

Appendix F

Program Settlement Recommendation Docket No.: BER-L-699-25; including
Mediation Agreement Before the Affordable Housing Dispute Resolution
Program; Memo from the Special Adjudicator, Christine N. Cofone, PP, AICP;
Statement of Reasons from the Hon. Julio L. Mendez, J.S.C. (Ret.)

PREPARED BY THE AFFORDABLE HOUSING PROGRAM:

IMO of the Borough of Maywood	Superior Court of New Jersey Law Division, Civil Part Docket No. BER-L-699-25 Program Settlement Recommendation - Housing Element and Fair Share Plan
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THIS MATTER, having come before the Affordable Housing Dispute Resolution Program (Program), pursuant to the Complaint for Declaratory Judgment filed in this matter on January 29, 2025 (DJ Complaint) by the Petitioner, Borough of Maywood (Borough or Maywood), pursuant to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (FHA), and in accordance with Administrative Directive #14-24 and its Addenda, seeking a certification of compliance with the FHA;

AND IT APPEARS that on May 5, 2025, the Hon. Lina P. Corriston, J.S.C. entered an Order as follows:

- (a) Establishing the Borough’s Fourth Round “present need” at 12;
- (b) Establishing the Borough’s Fourth Round “prospective need” at 131;

(c) Directing the Borough to prepare and adopt a Housing Element and Fair Share Plan on or before June 30, 2025; and

(d) Granting the Borough immunity from exclusionary zoning litigation.

AND IT APPEARS that the Borough timely adopted and filed its Proposed Fourth Round Housing Element and Fair Share Plan (HEFSP);

AND IT APPEARS that a challenge to the Borough's HEFSP was timely filed by interested party Fair Share Housing Center (FSHC);

AND the Program having appointed Special Adjudicator Christine A. Cofone, PP, AICP;

AND the Program Member having conducted settlement conferences on October 10, 2025, December 1, 2025, and December 10, 2025, at which time all parties reached a settlement. The settlement terms were placed on the record and include, but are not limited to the following:

(a) The Borough's Present Need (Rehabilitation) Obligation is

12 ;

(b) The Borough's Prospective Need Obligation (2025-2035) is 131 ;

(c) The Borough's First and Second Rounds Obligation is 36 ;

(d) The Borough's Third Round Realistic Development Potential (RDP Obligation (1999-2025) is 25 and its Unmet Need Obligation is 230. The

Borough shall satisfy its Third Round RDP and Unmet Need Obligations as follows:

THIRD ROUND RDP MECHANISMS

MECHANISM	TYPE	UNITS	BONUS	TENURES	STATUS
Lydecker Manor	Age-Restricted	6		Rental	Completed
Hoffman Property Redevelopment	Family	13	7	Rental	Zoned
Total					
		19	7		

THIRD ROUND UNMET NEED MECHANISMS

MECHANISM	TYPE	UNITS	TENURES	STATUS
Lydecker Manor	Age-Restricted	32	Rental	Completed
Hoffman Property Redevelopment	Family	1	Rental	Zoned
Devereux Foundation	Supportive Housing	4	Rental	Completed
NIPD of New Jersey	Supportive Housing	4	Rental	Completed
Spectrum for Living	Supportive Housing	6	Rental	Completed
West Pleasant Avenue RC District Amendment	TBD	TBD	TBD	Zoned

THO and THO-2 Districts	TBD	TBD	TBD	Zoned
W. Pleasant Ave Redevelopment Plan (Trocano/Maine Evergreen) (replacing THO-3 district)	Family	5	Rental	Proposed
Total		60+		

(e) The Borough’s Fourth Round Realistic Development Potential (RDP Obligation (2025-2035) is 0 and its Unmet Need Obligation is 131. The Borough shall satisfy its Fourth Round Unmet Need Obligation as follows:

NAME	TYPE	AH UNITS	TENURES	STATUS
E. Spring Valley Avenue (Block 3, Lot 1)	Family	12	TBD	Proposed
W. Passaic St. (Block 87, Lots 2, 3 & 4)	Family	11	TBD	Proposed
Brook Avenue (Block 107, Lots 51, 52, 53, 54, & 55)	Family	15	TBD	Proposed
	TOTAL	38		

AND the parties have executed a written mediation agreement memorializing the settlement terms (attached hereto as Exhibit A);

AND the Borough having represented it intends to adopt an Amended HEFSP in accordance with the terms of the settlement;

AND the Special Adjudicator Christine A. Cofone, PP, AICP having submitted a written report to the Program Member recommending endorsement of the settlement terms (attached hereto as Exhibit B);

AND the Program Member having determined that the terms of the settlement are fair, reasonable and adequately protects the interests of low and moderate income residents of the Borough;

AND the Program Member having determined that the terms of the settlement are constitutionally compliant and provide a fair and reasonable opportunity for the Borough to meet its obligations under the FHA and Mount Laurel doctrine;

AND for all those reasons, as well as those set forth in the Statement of Reasons (attached hereto as Exhibit C), the Program Member hereby recommends an ORDER directing that:

- (a) The settlement terms as set forth above are approved; and
- (b) In accordance with N.J.S.A. §52:27D-304.1(f)(2)(c), on or before March 15, 2026, the Borough shall adopt and file its Amended HEFSP that

contains the terms of the settlement as well as the implementing ordinances and resolutions proposed within the Amended HEFSP; and

(c) Thereafter, the court shall schedule a Fairness and/or Compliance Hearing to consider approval of the Borough's Amended HEFSP and the issuance of a Certification of Compliance and Repose; and

(d) Grant the Borough continued immunity from exclusionary zoning litigation for the duration of the compliance process conditioned upon the Borough's compliance with its order and good faith implementation of the Amended HEFSP and good faith participation in the compliance process.

Respectfully Submitted by the Program:

By:

/s/ Hon. Julio L. Mendez
Hon. Julio L. Mendez, J.S.C. (Ret.)

Dated: January 8, 2026

**MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE
RESOLUTION PROGRAM**

In the Matter of the Application of the Borough of Maywood, County of Bergen
Docket No. BER-L-699-25

WHEREAS, the Borough of Maywood (the “Borough” or “Maywood”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”) on January 29, 2025; and

WHEREAS, the Court entered an order on May 5, 2025 setting the Borough’s Fourth Round fair share obligations as a Present Need of 12 units and a Prospective Need of 131 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on June 26, 2025 (“Adopted HEFSP”);
and

WHEREAS, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s HEFSP on September 2, 2025; and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

THEREFORE, the Borough and FSHC agree:

Fair Share Obligations

1. The Borough's Present Need or Rehabilitation Obligation is 12, the Borough's Prior Round Obligation (1987-1999) is 36, the Borough's Third Round Obligation (1999-2025) is 255, the Borough's Fourth Round Prospective Need (2025-2035) is 131.

Satisfaction of Fair Share Obligations

2. The Borough will address its Present Need via a municipal and/or County rehabilitation program.
3. The Borough's Prior Round Obligation is 36 and was met with credits from the Lydecker Manor development pursuant to the Borough's substantive certification from COAH.
4. The Borough's Third Round Obligation is 255, having been adjusted through a vacant land adjustment to a realistic development potential (RDP) of 25, which shall be met with the following mechanisms:

MECHANISM	TYPE	UNITS	BONUS	TENURES	STATUS
Lydecker Manor	Age-Restricted	6		Rental	Completed
Hoffman Property Redevelopment	Family	13	7	Rental	Zoned
Total		19	7		

5. The Borough has a Third Round unmet need of 230, which shall be met with the following mechanisms:

MECHANISM	TYPE	UNITS	TENURES	STATUS
Lydecker Manor	Age-Restricted	32	Rental	Completed

Hoffman Property Redevelopment	Family	1	Rental	Zoned
Devereux Foundation	Supportive Housing	4	Rental	Completed
NIPD of New Jersey	Supportive Housing	4	Rental	Completed
Spectrum for Living	Supportive Housing	6	Rental	Completed
West Pleasant Avenue RC District Amendment	TBD	TBD	TBD	Zoned
THO and THO-2 Districts	TBD	TBD	TBD	Zoned
W. Pleasant Ave Redevelopment Plan (Trocano/Maine Evergreen) (replacing THO-3 district)	Family	5	Rental	Proposed
Total		60+		

- a) The Borough by Resolution No 165-24, authorized the Planning Board to conduct an area in need of redevelopment for the West Pleasant Avenue site, which designation is currently being challenged in Superior Court, Russell P. Trocano Enterprises, LLC, v. Borough of Maywood Planning Board, Borough of Maywood, Docket No: BER-L-5235-25. Once the challenge to the redevelopment study and designation has concluded, the Borough will adopt the West Pleasant Avenue Redevelopment Plan, or such other zoning, over Block 69, Lots 3, 4, 5, 13 and Block 86, Lots 17 and 18 which will include opportunities for residential development, with a minimum of six (6) affordable housing units, to replace the five (5) affordable housing units to be created

from the THO-3 zoning overlay on the same site from the Third Round which is currently in place.

6. The Borough's Fourth Round Prospective Need Obligation is 131. The parties agree that the revised HEFSP to be adopted pursuant to this Agreement, shall contain a vacant land adjustment with an RDP of 0 because the vacant land adjustment for the Fourth Round provided in the Borough's adopted plan was duplicative of the Third Round vacant land adjustment and did not reflect changed circumstances.
7. The Borough has a Fourth Round Unmet Need of 131, which shall be addressed with the following mechanisms:

MECHANISM	TYPE	UNITS	TENURES	STATUS
E. Spring Valley Avenue	Family	12	TBD	Proposed
W. Passaic St.	Family	11	TBD	Proposed
Brook Avenue	Family	15	TBD	Proposed
Total		38		

Unit Type and Income Distribution Requirements

8. The Borough and FSHC agree that the Borough's HEFSP as presented above satisfies the following standards set forth in P.L. 2024, c. 2, including but not limited to, with respect to the following, and that the Borough shall maintain satisfaction with such requirements for the Fourth Round:
 - a. Age Restricted Cap. The Borough agrees that it shall not exceed the age-restricted cap found in N.J.S.A. 52:27D-311(l), which requires age-restricted units to be

capped at 30 percent of the overall Fourth Round affordable housing units that address the Fourth Round Prospective Need obligation exclusive of any bonus credits.

- b. Family units. Pursuant to N.J.S.A. 52:27D-211(l), the Borough shall satisfy a minimum of 50 percent of the actual affordable housing units, exclusive of any bonus credits created to address its Fourth Round Prospective Need affordable housing obligation through the creation of housing available to families with children and otherwise in compliance with the requirements and controls established pursuant to Section 21 of P.L.1985, c.222 (C.52:27D-321).
- c. Rental and family rental units. Pursuant to N.J.S.A. 52:27D-311(l), at least 25 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its Prospective Need affordable housing obligation shall be addressed through rental housing, including at least half as available to families with children.
- d. Very low-income units. Pursuant to N.J.S.A. 52:27D-329.1, 13 percent of all affordable units referenced in this Agreement addressing the Borough's Prospective Need obligation shall be very low-income units for households earning 30 percent or less of the regional median income, with half of the very low-income units being available to families.
- e. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311(a) and (b), and all other applicable law.
- f. All Prior Round and Third Round compliance shall continue to meet with the applicable percentages and standards for bonuses, family and senior housing, rental

and family rental, very low-income units, and adaptability set forth in any prior settlement agreement between FSHC and the Borough, statutory requirements, and the Prior Round and Third Round regulations.

9. In all developments that produce affordable housing, the Borough and FSHC agree that, unless varied by a prior court order of the trial court, the below terms shall apply:

- a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the required bedroom and income distribution, length of affordability controls, and phasing of affordable units.
- b. The applicability of the updated form of UHAC versus the prior form of UHAC shall be as set forth in the statute and most current form of UHAC adopted by HMFA. Any terms of a prior agreement, judgment, or grant of substantive certification as to prior round of obligations modifying UHAC as to affordability controls longer than the now current regulations or as to very low-income units shall remain in effect as to those prior rounds of obligations.
- c. The Borough agrees that in order to meet the low-income and very low-income requirement of the Fair Housing Act, it shall adopt an ordinance requiring for all affordable housing developments in its HEFSP that 50 percent of the affordable units within each bedroom distribution shall be required to be for low-income households earning 50 percent or less of the regional median income, including 13 percent of the affordable units within each bedroom distribution shall be required to be for very low-income households earning 30 percent or less of the regional median income.

- d. The Borough agrees to review its Affordable Housing Ordinance and other ordinances to ensure that it complies with the most up to date requirements of UHAC and revise those ordinances accordingly as part of its Fourth Round HEFSP and implementing ordinances.
- e. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law. The affirmative marketing plan shall include the following community and regional organizations: FSHC; the Latino Action Network; Bergen County NAACP; and the Supportive Housing Association.

Process for Approval and Implementation

10. Pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, the municipality and FSHC recognize that the Program and/or county level housing judge must still review this agreement and the resulting HEFSP and implementing ordinances and resolutions for compliance with the Fair Housing Act prior to issuing a compliance certification, as follows:

- a. The Borough and FSHC shall present this mediation agreement to the Program member for review upon full execution by both parties.
- b. The Program Member shall review the agreement and if satisfied with compliance with the Fair Housing Act shall refer this matter to the Mount Laurel judge for review and entry of certification of compliance, conditioned on adoption of all implementing ordinances and resolutions.

- c. The Borough shall adopt a revised HBFSP and all implementing ordinances and resolutions no later than March 15, 2026, including but not limited to the outstanding items identified in the next paragraph. No later than 48 hours after adoption or March 17, 2026, whichever is sooner, the Borough shall file the information required by Paragraph 11 and any other adopted ordinances and resolutions on eCourts.
- d. No later than April 15, 2026, the Borough and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
- e. Both parties agree to implement the terms of this Agreement. If the Program, county level housing judge, or any appellate court rejects this Agreement, the parties reserve their right to rescind any action taken in anticipation of the Program's approval and return to status quo ante. All parties shall have an obligation to fulfill the intent and purpose of this Agreement, unless to do so would be inconsistent with the final, unappealable adjudication of any Program or court ruling or judgment. The terms of this agreement may be enforced through an enforcement motion in this declaratory judgment or a separate action before the Program or the Superior Court, Law Division.

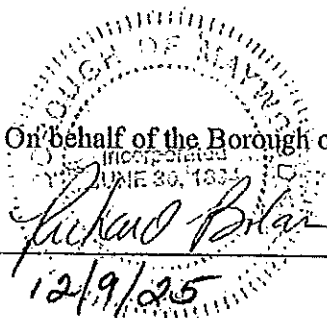
11. The Borough and FSHC agree that following conditions remain to be met prior to March 15, 2026 as conditions of compliance certification, and that the municipality shall provide these documents to FSHC in draft form for comment by January 1, 2026, and FSHC shall provide comments, if any, no later than January 15th:

- a. Draft zoning for proposed overlays/amendments
 - b. The Borough will amend its HEFSP in accordance with this Agreement and provide a draft by January 1, 2026 and adopt the plan by March 15, 2026.
 - c. The Borough will provide the adopted Hofmann Property Redevelopment Plan by January 1, 2026.
 - d. The Borough will provide a draft municipal rehabilitation program manual by February 1, 2026, and adopt the program manual by March 15, 2026.
 - e. The Borough will provide a draft affordability assistance program manual by February 1, 2026, and adopt the program manual by March 15, 2026.
 - f. The Borough will adopt a Fourth Round Spending Plan in accordance with P.L. 2024, c. 2 and the forthcoming regulations at N.J.A.C. 5:99.
 - g. The Borough will update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents in accordance with the forthcoming regulations at N.J.A.C. 5:80-26.1, et seq., and N.J.A.C. after they are adopted and before March 15, 2026.
12. The Borough and FSHC recognize that should a substantial change in circumstances occur, pursuant to the holding in *Fair Share Housing Center v. Cherry Hill*, 173 N.J. 393, (2002) and related law, the Borough shall be afforded one hundred twenty (120) days to present to the trial court and FSHC a plan to address such change in circumstances on notice and opportunity to be heard from FSHC. The Borough agrees that any additional RDP generated due to changed circumstances must be addressed in a manner that is consistent with controlling law.
13. The Borough's Compliance Certification shall provide for ongoing monitoring as follows:

- a. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1st to December 31st.
- b. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations.
- c. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Borough or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such

filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

14. This Agreement may be executed in counterparts, all of which together shall constitute the same agreement, and any exhibits or schedules attached hereto shall be hereby made a part of this Agreement. This Agreement shall not be modified, amended or altered in any way except by a writing signed by each of the parties. Each party acknowledges that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each signatory is the proper person and possesses the authority to sign the Agreement, and that this Agreement was not drafted by any one of the parties, but was drafted, negotiated and reviewed by all parties, therefore, the presumption of resolving ambiguities against the drafter shall not apply. 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. No member, official or employee of the municipality 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.

On behalf of the Borough of Maywood:

Richard Polan
12/9/25

On behalf of Fair Share Housing Center:

On behalf of the Borough of Maywood:

On behalf of Fair Share Housing Center:



Date:

Date: Adam M. Gordon, Esq.
December 21, 2025

*Christine A. Cofone, PP, AICP
Principal*



COFONE CONSULTING GROUP
LAND USE CONSULTANTS

Via Electronic Mail

December 30, 2025

Hon. Julio L. Mendez, J.S.C.
Affordable Housing Dispute Resolution Program
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625

Re: In the Matter of the Application of the Borough of Maywood, County of Bergen Docket No. BER-L-699-25

Dear Judge Mendez:

As the Special Adjudicator for the above matter, and pursuant to Your Honor's direction, I submit this recommendation based on the totality of the record and the progress already achieved in settlement discussions which I have participated in, I recommend that the Court approve the settlement as presently structured in the fully executed mediation agreement reached between the Borough of Maywood and Fair Share Housing Center.

The Borough of Maywood continues to act in good faith and the Court's timely approval of the settlement will ensure that the municipality stays on course to meet its constitutional affordable housing obligations.

Respectfully submitted,

Christine A. Nazzaro-Cofone, AICP, PP
Special Adjudicator
Borough of Maywood

PREPARED BY THE AFFORDABLE HOUSING PROGRAM:

In the Matter of the Borough of Maywood	Superior Court of New Jersey Law Division, Civil Part Docket No. BER-L-699-25
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Statement of Reasons

This Statement of Reasons addresses the challenge to the Borough of Maywood’s Fourth Round Housing Element and Fair Share Plan (“HEFSP”), in accordance with N.J.S.A. 52:27D-304.1(f)(2)(b), the directives of the Affordable Housing Dispute Resolution Program, and the legal standards established by the Mount Laurel doctrine and the Fair Housing Act. The recommendation analysis incorporates the history, evolving jurisprudence, and administrative framework governing municipal affordable housing compliance in New Jersey.

This matter, having come before the Affordable Housing Dispute Resolution Program (the “Program”), is pursuant to the Complaint for Declaratory Judgment filed on January 29, 2025 (the “DJ Complaint”) by the Petitioner, the Borough of Maywood (the “Borough” or “Maywood”), under the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (the “FHA”). The Borough sought certification of compliance with the FHA in accordance with Administrative Directive #14-24 and

its Addenda. Subsequently, on May 5, 2025, the Honorable Lina P. Corriston, J.S.C., entered an Order establishing the Borough's Fourth Round "present need" at 12, its Fourth Round "prospective need" at 131, and directing the Borough to prepare and adopt a Housing Element and Fair Share Plan by June 30, 2025, while also granting the Borough immunity from exclusionary zoning litigation.

The Borough timely adopted and filed its proposed Fourth Round Housing Element and Fair Share Plan ("HEFSP"), and a challenge to this Plan was timely filed by interested party Fair Share Housing Center. The Program appointed Special Adjudicator Christine A. Cofone, PP, AICP, to the matter, and several settlement conferences were held (on October 10, December 1, and December 10, 2025), resulting in all parties reaching a settlement, with the terms memorialized on the record. The settlement establishes the Borough's Present Need (Rehabilitation) Obligation at 12; Fourth Round Prospective Need Obligation (2025-2035) at 131; First and Second Round Obligations at 36; and Third Round Obligation (1999-2025) at 255. Fair Share Housing Center and the Borough entered into a written Mediation Agreement. The Borough agrees to satisfy its prior and Fourth Round obligations through a series of mechanisms, including completed and zoned affordable housing projects, as set forth in the mechanisms tables. For the Fourth Round Prospective Need obligation, the parties agree that the Borough qualifies for a Vacant Land Adjustment, resulting in a Realistic Development Potential ("RDP") of 0 units and

an Unmet Need of 131, to be addressed through proposed developments at specific sites totaling 38 affordable housing units. The Borough has represented that it intends to adopt an Amended HEFSP in accordance with the settlement.

The Program Member has determined that the settlement is fair, reasonable, and adequately protects the interests of low- and moderate-income residents of the Borough, and that it is constitutionally compliant and provides a fair and reasonable opportunity for the Borough to meet its FHA obligations and under the Mount Laurel doctrine. Therefore, the Program recommends an order approving the settlement terms, requiring the Borough to adopt and file its Amended HEFSP and implementing ordinances by March 15, 2026, and scheduling a Fairness or Compliance Hearing to consider approval of the Amended HEFSP and issuance of a Certification of Compliance and Repose. The order would also extend the Borough's immunity from exclusionary zoning litigation during the compliance process, conditioned on its good faith implementation of the settlement and ongoing participation in the compliance process.

The Mediation Agreement incorporates substantive requirements of the Fair Housing Act and P.L. 2024, c. 2, including, but not limited to, limitations on age-restricted housing, minimum family housing requirements, rental and family rental requirements, very low-income unit requirements, adaptability standards, and affirmative marketing obligations. Maywood also commits to reviewing and

updating its affordable housing ordinance and related regulations to ensure full consistency with Uniform Housing Affordability Controls.

The Mediation Agreement provides a clear and enforceable process for implementation, including review by the Program and referral to the Mount Laurel judge for consideration of compliance certification, contingent upon adoption of all implementing ordinances and resolutions. The Borough is required to adopt all implementing measures by March 15, 2026, followed by timely filing and submission of a proposed consent order for final compliance certification. The Mediation Agreement lays out conditions to be satisfied prior to certification, including the adoption of a Fourth Round Spending Plan, updates to administrative documents, ongoing monitoring and annual reporting requirements, and procedures for responding to changed circumstances and statutory midpoint realistic opportunity reviews.

The settlement constitutes a good faith resolution of the issues raised by FSHC's challenge, is grounded in documented obligations and pragmatic compliance mechanisms, and provides a transparent and enforceable pathway toward Fourth Round compliance. The settlement is consistent with the Fair Housing Act, statutory amendments, and governing administrative directives, and it advances the constitutional objective of providing a realistic opportunity for the construction of affordable housing.

For the reasons set forth in this Statement of Reasons, the Program Member recommends an Order directing that: (a) the settlement terms are approved; (b) pursuant to N.J.S.A. §52:27D-304.1(f)(2)(c), the Borough shall adopt and file its Amended HEFSP, including implementing ordinances and resolutions, on or before March 15, 2026; (c) a Fairness and/or Compliance Hearing shall then be scheduled by the court to consider final approval of the Amended HEFSP and issuance of a Certification of Compliance and Repose; and (d) the Borough shall be granted continued immunity from exclusionary zoning litigation for the duration of the compliance process, provided it complies with the Order, implements the Amended HEFSP in good faith, and participates in the compliance process in good faith.

New Jersey's Fair Housing Act (FHA) was amended, in part, due to a recognition of the need to "establish definitive deadlines for municipal action and any challenges to those actions" to ensure timely municipal compliance with their constitutional and statutory housing obligations. See N.J.S.A. §52:27D-302 (m).

The Mount Laurel doctrine arises from a series of seminal New Jersey Supreme Court decisions, beginning with Southern Burlington County NAACP v. Township of Mount Laurel, 67 N.J. 151 (1975) ("Mount Laurel I"), and clarified and expanded in Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983) ("Mount Laurel II"). These cases established the constitutional obligation that municipalities in New Jersey must provide a realistic opportunity for the

development of affordable housing for low- and moderate-income households. The core holding prohibits exclusionary zoning practices and requires affirmative municipal action to provide a reasonable opportunity for the construction of such housing. Later cases, including Mount Laurel III and IV, as well as key Appellate Division decisions, have further articulated the standards by which compliance is measured and the process for judicial and administrative review.

The doctrine's core principle is that "satisfaction of the Mount Laurel obligation shall be determined solely on an objective basis: if the municipality has in fact provided a realistic opportunity for the construction of its fair share of low- and moderate-income housing, it has met the Mount Laurel obligation to satisfy the conditional requirement; if it has not, then it has failed to satisfy it." Mount Laurel II, 92 N.J. at 220-22. Good faith efforts are insufficient—the municipality must provide "the substantial equivalent of the fair share." Id. at 216.

The FHA set forth a streamlined procedure whereby municipalities can secure a compliance certification. That process states that after adoption and filing of a municipality's housing element and fair share plan (HEFSP), an interested party may file a response, or challenge, alleging with particularity that the municipality's HEFSP is not in compliance with the FHA or the Mount Laurel doctrine. N.J.S.A. §52:27D-304.1(f)(2)(b).

The FHA declared that the State's "preference for the resolution of existing and future disputes involving exclusionary zoning is the mediation and review process set forth in this act and not litigation, and that it is the intention of this act to provide various alternatives to the use of the builder's remedy as a method of achieving fair share housing." N.J.S.A. §52:27D-303. In other words, the legislative framework is to get all parties to the table in an accelerated timeline to engage in discussions with the objective of achieving a resolution.

To that end, the FHA established the unique affordable housing program within the judiciary to facilitate settlement between a municipality and any interested parties that filed a challenge to the municipality's HEFSP and give the municipality until December 31, 2025, to commit to revise its HEFSP or provide an explanation for why it will not make all or some of the requested changes. N.J.S.A. §52:27D-304.1(f)(2)(b). If a settlement cannot be reached, to resolve a challenge, the Program is to apply an objective assessment standard to determine whether the municipality's HEFSP complies with the FHA and Mount Laurel doctrine. Ibid. Upon resolution of a challenge, the Program shall issue a compliance certification conditioned upon the municipality's "commitment, as necessary, to revise its fair share plan and housing element in accordance with the resolution of the challenge." Ibid. The Program may also recommend terminating immunity if it finds that the municipality is not in constitutional compliance at any point in the process. Ibid.

The Judiciary issued a directive outlining the process for the implementation of the Program. The new streamlined process allows municipalities to submit their plans for certification. If disputes arise about the feasibility of these plans, mediation and county-level housing judges will resolve issues to ensure compliance with affordable housing goals.

The Administrative Directive promulgated procedures implementing the Affordable Housing Alternate Dispute Resolution Program ("Program") created by the FHA. The Directive established guidelines for the resolution of such matters, including the appointment of members, qualified experts, and staff. On May 17, 2024, a notice to the Bar announced the Administrative Director's appointment of members of the Affordable Housing Dispute Resolution Program, consisting of retired judges, including a chairperson. This Program Member is one of seven appointed by the Judiciary.

Pursuant to N.J.S.A. §52:27D-310 and associated regulations, a compliant HEFSP must include:

Calculation of present and prospective fair share obligations;

Consideration of lands most appropriate for affordable housing, including land offered by willing developers (N.J.S.A. §52:27D-310(f));

Analysis of consistency with the State Development and Redevelopment Plan and (if applicable) the Highlands Plan (N.J.S.A. 52:27D-310(h)-(i));

Detailed site suitability analyses for all inclusionary or 100% affordable housing sites;

Identification and justification of rejected sites proposed by third parties; and

All draft implementing ordinances and resolutions (see also Directive #14-24 and Addenda).

The Plan must demonstrate a “realistic opportunity” for the required housing production, not merely procedural compliance or reliance on overly restrictive, hypothetical, or exclusionary zoning. See In re Fair Lawn Borough, 406 N.J. Super. 433, 441-42 (App. Div. 2009) (“COAH’s regulations recognize that some towns may not have enough currently developable land to meet their fair share requirements, although they may have vacant land that is capable of future development for that purpose. A municipality may receive a ‘vacant land’ adjustment, conditioned on adopting zoning geared at allowing the eventual development of affordable housing on those properties.”). The town must establish mechanisms that will incentivize future development such as higher density resulting in actual affordable housing units and agree to enact mandatory set aside ordinances.

As part of the Program, the AOC appointed an independent Special Adjudicator to assist the Program. The Special Adjudicator worked closely with the Program, providing expert and objective recommendations to the Program, and most importantly actively assisted in the mediation of each case. The Program Member

finds the appointed Special Adjudicator in this case credible, objective and knowledgeable regarding all issues of affordable housing, and particularly as it relates to the Borough. Her report and recommendations to the Program were given substantial weight in arriving at the recommendation to the county Mount Laurel Judge.

This Program Member is of the opinion that the Program has been immensely successful. Of the 564 municipalities in New Jersey, a record 423 municipalities timely filed a HESFP with the Program. That represents about 150 more municipalities than have previously participated in the Mount Laurel process. At the same time, over 700 challenges were also timely filed objecting to the plans. Impressively, the Program has mediated each case to determine that the proposed HEFSP filed by each municipality is compliant and presided over on the sessions to place settlements on the record or to hear oral arguments on matters that are not resolved.

The Judiciary identified all the complex cases and contested cases and referred 232 cases to the Program Members. What used to take years of litigations and delays, often spanning the entire ten-year cycle, under the new streamlined process framework requires completion within a 120-day period from September 1 to December 31, 2025. This Program Member has been assigned 36 cases requiring immense amounts of work, organization and cooperation from all parties.

The overall results firmly demonstrate the Program's effectiveness as skillfully implemented by the Judiciary. This is precisely what the Legislature intended in the new law. The FHA marks a new era of efficiency, cost savings, transparency and collaboration in affordable housing planning across New Jersey avoiding never ending litigation and most importantly resulting in real affordable housing units built for real people. In this Program Member's view, the extraordinary advocacy and work of FSHC is a crucial component of the success of the Program process.

Despite the Legislature's preference for settlement, it is still incumbent upon the Program to determine whether the municipality's proposed amended HEFSP enables the municipality to satisfy its fair share obligation and is compliant with the FHA and the Mount Laurel doctrine. See N.J.S.A. §52:27D-304.1(f)(2)(b). The Program is mindful of the fact that the municipality is permitted to use a variety of means and techniques to provide for its fair share of affordable housing as set forth in N.J.S.A. §52:27D-311 and that courts should employ flexibility in assessing a municipality's HEFSP for compliance with the FHA and Mount Laurel doctrine. In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 29-33 (2015).

Having reviewed in detail all the submissions of the parties (including the original HEFSP and the proposed Amended HEFSP), the written recommendation of the Special Adjudicator and having presided over the settlement conferences, this

Program Member is satisfied that Maywood's proposed Amended HEFSP provides a realistic opportunity for the construction of its fair share of low and moderate income housing and thus is compliant with the FHA and in accordance with S. Burlington Cnty. NAACP v. Mount Laurel, 92 N.J. 158, 220-22 (1983). This Program Member is also satisfied that the terms of the settlement are fair, reasonable and adequately protect the interests of low and moderate-income residents of the municipality. Matter of Twp. Of Bordentown, 471 N.J. Super. 196, 218 (App. Div. 2022).

Importantly, the comprehensive settlement was reached with FSHC and resolves all prior round disputes. The Borough of Maywood has further represented its intent to adopt an Amended HEFSP in compliance with the settlement.

After review, the Program Member has determined that the settlement terms are fair, reasonable, and adequately protect the interests of low- and moderate-income residents. Furthermore, the settlement is constitutionally compliant and provides a fair and reasonable opportunity for the Borough to fulfill its FHA and Mount Laurel doctrine obligations.

For these reasons, the Program Member recommends an Order directing that: (a) the settlement terms are approved; (b) pursuant to N.J.S.A. §52:27D-304.1(f)(2)(c), the Borough shall adopt and file its Amended HEFSP, including implementing ordinances and resolutions, on or before March 15, 2026; (c) a

Fairness and/or Compliance Hearing shall then be scheduled by the court to consider final approval of the Amended HEFSP and issuance of a Certification of Compliance and Repose; and (d) the Borough shall be granted continued immunity from exclusionary zoning litigation for the duration of the compliance process, provided it complies with the Order, implements the Amended HEFSP in good faith, and participates in the compliance process in good faith.

Respectfully Submitted by the Program:

By:

/s/ Hon. Julio L. Mendez

Hon. Julio L. Mendez, J.S.C. (Ret.)

Dated: January 7, 2026