

FAIR SHARE HOUSING CENTER

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FILED

AUG - 8 2016

JUDGE DOUGLAS K. WOLFSON

**In the Matter of the Application
of the Township of South
Brunswick, County of Middlesex,**

SUPERIOR COURT
Law Division
Middlesex County

DOCKET NO: MID-L-3878-15

CIVIL ACTION

ORDER

This matter having come before the Court via complaint seeking a Declaratory Judgment of compliance with the Mount Laurel doctrine and New Jersey Fair Housing Act, N.J.S.A. 52:27D-329.1 et. seq., pursuant to the process established by In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV'), including determination of plaintiff Township of South Brunswick (Township's) fair share obligations;

And after case management conferences and entry of successive case management orders, the Court having held a trial regarding the methodology for calculation of the Township's present and prospective fair share of the region's affordable housing need, prior to application of any lawful adjustments or credits that may apply toward satisfaction of total affordable housing obligation;

And trial having been conducted as to the proper calculation of the Township's present and prospective fair share on May 2, 3, 4, 5, 9, 10, 11 and 24;

And appearances having entered on behalf of the Township, by Township Attorney, Donald J. Sears, Esq. and Township Planning Board Counsel, Benjamin Bucca, Esq. with Township expert Peter Angilides, PhD. testifying, and by Defendant-Intervenors Fair Share Housing Center, through its counsel, Adam M. Gordon, Esq. and Kevin D. Walsh Esq., with experts David N. Kinsey, PhD. PP, FAICP and Daniel McCue, testifying, by AvalonBay Communities, Inc. through its counsel Robert A. Kasuba, Esq., by Richardson Fresh Ponds, LLC, and Princeton Orchards Associates, LLC through their Counsel, Henry L. Kent-Smith, Esq. with expert Art Bernard, P.P. testifying, and by South Brunswick Center, LLC, through its counsel, Kenneth D. McPherson, Jr., Esq., with Special Master Christine Nazzaro-Cofone also appearing;

And the Court having considered all filed written submissions and having heard and considered the testimony of all experts, as well as exhibits offered in evidence by the parties, and for the reasons set forth in the opinion of the court of July 21, 2016;

IT IS on this 8th day of August, 2016 ORDERED as follows:

1. The Court accepts the methodology of Dr. Kinsey for Prospective Need for the period 2015-2025, with the exception

of his methodology on filtering, and finds that the Township's pre-credited and unadjusted fair share of the region's Prospective Need for the period 2015-2025 is 1,533 units;

2. The Court accepts the methodology of Dr. Kinsey and finds that the Township's Present Need is 109 units, which calculation of Present Need may be further adjusted in accord with the reopened proceedings set forth below;

3. The record before the Court, and the trial of the matter shall be reopened on August 18, 2016 with continuation if necessary through August 19, 2016 for the sole purpose of the Court's consideration of whether, and to what extent, the calculation of the Present Need should be adjusted in accord the Appellate Division decision of July 11, 2016 in In Re Declaratory Judgment Actions Filed by Various Municipalities, ___ N.J. Super. ___ (July 11, 2016);

4. A case management conference shall be scheduled, immediately following the completion of the reopened trial on adjustment to Present Need, for the purpose of both scheduling Phase 2 remedial proceedings and determining the scope of those proceedings, the Court having, for reasons specified in the opinion entered in this matter on July 21, 2016, determined that the Township has failed to prosecute its claims for Declaratory Relief with requisite good faith pursuant to Mount Laurel IV, and the Court having also earlier determined that the Township is therefore no longer entitled to temporary

immunity under Mount Laurel IV from the claims of the Defendants-Intervenors for site specific relief;

5. In anticipation of the aforesaid case management conference, all Defendants-Intervenors seeking site specific relief shall submit to the Special Master, on or before Friday August 5, 2016, site suitability information necessary for consideration by the Special Master of the suitability and prioritization of each Defendant-Intervenor site for addressing a portion of the Township's fair share obligations, with copies being simultaneously served on all counsel;

6. The parties shall meet and confer as coordinated with the Special Master, in advance of the case management conference, to address the prioritization and development potential of the sites proposed by Defendants-Intervenors, and address matters deemed necessary or convenient by the Special Master for the preparation of the Special Master's report and recommendations to the Court on the inclusion, timing, and prioritization of those sites;

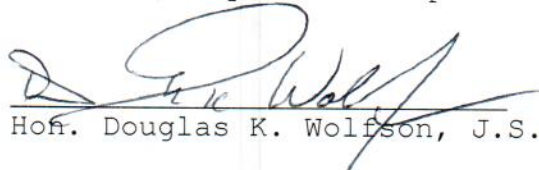
7. The Special Master shall provide her review and recommendations to the Court and all parties of how to best achieve constitutional compliance, guided by the relevant equities as well as sound environmental and planning considerations, on ~~or before~~ ^{a date to be determined at the next CMC.} Any objections to her recommendations shall be made in writing and filed with the Court on notice to all parties, including the Special Master,

DN

on

a date to be determined at the next CMC
on or before ~~_____~~. Any such objections shall be adjudicated
as part of Phase 2 of the trial; and

8. Counsel for FSHC shall forward a copy of this Order
to all parties of record within five (5) days of receipt.


Hon. Douglas K. Wolfson, J.S.C.

on

9. Based on the proofs and documentation
submitted, the Tp. has fully satisfied
its prior record (1987-1999) obligation
of 841 units