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August 27, 2025

Via eCourts and Electronic Mail
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: IMO the Application of the Township of Teaneck, County of Bergen, Docket No. MRS-L-776-25

Dear Judge Miller and Members of the Program:

Please accept this letter as Fair Share Housing Center's ("FSHC") challenge to the Township of Teaneck's ("Township" or "Teaneck") Fourth Round Housing Element and Fair Share Plan ("HEFSP"), adopted on June 16, 2025, and filed in the above-captioned matter on June 19, 2025, pursuant to the Fair Housing Act, P.L. 2024, c.2 ("FHA"), and Administrative Directive #14-24 ("Directive"). This letter is provided in accordance with N.J.S.A. 52:27D-304.1(f)(2)(b) to challenge Teaneck's HEFSP due to the insufficient demonstration of the Township's compliance with the FHA and the Mount Laurel Doctrine, which protect the constitutional rights of low- and moderate-income New Jerseyans.

Based on the deficiencies in Teaneck's HEFSP and its failure to provide adequate documentation to demonstrate a realistic opportunity for its fair share of the regional need for affordable housing, the Program should deny the Township's request for a Compliance Certification unless the deficiencies are corrected. As explained in greater detail below, to resolve this challenge and come into compliance, Teaneck must: (1) revise its realistic development potential ("RDP") and vacant land analysis ("VLA") to be compliant with the Fair Housing Act

and N.J.A.C. 5:93-4.2; (2) provide mechanisms to address its full unmet need for the Fourth Round, including sites likely to redevelop to address at least 25% of the unmet need obligation; (3) commit to revise its HEFSP, ordinances, resolutions, affirmative marketing plan, spending plan, and program manuals to comply with applicable law.

ARGUMENT

I. Objective Compliance Standard

When there is a challenge to a municipality's HEFSP, the program "shall apply an objective assessment standard to determine whether a municipality's housing element and fair share plan is compliant with the 'Fair Housing Act,' P.L. 1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine." N.J.S.A. 52:27-304.2(b) (emphasis added).

The New Jersey Supreme Court defined the "objective" standard in Mount Laurel II:

> Satisfaction of the Mount Laurel obligation shall be determined solely on an objective basis: if the municipality has in fact provided a realistic opportunity for the construction of its fair share of low- and moderate-income housing, it has met the Mount Laurel obligation to satisfy the conditional requirement; if it has not, then it has failed to satisfy it. Further, whether the opportunity is 'realistic' will depend on whether there is in fact a likelihood – the extent economic conditions allow – that the lower income house will actually be constructed.
>
> [S. Burlington Cnty. NAACP v. Mount Laurel, 92 N.J. 158, 220-22 (1983) (Mount Laurel II) (footnotes omitted).]

The Court was clear that "[t]he municipal obligation to provide a realistic opportunity for low and moderate income housing is not satisfied by a good faith attempt. The housing opportunity provided must, in fact, be the substantial equivalent of the fair share." Id. at 216. The Court was also clear that "it is the municipality" that must "prove every element of compliance." Id. at 306.

The statute demands the same actual compliance as Mount Laurel II. In addition to the specific incorporation of the "objective" standard into the text of the statute, the findings of the statute state that "The Legislature declares that the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), as amended and supplemented by P.L.2024, c.2 (C.52:27D-304.1 et al.), is intended to implement the Mount Laurel doctrine." N.J.S.A. 52:27D-302(p). And notably, unlike in the numbers phase of the Program, the Legislature required proof of objective compliance even absent a challenge, highlighting the importance of this standard. The Program "shall apply an objective standard" to determine whether the HEFSP "enables the municipality to satisfy the fair share obligation, applies compliant mechanisms, meets the threshold requirements for rental and family units, does not exceed limits on other unit or category types, and is compliant with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine." Id. The statute then clearly states that a municipality shall receive a compliance certification "unless these objective standards are not met." N.J.S.A. 52:27-304.2(b). This objective standard, which has been interpreted through decades of case law and regulatory development, provides the appropriate basis for the review of this challenge.

A. The process for vacant land adjustments is well established by three decades of precedent.

As part of Township's HEFSP submission, the Township requested a vacant land adjustment ("VLA") pursuant to N.J.S.A. 52:27D-310.1. The VLA provided by the Township is woefully inadequate under the applicable legal standards, namely, the Council on Affordable Housing's ("COAH") longstanding VLA standards incorporated by reference by the FHA. N.J.S.A. 52:27D-311(m).

The Amended FHA retains the longstanding legal framework for conducting a vacant land analysis as has been developed through COAH regulations and case law. Teaneck does not follow this precedent. The Amended Act, recognizing that decades of precedent existed in reviewing compliance and that the Legislature wanted to continue that precedent, made clear that all parties "shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by [the Amended Act], or binding court decisions." N.J.S.A. 52:27D-311(m). In the statutory section regarding vacant land adjustments, besides changes to strengthen requirements around "unmet need" and redevelopment further addressed below, the Legislature simply shifted the forum of resolution of challenges from COAH to the Program and kept the substantive standards intact. The process for conducting an adjustment under this section of the statute is well-known and has been utilized for over thirty (30) years with the primary regulations governing said adjustment being N.J.A.C. 5:93-4.2, initially adopted in 1994 as part of COAH's Second Round rules.

Under N.J.A.C. 5:93-4.2, a municipality's RDP is calculated by determining how many acres are appropriate for residential development and multiplying that by an appropriate density. N.J.A.C. 5:93-4.2(f). The regulations require a municipality seeking an adjustment due to lack of land to "submit an inventory of vacant parcels by lot and block that includes the acreage and owner of each lot." N.J.A.C. 5:93-4.2(b). The regulations made clear that "all vacant sites shall initially be presumed to fall into this category." N.J.A.C. 5:93-4.2(d).

Notably, the regulations require analysis of redevelopment sites in addition to vacant sites. This analysis must include sites "that are devoted to a specific use which involves relatively low-density development" and would create a realistic opportunity if inclusionary zoning were in place.

Id. The COAH rules provide direct guidance that properties "have the potential to develop or redevelop over time and, as such development takes place, the Council has determined that such sites shall contribute toward the housing obligation." N.J.A.C. 5:93-4.1(c).

Once the inventory including vacant and potential redevelopment sites is complete, the municipality may provide information to exclude or eliminate certain sites from the inventory. A municipality may only exclude lands for the specifically denoted reasons in the regulations which are all related to developability of each site such as: the presence of environmental constraints, the existence of a deed restriction prohibiting development, or use as recreational lands within the municipality. N.J.A.C. 5:93-4.2(e).

After the appropriate and applicable exclusions are removed from the inventory the analysis moves to the next stage—determining the density for each property. The regulations demand two criteria be utilized in this assessment, the character of the area surrounding the site and the need to provide affordable housing. N.J.A.C. 5:93-4.2(f). The lowest density that may be assigned is six (6) dwelling units per acre. Id. Once each site is assigned its own density after completing this required analysis, each site's land area is multiplied by the applicable density. The final step is to multiply each site by a 20% set-aside. Id. The resulting product is the realistic development potential (RDP) for the site. Id.

1. **Teaneck's VLA fails to comply with N.J.S.A. 52:27D-310.1 and N.J.A.C. 5:93-4.2 because it significantly and artificially undercounts the Township's realistic development potential.**

Teaneck demands a vacant land adjustment wherein it claims its RDP is 11. The Township's VLA fails to comply with this longstanding precedent and departs from the step by step process required by N.J.A.C. 5:93-4.2 in a number of ways.

First, the Township included only vacant, not underutilized and potentially redevelopable, sites in their VLA. As detailed above, N.J.A.C. 5:93-4.2(d) requires a VLA to consider redevelopment sites in addition to vacant sites. Here, the Township's VLA methodology states that the only parcels reviewed were those with the property classification of 1 (Vacant), 3A or 3B (Farmland), 15A (Public School Property), or 15C (Public Property). Although this seems to consider parcels in addition to vacant properties, the analysis goes on to exclude any parcels with existing development without considering whether the development is relatively low-density or whether the parcel has potential to redevelop.

Second, in calculating the RDP of each parcel, the Township applied a blanket minimum density of 6 dwelling units per acre, thereby ruling out any parcels under the size of 0.83 acres. As detailed above, N.J.A.C. 5:93-4.2(f) requires that the density for each property be determined according to the character of the area surrounding the site and the need to provide affordable housing. While the minimum presumptive density is 6 dwelling units per acre, the VLA should not automatically apply this minimum density to all parcels, especially in the context of a municipality with much higher densities.

Third, the Township has not provided any analysis of sites that have redeveloped or are likely to redevelop that contribute towards RDP.

For the foregoing reasons, and likely others, the Township's RDP must be revisited by the Program to ensure that it was conducted in accordance with applicable rules and regulations and case law. The Township's VLA is simply noncompliant with the statutorily required process for vacant land adjustments. It significantly reduces the provision of affordable housing.

B. The Township does not adequately address its unmet need, and does not identify sites likely to redevelop to address at least 25% of its unmet need.

A municipality that seeks a vacant land adjustment "must identify potential sites for development, and a method to generate additional affordable units should those sites become available." In re Petition of Township of Montvale, 386 N.J. Super. 119, 122 (App. Div. 2006). In In re Fair Lawn Township, 406 N.J. Super. 433, 441-442 (App. Div. 2009), the Appellate Division wrote:

> COAH's regulations recognize that some towns may not have enough currently developable land to meet their fair share requirements, although they may have vacant land that is capable of future development for that purpose. A municipality may receive a "vacant land" adjustment, conditioned on adopting zoning geared at allowing the eventual development of affordable housing on those properties. N.J.A.C. 5:93-4.1, -4.2.
>
> [(citations omitted).]

Unmet need is not "'a permanent adjustment to municipal affordable housing obligations.'" 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[.]" Mount Laurel II, 92 N.J. at 248 n.21.

The Appellate Division has found that COAH's approach to unmet need met the requirements of the Mount Laurel Doctrine because it must be satisfied through, for instance,

overlay zoning. 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); see also 40 N.J.R. 5965(a), 6005 (October 20, 2008) (COAH's regulations are intended to "require meaningful plans for unmet need"); In re Fair Lawn, 406 N.J. Super. at 445 (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"); N.J.A.C. 5:93-5.6(b)(1)("When a municipality is receiving an adjustment pursuant to N.J.A.C. 5:93-4.2 [vacant land adjustment] the municipality shall be required to zone inclusionary sites . . . with a 20 percent set-aside.").

To be constitutional under the Mount Laurel Doctrine, unmet need mechanisms must provide for affordable housing through, for instance, overlay zoning that captures affordable housing opportunities as they arise. See, e.g., N.J.A.C. 5:93-5.6(b)(1)("When a municipality is receiving an adjustment pursuant to N.J.A.C. 5:93-4.2 [vacant land adjustment] the municipality shall be required to zone inclusionary sites . . . with a 20 percent set-aside."); N.J.A.C. 5:93-4.2(h) ("[A]fter [a vacant land] analysis, the Council may require at least any combination of the following in an effort to address the housing obligation: . . . . (2) Overlay zoning requiring inclusionary development . . . .").

While the Legislature retained the vacant land adjustment process in the Amended Act as is, the Legislature also strengthened requirements to address unmet need in recognition of the increasing trend towards redevelopment in New Jersey. As a part of the unmet need obligation, Woodcliff Lake is required to identify parcels with the likelihood to redevelop and to adopt realistic zoning on those parcels to address 25% of its unmet need, that is, that would produce enough affordable housing to meet at least 25% of the obligation that has been adjusted. See N.J.S.A. 52:27D-310.1.

The 2024 amendments to the Fair Housing Act affirm and strengthen the long recognized unmet need obligation by requiring towns to ensure that their unmet need mechanisms provide affordable housing for at least 25% of the adjusted obligation through overlay zoning on sites "likely to redevelop." Indeed, municipalities that receive a vacant land adjustment are required to "identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation or demonstrate why the municipality is unable to do so." N.J.S.A. 52:27D-310.1 (emphases added).

This section of the statute is clearly directed at the Township's unmet need. For starters, redevelopment has always been a concept of unmet need since the beginning as described above. Municipalities have long been required by Mount Laurel II to determine whether redevelopment can capture affordable housing opportunities "as land becomes available." COAH, in its long-standing regulations, recognized that redevelopment would be a major component of unmet need, finding that where a municipality takes a VLA they "shall provide a response toward the obligation not addressed by the RDP." N.J.A.C. 5:93-4.1(b). Among the examples of how a municipality could respond to this obligation not addressed by RDP were "a redevelopment ordinance" and "an ordinance permitting apartments in developed areas of the municipality." Ibid.

At the time these regulations were put into place there were many fewer municipalities requesting a vacant land adjustment and there was no minimum amount of the unmet need that a municipality was required to address utilizing redevelopment. Over the course of the Third Round it became evident that many more municipalities were becoming built-out and requesting adjustments for lack of land. The Legislature reacted to this change by putting a minimum requirement for addressing unmet need for the first time and requiring municipalities to address at

least 25% of the unmet need obligation, i.e. the portion of the prospective need that "has been adjusted" to reach the RDP, strengthening and providing a presumptive minimum quantification of the longstanding regulatory requirement to provide a response to unmet need. As the original bill statement when A4/S50 was introduced stated "A municipality would be permitted to make adjustments for a lack of available land resources as part of the determination of a municipality's fair share of affordable housing when, for example, certain municipal lands are devoted for conservation purposes. However, the bill would require a municipality that receives such a vacant land adjustment to its fair share obligation to identify parcels for redevelopment to address at least 25 percent of the prospective need obligation that has been adjusted, and adopt zoning that allows for the adjusted obligation, or demonstrate why this is not possible."[1] The word "however" implies that the obligation is not met through RDP, and thus "has been adjusted," i.e. unmet need, still requires a response through redevelopment, a response not present here. A further explanation of the history of the affordable housing regulations with respect to unmet need and redevelopment is provided in the attached Certification of David N. Kinsey, PhD, FAICP, PP.

Here, the Township states the requirement correctly and provides some significant redevelopment parcels that would count towards this requirement. However, it does not meet the requirement, and it provides no additional mechanisms for its significant remaining Fourth Round need. Its analysis at p. 29 of the HEFSP shows that it only meets the requirement based on including bonus credits. The language in N.J.S.A. 52:27D-310.1 does not provide for bonuses towards the 25 percent requirement. Furthermore, the longstanding COAH regulations incorporated by reference into the statute, N.J.S.A. 52:27D-311(m), explicitly prohibit bonuses on unmet need. N.J.A.C. 5:97-5.3(c). The Township thus only provides 92 units towards the 105-unit

[1] A4 Bill Statement (Jan. 9, 2024), available at https://www.njleg.state.nj.us/bill-search/2024/A4/bill-text?f=A0500&n=4_I1 (last accessed Aug. 11, 2025).

requirement for 25 percent realistic redevelopment, and again no further mechanisms for its remaining 315-unit unmet need. The Township should provide additional mechanisms to address these requirements, which could include additional redevelopment inclusionary or 100% affordable sites.

C. The Town's HEFSP needs additional information that should be provided.

As discussed earlier, it is the municipality that must demonstrate every element of compliance. See Mount Laurel II, supra, 92 N.J. at 306. FSHC has identified the following additional items that must be addressed by the Program before the Town can be deemed to have complied with Mount Laurel.

1. **Third Round.** The Town should provide for the record of the status of Third Round development sites and any documentation that was not available during the Third Round matter that continue to show a realistic opportunity for the Third Round sites credits and bonuses, pursuant to 52:27D-304.1(f)(2)(a). Specifically:
    a. For sites included in the Third Round plan but not yet constructed, including the East Oakdene overlay the Township should provide an analysis of whether these sites continue to present a realistic opportunity and any changes that may need to be implemented. 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).

i. Township should provide deed restrictions showing that all units relied upon and constructed since the Third Round HEFSP was adopted actually were completed as planned.

ii. The Township should provide all site plan approvals and/or developer's agreements for projects approved in Third Round overlays (329 Alfred Avenue, 1085 Decatur Avenue, 359 Alfred Avenue, 1425 Teaneck Road, 520 Palisades Ave) to ensure the projects comply with UHAC.

2. The Township identifies six Fourth Round sites. For these sites, the Township should demonstrate compliance with the requirements in N.J.A.C. 5:93-5.6 and submit draft redevelopment plans and/or draft zoning to be reviewed for compliance with all applicable regulations, including how it meets the very-low-income and low-income requirements. The statute requires that "at least 13 percent of the housing units made available for occupancy by low-income and moderate-income households to address a municipality's prospective need obligation will be reserved for occupancy by very low income households, [. . .] with at least half of such units made available for families with children." N.J.S.A. 52:27D-329.1. Relatedly, the statute requires a "minimum 50 percent of the housing units required to be made available for occupancy by low-income households to address a municipality's prospective need obligation." The Township should also submit redevelopment plans/zoning that comply with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq.

3. The Township should update its Affordable Housing Ordinance, Development Fee Ordinance, Affirmative Marketing Plan, and other administrative documents in accordance

with the forthcoming regulations at N.J.A.C. 5:80-26.1, et seq, and N.J.A.C. 5:99 after they are adopted and before March 15, 2026.

4. The Township's Spending Plan should be required to be updated in accordance with the forthcoming regulations at N.J.A.C. 5:99. The Township should recalculate its administrative expense maximum in the Spending Plan pursuant to N.J.A.C. 5:97-8.9, and when adopted, N.J.A.C 5:99. No extraneous funds may be used in the calculation of the administrative expense maximum, including interest on development fees or development fee revenue that was previously allocated in a prior Spending Plan.

Thank you for your attention to this matter. As noted above, part of FSHC's challenge is as to the failure to provide sufficient information and documentation to support its plan in compliance with the FHA and Mount Laurel; FSHC reserves its rights to provide supplemental responses in response to further submissions by the Town.

Respectfully submitted,

Dated August 27, 2025

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Analysis of Noncompliance by Vacant Land Adjustment Municipalities with the Requirement to Address 25% of Unmet Need through Realistic Zoning for Parcels Likely to Redevelop

August 25, 2025

Prepared for and in collaboration with:

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The Fair Housing Act, amended by P.L. 2024, c. 2 (Assembly Bill 4/Senate Bill 50), signed into law March 20, 2024 ("Amended Act"), governs how Fourth Round (2025-2035) and future rounds of municipal fair share housing obligations are calculated, established, and satisfied, through changes in master plans, zoning, and other initiatives in a municipal housing element and fair share plan ("HEFSP"). The Amended Act offered municipalities an opportunity to determine their Present Need and Prospective Need fair share housing obligations for 2025-2035, through committing, by filing by February 3, 2025 with the new Affordable Housing Dispute Resolution Program ("Program"), to adopting a municipal housing element and fair share plan by June 30, 2025 to satisfy their fair share housing obligations.

According to Fair Share Housing Center ("FSHC"), 424 New Jersey municipalities adopted and timely filed housing element and fair share plans with the Affordable Housing Dispute Resolution Program established by the Amended Act.[1] Many of those municipalities claimed a "vacant land adjustment," based on insufficient vacant and underutilized developable land, an adjustment of their allocated Prospective Need into two components: Realistic Development Potential and Unmet Need. A key issue has arisen in the review of these Fourth Round HEFSPs: how should the requirement of the Amended Fair Housing Act that realistic zoning be adopted to address at least 25% of the adjusted Prospective Need obligation, i.e., the Unmet Need, when a municipality receives a vacant land adjustment be interpreted?

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[1] FSHC, "Record 424 Municipalities Adopt Fair Housing Plans," Press Release [July 17, 2025], https://www.fairsharehousing.org/press-release/record-424-municipalities-adopt-fair-housing-plans/ <accessed August 19, 2025>

As amended in 2024, the Fair Housing Act provides:

> "Any municipality that receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a lack of vacant land shall, as part of the process of adopting and implementing its housing element and fair share plan, identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so."[2]

In order to explain the proper application of this statutory requirement, this report first reviews the origins and evolution of its explicit and implicit key components: (a) vacant land adjustment, (b) Realistic Development Potential ("RDP"), and (c) Unmet Need. The report will also explicate two critical phrases in this requirement: (a) "... at least 25 percent of the prospective need obligation that has been adjusted..." and (b) "...adopt realistic zoning for such adjusted obligation... ."

Since its enactment in 1985, the Fair Housing Act has always recognized that some municipalities may have insufficient vacant, developable land to satisfy their Prospective Need fair share obligations entirely through standard inclusionary zoning.[3] In its first Substantive Regulations, adopted in 1986 for its First Round (1987-1993),

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[2] N.J.S.A. 52:27D-310.1, P.L. 2024, c.2, §23.

[3] The Fair Housing Act directed COAH to "[a]dopt criteria and guidelines for ... (2) Municipal adjustment of the present and prospective fair share based on available vacant and developable land ..." N.J.S.A. 52:27D-307(c). P.L. 1985, c. 222, §7.

COAH adopted detailed criteria and a process for adjusting municipal fair share on the basis of insufficient vacant, developable land,[4] stating:

> "The Council [COAH] shall determine the municipality's ability to absorb its fair share obligation through inclusionary developments. The Council shall presumptively require a 20 percent maximum set-aside [of affordable housing] and a minimum gross density of six units per acre on vacant and developable sites."[5]

Once COAH determined the municipality's "ability to absorb its fair share obligation," that theoretical yield of affordable housing from its vacant and developable land became the municipality's reduced Prospective Need, if its "ability to absorb its fair share obligation" was less than the municipality's originally allocated fair share of its region's Prospective Need.

For the Second Round (1993-1999), COAH adopted new rules in 1994 that updated and replaced the First Round process. These rules retained the concepts and criteria for the vacant land adjustment process and named the municipality's theoretical yield of affordable housing from its vacant and developable land its "Realistic Development Potential" ("RDP").[6] COAH also required municipalities to consider in the RDP calculation underutilized land that

[4] N.J.A.C. 5:92-8.1 et seq., 18 N.J.R. 1537-1538, August 4, 1986.
[5] N.J.A.C. 5:92-8.4(c), 18 N.J.R. 1538, August 4, 1986.
[6] N.J.A.C. 5:93-1.3, 26 N.J.R. 2316, June 6, 1994, and N.J.A.C. 5:93-4.2, 26 N.J.R. 2324-2325, June 6, 1994.

> "...would create an opportunity for affordable housing if inclusionary zoning was in place."[7]

When preparing its HEFSP, COAH required a municipality with such a "vacant land adjustment" to adopt sufficient realistic compliance mechanisms, such as inclusionary zoning or development of a group home, to address its RDP.[8] When RDP was calculated, COAH Second Round Rules also required such municipalities to

> "...provide a response toward the obligation not addressed by the realistic development potential."[9]

That required "obligation not addressed" became known as the "Unmet Need."

COAH first used the term "Unmet Need" in Third Round rules adopted in 2004.[10] In its second iteration of Third Round Rules, adopted in 2008, COAH defined Unmet Need[11] and stressed the importance of this component of the fair share obligation by requiring COAH to "... review the municipality's mechanisms to address unmet need ... ."[12] In this rule adoption COAH also expanded its list of compliance mechanisms COAH could require a municipality to adopt to address Unmet Need, including inclusionary overlay zoning and an inclusionary redevelopment plan.[13]

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[7] N.J.A.C. 5:93-4.2(d).
[8] COAH rules offered municipalities great flexibility in selecting compliance mechanisms to address RDP. N.J.A.C. 5:97-4.2(g).
[9] N.J.A.C. 5:93-4.1(b), 26 N.J.R. 2324, June 6, 1994.
[10] N.J.A.C. 5:94-3.4(a)1.
[11] N.J.A.C. 5:97-1.4, 40 N.J.R. 2890, June 2, 2008.
[12] N.J.A.C. 5:97-5.3(a), 40 N.J.R. 2899-2890, June 2, 2008.
[13] N.J.A.C. 5:97-5.3(b), 40 N.J.R. 2890, June 2, 2008.

While the Appellate Division invalidated substantial portions of COAH Third Round Rules in 2010,[14] neither the Appellate Division nor the Supreme Court[15] invalidated the provisions on RDP and Unmet Need. In 2015 the Supreme Court issued Mount Laurel IV, which declared COAH "moribund" and returned enforcement of the Mount Laurel Doctrine to the trial courts, noting that "...many aspects to the two earlier versions of Third Round rules were found valid by the appellate courts."[16]

Under COAH rules and Third Round court-approved settlements between municipalities and FSHC under Mount Laurel IV since 2015, vacant land adjustment municipalities were required to: (a) address their RDP by creating sufficient realistic opportunities for affordable housing and (b) address their Unmet Need with appropriate compliance mechanisms, such as overlay inclusionary zoning and redevelopment plans that incentivize development and redevelopment that includes affordable housing.

The Amended Fair Housing Act incorporates by reference the existing COAH rules, which were also applied following Mount Laurel IV for RDP and Unmet Need, and also adds a new requirement for vacant land adjustment municipalities: adopt realistic zoning for identified parcels likely to redevelop to address at least 25% of the Unmet Need, or "...demonstrate why the municipality is unable to do so."[17]

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[14] In Re Adoption of N.J.A.C. 5:96 & 5:97, 416 N.J. Super. 462 (App. Div. 2010).
[15] In Re Adoption of N.J.A.C. 5:96 & 5:97, 215 N.J. 578 (2013).
[16] In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 54-55 (2015).
[17] N.J.S.A. 52:27D-310.1, P.L. 2024, c.2, §23. Notably, as to RDP and Unmet Need, a provision of the statute entitles all parties to rely on COAH rules on the adjustment of Prospective Need via the calculation first of RDP and then Unmet Need (Unmet Need = Prospective Need – RDP), as the pertinent rules have not been "... contradicted by statute ... or binding court decisions." N.J.S.A. 52:27D-311m., P.L. 2024, c. 2, §11m.

Furthermore, the requirement that municipalities with insufficient vacant and developable land adopt realistic zoning to incentivize redevelopment is consistent with Mount Laurel II, where the Supreme Court ruled that in

> "...built-up suburbs ... [t]he most significant question in such cases will ordinarily be whether there is any land available for development, and if not, what kind of remedy is appropriate to assure that as land becomes available, a realistic opportunity exists for the construction of lower income housing, assuming it is otherwise suitable for that purpose."[18]

Redevelopment has become increasingly significant throughout New Jersey in recent years, whether undertaken at municipal initiative under the Local Redevelopment and Housing Law[19] or by private sector initiative by developers. It can take many forms, including building a new neighborhood on an obsolete property, adaptive reuse and conversion of existing buildings, and developing infill projects on parking lots. According to nonprofit, nonpartisan New Jersey Future, "Since 2007, most of the state's population growth has been happening via redevelopment, in places with little or no buildable land left."[20] Redevelopment has become so pervasive in New Jersey that is been called the "new normal." Indeed, "More than 2/3 of all residential certificates of occupancy issued since 2015 have been issued in municipalities that are at least 90% built-out, meaning

[18] Footnote 21, Mount Laurel II, 92 N.J. 249 (1985).
[19] N.J.S.A. 40A:12A-1. et seq.
[20] Tim Evans, "Redevelopment is the New Normal," New Jersey Future, June 12, 2020 https://www.njfuture.org/2020/06/12/redevelopment-is-the-new-normal/ <accessed August 22, 2025>

that most of this growth is being accommodated on land that was previously developed for something else."[21]

In establishing the new requirement to identify parcels likely to redevelop to address at least 25% of Unmet Need, the Legislature recognized the importance and reality of redevelopment in New Jersey. This requirement was in accordance with other provisions of the Amended Fair Housing Act that emphasize redevelopment, including several areas in which the Legislature added explicit linkages to the State Development and Redevelopment Plan, which heavily emphasizes redevelopment, and bonus credits for the first time ever available for redevelopment of nonresidential buildings and sites.[22]

A review of a sample of Fourth Round timely filed HEFSPs from municipalities, from all six housing regions, finds in municipalities that claim a vacant land adjustment three types of responses to the new requirement to address at least 25% of the Unmet Need: (a) apply correctly the 25% requirement to the Unmet Need, (b) misapply the 25% requirement to the RDP, and (c) ignore the 25% requirement and/or fail to plan for the full Unmet Need.

The correct application of requirement on realistic zoning to address at least 25% of the Unmet Need is straightforward. Numerous municipalities, such as Englewood Cliffs (Region 1, Bergen County), Verona (Region 2, Essex County), and Point Pleasant

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[21] Tim Evans, "Urban Centers Are Back, So Is the Whole State of New Jersey," New Jersey Future, August 12, 2025
https://www.njfuture.org/2025/08/12/urban-centers-are-back-in-fact-so-is-the-whole-state-of-new-jersey/ <accessed August 22, 2025>

[22] "...one unit of credit and one-half bonus credit for a unit of low-or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space ...", N.J.S.A. 52:27D-311k.(7), P.L. 2024, c.2, §24.

(Region 4, Ocean County), have calculated their RDP and Unmet Need, identified parcels likely to redevelop during 2025-2035 (i.e., the Fourth Round), and proposed in their HEFSPs realistic zoning to address at least 25% of their Unmet Need. As the Amended Fair Housing Act required that adopted and filed HEFSPs include only proposed drafts of implementing ordinances[23] that need not be adopted under the statute until March 15, 2026,[24] it is reasonable that these municipalities have yet adopted the "realistic zoning" required to address at least 25% of their Unmet Need. These compliant municipalities have also proposed appropriate compliance mechanisms, usually overlay inclusionary zoning, to address the remaining 75% of their Unmet Need as required by COAH rules.[25]

The second category of municipalities has misapplied the 25% requirement to the RDP, instead of the Unmet Need, or otherwise misapplied the 25% requirement, such as Franklin Lakes (Region 1, Bergen County), Summit (Region 2, Union County), and Rumson (Region 4, Monmouth County). These noncompliant municipalities have incorrectly interpreted the statutory reference to "...the prospective need obligation that has been adjusted... [and] ...such adjusted obligation... "[26] to mean the RDP. This interpretation is incorrect for three reasons. First, as municipalities have for decades been required under still valid COAH rules to address 100% of their RDP, a lesser requirement to address only 25% of the RDP is nonsensical. Second, this radical interpretation would significantly dilute the constitutional housing obligation, especially if

[23] N.J.S.A. 52:27D-304.1f.(2)(a), P.L. 2024, c.2, §2.
[24] N.J.S.A. 52:27D-304.1f.(2)(c), P.L. 2024, c.2, §2.
[25] Municipalities must "...provide a response toward the obligation not addressed by the realistic development potential." N.J.A.C. 5:93-4.1(b), 26 N.J.R. 2324, June 6, 1994.
[26] N.J.S.A. 52:27D-310.1, P.L. 2024, c.2, §23.

read, as many of these HEFSPs do, to suggest that the rest of Unmet Need need not be addressed. Third, the "adjustment" is the calculation of the "vacant land adjustment" and RDP that then results in the remainder of the Prospective Need, i.e., the Unmet Need, being the "adjusted obligation." For example, if the Prospective Need is 100 units, a calculation of the RDP at 25 units would constitute an adjustment of the Prospective Need by 75 units, i.e., the Unmet Need.

These noncompliant municipalities that misapply the 25% requirement to the RDP then typically ignore the statutory requirement to "...identify sufficient parcels likely to redevelop..." during 2025-2035. The statute calls for site-specific compliance mechanisms, not generalized overlay zoning, and specifically requires "realistic zoning" for such parcels. The statute does not require the municipality to designate a redevelopment area and adopt a redevelopment plan for such parcels under the Local Redevelopment and Housing Law.[27] The statute does, however, require the municipality to identify existing developed parcels "likely to redevelop" with the incentive of appropriate inclusionary zoning requiring a set-aside of affordable housing, i.e., the required "...realistic zoning that allows for such adjusted obligation... ."[28] By failing to propose realistic inclusionary zoning for specific parcels likely to redevelop to address at least 25% of their Unmet Need, these noncompliant municipalities are diluting the constitutional

[27] N.J.S.A. 40A:12A-1. et seq.
[28] As an adopted redevelopment plan under the Local Redevelopment and Housing Law constitutes the zoning for its redevelopment area, the Amended Fair Housing Act does not preclude a municipality from identifying parcels and adopting redevelopment plans under the Local Redevelopment and Housing Law.

housing obligation and frustrating the proper implementation of the Mount Laurel Doctrine.

The third category of municipalities ignored the 25% of Unmet Need requirement entirely and/or failed to plan for their full Unmet Need, such as Palisades Park (Region 1, Bergen County), Rockaway Township (Region 2, Morris County), and Old Bridge (Region 3, Middlesex County). By their failure to recognize and address their obligation under the Amended Fair Housing Act to "...identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted [Unmet Need] and adopt realistic zoning for such adjusted obligation... ," these noncompliant municipalities have also diluted the constitutional housing obligation and frustrated the proper implementation of the Mount Laurel Doctrine.

The new statutory requirement that vacant land adjustment municipalities identify sufficient parcels likely to redevelop by 2035 and address with realistic zoning at least 25% of their Unmet Need is important recognition by the Legislature of where and how development is taking place in New Jersey that must be tapped to address the constitutional housing obligation established by Mount Laurel.

EXHIBIT A:
QUALIFICATIONS OF DAVID N. KINSEY

David N. Kinsey is a professional planner licensed by the State of New Jersey, a Fellow of the College of Fellows of the American Institute of Certified Planners ("FAICP"), and a partner in the planning consulting firm of Kinsey & Hand of Princeton N.J. He has more than 40 years of affordable housing planning experience implementing the Mount Laurel Doctrine: as the Director of the Division of Coastal Resources in the N.J. Department of Environmental Protection in the late 1970s and early 1980s under Mount Laurel I, for the trial courts as a special master during 1985-2004 under Mount Laurel II, and for nonprofit advocates, for profit developers, municipalities, and objectors under the Mount Laurel Doctrine and Fair Housing Act since 1985. Due to these roles, Kinsey is familiar with the evolution of the Fair Housing Act since its enactment in 1985 and rule-making by the former N.J. Council on Affordable Housing ("COAH") since 1986. In particular, Kinsey previously prepared certifications, reports, and analyses, and provided expert testimony in Superior Court on diverse aspects of municipal compliance with constitutional fair share housing obligations throughout New Jersey. In addition, Kinsey has taught graduate courses in affordable housing, land use policy, public policy and planning at Princeton University during 1973-1975 and since 1998. He also taught graduate courses in urban planning at Rutgers University in 1977-1978 and in environmental planning at the University of Pennsylvania in 1985-1986. Kinsey has an A.B. in Government-Architecture from Dartmouth College and a Master of Public Affairs and Urban Planning and Ph.D. in Public and International Affairs from Princeton University.

Fair Share Housing Center retained Kinsey for advice and assistance in the implementation of the Mount Laurel Doctrine and Fair Housing Act, including the review of filed Fourth Round HEFSPs.

SUPREME COURT OF NEW JERSEY

Pursuant to Rule 1:13-2(a), it is ORDERED that the payment of filing fees, other fees, and charges of public officers for service of process in connection with actions filed by the Fair Share Housing Center shall be waived; this Order is effective immediately and until further order of the Court.

For the Court:

Chief Justice

Dated: January 16, 2007

PRIME TUVEL & MICELI, LLC
1 University Plaza, Suite 500
Hackensack, New Jersey 07601
Tel: 201-883-1010
By: Danielle Kinback, Esq. Attorney ID# 000732011
Jason R. Tuvel, Esq. Attorney ID# 028142004
Email: dkinback@primelaw.com
Attorneys for Proposed Defendant/Interested Party,
143 State Street, LLC

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF TEANECK	SUPERIOR COURT OF NEW JERSEY BERGEN COUNTY-LAW DIVISION DOCKET NO. L-776-25 CIVIL ACTION *MOUNT LAUREL* **ANSWER OF DEFENDANT/INTERESTED PARTY** **143 STATE STREET, LLC**

Defendant/Interested Party, 143 State Street, LLC ("143 State"), with a principal place of business located at 586 Newark Ave, Jersey City, New Jersey 07306 is the owner of property within the Township of Teaneck ("Township") located at 143 State Street, which is identified on the tax maps of the Township as Block 5002, Lot 26. By way of Answer to the Township's Complaint in this matter, 143 State says that:

BACKGROUND AND JURISDICTION

1. The allegations set forth in Paragraph 1 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

2. The allegations set forth in Paragraph 2 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

3. The allegations set forth in Paragraph 3 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

COUNT I

APPROVAL OF PRESENT NEED AND PROSPECTIVE NEED NUMBERS

4. 143 State repeats and realleges its response to Paragraphs 1 through 3 of the Complaint as if fully set forth herein.

5. The allegations set forth in Paragraph 5 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

6. The allegations set forth in Paragraph 6 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

7. The allegations set forth in Paragraph 7 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

8. The allegations set forth in Paragraph 8 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

9. The allegations set forth in Paragraph 9 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

10. The allegations set forth in Paragraph 10 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

11. The allegations set forth in Paragraph 11 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

12. The allegations set forth in Paragraph 12 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

WHEREFORE, 143 State respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft zoning ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a);

b. ORDERING such additional relief as the Court deems just and equitable.

COUNT II

APPROVAL OF HOUSING PLAN ELEMENT AND FAIR SHARE PLAN ELEMENT

13. 143 State repeats and realleges its response to Paragraphs 1 through 12 of the Complaint as if fully set forth herein.

14. The allegations set forth in Paragraph 14 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

15. The allegations set forth in Paragraph 15 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

16. The allegations set forth in Paragraph 16 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 143 State leaves the Township to its proofs.

WHEREFORE, 143 State respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft zoning ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a);

b. ORDERING such additional relief as the Court deems just and equitable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Township has not filed what is required by N.J.S.A. 52-27D-301 et. seq. (2024).

SECOND AFFIRMATIVE DEFENSE

The Township's HEFSP is not compliant with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (2024) or the Administrative Office of the Courts' Addendum to Directive

#14-24 ("Directive") because it fails to include the required draft implementing ordinances, including, but not limited to the zoning ordinance for the Property.

THIRD AFFIRMATIVE DEFENSE

Specifically, the Township has not complied with N.J.S.A. 52:27D-304.1(f)(2)(a) which requires the Township to file drafts of appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation before June 30, 2025, and in that regard the Township failed to file the aforementioned drafts.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
143 State Street LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Danielle Kinback, Esquire, is hereby designated as trial counsel on behalf of Defendant-Interested Party, State Corner.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
143 State Street LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:5-1 CERTIFICATION

I hereby certify that the subject matter of the within controversy does not form the basis of any other action presently pending in any court or arbitration proceeding to the best of my knowledge, information and belief and that no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in this action at the present time.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
143 State Street LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:6-1 CERTIFICATION

I hereby certify that the within Answer was filed within the time period allowed by N.J.S.A. 52:27D-304.1 3f.(1)(b) and Directive #14-24.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
143 State Street LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

PRIME TUVEL & MICELI

ATTORNEYS AT LAW

August 28, 2025

VIA ECOURTS
Hon. Gregg A. Padovano, J.S.C.
Bergen County Justice Center
Floor 3
Hackensack, New Jersey 07601

Re: **In the Matter of the Application of the Township of Teaneck**
Docket No. BER-L-776-25

Dear Judge Padovano:

This office represents 143 State Street, LLC ("143 State") the owner of property within the Township of Teaneck ("Township"), which property is officially designated on the Teaneck tax maps as Block 5002, Lot 26 (the "Property"). Please accept this letter in support of State Corner's challenge to the Township's Housing Element and Fair Share Plan ("HEFSP") filed pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and the Administrative Offices of the Courts Directive #14-24 (the "Directive"). For the reasons further explained herein, the Township's HEFSP does not comply with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (2024) ("FHA"), and should not be approved by this Court or the Program without revision and inclusion of the required documents, as further provided herein.

14000 Horizon Way, Suite 325
Mount Laurel, NJ 08054
P 856 273 8300 | F 856 273 8383
W primelaw.com

ADDITIONAL OFFICES
Hackensack, NJ | Hoboken, NJ | Jersey City, NJ | Fort Washington, PA | New York, NY

Background

143 State has proposed a project which consists of the demolition of an existing gas station on the Property, and construction of a six-story multi-family residential building which would include 9 units set aside for low- and middle-income households (the "Project"). State Corner has been negotiating with the Township to obtain the zoning necessary for the development of the Property with the Project, and is ready and willing to move forward.

On or about June 30, 2025, the Township filed its HEFSP with this court at Docket No. BER-L-776-25. The filed HEFSP identifies the Project as part of the Realistic Development Potential Mechanisms, but does not include a draft ordinance implementing the zoning necessary to implement the Project.

The Township's Failure to Comply with the FHA

The New Jersey Fair Housing Act ("FHA"), at N.J.S.A. 52:27D-304.1(f)(2)(a), requires that as part of a HEFSP, a municipality **shall:**

> [a]dopt 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 on 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.
>
> **(emphasis added)**.

The Township has failed to fulfill the requirements of the FHA as it has failed to file the proposed drafts of the zoning ordinances necessary in order to implement the HEFSP. There are no ordinances annexed to the HEFSP, nor were any filed separately with the court at the docket number provided. Because the Township has failed to meet the express requirements of the FHA at N.J.S.A. 52:27D-304.1(f)(2)(a), 143 State respectfully requests that the Court consider the within challenge.

143 State is ready and willing to work with the Program, the Court and the Township on the preparation of an implementing ordinance for the Property that would create a realistic opportunity for the provision of affordable housing as included in the Township HEFSP.

Thank you for your time and attention to this matter. Should Your Honor require any further information, we are available at the Court's convenience.

Respectfully submitted,

/s/ *Danielle Kinback*
Danielle Kinback, Esq.

PRIME TUVEL & MICELI, LLC
1 University Plaza, Suite 500
Hackensack, New Jersey 07601
Tel: 201-883-1010
By: Danielle Kinback, Esq. Attorney ID# 000732011
Jason R. Tuvel, Esq. Attorney ID# 028142004
Email: dkinback@primelaw.com
Attorneys for Proposed Defendant/Interested Party,
Vision 23, LLC

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF TEANECK	SUPERIOR COURT OF NEW JERSEY BERGEN COUNTY-LAW DIVISION DOCKET NO. L-776-25 CIVIL ACTION *MOUNT LAUREL* **ANSWER OF DEFENDANT/INTERESTED PARTY VISION 23, LLC**

Defendant-Interested Party, Vision 23, LLC ("Vision 23"), with a principal place of business located at 262 Woodfield Road, Washington, NJ 07676, is the owner of property within the Township of Teaneck ("Township") located at 827 Teaneck Road, which is identified on the tax maps of the Township as Block 3902, Lot 2.01. By way of Answer to the Township's Complaint in this matter, Vision 23 says that:

BACKGROUND AND JURISDICTION

1. The allegations set forth in Paragraph 1 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Vision 23 leaves the Township to its proofs.

2. The allegations set forth in Paragraph 2 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Vision 23 leaves the Township to its proofs.

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COUNT I

APPROVAL OF PRESENT NEED AND PROSPECTIVE NEED NUMBERS

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WHEREFORE, Vision 23 respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft zoning ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a);

b. ORDERING such additional relief as the Court deems just and equitable.

COUNT II

APPROVAL OF HOUSING PLAN ELEMENT AND FAIR SHARE PLAN ELEMENT

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a. ORDERING the Township to produce draft zoning ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a);

b. ORDERING such additional relief as the Court deems just and equitable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Township has not filed what is required by N.J.S.A. 52-27D-301 et. seq. (2024).

SECOND AFFIRMATIVE DEFENSE

The Township's HEFSP is not compliant with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (2024) or the Administrative Office of the Courts' Addendum to Directive #14-24 ("Directive") because it fails to include the required draft implementing ordinances, including, but not limited to the zoning ordinance for the Property.

THIRD AFFIRMATIVE DEFENSE

Specifically, the Township has not complied with N.J.S.A. 52:27D-304.1(f)(2)(a) which requires the Township to file drafts of appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation before June 30, 2025, and in that regard the Township failed to file the aforementioned drafts.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Vision 23, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Danielle Kinback, Esquire, is hereby designated as trial counsel on behalf of Defendant-Interested Party, Vision 23., LLC

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Vision 23, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:5-1 CERTIFICATION

I hereby certify that the subject matter of the within controversy does not form the basis of any other action presently pending in any court or arbitration proceeding to the best of my knowledge, information and belief and that no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in this action at the present time.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Vision 23, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:6-1 CERTIFICATION

I hereby certify that the within Answer was filed within the time period allowed by N.J.S.A. 52:27D-304.1 3f.(1)(b) and Directive #14-24.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Vision 23, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

PRIME TUVEL & MICELI

ATTORNEYS AT LAW

August 28, 2025

VIA ECOURTS
Hon. Gregg A. Padovano, J.S.C.
Bergen County Justice Center
Floor 3
Hackensack, New Jersey 07601

Re: **In the Matter of the Application of the Township of Teaneck**
Docket No. BER-L-776-25

Dear Judge Padovano:

This office represents Vision 23, LLC ("Vision 23") the owner of property within the Township of Teaneck ("Township"), which property is located at 827 Teaneck Road and officially designated on the Teaneck tax maps as Block 3902, Lot 2.01 (the "Property"). Please accept this letter in support of Vision 23's challenge to the Township's Housing Element and Fair Share Plan ("HEFSP") filed pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and the Administrative Offices of the Courts Directive #14-24 (the "Directive"). For the reasons further explained herein, the Township's HEFSP does not comply with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (2024) ("FHA"), and should not be approved by this Court or the Program without revision and inclusion of the required documents, as further provided herein.

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ADDITIONAL OFFICES
Hackensack, NJ | Hoboken, NJ | Jersey City, NJ | Fort Washington, PA | New York, NY

Background

Vision 23 has proposed a project which consists of the demolition of an existing gas station on the Property, and construction of a five-story multi-family residential building which would include 6 units set aside for low- and middle-income households (the "Project"). Vision 23 has been negotiating with the Township to obtain the zoning necessary for the development of the Property with the Project, and is ready and willing to move forward.

On or about June 30, 2025, the Township filed its HEFSP with this court at Docket No. BER-L-776-25. The filed HEFSP identifies the Project as part of the Realistic Development Potential Mechanisms, but does not include a draft ordinance implementing the zoning necessary to implement the Project.

The Township's Failure to Comply with the FHA

The New Jersey Fair Housing Act ("FHA"), at N.J.S.A. 52:27D-304.1(f)(2)(a), requires that as part of a HEFSP, a municipality **shall:**

> [a]dopt 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 on 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.
>
> **(emphasis added)**.

The Township has failed to fulfill the requirements of the FHA as it has failed to file the proposed drafts of the zoning ordinances necessary in order to implement the HEFSP. There are no ordinances annexed to the HEFSP, nor were any filed separately with the court at the docket number provided. Because the Township has failed to meet the express requirements of the FHA at N.J.S.A. 52:27D-304.1(f)(2)(a), Vision 23 respectfully requests that the Court consider the within challenge.

Vision 23 is ready and willing to work with the Program, the Court and the Township on the preparation of an implementing ordinance for the Property that would create a realistic opportunity for the provision of affordable housing as included in the Township HEFSP.

Thank you for your time and attention to this matter. Should Your Honor require any further information, we are available at the Court's convenience.

Respectfully submitted,

/s/ *Danielle Kinback*
Danielle Kinback, Esq.

PRIME TUVEL & MICELI, LLC
1 University Plaza, Suite 500
Hackensack, New Jersey 07601
Tel: 201-883-1010
By: Danielle Kinback, Esq. Attorney ID# 000732011
Jason R. Tuvel, Esq. Attorney ID# 028142004
Email: dkinback@primelaw.com
Attorneys for Proposed Defendant/Interested Party,
Hill Street Realty, LLC

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF TEANECK	SUPERIOR COURT OF NEW JERSEY BERGEN COUNTY-LAW DIVISION DOCKET NO. L-776-25 CIVIL ACTION *MOUNT LAUREL* **ANSWER OF DEFENDANT/INTERESTED PARTY HILL STREET REALTY, LLC**

Defendant-Interested Party, Hill Street Realty, LLC ("Hill Street"), with a principal place of business located at 141 Ayers Court, Suite LLA, Teaneck, New Jersey 07666, is the owner of property within the Township of Teaneck ("Township") located at 1387 Hill Street, which is identified on the tax maps of the Township as Block 5003, Lot 16. By way of Answer to the Township's Complaint in this matter, Hill Street says that:

BACKGROUND AND JURISDICTION

1. The allegations set forth in Paragraph 1 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

2. The allegations set forth in Paragraph 2 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

3. The allegations set forth in Paragraph 3 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

COUNT I

APPROVAL OF PRESENT NEED AND PROSPECTIVE NEED NUMBERS

4. Hill Street repeats and realleges its response to Paragraphs 1 through 3 of the Complaint as if fully set forth herein.

5. The allegations set forth in Paragraph 5 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

6. The allegations set forth in Paragraph 6 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

7. The allegations set forth in Paragraph 7 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

8. The allegations set forth in Paragraph 8 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

9. The allegations set forth in Paragraph 9 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

10. The allegations set forth in Paragraph 10 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

11. The allegations set forth in Paragraph 11 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

12. The allegations set forth in Paragraph 12 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

WHEREFORE, Hill Street respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft zoning ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a);

b. ORDERING such additional relief as the Court deems just and equitable.

COUNT II

APPROVAL OF HOUSING PLAN ELEMENT AND FAIR SHARE PLAN ELEMENT

13. Hill Street repeats and realleges its response to Paragraphs 1 through 12 of the Complaint as if fully set forth herein.

14. The allegations set forth in Paragraph 14 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

15. The allegations set forth in Paragraph 15 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

16. The allegations set forth in Paragraph 16 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Hill Street leaves the Township to its proofs.

WHEREFORE, Hill Street respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft zoning ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a);

b. ORDERING such additional relief as the Court deems just and equitable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Township has not filed what is required by N.J.S.A. 52-27D-301 et. seq. (2024).

SECOND AFFIRMATIVE DEFENSE

The Township's HEFSP is not compliant with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (2024) or the Administrative Office of the Courts' Addendum to Directive

#14-24 ("Directive") because it fails to include the required draft implementing ordinances, including, but not limited to the zoning ordinance for the Property.

THIRD AFFIRMATIVE DEFENSE

Specifically, the Township has not complied with N.J.S.A. 52:27D-304.1(f)(2)(a) which requires the Township to file drafts of appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation before June 30, 2025, and in that regard the Township failed to file the aforementioned drafts.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Hill Street Realty, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Danielle Kinback, Esquire, is hereby designated as trial counsel on behalf of Defendant-Interested Party, Hill Street Realty, LLC

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Hill Street Realty, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:5-1 CERTIFICATION

I hereby certify that the subject matter of the within controversy does not form the basis of any other action presently pending in any court or arbitration proceeding to the best of my knowledge, information and belief and that no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in this action at the present time.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Hill Street Realty, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August28, 2025

RULE 4:6-1 CERTIFICATION

I hereby certify that the within Answer was filed within the time period allowed by N.J.S.A. 52:27D-304.1 3f.(1)(b) and Directive #14-24.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Hill Street Realty, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August28, 2025

PRIME TUVEL & MICELI

ATTORNEYS AT LAW

August 28, 2025

VIA ECOURTS
Hon. Gregg A. Padovano, J.S.C.
Bergen County Justice Center
Floor 3
Hackensack, New Jersey 07601

Re: **In the Matter of the Application of the Township of Teaneck**
Docket No. BER-L-776-25

Dear Judge Padovano:

This office represents Hill Street Realty, LLC ("Hill Street") the owner of property within the Township of Teaneck ("Township"), which property is located at 1387 Hill Street and officially designated on the Teaneck tax maps as Block 5003, Lot 16 (the "Property"). Please accept this letter in support of Hill Street's challenge to the Township's Housing Element and Fair Share Plan ("HEFSP") filed pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and the Administrative Offices of the Courts Directive #14-24 (the "Directive"). For the reasons further explained herein, the Township's HEFSP does not comply with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (2024) ("FHA"), and should not be approved by this Court or

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ADDITIONAL OFFICES
Hackensack, NJ | Hoboken, NJ | Jersey City, NJ | Fort Washington, PA | New York, NY

the Program without revision and inclusion of the required documents, as further provided herein.

Background

Hill Street has proposed a project which consists of the demolition of an existing gas station on the Property, and construction of a five-story multi-family residential building which would include 4 units set aside for low- and middle-income households (the "Project"). Hill Street has been negotiating with the Township to obtain the zoning necessary for the development of the Property with the Project, and is ready and willing to move forward.

On or about June 30, 2025, the Township filed its HEFSP with this court at Docket No. BER-L-776-25. The filed HEFSP identifies the Project as part of the Realistic Development Potential Mechanisms, but does not include a draft ordinance implementing the zoning necessary to implement the Project.

The Township's Failure to Comply with the FHA

The New Jersey Fair Housing Act ("FHA"), at N.J.S.A. 52:27D-304.1(f)(2)(a), requires that as part of a HEFSP, a municipality **shall:**

> [a]dopt 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 on 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.
>
> **(emphasis added).**

The Township has failed to fulfill the requirements of the FHA as it has failed to file the proposed drafts of the zoning ordinances necessary in order to implement the HEFSP. There are no ordinances annexed to the HEFSP, nor were any filed separately with the court at the docket number provided. Because the Township has failed to meet the express requirements of the FHA at N.J.S.A. 52:27D-304.1(f)(2)(a), Hill Street respectfully requests that the Court consider the within challenge.

Hill Street is ready and willing to work with the Program, the Court and the Township on the preparation of an implementing ordinance for the Property that would create a realistic opportunity for the provision of affordable housing as included in the Township HEFSP.

Thank you for your time and attention to this matter. Should Your Honor require any further information, we are available at the Court's convenience.

Respectfully submitted,

/s/ *Danielle Kinback*
Danielle Kinback, Esq.

PRIME TUVEL & MICELI, LLC
1 University Plaza, Suite 500
Hackensack, New Jersey 07601
Tel: 201-883-1010
By: Danielle Kinback, Esq. Attorney ID# 000732011
Jason R. Tuvel, Esq. Attorney ID# 028142004
Email: dkinback@primelaw.com
Attorneys for Proposed Defendant/Interested Parties,
Mohammed Saddiqulla and 54 West Englewood Realty, LLC

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF TEANECK	SUPERIOR COURT OF NEW JERSEY BERGEN COUNTY-LAW DIVISION DOCKET NO. L-776-25 CIVIL ACTION *MOUNT LAUREL* **ANSWER OF DEFENDANT/INTERESTED PARTIES MOHAMMAD SADDIQULLA AND 54 WEST ENGLEWOOD, LLC**

Defendant-Interested Parties Mohammed Saddiqulla and 54 West Englewood, LLC (collectively, "54 West Englewood"), with a principal place of business located at 94 Jackson Drive, Cresskill, New Jersey 07626, is the developer of property within the Township of Teaneck ("Township") located at 54 West Englewood Avenue, which is identified on the tax maps of the Township as Block 4905, Lot 3. By way of Answer to the Township's Complaint in this matter, 54 West Englewood says that:

BACKGROUND AND JURISDICTION

1. The allegations set forth in Paragraph 1 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

2. The allegations set forth in Paragraph 2 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

3. The allegations set forth in Paragraph 3 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

COUNT I

APPROVAL OF PRESENT NEED AND PROSPECTIVE NEED NUMBERS

4. 54 West Englewood repeats and realleges its response to Paragraphs 1 through 3 of the Complaint as if fully set forth herein.

5. The allegations set forth in Paragraph 5 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

6. The allegations set forth in Paragraph 6 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

7. The allegations set forth in Paragraph 7 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

8. The allegations set forth in Paragraph 8 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

9. The allegations set forth in Paragraph 9 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

10. The allegations set forth in Paragraph 10 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

11. The allegations set forth in Paragraph 11 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

12. The allegations set forth in Paragraph 12 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

WHEREFORE, 54 West Englewood respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft zoning ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a);

b. ORDERING such additional relief as the Court deems just and equitable.

COUNT II

APPROVAL OF HOUSING PLAN ELEMENT AND FAIR SHARE PLAN ELEMENT

13. 54 West Englewood repeats and realleges its response to Paragraphs 1 through 12 of the Complaint as if fully set forth herein.

14. The allegations set forth in Paragraph 14 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

15. The allegations set forth in Paragraph 15 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

16. The allegations set forth in Paragraph 16 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, 54 West Englewood leaves the Township to its proofs.

WHEREFORE, 54 West Englewood respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft zoning ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a);

b. ORDERING such additional relief as the Court deems just and equitable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Township has not filed what is required by N.J.S.A. 52-27D-301 et. seq. (2024).

SECOND AFFIRMATIVE DEFENSE

The Township's HEFSP is not compliant with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (2024) or the Administrative Office of the Courts' Addendum to Directive #14-24 ("Directive") because it fails to include the required draft implementing ordinances, including, but not limited to the zoning ordinance for the Property.

THIRD AFFIRMATIVE DEFENSE

Specifically, the Township has not complied with N.J.S.A. 52:27D-304.1(f)(2)(a) which requires the Township to file drafts of appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation before June 30, 2025, and in that regard the Township failed to file the aforementioned drafts.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Parties
Mohammed Saddiqulla and 54 West Englewood, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:6-1 CERTIFICATION

I hereby certify that the within Answer was filed within the time period allowed by N.J.S.A. 52:27D-304.1 3f.(1)(b) and Directive #14-24.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Parties
Mohammed Saddiqulla and 54 West Englewood, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Danielle Kinback, Esquire, is hereby designated as trial counsel on behalf of Defendant-Interested Parties Mohammed Saddiqulla and 54 West Englewood, LLC

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Parties
Mohammed Saddiqulla and 54 West Englewood, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:5-1 CERTIFICATION

I hereby certify that the subject matter of the within controversy does not form the basis of any other action presently pending in any court or arbitration proceeding to the best of my knowledge, information and belief and that no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in this action at the present time.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Parties
Mohammed Saddiqulla and 54 West Englewood, LLC

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

PRIME TUVEL & MICELI

ATTORNEYS AT LAW

August 28, 2025

VIA ECOURTS
Hon. Gregg A. Padovano, J.S.C.
Bergen County Justice Center
Floor 3
Hackensack, New Jersey 07601

Re: **In the Matter of the Application of the Township of Teaneck**
Docket No. BER-L-776-25

Dear Judge Padovano:

This office represents Mohammed Sadiqulla and 54 West Englewood, LLC ("54 West Englewood") the owner and developer, respectively, of property within the Township of Teaneck ("Township"), which property is located at 54 West Englewood Avenue and officially designated on the Teaneck tax maps as Block 4905, Lot 3(the "Property"). Please accept this letter in support of 54 West Englewood's challenge to the Township's Housing Element and Fair Share Plan ("HEFSP") filed pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and the Administrative Offices of the Courts Directive #14-24 (the "Directive"). For the reasons further explained herein, the Township's HEFSP does not comply with the New Jersey Fair Housing Act, N.J.S.A.

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ADDITIONAL OFFICES
Hackensack, NJ | Hoboken, NJ | Jersey City, NJ | Fort Washington, PA | New York, NY

52:27D-301 et. seq. (2024) ("FHA"), and should not be approved by this Court or the Program without revision and inclusion of the required documents, as further provided herein.

Background

54 West Englewood has proposed a project which consists of the demolition of an existing gas station on the Property, and construction of a five-story multi-family residential building which would include 4 units set aside for low- and middle-income households (the "Project"). 54 West Englewood has been negotiating with the Township to obtain the zoning necessary for the development of the Property with the Project, and is ready and willing to move forward.

On or about June 30, 2025, the Township filed its HEFSP with this court at Docket No. BER-L-776-25. The filed HEFSP identifies the Project as part of the Realistic Development Potential Mechanisms, but does not include a draft ordinance implementing the zoning necessary to implement the Project.

The Township's Failure to Comply with the FHA

The New Jersey Fair Housing Act ("FHA"), at N.J.S.A. 52:27D-304.1(f)(2)(a), requires that as part of a HEFSP, a municipality **shall:**

> [a]dopt 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 on 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.
>
> **(emphasis added).**

The Township has failed to fulfill the requirements of the FHA as it has failed to file the proposed drafts of the zoning ordinances necessary in order to implement the HEFSP. There are no ordinances annexed to the HEFSP, nor were any filed separately with the court at the docket number provided. Because the Township has failed to meet the express requirements of the FHA at N.J.S.A. 52:27D-304.1(f)(2)(a), 54 West Englewood respectfully requests that the Court consider the within challenge.

54 West Englewood is ready and willing to work with the Program, the Court and the Township on the preparation of an implementing ordinance for the Property that would create a realistic opportunity for the provision of affordable housing as included in the Township HEFSP.

Thank you for your time and attention to this matter. Should Your Honor require any further information, we are available at the Court's convenience.

Respectfully submitted,

/s/ *Danielle Kinback*
Danielle Kinback, Esq.

PRIME TUVEL & MICELI, LLC
1 University Plaza, Suite 500
Hackensack, New Jersey 07601
Tel: 201-883-1010
By: Danielle Kinback, Esq. Attorney ID# 000732011
Jason R. Tuvel, Esq. Attorney ID# 028142004
Email: dkinback@primelaw.com
Attorneys for Proposed Defendant/Interested Party,
Crossroads Companies, LLC

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF TEANECK	SUPERIOR COURT OF NEW JERSEY BERGEN COUNTY-LAW DIVISION DOCKET NO. L-776-25 CIVIL ACTION *MOUNT LAUREL* **ANSWER OF DEFENDANT/INTERSTED PARTY CROSSROADS COMPANIES, LLC**

Defendant-Interested Party, Crossroads Companies, LLC ("Crossroads"), with a principal place of business located at 20 Ridge Road, Suite 210, Mahwah, New Jersey 07430 is the proposed redeveloper of property within the Township Teaneck ("Township") which is identified on the tax maps of the Township as Block 819, Lots 1, 14, 16, and 17; Block 705, Lot 4.01; and Block 707, Lots 1,2 and a portion of Lot 5 (the "Property"). By way of Answer to the Township's Complaint in this matter, Crossroads says that:

BACKGROUND AND JURISDICTION

1. The allegations set forth in Paragraph 1 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

2. The allegations set forth in Paragraph 2 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

3. The allegations set forth in Paragraph 3 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

COUNT I

APPROVAL OF PRESENT NEED AND PROSPECTIVE NEED NUMBERS

4. Crossroads repeats and realleges its response to Paragraphs 1 through 3 of the Complaint as if fully set forth herein.

5. The allegations set forth in Paragraph 5 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

6. The allegations set forth in Paragraph 6 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

7. The allegations set forth in Paragraph 7 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

8. The allegations set forth in Paragraph 8 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

9. The allegations set forth in Paragraph 9 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

10. The allegations set forth in Paragraph 10 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

11. The allegations set forth in Paragraph 11 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

12. The allegations set forth in Paragraph 12 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

WHEREFORE, Crossroads respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a), including, but not limited to, ordinances approving a redevelopment plan, redevelopment agreement and financial agreement with Crossroads;

b. ORDERING such additional relief as the Court deems just and equitable.

COUNT II

APPROVAL OF HOUSING PLAN ELEMENT AND FAIR SHARE PLAN ELEMENT

13. Crossroads repeats and realleges its response to Paragraphs 1 through 12 of the Complaint as if fully set forth herein.

14. The allegations set forth in Paragraph 14 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

15. The allegations set forth in Paragraph 15 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

16. The allegations set forth in Paragraph 16 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Crossroads leaves the Township to its proofs.

WHEREFORE, Crossroads respectfully requests that the Court grant the following relief:

a. ORDERING the Township to produce draft ordinances necessary to facilitate the implementation of its Affordable Housing Plan as required by N.J.S.A. 52:27D-304.1(f)(2)(a), including, but not limited to, ordinances approving a redevelopment plan, redevelopment agreement and financial agreement with Crossroads;

b. ORDERING such additional relief as the Court deems just and equitable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Township has not filed what is required by N.J.S.A. 52-27D-301 et. seq. (2024).

SECOND AFFIRMATIVE DEFENSE

The Township's HEFSP is not compliant with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (2024) or the Administrative Office of the Courts' Addendum to Directive

#14-24 ("Directive") because it fails to include the required draft implementing ordinances, including, but not limited to the zoning ordinance for the Property.

THIRD AFFIRMATIVE DEFENSE

Specifically, the Township has not complied with N.J.S.A. 52:27D-304.1(f)(2)(a) which requires the Township to file drafts of appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation before June 30, 2025, and in that regard the Township failed to file the aforementioned drafts.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Crossroads Companies

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Danielle Kinback, Esquire, is hereby designated as trial counsel on behalf of Defendant-Interested Party, Crossroads Companies.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Crossroads Companies

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:5-1 CERTIFICATION

I hereby certify that the subject matter of the within controversy does not form the basis of any other action presently pending in any court or arbitration proceeding to the best of my knowledge, information and belief and that no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in this action at the present time.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Crossroads Companies

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

RULE 4:6-1 CERTIFICATION

I hereby certify that the within Answer was filed within the time period allowed by N.J.S.A. 52:27D-304.1 3f.(1)(b) and Directive #14-24.

PRIME TUVEL & MICELI, LLC
Attorneys for Defendant-Interested Party
Crossroads Companies

/s/ Danielle Kinback
Danielle Kinback, Esq.

Dated: August 28, 2025

PRIME TUVEL & MICELI

ATTORNEYS AT LAW

August 28, 2025

VIA ECOURTS
Hon. Gregg A. Padovano, J.S.C.
Bergen County Justice Center
Floor 3
Hackensack, New Jersey 07601

Re: **In the Matter of the Application of the Township of Teaneck**
Docket No. BER-L-776-25

Dear Judge Padovano:

This office represents Crossroads Companies, LLC ("Crossroads"), with respect to their interest in the properties located within the Township of Teaneck ("Township") which are officially designated on the Teaneck tax maps as Block 819, Lots 1, 14, 16, and 17; Block 705, Lot 4.01; and Block 707, Lots 1,2 and a portion of Lot 5 (collectively, the "Property"). Please accept this letter in support of Crossroads' challenge to the Township's Housing Element and Fair Share Plan ("HEFSP") filed pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and the Administrative Offices of the Courts Directive #14-24 (the "Directive"). For the reasons further explained herein, the Township's HEFSP does not comply with the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (2024) ("FHA"), and should not be approved by this Court or

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the Program without revision and inclusion of the required documents, as further provided herein.

Background

The Township Council, on or about September 22, 2020, adopted Resolution No. 203-2020, which authorized the undertaking of professional planning services in connection with the potential redevelopment of certain properties located along American Legion Drive within the Township, including assisting the Planning Board in conducting an investigation concerning whether the area is an area in need of redevelopment. The Planning Board undertook a preliminary investigation concerning whether the Property, along with several other lots owned and/or leased by NNN Teaneck NJ Owner LP ("NNN Teaneck") and The Stop & Shop Supermarket Company LLC ("Stop & Shop"), should be designated as a "non-condemnation area in need of redevelopment" in accordance with the criteria set forth in N.J.S.A. 40A:12A-5 (the "Proposed Redevelopment Area"). The investigation produced a report titled "Area in Need of Redevelopment Investigation for Block 705 Lot 4.01 & Block 707 Lots 1-5" (the "Preliminary Investigation"), dated February 2, 2021. The Preliminary Investigation concluded that the Property (along with other lots) satisfied the LRHL criteria and recommended that the Township Council designate the Property as in need of redevelopment.

On or about April 13, 2021, the Township Council followed the Planning Board's recommendation and adopted Resolution No. 87-2021, declaring and determining the Property, along with other lots owned by Stop & Shop to be a "non-condemnation area in need of redevelopment".

Shortly thereafter, Stop & Shop filed an action in lieu of prerogative writs against the Township and the Planning Board seeking to invalidate the designation, claiming it was substantively and procedurally flawed. The matter was in litigation for approximately 18

months, and resolved via a settlement agreement in December 2023, to which Crossroads was a party ("Settlement Agreement").

Over the past five years, Crossroads has prepared and/or revised numerous concept plans for the redevelopment of the Property as a large mixed-use project, which was originally proposed to include 364 apartments. Based on various community and Township feedback over the past five years, Crossroads has most recently reduced the proposed density of the project to 318 units, of which fifteen percent (15%) will be set aside for affordable housing, as indicated in the Township's HEFSP (the "Project"). Pursuant to the Settlement Agreement, for the past two years Crossroads has been pursuing the preparation and adoption of a redevelopment plan, redevelopment agreement, and financial agreement, all of which are necessary to create a realistic development opportunity and for the Project to proceed. Over the past eight months, the Township's professionals have been actively working with Crossroads (and Stop & Shop) to advance the redevelopment plan. While we encouraged with the progress made during this time, the Project cannot proceed or be considered a realistic development opportunity as outlined in the Township's HEFSP until such time that a redevelopment plan, redevelopment agreement and financial agreement are adopted by the Township.

On or about June 30, 2025, the Township filed its HEFSP with this court at Docket No. BER-L-776-25. The filed HEFSP identifies the Project as part of the Realistic Development Potential Mechanisms, but does not include a draft ordinance implementing the redevelopment plan, redevelopment agreement or financial agreement necessary to implement the Project.

The Township's Failure to Comply with the FHA

The New Jersey Fair Housing Act ("FHA"), at N.J.S.A. 52:27D-304.1(f)(2)(a), requires that as part of a HEFSP, a municipality **shall:**

> [a]dopt 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 on 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.
>
> **(emphasis added)**.

The Township has failed to fulfill the requirements of the FHA as it has failed to file the proposed drafts of the zoning and other ordinances necessary in order to implement the HEFSP. There are no ordinances annexed to the HEFSP, nor were any filed separately with the court at the docket number provided. Because the Township has failed to meet the express requirements of the FHA at N.J.S.A. 52:27D-304.1(f)(2)(a), Crossroads respectfully requests that the Court consider the within challenge.

Crossroads is ready and willing to work with the Program, the Court and the Township on the preparation of an implementing redevelopment plan ordinance for the Property (and accompanying ordinance adopting a redevelopment agreement and financial agreement) that would create a realistic opportunity for the provision of affordable housing as included in the Township HEFSP.

Thank you for your time and attention to this matter. Should Your Honor require any further information, we are available at the Court's convenience.

Respectfully submitted,

/s/ *Danielle Kinback*
Danielle Kinback, Esq.