

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:

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

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

<b>MECHANISM</b>	<b>TYPE</b>	<b>UNITS</b>	<b>TENURES</b>	<b>STATUS</b>
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
<b>Total</b>		<b>60+</b>		

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:

<b>MECHANISM</b>	<b>TOTAL ACREAGE</b>	<b>DU/AC</b>	<b>TYPE</b>	<b>AH UNITS</b>	<b>TENURES</b>	<b>STATUS</b>
E. Spring Valley Avenue (Block 3, Lot 1)	2.49	24	Family	12	TBD	Proposed
W. Passaic St. (Block 87, Lots 2, 3 & 4)	2.95	18	Family	11	TBD	Proposed
Brook Avenue (Block 107, Lots 51, 52, 53, 54, & 55)	4.627	16	Family	15	TBD	Proposed
		<b>Total</b>		<b>38</b>		

**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 HEFSP 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 15, 2026, and FSHC shall provide comments, if any, no later than January 30th:

- a. Draft zoning for proposed overlays for the E. Spring Valley Avenue (Block 3, Lot 1), West Passaic St. (Block 87, Lots 2, 3 & 4), and Brook Avenue (Block 107, Lots 51, 52, 53, 54 & 55) sites.
  - 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.

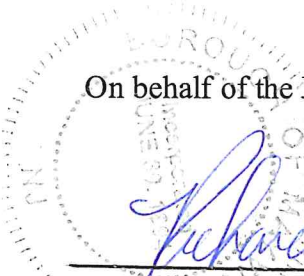
13. The Borough's Compliance Certification shall provide for ongoing monitoring as follows:

- 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 1<sup>st</sup> to December 31<sup>st</sup>.
- 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 Boe*

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Date: 12/22/25

On behalf of Fair Share Housing Center:

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Date:

On behalf of the Borough of Maywood:

On behalf of Fair Share Housing Center:

A handwritten signature in black ink, appearing to read 'A. M. Gordon', with a stylized flourish at the end.

Date:

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