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March 24, 2025

Hon. Thomas C. Miller, A.J.S.C. (Ret.)
Affordable Housing Dispute Resolution Program
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625

Re: In the Matter of the Application of the Township of Teaneck
Docket No. BER-L-000776-25

Dear Judge Miller:

I represent the Township of Teaneck in this matter. I am writing in response to the Proposed Findings of Fact and Conclusions of Law filed on March 22, 2025, by the New Jersey Builders Association (“NJBA”). The NJBA’s objection should be dismissed for lack of any challenge to the Township’s calculation. At no point in the NJBA’s objection do they claim that the Township wrongly removed properties from prospective need calculations. Even more egregiously, the NJBA fails to show that there are any facts in dispute that require a hearing by the Court. Nor does the NJBA provide an expert report to rebut the Township’s calculation.

In other words, the Township’s factual claims are undisputed. The NJBA is left merely to argue that the Township’s proposed revisions to its prospective need number is inappropriate because it does not re-calculate Bergen County’s regional share of the overall affordable housing requirements. But this position is misplaced. First, the regional share is based on erroneous underlying data, as the Township previously demonstrated in its resolution. Second, the NJBA’s argument functionally means that nobody can challenge their prospective need numbers without recalculating not just the regional share, but the overall affordable housing requirement. This process that the Township is going through now demonstrates the opposite, that the Legislature plainly intended to allow municipalities to challenge their own prospective need numbers without having to recalculate their entire region.

Hon. Thomas C. Miller, A.J.S.C.
March 24, 2025

The NJBA's Proposed Findings of Fact and Conclusions of Law are therefore deficient because they do not present any cognizable disputes of material fact, nor do they actually address the Township's identification of properties that should not have been included and made part of the Township's prospective need requirements. They should be disregarded by the Court.

Respectfully submitted,

/s/Scott D. Salmon, Esq.
Scott D. Salmon, Esq.

JARDIM MEISNER SALMON
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Attorneys for the Township of Teaneck

**IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
TEANECK**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

DOCKET NO.: BER-L-000776-25

**NOTICE OF MOTION FOR AN
EXTENSION OF TIME TO FILE A
HOUSING ELEMENT AND FAIR
SHARE PLAN**

PLEASE TAKE NOTICE that on April 25, 2025, at 10:00 a.m. or as soon thereafter as counsel may be heard, the undersigned, as counsel for the Township of Teaneck, shall move before the Honorable Thomas C. Miller, A.J.S.C. (Ret.), Affordable Housing Dispute Resolution Program, at the Richard J. Hughes Justice Complex, Trenton, New Jersey 08625, for an Order granting the Township of Teaneck a 90-day grace period until September 30, 2025, pursuant to N.J.S.A. 25:27D-313 to file an endorsed, unadopted Housing Element and Fair Share Plan.

PLEASE TAKE NOTICE that in support of the motion, the Township shall rely on the annexed letter brief and proposed form of Order.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 1:6-2, the undersigned requests oral argument in the event that any opposition to the instant Motion is filed.

Dated: April 8, 2025

/s/ Scott D. Salmon, Esq.
Scott D. Salmon, Esq.

—○—
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April 8, 2025

Hon. Thomas C. Miller, A.J.S.C. (Ret.)
Affordable Housing Dispute Resolution Program
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625

Re: In the Matter of the Application of the Township of Teaneck
Docket No. BER-L-000776-25

Dear Judge Miller:

I represent the Township of Teaneck in this matter. As the Court is aware, the Township timely adopted its January 2025 Resolution regarding its Round Four obligation. This lawsuit followed, and at present, the Township is still awaiting the Order establishing its Round Four obligation. When that has been filed, the Township intends to appeal the Court's decision.

The next step in the process is for the Township to adopt a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025. This deadline is objectively untenable, and the Township hereby requests an extension of 90 days until September 30, 2025. Directive 14-24, from the Administrative Office of the Courts, provides that municipalities may file an application for a 30-day extension pursuant to N.J.S.A. 52:27D-313 and N.J.S.A. 52:27D-304.1(g).¹ The statute, however, does not limit the "grace" period to 30 days. Taken together, and given the circumstances described in bullet points below, it is the Township's position that an extension of 90 days is not only warranted but is necessary under various principles of public policy and general fairness.

In addition, the Township would ask the Court to consider modification to the procedures envisioned in Directive 14-24, which calls for an adopted HEFSP. It seems more logical to instead require an endorsed, unadopted plan be submitted with an accompanying resolution of

1. N.J.S.A. 52:27D-313 refers to conditions outside of municipal control. The new regulations, the AOC documents, the timing of the numbers and most of the additional support for the extension contained in this brief are squarely outside of the municipality's control

endorsement from the governing body. This would avoid the expensive and time-consuming plan adoption process for a plan that may need to be readopted after the court/Program proceedings.

- **The HEFSP:** A HEFSP must be on file and noticed at least 10 days prior to a Planning Board Hearing (and submitted to the County, Office of Planning Advocacy, and potentially the surrounding communities). This could also require up to a week of lead time for the papers to receive the notice (or 17 total days). Many municipalities have Planning Board meetings once per month, with volunteer residents who cannot always accommodate things like special meetings. Assuming a municipality has a Planning Board meeting on June 15, 2025, this would effectively mean that the HEFSP would need to be completed, and notice would need to go to the paper towards the end of May 2025—or about a month from the return date of this Motion. Planning for comprehensive affordable housing cannot occur in a month. It requires interaction between municipal officials, Planning Board officials, planners, administrative agents, lawyers, financial consultants and often with input or some measure of collaboration from Fair Share Housing Center (“FSHC”), Special Adjudicators and Developers. An affordable housing plan typically has far reaching consequences as to the future of a town as to how the municipality develops. All benefit if that process takes place carefully. It would be a cramped timeline to have a year for this process—a month or two is something else entirely.² **That is especially the case here, where the Township still does not have an Order setting its Round Four obligation, and where the Township intends to appeal the Court’s decision. This timeline does not allow the Township the ability to exercise its legal rights.** Additionally, while municipalities envision that the submitted HEFSP would be the final, approvable version, from Round Three experience, that is not always the case. Requiring municipalities to consistently amend the plans as they go with the noticing and hearing requirements would strain public resources that could be used toward realizing affordable housing credits.
- **New Law:** All of this is compounded by new laws which will be interpreted for the first time this year. The sweeping revisions to the Fair Housing Act (the “New FHA”) change fundamental components of compliance, which requires a significant amount of time for lawyers, planners and municipalities to understand and vet what it means before planning for how to comply with it. This is, however, only the tip of the iceberg:
 - **New/Interim UHAC Regulations.** In addition to the New FHA, the HMFA issued new and sweeping emergency UHAC Regulations which also need to be interpreted and complied with in Round Four, for the first time. From other professionals, it is our understanding the emergency rules are now proposed to be significantly amended through the normal administrative rule process, which is to occur in the middle of the municipality preparing its plan.
 - **N.J.A.C. 5:99.** In addition to all of that, the DCA just published new affordable housing regulations on March 17, 2025, the comment period to which ends May 16. The final regulations, whenever revised, voted on and adopted, will impact municipal plans in one way or the other. This is a moving target and new law.
 - **The AOC Document.** In addition to all of that, the AOC issued a Directive which: (a) conflicts with the New FHA in many ways and is the subject of a pending legal challenge; and (b) imposes new and onerous substantive

2. This is further complicated and delayed for towns in special planning regions that may need outside agency review prior to plan adoption.

Hon. Thomas C. Miller, A.J.S.C.
April 8, 2025

requirements for HEFSPs for the first time. Those requirements include, but are not limited to:

- At least an implied required settlement with FSHC (which we argue is obviously unenforceable, but the language is in the document).
 - A requirement for “concept plans” which has never been required of any municipality in the context of its HEFSP (and should not be). Furthermore, concept plans are typically prepared by developers, not municipalities, which require coordination and review.
 - New requirements for 100% projects, including an identification of the sponsor (which may or may not require things like an RFP) and which also was not part of COAH’s regulations and which we believe exceeds the boundaries of the Legislation.
 - In addition, the AOC Directive arguably requires the ordinances to be adopted with the HEFSP (or at least governing body endorsement of the plan), which is a requirement that also exceeds the boundaries of the new legislation and which adds time, expense and burden on towns. The New FHA does not require adoption of ordinances until March 31, 2026. Ordinances require two public governing body meetings and consistency review at the Planning Board meeting—so three total public meetings (generally and aggressively about 45 days). If, at the Planning Board level, the Ordinance is found to be inconsistent with the Master Plan, additional time and complexity can be added to the process. Moreover, the public has a due process right to be meaningfully heard on the adoption of land use ordinances. If we must ram through the Affordable Housing Ordinances, multiple rezoning ordinances, the development fee ordinance, various resolutions and affirmative marketing plan, the spending plan and more—on top of the HEFSP—the public, as a practical matter, cannot be meaningfully heard. This is inconsistent with the New FHA, but that detail will need to be ironed out.
- **FSHC:** While FSHC may or may not oppose this request, the truth of the matter is that many municipalities prefer to vet their plan with FSHC. FSHC must deal with nearly 500 municipalities. Even if we assume only half want to meet and discuss their HEFSP with FSHC, that means 250 municipalities need to have a meaningful dialog with FSHC in April or early May. It is simply not possible to do that under the circumstances.
 - **Developers and Special Adjudicators.** This is also true of certain Developers and Special Adjudicators. When the number is resolved, municipalities can have meaningful discussions with Developers before they adopt their HEFSP—instead of neglecting to do so and litigating about something that could have been resolved up front.
 - **Planners:** Based on our experience, we can confidently say about 90% of the HEFSPs will be drafted by 7-10 planning firms. Just think through the math of that, in conjunction with Planning Board schedules and it becomes obvious that we’re setting Planners up for failure and probably compromising their wellbeing given the stressful nature of public hearings on affordable housing. Planners will likely be asked to attend both the HEFSP Planning Board hearing and the Governing body endorsement meeting. This is no less than two public meetings per municipality. If a Planner has 10 municipal clients, that is 20 public meetings, which would consume the entirety of June. This combined with the MLUL required noticing compounds the aggressive deadline.

There is also the possibility that HEFSP with errors or that require amending because the Planning Board hearing will be unable to make the revisions within the remaining window of time. For example, any meeting held after June 20th would be unable to notice a new HEFSP hearing due to the 10-day MLUL deadline. **This does not account for the newspaper deadlines, which probably moves that date to June 17.** The same timeline concerns become even more infeasible when and if a town receives objections to its plan for at least two reasons: (1) objections, particularly over something as comprehensive as a HEFSP, take time and often multiple meetings; (2) more importantly, objections may legitimately result in amendments to the plan—which would require the planner to revise the plan, attorney and client review, new notice and significant delay. If such amendments and near hearings are not possible, then neither, as a matter of due process, is the ability to “meaningfully” be heard.

- **The Public:** Somewhere in between the executive sessions on these hugely important HEFSPs, the public needs to be informed of what is going on. Given the nature of these issues and the fact that this is the first time we are all interpreting the laws described above, it is extremely unfair to the public to dump this on them and immediately adopt a HEFSP. It is also adverse to the interest of low- and moderate-income households because this is going to lead to poor planning, in the end. The deadline decreases, if not essentially eliminates public participation. Residents may offer valid comments and recommendations, but due to the deadline, said comments and recommendations are unlikely to be included in the adopted HEFSP if the hearing is after June 20th. If you want a process that inspires public confidence, it is essential for the public to have the opportunity to meaningfully participate.
- **The Courts and the Program:** What we learned from the 30-day Program on the recommendation for numbers is that the deadlines are unreasonable and unworkable—not just the municipalities—but also for the judges and everyone else involved. Indeed, the Program was forced to schedule some settlement conferences on the very last day of the Program. Some towns that are “settled” will have their resolutions authorizing the settlement heard in April. **Contested matters at the Program, i.e., this one, still do not have a recommendation as of the date of this brief—much less a trial court order establishing the number.** Moreover, the Program process led to many last-minute filings and a profoundly rushed procedure raising serious questions about due process. Having a similarly rushed process for plans (as opposed to the myopic issue of the allocation of the number) will lead to more litigation than is necessary and it can be avoided by adding more time to the process to allow municipalities to settle with FSHC and Developers.
- **No Harm:** Municipalities have an obligation to create a realistic opportunity for their fair share in Round Four, which ends in 2035 (when Round Five begins). That date is fixed and a small delay getting the planning right up front will not only save everyone time and money, but it will not adversely impact the timing of the production of the housing in any meaningful way.
- **The Number:** The Township still has yet to receive a court order establishing its number, which may change after the appeals that will inevitably follow. It still cannot meaningfully create a plan as to how it will address that undefined number.

Hon. Thomas C. Miller, A.J.S.C.
April 8, 2025

For those reasons and many more, the Court should grant the Township's request for an extension of 90 days.

Respectfully submitted,

/s/Scott D. Salmon, Esq.
Scott D. Salmon, Esq.

—○—
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April 21, 2025

Hon. Thomas C. Miller, A.J.S.C. (Ret.)
Affordable Housing Dispute Resolution Program
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625

Re: In the Matter of the Application of the Township of Teaneck
Docket No. BER-L-000776-25

Dear Judge Miller:

I represent the Township of Teaneck. I am writing in further support of the Township's Motion to Extend Time to File its Housing Element and Fair Share Plan ("HEFSP"), which is opposed by boilerplate oppositions filed by the New Jersey Builders Association ("NJBA") and Fair Share Housing Center ("FSHC"). The Township seeks an additional 90 days to file its HEFSP.

First, FSHC's brief should be disregarded as they are not a party to this case. They failed to intervene timely and/or seek leave to intervene now. See Clifton v. Cresthaven Cemetery Ass'n, 17 N.J. Super. 362, 365 (App. Div. 1952) (holding that an intervenor must comply with what is now Rule 4:33). They cannot be permitted to parachute into the case midway through and oppose one specific motion that has nothing to do with them. See 34 Label St. Assocs. v. Cecere, Nos. A-0836-14T1, A-0183-15T1, A-0307-15T1, 2017 N.J. Super. Unpub. LEXIS 2982, at *27 (App. Div. Dec. 4, 2017) (holding that a party that has failed to intervene "lacks status as a party" and "does not have standing to make its other arguments"). As such, their entire brief should not be considered.

Second, the Township is quickly coming up on a month since its hearing and to date, no form of order has been entered by the Court. If the Court denies the Township's Motion to Dismiss and grants the relief sought by the NJBA, the Township will appeal. The timing of this is beyond the Township's control and merits an extension so the process may play out.

Finally, it must be explicitly clear that there is no evidence of non-compliance by the Township. It is hard at work at trying to complete its obligations under the HEFSP. Even the Court's own

Hon. Thomas C. Miller, A.J.S.C.
April 21, 2025

Special Adjudicator expressly stated that there was no evidence the Township was trying to evade its responsibilities to build affordable housing and agreed that the Township's numbers are reasonable. Notwithstanding FSHC's opposition to this motion, their choice not to object to the Township's calculations evinces their agreement with the reasonableness of the calculation. In other words, the Township is trying its best. As a policy matter, the Court should be encouraging municipalities like the Township to obtain reasonable extensions in advance, rather than blowing deadlines and then crawling back to ask the Court for forgiveness.

The Court should therefore grant the 90 days requested by the Township. It is reasonable given the circumstances and will allow the Township to provide a better, more accurate HEFSP.

Respectfully submitted,

/s/Scott D. Salmon, Esq.
Scott D. Salmon, Esq.

FAIR SHARE HOUSING CENTER

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

April 23, 2025

Via eCourts

Hon. Gregg A. Padovano, J.S.C.
Bergen County Justice Center
10 Main Street, 3rd Floor, Rotunda
Hackensack, New Jersey 07601

**Re: In the Matter of the Application of the Township of Teaneck, Bergen County
Docket No.: Ber-L-776-25**

Dear Judge Padovano:

Please accept this letter on behalf of Fair Share Housing Center (“FSHC”) regarding the oral argument scheduled this Friday in the above captioned matter.

FSHC respectfully requests that this motion be decided on the papers without oral argument. Counsel for Teaneck and NJBA have consented to this request.

Thank you for Your Honor’s attention to this matter.

Respectfully,



Esmé M. Devenney, Esq.
Counsel for Fair Share Housing Center

PREPARED BY THE COURT:

The Hon. Lina P. Corrison, J.S.C.

Superior Court of New Jersey
Law Division - Civil Part
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE TOWNSHIP OF
TEANECK, BERGEN COUNTY
PURSUANT TO P.L. 2024, CHAPTER
2 N.J.S.A. 52:27D-304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW
JERSEY
LAW DIVISION - CIVIL PART
BERGEN COUNTY
DOCKET NO. BER-L-000776-25

Civil Action

Mt. Laurel Program

**DECISION AND ORDER FIXING
MUNICIPAL OBLIGATIONS FOR
"PRESENT NEED" AND
"PROSPECTIVE NEED" FOR THE
FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program ("Program"), pursuant to the Complaint for Declaratory Judgment filed on January 30, 2025 ("DJ Complaint") by the Petitioner, **TOWNSHIP OF TEANECK** ("Petitioner" or "Municipality"), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D- 301, et seq. (collectively, the "FHA"), and in accordance with Section II.A of Administrative Directive #14-24 ("Directive #14-24") of the "Program", seeking a certification of compliance with the FHA;

AND IT APPEARING that, the Municipality timely adopted Resolution 42-2025 on January 28, 2025, agreeing with DCA that its “present need” is 214 affordable housing units but seeking a deviation from the "prospective need" calculations allocated to it by the New Jersey Department of Community Affairs ("DCA") in its report dated October 18, 2024 (the "DCA's Fourth Round Report"), based on the Municipality planner’s recommendation for 384 units for a "prospective need" affordable housing obligation for the Fourth Round housing cycle;

AND IT APPEARING that, a challenge to the Municipality's calculations ("Challenge") was timely filed by the New Jersey Builders Association ("NJBA" or "Challenger"), by and through its counsel, wherein the Challenger disputed the Municipality's proposed obligation for prospective need and supported DCA's prospective need obligations, with the Municipality's position and the NJBA Challenge supported by their own expert reports;

AND IT APPEARING that, pursuant to the Program, the Administrative Office of the Courts ("AOC") appointed and assigned the case to Program Member, the Hon. Ronald E. Bookbinder, A.J.S.C. (Ret.), ("Program Member") to manage the proceedings, host settlement conferences, and make recommendations to the Court in accordance with the FHA and the AOC's Directive#14-24 ("Directive #14-24"), and that the Program Member appointed Mary Beth Lonergan, PP, an independent affordable housing expert, as special adjudicator ("Special Adjudicator") in this case to work with closely with the Program Member, make recommendations to, and assist the Program;

AND IT APPEARING that, on March 26, 2025, a settlement conference was conducted followed by a session on that same date, on notice to all parties with the participation of local officials, attorneys for the Municipality and NJBA, and the Special Adjudicator, and efforts at resolution through mediation failed;

AND IT APPEARING that, the Program Member heard argument at the session of March 26, 2025 from counsel for the Municipality and for the NJBA in support of their respective positions, and determined to reserve decision to allow for further consideration;

AND IT APPEARING that, after reviewing the arguments of all parties, the Program Member issued his written Report and Program Recommendation on April 7, 2025, wherein he found no downward deviation from the DCA's calculation and prospective need calculation of 431 units of affordable housing was warranted, and for the reasons set forth in the Program Member's Decision and Order on Fair Share Obligation which are incorporated by reference as though more fully set forth herein;

AND THE COURT, having reviewed and considered the Program Member's Decision and Order on Fair Share Obligation, having been satisfied with the recommendation to fix the municipal present need obligation of the Township of Teaneck for 214 affordable units for the Fourth Round housing cycle, and to reject a modification of the prospective need obligation and to fix same at the DCA's calculated number of 431 affordable units for the Fourth Round cycle, without revoking immunity, and that an Order fixing those obligations at those numbers will be fair and equitable as well as in the best interests of the protected class of low- and moderate-income households in the Municipality, and for good and sufficient cause having otherwise been shown:

IT IS, THEREFORE, on and effective as of the **30th** day of **MAY**, 2025

ADJUDGED AND ORDERED, that the Program Member's Decision and Order on Fair Share Obligation be, and the same hereby **ACCEPTED** and **ADOPTED**; and to that end, more specifically, it is further

ORDERED, as follows:

1. That the "present need" obligation of the Municipality, be, and hereby is fixed as **two hundred fourteen (214)** affordable units for the Fourth Round housing cycle.
2. That the "prospective need" obligation of the Municipality, be, and hereby is fixed as **four hundred thirty one (431)** affordable units for the Fourth Round housing cycle.
3. That the Petitioner is hereby authorized to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the "present need" and "prospective need" allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14- 24, with immunity, and without further delay; and
4. That any and all "challenges" to the Petitioner's Housing Element and Fair Share Plan as adopted by Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the eCourts case jacket for this matter, and as provided for and in accordance with Section III.B of AOC Directive #14-24

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and Challenger NJBA's counsel upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:

A handwritten signature in black ink, appearing to read "Lina P. Corrison". The signature is fluid and cursive.

HON. LINA P. CORRISTON, J.S.C.
Designated Mt. Laurel Judge – Bergen Vicinage

(X) Challenged.

**Pursuant to R. 1:7-4(a), the Court's
Statement of Reasons is attached hereto
and made a part hereof.**

STATEMENT OF REASONS

[R. 1:7-4(a)]

The Court has reviewed and considered the Decision and Order on Fair Share Obligation prepared by the Affordable Housing Dispute Resolution Program in this matter - specifically, that filed on April 7, 2025 by Program Member, Hon. Ronald E. Bookbinder, A.J.S.C. (Ret.) as well as the Program submissions of the parties. For the reasons that follow, the Court hereby adopts the Program Member's decision and thus fixes the "present need" obligation of 214 units and a "prospective need" obligation of 431 units for the Petitioner, Township of Teaneck, for the Fourth Round housing cycle.

The Fair Housing Act, N.J.S.A. 52:27D-302 to 313.3 (the "FHA" or "Act"), requires municipalities to determine their fair share of affordable housing obligations. The Act's Fourth Round covers the period from 2025 to 2035, with specific calculations conducted and completed by the New Jersey Department of Community Affairs (DCA) in accordance with the Act. In October 2024, DCA published its Affordable Housing Obligations for the 2025-2035 (Fourth Round) Methodology and Background Report (DCA Report), which assigned numerical obligations to all non-exempt municipalities. Municipalities were then required to file binding resolutions establishing their fair share obligations by January 31, 2025, and could challenge these calculations by providing alternative ones in compliance with the Act. The Affordable Housing Dispute Resolution Program, established by the Legislature, provides a mechanism for resolving such disputes.

The present matter involves the determination of Teaneck's "prospective need" affordable housing obligation for the Fourth Round. "Prospective Need" represents the projection of housing needs for low and moderate-income households based on expected development and growth over the next decade.

Teaneck committed to the DCA's calculation of Teaneck's Fourth Round "present need" obligation of 214 units of affordable housing, but sought a reduction in DCA's calculation of 431 "prospective need" units, and proposed a reduced number of 384 units. The basis for the township's proposed reduction was alleged lack of land capacity and errors in DCA's calculation.

NJBA took the position, based on DCA's calculation, that Teaneck's "prospective need" obligation should be 431 units. Teaneck did not accept the conclusions in the DCA report regarding the land capacity allocation factor and suggested a modification and reduction to 384 units, as it does not accept the conclusions in the DCA report regarding the land capacity allocation factor. Teaneck noted that with regard to same, the DCA provided the data it used to establish this factor on or about November 27, 2024 instead of by October 20, 2024, and maintained that the areas that the DCA identified as developable are overinclusive. The Township's professional planner prepared a report which corrected the allocation factors and resulted in Teaneck's Fourth Round Prospective Need obligation being reduced to 384 units rather than the 431 units which the DCA had calculated. The Township contends that Section 3 of the amended FHA provides that "the municipality's determination of its fair share obligation shall have a presumption of validity," if established in accordance with section 6 and 7 of the Fair Housing Act and further that Teaneck's calculation of need is entitled to a presumption of validity because it complies with section 6 and 7 of the FHA.

NJBA's position is that Teaneck's reduction method was improper and inconsistent with the Act, while the Municipality countered that NJBA did not examine the properties that Teaneck claimed should have been excluded from consideration as unavailable for development.

Fair Share Housing Center (FSHC or "Fair Share") did not file a challenge in this matter.

The Township raised an issue with regard to the standing of the Builders' Association. The Program Member Judge Bookbinder found and Special Adjudicator Lonergan agreed, that pursuant to Rule 4: 26-1, the Builder's Association had standing as an entity representing a constituent group in the public interest, citing Department of Environmental Protection v. Exxon Mobil, 453 N.J.Super. 272, 301-303 (App. Div.) cert. denied 233 N.J. 377 (2018). The Court agrees with the Program Member's analysis and finding that the Builders Association has standing in this matter.

NJBA took the position that the DCA report properly calculated the Township's Fourth Round Prospective Need at 431 units. NJBA contended that although the Township identified municipal parcels that it contends have been improperly included within the DCA report's land capacity analysis for purposes of calculating the land capacity factor, the Township did not provide any similar land capacity analysis for the region as a whole and did not identify any parcels that the DCA report improperly excluded from the DCA report's land capacity analysis for purposes of calculating the land capacity factor.

The Township maintained that NJBA's objection should be dismissed for lack of any challenge to the Township's calculation noting that NJBA's objection does not claim that the Township wrongly removed properties from Prospective Need calculations and failed to show that there are any facts in dispute that require a hearing by the Court. In addition, the Township noted that NJBA did not provide an expert report to rebut the Township's calculation. The basis of NJBA's objection was that the Township's proposed revisions to its prospective need is inappropriate because it did not recalculate Bergen County's regional share of the overall affordable housing requirements. The Township argued that NJBA's position was unavailing because the regional share is based on erroneous underlying data as the Township demonstrated

in its Resolution and the NJBA's argument means that no municipality can challenge their prospective need numbers without recalculating not just the regional share but the overall affordable housing requirement. The Township sought a reduction in the DCA's calculation of 431 "prospective need" units, proposing a reduced number of 384 units. The Township maintains that the legislature intended to allow municipalities to challenge their prospective need numbers without having to recalculate their entire region.

Program Member Judge Bookbinder and Special Adjudicator Lonergan deemed the challenge of NJBA to be valid as the Program found that the municipality did not comply with Sections 6 and 7 of N.J.S.A. 52:27D-301, et al. in that the Township did not provide a regional prospective need. The Program Member reasoned that there is a statutory requirement that "a municipality's land capacity factor shall be determined by estimating the area of developable land in the municipality's boundaries and regional boundaries." The Program denied a recalculation of prospective need at this stage and specifically did not make a decision as to whether reallocation may be made at a later date. The Program further found that the Township maintains all of its rights pursuant to prior and existing law to adjust its need in its Housing Element and Fair Share Plan.

The Court finds that the methodology employed by the DCA in its October 18, 2024 Report and as assessed by the Program Member, adheres to the criteria set forth in N.J.S.A. 52:27D-304.2 and 304.3. These statutes require a calculation of prospective need that accounts for regional growth trends and development potential. The Program member and Special Adjudicator found that the Township failed to provide for a regional prospective need in violation of N.J.S.A. 52:27D-304.3.c(4). The Court agrees.

Although the Court rejects the Township's request for reduction based on its land capacity analysis at this stage, the issue is preserved for further examination during the plan development phase and through compliance mechanisms. The Township's ability to propose adjustments during future phases of development is preserved. The statutory framework of the Fourth Round allows municipalities to develop Housing Elements and Fair Share Plans that incorporate specific local constraints including land capacity. Accordingly, any valid deficiencies and impacts identified by the Township can be addressed in subsequent phases.

Accordingly, the Court hereby adopts the decision of the Program Member filed on April 7, 2025, and will enter an Order fixing a "present need" obligation of 241 affordable units, and a "prospective need" obligation of 431 affordable units for the Petitioner, Township of Teaneck, for the Fourth Round housing cycle.

The Petitioner will be authorized to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the "present need" and "prospective need" allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive#14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive# 14-24, with immunity, and without further delay.

An appropriate form of Order implementing the Court's decision above accompanies this Statement of Reasons.

SO ORDERED.

PREPARED BY THE COURT:

The Hon. Lina P. Corriston, J.S.C.
Superior Court of New Jersey
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE TOWNSHIP OF
TEANECK, BERGEN COUNTY
PURSUANT TO P.L. 2024, CHAPTER
2 (N.J.S.A. 52:27D-304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
BERGEN COUNTY
DOCKET NO. BER-L-776-25

Civil Action

Mt. Laurel Program

**ORDER GRANTING IN PART MOTION TO
EXTEND DEADLINE FOR ADOPTION OF
HOUSING ELEMENT AND FAIR SHARE
PLAN, WITHOUT PREJUDICE**

THIS MATTER, having come before the Court on the motion (Motion) filed on April 9, 2025 by Scott D. Salmon, Esq. of the law firm of Jardim Meisner Salmon Sprague & Susser, P.C., attorneys for and on behalf of the Petitioner, **TOWNSHIP OF TEANECK** ("Township"), seeking an Order granting a "grace period" and extension of ninety (90) days to file an adopted Housing Element and Fair Share Plan ("HE/FSP") pursuant to N.J.S.A. 52:27D-304.1.f(3)(a) and N.J.S.A. 52:27D-313 and providing the Petitioner immunity from exclusionary zoning suits until such time as the HE/FSP is filed prior to the expiration of the requested "grace period" if and as granted;

AND THE COURT, having reviewed and considered the moving papers submitted on behalf of the Petitioner in support of the Motion; those filed by Richard J. Hoff, Jr. Esq. of the law firm of Bisgaier Hoff, LLC, attorneys for the Challenger, **NEW JERSEY BUILDERS ASSOCIATION** ("NJBA"), and those filed on April 17, 2025 by Esme M. Devenney, Esq.,

counsel for and on behalf of the interested party, **FAIR SHARE HOUSING CENTER** ("**FSHC**"), both of which were in response and in opposition thereto; and for good cause having been shown;

IT IS on this 19th day of **JUNE 2025**, **ORDERED**;

1. The Motion, be, and hereby is **GRANTED IN PART**, and that the Township shall be granted a "grace period" of thirty (30) days, i.e., until **JULY 30, 2025**, to endorse and adopt its Housing Element and Fair Share Plan (HE/FSP) for the Fourth Round housing cycle for the reasons stated herein; and
2. The grant shall be deemed without prejudice to the right of the Petitioner to renew the application for "grace period" relief prior to July 30, 2025 by demonstrating to the Court's satisfaction that its failure or inability to materially adhere to the extended July 30, 2025 deadline was or is "due to circumstances beyond the control of the municipality" as required by and pursuant to N.J.S.A. 52:27D-304 1.f(3)(a).

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner's counsel, and counsel for NJBA and FSHC upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:



HON. LINA P. CORRISTON, J.S.C.

Designated Mt. Laurel Judge - Bergen Vicinage

(X) Opposed.

Pursuant to R.1:6-2(f) and R.1:7-4(a), the Court's Statement of Reasons is attached hereto and made a part hereof.

STATEMENT OF REASONS

[R. 1:6-2(f) and R. 1:7-4(a)]

Movant, Township of Teaneck, has filed a motion seeking an extension of time for the filing of a Housing Element and Fair Share Plan, which is required to be filed by June 30, 2025 pursuant to N.J.S.A. 52:27D-304. The motion was opposed by the NJBA and by FSHC on April 17, 2025, and the Township filed a reply brief on April 21, 2025. Movant originally requested oral argument which was subsequently withdrawn and the parties consented to waive oral argument and to have the court decide the motion on the papers submitted. Accordingly, oral argument was not scheduled.

Having reviewed and considered the submissions of the Township in support of its Motion and those submitted by NJBA and FSHC in opposition thereto, applying the governing legal principles and standards to the Motion, and for the reasons that follow, the Court hereby grants the Motion in part, granting Petitioner a thirty (30) day grace period to file its Housing Element and Fair Shar Plan, but without prejudice to the right of the Petitioner to renew the application for "grace period" relief prior to July 30, 2025 by demonstrating to the Court's satisfaction that its failure or inability to materially adhere to the extended July 30, 2025 deadline was or is "due to circumstances beyond the control of the municipality" as required by and pursuant to N.J.S.A. 52:27D-304. 1.f(3)(a).

N.J.S.A.52:27D-304.1(f)(2)(a) provides, in pertinent part, as follows

A municipality shall adopt a housing element and fair share plan as provided for by the "Fair Housing Act," P.L. 1985, c. 222 (C. 52:27D-301 et al),and propose drafts of the appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation established in paragraph (1) of this subsection or before June 30, 2025.After adoption of the housing element and fair share plan, and the proposal of drafts of the appropriate zoning and other ordinances and

resolutions, the municipality shall within 48 hours of adoption or by June 30, 2025, whichever is sooner, file the same with the program as part of the action initiated pursuant to subparagraph (b) of paragraph (1) of this subsection through the program's internet website. Any municipality that does not do so by June 30, 2025, shall not retain immunity from exclusionary zoning litigation until such time as the municipality is determined to have come into compliance with the "Fair Housing Act," P.L. 1985, c. 222 (C. 52:27D-301 et al.) and the Mount Laurel doctrine and shall be subject to review through the declaratory judgment process as established in paragraph 3 of this subsection.

N.J.S.A. 52:27D-313 provides for an extension and "grace period" to municipal petitioners to meet the June 30, 2025 deadline by which to adopt Housing Elements and Fair Share Plans, if authorized by the program or the county-level housing judge, as determined by the rules of court.

N.J.S.A. 52:27D-304.1f(3)(a), in pertinent part, provides as follows:

If a municipality fails to materially adhere to any of the deadlines established in paragraphs (1) or (2) of this subsection due to circumstances beyond the control of the municipality, including, but not limited to, an inability to meet a deadline due to an extreme weather event, then the program, or the county level housing judge, in accordance with court rules, may permit a municipality to have a grace period to come into compliance with the timeline, the length of which, and effect of which on later deadlines, shall be determined on a case-by-case basis.

In the present matter, the record discloses that the Township timely adopted Resolution No. 42-2025 on January 28, 2025, agreeing to DCA's calculation of 214 affordable housing units of "present need" but seeking a downward deviation from "prospective need" calculations allocated to it by the DCA's Fourth Round Report obligation of 431 affordable

housing units, and proposed a "prospective need" obligation of 384 units. A challenge to the Township's calculations was thereafter timely filed by the NJBA on February 26, 2025.

The record further reveals that, pursuant to the Program, the AOC appointed and assigned the case to Program Member, the Hon. Program Member, Hon. Ronald E. Bookbinder, A.J.S.C. (Ret.) ("Program Member") to manage the proceedings, host settlement conferences, and make recommendations to the Court in accordance with the FHA and the AOC's Directive #14-24, and on March 26, 2025, conducted a settlement conference and a session on notice to all parties with the participation of local officials, attorneys, and planners for the Municipality and NJBA, where the Program Member heard and considered the arguments of the parties and that the parties were unable to arrive at a settlement in this matter as to the Township's Prospective Need obligation.

On April 7, 2025, the Program Member issued written Report and Program Recommendation finding that Teaneck's Fourth Round "Prospective Need" obligation should be 431 units of affordable housing to be reasonable and in the interest of low and moderate income households and recommended to the Court that this obligation be endorsed and effectuated. The Program also recommended that "... an order be entered that" ... the Municipality is authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the "present need" and "prospective need" allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay."

On May 30, 2025, this Court entered an Order and accompanying Statement of Reasons:

- (i) fixing the "present need" obligation of Teaneck as two hundred fourteen (214) affordable units for the Fourth Round housing cycle;

- (ii) fixing the "prospective need" obligation of Teaneck as four hundred thirty one (431) affordable units for the Fourth Round housing cycle; and
- (iii) authorizing Teaneck to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round ("HE/FSP"), incorporating therein the "present need" and "prospective need" allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, with immunity, and without further delay.

The Township filed the subject motion to extend on April 8, 2025, fifty two (52) days before the Court's Order was uploaded to eCourts. The arguments presented in support of the Township's application generally object to the timelines established by the Act, without reference to any specific information concerning the movant municipality and that any difficulties or challenges the municipality may have in meeting the deadline, other than the timelines are too compressed. The Court has received a number of the same motions from municipalities, each containing the same generic, non-specific arguments.

The Township's motion seeks an extension of 90 days from the statutory deadline of June 30, 2025 to adopt its Housing Element and Fair Share Plan. The basis of the request is that at the time of the filing of the motion, the Township was still awaiting the Order establishing its Fourth Round obligations, and stating that when the Order is filed, the Township intends to appeal the Court's decision. The Township further contends that the statutory deadlines are "objectively untenable" including because municipalities and their professionals are still in the process of

understanding and vetting the revisions to the FHA. The Township advances numerous timing reasons as to why it believes, a "grace period" is necessary in order to provide adequate time for public notice and hearings on the HEFSP, public comments to be addressed, and additional time by which the public can be heard on the subject and changes can be made to the HEFSP in this "cramped timeline".

Movant also contends that Township still had not received a "decision" from the Program by March 31, 2025, as required by the statute, and that the deadlines are "unreasonable and unworkable-not just the municipalities-but also for the judges and everyone else involved," and that "(c)ontested matters at the Program, i.e, this one, still does not have a recommendation as of the date of this brief-much less a trial court order establishing the number."

In the present matter, the parties were unable to arrive at a settlement and the Program Member issued his written Recommendation on April 7, 2025 and his The Court entered its Order and decision on May 30, 2025. Accordingly, the Township was not apprised of its obligation until May 30, 2025, making compliance with the June 30, 2025 deadline impossible.

The Petitioner here seeks a 90 day "grace period" beyond the June 30, 2025 statutory deadline contending that "the June 30th deadline is untenable for the reasons set forth above.

In light of the foregoing, the court finds good cause that would warrant an extension of the grace period of 30 days, until July 30, 2025. The Court here finds that Teaneck has proceeded in good faith to participate in the Program and to comply with the applicable statutory obligations and deadlines. The Court finds that there is good cause at this time, due to circumstances beyond the Municipality's control, to grant a brief extension of time to

permit the proper filing of its Housing Element and Fair Share Plan for the Fourth Round in accordance with this Order.

For the foregoing reasons, the Petitioner's Motion will be and hereby is granted in part. Although the Township seeks 90 days, the Court will grant a "grace period" extension of 30 days, i.e., until July 30, 2025, by which to formally endorse and adopt its Fourth Round HE/FSP. The grant is without prejudice to the Township's right to file another motion, providing specific information to the court concerning the Township's circumstances and demonstrating that its failure or inability to adhere to the July 30, 2025 deadline was or is "due to circumstances beyond the control of the municipality" as required by and pursuant to N.J.S.A. 52:27D-304.1.f(3)(a).

An appropriate Order implementing the Court's decision accompanies this Statement of Reasons.

SO ORDERED.



Michael J. Ash, Esq., CRE
Michael.Ash@carlinward.com
Certified by the New Jersey Supreme Court
As a Civil Trial Attorney

June 19, 2025

VIA eCOURTS ONLY

The Honorable Lina P. Corrison, J.S.C.
Superior Court of New Jersey
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601

RE: In the Matter of the Declaratory Judgment Action of the Township of Teaneck

BER-L-776-25

Dear Judge Corrison:

This firm represents the Township of Teaneck (the "Township") in the above matter filed in accordance with the Fair Housing Act, N.J.S.A. 52:27D-310 and Directive 14-24 of the Administrative Office of the Courts. We are in receipt of the Court's June 19, 2025 Order on the Township's Motion to Extend Deadline for Adoption of Housing Element and Fair Share Plan. We are sensitive to the novel issues created in implementation of this Round 4 process. As the Court recognized in the opinion, the Township has approached this process in good faith and with diligence to comply with the Round 4 statutory framework. Indeed, the Township approached every step of the process in good faith including the settlement conference with the assigned Program Member.

As Your Honor is aware, the Township endorsed a revised prospective need obligation which was met with an objection by the New Jersey Builder's Association in the Program. The Township moved to dismiss the objection by the Builder's Association for failing to comply with the strict requirements of the Program. The Program Member addressed the arguments on the record and apparently made findings in a written opinion dated April 7, 2025. The Township has not received the April 7, 2025 written Report and Program Recommendation and respectfully requests a copy. The Township was denied due process by losing the opportunity to appeal these findings and conclusions of law and have the Court review these arguments on the merits.

Notwithstanding the rigid prescribed timelines in the Round 4 process, the Township sought to comply in good faith. Accordingly, the Township's planner worked diligently to complete a Housing Element and Fair Share Plan which was approved by the Teaneck Planning Board on June 16, 2025 and endorsed by the Township Council on June 17, 2025.

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The Honorable Lina P. Corrison, J.S.C.

June 19, 2025

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Therefore, an extension will not be required and the Plan and endorsing resolution are filed herewith.

Thank you for your courtesies in this matter.

Very truly yours,

CARLIN, WARD, ASH & HEIART, LLC

By: Michael J. Ash
Michael J. Ash, Esq., CRE

cc: all parties via eCourts