

**TOWNSHIP OF BERKELEY HEIGHTS  
COUNTY OF UNION  
July 1, 2020**

**Midpoint Review Report**

**Purpose**

The Township of Berkeley Heights is required to comply with the statutory midpoint review requirements of the Fair Housing Act (“FHA”) and specifically N.J.S.A. 52:27D-313, which provides in relevant part: “[t]he Council shall establish procedures for a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public.” Pursuant to the Settlement Agreement between Fair Share Housing Center (“FSHC”) and the Township (hereinafter the “FSHC Settlement Agreement”), that review requires the Township to post on its website on July 1, 2020, with a copy to FSHC, and an opportunity for comment, a status report regarding its compliance mechanisms and whether or not unbuilt sites/unfulfilled mechanisms continue to present a realistic opportunity. The Settlement also contemplates review of unmet need/deferred mechanisms, though the realistic opportunity for the construction of those mechanisms during the compliance period is not applicable.

**Relevant Background**

On July 2, 2015, the Township filed a declaratory judgment action, seeking a determination of its Round Three affordable housing obligations and approval of its proposed Housing Element and Fair Share Plan to satisfy such obligations and, thereby, obtain a Judgment of Compliance and Repose from the Court, pursuant to the March 2015 New Jersey Supreme Court decision, In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”). The Court appointed a Special Master, Elizabeth McKenzie, P.P., A.I.C.P., as is customary in Mount Laurel matters. The Special Master assisted the Township in reaching a settlement agreement with FSHC, a non-profit organization dedicated to protecting the rights of low and moderate income households in New Jersey. The FSHC Settlement Agreement was entered into on September 13, 2016, and the settlement was approved by the Court via an Order entered on October 17, 2016, after a properly noticed Fairness Hearing was held. The Township obtained a conditional Judgment of Compliance and Repose (“JOR”) approving the Township’s Housing Element and Fair Share Plan on October 12, 2017, after a properly noticed Compliance Hearing was held. After the Township satisfied all of the conditions of the JOR, the Court entered an Order on June 21, 2018 finalizing the JOR, which secured immunity for the Township from all Mount Laurel lawsuits, including but not limited to, Builders Remedy lawsuits, until July 2, 2025.

The Court approved FSHC Settlement Agreement, established the Township’s Third Round Fair Share obligations as follows:

- Rehabilitation Obligation: 11
- Prior Round Obligation (1987-1999): 183
- Third Round Gap and Prospective Need Obligation (1999-2025): 389

As part of the process described above, the Township adopted all required resolutions and zoning ordinances.

**Rehabilitation Program(s) Update**

The Township has a Rehabilitation Obligation of eleven (11), which was fully satisfied as of the date the Township received its final JOR. In addition, the Township has one (1) additional credit which it may use towards its Fourth Round rehabilitation obligation, should such credits be allowed and counted under applicable law in the future. Finally, the Township has six (6) additional applications for units to be rehabilitated in the near future.

**Prior Round Obligation Review**

The Township’s Prior Round obligation of 183 was fully addressed and satisfied as of the date the Township received its final JOR as follows:

- 91 RCA credits from the Township’s 129-unit Regional Contribution Agreement (“RCA”) with the City of Newark.
- 47 constructed and occupied affordable units.
- 45 rental bonuses.

**Realistic Opportunity Review**

The realistic opportunity standard applies to all mechanisms for non-adjustment municipalities, and Realistic Development Potential (or “RDP”) mechanisms for Vacant Land Adjustment municipalities.

The Township is a Vacant Land Adjustment municipality, and has a Court approved RDP of 359, which applies to its Third Round (1999-2025) Obligation only.

The status of the Township’s satisfaction of its Third Round RDP of 359 is as follows:

<b><u>Mechanism</u></b>	<b><u>Affordable Units</u></b>	<b><u>Ordinance Adopted (Yes/No)</u></b>	<b><u>Status</u></b>
Constructed and occupied inclusionary projects.	54 total affordable units: (a) 28 age-restricted rental units from the Park Edge Project. (b) 11 for-sale units from the Highlands at Berkeley Heights Project. (c) 3 for-sale units from the Cottage Lane I, Tudor Court I Project. (d) 6 for-sale units from the Cottage Lane II, Tudor Court		Constructed and occupied.

	<p>II Project.</p> <p>(e) 2 for-sale units from the 10 Cottage St., Lot 8 in Block 1301 Project.</p> <p>(f) 4 for-sale units from the Berkeley Village, Helen Way (off Cottage St.) Project.</p>		
RCA Credits (applied to 1999-2008 portion of the Third Round Obligation).	38 JOR approved credits.		
500 Connell Drive Project (Block 4101, Lot 1).	42-45 family rental units.	Ordinance adopted on 10/10/2017.	No current activity on this project.
Stratton House (Kings Site) Project. 434 Springfield Ave. (Block 702, Lot 17).	23 family rental units.	Redevelopment Plan Adopted 2/7/2017.	*See below.
Movie Theatre Site Project. 450 Springfield Ave. (Block 702, Lot 13).	3 family rental units.	Redevelopment Plan Adopted 5/2/17.	Under construction.
Hamilton Ave. Project (Block 1301, Lot 19).	20 family for- sale units.	Redevelopment Plan Adopted 10/15/2019.	Site Plan approval, obtaining permits.
Hotel/Mays Lone Pine Drive Project (Block 702, Lot 18).	9 family rental units.	Designated Redevelopment Area.	*See below.
100 Locust Ave. Project (Block 1901, Lot 35).	29 age restricted rental units.	Redevelopment Plan Adopted 2/7/2017.	Under construction.
Chemtrade Site (Block 703, Lots 6-7).	32 units.	Ordinance adopted rezoning the site on 6/27/17.	No proposed activity on this site.
MCRT Investments, Inc. Project (Block 703, Lots 1-4, 8).	26 family rental units.	Redevelopment Plan adopted 6/27/2018.	PB Site Plan Approval 9/18/19; under legal challenge by adjacent property owner.

Mondelli Site Project (Elite Properties) Block 614, Lot 3.	2 family rental units.	Redevelopment Plan re-adopted June 2020.	Site Plan application filed with a hearing scheduled for 7/15/20.
Berkeley Florist Site Project (Elite Properties) Block 502, Lots 1, 2, 4, & 5.	7 family rental units.	Township Council introduced amended redevelopment plan on 6/23/2020.	If redevelopment plan is adopted the total number of affordable units would increase to 8.
391 Springfield Road Project.	2 family rental units.	Received Planning Board approval on 1/22/20.	
Rental Bonus Credits.	90 rental bonus credits.		

\*On July 8, 2020, the designated Redeveloper of the Stratton House project is presenting to the Mayor and Township Council a proposed consolidated redevelopment project for the Kings Site and the Hotel Site. The proposed consolidated redevelopment project will include a total of thirty-two (32) affordable housing units, consisting of twenty-three (23) units for the Kings Site and nine (9) units for the Hotel Site. The proposed consolidated redevelopment project would require further legislative action by the Township Council and Township Planning Board prior to proceeding.

**Unmet Need**

As contemplated in the FSHC Settlement Agreement, the Township is addressing its remaining unmet need of 30 as follows:

<b><u>Mechanism</u></b>	<b><u>Ordinance Adopted (Yes/No)</u></b>	<b><u>Additional Information</u></b>
Mandatory Set-aside Ordinance.	Yes. Adopted May 23, 2017.	No affordable units have been produced to date from this ordinance.
HB-2/HB-3/DD Overlay Zone.	Yes. Adopted on October 10, 2017.	All of the affordable units that have been approved in this zone since the Township's JOR was finalized by the Court, have now been moved towards addressing the Township's RDP.

**Very Low Income Analysis**

<b><u>Project Containing VLI Units</u></b>	<b><u>VLI Requirement</u></b>	<b><u>Status</u></b>
500 Connell Drive Project	6 units	Not yet constructed.

(Block 1401, Lot 1).		
Kings Shopping Center Project. 434 Springfield Ave. (Block 702, Lot 13).	6 units	Not yet constructed.
Hamilton Ave. Project (Block 1301, Lot 19).	5 units	Not yet constructed.
Hotel/Mays Lone Pine Drive Project (Block 702, Lot 18).	1 unit	Not yet constructed.
100 Locust Ave. Project (Block 1901, Lot 35).	5 units (senior)	Not yet constructed.
MCRT Investments, Inc. Project (Block 703, Lots 1-4, 8).	3 units	Not yet constructed.

Additional very low income units will be captured under the unmet need mechanisms described above.

### **Conclusion**

The Township plan implementation continues to create a realistic opportunity where that standard is applicable, and the Township maintains sufficient mechanisms for addressing unmet need.