

**MASTER'S REPORT
FOR A *MOUNT LAUREL* COMPLIANCE HEARING
TOWNSHIP OF NORTH HANOVER
BURLINGTON COUNTY, NEW JERSEY**

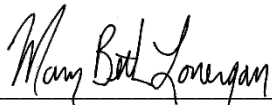
*IMO Application of the Township of North Hanover
Docket No. BUR-L-1528-15*

September 18, 2020

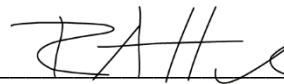
Prepared for:

The Honorable Jeanne T. Covert, A.J.S.C.
Superior Court of New Jersey
Burlington County Court Facility
49 Rancocas Road
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1.0 INTRODUCTION

This report has been prepared in light of the upcoming Compliance Hearing before the Honorable Jeanne T. Covert, A.J.S.C. on September 24, 2020 In the Matter of the Application of the Township of North Hanover, County of Burlington, Docket No. BUR-L-1528-15. This report reviews the compliance of the Township of North Hanover's ("Township" or "North Hanover") Amended Third Round Housing Element and Fair Share Plan, adopted August 26, 2020 and endorsed September 3, 2020 ("Amended HEFSP", "the Amended Plan", or "Amended Third Round Plan") with the substantive rules of the Council on Affordable Housing ("COAH") (N.J.A.C. 5:93, or the "Second Round Rules"). It also reviews the Township's compliance with the Settlement Agreement, fully executed on December 13, 2016 and amended on May 4, 2017, between the Township of North Hanover and Fair Share Housing Center ("FSHC"). I am writing in my capacity as Special Master appointed by the Honorable Ronald E. Bookbinder, A.J.S.C. (now retired) in the above-captioned matter per Court Order of December 1, 2015.

North Hanover filed a Complaint for Declaratory Judgment on June 26, 2015, seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., in accordance with the New Jersey Supreme Court's March 10, 2015 decision In re N.J.A.C. 5:96 and 5:97. Judge Bookbinder previously directed Burlington County municipalities and FSHC to attempt to settle Third Round fair share obligations. Subsequently, North Hanover entered into a settlement agreement with FSHC that established the Township's fair share obligations. As discussed below, following a May 23, 2017 Fairness Hearing, Judge Bookbinder approved the Settlement Agreement, as amended, in an Order dated June 7, 2017 conditioned on the Township addressing the conditions set forth in my Master's Report dated April 24, 2017. The Agreement set forth the following fair share obligations:

- Two (2) unit Rehabilitation Share / Present Need
- One (1) unit Prior Round (1987-1999) Obligation (pursuant to N.J.A.C. 5:93)
- 101-unit Third Round (1999-2025) Gap and Prospective Obligation

Public notice of the Township's upcoming Compliance Hearing was published in accordance with established Mount Laurel case law. The notice properly summarized the HEFSP and directed interested members of the public to the Township Clerk's office where they could review the HEFSP and the Agreement as amended, described the purpose of the Court hearing that is to be held on September 24, 2020, and invited written comments or objections to be filed no later than September 14, 2020. Due to the COVID-19 pandemic, the notice also provided for review of the Township's documents online, by appointment, or to contact the Township attorney, Mark Roselli, Esq., to have the documents mailed to the

requester. Finally, the notice stated that the hearing will take place via remote video conference and alerted the public that any interested party may contact Mr. Roselli to determine how they can participate. As of the date of this report, I have not received any written comments or objections in response to the public notice.

This report recommends that the Court grant the Township a Third Round Judgment of Compliance and Repose, subject to the fulfillment of the terms and conditions herein.

2.0 THE SETTLEMENT AGREEMENT AND FAIRNESS HEARING

The Settlement Agreement between FSHC and the Township of North Hanover was fully executed on December 13, 2016 by Mayor James Durr for the Township and by Kevin D. Walsh, Esq. for FSHC. Prior to the May 23, 2017 Fairness Hearing, the Agreement was amended, dated May 4, 2017, and executed by Mayor Louis DeLorenzo and by Mr. Walsh. The 2016 agreement and 2017 amendment were submitted to the Court and placed on file in the Township Clerk's office for public review. Under the amended Settlement Agreement, the parties agreed that the Township's fair share affordable housing obligation for the period from 1987 to July 1, 2025 is as follows:

- Present Need / Rehabilitation Share per the Agreement: 2 units
- Prior Round (1987-1999) Obligation (pursuant to N.J.A.C. 5:93): 1 unit
- Third Round (1999-2025) Gap/Prospective Obligation per the Agreement: 101 units

As stipulated by the terms of the amended Settlement Agreement, North Hanover will meet its fair share affordable housing obligations by continuing the rehabilitation program as outlined in the December 17, 2008 Third Round Compliance Plan and by utilizing three (3) existing 100% affordable family rental complexes known as Millstream Apartments North, Millstream Apartments South, and Maplewood Apartments. Within the three (3) family rental complexes, there are now 127 affordable family rental units that fully satisfy the Township's combined Prior Round and Third Round fair share obligations and may provide surplus units that can be credited against future fair share obligations, subject to future decisions by the Court or an appropriate agency.

The amendment to the Agreement addressed three changes, 1). the conversion of one (1) residential unit in the Millstream Apartments South complex to a management office and laundry facility in accordance with updated NJHMFA policies (reducing the unit total of all three complexes to 127), 2). adding a provision ensuring the Township's commitment to secure a higher percentage of two-bedroom rental

units in Third Round affordable rental projects to meet COAH and UHAC regulations, and 3). granting the Township 120 days, rather than 60, to address the requirements and conditions of the Agreement/Report.

As noted in my April 2017 Master's Report, I recommended that the Court approve the 2016 Settlement Agreement and grant preliminary approval of the Township's proposed fair share compliance measures and 120 days to comply with the accompanying conditions of the Agreement and the recommendations of the report. Although the amendment was not approved to be executed until May 4, 2017, I was apprised of its details and I provided a recommendation of approval of same at the May 23, 2017 Fairness Hearing.

Following the May 23, 2017 Fairness Hearing, Judge Bookbinder issued an Order on June 7, 2017 approving the amended Settlement Agreement and the Township's preliminary compliance measures. The Order also provided the Township temporary immunity from Mount Laurel litigation until December 31, 2017. The Court has since granted extensions of immunity.

3.0 NORTH HANOVER'S HOUSING ELEMENT AND FAIR SHARE PLAN

This section of the report and the upcoming Compliance Hearing focus on North Hanover Township's August 2020 Amended HEFSP and its compliance with the rules and guidelines set forth in COAH's Second Round rules, the Fair Housing Act, the Uniform Housing Affordability Controls ("UHAC") and the Township's Court-approved Settlement Agreement with FSHC, as amended.

The Township of North Hanover's Amended Third Round Housing Element and Fair Share Plan was adopted by the Joint Land Use Board on August 26, 2020 (Resolution No. 2020-12) and endorsed by Mayor DeBaecke and the Township Committee on September 3, 2020 (Resolution No. 2020-103). The Fair Housing Act at N.J.S.A. 52:27D-310 and COAH's rules prescribe the components of the municipal Housing Element of the Master Plan. The revised Housing Element meets the requirements of these standards. As requested by this office, the Township has incorporated into the Amended Plan a projection of North Hanover's housing stock to 2030, and a consideration of lands most appropriate for the construction of low and moderate income housing. The Township has also provided a revised Fair Share Plan that satisfies additional comments from this office, including the incorporation of a map of affordable housing sites, unit tables, and further discussion of various mechanisms and conditions. My review of the Township's compliance in addressing its fair share obligation is found below.

Present Need / Rehabilitation Share: 2 Units

The Settlement Agreement establishes that the Township's efforts to address its Present Need / Rehabilitation Share are discussed in North Hanover's December 17, 2008 Third Round Compliance Plan, which received COAH certification¹ in May 2009. Additionally, the Township agreed to continue to implement the 2008 Plan, recognizing that the two (2) unit Rehabilitation Share was calculated as of 2015 and that any credits toward that obligation must be for units rehabilitated during or after 2015.

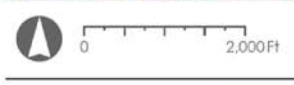
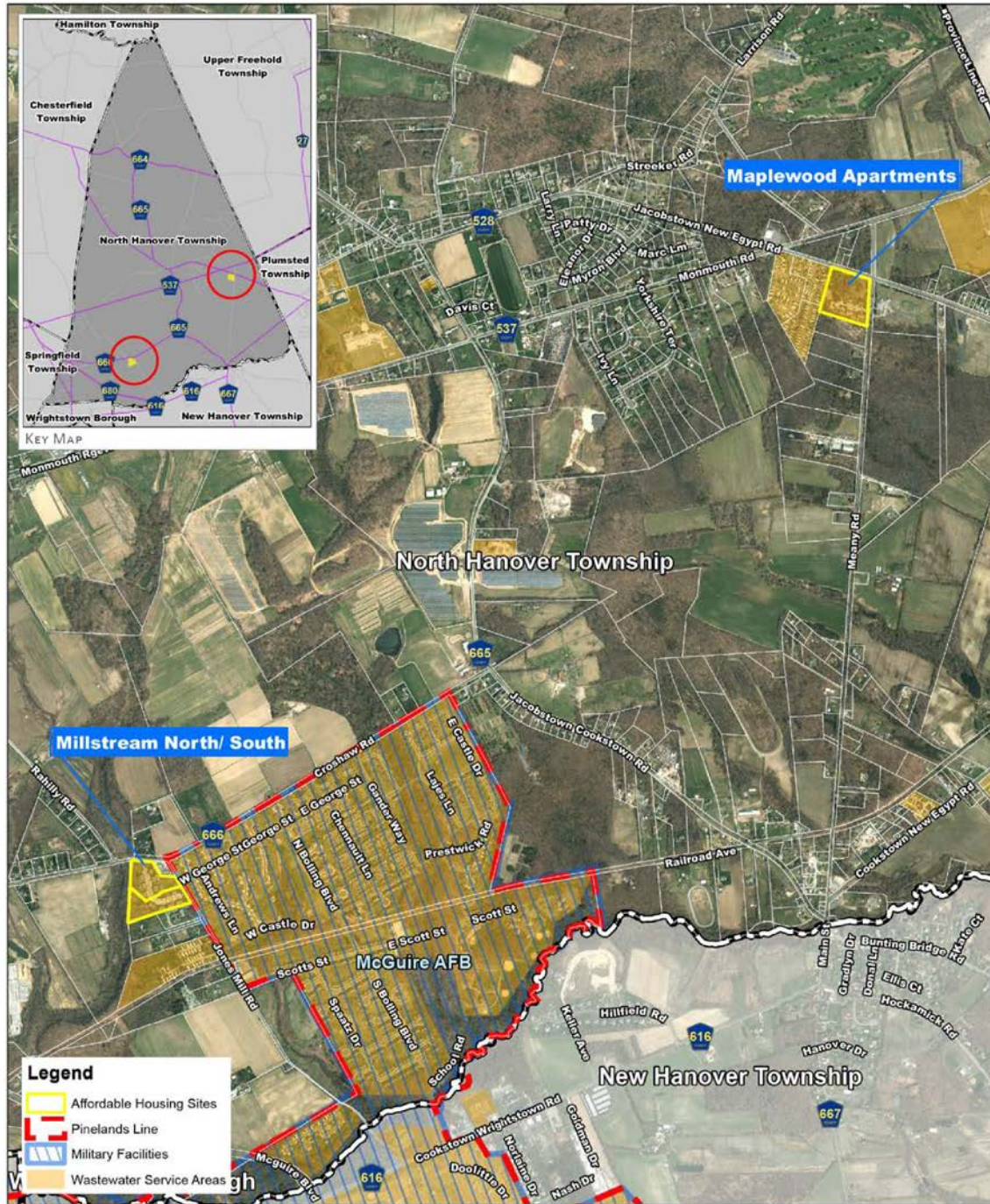
As discussed in the Amended Plan, the Township will address its two (2) unit rehabilitation obligation through continued participation in the Small Cities Community Development Block Grant ("CDBG") program. Administered by the Township's Administrative Agent, Community Grants, Planning & Housing ("CGP&H"), this local rehabilitation program will be available for both rental and for-sale units. In addition, the Township's Spending Plan allocates \$62,605 in affordable housing Trust Fund monies to support the rehabilitation of three (3) units. The Township has provided a copy of its March 16, 2020 Home Improvement Program manual prepared by CGP&H, as well as its current contract with CGP&H, executed on March 2, 2020, securing their services as the administrative agent for the Township's rehabilitation and affordable housing programs for the 2020 calendar year.

The Plan provides that any remaining rehabilitation obligation will be satisfied by new construction credits from the three (3) apartment complexes, as permitted under N.J.A.C. 5:97-6.2(b)7. The Township's Plan ensures that regional income limits and rent increases will be calculated annually using HUD's methodology. Similarly, all rents and sales prices will be determined in accordance with UHAC regulations.

As an ongoing condition of compliance provided in the Settlement Agreement, upon completion of the rehabilitation units the Township must provide a rehabilitation crediting documentation form confirming the repair or replacement of at least one (1) major system, evidence of a minimum average hard cost expenditure of \$10,000, and ten (10) year affordability controls.

The Township's Small Cities and/or Trust Fund Rehabilitation Program satisfies the two (2) unit Third Round rehabilitation share

¹ All of COAH's Third Round certifications were ultimately set aside by virtue of the N.J. Supreme Court's invalidation of COAH's 'growth share' regulations.



Parcel Source: NJGR Tax Parcels for Burlington County 2016
 Aerial Source: 2015 High Resolution Orthophotography
 NAD83 Not State Plane Frank, NAD83 Trans
 Published by NJ Office of Information Technology (NJ OIT),
 Office of Geographic Information Systems (OGIS), 2018

Clarke Caton Hintz ● ● ●
 Architecture
 Planning
 Landscape Architecture

Affordable Housing Sites

LOCATION: North Hanover Township, Burlington County, NJ DATE: April 2017

Combined Prior and Third Round Obligation: 102 Units

As discussed above, the Township and FSHC agreed that the Prior Round and Third Round obligations are satisfied by the mechanisms previously documented in North Hanover's 2008 HEFSP and updated in the Township's 2020 Amended HEFSP. Accordingly, the Township has met its combined 102-unit Prior Round (1) and Third Round (101) obligations with three (3) existing 100% family affordable rental apartment buildings (see map above). The following provides a review of these mechanisms.

Prior Round (1-unit) and Third Round (101-units) Compliance Plan – 102-Unit Obligation						
Project	Tenure	Age Restricted?	Status	Units	Rental Bonuses	Totals
<i>100% Affordable</i>						
Millstream Apartments North	Rental	No	Complete	48	0	48
Millstream Apartments South	Rental	No	Complete	39	0	39
Maplewood Apartments	Rental	No	Complete	40	0	40
Total	-	-	-	127	0	127
Third Round Surplus	127 Units – 102 Combined Obligation =					25

Maximum Prior Round and Third Round Seniors = .25{102- 127 (prior cycle credits)} = 0
 Minimum Prior Round and Third Round Rentals = .25 {(102 - 127 (prior cycle credits))} = 0

Millstream Apartments North

The Township claims 48 credits for 48 affordable family rental units in the existing 100% affordable Millstream Apartments North at 202 Croshaw Road (Block 603, Lot 10). The complex consists of six (6) buildings across 5.5 acres (8.7 units/acre) and contains low income units all within one-bedroom units. The Amended Plan notes that occupancy of the buildings commenced on or about June 1, 1986. A COAH CTM census reports that the bedroom and income distribution of this development is as follows:

Millstream Apartments North Bedroom and Income Distribution					
	1 BR	2 BR	3 BR	Totals	%
<i>Very Low</i>	n/a	n/a	n/a	-	-
<i>Low</i>	48	0	0	48	100%
<i>Moderate</i>	0	0	0	0	0%
Totals	48	0	0	48	
%	100%	0%	0%		

These units were previously deemed creditworthy by COAH but, as “prior cycle” credits, they are not eligible for rental bonuses. The Township has provided a copy of these units’ deed restrictions, which were extended by the new owner, Burlington Preservation Associates, LLC, in October 2017 for a period of thirty (30) years to October 2047. The new owner received a loan from the Rural Housing Service in Rural Development (formerly known as the Farmer’s Home Administration) in the U.S. Dept. of Agriculture under the Multi-Family Housing Preservation and Revitalization Restructuring Program (MPR) to assist in preserving these needed affordable housing units, renovating the 30-year old residential complex and extending the affordability controls as noted. We understand that the renovations are underway, if not already completed. The Township’s Attorney will provide a status update on the renovations.

The Township is eligible for 48 credits for 48 units in Millstream Apartments North.

Millstream Apartments South

The Township claims 39 credits for 39 affordable family rental units in the existing 100% affordable Millstream Apartments South at 18 Jones Mill Road (Block 603, Lot 29). The complex consists of 40 units across five (5) buildings and contains all low income units within 32 three-bedroom units and eight (8) one-bedroom units. Occupancy of the buildings commenced on or about April 14, 1982. The new owner of the 100% affordable housing complexes has commenced the creation of an on-site management office and laundry facility through the conversion an existing three-bedroom apartment (Unit G-1) as part of an \$8 million renovation to the three complexes.

The addition of a management office and laundry facility through the proposed conversion is appropriate for the size of the apartment complexes in accordance with the New Jersey Housing and Mortgage Finance Agency’s policy and regulations, which emphasize having a separate area for laundry facilities and manager’s office for projects providing 44 or more units receiving federal tax credits. While the specific existing affordable units within Millstream North, Millstream South and Maplewood were not the recipient of federal tax credits, it is appropriate to utilize HMFA’s tax credit regulations as a guidance to ensure the apartment units, which are owned and operated by the same entity, receive the benefits of on-site management including adequate maintenance, administration and security.

Additionally, a COAH CTM census reports that the bedroom and income distribution of this development is as follows:

Millstream Apartments South Bedroom and Income Distribution					
	<i>1 BR</i>	<i>2 BR</i>	<i>3 BR</i>	Totals	%
<i>Very Low</i>	n/a	n/a	n/a	-	-
<i>Low</i>	8	0	31	39	100%
<i>Moderate</i>	0	0	0	0	0%
Totals	8	0	31	39	
%	20.5%	0%	79.5%		

These units were previously deemed creditworthy by COAH but, as “prior cycle” credits, they are not eligible for rental bonuses. The Township has provided a copy of these units’ deed restrictions, which were extended by the new owner, Burlington Preservation Associates, LLC, in October 2017 for a period of thirty (30) years to October 2047. The new owner received an MPR loan from Rural Development to assist in preserving these needed affordable housing units, renovating the 30-year old residential complex and extending the affordability controls as noted.

The Township is eligible for 39 credits for 39 units in Millstream Apartments South.

Maplewood Apartments

The Township claims 40 credits for 40 family affordable rental units in the Maplewood Apartments, an existing 40-unit affordable family rental housing complex at 42 Meany Road (Block 800, Lot 68). The Amended Plan indicates that occupancy of the complex commenced on or about September 15, 1985. The complex consists of all low income units, of which there are 32 one-bedroom units and eight (8) two-bedroom units. A COAH CTM census reports that the bedroom and income distribution of this development is as follows:

Maplewood Apartments Bedroom and Income Distribution					
	<i>1 BR</i>	<i>2 BR</i>	<i>3 BR</i>	Totals	%
<i>Very Low</i>	n/a	n/a	n/a	-	-
<i>Low</i>	32	8	0	40	100%
<i>Moderate</i>	0	0	0	0	0%
Totals	32	8	0	40	
%	80%	20%	0%		

These units were previously deemed creditworthy by COAH but, as “prior cycle” credits, they are not eligible for rental bonuses. The Township has provided a copy of these units’ deed restrictions, which were extended by the new owner, Burlington Preservation Associates, LLC, in October 2017 for a period of thirty (30) years to October 2047. The new owner received an MPR loan from Rural Development to assist in preserving these needed affordable housing units, renovating the 30-year old residential complex and extending the affordability controls as noted.

The Township is eligible for forty (40) credits for forty (40) units at Maplewood Apartments.

Very-Low Income Requirements:

The Settlement Agreement acknowledges that as the 127 affordable family rental units were built and occupied between 1982 and 1986, a very-low income requirement pursuant to N.J.S.A 52:27D-329.1, which was enacted in 2008, is not required. However, the Township may have a future very-low income requirement based on future fair share obligations. As such, the Township’s fair share ordinances were updated to reflect the statutory requirement of at least 13% very low income units affordable to households earning 30% or less of regional median income, as detailed below.

Pursuant to the Court-approved Settlement Agreement, the Township acknowledges that it may have a future very low income obligation based on future fair share obligations. As such, the Township shall require 13% of all future affordable units (approved and constructed after July 1, 2008) to be affordable to households earning 30% or less of the regional median income. Additionally, at least half of all very-low income units must be available to families.

Low/Moderate Income Split:

Although COAH’s rules permit 50% of the total affordable units in a specific affordable housing development to be reserved for moderate-income households, the vast majority of the 127 affordable units at the three (3) existing affordable housing complexes serve low-income tenants. While distribution of low and moderate income tenants vary within the affordable family rental complexes on a yearly basis, it is noted that the majority of units are occupied by low income tenants.

Bedroom/Income Distribution:

As set forth in the amendment to the Settlement Agreement, the affordable housing units at the three (3) existing affordable housing complexes discussed above predate COAH’s and UHAC’s regulations on income and bedroom distribution. Acknowledging that the majority of these units are one-bedroom units and in order to rectify the lack of two-bedroom units, the Township agrees that it will “endeavor to

secure a higher percentage of two-bedroom rental units in any future affordable rental projects that are approved during the pendency of the Third Round extending to 2025.”

Further, all future affordable units produced in the Township (including federal tax credit funded units) shall adhere to income and bedroom distribution requirements and be governed by controls on affordability and affirmative marketing in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq. or any successor regulation, and any other applicable law with the exception that 13% of rental units shall be set at 30% of regional median income pursuant to N.J.S.A. 52:27D-329.1 (instead of 10% of rental units set at 35% of regional median income as currently required by UHAC.).

Rental Housing Requirements:

Although the Township does not technically have a rental obligation due to the complexes' status as “prior cycle” credits, the Settlement Agreement establishes that the parties agree the 127 affordable family rental units that currently exist in the Township fully satisfy the Township's 25% rental obligation pursuant to N.J.A.C. 5:93-5.15(a).

Third Round Family Requirement:

All 127 affordable housing units in the Township's Plan are available to low- and moderate-income families.

Age-Restricted Housing Requirements:

Due to the complexes' status as “prior cycle” credits, the Township does not technically have a maximum age-restricted cap.

Rental Bonus Credits:

The 127 affordable family rental units were built between 1982 and 1986 and as such are “prior cycle” credits and not eligible for rental bonuses.

Trust Fund/Spending Plan:

The Township has submitted its revised Spending Plan, adopted by the Joint Land Use Board on August 26, 2020 (Resolution No. 2020-12) and endorsed by the Township on September 3, 2020 (Resolution 2020-103). All expenditures from a municipality's Affordable Housing Trust Fund must be made in accordance with this Spending Plan, subject to the Court's approval. For the remainder of the Third Round, the Township proposes to allocate \$65,605 to rehabilitate rental and for-sale units; \$82,852 in Affordability Assistance, including \$27,617 in assistance for very low income households; and \$20,841 in Administrative Expenses. The Township does not have a new construction obligation; accordingly, no Trust Fund monies have been committed to new housing developments.

As discussed above, the Township has provided a copy of its current contract with CGP&H, executed on March 2, 2020, securing their services as the administrative agent for the Township's rehabilitation and affordable housing programs for the 2020 calendar year. The Township must prepare and submit the affordability assistance program manual, which will be administered by CGP&H. **[Condition #1]**. Additionally, there are issues with some of the amounts and calculations in the proposed Spending Plan that this office will work together with the Township and FSHC to address **[Condition #2]**.

Fair Share Ordinance/Affirmative Marketing Plan:

Pursuant to the Settlement Agreement, the Township has updated its Affordable Housing Ordinance in conformance with standard ordinances and guidelines developed by COAH and approved by this Superior Court. The Township provided a copy of its updated and adopted Affordable Housing Ordinance (No. 2020-09), adopted on September 3, 2020.

Additionally, The Township has provided a copy of its revised Affirmative Marketing Plan, adopted on August 26, 2020 (Resolution No. 2020-12) and endorsed on September 3, 2020 (Resolution No. 2020-104). The revised Affirmative Marketing Plan specifically includes the additional groups to be noticed of affordable housing availability per the Settlement Agreement and provides Section 1 for all mechanisms in the Amended Plan.

Development Fee Ordinance:

The Township has submitted its revised Affordable Housing Development Fee Ordinance, which was adopted by the Township on September 3, 2020. This office reviewed and approved the revised Development Fee Ordinance prior to its adoption.

Experienced Affordable Housing Administrative Agent:

The Township has submitted Resolution No. 2020-2, appointing Alexandra DeGood, Township Administrator, as North Hanover's Municipal Housing Liaison. The Township utilizes CGH&P has the experienced administrative agent for its local rehabilitation program and Burlington Preservation Associates, LLC, has an in-house Administrative Agent administering the three (3) existing complexes - Millstream Apartments North, Millstream Apartments South, and Maplewood Apartments - in accordance with the requirements of Rural Development. As discussed above, the Township has contracted with CGP&H, an experienced administrative agent, to administer the proposed affordability assistance program. However, the Township must prepare and submit the affordability assistance program manual, as proposed in the Spending Plan as noted above.

Although not required at this time, at such time in the future when a new affordable housing development is proposed/developed in the Township, North Hanover will be required to be prepare rental and/or for-sale affordable housing manuals.

4.0 CONCLUSION & RECOMMENDATIONS

This report has been prepared in light of the upcoming Compliance Hearing before Your Honor on September 24, 2020. It reviews the Township of North Hanover's adopted and endorsed 2020 Amended Housing Element and Fair Share Plan and other related affordable housing documents. The Township is seeking a Final Judgment of Compliance and Repose for its Third Round Amended Plan. The Township's Housing Element and Fair Share Plan is consistent with the Court-approved Settlement Agreement as amended, the Fair Housing Act, and COAH's Second Round rules and Third Round rules where acknowledged.

Additionally, I find the Township's 2020 Amended Housing Element and Fair Share Plan to be consistent with the Mount Laurel doctrine including the Mount Laurel IV decision. I recommend that Your Honor grant the Township a Judgment of Compliance and Repose, subject to the Township fulfilling the two (2) conditions contained herein.

I would recommend that the Township be provided 90 days from the entry of the Court's order of repose to address the conditions. Your Honor may wish to have the Township submit a certification as to how the conditions have been addressed with any required supporting documentation. Once the Township has satisfied the conditions, I will notify Your Honor and copy all parties, at which point the issuance of a final Judgment of Compliance and Repose would be warranted. I don't believe an additional court hearing would be required. In the meantime, I recommend that immunity remain in effect.

I would be happy to answer any questions that Your Honor or the parties may have either prior to or at the Compliance Hearing.