

FAIR SHARE HOUSING CENTER

Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
Joshua D. Bauers, Esq.
Ashley J. Lee, Esq.
Ariela Rutbeck-Goldman, Esq.
Joelle L. Paull, Esq.
Marios Athanasiou, Esq.

August 28, 2026

Via eCourts

Hon. Janine M. Allen, J.S.C.
New Jersey Superior Court
Sussex County Judicial Center
43–47 High Street, 3rd Floor
Newton, NJ 07860

**Re: IMO the Application of the Borough of Chatham
Docket No. MRS-L-238-25**

Dear Judge Allen:

Please accept this letter on behalf of Fair Share Housing Center (FSHC) in the above captioned matter in response to the Borough of Chatham’s June 29, 2026 Letter informing the court and parties that the Borough had opted not to adopt the proposed Gateway I and II Redevelopment Plan. Pursuant to Paragraph 4(a)(iv) of the December 9, 2025 Mediation Agreement (“Agreement”) between FSHC and the Borough, FSHC writes to raise concerns that the existing Gateway Overlay Zones 1 & 2 may no longer adequately address the Borough’s unmet need obligations and to object to the Borough’s failure to adopt the Redevelopment Plan. Despite FSHC’s objection, FSHC is hopeful that communication with the Borough will continue and that the parties will resolve this issue amicably.

As part of the process of adopting and seeking approval of Fourth Round fair share plans the Legislature was clear that the starting point for any review is an “assessment of the degree to which the municipality has met its fair share obligation from the prior rounds of affordable housing obligations as established by prior court approval, or approval by the council.” N.J.S.A. 52:27D-304.1(f)(2)(a). As part of this assessment, the municipality is required to analyze the

FAIR SHARE

HOUSING CENTER

“extent this obligation remains unfulfilled” and “if a prior round obligation remains unfulfilled or a municipality never received an approval from court or the council for any prior round, the municipality shall address such unfulfilled prior round obligation in its housing element and fair share plan.” Ibid. Under the Amended FHA, a municipality “shall demonstrate how any sites that were not built in the prior rounds continue to present a realistic opportunity” and to address unbuilt prior round deficiencies in ways that ensure those sites remain realistic “which may include proposing changes to the zoning on the site to make its development more likely, and which may also include the dedication of municipal affordable housing trust fund dollars or other monetary or in-kind resources.” N.J.S.A. 52:27D-304.1(f)(2)(a).

Courts have long held that a municipality’s obligation to address its unmet need is not a “hollow promise” and that “[u]nmet need is not “a permanent adjustment to municipal affordable housing obligations.” See In re Fair Lawn, 406 N.J. Super., 433, 445 (App. Div. 2009) (noting in case in which COAH required overlay zoning that COAH “carefully scrutinized” a municipality’s “plan to be sure the vacant land adjustment did not become a hollow promise”); In re Adoption of N.J.A.C. 5:94 & 5:95, 390 N.J. Super. 1, 87-88 (App. Div.), certif. denied, 192 N.J. 71 (2007) (quoting 36 N.J.R. 5770 (December 20, 2004)). This requirement dates to the earliest days of Mount Laurel wherein the Supreme Court required, in Mount Laurel II, an answer to unmet obligations because of a lack of land. The Court recognized that there may be some municipalities that do not have sufficient vacant land for development finding municipalities and courts will need to determine in those cases “what kind of remedy is appropriate to ensure that as land becomes available, a realistic opportunity exists for the construction of lower income housing[.]” S. Burlington Cty. NAACP v. Mount Laurel, 92 N.J.

FAIR SHARE

HOUSING CENTER

158, 248 n. 21 (1983) (Mount Laurel II). The Legislature's requirement that municipalities re-examine prior round mechanisms includes mechanisms to address unmet need. Where a municipality has reason to believe that overlay zoning on sites in need of redevelopment are unlikely to redevelop as zoned, the municipality should take action to ensure that site is redeveloped and results in the creation of affordable housing as planned.

As the parties acknowledged in the Agreement, "in the three (3) year period since the [Gateway] zoning was adopted, no parcel in the overlay zones has redeveloped so no [sic] affordable housing has been produced." See Agreement, ¶4(iv) at 4. Gateway Zone 1 permits a density of 35 dwelling units per acre (du/a), and Gateway Zone 2 permits a density of 18 du/a. In comparison, as the Agreement provides, the nearest, redevelopment project ultimately developed at a density of 54 du/a as part of a redevelopment plan. Ibid. Looking at the comparable successful redevelopment, the Ivy, the question remains whether the existing Gateway zoning at a significantly lower density and/or without the incentives created through the adoption of a redevelopment plan will produce affordable housing. The Ivy demonstrates that with meaningful planning, the Borough can create a realistic opportunity for development. Conversely, the existing zoning in the Gateway 1 & 2 zones has not created affordable housing. FSHC is also in receipt of March Chatham LLC's August 4, 2026 and ADJM Chatham LLC's August 5, 2026 Letters to the court objecting to the Borough's failure to adopt the Redevelopment Plan, calling for zoning on parcels within the Gateway overlay zones consistent with the River Road Redevelopment Plan that resulted in the Ivy being redeveloped . See In The Matter Of Chatham Boro, MRS-L-238-25, Transaction ID: LCV20262046835 (Aug. 4, 2026) and Transaction ID: LCV20262057179 (Aug. 5, 2026). FSHC has also reviewed the letters filed by counsel for the

FAIR SHARE

HOUSING CENTER

Borough in response to March and ADJM's letters. See In The Matter Of Chatham Boro, MRS-L-238-25, Transaction ID: LCV20262113819 & LCV20262113819 (Aug. 8, 2026).

As a result, FSHC respectfully requests that Your Honor schedule a case management conference in an effort resolve the question of whether the existing zoning is adequate to encourage redevelopment on parcels within the overlay. Thank you for your attention to this matter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Joelle L. Paull". The signature is fluid and cursive, with the first name "Joelle" and last name "Paull" clearly distinguishable.

Joelle L. Paull, Esq.
Counsel for Fair Share Housing Center