



Peter J. O'Connor, Esq.
Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
David T. Rammler, Esq.
Joshua D. Bauers, Esq.
Bassam F. Gergi, Esq.

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Wendy Rubinstein, Esq.
DeCotiis, FitzPatrick, Cole, & Giblin, LLP
61 South Paramus Road
Suite 250
Paramus, NJ 07652

Joseph Mariniello, Esq.
Mariniello & Mariniello, PC
265 Columbia Ave
Fort Lee, NJ 07024

Re: In the Matter of the Application of the Borough of Edgewater, County of Bergen, Docket No. BER-L-6364-15

Dear Ms. Rubinstein and Mr. Mariniello:

This letter memorializes the terms of an agreement reached between the Borough of Edgewater (the "Borough" or "Edgewater"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Edgewater filed the above-captioned matter on July 20, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Borough and FSHC 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.

Settlement terms

The Borough and FSHC hereby agree to the following terms:

1. FSHC agrees that the Borough, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be

definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.

3. FSHC and Edgewater hereby agree that Edgewater's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report ¹)	32
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	28
Third Round (1999-2025) Prospective Need (per Mercer County Decision)	624

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
5. The Borough's efforts to meet its present need will include a combination of rehabilitation of existing public housing units in the Borough and a municipal and/or county rehabilitation program, subject to the review and approval of the Special Master and the court during the compliance phase of this litigation This is sufficient to satisfy the Borough's present need obligation of 32 units.
6. As noted above, the Borough has a Prior Round prospective need of 28 units, which is met through the following compliance mechanisms:

Project	Mechanism	Status	Type of Affordable Unit			Rental Bonus	Total Credits
			Family Rental	For-Sale	Age-Restricted		
27 Dempsey Avenue	Senior/ Age Restricted	Occupied			4		4
300 Undercliff ²	Senior/ Age Restricted	Occupied			2		2
Avalon Bay	Inclusionary Zoning	Occupied	4				4

¹ David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

² The parties recognize that 300 Undercliff may have residency preferences on some or all units, which would render those units not creditable towards the Prior Round or Third Round prospective need/new construction obligation. That said the parties also recognize that (a) some of the units may have a veterans preference instead that may render the units creditable towards prospective need/new construction; (b) even if the units that have a residency preference are not creditable towards prospective need/new construction they may be creditable against the rehabilitation obligation if they otherwise meet the required rehabilitation criteria. The details of these credits will be determined pursuant to the process in paragraph 8 of this Agreement.

341 Undercliff	Inclusionary Zoning	Occupied	7			7	14
15 Valley Place	Inclusionary Zoning	Occupied	3				3
38 COAH	100% Affordable	occupied	1				1
TOTALS			15		6	7	28

As noted above, the Borough has a Third Round new construction obligation of 624 units, which is met through the following mechanisms:

Site #	Project	Mechanism	Status	Type of Affordable Unit			Rental Bonus	Total Credits
				Family Rental	For-Sale	Age-Restricted		
1	38 COAH	100% Affordable	occupied	38			38	76
2	Waterford Towers	Inclusionary Zoning	occupied	77			77	77
3	Winterburn Gardens	100% Affordable	occupied	21			21	42
4	45 River Road	Redevelopment	approved	75				75
5	A-Home(435, 437, 439 Undercliff)	Market-to-Affordable	partially occupied		12			12
6	300 Undercliff	Senior/ Age-Restricted	occupied			20		20
7	27 Dempsey Avenue	Senior/ Age-Restricted	occupied			27		27
8	1000 Portside Drive	Inclusionary Zoning/Use Variance	approved	2				2
9	345 Undercliff Avenue	Inclusionary Zoning	occupied	6				6
10	615 River Road (east side)	Inclusionary Zoning (84 du/ac)	proposed	180				180
11	115 River Road	Inclusionary Zoning (105 du/ac)	proposed	61				61
12	MB Edgewater	Inclusionary Zoning	approved	7			7	14
13	180 Old River Road	Inclusionary Zoning	approved	15				15
14	75 Edgewater Place	100% Affordable	occupied	7			7	14
15	79 Edgewater Place	100 % Affordable	occupied	8				8
16	85 Edgewater Place	100% Affordable	occupied	4				4
17	377 Undercliff Avenue	100% Affordable	occupied	7				7

TOTALS		508	12	47	156	723
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7. The Borough will provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on the following sites:
- a. 615 River Road Partners LLC (Block 77 Lot 1; Block 76 Lots 1 and 5) – the Borough has entered into a settlement agreement dated December 19, 2019 that permits the development of up to 1200 total residential units and requires an affordable housing set-aside of at least 15% in the case of rentals and 20% in the case of for-sale product, and otherwise conforming the required affordable housing to the requirements of this Agreement and the Uniform Housing Affordability Controls (UHAC) Compliance This site shall produce at least 180 affordable housing units which shall conform to the income distributions and bedroom distributions set forth in Paragraphs 12 through 15 of this Agreement.
 - b. 45 River Road (Block 99 Lots 1, 1.02, 1.03, 1.04, 1.05, 1.07, 1.08, 1.09, 1.12, 1.14, 3, 4, and 5) – the Borough adopted an Amended and Restated Redevelopment Plan in August 2013 that permitted the development of approximately 600 total residential units and required a set-aside of 75 affordable housing units. Despite requiring in the Amended and Restated Redevelopment Plan that the affordable housing units shall be constructed in accordance with the rules of the Council on Affordable Housing, the Borough permitted the Redeveloper to proceed with the construction of all market-rate residential units prior to completing any affordable housing units. The parties agree that this site will become creditworthy upon the completion of the following:
 - i. The Borough agrees to enforce the Amended and Restated Redevelopment Plan and the Redevelopment Agreement by withholding certificates of occupancy on 75 affordable housing units in the development until the required affirmative marketing is completed in a manner consistent with this Agreement and verified by the Special Master.
 - ii. The Borough agrees to secure and enforce a deed restriction on the 75 affordable housing units in the form required by UHAC.
 - iii. The Borough provides sufficient information to confirm the affordable housing units conform to the requirements of this Agreement and UHAC Compliance including the income distributions and bedroom distributions set forth in Paragraphs 12 through 15 of this Agreement.
 - iv. The Borough agrees that in the event that the developer completes and leases any of these affordable housing units in a manner that violates the regulations of COAH and/or the UHAC regulations that (a) the Borough and/or FSHC may take appropriate court action to enforce this Agreement and the provisions of the Amended and Restated Redevelopment Plan, the Redevelopment Agreement, and Deed Restriction which action if initiated by FSHC the Borough shall support; and (b) the Borough within 90 days of any determination by the court that the developer has not complied with COAH and/or UHAC shall provide an amendment to its proposed compliance plan, as set forth in the Table in Paragraph 6 supra, and adopt all necessary implementing ordinances to provide a realistic opportunity through inclusionary zoning sufficient to replace the 75 units, or any portion thereof, found by the court not to be credible with an equivalent number of family rental units conforming to

- the requirements of this Agreement and UHAC Compliance including the income distributions and bedroom distributions set forth in Paragraphs 12 through 15 of this Agreement.
- v. This development is the subject of a lawsuit entitled Fair Share Housing Center v. Borough of Edgewater et. al., BER-L-3652-17. FSHC and the Borough agree to take the position as to that lawsuit that the actual construction of 75 affordable housing units in the development, which affordable housing units conform to the requirements of this Agreement and UHAC Compliance including the income distributions and bedroom distributions set forth in Paragraphs 12 through 15 of this Agreement, is sufficient to resolve the allegations in that lawsuit regarding the number and phasing of affordable housing units in this development, and to both take any necessary actions to resolve that lawsuit in a way that ensures such provision of affordable housing units.
- c. 1000 Portside Avenue (Block 67 Lot 1.02) – the Zoning Board of Adjustment adopted a resolution of approval permitting the development of 91 total residential units and requiring an 11-unit affordable housing set-aside. The developer has agreed to provide 2 affordable housing units on-site and has provided 9 affordable housing units off-site at 341 and 345 Undercliff Avenue (seven 3-bedroom units and two 2-bedroom units). This development was the subject of a lawsuit entitled Fair Share Housing Center v. Borough of Edgewater, BER-L-6431-16. FSHC and the Borough agree to take the position as to that lawsuit that the provision of 2 affordable housing units on-site and 9 affordable housing units off-site at 341 and 345 Undercliff Avenue, which affordable housing units conform to the requirements of this Agreement and UHAC Compliance including the income distributions and bedroom distributions set forth in Paragraphs 12 through 15 of this Agreement, is sufficient to resolve the allegations in that lawsuit as to the required number of affordable housing units on this site and to both take any necessary actions to resolve that matter in a way that ensures such provision of affordable housing units.
- d. MB Edgewater (Block 93, Lot 1.01, 2.02, and 3.03) – the Zoning Board of Adjustment adopted a resolution of approval permitting the development of 58 total residential units and requiring a 7-unit affordable housing set-aside and otherwise conforming to the requirements of this Agreement and UHAC. This development is the subject of a lawsuit entitled Fair Share Housing Center v. Borough of Edgewater (MB Edgewater), BER-L-7687-16. FSHC and the Borough agree to take the position as to that lawsuit that the provision of 7 affordable housing units on-site, which affordable housing units conform to the requirements of this Agreement and UHAC Compliance including the income distributions and bedroom distributions set forth in Paragraphs 12 through 15 of this Agreement, is sufficient to resolve the allegations in that lawsuit as to the required number of affordable housing units on this site and to both take any necessary actions to resolve that matter in a way that ensures such provision of affordable housing units.
- e. 115 River Road (Block 96 Lot 3.03) – the Borough rezoned this 3.85-acre property to permit the development of 105 du/ac for family units. The zoning regulations provide that a 15% set-aside for affordable housing units is mandatory for a multifamily rental building, and a 20% set-aside for affordable housing units is mandatory for a multifamily building with for-sale units. If the site is developed as rental housing, this site will provide 61 affordable housing family rental units. The

affordable units will otherwise conform to the requirements of this Agreement and UHAC.

- f. 180 Old River Road (Block 89, Lot 4) –this 1.069-acre property has been approved for a total of 100 residential rental units, with 15% set-aside of affordable housing units, for a total of 15 affordable housing units and will otherwise conform to the requirements of this Agreement and UHAC.

8. As part of the compliance phase of the litigation, the Borough will be required to demonstrate the creditworthiness of the existing affordable housing mechanisms (Sites # 1, 2, 3, 5, 6, 7, 9, 14, 15, 16, and 17) conforming to the requirements of this Agreement and UHAC Compliance including the income distributions and bedroom distributions set forth in Paragraphs 12 through 15 of this Agreement. As part of this demonstration, no later than 120 days following approval of this agreement at a fairness hearing:
 - a. The Borough shall hire or otherwise designate an administrative agent or agents, to be approved by the special master and ultimately the Court, to ensure that the marketing, leasing or sale, and income qualification of each of these sites has conformed with the Uniform Housing Affordability Controls and any other applicable law.
 - b. The Borough will secure from the administrative agent and provide to the Special Master and FSHC the affirmative marketing documentation for all units dating back to the original leases, and show that the units were first constructed or converted for use as affordable housing after April 1, 1980.
 - c. The Borough will work with the Special Master and the administrative agent to provide documentation to the Special Master and FSHC that the current tenants were properly income qualified.
 - d. The Borough will provide copies of deed restrictions for all existing units to the Special Master and FSHC in appropriate form to receive credit.
 - e. If additional information is deemed to be required by the Special Master and/or the Court in order to demonstrate the creditworthiness of an existing unit, the Borough agrees to coordinate with the Special Master to the greatest extent possible, to provide such additional information requested by the Special Master and/or required by the Court to demonstrate creditworthiness.

To the degree that through this process the Borough cannot demonstrate that a sufficient number of the units identified in Paragraph 6 supra to meet the agreed upon Third Round Obligation are creditworthy, the Borough shall provide an amendment to its proposed compliance plan, that provides a realistic opportunity sufficient to replace those units with the like kind of units (e.g. family rental replacing family rental, etc.) required to meet its Third Round obligation through inclusionary zoning to be adopted no later than 90 days after the court determines there is a shortfall.

9. As part of the compliance phase of the litigation, the Borough will be required to demonstrate the creditworthiness of proposed affordable housing mechanisms (Sites # 4, 8, 10, 11, 12, and 13) and that they provide a realistic opportunity. As part of this demonstration, no later than 120 days following approval of this agreement at a fairness hearing:
 - a. The Borough will demonstrate a realistic opportunity for each site through adopted, or if not yet adopted proposed and then to be adopted before the time period specified for compliance in paragraph 15, ordinances, redevelopment plans, and/or other legal documents showing how each site provides a realistic opportunity for the number of affordable units provided for in this Agreement

conforming to the requirements of this Agreement and UHAC Compliance including the income distributions and bedroom distributions set forth in Paragraphs 12 through 15 of this Agreement.

- b. The Borough shall hire or otherwise designate an administrative agent or agents, to be approved by the special master and ultimately the Court, to ensure that the marketing, leasing or sale, and income qualification of each of these sites conforms with the Uniform Housing Affordability Controls and any other applicable law.

To the degree that through this process the Borough cannot demonstrate that any of these units are creditworthy, the Borough shall submit an amendment to the compliance plan proposed in Paragraph 6 supra, that provides a realistic opportunity sufficient to make up any shortfall with the like kind of units (e.g. family rental replacing family rental, etc.) through inclusionary zoning providing a realistic opportunity for the same number of units to be adopted no later than 90 days after the court determines there is a shortfall, provided that nothing in this paragraph shall impact the Borough's obligation to ensure that the 615 River Road Partners LLC development and the affordable units therein proceed in accordance with the terms specified in this settlement and the settlement between the Borough and 615 River Road Partners LLC.

10. Additional Compliance Mechanisms – In addition to the compliance plan set forth in paragraph 6 supra, the Borough will further address its Mount Laurel obligation through the following mechanisms which the parties agree are an integral part of the overall settlement reached in this matter:
 - a. Within 60 days of the approval of this Agreement at a Fairness Hearing, the Borough will adopt an ordinance requiring a mandatory affordable housing set aside for all new multifamily residential developments of five (5) units or more. The set aside for developments shall be a minimum of fifteen percent for rental developments and twenty percent (20%) for sale units. The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more, or to specific parcels or zones identified in other paragraphs of this agreement which shall be subject to the requirements specified therein. The form of the Ordinance shall be finalized through collaboration between FSHC, Special Master Banisch, and representatives of the Borough.
 - b. Additional Compliance Mechanisms - The Affordable Housing 2 Zone (block 78, lots 3, 4, 4.01, 5, 6, 8, 9.01, 9.02, 10, 12, 13 and block 79, lots 1, 2.01, 2.02, 2.03, 2.04, 3, 4, 5) – the Borough has adopted an ordinance creating this affordable housing zone (“AH-2”) The AH-2 zone is a 8.7-acre area ripe for development and/or redevelopment. At a density of 12 du/ac, the site could produce 105 units, with a 15% set aside of 16 rental units or a 20% set-aside of 21 for-sale units.
 - c. A-Home (435-437 and 439 Undercliff Avenue) - The property consists of 3 buildings totaling 18 units. The buildings were purchased by A-Home with the intent of turning rental units into condos through attrition, so as to not displace the current residents living in these units. Since 2008, 12 units have been converted to condos and sold under COAH's income guidelines and are included in the Third Round plan. Based on its history, it is expected the last 6 units will be converted and sold within 4 years.
11. The Borough agrees to require 13% of all units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being

available to families. The municipality will document its compliance with this requirement during the compliance period.

12. The Borough shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above:
 - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
 - b. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - c. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.
 - d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
 - e. The Borough agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.
13. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Urban League of Bergen County, Bergen County Housing Coalition, and Supportive Housing coalition, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
14. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Borough as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:
 - a. Regional income limits shall be established for the region that the Borough is located within (i.e. Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped

Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- b. The income limits attached hereto as Exhibit A are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2020, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.

15. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.

16. As an essential term of this Agreement, within one hundred and twenty (120) days of Court's approval of this Agreement, the Borough shall introduce and adopt an ordinance or ordinances providing for the amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.

17. The parties agree that if a decision of a court of competent jurisdiction in Bergen County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Borough may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Borough shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement,

including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms to address unmet need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Borough's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its prospective need for the Third Round, the Borough may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

18. The Borough shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
19. On the first anniversary of the "Judgment of Compliance and Repose" or "the judicial equivalent of substantive certification," and every anniversary thereafter through the end of this Agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
20. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection provided in this Agreement. The Borough agrees to comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues. The parties

recognize that as of the point of the statutory midpoint review a fairness hearing and compliance hearing will not have been yet held.

- b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of "Judgment of Compliance and Repose" or "the judicial equivalent of substantive certification," and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

21. FSHC was granted intervenor status in this matter by order dated August 17, 2017.
22. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
23. The parties agree that FSHC is entitled to attorney's fees and costs from the Borough in the amount of \$150,000 within forty-five (45) days of the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing. The parties also agree that pursuant to the separate settlement agreement with 615 River Road Partners LLC referenced in paragraph 7a., which shall also be reviewed and approved pursuant to a duly-noticed fairness hearing, that 615 River Road Partners LLC will reimburse FSHC for legal fees and costs up to a maximum of \$75,000, which, upon payment by 615 River Road Associates, LLC, would reduce the Borough's obligation by that same amount. The Borough may enter into additional agreements with other litigants and parties to secure the payment of any remaining portion of the overall obligation of payment of \$150,000 to FSHC
24. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
25. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Bergen County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.

26. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
27. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
28. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
29. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
30. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
31. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
32. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
33. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
34. No member, official or employee of the Borough shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
35. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
36. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change

as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC: Adam M. Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Fax: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE BOROUGH: Wendy Rubinstein, Esq.
DeCotiis, FitzPatrick, Cole, & Giblin, LLP
61 South Paramus Road
Suite 250
Paramus, NJ 07652
Phone: 201-907-5282
Fax: (201) 928-0588
Email: WRubinstein@decotiislaw.com

And

Joseph R. Mariniello, Esq.
Mariniello & Mariniello, PC
265 Columbia Ave
Fort Lee, NJ 07024
Phone: 201-947-6600
Fax: 201-947-6605
Email: jm@mariniellolaw.com

**WITH A COPY TO THE
MUNICIPAL CLERK:** Annamarie O'Connor, RMC
55 River Road
Edgewater, NJ 07020
Telecopier: (201) 943-9242
Email: annamarie@edgewaternj.org

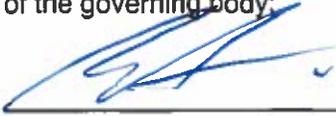
Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the Borough of Edgewater, with the authorization
of the governing body:



Dated: 6-19-2020

EXHIBIT A: 2020 INCOME LIMITS

2020 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - April 24, 2020

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on AHPNJ.org

	1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rents*** Sales****	Regional Asset Limits*****
Region 1	Median	\$67,166	\$71,964	\$76,761	\$86,357	\$95,952	\$99,790	\$103,628	\$111,304	\$118,980	\$126,656	
Bergen, Hudson, Passaic and Sussex	Moderate	\$53,733	\$57,571	\$61,409	\$69,085	\$76,761	\$79,832	\$82,902	\$89,043	\$95,184	\$99,325	1.9%
	Low	\$33,583	\$35,982	\$38,381	\$43,178	\$47,976	\$49,895	\$51,814	\$55,652	\$59,490	\$63,328	0.84%
	Very Low	\$20,150	\$21,489	\$22,828	\$25,907	\$28,786	\$29,937	\$31,088	\$33,391	\$35,694	\$37,997	
Region 2	Median	\$73,857	\$79,132	\$84,408	\$94,959	\$105,510	\$109,730	\$113,951	\$122,391	\$130,832	\$139,273	
Essex, Morris, Union and Warren	Moderate	\$59,085	\$63,306	\$67,526	\$75,967	\$84,408	\$87,784	\$91,160	\$97,913	\$104,666	\$111,418	1.9%
	Low	\$36,928	\$39,566	\$42,204	\$47,479	\$52,755	\$54,965	\$57,175	\$61,196	\$65,216	\$69,236	4.71%
	Very Low	\$22,157	\$23,740	\$25,322	\$28,488	\$31,653	\$32,919	\$34,185	\$36,717	\$39,250	\$41,782	
Region 3	Median	\$83,650	\$88,635	\$93,620	\$107,550	\$116,500	\$124,280	\$132,919	\$139,060	\$148,620	\$157,740	
Hunterdon, Middlesex and Somerset	Moderate	\$66,920	\$71,700	\$76,480	\$86,040	\$95,600	\$99,424	\$103,248	\$110,896	\$118,544	\$126,192	1.9%
	Low	\$41,825	\$44,813	\$47,800	\$53,775	\$59,750	\$62,140	\$64,530	\$69,310	\$74,090	\$78,870	1.01%
	Very Low	\$25,095	\$26,888	\$28,680	\$32,265	\$35,850	\$37,284	\$38,718	\$41,586	\$44,454	\$47,322	
Region 4	Median	\$76,469	\$81,931	\$87,393	\$98,317	\$109,242	\$113,611	\$117,981	\$126,720	\$135,460	\$144,199	
Mercer, Monmouth and Ocean	Moderate	\$61,175	\$65,545	\$69,915	\$78,654	\$87,393	\$90,889	\$94,385	\$101,376	\$108,366	\$115,359	1.9%
	Low	\$38,235	\$40,966	\$43,697	\$49,159	\$54,621	\$56,806	\$58,990	\$63,360	\$67,730	\$72,099	5.96%
	Very Low	\$22,961	\$24,579	\$26,198	\$29,495	\$32,772	\$34,083	\$35,394	\$38,016	\$40,638	\$43,260	
Region 5	Median	\$67,620	\$72,450	\$77,280	\$86,540	\$96,600	\$100,464	\$104,328	\$112,056	\$119,784	\$127,512	
Burlington, Camden and Gloucester	Moderate	\$54,096	\$57,960	\$61,824	\$69,552	\$77,280	\$80,371	\$83,462	\$89,645	\$95,827	\$102,010	1.9%
	Low	\$31,810	\$36,225	\$40,640	\$43,470	\$48,800	\$50,232	\$52,164	\$56,028	\$59,892	\$63,756	7.21%
	Very Low	\$20,286	\$21,735	\$23,184	\$26,082	\$28,980	\$30,139	\$31,298	\$33,617	\$35,935	\$38,254	
Region 6	Median	\$57,458	\$61,562	\$65,666	\$73,874	\$82,083	\$85,366	\$88,649	\$95,216	\$101,782	\$108,349	
Atlantic, Cape May, Cumberland, and Salem	Moderate	\$45,966	\$49,250	\$52,533	\$59,100	\$65,666	\$68,293	\$70,919	\$76,173	\$81,426	\$86,679	1.9%
	Low	\$28,729	\$30,781	\$32,833	\$36,937	\$41,041	\$42,683	\$44,325	\$47,608	\$50,891	\$54,175	6.97%
	Very Low	\$17,237	\$18,469	\$19,700	\$22,162	\$24,625	\$25,610	\$26,595	\$28,565	\$30,535	\$32,505	

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

** This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3 (Consumer price index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, 2017, 2018 or 2019 because of the lack of authority to do so, may increase rent by up to the applicable combined percentage including 2020 or 9.0% whichever is less in accordance with N.J.A.C. 5:97-9.3(c). In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

**** Low income tax credit developments may increase based on the low income tax credit regulations.

***** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(a)3