



housing obligations; and the December 18, 2018 Order also preliminarily approved the Township's Mount Laurel compliance plan; and the Court having subsequently conducted a contested compliance hearing for the purpose of reviewing the Township's Mount Laurel compliance in detail to determine whether it complies with the Township's affordable housing obligations as approved and determined in the December 18, 2018 Order; and the compliance hearing having taken place on August 28, 2019; and the compliance hearing having been conducted on notice and in the presence of Jeffrey B. Lehrer, Esq., attorney for plaintiff Township, Adam Gordon, Esq. (staff attorney with and Associate Director of intervening defendant Fair Share Housing Center, a public interest organization representing the housing rights of New Jersey's poor) ("FSHC"), and Peter Flannery, Esq. of Bisgaier Hoff, LLC for K. Hovnanian North Jersey Acquisitions, LLC ("K. Hovnanian"); Brett E. Tanzman, Esq. of the Wilf Law Firm, LLP for Hillcrest Crossing, LLC d/b/a Premier Developers ("Premier") and North Hill Developers, Inc., and Keith A. Davis of Nehmad, Perillo, Davis & Goldstein, LLC for Chase Partners Warren, LLC and 284 King George Road LLC (collectively "Chase"); and the Court considered during the compliance hearing the testimony of the Court's special master Francis J. Banisch, PP, AICP on August 28, 2019 (who was appointed as special master); and the Court also considered during the compliance hearing Exhibit C-1 (Special Master Francis J. Banisch's August 27, 2019 report); and the Court also considered **Exhibit A-1** (Proof of service and publication of notice of the hearing) which was entered into evidence at the commencement of the hearing on August 28, 2019; and the Court determined after considering and relying on the evidence set forth above for the reasons set forth on the record on August 28, 2019 that a final judgment of compliance and repose with continued immunity should be entered at this time;

**IT IS THEREFORE ON THIS 26th DAY OF SEPTEMBER, 2019 HEREBY  
ADJUDGED, DECLARED AND ORDERED AS FOLLOWS:**

1. Final Judgment of Compliance. It is adjudged and declared that a Final Judgment of Compliance and Repose ("FJCR") is entered in favor of the Township in the within declaratory judgment action, with the ongoing condition that the Township, FSHC and the Court-appointed Master agree that a substitute mechanism for ensuring continuous eligibility for credit and rental bonuses of the Mt. Bethel Village special needs facility is needed. That mechanism shall be a protocol for the annual contact of the Executive Director of Mt. Bethel Village by the Township's Municipal Housing Liaison or Administrative Agent confirming that the Mt. Bethel facility continues to operate consistent with COAH rules and the Uniform Housing Affordability Controls and transmission of this information to FSHC by certification of the Township's Municipal Housing Liaison or Administrative Agent no later than each anniversary of the entry of this final judgment. If such protocol results in one or more of the bedrooms at Mt. Bethel Village no longer qualifying as affordable for very low, low, or moderate income housing ("Terminated Bedrooms"), then credit(s) and/or rental bonus(es) for such Terminated Bedrooms shall no longer be available to the Township to address its agreed-upon Third Round Obligation through July 1, 2025. If elimination of any such credit(s) and/or rental bonus(es) causes the Township to no longer be able to satisfy its agreed-upon Third Round Obligation through July 1, 2025, the Township shall be responsible to replace the Terminated Bedroom(s) with either similar or special needs or supportive shared living bedrooms (in group homes) or with new family rental units such that the Township may be eligible for the credits and/or rental bonus(es) that had been attributable to such units, and a plan for such replacement shall be submitted by the Township within ninety (90) days of the submission of a certification to FSHC by the Municipal Housing Liaison or the

Administrative Agent. The obligation to report regarding these bedrooms as a condition of receiving credit toward the Township's Third Round Obligation shall terminate upon a demonstration by the Township that the bedrooms have been occupied and used as affordable housing in accordance with the COAH rules and the Uniform Housing Affordability Controls for a period of thirty (30) years. In order to receive the credit and/or bonus, for each bedroom that is the subject of this Order, the bedroom must have been existence for a period of thirty (30) years.

2. Present Need (Rehabilitation) Obligation. It is adjudged and declared that the Township's present need (rehabilitation) obligation is 38-units. It is further adjudged, declared and ordered that the Township's plan to implement a municipal housing rehabilitation program, as set forth in the Township's Housing Element and Fair Share Plan, and which will be funded through the Township's Affordable Housing Trust Fund, as set forth in the Township's Spending Plan, satisfies the Township's 38 unit present need (rehabilitation) obligation.

3. Prior Round Obligation. It is adjudged and declared that the compliance mechanisms set forth on the chart attached hereto as Exhibit A, including the bonus credits set forth on the chart, satisfy the Township's prior round obligation of 543 units. Exhibit A reflects some minor modifications from the version included with the Township's adopted Housing Element and Fair Share Plan as to which units are allocated bonuses and the total number of bedrooms or units in certain developments based on the Township and FSHC's further review of crediting documentation, both as to the Prior Round obligation and the completed developments towards the Third Round obligation, which minor modifications are hereby approved by the Court with a finding that neither the planning board nor the governing body need take any further action to modify Exhibit A since such modification is deemed non-material through the adjustment of credits and bonuses for accuracy purposes and does not involve the addition or removal of any sites to the plan.

4. Third Round (1999-2025) Gap and Prospective Need

Obligation. It is adjudged and declared that the compliance mechanisms set forth on chart annexed hereto as Exhibit A, including the bonus credits set forth on the chart, satisfy the Township's Third Round (1999-2025) gap and prospective need obligation of 865 affordable units plus 25 special needs units and 17 bonus units.\*

\* The total fair share number is the sum of credits and bonuses and inclusionary zoning and provides for 907 units.

5. Spending Plan. It is adjudged and declared that the Spending Plan adopted by the Township is approved.

6. Housing Element and Fair Share Plan as well as all

Resolutions and Implementing Ordinances. It is adjudged and declared that the 2019 Housing Element and Fair Share Plan (the "2019 HE&FSP") adopted by the Planning Board and endorsed by the Township, as well as all the resolutions, ordinances and other documents that were adopted by the Planning Board and the Township to implement the 2019 HE&FSP, satisfy the Township's Mount Laurel constitutional obligations under the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. (the "FHA") and under the Mount Laurel line of cases, specifically, Mount Laurel IV, 221 N.J. 1 (2015), and Mount Laurel V, 227 N.J. 508 (2017).

7. Development Fee Ordinance. It is adjudged and declared that the Township's Development Fee ordinance is approved as adopted and the Township is authorized to impose and collect development fees and to maintain those fees in the Township's Affordable Housing Trust Fund and to spend said collected fees in accordance with the

Township's Spending Plan. The authorization to impose and collect development fees and to maintain those fees in the Township's Affordable Housing Trust Fund is retroactive to July 7, 2015, the date the Township filed the within declaratory judgment action.

8. Affirmative Marketing Plan. It is adjudged and declared that the Township's Affirmative Marketing Plan is approved as adopted.

9. Change in the Law. It is hereby adjudged and declared that if a decision of the Superior Court of New Jersey having jurisdiction in Somerset County, the Appellate Division of the Superior Court of New Jersey, the New Jersey Supreme Court, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total Third Round Gap and Prospective Need Fair Share obligation set forth in the within FJCR, and if that calculation is memorialized in this FJCR and becomes non-appealable, the Township may seek to amend this FJCR which is hereby entered to reduce its Third Round Gap and Prospective Need Fair Share Obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to amend this FJCR in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to implement the mechanisms referenced in this Order, including by leaving in place any site specific zoning adopted or relied upon in connection with the 2019 HE&FSP approved pursuant to this Order; taking all steps necessary to support the developments, including any one hundred percent (100%) affordable developments, referenced herein; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Township's obligation below that



established in this Order does not provide a basis for seeking leave to amend this Order or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its prospective need for the Third Round, the Township may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

10. Continued Temporary Immunity. The temporary immunity previously granted to the Township and its Planning Board from any and all exclusionary zoning lawsuits, other than actions brought to enforce the terms of the Settlement Agreement or the orders of this Court, is hereby extended and continued through the date of the entry of this FJCR.

11. Reporting requirements. The Township and Warren Township Sewerage Authority shall continue to comply with the requirements for reporting and provision of information included in the Settlement Agreement.

12. Service of Order. Counsel for the Township shall provide all parties on the Supreme Court Service List and the Municipal Service List with a copy of this Order within five (5) days of receipt by counsel for the Township of the within Order.

**/S/ THOMAS C. MILLER, P.J.Cv.**

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HON. THOMAS C. MILLER, P.J.Cv.

The Court's findings of fact and conclusions of law are set forth in the Judge's formal opinion dated September 4, 2019.

EXHIBIT A  
[see attached]



### Warren Township AHP

EXHIBIT A

1 PRIOR ROUND - OBLIGATION							
2	Development	Type of development	Sale	Rental	RCA	Family Rental/Special Needs Bonus Credits	Total w/ bonus
3a	Pre-86-4 bds/spc needs (WarrenvilleRd)	Special Needs			4	4	8
3b	Pre-86-3 bds/spc needs (MtHorebRd)	Special Needs			3	3	6
4	Town Center	Age restricted	3	3		0	6
5a	Township Affordable 100% WoodlandAcres (ownership)	Family for-sale	57				57
5b	Township Affordable 100% WhsperlngHills (rental)	Family rental		60		60	120
5c	Township Affordable 100% LibertyCorner Village (rental)	Family rental		28		28	56
6a	Coop Housing B114 L22.01 & 22.02	Age restricted			5	0	5
6b	NJCP	Special Needs			6	6	12
7	Chelsea 1	Assisted Living			8		8
8	Jontoni	Special Needs			10	10	20
9	RCA - New Brunswick Coop Housing B114.01 L73	RCA				166	166
10	Mt. Bethel Village Substantial	Age restricted			5	0	5
11	Compliance Bonus	Special Needs			25	25	50
12	<b>Total ('87-99)</b>		<b>60</b>	<b>157</b>	<b>189</b>	<b>136</b>	<b>543</b>
14	<b>15 GAP AND PROSPECTIVE NEED - CREDITS AS OF JULY 1, 2015</b>						
16							
17	RCA - Perth Amboy	RCA				85	85
18	Promenade	Age-restricted for-sale	42				42
19	Chelsea II	Assisted Living (transferred to special needs - Mt Bethel Village)			7	7	14
20	Whispering Hills	Extensions of controls			60		60
21	Mt Bethel Village	Special Needs			19	19	38
22	Brightvlew Coop Housing B114	Assisted Living			11		11
23	L22.01 & 22.02	Age restricted			15	1	16
24	<b>Total Credits (99-25)</b>		<b>42</b>	<b>112</b>	<b>85</b>	<b>27</b>	<b>266</b>
	<b>25 GAP AND PROSPECTIVE NEED - CALCULATED NEED FOR 1999-2025 (PURSUANT TO N.J.A.C. 5:93-2.17, EXCLUDING REHABILITATION OBLIGATION)</b>						
26	Woodland Acres	Extensions of controls	57				57
27	Mtn Blvd (3 Sites)	Family rental			20	20	40
28	Flag Plaza	Family rental			20	20	40
29	American Properties	Family rental			25	25	50
30	K Hov	Family for-sale	48				48
31	Mt Horeb & Mt Bethel (Vincedes)	Family rental			8		8
32	Wagner Farm -(Block 83, Lot 4)	Special Needs			32	32	64
33	Hillcrest Crossing	Family rental			44	44	88
34	North Hill Wash Valley Lindberg Ave Twp	Special Needs			10	10	20
35	Project	Family rental			80	46	126
36	Chase	Family rental and for-sale	8	67			75

## Warren Township AHP

EXHIBIT A

	<u>Type of development</u>	<u>Sale</u>	<u>Rental</u>	<u>RCA</u>	<u>Family Rental/Special Needs Bonus Credits</u>	<u>Total w/ bonus</u>
2	<b>Development</b>					
	Additional Special Needs Bedrooms (5 by 6/1/21, remainder by					
37	12/31/24) Special Needs		25			25
	<b>Total Mechanisms to Address Calculated Need (99-</b>					
38	<b>25)</b>	<b>113</b>	<b>331</b>		<b>197</b>	<b>641</b>