

**CITY OF ENGLEWOOD
BERGEN COUNTY, NEW JERSEY
ORDINANCE 23-19**

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 3 TITLED
“ADMINISTRATIVE CODE” ARTICLE IV, SECTION §3-21MUNICIPAL HOUSING
LIAISON AND ADMINISTRATIVE AGENT**

WHEREAS, the New Jersey Supreme Court issued its decision In re: Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015) on March 10, 2015 stripping COAH of its administrative duties relating to the affordable housing certification process and thereby created a judicial process by which a municipality can file a declaratory judgement action with the court seeking a judicial determination that their housing element and fair share plan satisfied their third round affordable housing obligation; and

WHEREAS, pursuant to the New Jersey Supreme Court’s March 10, 2015 decision and to preserve immunity from developer remedy lawsuits, the City filed a declaratory judgment action (DJ Action) entitled In the Matter of the Application of the City of Englewood for Judgement of Compliance and Repose, County of Bergen, Docket Number BER-L- 4069-19 with the Superior Court; and

WHEREAS, by way of negotiations with the Fair Share Housing Center in the DJ Action the City has arrived at a Settlement Agreement (Settlement) with Fair Share Housing Center concerning the City’s obligation which was approved by the Superior Court after a fairness hearing held on January 10, 2023 and in an order entered by the Court and filed on January 20, 2023; and

WHEREAS, the City is required to now take certain actions including the adoption of ordinances to implement the settlement agreement with Fair Share Housing Center;

BE IT ORDAINED by the Governing Body of the City of Englewood, Bergen County, New Jersey that it does hereby amend, and supplement Chapter 3, Administrative Code of the City Code as follows:

SECTION 1. Article IV, §3-21 Municipal Housing Liaison is hereby amended to read:

§3-21 Municipal Housing Liaison and Administrative Agent

SECTION 2. Article IV, Municipal Liaison, §3-21 C(4) is hereby repealed and amended to read as follows:

§3-21.C(4) The City of Englewood shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the City’s affordable housing program, including overseeing the administration of affordability controls on affordable units, and the affirmative marketing of available affordable units in accordance with the City’s Affirmative Marketing Plan, fulfilling monitoring and reporting, and supervising any contracted Administrative Agent. The City shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by resolution of the

governing body and may be a full- or part-time municipal employee. The Municipal Housing Liaison shall be approved by the Superior Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison:

- (a) The person appointed as the MHL must be reported to the Court and thereafter posted on the City's website.
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- (b) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the City of Englewood, including the following responsibilities, working in conjunction with the Administrative Agent, or the Administrative Agent appointed by a specific developer:
 - (1) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (2) When applicable, supervising any contracting Administrative Agent;
 - (3) Monitoring the status of all restricted units in the City's Fair Share Plan;
 - (4) Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Section;
 - (5) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
 - (6) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

SECTION 3. Article IV, Municipal Liaison, §3-21 C(5) is hereby repealed in its entirety.

SECTION 4. Article IV, Municipal Liaison, is hereby amended to add new section §3-21D. Administrative Agent as follows:

D. Establishment of Administrative Agent position and compensation; powers and duties. Subject to the approval of the Superior Court, the City shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the City in accordance with UHAC and this Section. An operating manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the City Council and subject to approval of the Superior Court. The operating manual(s) shall be available for public inspection in the office of the City Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

An Administrative Agent may be either an independent entity serving under contract to and reporting to the City or reporting to a specific individual developer. *The fees of the Administrative*

Agent shall be initially paid by the developer and then the subsequent owners thereafter of the affordable units for which the services of the Administrative Agent are required. The City Administrative Agent shall monitor and work with any individual Administrative Agents appointed by individual developers. The Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

(1) Affirmative Marketing:

- (a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the City of Englewood and the provisions of N.J.A.C. 5:80-26.15; and
- (b) Notifying the following entities of the availability of affordable housing units in the City of Englewood: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Bergen County NAACP, Jersey City NAACP, Paterson NAACP, Passaic NAACP, Hoboken NAACP, the Bergen County Housing Authority, Northeast New Jersey Legal Services, Bergen Urban League, Garden State Episcopal 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., the Supportive Housing Association of New Jersey, Islamic Center of New Jersey, Monarch Housing Associates, and the New Jersey Housing Resource Center.

(2) Household Certification:

- (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a very low-, low- or moderate-income unit;
- (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located (Housing Region 1) comprising Bergen, Passaic, Hudson, and Sussex Counties;

- (f) Employing a random selection process as provided in the Affirmative Marketing Plan of the City of Englewood when referring households for certification to affordable units; and
- (g) Provide counseling or contracting to provide counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

(3) Affordability Controls:

- (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Bergen County Register of Deeds or Bergen County Clerk's office after the termination of the affordability controls for each restricted unit;
- (d) Communicating with lenders regarding foreclosures; and
- (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

(4) Resales and Re-rentals:

- (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent, or any Administrative Agent appointed by a specific developer, regarding the availability of restricted units for resale or re-rental; and
- (b) Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.

(5) Processing Requests from Unit Owners:

- (a) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Section;
- (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling

price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

- (c) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (d) Making determinations on requests by owners of restricted units for hardship waivers.

(6) Enforcement:

- (a) Securing annually from the municipality a list of all for-sale affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent, or any Administrative Agent appointed by a specific developer;
- (c) Posting annually, in all rental properties (including legal two-family homes), a notice as to the maximum permitted rent for affordable units, together with the telephone number of the Administrative Agent, or any Administrative Agent appointed by a specific developer, where complaints of excess rent or other charges can be made;
- (d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (e) Establishing a program for diverting unlawful rent payments to the City's Affordable Housing Trust Fund; and
- (f) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, or any Administrative Agent appointed by a specific developer, to be approved by the City Council and the Court, setting forth procedures for administering the affordability controls.

(7) Additional Responsibilities:

- (a) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (b) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
- (c) The Administrative Agent, or any Administrative Agent appointed by a specific developer, shall attend continuing education sessions on affordability controls,

compliance monitoring, and affirmative marketing at least annually and more often as needed.

SECTION 5. The City Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Bergen County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15 and 40:55D-62.1. The City Clerk shall execute any necessary Proofs of Service of the notices required by this section, and shall keep any such proofs on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

SECTION 6. After introduction, the City Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the City Council, within thirty-five (35) days after referral, a report including identification of any provision in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 7. If any paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 8. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 9. This ordinance shall take effect immediately upon: (i) adoption; and (ii) publication in accordance with the laws of the State of New Jersey.

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RECORD OF VOTE

FIRST READING DATE: June 13, 2023

COUNCIL	MOTION	VOTE
Cobb		Y
Maron		Y
Rosenzweig	X	Y
Wilson		Y
Wisotsky		Y

DATE PUBLISHED IN THE RECORD: June 20, 2023

DATES PUBLIC HEARINGS HELD: July 11, 2023

DATE SECOND READING HELD: July 11, 2023

COUNCIL	MOTION	OPEN	MOTION	CLOSE	MOTION	ADOPT
Cobb		Y		Y		Y
Maron		Y		Y		Y
Rosenzweig	X	Y	X	Y	X	Y
Wilson		Y		Y		Y
Wisotsky		Y		Y		Y

Y=YES

N=OPPOSED

A=ABSTAINED

AB=ABSENT

PRESENTED TO MAYOR: July 12, 2023

APPROVED ✓

REJECTED _____ (VETO)

SIGNED 7/13/23



MAYOR MICHAEL WILDES

I do hereby certify that the foregoing is a true and exact copy of an Ordinance adopted and approved by the Mayor and Council of the City of Englewood.



Yancy Wazirmas, RMC
City Clerk