

**City of Burlington,
County of Burlington
Date: July 1, 2020**

Midpoint Review Report

Purpose

The City of Burlington’s Settlement Agreement with Fair Share Housing Center (“FSHC”) requires that the City comply with the statutory midpoint review requirements of the Fair Housing Act (“FHA”) and specifically N.J.S.A. 52:27D-313, which provides in relevant part: “[t]he Council shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public.” Pursuant to the FSHC Settlement Agreement, that review requires the City to post on its website, with a copy to FSHC, and an opportunity for comment, a status report regarding its compliance mechanisms and whether or not unbuilt sites/unfulfilled mechanisms continue to present a realistic opportunity.

Relevant Background

On about July 2, 2015, the City filed a declaratory judgment action, seeking a determination of its Round Three affordable housing obligations and approval of its proposed Housing Element and Fair Share Plan to satisfy such obligations and, thereby, obtain a Judgment of Compliance and Repose from the Court, pursuant to the March 2015 New Jersey Supreme Court decision, 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. 1 (2015) (“Mount Laurel IV”). The Court appointed a Special Master, Art Bernard, P.P., as is customary in Mount Laurel matters. The Special Master assisted the Borough in reaching a settlement agreement with FSHC, a non-profit organization dedicated to protecting the rights of low and moderate income households in New Jersey. The FSHC Settlement Agreement was entered into on March 8, 2018, and the settlement was approved by the Court via an Order entered on May 21, 2018, after a properly noticed Fairness Hearing was held. The Settlement Agreement between FSHC and the City was thereafter amended on February 19, 2019. The Borough obtained a final Judgment of Compliance and Repose (“JOR”) approving the Borough’s Housing Element and Fair Share Plan on February 19, 2020, after a properly noticed Compliance Hearing was held, which secured immunity for the Borough from all Mount Laurel lawsuits, including but not limited to, Builders Remedy lawsuits, until July 2, 2025.

The Court approved FSHC Settlement Agreement, established the Borough’s Third Round Fair Share obligations as follows:

- Rehabilitation Obligation: 36
- Prior Round Obligation (1987-1999): 89
- Third Round Gap and Prospective Need Obligation (1999-2025): 129

As part of the process described above, the Borough adopted all required resolutions and zoning ordinances.

Rehabilitation Program(s) Update

The City has completed 34 rehab units as of May 12, 2020 and will complete the remaining 2 units by 2025.

Realistic Opportunity Review

At the time it obtained its JOR, the City demonstrated that it had fully satisfied its Prior Round Obligation of 89. In addition, it had nearly fully satisfied its Third Round Obligation, having earned credits and bonus credits for a total of 125 units. The remaining unsatisfied portion of the City’s Third Round Obligation will be satisfied through a Market-to-Affordable Program, described below.

| <u>Mechanism</u> | <u>Description</u> | <u>Ordinance Adopted (Yes/No)</u> | <u>Status</u> | <u>Notes/Additional Information</u> |
|--|--|-----------------------------------|-----------------------|-------------------------------------|
| Burlington Manor | 32 age restricted rental units | | Complete | 51 Surplus Credits |
| Ingerman | 48 100% affordable family rentals | | Complete | 33 BONUS RENTAL CREDITS |
| Triad/ Neighborhood Stabilization Program | 8 family owned market to affordable units | | Complete | |
| Historic/ Yorkshire Homes | New 7 family owned market to affordable units | | 3 of 7 units underway | |
| Surplus from Prior Round | 1 unit | | Complete | |

Regarding the City’s Market-to-Affordable Program, construction of a property located at 202 Barclay Street is approximately 50% complete. A contract to rehabilitate property located at 323 Jones Avenue has been awarded.

Very Low Income Analysis

| <u>Affordable Units Built Since 2008</u> | <u>VLI Requirement</u> | <u>Project Containing VLI Units/Number of VLI Units</u> | <u>Status</u> |
|---|-------------------------------|--|----------------------|
| 7 | | The Willows at Burlington Mill | Complete |
| 0 | | Habitat for Humanity | Complete |
| 0 | | 200 York Street | Under Construction |
| 0 | | 200.5 York Street | Under Construction |
| 1 | | Burlington City Market to Affordable Sale Program | Under Construction |
| 11 | | Oaks Integrated Services | Complete |
| 0 | | Triad/NSP Market to Affordable (JLL Scattered Site Program) | Complete |

Conclusion

The City’s plan implementation continues to create a realistic opportunity for its fair share of the regional affordable housing need.