

RESOLUTION #69-2021

RESOLUTION APPROVING A THIRD AMENDMENT TO THE AFFORDABLE HOUSING SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP OF CLINTON AND FAIR SHARE HOUSING CENTER, INC.

WHEREAS, Clinton Township has adopted an affordable housing compliance plan, including a fair share plan (“plan” or “fair share plan”), that establishes the Township’s third round affordable housing program pursuant to *In re Adoption of N.J.A.C. 5:96 & 5:97*, 221 N.J. 1 (2015)(“*Mount Laurel IV*”), the Fair Housing Act (“FHA”), *N.J.S.A. 52:27D-301 et seq.*, the New Jersey Uniform Housing Affordability Controls (“UHAC”), *N.J.A.C. 5:80-26.1 et seq.*, and the second round regulations promulgated by the Council on Affordable Housing (“COAH”), *N.J.A.C. 5:93-1 et seq.*; and

WHEREAS, Clinton Township entered into a settlement agreement on December 13, 2017 and an amended settlement agreement on February 5, 2018 (collectively, the “settlement agreement”) with Fair Share Housing Center, Inc. (FSHC) to resolve the Township’ declaratory judgment action captioned *In re Clinton Township Compliance with Third Round Mount Laurel Affordable Housing Obligation*, Docket No. HNT-L-315-15, as to Clinton Township’s compliance with the Mount Laurel doctrine and the FHA in accordance with *Mount Laurel IV*; and

WHEREAS, pursuant to Resolution No. 92-2020 adopted on June 29, 2020, the Township approved a second amendment to the settlement agreement, as more fully described and memorialized in a letter from FSHC to Township Affordable Housing Counsel Jonathan Drill Esq. dated June 15, 2020 and signed on behalf of FSHC by Adam M. Gordon, Esq.; and

WHEREAS, the Township’s court-approved third-round plan as set forth in the settlement agreement includes a municipally-sponsored 100 hundred percent affordable housing project commonly referred to as the “CIS” or “LeCompte” project, which consists of 89 units of affordable family rental housing to be built by Community Investment Strategies, Inc. on a ten-acre portion of property located on Valley Crest Road and Route 31 North and identified as Block 29, Lot 4 on the official tax maps of the Township (the “LeCompte site”), which project must be completed in accordance with certain deadlines set forth in the agreement; and

WHEREAS, the Township and Fair Share Housing Center wish to enter into a third amendment to the settlement in order to replace the 89-unit, municipally-sponsored project to be built on the LeCompte site with the mechanisms outlined below, as well as to make other modifications to the settlement agreement regarding the prioritization of sewer and water capacity allocations and other miscellaneous provisions:

- The chart in Paragraph 7 of the settlement agreement will be amended to remove the 89-unit LeCompte project and replace it with the “Ingerman” municipally sponsored mixed-income development, the “Grayrock” inclusionary development, and three special-needs units, as follows:
 - The Ingerman site located at Block 70 Lots 6 and 6.01, an 11.7-acre property with a physical address of 1726 and 1730 Route 31, Clinton Township, NJ

which will contain a total of 144 units with a 55% set aside for affordable housing, which comes to 80 affordable units, including at least 11 very low income units as part of a total of 40 low income units, with very low income and low income units proportionally distributed across each bedroom size (the “Ingerman development”). The Township will rezone the 11.7-acre site for the inclusionary affordable housing development prior to the joint amended fairness and compliance hearing to be held in this matter and will include the site in a proposed Highlands Center to the extent necessary. This site will be a durational adjustment site.

- The Township will rezone Block 77.01, Lot 2 (.84 acres), Block 77.01, Lot 4 (.2 acres) and Block 77.01, Lot 3 (1.4 acres) (collectively, the “Grayrock site”) for an inclusionary affordable housing development consisting of a total of 30 units on 2.44-acres, with a 20% set aside, which will yield 6 affordable units. The Township will rezone the 2.44-acre site for the inclusionary affordable housing development prior to the joint amended fairness and compliance hearing to be held in this matter. The 2.44-acre site will be a durational adjustment site.
- The Township will fund three municipally-sponsored special needs affordable housing bedrooms to be created in the Township on a site with access to water and sewer, with the location to be determined by December 31, 2021 and the units to be funded and the information required by N.J.A.C. 5:93-5.5 to be provided by June 30, 2022.
- The developer of the inclusionary development on the “Headley” site has advised the Township that it plans to provide the site with on-site water and septic system so it no longer requires first priority over all other inclusionary developments. Accordingly, the Ingerman site shall now have first priority for water and sewer over all other inclusionary developments, in recognition that it will be providing a substantially higher set-aside (55%) than the 108 Alton Place or Grayrock inclusionary developments (20% each) and will yield substantially more affordable housing units than the 108 Alton Place or Grayrock inclusionary developments (28 affordable units and 6 affordable units respectively).

and

WHEREAS, the detailed terms and conditions of the third amendment to the settlement agreement are memorialized in a letter from Fair Share Housing Center to Township Affordable Housing Counsel Jonathan E. Drill Esq. dated May 2, 2021 and signed on behalf of Fair Share Housing Center by Adam M. Gordon, Esq.; and

WHEREAS, a copy of the said letter is on file and available for public review in the office of the Township Clerk; and

WHEREAS, all other provisions of the settlement agreement as approved by the Hon. Thomas C. Miller, A.J.S.C. and affirmed on appeal by the Appellate Division shall remain in full force and effect; and

WHEREAS, the Township and FSHC wish to enter into this third amendment because among other things it will result in the quicker delivery of affordable units in the Township;


WHEREAS, the Mayor and Council find that it is in the best interests of the public to enter into this third amendment to the settlement agreement on the terms set forth in the said May 2, 2021 letter, subject to the approval of the Superior Court of New Jersey, Law Division, following a fairness hearing to be held thereon;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Clinton in Hunterdon County, New Jersey as follows:

1. The findings set forth in the preamble to this resolution is hereby incorporated as if more fully set forth herein.
2. The Mayor and Township Clerk are hereby authorized and directed to counter-sign the May 2, 2021 letter from Adam G. Gordon, Esq. to Jonathan E. Drill, Esq., which letter sets forth and memorializes the terms of the third amendment to the court-approved settlement agreement between the Township and Fair Share Housing Center, Inc.
3. The Township's Affordable Housing Counsel is hereby authorized and directed to file all documents and take all actions necessary to obtain court approval of this third amendment to the settlement agreement.
4. The Mayor, Township Clerk, Township Attorney, and Township Affordable Housing Counsel are hereby authorized and directed to undertake any and all other acts and to sign or file any and all other documents as may be necessary to effectuate the terms hereof.
4. This resolution shall take effect immediately.

Attest:


Carla Conner, RMC, Clerk


Hon. Brian Mullay, Mayor

Adopted: May 6, 2021