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Petitioner Borough of Chatham

I/M/O BOROUGH OF CHATHAM APPLICATION FOR JUDGMENT OF COMPLIANCE WITH THIRD ROUND <u>MOUNT LAUREL</u> AFFORDABLE HOUSING OBLIGATION	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY  DOCKET NO.: MRS-L-1906-15  Civil Action  AMENDED FINAL JUDGMENT OF COMPLIANCE AND REPOSE
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This matter having been opened to the Court by the application of plaintiff / petitioner Borough of Chatham (the "Borough") by Stickel, Koenig, Sullivan & Drill, LLC (Jonathan E. Drill, Esq., appearing) for the entry of an amended final judgment of compliance and repose, declaring that the Borough is in compliance with the June 14, 2021 First Amendment (the "First Amendment") to the November 7, 2016 Settlement Agreement previously entered into in this matter by and between the Borough and intervening defendant Fair Share Housing Center ("FSHC"), which First Amendment was previously approved by the court by order entered on September 1,

2021, and also declaring that the Borough is in continued compliance with its Third Round Mount Laurel affordable housing obligations; and the court having scheduled a compliance hearing and being satisfied that proper notice of the compliance hearing was provided by the Borough in accordance with law; and the court opening the compliance hearing on August 25, 2022 and then adjourning same and subsequently conducting the compliance hearing on November 14, 2022, and issuing its decision on compliance on November 28, 2022; and the following parties participating in the compliance hearing: the Borough represented by Stickel, Koenig, Sullivan & Drill, LLC (Jonathan E. Drill, Esq., appearing), intervening defendant FSHC represented by one of its staff attorneys (Rachel N. Lokken, Esq., appearing), and objector SV Chatham PO JV LLC ("SV") represented by Day Pitney, LLP (Craig Gianetti, Esq., appearing); and the court's special master, Joseph H. Burgis, PP, AICP, having submitted compliance hearing reports dated August 23, 2022, August 24, 2022, and November 9, 2022 (the "master's compliance reports"), all of which were filed via eCourts by the Borough; and the court having heard and considered the testimony of the Borough's affordable housing planning expert, Kendra Lelie, PP, AICP, as well as the testimony of special master Mr. Burgis; and the court also having considered the master's compliance reports referenced above as well as the exhibits that were entered into evidence during the compliance hearing and which

are listed on the addendum attached hereto; and the court finding for the reasons set forth on the record on November 28, 2022 that the within amended final judgment of compliance and repose should be entered, declaring that the Borough is in compliance with the First Amendment which was previously approved by the court by order entered on September 1, 2021, and also declaring that the Borough is in continued compliance with its Third Round Mount Laurel affordable housing obligations in accordance with Mount Laurel IV, 221 N.J. 1 (2015), and specifically approving certain of the compliance documents and other documents listed below so that they will become legally effective;

THEREFORE, IT IS ON THIS 5<sup>th</sup> DAY OF DECEMBER, 2022, DECLARED, ORDERED AND ADJUDGED AS FOLLOWS:

1. Compliance with the First Amendment. It is hereby declared and adjudged that the Borough is in compliance with the First Amendment.
2. Continued Third Round Constitutional Compliance. It is hereby declared and adjudged that the Borough remains constitutionally compliant with its Third Round Mount Laurel affordable housing obligations in accordance with Mount Laurel IV, 221 N.J. 1 (2015).
3. Approval of 2022 Housing Element and Fair Share Plan. It is hereby declared and adjudged that the 2022 Amended Housing Element and Fair Share Plan is hereby approved.

3. Approval of 2022 Spending Plan. It is hereby declared and adjudged that the Borough's 2022 Spending Plan is approved and that the Borough may spend affordable housing trust funds in accordance with the plan.

4. Approval of 2022 Ordinances. It is hereby declared and adjudged that the ordinances adopted by the Borough in 2022 to amend and restate the Post Office Plaza Redevelopment Plan and to reinstate the prior zoning for portions of the Post Office Plaza Redevelopment Area are approved so that they are effective as of the date the within amended final judgment of compliance and repose is entered.

5. Post Office Plaza. It is hereby recognized that, in response to concerns raised by the court's special master in his August 24, 2022 and November 9, 2022 master's reports, the Borough represented during the November 14, 2022 compliance hearing that the Borough would adopt a resolution of intent to bond to provide additional funds in the event of a funding shortfall for the Borough-proposed 15-unit 100% affordable development at Post Office Plaza ("BCUW project") over the \$6M already appropriated by Ordinance #22-12, and the Borough did so by adopting Resolution #22-313 during its meeting the evening of November 14, 2022 and then submitted a signed adopted copy of said resolution to the court via eCourts on November 15, 2022 (Trans ID: 20223945956). It is hereby further recognized that Resolution #22-313 includes the following provision in order to obtain FSHC's agreement that the BCUW project is a compliant

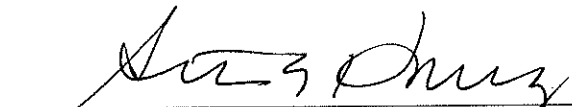
mechanism that provides a realistic opportunity to create the 15- units of affordable housing required under the First Amendment, and so that FSHC would not further object to the BCUW project: "The Borough of Chatham will request note financing authorized by Ordinance #22-12 no later than January, 2024 if BCUW's funding sources have not provided the amount of money BCUW needs to construct the Project as January, 2024 is the outside date for BCUW to obtain funding from sources other than the Borough and construction is slated to commence in March, 2024 and to be completed with certificate(s) of occupancy obtained by March, 2025, with the fourth-round of affordable housing to begin in July, 2025."

6. Continued Immunity. It is hereby declared and adjudged that the Borough has continued immunity from builders' remedy lawsuits and exclusionary zoning challenges, as well the continued judicial equivalent of substantive certification, through September 29, 2026, as the court previously granted to the Borough in ordering paragraphs 2 and 3 of the amended order granting substantive certification and a judgment of compliance and repose entered in this matter on September 29, 2016 (the "2016 JOCR") such immunity and judicial equivalent of substantive certification for that time period and the court finds that the Borough has complied with all of the conditions set forth in said 2016 JOCR. The grant of final repose shall not bar actions brought by FSHC to enforce the terms of the November 7, 2016 Settlement Agreement, the First Amendment, the

Redevelopment Agreement by and between the Borough and BCUC dated September 16, 2022, revised October 31, 2022, and the Exhibits identified in the addendum attached thereto, or the within Final Judgment of Compliance and Repose.

7. Jurisdiction. The Court retains jurisdiction for the limited purposes of enforcing this Judgment, terms and conditions of the 2016 Settlement Agreement and the First Amendment.

8. Service of Order. A copy of the within order shall be served via eCourts.

  
HON. STEPHAN C. HANSBURY, J.S.C.  
(Ret. and on Recall)

*The court has reviewed and considered the correspondence of Gregory M. Biacelli from SU chatham PO JVUC dated December 2, and 5, 2022*

ADDENDUM

EXHIBITS ENTERED INTO EVIDENCE  
ON NOVEMBER 14, 2022

Ex# Exhibit Description

- A-1 May 2022 Amended Housing Element and Fair Share Plan
- A-2 Chatham Borough Planning Board Resolution adopting exhibit A-1 above on May 26, 2022
- A-3 Chatham Borough Resolution endorsing exhibit A-1 above on May 26, 2022
- B-1 May 27, 2022 Spending Plan
- B-2 Chatham Borough Resolution adopting exhibit B-1 above on May 31, 2022
- C-1 Ordinance #21-22 Creating the Gateway Affordable Housing Overlay 1 District (GAHO-1) adopted on December 13, 2021
- C-2 Ordinance #21-23 Creating the Gateway Affordable Housing Overlay 2 District (GAHO-2) adopted on December 13, 2021
- D Ordinance #21-21 Amending the Post Office Plaza Redevelopment Ordinance to Require a Minimum Affordable Housing Set-Aside of 15 Family Non-Age Restricted Rental Units for Any Inclusionary Multi-Family Dwelling Development Adopted on December 13, 2021
- 1 September 8, 2022 Restated Post Office Plaza Redevelopment Plan
- 4 Concept Drawings A-1 and A-2 of the BC UW Project dated September 7, 2022
- 7 Chatham Borough Resolution 22-02 Authorizing the Award of Professional Services Contracts Adopted January 3, 2022
- 8 Piazza & Associates Affordable Housing Compliance Services Contract Signed September 13, 2022
- 9 Chatham Borough Planning Board Resolution Reporting on Ordinance #22-10
- 10 Chatham Borough Planning Board Resolution Reporting on Ordinance #22-11

- 11 Chatham Borough Planning Board Resolution Reporting on Ordinance #22-12
- 12 Memo from BC UW dated June 16, 2022 with attached Pro Forma dated June 16, 2022
- 15 BC UW Preliminary Development Project Timeline
- 16 Ordinance #22-10 Amending and Restating the Post Office Plaza Redevelopment Plan (exhibit 1 above) adopted on October 11, 2022
- 17 Ordinance #22-11 Reinstating Prior Zoning for Portions of the Post Office Plaza Redevelopment Area adopted on October 11, 2022
- 18 Ordinance #22-12 Authorizing the Appropriation of \$6,000,000 to pay for the BC UW Project and to Authorize the Issuance of Bonds to Finance the Appropriation adopted on October 11, 2022
- 19 Redevelopment Agreement by and between the Borough and BC UW dated September 16, 2022, revised October 31, 2022