

**BOROUGH OF EMERSON
COUNTY OF BERGEN
NOTICE OF ADOPTION**

Introduced: January 16, 2018

Adopted: February 6, 2018

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 6th day of February, 2018. A copy of Ordinance 1549-18 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

ORDINANCE NO. 1549-18

AN ORDINANCE AUTHORIZING THE ACQUISITION OF PROPERTIES IDENTIFIED AS BLOCK 419, LOTS 2, 3, 4 AND 6.01 LOCATED WITHIN THE BOROUGH OF EMERSON PURSUANT TO THE NEW JERSEY LOCAL REDEVELOPMENT AND HOUSING LAW N.J.S.A. 40A:12A-1 ET SEQ. AND/OR THE FAIR HOUSING ACT N.J.S.A. 52:27D-301 ET SEQ.

WHEREAS, it is essential, as a matter of public necessity, welfare, interest and convenience that certain real properties, hereinafter described, located in the Borough of Emerson, County of Bergen, State of New Jersey ("Borough") be purchased or acquired by the Borough for public purposes; and,

WHEREAS, the Borough entered into a certain Redevelopment Agreement and first and second amendments to such agreement (hereinafter, collectively the "RDA"), which RDA requires the redeveloper, Emerson Redevelopment Urban Renewal ("ERUR"), to acquire certain properties located within the Borough to develop, build and construct a mixed use development which includes market rate and 22 to 29 low and moderate income family rental units (the "Project") in order for the Borough to comply with its constitutionally mandated duty to provide such units to low and moderate income families; and,

WHEREAS, Section 5.01 of the RDA, provides that in the event ERUR is not able to negotiate for the purchase of any property set forth in Exhibit A of the RDA, that it shall request that the Borough assist it in purchasing such or acquiring such properties as permitted under N.J.S.A. 40A:12A-8(c); and,

WHEREAS, ERUR has successfully negotiated for the acquisition of all of the properties necessary for the Project with the exception of:

BLOCK 419 LOT 2
BLOCK 419 LOT 3
BLOCK 419 LOT 4
BLOCK 419 LOT 6.01 ("Acquisition Parcels"); and,

WHEREAS, ERUR has requested that the Borough acquire the Acquisition Parcels as required pursuant to Section 5.01 of the RDA; and,

WHEREAS, the Borough filed a Declaratory Judgment action captioned as *In the Matter of the Application of the Borough of Emerson, County of Bergen*, Docket No. BER-L-6300-15 on July 8, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and FHA in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV); and,

WHEREAS, through the declaratory judgment process, the Borough and Fair Share Housing Center (“FSHC”), a Supreme Court-designated interested party in the above-captioned matter, agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of *Mount Laurel* litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households; and,

WHEREAS, as part of the settlement agreement the Borough has committed to complete the Project to provide the Borough’s constitutionally mandated affordable family units and if necessary the Borough is obligated to acquire certain real properties, including the Acquisition Parcels, in order to meet the Borough’s constitutionally mandated affordable housing obligation; and,

WHEREAS, pursuant to the New Jersey Local Redevelopment Housing Law, N.J.S.A. 40A:12A-1 et seq. (“LRHL”) and/or the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (“FHA”), the Borough has the power to acquire property by eminent domain in accordance with the Eminent Domain Act N.J.S.A. 20:3-1 et. seq. (“EDA”), for the purpose of implementing the Borough’s Redevelopment Plan and to meet the Borough’s constitutionally mandated affordable housing obligation; and,

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH OF EMERSON, THAT:

Section 1. The Borough is hereby authorized and directed to acquire by purchase or condemnation for public purposes in furtherance of the goals of the New Jersey Local Redevelopment Housing Law, N.J.S.A. 40A:12A-1 et seq. (“LRHL”) and/or the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (“FHA”) and in accordance with the Eminent Domain Act, N.J.S.A. 20:3-1 et seq. (“EDA”), the following properties, which properties are hereby determined to be necessary and useful for the construction of 22 to 29 low and moderate income family rental housing which will provide additional affordable units than the Borough currently provides and allow the Borough to comply with its constitutional obligations set forth in the November 21, 2017 settlement agreement with Fair Share Housing Center:

BLOCK	LOT	PROPERTY ADDRESS
419	2	15 Lincoln Blvd
419	3	9 Lincoln Blvd
419	4	214 Kinderkamack Rd
419	6.01	190 Kinderkamack Rd

Section 2. The Mayor is hereby authorized to execute any documents and is directed to perform all acts necessary to acquire the properties by purchase or condemnation; however, no settlement figure, purchase prices, or stipulation to purchase shall be binding until the Borough approves such figure or price by resolution.

Section 3. Once the Fair Market Value has been determined, the Borough will be able to appropriate the necessary funds and the Chief Financial Officer will be able to certify that funds are

available.

Section 4. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 5. If any section, subsection, part, clause or phrase of this Ordinance or previous ordinance or resolution related herewith shall be declared invalid by judgment of any Court of competent jurisdiction, such section, subsection, part, clause or phrase shall be deemed to be severable from the remainder of this Ordinance or related ordinance or resolution, as applicable.

Section 6. This Ordinance shall take effect upon adoption and publication in the time and manner prescribed by law.

TITLE

Authorization for the acquisition of properties identified as Block 419, Lots 2, 3, 4 and 6.01 in furtherance of the goals of the to the New Jersey Local Redevelopment Housing Law, N.J.S.A. 40A:12A-1 et seq. (“LRHL”) and/or the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (“FHA”).

Mayor Louis J. Lamatina

ATTEST: Jane Dietsche, Borough Clerk