

MALAMUT AND ASSOCIATES, LLC

Kelly A. Grant (#026962010)
 457 Haddonfield Road, Suite 500
 Cherry Hill, New Jersey 08002

Attorneys for Plaintiff,
 City of Lambertville

IN THE MATTER OF THE
 APPLICATION OF THE CITY OF
 LAMBERTVILLE

:
 : SUPERIOR COURT OF NEW JERSEY
 :
 : LAW DIVISION
 : HUNTERDON COUNTY
 :
 : DOCKET NO.: HNT-L-311-15
 :
 : CIVIL ACTION (MOUNT LAUREL)
 :
 : **ORDER APPROVING AMENDED**
 : **SETTLEMENT AGREEMENT AND**
 : **CONDITIONAL JUDGMENT OF**
 : **MOUNT LAUREL COMPLIANCE AND**
 : **REPOSE**

THIS MATTER having been opened to the Court upon the filing of a Verified Complaint for Declaratory Judgment in accordance with In re Adoption of N.J.A.C. 5:96 & 5:07 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), filed by Malamut & Associates, LLC, attorneys for Plaintiff, the City of Lambertville (Kelly Grant, Esq. appearing), Fair Share Housing Center (Adam Gordon, Esq. appearing) participating in this action as an Interested Party by virtue of the Settlement Agreement dated May 22, 2018 and fully executed May 22, 2018, as well as an amended Settlement Agreement dated January 29, 2020, fully executed February 4, 2020 (the “FSHC Amended Settlement Agreement”); and the Court having appointed Michael Bolan, AICP, PP, as the Special Master; and the Parties having

reached agreement that the City's entire Mount Laurel affordable housing obligation is comprised of a Present Need / Rehabilitation Share obligation of 1 unit, a Prior Round obligation of 0 units, and a Third Round Fair Share Obligation (gap and prospective need) of 137 units (including the "Gap Present Need" and "Prospective Need"); and on May 12, 2020, the Court having conducted a Fairness hearing as to the Amended Settlement Agreement as well as a Compliance Hearing pursuant to East/West Venture vs. Borough of Fort Lee, 286 N.J. Super 311 (App. Div. 1996), and by the May 21, 2020 written opinion issued by the Court finding that the Amended Settlement Agreement reached in this matter is fair and reasonable to low and moderate income persons and that the City's preliminary compliance measures are generally compliant subject to certain changes, supplementary materials and conditions recommended by the Special Master in his report dated May 7, 2020, including the adoption of a full housing element and fair share plan as called for by the Amended Settlement Agreement; and the City having properly caused notice to be published of the combined Fairness and Compliance Hearing, with said notice providing an opportunity for any interested party to file an objection on or before May 2, 2020; and written objections having been received from John and Linda Hencheck, James Mastrich, April Linder and Andre St. Amant, Gary Cohen, Charles Zarnitz, Johanna Furst, Barbara Lindsey, Lillie Chen, Sue Bell, Audrey Byrnes, Karen Fox and Thomas Schwarz, Lita Sands, RoseAnn Baska, Richard Green, Carole Mizsur, Judith Wansor, Annelies van Dommelen, Lauren Kovacs, Elycia Lerman, Henry Young, Jeffrey Tittel and Barbara Walsh, Sandy Hanna, Maryann Ranson, Wanda Kaluza, John and Tracey Costanzo, Elwood and Elena Hill, Gina Fischetti and Larry Vellensky, T. Barton Thurber, Irene Rudolph, Ravenna Taylor, and Judith Gleason; 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 City's Affordable

Housing Planning Consultant, Emily Goldman, PP, and Special Master Bolan, and the representations of counsel; and the Court having provided an opportunity for the parties and members of the public to ask questions and provide comments on the Plan and matters addressed in the proceedings; and good and sufficient cause having been shown for entry of this Judgment; and for the reasons placed on the record during the May 12, 2020 combined Fairness and Compliance Hearing;

IT IS ON this 23rd day of June, 2020 ORDERED as follows:

1. Lambertville's proposed Mount Laurel compliance Plan is reasonable and fair to the region's low- and moderate-income population and does a fair and reasonable job of balancing the types of housing that will be served by the affordable housing units proposed.
2. The Amended Settlement Agreement by and between the City of Lambertville and Fair Share Housing Center, dated January 29, 2020 is hereby approved for the same reasons.
3. Within one hundred twenty (120) days of this Order, the City shall:
 - a. Prepare and adopt its final Housing Element and Fair Share Plan. The final Housing Element and Fair Share Plan shall include:
 - i. A detailed site suitability analysis for each site proposed for new inclusionary development, whether as of right, through the adoption of a zoning ordinance, through Redevelopment or overlay zoning;

- ii. A showing of the start date and length of affordability controls for each existing affordable housing unit for which the City is seeking credit;
 - b. Prepare and adopt all resolutions, ordinances, zoning ordinances and overlay zoning ordinances required to implement that Housing Element and Fair Share Plan;
 - c. Prepare and adopt a Redevelopment Plan;
 - d. Prepare and adopt a new Spending Plan;
 - e. The HEFSP is to be endorsed within 30 days of this order;
 - f. The Police Redevelopment Plan is to be adopted by December 31, 2020;
 - g. A Redeveloper's Agreement for the police site to be executed by May 15, 2021;
4. All conditions recommended by Special Master Michael Bolan in his report dated May 7, 2020 and marked C-1 into evidence, appearing in Appendix A are incorporated into this order by reference as if stated in full;
5. This Court shall retain jurisdiction over this matter for the purpose of monitoring the City's progress in its compliance efforts and periodic Case Management Conferences shall be scheduled and held upon notice by this Court.
6. Judgment is hereby entered in favor of Petitioner, the City of Lambertville ("City") for a Judgment of Compliance and Repose ("Judgment") pursuant to East/West Venture and Mount Laurel IV, subject to the conditions set forth herein.

7. As set forth in the FSHC Amended Settlement Agreement and established at the May 12, 2020 Fairness Hearing, the City's Fair Share Obligation 1987 – 2025 Mount Laurel affordable housing obligation is comprised of:
- a. A Present Need / Rehabilitation Share obligation of 1 unit;
 - b. A Prior Round obligation of 0 units; and
 - c. A Third Round Fair Share Obligation (including the “Gap Present Need” and “Prospective Need”) obligation of 137 units;
 - d. Subject to the terms and conditions of the FSHC Amended Settlement Agreement and the Court's May 21, 2020 Order Pursuant to Fairness and Preliminary Compliance Hearing.
 - e. As set forth in Paragraph 14 of the FSHC Amended Settlement Agreement, if a decision of a court of competent jurisdiction in Hunterdon County, the Appellate Division of the Superior Court, or New Jersey Supreme Court, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the City for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total prospective Third Round need obligation established above, and if that calculation is memorialized in an unappealable final judgment, the City may seek to amend this Judgment to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the City shall remain obligated to complete and leave in place any site specific zoning change made in connection with the plan

approved pursuant to the Amended Settlement Agreement and continue to implement all aspects of the plan approved pursuant to the Amended Settlement Agreement and this Judgment. The City may carry over any resulting extra credits to future rounds.

8. Having reviewed the City's Housing Element and Fair Share Plan and implementing ordinances, the Court finds and declares that the City has demonstrated that it has met its prior round obligation and has in place a plan to meet its present need / rehabilitation share obligation and its third round (gap present need and prospective need) obligations. As such, subject to the conditions set forth in this Judgment, the Court finds that the City's Plan and implementing ordinances are constitutionally compliant and satisfy the City's cumulative third round Mount Laurel affordable housing obligations and are therefore approved.
9. The findings, conclusions and grant of Judgment set forth herein are conditioned upon satisfaction of the following requirements:
 - a. The City shall fully implement its Housing Element and Fair Share Plan.
 - b. As set forth in the May 7, 2020, Special Master Report, the City shall address the conditions as attached hereto.
 - c. On the first anniversary of the execution of the FSHC Amended Settlement Agreement (February 4, 2021) and every anniversary thereafter, the City shall:
 - i. Report on trust fund activity to the Department of Community Affairs, New Jersey Council on Affordable Housing or Division of Local Government Services or other entity designated by the State

of New Jersey. The report shall also be posted on the City's website and a copy of the report forwarded to Fair Share Housing Center.

- ii. Prepare a report on the status of all affordable housing activity in the municipality. The report shall be posted on the City's website and a copy provided to Fair Share Housing Center.
- d. By July 1, 2020, the City shall provide a status report of its plan implementation efforts for the midpoint realistic opportunity review required by the Fair Housing Act and Amended Settlement Agreement. The report shall be posted on the City's website and a copy provided to Fair Share Housing Center. The report shall address whether any unbuilt site still creates a realistic opportunity and will invite any interested party to submit comments to the City.
- e. Within 30 days of the Amended Settlement Agreement's third anniversary (no later than March 4, 2023), the City shall prepare a status report regarding its efforts to produce very low-income units. The report shall be posted on the City's website and a copy provided to Fair Share Housing Center. The posting will invite any interested party to submit comments to the City and Fair Share Housing Center as to the City's efforts to comply with its affordable housing obligation.

10. The City's Affordable Housing Spending Plan has been reviewed and is hereby approved.

- a. The City is authorized to impose and collect affordable housing development fees, to deposit and maintain those fees in the City's Affordable Housing Trust Fund, and to expend those fees in accordance with its approved Spending Plan and this Judgment, subject to applicable law.
 - b. The proposed expenditure of funds from the City's Affordable Housing Trust Fund is found and determined to be consistent with and authorized by the Fair Housing Act, and as such, those funds are properly committed for expenditure as required by the 2008 amendments to the Fair Housing Act, P.L. 2008, c.46.
11. The City is authorized and directed to use the regional income limits as set forth in the "2017 Affordable Housing Regional Income Limits by Household Size" summary chart prepared by the Affordable Housing Professionals of New Jersey ("AHPNJ") dated August, 2017, and the methodology developed thereto by AHPNJ that replicate's COAH's procedures for annually updating and establishing said income limits, for use in establishing annual eligibility and qualification levels and the maximum rental levels and sales prices for affordable housing units.
12. Subject to the conditions set forth herein, the City is entitled to this Judgment of Compliance and Repose and immunity from exclusionary zoning lawsuits, including but not limited to "builder's remedy" lawsuits, for its third round Mount Laurel affordable housing obligations for a period of ten (10) years, retroactive to the date of the City's filing of the instant action on July 8, 2015, with said

protections extending through and expiring on July 8, 2025. Once the above conditions called for to be addressed within 120 days of the entry of this order have been met, the City will be granted final repose and immunity from exclusionary zoning litigation through July 8, 2025. The special master shall report to the Court on the City's compliance with the 120-day conditions.

13. A copy of this Order shall be served on the Special Master, all counsel of record and the official service list within seven days of receipt by counsel for Petitioner.

/S/ THOMAS C. MILLER, A.J.S.C.

HON. THOMAS C. MILLER, ~~P.J. Civ.~~
A.J.S.C.