

**CITY OF SOMERS POINT
COUNTY OF ATLANTIC
STATE OF NEW JERSEY
MIDPOINT REVIEW REPORT**

August 1, 2020

PURPOSE

The purpose of this Mid-Point Review is to comply with the statutory midpoint review requirements of the Fair Housing Act, and more specifically, N.J.S.A. 52:27D-313 which provides, in relevant part, that "... The Council [on Affordable Housing] shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for a notice to the public."

As provided in the Court approved Settlement Agreement between the City and Fair Share Housing Center (see the more specific detail below under "Relevant Background") the City is obligated to satisfy the public notice requirement by posting on its website a status report regarding its compliance mechanisms and whether or not unbuilt sites / unfulfilled mechanisms continue to present a realistic opportunity.

RELEVANT BACKGROUND

In July 2015, pursuant to the March 2015 New Jersey Supreme Court decision, "In The Matter of the Adoption of N.J.A.C. 5:96 and 97 by The New Jersey Council on Affordable Housing, 221 N.J. 1 ("Mount Laurel IV") the City of Somers Point ("City") filed a Declaratory Judgment Action in the New Jersey Superior Court, Atlantic County captioned "In The Matter of The Application of the City of Somers Point" (Docket No. L-1538-15) seeking a determination of the City's Round Three affordable housing obligations.

On August 29, 2018 following a series of properly noticed public hearings and interim compliance orders, including a Fairness and Compliance Hearing, a Final Order of Fairness Compliance and Repose (the "Final Order") was entered by the Court which, among other findings, approved a Settlement Agreement entered into between the City and Fair Share Housing Center dated April 26, 2018 (the "Settlement Agreement") and incorporating the terms and conditions thereof.

The Final Order granted immunity to the City from all Mount Laurel lawsuits, including but not limited to Builders Remedy lawsuits, until July 2, 2025.

Pursuant to the Settlement Agreement and the Final Order, the City has satisfied all of its Prior First and Second Round affordable housing obligations. The City's Third Round Prospective Need obligation, subject to any subsequent downward adjustment as permitted by the terms of the Settlement agreement, was 246 units. After applying the results of the Vacant Land Analysis for which the city requested and received a vacant Land Adjustment as a result of which it was determined that the City's Realistic Development Potential (RDP) is thirteen (13) affordable

housing units.

REALISTIC DEVELOPMENT POTENTIAL COMPLIANCE UPDATE.

The City’s Prior Round prospective need of 103 units is met through the following compliance mechanisms which have been incorporated into and accepted in the Court approved Settlement Agreement:

Development	Units	Bonus	Credits
Bay Avenue Settlement AH-1, Bass Harbor Site (Rental)	26	26	52
9-Qualifying Group Home Bedrooms (2 Homes Administered by Progressive Living Units and Systems (6 bedrooms), 1 Home Administered by Disabilities Resource Center (3 bedrooms))	9	0	9
Plantation Bay (inclusionary zoning family rental per prior approved Settlement Agreement)	75	0	75
Total (with 103 with 33-unit surplus)	110	26	136

As an essential element of the Court approved Settlement Agreement the City agreed, at least through July 1, 2025, to maintain in effect the Plantation Bay affordable housing zoning ordinance and the Bay Avenue AH-1, AH-2, and AH-3 affordable housing zone ordinance; all of which continue to remain in effect. The City further agreed that if, during that period, any owner of the individual parcels approaches the City seeking to develop just its parcel, the City will work with the property owner and other impacted property owners to allow a stand-alone inclusionary development on the individual parcel, which will be zoned to include a proportionate share of the 26 family rental units required by the terms of the settlement.

Pursuant to the Settlement Agreement the City proposes to satisfy its RDP through conversion of thirteen (13) registered properties in the process of being foreclosed into low and moderate-income housing units which, and at the discretion of the City, may include rental and / or for-sale units or one or more conversions to group or special needs homes; with the further right reserved to the City to substitute alternative arrangements to satisfy all or some part of the thirteen (13) unit obligation.

The City has engaged with rehabilitation developers in an effort to acquire, finance, develop, and convert such units. It is a further requirement of the Settlement Agreement that the City, in consultation with FSHC, prepare an amendment to its Spending Plan to accomplish such conversions. The City will continue to pursue available options and such amendments to the City’s Spending Plan as may be reasonable and necessary.

As further set forth in the Court approved Settlement Agreement, the City has:

i) approved and adopted an amended Housing Element and Fair Share Plan incorporating the terms and conditions of the Settlement Agreement.

ii) amended Chapter 69 of its Municipal Code to incorporate the agreed upon terms set forth in the Settlement Agreement including, but not limited to, an affordable set aside for all new multifamily residential developments of five (5) units or more which is fifteen percent (15%) for rental developments and twenty percent (20%) for for-sale developments, increasing the Residential Development Fee to 1.5% and the Non-Residential Development Fee to 2.5%.

Subsequent to entry of the Final Order there has been no proposal for development received by the municipality for any parcel larger than 0.5 acres on any parcel that was neither previously identified in calculating the City's Realistic Development Potential ("RDP").

Since the date of the Settlement Agreement, or since the date the Settlement Agreement was approved by the Court, no development has occurred or been proposed to occur within any inclusionary overlay zone or for which a mandatory set-aside ordinance would be required.

There have been no changed circumstances that have resulted in additional parcels becoming available for development that were neither previously identified in calculating the City's RDP nor included in an inclusionary overlay zone.

In an effort to substantially reconstruct and preserve affordable housing units within the City, there have been discussions with FSHC and Special Master Steven P. Perskie, J.S.C. (retired) regarding the City's efforts to develop an innovative and creative mechanism to satisfy the City's Third Round net unmet need which may be up to 233 units, which the City will not otherwise be able to satisfy.

The City has no Prior or Third Round Durational Adjustment.

REHABILITATION AND GROUP HOME UPDATE.

The City's Prior Round compliance mechanism of nine (9) Group Home units which continues to be satisfied.

The City has a Present Need Rehabilitation Share Obligation of twenty-five (25) Rehabilitation Units which is met through the City's participation in the Community Block Development Grant (CDBG) Program administered by the Atlantic County Improvement Authority.

To date, 20 homes within Somers Point have been rehabilitated. The City continues to participate in the CDBG Program administered by the Atlantic County Improvement Authority.

AFFORDABLE HOUSING TRUST FUND UPDATE

From its inception in July 2007 through December 31, 2018 the City collected and deposited into its Affordable Housing Trust Fund Account \$372,575 in Development Fees and earned interest.

During that same period, the City expended \$23,313 for Administration expenses, \$98,816 for Affordability Assistance, and \$126,550 for Housing Activity, for a total expenditure during that same period of \$248,679.

For the period January 1, 2019 through June 30, 2020 the City collected and deposited into its Affordable Housing Trust Fund Account \$22,600 in Development Fees and earned interest. During that same period, the City has made no expenditures from its Affordable Housing Trust Fund.

As of June 30, 2020, the City has an Affordable Housing Trust Fund balance in the aggregate amount of \$294,972.20. This is comprised of \$146,524.05 in the account maintained by the City and \$148,448.15 in the account maintained on behalf of the City by the Atlantic County Improvement Authority pursuant to a Court approved Shared Services Agreement.

CONCLUSION

Despite the continuing adverse economic impact within Southern New Jersey and particularly within Atlantic County, which have been and will be further exacerbated due to the impacts from COVID-19, the City's plan of implementation continues to create a realistic opportunity for satisfying its affordable housing obligation.