

**ADDENDUM TO  
SETTLEMENT AGREEMENT  
BETWEEN  
BOROUGH OF MAYWOOD, BERGEN COUNTY, N.J.  
AND FAIR SHARE HOUSING CENTER  
DATED SEPTEMBER 28, 2018,  
EXECUTED OCTOBER 18, 2018**

**ADDENDUM DATED APRIL 9, 2019**

**RE: IN THE MATTER OF THE APPLICATION OF BOROUGH OF MAYWOOD,  
COUNTY OF BERGEN, DOCKET NO. BER-L-6216-15**

**WHEREAS**, this Addendum to the Settlement Agreement set forth hereinabove is made between the Intervenors, Herman R. Hofmann and Janet Sernatinger, the Borough of Maywood (“Borough”), and the Fair Share Housing Center (“FSHC”), hereinafter and collectively “the Parties;” and

**WHEREAS**, the Intervenors are the owners of the real property identified as: (i) Block 126 Lot 45; (ii) Block 127 Lot 1; (iii) Block 127 Lot 2; (iv) Block 127 Lot 3; and (v) Block 131 Lot 16, as set forth on the tax map of the Borough of Maywood, County of Bergen; collectively and hereinafter referred to as the “Hofmann Property;” and

**WHEREAS**, said Settlement Agreement was to be considered in a Fairness Hearing by the Court, before the Honorable Christine A. Farrington, J.S.C., on November 29, 2018; and

**WHEREAS**, in response to the receipt of a legal notice by the Intervenors from the Borough, circa October 29, 2018, advising same of the Fairness Hearing, the Intervenors filed an objection with the Court, dated November 16, 2018; and

**WHEREAS**, with the permission of the Court, the said Fairness Hearing was adjourned to allow all parties to reach an equitable and fair settlement.

**NOW THEREFORE**, the Parties hereby agree as follows:

1. The Recitals set forth hereinabove are included as part of this Addendum to the Settlement Agreement.
2. Based on the additional total residential units to be permitted on the Hofmann properties as discussed below, the Borough/FSHC Agreement shall be modified as follows:
  - (a) Term #9 – The Borough’s third round RDP has been revised from 23 units to 25 units with a corresponding third round unmet need of 237 units.

- (b) Term #10 – Block 131/Lot 16 (0.36 acres) owned by Hofmann is added to the Borough’s RDP chart. The 5.05 total acres associated with Hofmann and Malt Pro have an increased RDP density from 13 to 15.1 units/acre increasing the Borough’s RDP from 23 to 25 units.
  - (c) Term #12 – The Borough will address its 25-unit RDP with one (1) additional senior credit from Lydecker Manor, one (1) additional family rental unit from the Hofmann properties and one (1) additional third round rental bonus for a total of 26 credits/reductions/bonuses resulting in one (1) surplus credit towards the 237-unit third round unmet need.
  - (d) Term #13 – The Borough’s 237-unit unmet need will also be addressed by one (1) surplus credit from the Borough’s means to satisfy its 25-unit RDP. Also, the unmet need chart and footnote 3 are revised to permit 32 senior credits from Lydecker to address the third round unit need. [The Borough has utilized a maximum of 74 senior credits (25% of 36 prior round + 262 third round = 74): 36 senior credits towards the Prior Round, six (6) senior credits applied to the revised 25-unit third round RDP, leaving a total of 32 senior credits towards third round unmet need].
3. The Borough shall permit a total of sixty-six (66) units to be developed on the Hofmann Property, which will be allocated as follows:
    - (a) Fifty-Three (53) Market Rate Housing Units, and
    - (b) Thirteen (13) Affordable Housing Units, which amounts to a twenty percent (20%) set aside.
  4. The Borough shall permit the following development on the Hofmann Property:
    - (a) Block 126 Lot 45 (along Railroad Tracks) to be developed with a standalone building for the thirteen (13) affordable family rental units in the form of flats.
    - (b) Block 126 Lot 45 (along Railroad Tracks) to be developed with a standalone building for market rate rental flats not to exceed fifty percent (50%) of the market rate units (i.e.-26 - 27 units).
    - (c) Block 127 Lots 1, 2 and 3 to be developed with no more than fifty percent (50%) of the market rate units (i.e., 26-27 units), which will be a for-sale townhouse project.
    - (d) Block 131 Lot 16 to be improved and used as open space/pocket park for the overall development, which will be open to the public.
  5. The architectural design of the two (2), standalone structures on Block 126 Lot 45, will be to architecturally look like a townhouse design.
  6. The height of all structures to be three and a half (3.5) stories (or less). The maximum height of a structure shall not exceed 39.5 ft. in height.

7. The thirteen (13) affordable housing units shall have the following profile which modifies the proposed Borough/FSHC Agreement and as is regulated by the Uniform Housing Affordability Controls (UHAC) at NJAC 5:80-26.1 et seq.:

(a) the thirteen units shall be “family” rentals (i.e., a 1-bedroom, 2-bedroom, and / or 3-bedroom being open to the general public) and may not be age-restricted or senior units.

(b) bedroom profile mix per UHAC (i.e., Cannot have more than 20% of the Affordable units being 1-bedroom. Must have at least 20% of the Affordable units being 3 bedroom):

- o Two (2) units as 1-bedroom
- o Eight (8) units as 2-bedroom
- o Three (3) units as 3-bedroom

(c) Income Profile per UHAC (i.e., based on 13 Affordable units – 13% (2 units) must be very low income and very low income cannot be a 1-bedroom unit, but must include a 3-bedroom):

- o 2 units – very low income (one - 2-bedroom and one - 3-bedroom)
- o 5 units – low income
- o 6 units – moderate income

(d) Overall Affordable Unit Bedroom/Income Mix Chart per UHAC and FHA

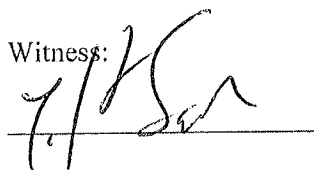
	One-Bedroom	Two-Bedrooms	Three-Bedrooms	Total
Very-Low Income	0	1	1	2
Low-Income	1	3	1	5
Moderate-Income	1	4	1	6
Total	2	8	3	13

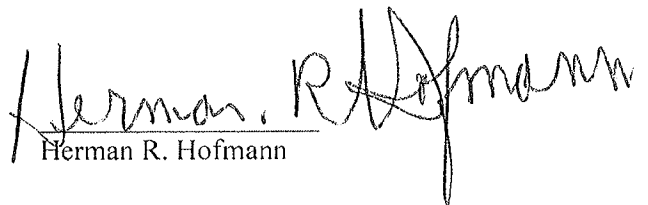
8. The thirteen (13) affordable units shall be developed by virtue of the following modifications to the typical COAH phasing schedule at NJAC 5:93-5.6(d):

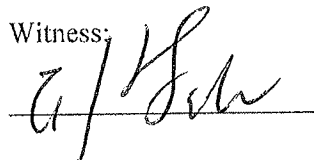
The standalone building for market rate rental flats as set forth in term 4.b. may be constructed first (Phase I). Before a certificate of occupancy (CO) is issued for Phase I, the Borough must issue building permits for the thirteen (13) affordable housing family rental units proposed in a standalone building per term 4.a. (Phase II). Phase II must be completed and receive a CO before building permits are issued for the market-rate for-sale townhouses per term 4.c. (Phase III). Nothing prohibits the developer from building the entire inclusionary development at the same time or Phase II and III at the same time.

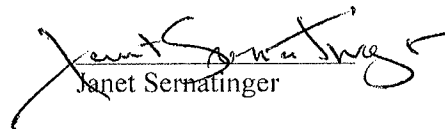
9. The Borough shall not assess any other additional affordable housing obligation / fee on any portion of the Hofmann Property development.
10. There will be no fractional payment required by the developer of the Hofmann Property (i.e., 66 units at 20% set aside = 13.2 units), as same is accounted for in the very-low/ low / moderate unit mix set forth hereinabove.
11. The Borough will authorize the Borough's Planning Board to undertake a preliminary investigation of the Hofmann Property in order to designate the said Property as area in need of redevelopment **without condemnation**, pursuant to the Local Housing and Redevelopment Law.
12. Herman R. Hofmann and Janet Sernatinger shall be designated as the redeveloper for the Hofmann Property. Said individuals shall be permitted to assign its redeveloper designation, to a qualified entity who shall be subject to the review and approval of the Borough as that term will be defined in the Redevelopment Agreement.
13. The Borough and / or Planning Board shall permit Herman R. Hofmann and Janet Sernatinger and / or their representatives (i.e., legal counsel, etc.) to actively participate in the development of a Redevelopment Plan for the Hofmann Property.
14. In the event of any inconsistencies between the terms and conditions of this Addendum to the Settlement Agreement and the Settlement Agreement between the Borough and FSHC, this Addendum shall control.
15. This Addendum can only be modified by a Court having competent jurisdiction or by a written addendum, which is executed by all of the parties.

The Parties hereby executed this Addendum on this 12 day of APRIL, 2019, as follows:

Witness:  
  
\_\_\_\_\_

  
Herman R. Hofmann

Witness:  
  
\_\_\_\_\_

  
Janet Sernatinger

Witness  
Barbara DiPaola 4/23/19

BOROUGH OF MAYWOOD  
By: [Signature]  
Adrian J. Febre, Mayor

Witness  
John Buss 4/18/19

FAIR SHARE HOUSING CENTER  
By: [Signature]  
Adam M. Gordon, Esq.

STATE OF NEW JERSEY :  
: SS  
COUNTY OF Bergen :

I HEREBY CERTIFY that on 4/12/19 Hanna Holman personally came before me and stated to my satisfaction that this person: (a) was the maker of the attached instrument; (b) was authorized to and did execute this instrument as of the entity named in this instrument; and, (c) executed this instrument as the act of the entity named in this instrument.

[Signature]  
CHARLES H. SANCHEZ, Esq.  
Attorney at Law

STATE OF NEW JERSEY :  
: SS  
COUNTY OF Bergen :

I HEREBY CERTIFY that on 4/12/19 Just Sembringer personally came before me and stated to my satisfaction that this person: (a) was the maker of the attached instrument; (b) was authorized to and did execute this instrument as of the entity named in this instrument; and, (c) executed this instrument as the act of the entity named in this instrument.

[Signature]  
CHARLES H. SANCHEZ, Esq.  
Attorney at Law

STATE OF NEW JERSEY :  
: SS  
COUNTY OF Bergen :

I HEREBY CERTIFY that on 4/23/19 Adrian Febre personally came before me and stated to my satisfaction that this person: (a) was the maker of the attached instrument; (b) was authorized to and did execute this instrument as of the entity named in this instrument; and, (c) executed this instrument as the act of the entity named in this instrument.

[Signature]

**KATHLEEN CILENTO**  
NOTARY PUBLIC OF NEW JERSEY  
I.D. # 50017728  
My Commission Expires 6/16/2020

CLERK  
Barbara L. Dispoto, RMC

ADMINISTRATOR  
Roberta Stern

201-845-2900  
FAX: 201-909-0673



MAYOR  
Adrian J. Febre

COUNCIL PRESIDENT  
Matthew T. Garofalow  
COUNCIL MEMBERS  
Thomas J. Lindenau  
Michael Gervino  
Ryan P. Ullman  
Richard Bolan  
Katherine Bennin

## **BOROUGH OF MAYWOOD**

15 Park Avenue, Maywood, NJ 07607-2015  
[www.maywoodnj.com](http://www.maywoodnj.com)

### **RESOLUTION #94-19**

#### **ADDENDUM TO SETTLEMENT AGREEMENT BETWEEN BOROUGH OF MAYWOOD, BERGEN COUNTY, NJ AND FAIR SHARE HOUSING CENTER**

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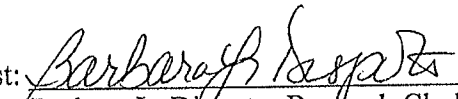
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Date: 4-23-19

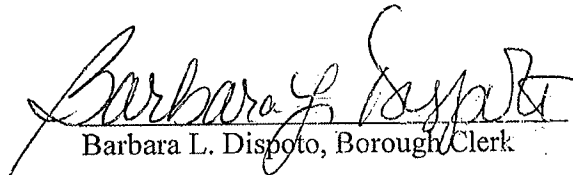
Approved:   
 Adrian J. Febre, Mayor

Attest:   
 Barbara L. Dispoto, Borough Clerk

**CERTIFICATION**

I, Barbara L. Dispoto, Municipal Clerk of the Borough of Maywood in the County of Bergen and the State of New Jersey do hereby certify that the foregoing resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting of April 23, 2019.

Date: 4-24-19

  
 Barbara L. Dispoto, Borough Clerk

	Moved	Seconded	Ayes	Nays	Abstain	Absent	Table
Mayor Febre							
Council member Bennin			✓				
Council member Bolan		✓	✓				
Council member Ullman			✓				
Council member Gervino						✓	
Council member Lindenau			✓				
Council member Garofalow	✓		✓				