

**Borough of Emerson
Bergen County**

Midpoint Review Report

Purpose

The Borough of Emerson is required to 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 Settlement Agreement between Fair Share Housing Center (“FSHC”) and the Borough (hereinafter the “FSHC Settlement Agreement”), that review requires the Borough to post on its website on July 1, 2020, 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

In July of 2015, the Borough 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, Mary Beth Lonergan 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 with the Borough was entered into on November 21, 2017. In addition, the Borough has reached settlement with an intervening party, which is incorporated into the settlement agreement with FSHC. A fairness hearing was held before the Honorable Gregg A. Padovano, J.S.C., on December 21, 2018, wherein the Court determined that the Settlement Agreement presented a realistic opportunity for affordable housing development and was fair, equitable and protected the interests of low and moderate income families. An order to this effect was entered into by the Court and filed on January 25, 2019. The Borough has retained immunity from builder remedy suits throughout the process and has continued immunity pursuant to the Court order.

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

- Rehabilitation Obligation: 20 units
- Prior Round Obligation (1987-1999): 74 units
- Third Round Gap and Prospective Need Obligation (1999-2025): 234 units

Status

Pursuant to the settlement agreement, the Borough adopted all of the required compliance documents and received a Judgment of compliance and repose issued by the Honorable Gregg A. Padovano, J.S.C. on January 25, 2019.

The Borough has, pursuant to the Court's Order:

- Produced a rehabilitation manual, with guidelines for rehabilitating owner-occupied housing and renter-occupied housing;
- Executed an Agreement with Community Action Services;
- Provided the date of payment and amount paid to Ridgefield as part of the Prior Round Regional Contribution Agreement (RCA);
- Provided supporting documentation indicating that the proposed Block 419 redevelopment is to be comprised of family rental units, including affordable units; and,
- Adopted a Mandatory Affordable Set-Aside Ordinance.

As of July 1, 2020, no affordable housing units have been physically rehabilitated or constructed within the Borough. It is noteworthy however, that the most significant project, as contemplated by the Borough's housing plan, has received site plan approval by the Borough and will presumably proceed to construction in the near future.

The site of the project, known as Block 419, has been partially demolished but buildings remain that also need to be demolished. The Borough is currently assisting the Redeveloper by seeking Court intervention to remove one of the lessees of the property which continues to occupy an area required for the project.

The Borough continues to believe that the present plan represents a realistic opportunity for the development of affordable housing in the community.

Comments

Comments from interested parties are welcome and may be submitted to the Borough by contacting the Borough Administrator, Robert Hermansen at Borough Hall, 1 Municipal Place, Emerson, New Jersey, or by email at: RHermansen@emersonnj.org