

NOTICE OF FAIRNESS HEARING IN SUPERIOR COURT OF NEW JERSEY FOR REVIEW
OF AGREEMENT BETWEEN LIVINGSTON TOWNSHIP AND FAIR SHARE HOUSING
CENTER IN AFFORDABLE HOUSING DECLARATORY JUDGMENT ACTION PENDING
UNDER DOCKET NUMBER ESX-L-4849-15

PLEASE TAKE NOTICE that the Honorable Robert H. Gardner, J.S.C., has scheduled a fairness hearing for Thursday, January 14, 2021 at 1:30 p.m. in Court Room 404 in the Essex County Historic Courthouse Building at 470 Martin Luther King Jr. Boulevard, Newark, New Jersey 07102 in an affordable housing declaratory judgment action filed by the Township of Livingston pending in the Superior Court, Law Division, Essex County under Docket Number ESX-L-4849-15. Please note that if the courthouse is still closed to the public at that time, the hearing may take place via video conference. Information about courtroom closings is available at www.njcourts.gov, and any interested party should contact the office of attorney Gary T. Hall, Esq., special counsel for Livingston Township, at 973.639.6986 at least 48 hours in advance of the hearing date to determine how to participate in the hearing. The purpose of the hearing is for the Court to evaluate whether an agreement between Livingston Township and Fair Share Housing Center ("FSHC") is fair and reasonable to the region's very low, low and moderate income households in accordance with legal principles established by court decisions, including *Morris County Fair Housing Council v. Boonton Tp.*, 197 N.J.Super. 359 (Law Div. 1984), *aff'd o.b.* 209 N.J.Super. 108 (App. Div. 1986), and *East/West Venture v. Bor. of Fort Lee*, 286 N.J. Super. 311 (App. Div. 1996).

FSHC is a public interest organization advocating the housing interests of lower income households in New Jersey and has participated as an intervenor and interested party in the declaratory judgment action instituted by Livingston Township. FSHC and Livingston Township have reached agreement as to quantification of Livingston's affordable housing obligation and the means by which Livingston will address this obligation, as memorialized in a formal Agreement.

The terms of the Agreement between Livingston and FSHC include, but are not limited to, the following:

1. The agreed upon Rehabilitation Obligation is 23 dwelling units, which will be addressed by continued participation in the Essex County Home Improvement Program and the municipally sponsored Livingston Home Improvement Program, consistent with the provisions of former N.J.S.A. 5:93-5.2.
2. The agreed upon Prior Round Obligation is 375 dwelling units, which will be addressed by various inclusionary developments that have been completed except for one development that is under construction, restricted affordable units in previously created group homes and an assisted living facility, credits for 2 previously performed regional contribution agreements, and rental bonus credits based on prior COAH regulations, as listed in Paragraph 6 of the Agreement.
3. The agreed upon Unadjusted Third Round Obligation (1999-2025) is 765 dwelling units. Livingston lacks sufficient vacant developable land to satisfy the entire Unadjusted Third Round Obligation (1999-2025) of 765 dwelling units and has an agreed upon Realistic Development Potential (RDP) based upon a Vacant Land Analysis (VLA) of 151 dwelling units, resulting in an Unmet Need of 614 dwelling units

4. The RDP of 151 dwelling units will be addressed by various inclusionary developments, affordable supportive housing units and affordable housing credits as listed Paragraph 7 of the Agreement.
5. Livingston will take various actions to address its Unmet Need, as summarized in Paragraph 9 of the Agreement.
6. The foregoing measures and other means to address Livingston's affordable housing obligation will be set forth a Housing Element and Fair Share Plan (HEFSP) required to be the subject of formal proceedings before the Livingston Township Planning Board within 60 days of Court approval of the Agreement, and within 60 days thereafter the Livingston Township Council will take formal action on all necessary implementing Ordinances that have not yet been adopted.
7. The Agreement specifies certain monitoring requirements and provides for all actions to be taken consistent with prior applicable Council on Affordable Housing (COAH) regulations and also the Uniform Housing Affordability Controls in N.J.A.C. 5:80-26.1 et seq. (UHAC).
8. FSHC agrees that the previously adopted Township Spending Plan is appropriate and agrees to support a request by Livingston for Court approval of the Spending Plan.

If this Agreement is approved by the Court, following the implementing actions noted above, Livingston will request that the Court schedule a noticed compliance hearing for review of the adopted HEFSP and implementing Ordinances with a request for entry of an Order approving the HEFSP and Spending Plan and declaring that the Township of Livingston is fully compliant with its constitutional Third Round affordable housing obligation and is granted an appropriate period of protection and repose against affordable housing litigation.

Copies of the Agreement have been filed with the Court and provided to special master Frank Banisch, who has been directed to submit to the Court a report presenting his review and recommendations concerning whether the Agreement should be determined to be fair to the interests of lower income households. Copies of the Agreement are also on file with Livingston Township and may be obtained. Any questions may be directed to counsel.

Any comments or objections regarding the Agreement should be in writing and should provide a clear and concise statement of any specific contested aspect of the Agreement and an explanation of the basis for any objection, and should include any supporting papers. Any such comments or objections should be filed on or before January 4, 2020 with the Honorable Robert H. Gardner, J.S.C. at the Essex County Historic Courthouse Building at 470 Martin Luther King Jr. Boulevard, Newark, New Jersey 07102, and copies of all papers submitted to the Court should also be provided by email or first class mail to:

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Court Appointed Master

This Notice is intended to inform the public and potential interested parties of a public hearing on an agreement that is contingent on Court approval that if granted may ultimately lead to a final judgment of compliance as to Livingston Township. This Notice does not indicate any view by the Court as to the merits of Livingston's proposed affordable housing plan or the fairness, reasonableness or adequacy of the Agreement or whether the Court will approve it.