

File No. 17005-0001 RCM

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FILED
SEP 21 2017
**SUPERIOR COURT OF NJ
MERCER VICINAGE
CIVIL DIVISION**

Attorneys for Petitioner, Township of Hopewell

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
HOPEWELL,

Petitioner,

HONORABLE MARY C. JACOBSON
LAW DIVISION, MERCER COUNTY
DOCKET NO. MER-L-1557-15

**ORDER ON FAIRNESS AND
PRELIMINARY COMPLIANCE
HEARING**

THIS MATTER having been opened by the Court upon application of Petitioner Township of Hopewell at a consolidated Fairness Hearing on August 28, 2017 with respect to four affordable housing Settlement Agreements executed by Hopewell Township and four Intervenors/Interested Parties and a Supplemental Agreement by and between all parties in the presence of (a) Ronald C. Morgan, Esquire and Linda A. Galella, Esquire of the firm of Parker McCay P.A., attorneys for petitioner Township of Hopewell; (b) Kevin D. Walsh, Esquire, attorney for Interested Party and Intervenor Fair Share Housing Center (“FSHC”); (c) Bradley Mitchell, Esquire of the firm of Stevens & Lee, attorney for Intervenor CF Hopewell CC&L LLC (“CF Hopewell”); (d) Thomas Carroll, Esquire of the firm of Hill Wallack, attorney for Intervenors Woodmont Properties, LLC and Federal City Road, LLC (collectively “Woodmont”); (e) Arnold C. Lakind, Esquire of the firm of Szaferman Lakind,

attorney for Intervenor Deer Valley Estates, LLC (“Deer Valley”); (f) Frank J. Petrino, Esquire of the firm of Eckerd Seamans Cherin & Mellott, attorney for Interested Parties Albert Enourato and U.S. Home Corporation d/b/a Lennar (collectively “Enourato”); and (g) Court Master John P. Maczuga, P.P.; and adequate notice of the consolidated Hearings having been provided in accordance with In the Matter of the Adoption of N.J.A.C. 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), East/West Venture v. Borough of Ft. Lee, 286 N.J. Super. 311 (App. Div. 1996), and Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 351 (Law Div. 1984); and the Court having received and reviewed a Master’s Report from Court Master Maczuga under date of August 21, 2017 and having heard and considered direct testimony from Mr. Maczuga at the consolidated Hearing pertaining to his review of the separate Settlement Agreements by and between the Township of Hopewell and FSHC, CF Hopewell, Woodmont and Enourato and the identical draft summary third round Housing Element and Fair Share Plan that is appended to and incorporated in each of the Settlement Agreements; and the Court Master having recommended that the Court find that the Settlement Agreements and draft summary Housing Element and Fair Share Plan attached thereto is fair and reasonable to protect the interests of low and moderate income individuals and households in Mercer County; and the Court having heard and considered the arguments of counsel; and for good cause shown, for the reasons set forth on the record:

IT IS on this 21st September day of August, 2017, **ORDERED** as follows:

1. The Court finds that the separate Settlement Agreements between Hopewell Township, FSHC, CF Hopewell, Woodmont and Enourato and the Supplemental Agreement

by and between all parties are fair and reasonable and adequately protect the interests of low and moderate income individuals and households within Hopewell Township's housing region and the four Settlement Agreements are approved.

2. The Court preliminarily finds that Hopewell Township's proposed draft summary Housing Element and Fair Share Plan is facially constitutional and provides a fair and reasonable opportunity for Hopewell Township to meet its obligations under the Fair Housing Act and Mount Laurel IV, subject to the Township's satisfaction of any conditions set forth in the Master's Report issued by the Court's Master and subject to the Court's approval of the Township's final third round Housing Element and Fair Share Plan upon the Court conducting a duly noticed Final Compliance Hearing; and

3. Based upon the Township's representations that it intends to complete the final third round Housing Element and Fair Share Plan in an expedited manner such that the Court can conduct a Final Compliance Hearing by the end of 2017, the Court is scheduling the Final Compliance Hearing for December 14, 2017 at 9:30 a.m. and is directing that Notice of the Final Compliance Hearing be published in the Township's official newspapers, posted on the Township's official bulletin board and website, and electronically forwarded to all attorneys and interested parties on the Service List at least 30 days prior to the date of the Final Compliance Hearing.

4. The four Settlement Agreements require that the Township perform and complete key tasks within defined time periods to facilitate affordable housing production as summarized in Exhibit "A" hereto. The Township is directed to comply with these action time periods.

5. The Court will conduct a telephonic Case Management Conference which is to be arranged by the Township's attorneys on November 6, 2017 at 9:30 a.m. to monitor the Township's progress in satisfying its obligations under the Settlement Agreements and this Order.

6. The temporary immunity and repose against Mount Laurel litigation that was previously granted to Hopewell Township is hereby extended until and through the day of the Final Compliance Hearing or the entry of an Order granting a Final Judgment in this matter.

7. The Township shall provide notice to all counsel that appeared at the Fairness Hearing with notice of all public hearings and hearings with NJDEP.

8. A copy of this Order shall be served upon all parties on the Service List within seven (7) days of the Township's receipt thereof.



Mary C. Jacobson, A.J.S.C.

HOPEWELL TOWNSHIP AFFORDABLE HOUSING SETTLEMENT TIMELINE

	TIMELINE	COMPLETED
Wastewater Management Plan	AUGUST - DECEMBER	
NJDEP Submission	August	Yes
NJDEP Review Process	September	
NJDEP Public Hearing	November	
Mercer County Review	December	
WMP Approved	December	
CF Hopewell Tracts Redevelopment Plan	JULY - NOVEMBER	
Area in Need	July	Yes
Redevelopment Plan, Ordinances, and Redevelopment Agreement		
Township Committee: Review and Introduction	October	
Planning Board Review	October	
Township Committee: Public Hearing and Approval	November	
Woodmont Tract Redevelopment Plan	AUGUST - OCTOBER	
Area In Need	August	Yes
Redevelopment Plan, Ordinances, and Redevelopment Agreement		
Township Committee: Review and Introduction	September	
Planning Board Review	September	
Township Committee: Public Hearing and Approval	October	
Zaitz Tract Redevelopment Plan and Land Use Ordinance	SEPTEMBER - NOVEMBER	
Area in Need	September	
Redevelopment Plan, Ordinances, and Redevelopment Agreement		
Township Committee: Review and Introduction	October	
Planning Board Review	October	
Township Committee: Public Hearing and Approval	November	
Enourato Tract	SEPTEMBER-OCTOBER	
Ordinances		
Township Committee: Review and Introduction	September	
Planning Board Review	September	
Township Committee: Public Hearing and Approval	October	
Revised Housing Element and Fair Share Plan	SEPTEMBER-OCTOBER	
Planning Board Review and Approval	September	
Township Committee Review and Approval	October	
General Affordable Housing Ordinance Revisions (BMS and General AH Set Asides)	SEPTEMBER-OCTOBER	
Township Committee: Review and Introduction	September	
Planning Board Review	September	
Township Committee: Public Hearing and Approval	October	
Revised Affordable Housing Trust Account Spending Plan	NOVEMBER	