



TOWNSHIP OF SOUTH BRUNSWICK

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December 18, 2015

Honorable Douglas K. Wolfson, J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
56 Paterson Street
P.O. Box 964
New Brunswick, NJ 08903-0964

Re: In the Matter of the Application of the Township of South Brunswick
Docket No. MID-L-3878-15
Our File No. L1347

Dear Judge Wolfson:

Pursuant to the Court's November 13, 2015, Case Management Order, the Township of South Brunswick ("Township") hereby submits proposed revisions to its preliminary draft Third Round Housing Element and Fair Share Plan that was submitted to the Court on November 9, 2015, in the above referenced matter.

As you know, the Court has not yet calculated and/or determined the Township's present and prospective obligation. Several estimates of the Township's obligation have been suggested in various reports offered by David Kinsey, Arthur Bernard and Robert Burchell. In addition, a report was prepared by Richard Reading at the request of the Mount Laurel judges in Ocean, Monmouth and Mercer Counties, which reaches different conclusions regarding the statewide need when compared to the Kinsey/Bernard conclusions. The Kinsey conclusions have also been criticized by Econsult Solutions as well as Nassau Capital, in reports prepared by these entities on behalf of the League of Municipalities. As such, it continues to be very difficult for the Township to identify which obligation it should plan for.

In an Order dated October 23, 2015, in In the Matter of the Application of the Township of Readington, Superior Court, Law Division, Hunterdon County, Docket No. HNT-L-301-15, the Hon. Thomas C. Miller, P.J.Ch., sanctioned use of the Summary of Plan sheets developed by Frank Banisch, P.P.A.I.C.P., and Elizabeth McKenzie, P.P.A.I.C.P. These are the same Summary of Plan sheets this Court directed the Township to utilize in submitting its initial draft Third Round Plan.

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Judge Miller also indicated in his Order that “the municipality may utilize the fair share numbers from the proposed third iteration of the Third Round Rules that were never adopted due to COAH’s 3-3 tie vote.” Since a court determined that, at least for purposes of submission of preliminary Third Round plans in the Summary of Plan sheets, municipalities may utilize the Burchell numbers that accompany the unadopted 2014 COAH regulations, the Township of South Brunswick chose to follow Judge Miller’s suggestion. As such, the previously submitted Summary of Plan sheets set forth the Township’s preliminary Third Round Housing Element and Fair Share Plan based upon the Burchell calculations prepared for COAH in 2014.

In order to comply with the Court’s order of November 16, 2015, the enclosed revisions to the Township’s preliminary Plan continues the use of the 2014 COAH obligation numbers for South Brunswick. Pursuant to the instructions of Christine Nazzaro-Cofone, Special Master in this matter, I have not utilized the full Summary of Plan sheets but rather submitted an abbreviated version showing the revisions that are proposed.

The Township continues to remain committed to voluntary compliance with its constitutional obligation to provide realistic opportunities for affordable housing. Given the uncertainty of the Township’s actual Third Round Prospective obligation, however, the Township reserves the right to revise its Third Round Housing Element and Fair Share Plan based upon the anticipated report from Econsult regarding statewide, regional and municipal obligations and/or further order of the Court. Accordingly, the enclosed revision is submitted without prejudice, the Township reserving all rights it has to amend same should the need arise as this matter progresses.

Thank you for your considerations in this matter. If you have any questions or comments, please do not hesitate to contact me.

Respectfully submitted,

s/Donald J. Sears

Donald J. Sears
Director of Law

DJS/lw

Cc: Robert A. Kasuba, Esq., attorney for AVB
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Benjamin Bucca, Jr., Esq., attorney for SB Planning Board
Christine Nazzaro-Cofone, PP, Special Master