

BOROUGH OF PINE BEACH, OCEAN COUNTY

AFFORDABLE HOUSING MIDPOINT “REALISTIC OPPORTUNITY” REVIEW REPORT

PURPOSE

The purpose of this Report is for the Borough of Pine Beach to comply with the New Jersey Fair Housing Act (“FHA”) and the Borough’s court-approved settlement agreement (“Agreement”) with affordable housing advocate Fair Share Housing Center (“FSHC”), dated October 3, 2016. The requirement for a this Report derives from Section 313 of the FHA, N.J.S.A. 52:27D-27, which requires a status report regarding the implementation of the Borough’s court-approved Round 3 Housing Element and Fair Share Plan (“Fair Share Plan”); an analysis to determine whether any proposed affordable housing sites or other compliance mechanisms no longer create a realistic opportunity and therefore should be modified or replaced; and an analysis to determine whether any mechanisms to meet the Borough’s unmet affordable housing need should be modified or replaced.

The Agreement also requires this Report to be posted on the Borough’s website, with a copy provided to FSHC. The review acts as a status report regarding the Borough’s compliance mechanisms and whether or not any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. This review includes mechanisms addressing the unmet need.

RELEVANT BACKGROUND

The Borough of Pine Beach is one of the few New Jersey municipalities to have achieved compliance with its affordable housing obligations for each of the three sets of regulations (commonly referred to “rounds” or “cycles”) adopted by the New Jersey Council on Affordable Housing (“COAH”) over the past thirty five (35) years. In fact, the Borough may be the *only* New Jersey municipality to achieve compliance in Round 1, Round 2 and *two-times*¹ in Round 3.

To secure approval of its current Fair Share Plan, the Borough took the following actions:

1. Pursuant to the 2015 opinion in which the New Jersey Supreme Court declared COAH to be a defunct state agency,² the Borough filed a timely Declaratory Judgment Action (“DJ Action”) with the Ocean County Superior Court, Law Division, in early June of 2015. This was the first such filing in Ocean County and one of the first several filed statewide.

¹ COAH approved the Borough’s first Round 3 Fair Share Plan in 2010 and, after COAH ceased to function as an agency as determined by the Supreme Court in 2015, the Borough secured approval of its current Round 3 Fair Share Plan in 2016.

² In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015)(“Mount Laurel IV”)

2. The Borough executed a settlement agreement with FSHC on October 3, 2016³ which, among other things, established the Borough’s “fair share” obligations as follows:

Present Need (aka Rehabilitation obligation)	3
Prior Round obligation (1986-1999)	41
Round 3 obligation (1999-2025)	123

3. On May 22, 2017, the Honorable Mark A. Troncone, J.S.C. approved the Borough’s current Fair Share Plan and issued a Round 3 Judgment of Compliance and Repose (“JOR”), subject to the satisfaction of several conditions previously identified by Philip B. Caton, P.P., F.A.I.C.P., the court-appointed special master. See Exhibits B and C.
4. On February 22, 2018, Special Master Caton informed Judge Troncone that the Borough satisfied each of the aforementioned conditions, thereby rendering its Round 3 Judgment of Compliance and Repose final and unconditional. See Exhibit D.

Because the Borough lacks sufficient vacant, suitable land to address its 123-unit Round 3 “new construction” obligation, the Borough secured a “Vacant Land Adjustment” which determined the Borough’s “Realistic Development Potential” or “RDP” to be zero (0) and its “Unmet Need” to be 123. To address the Unmet Need, the Borough and FSHC agreed to the following terms:

1. Eighteen (18) affordable housing credits for inclusionary zoning on one local parcel and three (3) existing group homes.
2. Facilitation by the Borough of a 6-unit “municipally-sponsored” project in the B-1 zone on Borough-owned property on the Route 9 side of Washington Avenue.
3. Maintaining the 12-units per acre overlay zoning on the remaining portion of the Borough’s B-1 zone.
4. Continued enforcement of the Borough’s approved Development Fee Ordinance.
5. Adoption of a Mandatory Set Aside Ordinance that requires a percentage of affordable units to be included in any development of five (5) or more units resulting either from a rezoning by the Borough Council or variance granted by the Borough’s Land Use Board.

As the following summary shows, the Borough is properly implementing its Fair Share Plan which renders the modification or replacement of compliance techniques unnecessary.

³ See Exhibit A.

THE BOROUGH'S REHABILITATION PROGRAM

As stated above, the Borough's rehabilitation obligation is 3. Since securing its Judgment of Compliance and Repose, the Borough has successfully rehabilitated⁴ the following two (2) residences occupied by qualified low- or moderate-income households:

1. 108 Pennsylvania Avenue (Block 87, Lot 12)

Source of funds: Ocean County CDBG funds
Scope of Work: Replace roof with 30-year shingles; upgrade electrical panel
Cost of Rehabilitation: \$13,525
Date of Final Inspection: May 24, 2019
Affordability Controls Recording Date: March 18, 2019

2. 607 Monument (Block 86, Lot 34)

Source of funds: Ocean County CDBG funds
Scope of Work: Lead paint removal; replace windows and central air conditioning; replace steps; repair chimney
Cost of Rehabilitation: \$19,650
Date of Final Inspection: January 20, 2020
Affordability Controls Recording Date: July 30, 2019

The Borough shall continue affirmatively marketing its Rehabilitation Program and, given past successes, it expects to have fully-satisfied, if not exceeded, its 3-unit obligation.

THE BOROUGH'S PRIOR ROUND OBLIGATION

COAH granted the Borough a vacant land adjustment for the Prior Round in conjunction with the Borough's Round 1, 2, and 3 grants of substantive certification. Each time, COAH calculated the Borough's RDP to be zero (0) unit. The FSHC Agreement maintained the adjustment, and the Borough therefore is not obligated to take any action to address its 41-unit Prior Round obligation.

THE BOROUGH'S ROUND 3 OBLIGATION

As stated above, the Borough's Round 3 obligation is 123, its RDP is zero, and its unmet need is 123. Per the FSHC Agreement, and in addition to the 18 previously identified credits, the Borough took the following actions:

1. Adopted its Mandatory Set Aside Ordinance on August 9, 2017 by Ordinance No. 17-07-748 and codified in the Borough Code at Section 175-22.2.
2. Maintained and continued to enforce its Development Fee Ordinance.
3. Facilitated the construction of a 6-unit "family rental" municipally-sponsored project in the B-1 zone on Borough-owned property on the Route 9 side of Washington Avenue. Specifically, OCEAN, Inc., an experienced developer of affordable housing in Ocean

⁴ The Borough's Administrative Agent is Maureen Fullaway of Affordable Housing Administrators, PO. Box 945 Point Pleasant, NJ 08742 mfullaway@verizon.net 732-892-4292.

County, is currently constructing the 6 one-bedroom unit, all affordable, project at 223-233 Washington Avenue in Pine Beach (Block 78, Lots 1.01 – 1.36. It secured final site plan approval on July 5, 2018, and the Borough issued the building permits on May 15, 2019. The Borough and OCEAN, Inc. expect occupancy by October of 2020. The affordability of each of the six units is controlled by 30-year affordability controls, and will be administered by OCEAN, Inc.

4. Maintained the 12-units per acre overlay zoning on the remaining portion of the Borough's B-1 zone.

CONCLUSION

The Borough's court-approved Housing Element and Fair Share Plan continues to create a realistic opportunity for the construction of its fair share of the regional need for affordable housing. Therefore, modification or replacement of any of the compliance techniques discussed above is unnecessary. The Borough will continue to implement its Fair Share Plan in good faith, as it has done for more than three decades, and will continue to look for new affordable housing opportunities in the future.