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June 5, 2020

VIA CERTIFIED MAIL AND REGULAR MAIL

Attached Service List

Re: In the Matter of the Borough of Hawthorne
County of Passaic
Docket No. PAS-L-2412-15

Dear All:

Attached please find the Notice of Fairness Hearing to take place on Tuesday, July 7, 2020, at 10:00 a.m. with regard to the above captioned matter, to be conducted before the Honorable Thomas F. Brogan, P.J.Cv., at the Passaic County Courthouse, 77 Hamilton Street, Paterson, New Jersey 07505.

Very truly yours,



MICHAEL J. PASQUALE

MJP/dc
enclosure

Borough of Hawthorne Service List – Revised 6/5/2020

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NOTICE OF FAIRNESS HEARING FOR THE BOROUGH OF HAWTHORNE
COUNTY OF PASSAIC (“BOROUGH”) FOR APPROVAL OF A SETTLEMENT OF
MOUNT LAUREL AFFORDABLE HOUSING LITIGATION

Docket No. PAS-L-2412-15

PLEASE TAKE NOTICE that on Tuesday, July 7, 2020, beginning at 10:00 a.m., there will be a Fairness Hearing (“Hearing”) before the Honorable Thomas F. Brogan, P.J.Cv., at the Passaic County Courthouse, 77 Hamilton Street, Paterson, New Jersey 07505. As the Passaic County Courthouse remains closed to visitors at this time, the hearing will take place on the Zoom virtual platform. Access information is provided below.

The purpose of the Hearing is for the Court to consider two issues: (a) whether the proposed Settlement Agreements between the Borough of Hawthorne and 204 Wagaraw Road, LLC, 3 Ronson, LLC and Fair Share Housing Center in the Mount Laurel Declaratory Judgment Action entitled In the Matter of the Borough of Hawthorne, Docket No. PAS-L-2412-15 (the “Settlement Agreements”) is fair and reasonable to the region’s low and moderate income households according to the principles set forth in 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), thereby entitling the parties to this settlement of judicial approval of said Settlement Agreements, and (b) whether the establishment of the Borough’s fair share obligations and the Borough’s preliminary compliance efforts (reflected in the terms of the Settlement Agreements and to be reflected in a future Housing Element and Fair Share Plan for which it is anticipated that the Borough Planning Board and Borough Council will review and take future action, pursuant to the provision of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.) will satisfy the Borough’s obligation to provide a realistic opportunity to satisfy its Prior Round, Present and Prospective Third Round “fair share” of the regional need for housing affordable to low income and moderate income households pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. the substantive, applicable regulations of the New Jersey Council on Affordable Housing (“COAH”), the New Jersey Supreme Court’s March 10, 2015 decision in the matter of In re N.J.A.C. 5:96 & N.J.A.C. 5:97, 221 N.J. 1 (2015) and other applicable laws.

The Borough’s preliminary compliance efforts, as reflected in the terms of the Borough’s Settlement Agreements, fully address the existing components of the Borough’s affordable housing obligations for the period 1987-2025. These include Prior Round (1987-1999) obligation of 57 units of new housing, with 14 additional units to be rehabilitated, the entirety being satisfied prior to the filing of this action. There is a present need obligation of 93 units with provision for adjustment based upon actual conditions. There is a Third Round (1999-2025) obligation, inclusive of the gap period from 1999-2015, of 298 units, which will be adjusted through a vacant land adjustment to 60 units as the Borough’s realistic development potential. There is a resultant Third Round unmet need of 238 units. The proposed terms of the Settlement Agreements provide a detailed list of the Borough’s total affordable housing obligation and compliance mechanisms that demonstrate the Borough’s compliance with those affordable housing obligations. These

include the development of inclusionary projects at the sites owned by 204 Wagaraw Road, LLC and 3 Ronson, LLC, credits for affordable housing constructed or approved for development, and measures through rezoning and overlay zoning to address unmet need.

In light of the COVID-19 pandemic, the Municipal Building of the Borough of Hawthorne is closed to visitors. Executed Settlement Agreements are available for public inspection on the website of the Borough of Hawthorne, found at www.hawthornenj.org. A hard copy of all or any of the Settlement Agreements can also be obtained through the office of the Borough Clerk of the Borough of Hawthorne, who may be reached by telephone at (973) 427-1167 or by email at lfernandez@hawthornenj.org. Finally, copies of any such documents can be obtained through the office of the Hawthorne Borough Attorney, Michael J. Pasquale, 146 Rea Avenue, Hawthorne, New Jersey 07506, telephone (973) 423-0909, mpasquale@mpasqualelaw.com.

On the date of the Hearing, the Court will conduct a Fairness Hearing to determine whether the Settlement Agreement is fair to low and moderate income households pursuant to the Morris County and East/West Venture cases noted above and creates a realistic opportunity for satisfaction of the Borough's affordable housing obligations pursuant to the Mount Laurel decisions and their progeny, the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) and the applicable procedural and substantive regulations of COAH and the Supreme Court's March 10, 2015, decision in the matter of In re N.J.A.C. 5:96 and N.J.A.C. 5:97, 221 N.J. 1 (2015) to satisfy the Borough's affordable housing responsibilities for the period 1987-2025.

Any interested third party that seeks to appear and be heard at the July 7, 2020, Hearing on the Settlement Agreement may have the opportunity to be heard. Any objections must fully comply with N.J.A.C. 5:91-4.1 and 4.2, which provide minimum standards to which objections must comply. Such objections or comments by any interested person must be filed, together with copies of any supporting affidavits or other documents, with the Court at the below address on or before June 16, 2020 with duplicate copies being forwarded by mail and email to the attention of the following:

Honorable Thomas F. Brogan, P.J.Cv.
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Passaic County Courthouse
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This Notice is provided by direction of the Court and is intended to inform interested parties of (a) the existence of the Settlement Agreements, and the possible consequences of Court approval of the Settlement Agreements, which may ultimately lead to a Judgment of Compliance and Repose; and (b) the Borough's preliminary compliance measures as reflected in the terms of the Settlement Agreements, and inform such parties that they are able to comment on said Settlement Agreements before the Court reviews and evaluates whether to approve the Settlement Agreements. Any person wishing to appear via Zoom at the time of hearing may do so electronically or telephonically. In order to obtain information including the meeting identification number and any required password, you may contact the Hawthorne Borough Clerk or Mr. Pasquale at the phone numbers or email addresses listed above. This Notice does not indicate any view by the Court as to the fairness or the adequacy of the Borough's Settlement Agreement with FSHC under the *Mount Laurel Doctrine* and governing law.