

## RESOLUTION 49-2018

### RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT BETWEEN THE BOROUGH OF WOODBURY HEIGHTS AND FAIR SHARE HOUSING CENTER, REGARDING THE MATTER ENTITLED "IN THE MATTER OF THE BOROUGH OF WOODBURY HEIGHTS FOR A DETERMINATION OF MOUNT LAUREL COMPLIANCE" WITH AFFORDABLE HOUSING OBLIGATIONS, DOCKET NO. GLO-L-910-15`

**WHEREAS**, on March 10, 2015, the New Jersey Supreme Court issued its decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council of Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"). In that decision, the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council of Affordable Housing ("COAH") to the New Jersey Superior Court and established a transitional process for municipalities like the Borough of Woodbury Heights to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans to be constitutionally compliant and seeking similar protections to what they would have received if they had continued to proceed before COAH; and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-313 and Mount Laurel IV, the New Jersey Superior Court has the authority to enter an Order granting protection and repose against exclusionary zoning litigation to a municipality that is in compliance with its affordable housing obligations under the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.; and

**WHEREAS**, in accordance with Mount Laurel, IV, the Borough filed a declaratory judgment action in 2015 captioned "IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF WOODBURY HEIGHTS FOR A DETERMINATION OF MOUNT LAUREL COMPLIANCE", that was assigned Docket Number GLO-910-15, in which it sought a determination from the court that its proposed fair share plan complies with its Mt. Laurel obligation and a judgment of compliance and repose on the basis thereof; and

**WHEREAS**, Fair Share Housing Center (“FSHC”) has intervened in the Borough’s declaratory judgment action as an interested party; and

**WHEREAS**, the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the establishment of affordable housing opportunities within the Borough; and

**WHEREAS**, the Borough and FSCH have agreed to settle this litigation by entering into the attached Settlement Agreement (the “Agreement”) and requesting that the Superior Court, Gloucester County, find that this Agreement, and the approach to meeting the Borough’s Prior Round (1987-1999) and Third Round (1999-2025) Mount Laurel obligations, as detailed therein, are fair to the interests of lower-income New Jerseyans and entitles the Borough to protection from Mount Laurel litigation; and

**WHEREAS**, all parties recognize that this Agreement must be reviewed by the court in accordance with the requirements of Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 369, 364 (Law Div. 1984), *aff’d o.b.*, 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328 (App. Div. 1996), and that in order to approve this settlement, the court must find that it adequately protects the interests of lower-income persons for whom the affordable units proposed by the settlement are to be built; and

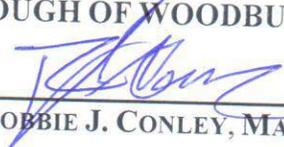
**WHEREAS**, the Borough has identified specific sites and mechanisms that present a realistic opportunity for the development of housing affordable to lower-income households, including families, people with special needs and very-low-income households including very-low-income families; and

**WHEREAS**, at this time and at this particular point in the process resulting from the Supreme Court’s Mount Laurel IV decision, when fair share obligations have yet to be definitively determined it is appropriate for the parties to arrive at a settlement of those obligations using a mutually agreed upon process for determining those obligations in the context of a settlement rather than litigating a full resolution of those obligations.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodbury Heights, County of Gloucester, State of New Jersey, that

1. The Borough hereby approves the Settlement Agreement between the Borough of Woodbury Heights and Fair Share Housing Center in the form attached hereto;
2. That the Mayor and Borough Clerk are authorized to execute this Agreement on behalf of the Borough of Woodbury Heights;
3. The Borough attorney is authorized to negotiate and present the Agreement for review and approval by the Superior Court of New Jersey, upon notice to all interested parties; and
4. This Resolution shall take effect immediately.

**BOROUGH OF WOODBURY HEIGHTS**

BY: 

ROBBIE J. CONLEY, MAYOR

ATTEST:

  
JANET PIZZI, BOROUGH CLERK/ADMINISTRATOR

## CERTIFICATION

I, JANET PIZZI, BOROUGH CLERK OF THE BOROUGH OF WOODBURY HEIGHTS, HEREBY CERTIFY THAT THIS RESOLUTION WAS DULY ADOPTED BY THE BOROUGH OF WOODBURY HEIGHTS COUNCIL AT A MEETING DULY HELD ON THE 28TH DAY OF MARCH 2018; THAT THIS RESOLUTION HAS NOT BEEN AMENDED OR REPEALED; AND THAT IT REMAINS IN FULL FORCE AND EFFECT AS OF THE DATE I HAVE SUBSCRIBED MY SIGNATURE.



JANET PIZZI, BOROUGH CLERK

CERTIFICATION

I, JANET PIZZI, CLERK of the Borough of Woodbury Heights, do hereby certify that I am the duly appointed and qualified Clerk of the Borough of Woodbury Heights and that I am the keeper of record and corporate seal of said corporation and that the foregoing Resolution is a correct copy of a Resolution duly adopted at the Regular Meeting of the Borough Council of the Borough of Woodbury Heights held on the 28<sup>th</sup> day of March, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the Borough of Woodbury Heights this 29 day of March, 2018.

  
JANET PIZZI, BOROUGH CLERK

