Summary of Credits from Prior Round, 1987-1999

Delanco Township's Prior Round Compliance Mechanisms: 61-Unit Prior Round	Credits	Bonuses	Total
Inclusionary Developments - completed			
Russ Farm – family for-sale off-site - 404 Illinois Ave.	1	0	1
Russ Farm – family rentals off-site – multiple sites	15	15	30
Russ Farm – funded RCA with Palmyra	14	0	14
River's Edge - family affordable sale units on-site	15	0	15
River's Edge/Zurbrugg – senior affordable rentals (11 of 27)	11	0	11
Creekside – family affordable rentals (1 of 3)	1	1	2
Total	57	16	73
Prior Round Surplus			*12*

units/credits from Russ Farm (30 units plus 15 bonus credits), 26 from River's Edge (15 units on site and 11 senior rentals at Zurbrugg) and 1 unit at Creekside (1 family rental plus 1 rental bonus). A total of 12 surplus units/credits are available to carry forward to the Third Round.

Prospective Need Obligation (1999-2025)

As outlined in the Settlement Agreement with FSHC and referenced in the August 2016 HEFSP, the Third Round Prospective Need Obligation (1999-2025) is established at 131 affordable units.

Proposals to Address the Third Round RDP

The Township proposes to meet and exceed the Third Round obligation through a combination of inclusionary developments that are complete (18 units/2 bonus credits) and three (3) 100% affordable developments (99 units). The 99 affordable units are eligible for 31 bonus credits for family rentals, as seen in Table 29 from Delanco's HEFSP (at right).

Table 29. Affordable Housing Credits/Reductions/Bonuses Addressing Third Round Obligation

Delanco Township Third Round Compliance Mechanisms: 131-Unit Third Round	Credits	Bonuses	Total
Surplus Credits - Prior Round - completed	12	0	12
Inclusionary Developments			
Creekside – affordable family rentals, 2 of 3, balance - completed	2	2	4
Zurbrugg – affordable senior rentals, 16 of 27 bal. – completed	16	0	16
High Point – off-site family units or in-lieu payment - approved	–	–	–
100% Affordable Sites			
Abundant Life/Living Springs – 94+ affordable senior rentals; (senior cap) - completed	16	0	16
Abundant Life/Living Springs Manor – 20 special needs rentals - completed	20	0	20
Rhawn/Cornerstone at Delanco - affordable family rental units – approved, awarded tax credits	63	31	94
TOTAL	129	33	162

In addition, there are 12 excess affordable units from the Prior Round that can be applied to the Third Round, fully satisfying the Third Round with an excess of 31 affordable units/credits to carry forward to the next round.

Affordability Assistance Program

The Township proposes to dedicate at least 30% of all development fee funding to provide affordability assistance to low and moderate income households or to assist in creating very low or low income units according to the HEFSP. Further amplification of the proposed program is provided below in the review of the Spending Plan.

Spending Plan

The Township's Plan includes a Spending Plan adopted August 2, 2016. The Spending Plan includes sections addressing the projection of revenues for the certification period; an administrative mechanism to collect and distribute funds; a description of the anticipated

use of funds; a schedule for the creation and/or rehabilitation of housing units and a summary.

The draft Spending Plan indicates that as of December 31, 2015 the Township had collected $463,486.06 in its affordable housing trust fund and expended $418,601.26, resulting in a balance of $44,884.80. The Township projects that between January 1, 2016 and December 31, 2025, an additional $330,000 will be collected through its development fee ordinance and from an in lieu payment negotiated with a developer.

Interest on the projected revenue in the trust fund is anticipated to add $3,000 to the fund, resulting in a forecasted total of $333,000. When combined with the remaining balance in the trust fund, Delanco expects to have a total of $377,885 available to advance affordable housing development and affordability assistance.

The Township intends to allocate up to $336,420 to fund rehabilitation and anticipates administrative expenditures of $41,465.

With regard to the affordability assistance program, Delanco had expended over $220,000 on affordability assistance as of December 31, 2015. This total exceeds the 30% affordability assistance requirement for the use of development fees by roughly $145,000. Thus, Delanco has met and exceeded the requirement to assist very low income households.

Settlement Agreement

I reviewed the Settlement Agreement between Delanco and FSHC (approved by the Township on June 13, 2016 – Resolution #2016-80) to determine whether any element of the settlement would not be fair to the interests of existing and future low and moderate income households in Delanco's housing region. Using the criteria set forth in East/West Venture v. Township of Fort Lee, 286 N.J. Super 311, 329 (App. Div. 1996), which outlines the issues involved in approving a settlement of *Mount Laurel* litigation, I evaluated the fairness of the Settlement Agreement.

As a result of my analysis, it is my opinion that the settlement provides for a substantial amount of affordable housing and satisfies the criteria set forth by the Appellate Court in East/West Venture. I am recommending the Court's approval of the settlement.

Summary of Key Terms of the Settlement Agreement

The Settlement Agreement provides that the Township has a Prior Round Obligation of 61 affordable units, a Rehabilitation Share (Present Need) of 23 units and a Third Round Prospective Need of 131 affordable units.

The Settlement Agreement further acknowledges that the provisions for rehabilitation are acceptable, that the Township has appropriately applied 73 affordable units/credits towards its 61-unit Prior Round Obligation, leaving a 12-unit surplus toward Round Three and that the Plan provides 162 affordable units/credits towards its Third Round Prospective Need of 131 units, leaving a surplus of 31 units to carry forward.

The Township agrees to require that 13% of all affordable units approved, vested or constructed after July 1, 2008 shall be very low income units, and that half of these units shall be available to families.

The Township agrees to comply with specified minimums for family housing, low income housing, very low income housing, very low income family housing, rentals and family rentals, and agrees to specified maximums for age-restricted housing, age-restricted housing qualifying for rental bonuses, and rentals. At least 50% of the units constructed on Third Round Prospective Need sites shall be affordable to very low income and low income households and at least 50% of the Third Round units shall be available to families.

The Township agrees to add the Fair Share Housing Center (FSHC), Southern Burlington County Branch of the NAACP, Willingboro NAACP, Latino Action Network, Moorestown Ecumenical Neighborhood Development (MEND), Lutheran Social Ministries of New Jersey, Camden County Council on Economic Opportunity and the Burlington County Community Action Program (BCCAP) to the list of community and regional organizations in its affirmative marketing plan receiving notice.

The Township agrees to comply with the requirements of the Uniform Housing Affordability Controls including, but not limited to, the marketing, bedroom distribution and affordability standards for the affordable housing units referenced in the Agreement.

The parties agree that if there is legislative action, a final judgment from a court of competent jurisdiction, or administrative order from an administrative agency responsible for implementing the Fair Housing Act (a "Change in Law") which reduces the Township's total prospective Third Round need obligation established in this Agreement by more than 20%, the Township may seek to amend the judgment in this matter without objection by FSHC.

The parties agree that the spending plan attached to the HEFSP is valid and should be approved by the Court, and that on the first anniversary of the execution of the Agreement and every anniversary thereafter the Township shall provide annual monitoring of trust fund activity to the NJ Department of Community Affairs, Local Government Services, with a copy to the FSHC, using forms previously developed for this purpose by COAH. Also on the first anniversary of the Agreement and every anniversary thereafter, the Township shall provide annual monitoring of affordable housing activity by means of posting a report of such activity on the Township website, with a copy to FSHC, and by posting of updated information on COAH's CTM system.

The Township agrees to comply with two monitoring provisions of the Fair Housing Act regarding action to be taken by the Township during the ten-year period of protection provided in this agreement, including:

a. The Township will provide a status report to the Court, with notice to the FSHC and other interested parties identified in the Agreement, as to its implementation of the Fair Share Plan, from the midpoint realistic opportunity review as of July

1, 2020, with the opportunity for interested parties to submit comments and request a hearing before the Court as to whether any sites no longer present a realistic opportunity and should be replaced.

b. For the review of very low income housing requirements, within 30 days of the third anniversary of this agreement, the Township will provide to the Court, with notice to the FSHC and other interested parties identified in the Agreement, a status report as to its satisfaction of its very low income requirement, including family low income requirements, with the opportunity for any interested party to submit comments and request a hearing before the Court as to whether the municipality has complied and whether any corrective actions should be taken.

Evaluation of the Settlement Agreement

The fairness of a settlement to the protected class of low and moderate income households has long been a concern of the Court to determine whether or not "the settlement adequately protects the interests of the lower-income persons on whose behalf the affordable units proposed by the settlement are to be built". The Appellate Court established a five-part analysis for evaluating the fairness of a settlement in a *Mount Laurel* lawsuit in the East/West Venture case as follows:

1. **Consideration of the number of affordable units being constructed.** In this case, there are no affordable units to be constructed by FSHC. However, the result of the Settlement Agreement is the Township's compliance with its constitutional obligation to provide its fair share of the regional need for low and moderate income housing.

2. **The methodology by which the number of affordable units provided is derived.** The settlement offer by FSHC, which forms the basis for this settlement, is derived from a methodology that FSHC contends follows the prior round methodology.

3. **Other contributions by the developer.** This prong of the East/West Venture test is not applicable to a settlement that does not involve a builder/plaintiff.

4. **Other components of the Agreement that contribute to the satisfaction of the constitutional obligation.** The process of obtaining the Court's approval of the Township's Third Round Housing Element and Fair Share Plan, the scrutiny that document has received from FSHC, and the conditions contained in this report requiring the Township to adopt certain ordinance amendments will allow the Township to move forward in the satisfaction of its constitutional obligation.

5. **Other factors that may be relevant to the fairness of the settlement.** This program will ensure that the interests of lower income households will be advanced through the Court's approval, since the Agreement provides for a continuing monitoring program throughout its ten-year duration.

In conclusion, the Court is being asked to determine whether the interests of low and moderate income households will be served by the approval of the settlement between

Delanco and FSHC. In my opinion, the interests of low and moderate income households will be advanced by the Court's approval of the Settlement Agreement.

Endorsement of the Settlement

Based upon the analysis undertaken herein, this report finds the settlement achieved between Delanco and FSHC to be fair to low and moderate income households and recommends its favorable consideration by the Court.

Conclusion and Conditions

This report has been prepared in anticipation of the upcoming Compliance Hearing before the Honorable Ronald E. Bookbinder, A.J.S.C. on September 8, 2016 in the matter of the Application of the Township of Delanco for a Determination of *Mount Laurel* Compliance (Docket No. BUR-L-2595-15). This report reviews the August 2016 Housing Element and Fair Share Plan for the Township of Delanco, Burlington County, New Jersey, prepared by Mary Beth Lonergan, AICP/PP, and Ashton Jones AICP. The Township is seeking a Judgment of Compliance and Repose or the judicial equivalent of COAH Substantive Certification for its Prior Round obligation, Rehabilitation obligation and Third Round (Prospective Need) obligation.

For the reasons provided herein, I recommend that the Court approve the Settlement Agreement and grant the Township a Judgment of Compliance and Repose, which is the judicial equivalent of COAH Substantive Certification for the 2016 Housing Element and Fair Share Plan. I find that it is designed to implement the March 10, 2015 decision of the N.J. Supreme Court In Re N.J.A.C. 5:96 and 5:97, insofar as can be determined at this time.

My recommendation for Court approval of the Township's Application for a Determination of *Mount Laurel* Compliance is subject to the following conditions, which should be addressed within 120 days of the Court's Order:

1. The Mayor and Council shall adopt the Draft Affordable Fair Share Ordinance included in Appendix J of the August 2, 2016 HEFSP.

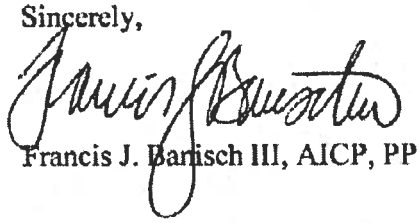
3. The Mayor and Council shall adopt a Resolution appointing a specific municipal employee as Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, and monitoring and reporting.

4. The Mayor and Council shall adopt a Resolution appointing the Township's Administrative Agent to administer affordable units in accordance with the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.).

5. The Mayor and Council shall, by Resolution, adopt the Township's Affirmative Marketing Plan included in Appendix K of the HEFSP.

6. The monitoring and reporting requirements identified in the Settlement Agreement shall be continuing conditions of the Court's approval.

Sincerely,



Francis J. Barisch III, AICP, PP

cc: Douglas Heinold, Esq.
Supreme Court service list
Mary Beth Lonergan AICP/PP

NOTICE OF FAIRNESS AND COMPLIANCE HEARING FOR CONSIDERATION OF A SETTLEMENT AGREEMETN AND THE AMENDED THIRD-ROUND HOUSING ELEMENT AND FAIR SHARE COMPLIANCE PLAN OF THE TOWNSHIP OF DELANCO, COUNTY OF BURLINGTON

Docket No. BUR-L-2595-15

PLEASE TAKE NOTICE that on Thursday, September 8, 2016, beginning at 2:00 P.M., a "Fairness and Compliance Hearing" (the "Hearing") will be conducted before the Honorable Ronald E. Bookbinder, A.J.S.C. at the Burlington County Superior Court Complex, 7th Floor, 49 Rancocas Road, Mount Holly, NJ 08060. Upon conclusion of the Hearing, the Court will determine whether the terms of a Settlement Agreement (the "Settlement Agreement") between the Township and Intervenor, Fair Share Housing Center ("FSHC") to resolve the within Declaratory Judgment action, is fair and reasonable to low income and moderate income households and whether the Township's proposed Housing Element and Fair Share Plan (hereinafter the "Affordable Housing Plan"), satisfies the Township's obligation to provide a realistic opportunity for the creation of affordable housing pursuant to its constitutional responsibilities under the Mount Laurel Doctrine. Particularly, the Court will consider whether the Affordable Housing Plan satisfies the Township's obligation to provide a realistic opportunity for the creation of affordable housing. It is anticipated that the Plan will be acted upon by the Township Planning Board and by the Township Committee prior to the Hearing.

The Affordable Housing Plan addresses the Township's Present Need Obligation, its Prior Round Obligation, and Third Round Prospective Need Obligation, all as determined pursuant to the Settlement Agreement, Fair Housing Act, N.J.S.A. 52:27D-301, et seq., the substantive, applicable regulations of the New Jersey Council on Affordable Housing ("COAH"), the New Jersey Supreme Court's March 10, 2015 decision in the matter of In re N.J.A.C. 5:96 & N.J.A.C. 5:97, 221 N.J. 1 (2015), and other applicable laws.

The Township seeks a Judgment of Compliance and a Judgment of Repose, which will afford the Township, among other things, a period of ten years of protection from any builder's remedy lawsuits brought pursuant to the Mount Laurel Doctrine. The Affordable Housing Plan sets forth those compliance mechanisms the Township will employ to address its affordable housing obligation. The full text of the Settlement Agreement and the Township's Affordable Housing Plan is available for public inspection and/or photocopying (at requestor's expense) during normal business hours at the Township Clerk's office located at 770 Coopertown Road, Delanco, New Jersey.

Any interested person may seek to appear and be heard at the Hearing to address the Township's Affordable Housing Plan and the Settlement Agreement, and offer any comments or objections, provided any such person first files with the Court at the above address, its comments or objections, in writing, no later than August 26, 2016 and serves such comments or objections upon the following:

Honorable Ronald E. Bookbinder, A.J.S.C.
Burlington County Courts Facility
49 Rancocas Road

P. O. Box 6555
Mount Holly, New Jersey 08060

Francis Banisch, P.P. – Court Master
Banisch Associates
111 Main Street
Flemington, New Jersey 08822

Mary Beth Lonergan, P.P. – Township Planner
Clark Caton Hintz
100 Barrack Street
Trenton, New Jersey 08608

Douglas L. Heinold, Esquire
Raymond, Coleman & Heinold, LLP
325 New Albany Road
Moorestown, NJ 08057

Kevin Walsh, Esquire
Fair Share Housing Center
510 Park Blvd Cherry Hill, NJ 08002-3318

The Court Master will issue his report and comments on the Settlement Agreement, Plan and any comments received during the comment period by September 1, 2016 and file same with the Court and the office of the Township Clerk.

This Notice is provided pursuant to Order of the Court and is intended to inform interested persons of the Settlement Agreement and the Township's Affordable Housing Plan and inform such persons that they may comment upon the Settlement Agreement and Affordable Housing Plan before the Court reviews and evaluates whether to approve the Settlement Agreement and Affordable Housing Plan. This Notice does not indicate any view by the Court as to the fairness of the Settlement Agreement or the adequacy of the Township's Affordable Housing Plan.

Douglas L. Heinold, Esquire
Raymond Coleman Heinold & Norman, LLP
325 New Albany Road
Moorestown, NJ 08055
(856)222-0100

DELANCO TOWNSHIP

ORDINANCE 2016-14

AN ORDINANCE OF THE TOWNSHIP OF DELANCO, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY AMENDING CHAPTER 58 "FAIR HOUSING" OF THE CODE OF THE TOWNSHIP OF DELANCO TO ADDRESS THE REQUIREMENTS OF THE NJ SUPERIOR COURT

WHEREAS, the New Jersey Council on Affordable Housing ("COAH") has promulgated rules, set forth at N.J.A.C. 5:93 and 5:91, concerning the substantive and procedural requirements for obtaining third round substantive certification of the Township's Housing Element and Fair Share Plan; and

WHEREAS, on March 10, 2015, the Supreme Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mt. Laurel trial judges within the Superior Court; and

WHEREAS, on July 7, 2015, the Township submitted a Declaratory Judgment Action to NJ Superior Court; and

WHEREAS, on August 2, 2016, the Township Joint Land Use Board adopted a revised Third Round Housing Element and Fair Share Plan; and

WHEREAS, on August 15, 2016, the Township governing body adopted a resolution endorsing the adopted Township Plan; and

WHEREAS, on September 8, 2016, the NJ Superior Court granted the Township a Judgment of Compliance and Repose for the third round; and

WHEREAS, as part of its review and grant of the Township's petition for a Judgment of Compliance and Repose, the Superior Court requires that the Township's affordable housing ordinances be updated and brought into compliance with its current rules.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Delanco, in the County of Burlington and State of New Jersey, that the "Code of the Township of Delanco" ("Code") is hereby amended as follows:

Section 1. Chapter 58, entitled " Fair Housing," Deleted and Replaced. Chapter 58 " Fair Housing" of the Code is hereby deleted in its entirety and replaced with a new Chapter 58 " Fair Housing," which shall read as follows:

Chapter 58. Fair Housing

§58-1. Statutory provisions.

A. This section of the Township Code sets forth regulations regarding the low and moderate income housing units in the Township consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing", N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq.,

and the Township's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill").

B. This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.

C. The Delanco Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Plan has also been endorsed by the Township Committee of the Township of Delanco. The Fair Share Plan describes the ways the Township shall address its fair share for low- and moderate-income housing as determined by the Superior Court and documented in the Housing Element.

D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:93, as may be amended and supplemented.

E. Pursuant to a settlement agreement with Fair Share Housing Center ("FSHC"), the Township shall file annual monitoring reports and status reports with the Superior Court and place the reports on its municipal website.. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by the Special Master in accordance with N.J.A.C. 5:91 shall be available to the public at the Delanco Township Municipal Building, 770 Coopertown Road, Delanco, NJ 08075

§ 58-2. Definitions. As used herein the following terms shall have the following meanings:

"Accessory apartment" means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

"Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

"Adaptable" means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:91N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

"Affirmative marketing" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

"Affordability average" means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

"Affordable" means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be

amended and supplemented.

"Affordable development" means a housing development all or a portion of which consists of restricted units.

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

"Affordable housing program(s)" means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93, and/or funded through an affordable housing trust fund.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

"Age-restricted unit" means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

"Assisted living residence" means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

"Certified household" means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

"COAH" means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

"DCA" means the State of New Jersey Department of Community Affairs.

"Deficient housing unit" means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load

bearing structural systems.

"Developer" means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

"Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

"Housing Element" means the portion of the Township's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.A.C. 5:93-5.1 and establishes the Township's fair share obligation.

"Inclusionary development" means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

"Low-income household" means a household with a total gross annual household income equal to 50% or less of the median household income.

"Low-income unit" means a restricted unit that is affordable to a low-income household.

"Major system" means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

"Market-rate units" means housing not restricted to low- and moderate-income households that may sell or rent at any price.

"Median income" means the median income by household size for the applicable county, as adopted annually by COAH or approved by the NJ Superior Court.

"Moderate-income household" means a household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

"Moderate-income unit" means a restricted unit that is affordable to a moderate-income household.

"Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between

family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

"Random selection process" means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by adopted/approved Regional Income Limits.

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

"Rent" means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

"Special master" means an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

"UHAC" means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

"Very low-income household" means a household with a total gross annual household income equal to 30% or less of the median household income.

"Very low-income unit" means a restricted unit that is affordable to a very low-income household.

"Weatherization" means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

§58-3. Division of construction.

Delanco's new construction or inclusionary component will be divided equally between low- and moderate-income households as per N.J.AC. 5:93-2.20.

§58-4. New Construction.

The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase

development:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate- Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

B. Design. In inclusionary developments, to the extent possible, low- and moderate- income units shall be integrated with the market units.

C. Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with *N.J.A.C.* 5:93-8.10 (c).

D. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

E. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.

2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.

3. Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low income households.

4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

   (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;

   (b) At least 30% of all low- and moderate-income units shall be two bedroom units;

   (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and

   (d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

5. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

F. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

   (a) An adaptable toilet and bathing facility on the first floor;

   (b) An adaptable kitchen on the first floor;

   (c) An interior accessible route of travel on the first floor;

   (d) An interior accessible route of travel shall not be required between stories within an individual unit;

   (e) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

   (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

      (1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

      (2) To this end, the builder of restricted units shall deposit funds within the Township of Delanco's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

      (3) The funds deposited under paragraph (2) herein, shall be used by the Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

      (4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of Delanco.

      (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Delanco's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

(6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

§58-5. Maximum rents and sale prices.

In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sale prices:

A. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.

B. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.

C. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.

1. At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.

D. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.

E. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:

1. A studio or efficiency unit shall be affordable to a one-person household;

2. A one-bedroom unit shall be affordable to a one and one-half person household;

3. A two-bedroom unit shall be affordable to a three-person household;

4. A three-bedroom unit shall be affordable to a four and one-half person household; and

5. A four-bedroom unit shall be affordable to a six-person household.

F. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:

1. A studio or efficiency unit shall be affordable to a one-person household;

2. A one-bedroom unit shall be affordable to a one and one-half person household; and

3. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

G. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

H. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

I. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

J. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

K. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§58-6. Condominium and Homeowners Association Fees.

For any affordable housing unit that is part of a condominium association and/or homeowners association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

§58-7. Affirmative Marketing.

A. The Township shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 3 and covers the period of deed restriction.

C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 5, comprised of Burlington, Camden and Gloucester Counties

D. The Administrative Agent designated by the Township shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.

E. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

F. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.

G. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of Delanco.

§58-8. Occupancy Standards.

A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:

1. Provide an occupant for each bedroom;

2. Provide children of different sex with separate bedrooms; and

3. Prevent more than two persons from occupying a single bedroom.

A. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§58-9. Selection of Occupants of Affordable Housing Units.

A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.

B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 *et seq*.

§58-10. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years.

B. Rehabilitated owner-occupied single family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

D. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

E. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§58-11. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.

D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§58-12. Buyer Income Eligibility.

A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

§58-13. Limitations on indebtedness secured by ownership unit; subordination.

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.

B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

§58-14. Control Periods for Restricted Rental Units.

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years.

B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

C. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Burlington. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:

1. Sublease or assignment of the lease of the unit;

2. Sale or other voluntary transfer of the ownership of the unit; or

3. The entry and enforcement of any judgment of foreclosure.

§58-15. Price Restrictions for Rental Units; Leases.

A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

§58-16. Tenant Income Eligibility.

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.

2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.

3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

3. The household is currently in substandard or overcrowded living conditions;

4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§58-17. Conversions.

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

§58-18. Unnecessary cost-generating features.

Section 14(b) of the Fair Housing Act, N.J.S.A. 52:270-301 et seq. incorporates the need to eliminate unnecessary cost-generating features from Delanco's land use ordinances. Accordingly, Delanco will eliminate development standards that are not essential to protect the public welfare and to expedite or fast-tract municipal approvals/denials on inclusionary development applications. Delanco will adhere to the components of N.J.A.C. 5:93-10.1- 10.3.

§58-19. Rehabilitation program.

Delanco will undertake a rehabilitation program to rehabilitate substandard housing units occupied by low- and moderate-income households. Delanco has designated the Burlington County Community Development Program (BCCD) to administrator the rehabilitation program. BCCD will prepare a marketing plan for the rehabilitation program. The rehabilitation program will be consistent with N.J.A.C. 5:93-5.2(b) through 5:93-5.2(1).

§58-20. Municipal Housing Liaison.

A. The position of Municipal Housing Liaison for the Township of Delanco is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Township Committee and be subject to the approval by the Superior Court.

C. The Municipal Housing Liaison must be either a full-time or part-time employee of the Township of Delanco.

D. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in N.J.A.C. 5:93.

E. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Delanco, including the following responsibilities which may not be contracted out to the Administrative Agent:

1. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

2. The implementation of the Affirmative Marketing Plan and affordability controls.

3. When applicable, supervising any contracting Administrative Agent.

4. Monitoring the status of all restricted units in the Township of Delanco's Fair Share Plan;

5. Compiling, verifying and submitting annual reports as required by the Superior Court;

6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and

7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

§58-21. Administrative Agent.

A. The Township shall designate by resolution of the Township Committee, subject to the approval of the Superior Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93and UHAC.

B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Superior Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

C. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:

1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;

2. Affirmative Marketing;

3. Household Certification;

4. Affordability Controls;

5. Records retention;

6. Resale and re-rental;

7. Processing requests from unit owners; and

8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.

9. The Administrative Agent shall, as delegated by the Township Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§58-22. Enforcement of Affordable Housing Regulations.

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:

(a) A fine of not more than $500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

(b) In the case of an Owner who has rented his or her low- or moderate-income unit in violation

of the regulations governing affordable housing units, payment into the Township of Delanco Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.

C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

D. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously

described.

G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

H. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§58-23. Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Township.

Section 2. Repealer. Any Ordinances inconsistent with this ordinance is hereby repealed to the extent of its inconsistency.

Section 3. Severability. If any provision of this Ordinance is deemed unlawful by a Court is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect; but the remainder of this Agreement shall continue in full force and effect.

Section 4. Effective date. This Ordinance shall take effect upon proper passage in accordance with the law.

THIS IS CERTIFICATION THAT THE ABOVE ENTITLED ORDINANCE WAS PASSED UPON SECOND AND FINAL READING AFTER A PUBLIC HEARING AT A MEETING OF THE TOWNSHIP COMMITTEE ON DECEMBER 5, 2016 AT THE MUNICIPAL BUILDING, 770 COOPERTOWN ROAD, DELANCO, NJ.

Janice M. Lohr, RMC
Municipal Clerk

Kate Fitzpatrick
Mayor

FILED with the Court
SEP - 5 2017
Ronald E. Bookbinder, A.J.S.C.

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IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF DELANCO, COUNTY OF BURLINGTON	SUPERIOR COURT OF NEW JERSEY BURLINGTON COUNTY - LAW DIVISION DOCKET NO.: BUR-L-2595-15 CIVIL ACTION **CONSENT ORDER APPROVING INCOME LIMITS**

THIS MATTER having been presented to the Court, the Honorable Ronald E. Bookbinder, A.J.S.C., presiding, by agreement between Douglas L. Heinold, Esq., Raymond Coleman Heinold, LLP, attorney for Declaratory Judgment Plaintiff, Township of Delanco ("Township"), and Adam M. Gordon, Esq., attorney for Intervenor Fair Share Housing Center ("FSHC"); and it appearing that the parties having consented to the relief hereinafter set forth as reflected by the signatures of counsel affixed hereto; and the Court being apprised that the Special Master has given his approval and for good cause appearing; and

WHEREAS, the parties to this matter recognizing that an important function historically performed by the Council on Affordable Housing ("COAH") is setting income limits for each of the COAH housing regions, which are used to determine eligibility for affordable housing, and

setting rent increases for existing affordable housing; and COAH having not published income limits or rent increases since 2014; and

WHEREAS, the Court finding it necessary to establish income limits and rent increase information to comply with the directives of the FHA and to more generally ensure the implementation of municipalities' constitutional obligations through the availability of existing affordable housing and new affordable housing constructed through the court compliance process pursuant to Mount Laurel IV to qualified individuals; and

WHEREAS, Mount Laurel IV having directed trial courts to adhere to the First and Second Round rules and aspects of the two earlier versions of the Third Round rules found valid by the appellate courts; and

WHEREAS, the parties and the Court having deemed it appropriate as part of the Settlement Agreement in the matter to establish income limits and rent increases based on COAH's established practice for setting income limits and rent increases and to empower municipalities to update income limits and rent increases on an annual basis themselves based on the process historically used by COAH; and

WHEREAS, the Township and FSHC having reached a settlement agreement dated August 15, 2016 in this matter and the Township having adopted a revised Third Round Housing Element and Fair Share Plan on August 2, 2016 which were approved by the Court by order dated November 7, 2016 after a fairness hearing having been held on September 8, 2016 to review the agreement and compliance plan; and

WHEREAS, a compliance hearing having been held on July 11, 2017 to review the Township's compliance with the Court's earlier conditions; and

WHEREAS, the Court having found that the Township satisfactorily addressed the Court's conditions, the Court approved the Township's Judgment of Repose; and

WHEREAS, subsequently the Court having noted the consent of counsel for this Order;

THEREFORE, it is ORDERED AND ADJUDGED:

1. Income limits for all units that are part of the Township's Housing Element and Fair Share Plan and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls ("UHAC") pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by the United States Department of Housing and Urban Development ("HUD") as follows:

   (a) Regional income limits shall be established for the region in which the Township is located based on the median income by household size which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80%

of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

(b) The income limits attached hereto are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2017 and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

(c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

2. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income

limits established pursuant to the process defined above:

(a) The resale prices of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region pursuant to paragraph 1 above. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

(b) The rent levels of very low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

3. A copy of this Order shall be served on all parties and the Special Master with seven days of receipt from the Court.

HON. RONALD E. BOOKBINDER, A.J.S.C.

Approved as to Form and Substance

RAYMOND COLEMAN HEINOLD, LLP

By: DLH
Douglas L. Heinold

Dated: 08.10.17

FAIR SHARE HOUSING CENTER

By:_____ Dated: 8-9-17

Adam M. Gordon

SUBMITTED WITH APPROVAL OF:

_____

Francis J. Banisch, AICP, PP
Special Master

Dated: August 9, 2017

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FILED with the Court
AUG 17 2017
Ronald E. Bookbinder, A.J.S.C.

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF DELANCO

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
BURLINGTON COUNTY

DOCKET NO. BUR-L-2595-15
CIVIL ACTION (MT. LAUREL)

FINAL DECLARATORY JUDGMENT OF COMPLIANCE AND REPOSE

THIS MATTER having come before the Court initially upon the Verified Complaint for Declaratory Judgment filed by Petitioner, Township of Delanco ("Township"), seeking a determination that the Township has complied with its Third Round (1999-2025) Mt. Laurel obligation, in accordance with the procedures set forth in In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 NJ 1 (2015) (Mount Laurel IV); and

ON APPLICATION opened to the Court by Douglas L. Heinold, Esquire, Raymond Coleman Heinold, LLP (Attorney for Delanco Township), appearing with Mary Beth Lonergan, A.I.C.P., P.P, Clarke Caton Hintz, PC, (Affordable Housing Planner for Delanco Township), on notice to and with appearance by Kevin D. Walsh, Esquire, appearing on behalf of Intervenor Fair Share Housing Center ("Fair Share Housing"), and in the presence of Special Master, Francis J. Banisch, A.I.C.P., P.P. ("Special Master"), with the Court having entered a prior Order Granting Immunity and Judgment of Repose, dated November

7, 2016, which Order determined that that the Delanco Township Amended Third Round Housing Element and Fair Share Plan (2016) created a realistic opportunity to achieve the Township's Affordable Housing Obligations under the Mount Laurel Doctrine, subject to conditions set forth at Par. 3.a: "The Township shall comply with the recommendations of the Special Master as set forth in his report including but not limited to undertaking certain Ordinances and Resolutions set forth on pages 8-9 of the Report."; and

THE TOWNSHIP having properly caused notice to be published of the Compliance Hearing with said notice providing an opportunity for any interested party to file an objection or comments on or before April 7, 2017and no parties having entered objections; and

THE COURT and Court Master having received and reviewed a subsequent submission from the Township dated February 7, 2017, with supporting documentation, and the Court Master having issued a letter report dated April 7, 2017 concluding "the Township has fully satisfied the conditions" of the prior approval, and the Court having considered the moving papers, the matters of record submitted by the parties, the reports of the Special Master, the testimony of the Special Master and the representations of counsel, and the Court having provided an opportunity for the parties and members of the public to ask questions or provide comments on the Township's submissions and matters addressed in the proceedings, and for reasons placed on the record during the July 11, 2017 Compliance Hearing the Court having determined to enter a Final Declaratory Judgment of Compliance and Repose at this time, as hereinafter set forth;

IT IS THEREFORE ON THIS 17 DAY OF JULY, 2017, ADJUDGED, DECLARED AND ORDERED AS FOLLOWS:

1. The Court does hereby acknowledge the passage by Delanco Township of the following: Delanco Township Ordinance 2016-14, amending Chapter 58 governing

"Fair Housing" dated December 5, 2016; Delanco Township Resolution 2016-150 Appointing Municipal Housing Liaison on December 5, 2016; Delanco Township Resolution 2016-152 Appointing Affordable Housing Administrative Agents dated December 5, 2016; and Delanco Township Resolution 2016-153 Adopting Affirmative Marketing Plan (Affordable Housing) dated December 5, 2016; and

2. Delanco Township has satisfied all additional conditions set forth in the prior Letter Report of the Special Master, Francis J. Banisch, A.I.C.P., P.P., dated August 30, 2016, which satisfaction of all conditions has been confirmed to the court by the Special Master; and

3. The Court finds that the Township's spending plan is valid and should be approved by the Court, and that the expenditures of funds contemplated under the spending plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment of compliance and repose approving the Delanco Township/FSHC settlement and the Township's compliance plan in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563), which finding is supported by a letter from the Court Master dated July 25th, and attached hereto.

4. The November 7, 2016 Order Granting Immunity and Judgment of Repose, except as specifically modified and updated herein, is hereby adopted and incorporated herein as if fully set forth; and

5. It is hereby declared that Delanco Township land use regulations and affirmative devices comply with the Township's constitutional obligation with respect to affordable housing under the Mount Laurel doctrine; and

6. Judgment is hereby declared in favor of plaintiff Delanco Township for a Final Declaratory Judgment of Compliance and Repose pursuant to East/West Venture v. Borough of Fort Lee and the Mount Laurel line of cases; and

7. This Judgment of Compliance and Repose shall extend 10 years from the date of initial application deadline, or specifically until July 8, 2025.

AND IT IS FURTHER ORDERED that a copy of this Judgment be served upon all interested parties within 7 days of receipt.

HON. RONALD E. BOOKBINDER, A.J.S.C.