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**FILED**

**NOV 02 2018**

**SUPERIOR COURT OF NJ  
MERCER VICINAGE  
CIVIL DIVISION**

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**In the Matter of the Township of  
Robbinsville, County of Mercer**

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: SUPERIOR COURT OF NEW JERSEY  
: MERCER COUNTY  
: LAW DIVISION  
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: DOCKET NUMBER: MER-L-1547-15  
: *AMENDED*  
: THIRD ROUND FINAL JUDGEMENT OF  
: COMPLIANCE AND REPOSE  
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**THIS MATTER** having been opened to the Court by the Petitioner, Township of Robbinsville ("Township") seeking the Court's approval of the Township's adopted and endorsed Third Round Housing Element and Fair Share Plan ("HE&FSP") pursuant to N.J.S.A. 52:27D-313 and In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV") and the entry of a Third Round Judgment of Compliance and Repose confirming the Township's compliance with its Fair Share Housing Obligations under the Mount Laurel doctrine and the Fair Housing Act

("FHA"); and the Court having conducted a Fairness and Compliance hearing on March 29, 2018, regarding the amended settlement agreement entered into by Robbinsville and Fair Share Housing Center ("FSHC"); and

**WHEREAS**, the Court having considered (a) the March 27, 2018 Report of the Court Special Master Elizabeth C. McKenzie, PP, and the direct testimony of Ms. McKenzie, (b) the Letter Briefs, and Exhibits attached thereto, submitted on behalf of Sharbell and dated March 22, 2018 and March 28, 2018 respectively, (c) the testimony of Robbinsville's Planning Consultant, Shirley Bishop, PP, setting forth Robbinsville's Fair Share Plan, (d) the testimony of Timothy J. Doherty, President, Project Freedom, Inc., (e) the Certification dated May 19, 2018 and testimony of Creigh Rehenkamp, PP, Planner for interested party, Sharbell Gordon, LLC, (f) arguments of counsel for the Township as well as of Fair Share Housing Center ("FSHC"), and (g) arguments made on behalf of objectors/interested parties Sharbell, Mercer Mobile Home Corporation, and Capodagli Property; and

The Court having found the following facts:

1. The Township entered into a Settlement Agreement with FSHC on January 12, 2017. This Settlement Agreement was approved by Court Order entered on March 6, 2017 following a Fairness Hearing held on February 13, 2017. Said Settlement Agreement was then amended and re-executed by the parties on June 23, 2017 but said amended Settlement Agreement was not addressed at a Fairness Hearing. A further amended Settlement Agreement referred to as the Third Amended Settlement Agreement dated February 22, 2018 has been executed between the Township and FSHC that is intended to be implemented through the Township's Housing Element and Fair Share Plan, dated March

28, 2018, adopted by the Township's Planning Board on March 28, 2018, and endorsed by the Township Council on March 29, 2018 (The HE&FSP). The fairness of the Third Amended Settlement Agreement was considered by the Court at the Final Compliance Hearing on March 29, 2018.

2. Both of the Court-approved Settlement Agreements stipulate that the Township has a Fair Share Obligation for the period from 1987 through July 1, 2025 as follows:
  - a. Present need (Rehabilitation): 16 units
  - b. Prior Round (1987-1999): 293 units
  - c. Third Round (1999-2025): 638 units
3. The HE&FSP addresses the Fair Share Obligation set forth above.
4. The Court appointed Special Master, Elizabeth C. McKenzie, PP, reviewed the HE&FSP and the Third Amended Settlement Agreement dated February 22, 2018 and submitted a report dated March 27, 2018 to the Court. The report finds that the HE&FSP and the Third Amended Settlement Agreement creates sufficient realistic opportunities for the provision for low and moderate income housing during the period 1987 through July 1, 2025 to satisfy the stipulated Municipal Housing Fair Share Obligation provided the Township took certain additional steps specified in the Special Master's Report. In her report, the Special Master recommended that the Court approve the HE&FSP and the Third Amended Settlement Agreement subject to satisfying those conditions.

5. At the Compliance Hearing on March 29, 2018, the Township's witnesses testified that many of the steps required by Ms. McKenzie's conditions have already been addressed and that the remaining steps could be addressed within a reasonably short period of time.
6. Special Master Elizabeth C. McKenzie, PP, testified at the Compliance Hearing. She confirmed the analysis of the HE&FSP in her written report and her recommendations to the Court to approve the HE&FSP and the Third Amended Settlement Agreement. She further testified that the Court's approval of the HE&FSP and the Third Amended Settlement Agreement need not be delayed to await accomplishment of the additional conditions.
7. Based upon the written report of the Special Master, which is incorporated herein by reference as findings of the Court, the testimony of the various witnesses and of Special Master McKenzie, the Court found that upon the Township's implementation of the HE&FSP, the Third Amended Settlement Agreement and the additional steps recommended by the Special Master, it will have created a sufficient realistic opportunity for the provision of the low and moderate income housing needed to satisfy the Township's constitutional Fair Share Housing Obligations for the period from 1987 to July 1, 2025 under the FHA and the constitutional doctrines enunciated in the Mount Laurel cases; and

**WHEREAS,** Based upon these findings and for the reasons set forth on the record and for good cause shown, the Court determined that a conditional Judgment of Compliance and Repose approving the Township's plans for addressing its cumulative present and prospective

need obligations through July 1, 2025 as well as the Third Amended Settlement Agreement dated February 22, 2018 should be entered and entered said order on May 9, 2018; and

**WHEREAS**, Robbinsville satisfied many of the conditions as set forth in a report of the Special Master dated June 15, 2018. The Court entered an order dated June 28, 2018 specifying three remaining conditions and providing in relevant part that “Upon Robbinsville’s compliance with the above conditions, it shall provide proof of compliance to Ms. McKenzie. Robbinsville shall also provide a letter to the court informing the court of its compliance and applying for a grant of final judgment of compliance at that time”; and

**WHEREAS**, Robbinsville sent a letter to the Court on October 9, 2018 confirming compliance with the three remaining conditions and the Special Master wrote to the Court on October 10, 2018 confirming that the conditions set forth in the Special Master’s report have been satisfied.

NOW, THEREFORE, it is on this 2<sup>nd</sup> day of November, 2018, **ORDERED AND**

**ADJUDGED** as follows:

1. The Township of Robbinsville has a stipulated and judicially-approved fair share housing obligation for the period from 1987 through July 1, 2025 of (a) Present Need (Rehabilitation): 16 units; (b) Prior Round (1987 - 1999) Obligation: 293 units; and (c) Third Round (1999 - 2025) units: 638.
2. The Township's Third Round HE&FSP dated March 28, 2018, the Third Amended Settlement Agreement dated February 22, 2018 and the additional steps/conditions recommended by the Special Master's report and preliminary list of conditions dated March 29, 2018 create sufficient realistic opportunities for the provision of low and moderate income housing through July 1, 2025 to satisfy the judicially approved

municipal Fair Share Housing Obligation and, taken together, fully address the Township's constitutional Fair Share Housing Obligation for the period from 1987 to July 1, 2025 under the FHA and the constitutional doctrines enunciated in the Mount Laurel cases.

3. The Township has complied with all conditions and recommendations set forth in the Special Master's Report dated March 27, 2018.
4. Entry of this Judgment resolves all issues raised by the Township's declaratory judgment Complaint and the interveners. This Judgment constitutes a Final Judgment of Compliance in said declaratory judgment Complaint.
5. The Township is permitted to use the 2017 and future income limits based upon the methodology adopted by the Affordable Housing Professionals of New Jersey (AHPNJ) to calculate affordable rent levels and sales prices as updated annually which replicates COAH's procedures for annually establishing income limits. The Township has amended its affordable housing ordinance to include this methodology.
6. The Township is hereby granted repose from exclusionary zoning challenges and Mount Laurel litigation under the terms set forth in Southern Burlington County NAACP vs. Mount Laurel Township, 92 N.J. 158 (1983) until July 1, 2025. In the event of an appeal of this Final Judgment entered upon compliance with all conditions, this Judgment shall continue to grant such repose to the Township and its Land Use Boards during the pendency of the appeal and/or remand but such appeal shall not extend the period of repose beyond July 1, 2025.



7. In accordance with the Third Amended Settlement Agreement, the Special Master has completed all of her functions set forth in this Judgment and the Third Amended Settlement Agreement. Therefore, the Special Master's appointment is terminated.
  
8. All parties shall bear their own costs.

*Mary C. Jacobson, A.J.S.C.*  
Mary C. Jacobson, A.J.S.C.

*objection to form of order  
by Frank Petrimo, Esq., on  
behalf of Sharbill Gordon.*

*my*  
Note: Sharbill Gordon objects to the entry of this order because a component of the Township's Compliance Plan depends on the condemnation of the Miller Mobile Home Park, which eminent domain action is stayed pending review by the Appellate Division. The two proceedings are separate, so the court finds that the eminent domain appeal should not bar entry of this order. In the event Robbinsville cannot proceed with condemnation of the Miller Mobile Home Park, it will have to find substitute units through other developments. But the court finds that that possibility does not prevent confirmation of the substantive allocation granted to Robbinsville. See, e.g., Alexandri's Dept. Stores of New Jersey, Inc. v. Borough of Paramus, 243 N.J. Super. 157 (App. Div. 1990), 454 125 N.J. 100 (1999).