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November 1, 2022

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William Bailey, Esq.
Huntington Bailey LLP
373 Kinderkamack Road
Westwood, New Jersey 07675

Re: In the Matter of the City of Englewood City, County of Bergen,
Docket No.BER-L-4069-19

Dear Messrs. Buzak and Bailey:

This letter memorializes the terms of an agreement reached between the City of Englewood City (the "City" or "Englewood"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1,30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Englewood filed the above-captioned matter on May 30, 2019 seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the City and FSHC have agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

The City was previously the defendant in a builder's remedy lawsuit entitled ERA South, et al. v. City of Englewood, et al., BER-L-233-09, as well as several other derivative lawsuits, and an appeal of the final judgment by FSHC. Those matters were ultimately resolved via a settlement agreement by and among ERA South LLC, the City of Englewood, Mayor and Council of the City of Englewood, and the Planning Board of the City of Englewood, and Fair Share Housing Center. This 2014 Amended Settlement Agreement was the basis for the City's Final Judgment of Repose which provided the City with repose from May 14, 2014 until May 31, 2019.

Settlement terms

The City and FSHC hereby agree to the following terms:

1. FSHC agrees that the City, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301, *et seq.*, for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round Obligation instead of doing so through plenary adjudication of the Third Round Obligation.
3. FSHC and Englewood hereby agree that Englewood's affordable housing obligations are as follows:

Present Need (per Mercer County)	380
Prior Round Obligation (pursuant to <u>N.J.A.C. 5:93</u>)	152
Third Round (1999-2025) Obligation (per Jacobson Decision)	819

FSHC and the City agree to the terms in this agreement solely for the purposes of settlement of this action. FSHC and the City, which each have their own methodology consultants, accept the Third-Round obligation of 819 units solely for the purposes of achieving a settlement of the litigation and is without prejudice to the parties' ability to challenge that Third-Round number during any proceedings involving subsequent rounds of affordable housing calculations after July 1, 2025.

4. For purposes of this Agreement, the Third Round Obligation shall be deemed to include the Gap Present Need which is a measure of households formed from 1999-2015 that need affordable housing that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), and the Prospective Need, which is a measure of the affordable housing need anticipated to be generated between July 1, 2015 and June 30, 2025.
5. The City's efforts to meet its Present Need include the following which is sufficient to satisfy the City's rehabilitation obligation of 380 units:
 - a. Participation in Bergen County Rehabilitation Program;
 - b. The City will establish a housing rehabilitation program and make funds available for the rehabilitation of rental units.
 - c. The City is in the process of completing a substantial rehabilitation of the Vincent K. Tibbs Senior Housing, 111 West Street, Englewood Housing Authority-152 units being rehabilitated due to Hurricane IDA (\$1.8 million FEMA \$ to date to rehab units = \$11,842/unit to date)
 - d. The City may also conduct a structural conditions survey in accordance with the applicable rules and processes of the Council on Affordable Housing. This survey shall be submitted for review to the Special Master and FSHC at least 60 days prior to the compliance hearing in this matter. In the event the survey demonstrates that there is a reduced Rehabilitation obligation or no Rehabilitation obligation, and if that conclusion is accepted by the Special Master and FSHC, the Borough shall have a rehabilitation consisting of the

reduced number or no obligation to administer a rehabilitation program. In the event that the City does not conduct a survey it shall accept the 380-unit rehabilitation obligation.

Prior Round Obligation and Compliance

6. As noted above, the City has a Prior Round Obligation of 152 units. The City has satisfied its Prior Round Obligations as follows:

Name of Development	AH units	Bonus credits	Total Credits	Comments/Status
Westmoor Gardens	64		64	Prior Cycle family rental units; Completed in 1984
Shepherd House	12	12	24	Supportive Housing; Completed in 1998
Independence Hall	8	1	9	Supportive Housing; Completed in 1998
J-ADD (UJC) Group Home	4		4	Supportive Housing; Completed in 1988
PSCH- Phelps Avenue	4		4	Supportive Housing; Completed in 1999
PSCH- Knickerbocker Rd.	4		4	Supportive Housing; Completed in 2002
167-169 Morse	4		4	Family rental; Completed in 1993
Garrett Apartments	34		34	Prior Cycle Family rental; Completed in 1982
First Baptist Church	5		5	Supportive Housing; Completed in 2009
Total	139	13	152	

Third Round Compliance

7. As noted above the City has a Third Round Obligation of 819 units. This obligation was partially satisfied with affordable housing units created pursuant to the City's earlier judgment of repose and 2014 Amended Settlement Agreement mentioned above. That amended settlement agreement specified at Paragraph 9 that "the additional units of affordable housing provided for in paragraph 5 – presumptively at least 95 units – will count against the City's Third Round affordable housing obligation and any future

obligation of the City for affordable units after the five-year period of repose expires." The City created those 95 affordable housing units as follows:

Name of Development	AH units	Comments/Status
Westmoor Gardens (extension of affordability controls)	64	Prior Cycle family rental units; Completed in 1984; controls extended in during the period of repose between 2014-2019.
Habitat for Humanity	4	Family; for-sale; completed in 2008
Foti	3	Additional units on an existing building
Vantage Health	3	Supportive Housing; completed 2011
Englewood Avenue Senior	6	Completed;
Flatrock Square (ERA South LLC) (Block 2605, Lot 2.03)	14	Completed;
Bristol (Assisted Living)	1	Completed in 2018
Total	95	

8. Pursuant to the 2014 Amended Settlement Agreement the City's Third Round Obligation of 819 is partially satisfied with these 95 units and the remaining Third Round Obligation is 724 units. The City is eligible for a vacant land adjustment of the remainder of its Third Round Obligation of 724 units. Pursuant to the vacant land analysis prepared, the City has a realistic development potential (RDP) of 76 units.

RDP Calculation	
Name of Site	RDP
City's VLA	23
15 S. Dean Street	18
Hotel Pad	33
West Englewood Ave	2
	76

The City's RDP is satisfied in the following ways:

Name of Development	AH Units
ERA – Hotel Pad	33
Bristol	19*
202 First Street	4
Vivian (ERA South)	1
Rental Bonuses	19
Total	76

*The Bristol is limited to 19 credits here because of the age-restricted cap. The remainder units from the Bristol will be applied towards the City's unmet need.

9. The City shall provide a realistic opportunity for the development of affordable housing on the following sites:
 - a. ERA South LLC (Hotel Pad) – as part of the 2014 Judgment of Repose the City agreed to, under certain conditions, rezone the property located at Block 2602 Lot 3.03 to permit up to 45 residential units with a 12.5 % set-aside. Since that time the City and the property owner have engaged in further discussions as to the future development on the property. In October 2022 the City amended the Redevelopment Plan for the site to permit up to two-hundred and twenty (220) residential units and requiring a fifteen (15) percent set-aside for affordable housing which shall include at least thirty-three (33) affordable housing units.
 - b. Bristol (Assisted Living) – the City's Zoning Board of Adjustment approved the development of two-hundred and seventy-three (273) unit assisted living facility which includes a mandatory ten (10) percent set-aside of twenty-seven (27) units for Medicaid recipients. In the City's Third Round compliance plan this development is partially used to address the City's realistic development potential (RDP), and the City's unmet need.
 - c. 202 First Street – on February 27, 2020 the City's Zoning Board of Adjustment approved a development located at 15 S. Dean Street and required as part of the resolution of approval for the developer to provide at least four (4) affordable housing units on an off-site location. These four (4) affordable homes were identified and converted with affordability controls in August-September, 2022.

Addressing the Unmet Need

11. The City's RDP of 76 units, subtracted from the remaining Third Round Obligation of 724 units, results in an Unmet Need of 648 units, which shall be addressed through the following mechanisms:

Overlay Zoning

12. The City agrees to place overlay zoning on the following properties at the prescribed residential density and requiring 20% set-aside of affordable housing, as shown in the map attached to this agreement as **Exhibit A** which Blocks/Lots are further described in the chart in **Exhibit B** of this agreement:

Name of site/zone	Density
First Student Charter Bus (Block 2407, Lot 7; Block 2801 Lot 1)	35 du/a
Areas 1, 2, 3, 4, 6, 8, 10, 11, 12, 13, and 14 (CareOne)	15 du/a
Area 5	50 du/a
Area 7	35 du/a
Area 9	35 du/a

25-Unit 100% Affordable Family Rental Development

13. A program to assist non-profit affordable housing organizations in the development of affordable housing in Englewood, as follows:

- a. Englewood will encourage the involvement of non-profits in meeting its unmet need, with a goal of providing 25 additional homes for families by July 1, 2025.
- b. The City agrees to do this in part through its spending plan and in part through cooperation in obtaining other public subsidies in addition to other affirmative measures required by law.
- c. The City agrees to hold an annual meeting in which local and regional non-profits are invited to participate in sharing ideas and making proposals.
- d. Englewood agrees to discuss its efforts to provide 25 additional homes for families at a council meeting for which 30 days' public notice shall be provided, which meeting shall occur in the month selected by the City within the first six months of the year and annually thereafter in that same month through July 1, 2025. The City shall provide a written report regarding its efforts during the past year at least two weeks prior to the annual meeting.
- e. Other than using trust funds that it has already received, as well as trust funds it receives in the future, in accordance with an approved spending plan, as addressed in this agreement, Englewood will have no financial obligation to pay for or subsidize the 25 units addressed in this section. This means that Englewood shall not be required to adopt a "Resolution of Intent to Bond" and shall not be required to use funds other than Affordable Housing Trust Funds to support these units. The City acknowledges that a Resolution of Need, tax abatement or other similar actions require formal actions by the governing body and may be required under certain affordable housing laws or as a condition precedent to the award of certain public subsidy programs.
- f. The parties recognize that the City may make all reasonable efforts and still not achieve the development of 25 affordable homes in 100% affordable developments as contemplated by this agreement and may not accomplish interim steps toward the development of those units by July 1, 2025. Public subsidies may not be available or other unanticipated factors may arise. Therefore, failure to provide any or all of the 25 units contemplated by this section of this agreement shall not provide a cause of action by any party against the City of Englewood. The obligations set forth in this paragraph shall terminate on July 1, 2025, provided however that the City shall continue its involvement in any then pending project or funding applications that were commenced prior to July 1, 2025.

Mandatory Set-Aside Ordinance

14. The City has adopted an ordinance requiring a mandatory affordable housing set aside for all new multi-family residential developments of five (5) units or more that becomes permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or a new or amended redevelopment plan. The set aside of affordable units for all developments will be 20%. The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. FSHC and the Special Master shall review the City's current ordinance and provide any requests for modification consistent with this paragraph and the current law. The form of the Ordinance shall be finalized prior to final judgment being issued in this matter through collaboration between FSHC, the Special Master, and representatives of the City. Neither this mandatory set-aside ordinance nor this Settlement Agreement

gives any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the City to grant such rezoning, variance or other relief.

15. The City agrees to require 13% of all units constructed after July 1, 2008, with the exception of units constructed after July 1, 2008 that had been granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The City will comply with those provisions by requiring that 13% of all units generated as a result of inclusionary and overlay zoning set forth above, any units generated as a result of the mandatory set-aside ordinance be reserved for very-low income households. The municipality will comply with those requirements as follows:

Affordable Housing Units Created after 7/1/2008	# of Units
Vivian	15
Hotel Pad	33
202 First Street	4
Foti	3
Vantage Health	3
Englewood Ave Senior	6
Bristol	27
202 First Street	4
Total	95
Minimum VLI Required (13% of Total)	13
Minimum Family VLI Units (50% of Total VLI)	7
<hr/>	
Vivian	2
Hotel Pad	5
202 First Street	1
Bristol	27
Total VLI	35
Total Family VLI	8

In addition, the City agrees to require that 13% of all affordable housing units developed pursuant to any overlay zoning described above in Paragraph 12, 13, and the Mandatory Set-aside Ordinance referenced in Paragraph 14 will be available to very low income households.

The City may, at its discretion, round the very low income obligation for a particular project up or down; notwithstanding the City shall be responsible for ensuring not less than 13% of the affordable units created after July 1, 2008 are restricted for very low income households by July 1, 2025.

16. Rock Creek Terrace and Park View Terrace— The City will not utilize any claimed credits from the Rock Creek Terrace apartments or the Park View Terrace apartments to satisfy its affordable housing obligation at this time, but reserves the right to address the creditworthiness of those units in the Fourth or subsequent Rounds. In addition, the City stipulates that the Rock Creek Terrace apartments and Park View Terrace Apartments were originally built and occupied prior to April 1, 1980.

17. The City shall meet its Third Round RDP and unmet need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above:

- a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
- b. At least 50 percent of the units addressing the Third Round RDP and unmet need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
- c. At least twenty-five percent of the Third Round RDP and unmet need shall be met through rental units, including at least half in rental units available to families.
- d. At least half of the units addressing the Third Round RDP and unmet need must be available to families.
- e. The City agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.

18. The City shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, Bergen County NAACP, Jersey City NAACP, Paterson NAACP, Passaic NAACP, Hoboken NAACP, the Latino Action Network, the Bergen County Housing Authority, Northeast New Jersey Legal Services, Bergen Urban League, Garden State Episcopal CDC, Mount Olive Baptist Church, Urban League Affordable Housing & CDC, Bergen County Housing Coalition, Fair Housing Council of Northern NJ, New Jersey Community Development, Advance Housing, Paterson Habitat for Humanity, Family Promise of Bergen County, Saint Paul's Community Development Corp., Supportive Housing Association of New Jersey, Islamic Center of New Jersey, Monarch Housing Associates and the New Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The City also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

19. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq., or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in rental projects shall be affordable to households earning 30% or less of the regional median income. The City, as part of its HEFSP, shall adopt and/or update appropriate implementing ordinances in conformance with all applicable laws to ensure that this provision is satisfied.

- a. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated in accordance with the Consent Order entered by the Court on May 21, 2021 and that is attached hereto as **Exhibit C**.

20. All new construction units shall be adaptable in conformance with P.L. 2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
21. As an essential term of this Agreement, within one hundred twenty (120) days of the Court's approval of this Agreement and the entry of an Order approving this agreement following a fairness hearing, the City shall introduce an ordinance or ordinances providing for the amendment of the City's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein, and shall endorse a Housing Element and Fair Share Plan to be adopted by the Planning Board and adopt a Spending Plan in conformance with the terms of this Agreement. The parties agree that this 120-day time period may be extended by the parties with the approval of the Court, provided that the City has diligently pursued efforts to comply with this section.
22. The parties agree that if a decision of a court of competent jurisdiction in Bergen County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the City for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round Obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment (or the time to appeal has expired), the City may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the City shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including maintaining all site specific zoning; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms set forth herein to address unmet need; and otherwise fully implementing the mechanisms to address the fair share obligations as established in this Agreement. The reduction of the City's Third Round Obligation as established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the City prevails in reducing its Third Round Obligation, the City may carryover any resulting extra credits to future rounds in conformance with the then-applicable law.
23. The City will prepare a Spending Plan as part of its HEFSP. The parties to this Agreement agree that the Spending Plan will be provided to FSHC for review and will be prepared in accordance with accepted standards to be approved by the Court and that the City may request the Court to find that the expenditures of funds contemplated under the Spending Plan approved by the Court constitute a "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment in this matter that includes approval of the Spending Plan in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through July 1, 2025, the City agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund

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activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended. In addition, the City may utilize its affordable housing trust fund, and FSHC shall not object, to funding the donation mentioned in Paragraph 28, provided it does so in accordance with applicable law.

24. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the City agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
25. The Fair Housing Act includes two provisions regarding action to be taken by the City during the period of protection provided in this Agreement. The City agrees to comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review, due on February 1, 2024, as required pursuant to N.J.S.A. 52:27D-313, the City will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and if there are changed circumstances whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the court regarding these issues. The parties recognize that the compliance process for this Agreement will still be ongoing as of the point of the statutory midpoint review.
 - b. For the review of very low income housing requirements required by N.J.S.A.52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the City will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
26. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
27. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69(Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The City shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties agree that the municipality will be entitled to either a "Judgment of Compliance and Repose" or "the judicial equivalent of substantive certification and accompanying protection as provided

under the FHA," (collectively "Final Judgment") 221 NJ at 6, which shall be determined by the trial Judge. Each party may advocate regarding whether substantive certification or repose should be provided by the Court with each party agreeing to accept either form of relief and to not appeal an Order granting either repose or substantive certification and accompanying protections. The "accompanying protection" or repose shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.

28. Within 45 days of the entry of an Order approving this Settlement Agreement at a duly noticed Fairness Hearing, the City shall pay to FSHC as a donation for the advancement of affordable housing in the amount of \$75,000.00.
29. If an appeal is filed of the Court's approval or rejection of this Agreement and/or Final Judgment, the Parties agree to defend the Agreement and/or Final Judgment on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
30. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Bergen County.
31. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable, except the entry of a Final Judgment. 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, unless the Final Judgment is rescinded or vacated. 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, unless the Final Judgment is rescinded or vacated.
32. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
33. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
34. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
35. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
36. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by

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counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

37. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
38. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
39. No member, official or employee of the City 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.
40. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
41. All Notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight carrier or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) Notices shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be effected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC: Adam M. Gordon, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE CITY: Robert S. Hoffmann, City Manager
City of Englewood
2-10 North Van Brunt Street
Englewood, New Jersey 07631
Phone: (201) 871-6640
E-mail: rhoffmann@cityofenglewood.org

**WITH A COPY TO THE
MUNICIPAL CLERK:** Yancy Wazirmas, RMA
Municipal Clerk
City of Englewood
2-10 North Van Brunt Street
Englewood, New Jersey 07631
E-Mail: ywazirmas@cityofenglewood.org

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AND A COPY TO:

Edward J. Buzak, Esq.
The Buzak Law Group, LLC
150 River Road
Suite N4
Montville, NJ 07045
Phone: (973)335-0600
Telecopier: (973)335-1145
Email: EJBUZAK@BUZAKLAWGROUP.COM

AND TO:

William J. Bailey, Esq.
Huntington Bailey, LLP
373 Kinderkamack Road
Westwood, New Jersey 07675
Phone: (201) 666-8282
E-Mail: wjb@huntingtonbailey.com

Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the City of Englewood City, with the authorization
of the governing body:

Dated: _____

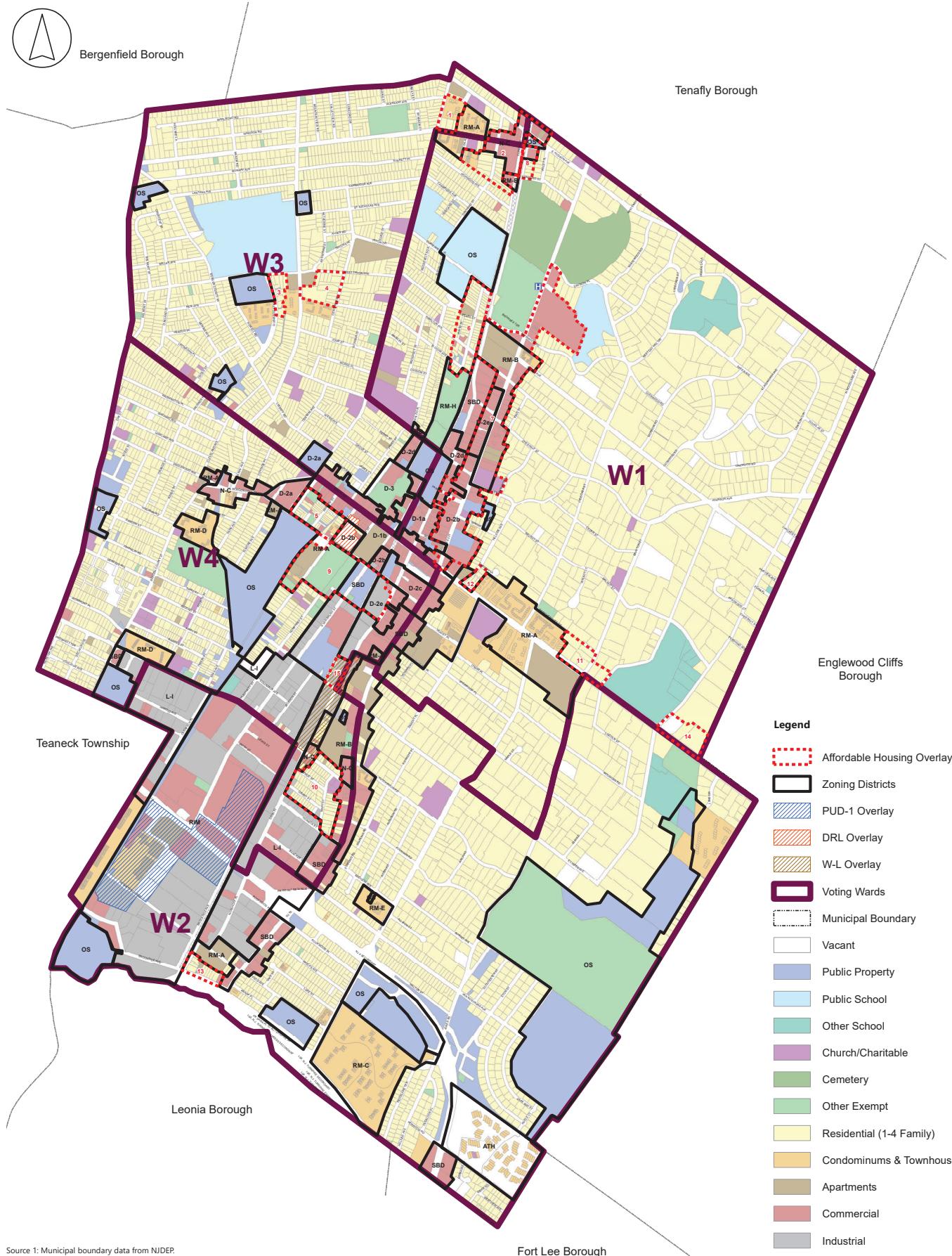
Exhibit A:

MAP OF OVERLAY ZONES



Bergenfield Borough

Tenafly Borough



Source 1: Municipal boundary data from NJDEP.

Source 2: Street centerlines data from NJDEP.

Source 3: Parcel and existing land use data from NJGIN Warehouse, Bergen County, as updated per City of Englewood Tax Records, 2022.

Dwg. Title	Project No.	Dwg. Date	Drawn By
Existing Land Use Map With Voting Wards, Zoning & Affordable Housing Overlays	3759.28	11.01.2022	RW
BURGIS ASSOCIATES, INC. COMMUNITY PLANNING LAND DEVELOPMENT AND DESIGN LANDSCAPE ARCHITECTURE 25 Westwood Avenue Westwood, New Jersey 07675 p: 201.666.1811 f: 201.666.2599	Project Title 2022 Housing Element & Fair Share Plan CITY OF ENGLEWOOD BERGEN COUNTY, NEW JERSEY	Dwg. Scale 0 625 1,250 2,500 feet	Drawing No. ELU/W&Z

EXHIBIT B;

**IDENTIFICATION OF OVERLAY ZONES BY BLOCK AND LOT
DESIGNATION ON THE
OFFICIAL TAX MAP OF THE CITY OF ENGLEWOOD**

Englewood - Potential Affordable Housing Overlay Zones

Map ID	Block(s)	Lot(s)	Applied Density (units/acre)
1	704	15.01, 16, 17, 18	15
2	701	18.1	15
	702	1 through 5	
	704	11	
	705	4 through 10	
	709	5.01, 5.02, 9, 10, 11, 12, 13.1, 13.2, 14	
	710	1, 2, 4, 5, 15, 16, 17, 18, 19, 20, 21.1, 22.1	
3	305	15 through 25	15
4	507	1 through 12 and 24.1	15
5	2303	6 through 30	50
	2304	9 through 35	
6	805	7 through 17.1	15
	806	24 through 28	
	809	1 through 21	
	903	2 through 10	
	904	1 through 5.1	
	910	3 through 6	
7	810	2.1 through 5	35
	905	2, 4, 5	
	913	1 through 16	
	1006	19 through 23	
	1105	1 and 11 through 15	
	1101	34 and 35	
	1102	22 and 23	
	1103	10 through 16	
	1203	2, 3.1, 4.1, 5, 8	
	1204	15 through 18	
	1207	4, 5, 6.2, 6.3, 9.1, 10, 11	
	1208	6, 8.1, 9	
	1209	1.1, 15.1, 16.1, 17.1	
8	707	1 and 8 through 12	15

9	2310	2.2 through 7	35
	2311	1.1	
	2405	1.2 and 1.3	
	2406	1.2 and 1.3	
	2407	2	
	2409	Part of 2	
10	2802	12 through 19	15
	2902	4 through 21	
	2903	1 through 22	
	2904	1 through 11, part of 12, part of 18	
	2905	1, 2, 16 through 30	
11	1601	22 through 27	15
	1602	13 and 14	
12	1210	15 through 20	15
13	3009	8 through 19 and part of 7	15
14	1902	5,1,7,8	15
15*	2407	7	35

Sub Total

Total

* Includes Block 2801, L 1 + portion of ROW per 2017 Investigation Report

EXHIBIT C

ORDER DATED MAY21,2021 REGARDING REGIONAL INCOME LIMITS

Keli (EC-2)
Income Limit Consent Order
021221

FILED
MAY 21 2021

Edward J. Buzak, Esq. - ID No. 002131973
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Montville Office Park
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Montville, New Jersey 07045
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Attorney for Plaintiff/Petitioner, City of Englewood

CHRISTINE A. FARRINGTON,
J.S.C.

IN THE MATTER OF THE
APPLICATION OF THE CITY
OF ENGLEWOD, a municipal
corporation of the State of New Jersey,

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY

DOCKET NO.: BER-L-4069-19

CIVIL ACTION
(Mount Laurel)

This matter having come before the Court via Complaint seeking a Declaratory Judgment of compliance with the Mount Laurel doctrine and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-329.1 et seq., pursuant to the process established in In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV"), including the determination of Plaintiff/Petitioner City of Englewood's ("City") fair share obligations; and the parties to this matter recognizing that an important function historically performed by the Council on Affordable Housing ("COAH") is setting income limits for each of the COAH housing regions, which are used to determine eligibility for affordable housing, and setting rent increases for existing affordable housing; and COAH having not published income limits or rent increases since 2014; and the Court finding it necessary to establish income limits and rent increase information to comply with the directives of the Fair Housing Act, and to more generally ensure the implementation of municipalities'

constitutional obligations through the availability of existing affordable housing and new affordable housing constructed pursuant to Mount Laurel IV; and Mount Laurel IV having directed trial courts to adhere to the First and Second Round rules and aspects to the two earlier versions of the Third Round rules that were not found invalid by the appellate courts; and the parties and Court thus having deemed it appropriate to establish income limits and rent increases based on COAH's methodology for setting such income limits and rent increases, and to empower municipalities to update such income limits and rent increases on an annual basis themselves based on the process historically used by COAH;

IT IS on this 21st day of May, 2021 ORDERED as follows:

1. Income limits for all affordable housing units located in the City, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by the City annually within 60 days of the publication of determinations of median income by HUD as follows:

(a) Regional income limits shall be established for the region that the City is located within (i.e., Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the County according to the most recent decennial Census. The resulting product for each County within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the City's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income

limit for a low-income unit for a household of four shall be 50 percent of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size.

(b) The income limits attached hereto are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2020, and shall be utilized until the City updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

(c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the City annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year.

2. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established pursuant to the process defined above:

(a) The resale prices of owner-occupied low- and moderate- income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to paragraph 1 above.

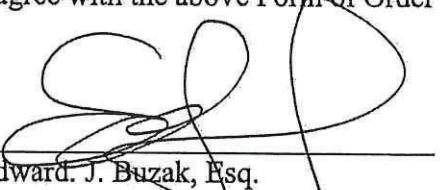
(b) The rent levels of very-low, low and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income

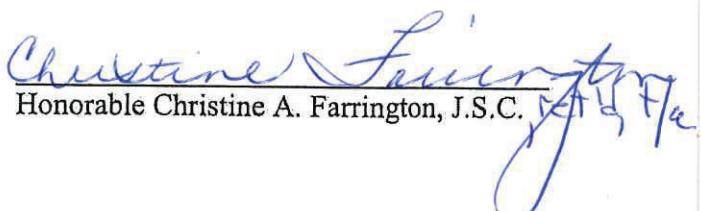
housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

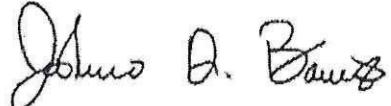
3. A copy of the within Order shall be served on all parties via uploading to E-Courts and, for parties or participants not in the E-Courts system, within seven (7) days from the date of the entry of this Order.

4. This Order is being entered to facilitate the establishment of up to date limits on income, rental increases and sales price increases related to the administration of affordable units and programs and is without prejudice to any party challenging the methodology or its basis in the future.

I agree with the above Form of Order


Edward J. Buzak, Esq.
Attorney for Plaintiff/Petitioner,
The City of Englewood


Honorable Christine A. Farrington, J.S.C.


Joshua Bauers, Esq.
Attorney for Fair Share Housing Center

Prepared by Affordable Housing Professionals of New Jersey (AHPN) - April 27, 2021

2021 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPN income limits is posted on AHPN.org

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase	Rents**	Sales***	Regional Asset Limit****
Region 1	Median	\$72,846	\$78,050	\$83,253	\$93,659	\$104,066	\$108,229	\$112,391	\$120,717	\$129,042	\$137,367				
Bergen, Hudson, Passaic and Sussex	Moderate	\$58,277	\$62,440	\$66,602	\$74,928	\$83,253	\$86,583	\$89,913	\$96,573	\$103,233	\$109,894	1.6%	8.46%	\$201,229	
	Low	\$36,423	\$39,025	\$41,626	\$46,830	\$52,033	\$54,114	\$56,196	\$60,358	\$64,521	\$68,684				
	Very Low	\$21,854	\$23,415	\$24,976	\$28,098	\$31,220	\$32,469	\$33,717	\$36,215	\$38,713	\$41,210				
Region 2	Median	\$75,331	\$80,711	\$86,092	\$96,854	\$107,615	\$111,920	\$116,224	\$124,834	\$133,443	\$142,052				
Essex, Morris, Union and Warren	Moderate	\$60,265	\$64,569	\$68,874	\$77,483	\$86,092	\$89,536	\$92,980	\$99,867	\$106,754	\$113,642	1.6%	2.00%	\$206,459	
	Low	\$37,665	\$40,356	\$43,046	\$48,427	\$53,808	\$55,960	\$58,112	\$62,417	\$66,721	\$71,026				
	Very Low	\$22,599	\$24,213	\$25,828	\$29,056	\$32,285	\$33,576	\$34,867	\$37,450	\$40,033	\$42,616				
Region 3	Median	\$86,240	\$92,400	\$98,560	\$110,880	\$123,200	\$128,128	\$133,056	\$142,912	\$152,768	\$162,624				
Hunterdon, Middlesex and Somerset	Moderate	\$68,992	\$73,930	\$78,848	\$88,704	\$98,560	\$102,502	\$106,445	\$114,330	\$122,214	\$130,099	1.6%	3.10%	\$234,592	
	Low	\$43,120	\$46,200	\$49,280	\$55,440	\$61,600	\$64,064	\$66,528	\$71,456	\$76,384	\$81,312				
	Very Low	\$25,872	\$27,720	\$29,568	\$33,264	\$36,960	\$38,438	\$39,917	\$42,874	\$45,830	\$48,787				
Region 4	Median	\$76,469	\$81,931	\$87,393	\$98,317	\$109,242	\$113,611	\$117,981	\$126,720	\$135,460	\$144,199				
Mercer, Monmouth and Ocean	Moderate	\$61,175	\$65,545	\$69,915	\$78,654	\$87,393	\$90,889	\$94,385	\$101,376	\$108,368	\$115,359	1.6%	0.00%	\$205,486	
	Low	\$38,235	\$40,566	\$43,697	\$49,159	\$54,621	\$56,806	\$58,990	\$63,360	\$67,730	\$72,099				
	Very Low	\$22,941	\$24,579	\$26,218	\$29,495	\$32,772	\$34,083	\$35,394	\$38,016	\$40,638	\$43,266				
Region 5	Median	\$67,620	\$72,450	\$77,280	\$86,940	\$96,600	\$100,464	\$104,328	\$112,056	\$119,784	\$127,512				
Burlington, Camden and Gloucester	Moderate	\$54,096	\$57,960	\$61,824	\$69,552	\$77,280	\$80,371	\$83,462	\$89,645	\$95,827	\$102,010	1.6%	0.00%	\$179,028	
	Low	\$33,810	\$36,225	\$38,640	\$43,470	\$48,300	\$50,232	\$52,164	\$56,028	\$59,892	\$63,756				
	Very Low	\$20,286	\$21,735	\$23,184	\$26,082	\$28,980	\$30,139	\$31,298	\$33,617	\$35,935	\$38,254				
Region 6	Median	\$57,458	\$61,562	\$65,666	\$73,874	\$82,083	\$85,366	\$88,649	\$95,216	\$101,782	\$108,349				
Atlantic, Cape May, Cumberland, and Salem	Moderate	\$45,966	\$49,250	\$52,533	\$59,100	\$65,666	\$68,293	\$70,919	\$76,173	\$81,426	\$86,679	1.6%	0.00%	\$153,730	
	Low	\$28,729	\$30,781	\$32,833	\$36,537	\$41,041	\$42,683	\$44,325	\$47,608	\$50,891	\$54,175				
	Very Low	\$17,237	\$18,469	\$19,700	\$22,162	\$24,625	\$25,610	\$26,595	\$28,565	\$30,535	\$32,505				

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

**This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3 (Consumer price Index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, 2017, 2018, 2019 or 2020 because of the lack of authority to do so, may increase rent by up to the applicable combined percentage including 2021 or 9.0% whichever is less in accordance with N.J.A.C. 5:97-9.3(c). In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

**** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3.

Note: Since the Regional Income Limits for Regions 4, 5, and 6 in 2020 were higher than the 2021 calculations, the 2020 income limits will remain in force for 2021 (as previously required by N.J.A.C. 5:97-9.2(c)).

November 1, 2022
Page 13

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Phone: (201) 666-8282
E-Mail: wjb@huntingtonbailey.com

Please sign below if these terms are acceptable.

Sincerely,

Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the City of Englewood City, with the authorization
of the governing body:

Robert S. Hoffmann
City Manager
Dated: 11/1/2022

